DIVERSION FROM THE JUVENILE JUSTICE SYSTEM

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DIVERSION FROM THE JUVENILE JUSTICE SYSTEM

By

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and

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FOREWORD

Since the mid-sixties, the practice of diverting young people from the juvenile justice system has assumed an increasingly larger role in programs to prevent and control juvenile delinquency.

Recognition that our juvenile justice system has failed to meet the individual needs of the various types of problem youngsters led to exploration of alternative methods of treatment, especially for those juveniles only minimally involved in delinquent activities. Diversion has emerged nationally as one promising method for increasing the range of alternatives available to the juvenile justice system.

Although diversion is now widely practiced with many variations in structures and procedures, little documentation and virtually no systematic evaluation have accompanied its growth and use. This study by Professor Cressey and Mr. McDermott, represents an initial effort to fill that void.

The study presents a profile of diversion policies and practices in one state—an important preliminary step in developing a detailed systematic evaluation of the effectiveness of diversion in preventing and reducing juvenile delinquency.

By contributing to our understanding of current programs and policies, this study enhances future efforts of researchers in this important area. I hope those dedicated to this effort will find the report useful.

GERALD M. CAPLAN
Director
National Institute of Law
Enforcement and Criminal Justice

PREFACE

This report reviews in detail a 1972 summer project on diversion of youth from the juvenile justice system, which was financed by a subcontract from the National Assessment of Juvenile Corrections. The mission of the project was to explore, probe, and define issues and research problems likely to arise in a wider-range study of diversion processes taking place after juveniles first come into contact with juvenile court officials.

We prepared this report in the hope that juvenile justice personnel, researchers, and laymen around the nation would benefit from an analysis and discussion of how diversion seems to work in some communities in a particular state. We do not hold that these communities—which we have disguised—are typical. We believe, however, that the problems they are encountering, solving, or ignoring are likely to be those encountered, solved, and ignored by diversion programs everywhere.

We are indebted to the many helpful individuals in the juvenile justice systems of the communities involved in the study. They gave freely of their time and knowledge. No one refused to talk with us, and almost everyone talked frankly.

DONALD R. CRESSEY
ROBERT A. MC DERMOTT

Santa Barbara, California
March, 1973

INTRODUCTION

The National Assessment of Juvenile Corrections is very pleased to issue, as part of a series of documents, this report of an exploratory study of diversion processes in juvenile justice. With modest support from NAJC, Professor Cressey and Mr. McDermott conducted an insightful examination of diversion practices and specialized units within one state. They present here a revealing description of what they observed and a provocative commentary on the implications of these developments for the present and emerging character of juvenile justice.

This preliminary inquiry amply fulfills its intended objectives. Through direct observations and interviews in contrasting communities it provides authentic information about the practices, arrangements, and belief-systems of personnel in various probation units who are currently engaged in diverting youth either *from* or *within* that state's juvenile justice system. It reveals the divergent conceptions of "diversion" and the dilemmas associated with differing objectives and modes of handling "predelinquents" and youth offenders, short of full processing through the juvenile courts. The report raises fundamental questions about the actual outcomes for juveniles handled in these varying ways, about the interplay between juvenile justice personnel and community expectations and resources, and about the extent to which the values of humaneness and justice are served by these practices.

In all these respects this study provides an excellent foundation for the on-site empirical studies being conducted by the National Assessment of Juvenile Corrections. This project include a systematic and comparative study of juvenile courts, detention centers, and probation services, as well as state juvenile codes and justice systems. The findings from this exploratory study will inform and guide the propect's examination of diversion patterns and outcomes in these contexts. Our comparative research is being conducted across a representative sample of states and communities so it may be possible to ascertain which among the various approaches described in the exploratory study are most common and whether there are still other modes of diversion. We recognize the serious methodological difficulties cited in this report, but are hopeful that enough of these can be surmounted to generate reliable knowledge that will significantly expand our present knowledge.

Through the project's field reconnaissance studies and review of the literature, we had somewhat independently come to adopt two viewpoints devel-

oped by the authors of this report. Thus, we also believe that diversion aims and practices vary widely across the nation, and that limiting penetration *into* the justice system is probably more characteristic of these approaches than diversion *away* from the system itself. Only further empirical work can substantiate these views and document the relative advantages of limited penetration over diversion.

