



## The Need for More Meaningful Participation of the Police in Juvenile Diversion

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### Introduction

Undoubtedly, the police play an important role in the protection of the welfare of youth. They are in a strategic position to discover children who are actually or potentially delinquent and to see conditions in the community likely to promote delinquency, long before other agencies become aware of either the children or the conditions. The way the police use this knowledge in their contacts with children and in their relations with the rest of the community may help to determine the future attitude of these young people toward the law. Their knowledge, or lack of knowledge, of the community's social resources and how to use them may afford or deny some children the opportunity or impetus necessary for wholesome development.

Policemen screen out, and dismiss with no further action, a good proportion of the suspected juvenile offenders they encounter on the street. Another proportion are referred to some official or unofficial police diversion programs. The remainder are referred to the juvenile court system.

The police screening process is one of dramatic discretionary decision-making. The decision to send a child home with a warning or to put him on one of the juvenile justice system paths is affected by what the apprehending officer gathers as the facts of the case and the probabilities of proof. The decision is affected even more by the police officer's sense of what is right, just, fair, and proper. He sends children home because he thinks the offense is not serious enough to justify prosecution. He diverts these children from the criminal court

system because he believes the circumstances of the offense and the background of the child call for less serious consequences than those likely to follow if the child is sent on for a formal hearing.

Diversion is defined in this discussion as the process whereby problems otherwise to be dealt with in a context of delinquency and official action will be treated and handled by other non-justice system means. Advocates of diversion propose that diversion should be the goal of pre-judicial processing with a clearly defined policy and with decisions based on predetermined criteria.

### Need for Diversion Criteria

Most police departments referring youth to youth service bureaus do not have a systematic policy for screening juveniles out of the justice system or a formalized set of criteria for referral. Many of the referral patterns are based on individual relationships. Therefore, the amounts and types of referrals change with personnel changes at the agency or in law enforcement. Although police officers surely are influenced by the policies, programs, and philosophies favored by their superiors, especially their immediate supervisors, they still have great latitude to decide who shall be diverted and who shall not. The degree and direction in which juvenile offenders are diverted are influenced by many factors such as the individual officer's conception of justice and his philosophy and theory of correction, his personal assumptions, attitudes, biases, and prejudices, his knowledge of community resources, his relationships with other professional welfare workers both within and without his department, the size of his case load and the work load of his department.

A police officer who finds a child in a situation dangerous to himself or to

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others, or who finds a child who has committed an offense, must decide whether the situation or the act is serious enough to warrant the attention of the court. This decision should be made on the apparent gravity of the situation or act, based on the investigation made by the police officer. Such decisions should not become a rule-of-thumb procedure by which children are always referred to the court for certain offenses or on the commission of a second offense.

If the officer does not believe that court action should be taken, he has a number of alternatives:

(1) Referral of the situation to a social agency. This may be particularly applicable in cases of neglect, where an agency in the community is empowered by law to offer services in relation to them, or in a situation requiring public health care, or where a child is already under the care of an agency.

(2) Advice to the child or parents, particularly as to the existence of community resources, welfare agencies, etc.

(3) Warning or admonition.

Consultation regarding the question of court referral should be available to the police from the intake division of the court. The police should not employ informal methods which involve penalties of restraint, such as placing the child on "informal probation," ordering restitution, or revoking a driving permit.

### 1. Criteria for Release to Parents

The most frequently used disposition by police juvenile officers is "action suspended" or some similar terminology indicating release of the child to the parents. This implies that no further action will be taken by the police, social agencies or the juvenile court. The following criteria are recommended in determining when this disposition is advisable.

(1) Case investigation reveals preponderance of positive factors. If the thorough case investigation shows only few negative factors and a multitude of positive factors, release to parents might be a logical disposition. There should be a majority of positive factors in the parent-child relationship.

(2) Absence of high risk situations.

When the case study investigation reveals that there is an emotionally healthy atmosphere between the family members, release to parents is desirable.