Professor Cressey and Mr. McDermott are at the University of California at Santa Barbara. Since Professor Cressey is a member of NAJC's Research Panel, we expect to benefit from his continued association with this project.

We acknowledge with particular gratitude Dr. Walter Schafer's assistance in working with the authors toward completion of their report.

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Project Co-Directors

CHAPTER 1. DIVERSION: BACKGROUND AND DEFINITION

Only a few years ago, most American chief probation officers and other juvenile justice administrators used the words "research" and "breakthrough" constantly if they wanted good marks from their superiors and their colleagues. In large cities, especially, ratings of "excellent" went to the men who frequently used this rhetoric and who developed the corresponding research programs. Now the word is "diversion," and it is diversion programs that win the accolades.

In 1967 the President's Commission on Law Enforcement and Administration of Justice recommended establishment of alternatives to the system of juvenile justice. Service agencies capable of dealing with certain categories of juveniles who routinely come into contact with agents of the juvenile justice system should have juveniles diverted to them:

> The formal sanctioning system and pronouncement of delinquency should be used only as a last resort.
>
> In place of the formal system, dispositional alternatives to adjudication must be developed for dealing with juveniles, including agencies to provide and coordinate services and procedures to achieve necessary control without unnecessary stigma. Alternatives already available, such as those related to court intake, should be more fully exploited.
>
> The range of conduct for which court intervention is authorized should be narrowed, with greater emphasis upon consensual and informal means of meeting the problems of difficult children.[1]

By implication, these recommendations are highly critical. They say that contact with the juvenile justice system is bad, or not as good as it should be, so alternative programs should be utilized or invented.

The Commission and its staff probably synthesized several delinquency causation theories in order to establish a foundation for its recommendations. Or perhaps some of the parties to the recommendations simply were sick of seeing juvenile delinquents mucked about, and demanded change on that ground rather than on the ground of sociological or social psychological theory. In any case two basic theories of delinquency might have provided the gunpowder for the explosive recommendation.

The first is labeling theory, as developed by George Herbert Mead, Frank Tannenbaum, Herbert Blumer, Edwin McC. Lemert, Howard S. Becker, and others.[2] The basic contention of labeling theory is that individuals stigmatized as delinquent become what they are said to be. Initial deviation (primary deviance) occurs rather haphazardly, as does apprehension, arrest, and labeling as delinquent. Once caught and labeled, however, the child is stigmatized, forced out of interaction with the value system of nondelinquents and shunted into association with juveniles similarly labeled. Delinquency after labeling (secondary deviance) is a direct result of the labeling process.

Clearly, in this theoretical perspective, the agencies established to deal with delinquency contribute to its incidence even as they try to cope with it. Policemen, juvenile court judges, probation officers, institution workers, and other juvenile justice administrators create or "cause" delinquency. It should be noted, however, that police departments have long been "diverting" the vast majority of the delinquents they encounter. Perhaps eight out of ten youths encountering the police are released without any formal processing or recording. They are lectured, ignored, threatened, or even punished administratively, but they are not arrested or booked. Most diversion thus takes place at the police level.

The second theoretical justification stems from

differential association theory, as developed by George Herbert Mead, W. I. Thomas, Herbert Blumer, Edwin H. Sutherland, Lloyd E. Ohlin, Daniel Glaser, James Short, Albert Cohen, David Matza, and others.[3] Stated simply, this theory holds that individuals engage in delinquent behavior because they experience an overabundance of interactions, associations, and reinforcements with behavior patterns favorable to delinquency. Many nondelinquents, including parents, carry such infectious values. The principal Typhoid Marys, however, are other delinquents: a foundation stone underlying diversion practices is the notion that "naive" or "potential" delinquents should not be cast into interaction with more experienced ones.

Now, if a policy maker looks at the juvenile justice system through the lens of these two theories, he is bound to see that it contains everything necessary to make an individual into a "hard core" delinquent, and even into a career criminal. There, within the system's processing and record-keeping procedures, is the labeling and stigmatizing machine; its offices, programs, and institutions are the die-makers of hard core young crooks, naive delinquents, and children exhibiting "delinquent tendencies."

We are not sure the criminal justice system stigmatizes, labels, or infects with criminality many of the children it processes. Surely it "corrects" a lot of them, meaning that they go away and don't come back. Now, if a humanitarian with political power sees juvenile delinquents floating down a river of juvenile justice programs toward a Niagara of criminal careers, he is likely to try his hand at diverting them toward some tributary leading to noncriminality. If he doesn't have the money, time, or energy to divert everyone, he will probably concentrate on the children far upstream—those "predelinquents" displaying only "delinquent tendencies."

Such reasoning is in fact taking hold in many states, resulting in the creation of a variety of types of diversion programs designed to sidetrack youths judged to be other than "hard core" delinquents. Official attention is being given to alternative procedures for juveniles considered "beyond the control" of their parents or guardians, or who are in danger of leading what one state law refers to as "an idle, dissolute, lewd, or immoral life." In many states, diversion efforts are also carried out farther downstream in order to sidetrack some of the children who break the law in ways that, if the child were an adult, would be called criminal. Such sidetracking supposedly avoids labeling or stigma in the form of an "official" record and minimizes association between "predelinquents" and "lawbreakers."

In line with the national trend, the state we studied (hereafter referred to as the Mountain State) has developed an impressive array of diversion programs for juveniles *at the law enforcement level.* Some of these successfully avoid the undesirable labeling and associational processes they were set up to avoid, but we are not sure how many manage this because we did not look at them. Our focus is on diversion occurring *after* initial court contact and *prior* to adjudication. Most diversion at this level takes place immediately after the "initial court contact," with an officer employed by a probation department—but who functions as an intake officer for the juvenile court.

Such initial contact, and the dispositional decisions made immediately following it, occur in a bewildering variety of ways, reflecting the organizational structure and correctional philosophy of the probation department involved, as well as the ideology, training, and personality of the person making the decision. The disposition of juvenile cases is left almost entirely to the discretion of the individual probation officer serving as intake officer. Probation officers at this level probably account for better than ninety percent of all probation department diversion, regardless of one's definition of diversion.

The problem-juvenile may encounter a diversion program at his school, in the local police

department, in the probation department unit doing intake work, and in the probation department unit investigating his eligibility for probation. But the further he proceeds into the juvenile justice system the less the chances that he will be diverted. Thus, a juvenile who "fails to take advantage" of a police diversion program is likely to find himself before a probation intake officer with a narrower range of diversion options. If at this level the juvenile "fails" or in some other way foregoes his chance at avoiding the juvenile justice system, his case will most likely become truly "official." Probably an official petition or request for a court appearance will be filed. However, the petition papers go to a probation investigating officer (not to a juvenile court judge or referee) and this officer has a degree of dispositional discretion. Once a juvenile's case is officially "petitioned," his chances of being diverted are greatly reduced. When, after completion of the investigation, the juvenile appears in court, there is only a very slight chance that he will be "diverted" by the referee or judge. By then he will have had so many contacts with the juvenile justice system that it is doubtful whether the "diversion" action can be called diversion without putting the word in quotation marks.

DEFINITIONAL PROBLEMS

The most perplexing problem we encountered in our explorations was to decide what should or should not be called diversion. The term is bandied about by social scientists, law-enforcement officers, judges, correctional personnel, community service workers, and others. One would think that a concept that has become so in vogue had been readily and precisely defined. It has not.

Consider the following definition presented in a California report on diversion programs:

> The process whereby problems otherwise dealt with in a context of delinquency and official action will be defined and handled by other means.[4]

Such an apparently clear-cut definition is fraught with difficulties, chiefly because the definition is not clear at all to individuals charged with administering diversion programs. How and when does one decide whether his handling of a problem is outside the realm of "delinquency and official action"? Even if he does decide that his action has this characteristic, how does he know his decision is correct? It seems reasonable to believe that a public official assigned the task of diverting delinquents will find it quite impossible to do so without first identifying the delinquent as delinquent. Further, it seems reasonable to believe that any action he undertakes or performs as a required or "normal" part of his responsibility is going to be official, no matter what he calls it.

Further problems arise when one considers the implications of "other means." Must they always be unofficial, or may they include official acts somehow interpreted as less official than other acts?