(3) Parents meet most emotional needs of child. Love, security, recognition, new experiences, and opportunity for growth are basic emotional needs of all children. When parents are aware of these needs and are meeting them to a satisfactory degree, there is less chance for a child to develop a pattern of delinquency.

(4) A happy marriage exists. If parents are happily married it is much easier for them to meet the needs of their children. Such parents will not be unconsciously displacing their hostilities from each other onto the children.

(5) Constructive attitude of parents. Release to parents might be a logical disposition when parents are intelligent, emotionally mature, cooperative with the officer, and willing to accept their responsibility for the behavior of their child. Parents of this type do not immediately blame the co-delinquents, other parents, or the negative neighborhood conditions for their child's delinquency. These parents will also tend to plan constructively for the future and will welcome suggestions from the officer.

(6) Type of offense. Only in rare instances would the type of offense conclusively exclude release to parents. The offense itself should not be the sole determining factor in choosing a disposition. Most offenses would permit release to parents if other factors, such as the personality and the environment, were satisfactory.

(7) Number of offenses. If this is the first or second offense and the investigation reveals many positive personality and environmental factors, release to parents can be considered. The contact with the police department often has a strong deterrent effect and helps some children set controls on their future behavior.

### 2. Criteria for Referral to Social Welfare Agencies

Many police officers are faced with the problem of deciding whether to refer a case to a social agency or to the juvenile court. Suggested criteria which

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can be used to decide in favor of a referral to a social agency are as follows:

(1) Number of offenses. There is probably a better chance for a situation to be helped if the boy has not been involved in too many offenses. Social agencies are usually anxious to work with children just as they begin to show signs of difficulty. It is much more advisable to consider referral to social agencies if it is the first or second offense.

(2) Type of offense. Some offenses are considered most serious by community leaders, and this is something that must always be kept in mind by the police department. To avoid criticism the police should make a careful analysis of the kinds of cases which could be referred to agencies and still maintain the community's support. Some police departments make referrals to social agencies for auto theft while others consider this offense too serious and automatically request juvenile court action. Some police departments automatically refer sex offenders to the juvenile court while others make referrals to agencies. The type of offense should not, however, be the only controlling factor in determining the disposition, but all factors should be considered objectively in arriving at an equitable disposition of the case.

(3) Needs of the child. There are some children who will respond to case work treatment in the average social agency where no authoritarian relationship exists. The main responsibility for accepting treatment in these agencies would be upon the boy and family and they will naturally have the right to refuse to keep regular appointments. Some boys need more authority than this and would not get continued treatment unless the case was referred to the juvenile court and probation department.

(4) The desire of the boys and the parents for help. In order to receive case work services, both the child and the parents should be willing to work on the problems involved. Unless they are willing and anxious for treatment little can be accomplished, because the agency cannot force the family to accept help. This implies that the parents are aware of their inability to handle the situation and are willing to spend time and energy in

working closely with a trained social worker to solve the problems.

(5) Presence of high risk situations. There are certain family situations, described as "high risk situations," which could well serve to call attention of the police officer that the boy and family need some help in working through their problems. These "high risk situations" are as follows:

i) Over-protection. These are situations in which the parents do "too much" for the boy. They display excessive concern over his health and well-being, often restricting his activities and making him feel dependent.

ii) Rejection. These are situations in which a boy feels unloved or rejected by his parents. This often occurs where parents for some reason or other fail to give the boy adequate affection and recognition.

iii) Excessive restriction. These are situations where very strict codes of behavior are maintained through the stern domination of the parents. The parents' restriction is considered by the boy to be unreasonable and inconsistent with the general pattern in the neighborhood. There results a breakdown in the trust and confidence of the boy toward his parents.

iv) Exploitation. These are situations in which children are forced to play roles arbitrarily established by the parents. Children are compelled to attend certain schools and pursue a career, hobby or interest which is preferred by the parents, but may not necessarily be of interest or appropriate for the boy.

v) Favoritism and sibling rivalry. These are situations in which a parent may appear to show less affection for one child than for another or where a boy finds himself in constant competition with his brothers or sisters for recognition, affection and privileges.

vi) Erratic discipline. These are situations where, in the mind of the boy, discipline is inconsistent and is imposed unfairly or without due regard for the causes motivating the alleged misbehavior.

vii) Feeling of inferiority and in-

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adequacy. This may result from numerous types of situations such as: comparison with brighter and more capable children; continual reference to inadequacies, with little or no mention of any favorable traits; physical deformities which incapacitate the boy; and seldom having an opportunity to assume responsibility or to experience achievement.

viii) Deprivation of companionship. This is common in broken homes and in homes where parents, because of business or selfishness, neglect to show the needed affection and love which children seek.

### **Need to Maximize Police Referral to Social Welfare Agencies**

Recent study of the volume of police referrals of youthful offenders to social welfare agencies indicates that the police are making less than full use of such agencies. Accordingly, a study of the factors that would encourage the increased use by law enforcement agencies of youth welfare bureaus is in order.

Awareness of the youth service bureau is one of these factors. Existing referral patterns will change more readily when law enforcement agency is reminded of the bureau's existence, is informed about the services the bureau is capable of providing, and is acquainted with the staff who will provide the services.

A method of increasing awareness is to detach juvenile justice system personnel to the bureau to work in a non-coercive style.

Accessibility and types of services provided by the local youth service bureau should also have an impact on the referrals police officers make to the bureau. The bureau's ability to respond rapidly makes a difference. For example, limited office hours, staff's not being available in a crisis, and no temporary shelter facility, all limit the referrals that otherwise cooperative police make to a youth service bureau.

Accountability to the referring officer should also tend to increase referrals. With systematic feedback on what services the bureau is providing a referred youth, the law enforcement officer will have

more adequate information for future decision-making.

In the Philippines, Administrative Order No. 50, series of 1976 of the Department of Social Services and Development (DSSD) emphasize the necessity of establishing close linkage and coordination between the social workers of the department and the local police. Said Order prescribes that the DSSD and local police shall consider commitment of the youth offender to the National Training School as a last resort and that all efforts should be exerted for the youth to be released to his family and provided services in community-based programs of DSSD that would best suit his needs. This involves the conduct by a DSSD social worker of a preliminary study of the case and assisting the police and courts in determining whether a formal complaint is necessary or alternative community-based programs will be considered for the youthful offender.

Similarly, Administrative Order No. 51, series of 1976 of DSSD provides that no youthful offender shall be placed in detention by a law enforcement officer without intake study by DSSD or authorization by the presiding judge. Furthermore, the police officer requesting the detention of a minor shall submit a report covering the details of the offense, including information identifying the complainant or victim and the facts justifying the need for detention. He must certify that an intake study has been conducted by DSSD.

The above-mentioned administrative orders are intended to assure greater collaboration and coordination between the police and social welfare agencies in effecting judicious diversion of deserving youth from the criminal justice system. Through a closer working relationship between police agencies and social work agencies there can result a more effective program for the treatment of young offenders and the prevention of juvenile delinquency.

### **Developing Close Working Relationship with Social Welfare Agencies**

There is, however, a pressing need to develop and enhance closer working

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relationship between the police and social welfare agencies. Toward this objective, the following suggestions are submitted for consideration:

(1) The police-juvenile officer should take the initiative in getting personally acquainted with the executive and intake worker at the case work agency. In the past, practically nothing has been done to develop a better working relationship, since the initiative has not been taken by social agencies to get acquainted with the police.

(2) The police department might invite the executive of the case work agency to meet with the law enforcement staff, particularly with juvenile officers. The social work executive would be in a position to answer questions informally about the agency's

services, so that the officers would get a good understanding of what happens in the treatment process.

(3) Through participation in the community council meetings with other representatives of agencies, the juvenile officer might get better acquainted with the representatives of the case work agency and keep abreast of any changes in youth service program.

(4) It is important for juvenile officers to occasionally visit social welfare agencies while on their tour of duty so that the children get the feeling that officers are interested in their activities. There is a real public relations value in informal visits. Too often trips or visits are made to these agencies only when an officer wants to question a youngster about some difficulty.



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