A simplistic interpretation of the definition would insist that in order for diversion to occur, individuals known as public officials concerned with delinquency—police, probation officers—must refrain from all direct action except that of referring the juvenile to individuals or agencies capable of handling the problem by "other means." They would have to do this, somehow, unofficially. Such diversion may be identified as "true" diversion, even if the official unofficially calls the juvenile's problem one of delinquency rather than one of, say, "acting out," "resenting authority," or "interfering with the property rights of another."

If "true" diversion occurs, the juvenile is safely out of the official realm of the juvenile justice system and he is immune from incurring the delinquent label or any of its variations—predelinquent, delinquent tendencies, bad guy, hard core, unreachable. Further, when he walks out the door from the person diverting him, he is technically free to tell the diverter to go to hell.

We found very little "true" diversion in the communities studied.

To take this further: the juvenile justice system offers the juvenile certain official helping services, including warnings and lectures, informal probation, court adjudication and dispositional services, formal probation, and rehabilitation in a correctional facility. It makes sense to say that diversion programs try to avoid enmeshing the juvenile in such official acts by employing alternatives or "other means." The child is diverted away from the juvenile justice system and to "other means." Ideally, he doesn't get into the system. If he does, he gets sent somewhere else, unofficially. Simply ignoring him or dismissing his case isn't handling him by other means. Doing nothing is not customarily considered a positive act of diversion.

If one is willing to delimit the notion of "official," as we are, he can get on with the job of exploring diversion programs. Now the villains are merely courtroom ceremonies, their offspring, and their aftermath, not the whole juvenile justice system. "We" are all right, and "we" must divert from "them." Now "diversion" begins to make sense since any positive action, official or unofficial, that keeps the juvenile from going through that courtroom door may properly be viewed as diversion. Now the child need not be sent to the waiting arms of nonofficial users of "other means." The official diverter can send him to any of the programs maintained by the system at any sequential level short of official court action. The juvenile may consequently find himself diverted from the courtroom and to informal probation, a Diversion Unit for Predelinquents, a Drug Abuse Program, etc.

Most of the juvenile justice system representatives we interviewed were quick to identify various action programs as "diversion" if they kept juveniles out of courtrooms. This consensus is reflected in official language used to describe government programs receiving children whose "delinquent tendencies" are evident in such behavior as playing truant, running away from home, hitchhiking, or raising hell in school. These programs are called "Diversion Units," and they generally are intended to short-circuit the need for court appearance.

That the "diverted" juvenile remains within the juvenile justice system was normally regarded as irrelevant, if unfortunate, by the persons interviewed. When we pushed the question, however, most individuals acknowledged that assignment or even referral to a program that is part of the juvenile justice system is not "true" diversion but rather an attempt to reduce incursion of stigma, or to keep the juvenile out of the bureaucracy. "Minimization of penetration" has become a popular phrase used for identifying diversion occurring *within* the juvenile justice system *from* court *to* another official or semi-official program. We think it means that the juvenile doesn't get mucked about as much, or as well, as he would if he penetrated to the maximum.

What all this says to a researcher is that the simple term "diversion" means many different things to many different people. We looked at anything anyone said was a diversion program; but before any full-scale national study is begun—particularly one employing quantitative methodology—the boundaries of the definition must be decided upon.

We would favor the choice of a working definition along the lines of what has been called "true" diversion; we know, however, that if a study is limited to events occurring after initial court contact, little such diversion is likely to be found, at least in Mountain State. The reasons for the paucity of "true" diversion programs will be explored later. Here, we merely note that once "initial court contact" is made, the juvenile and one or more court officials get attached—like flies to flypaper. There is not much "true" diversion to study.

However, if the definition of diversion is expanded to include "minimization of penetration," any researcher will find himself the guest

of many justifiably proud administrators anxious to show him their "diversion" programs. We recommend that, in research studies to come, this expanded conception of diversion be adopted.

We make this recommendation knowing full well that the organizational variety of such programs is apt to wreak havoc upon any sophisticated quantitative research model. We also know that adopting the expanded definition as the basis of a large-scale national study will wreak havoc with attempts to test the theories that spawned "diversion" practices in the first place. "Diversion" programs have, among other things, diverted away from the juvenile justice system the damning accusations that the system has inadvertently been harming young children and teenagers as well as helping them.

Study of the effects of "true" diversion would enable policymakers to decide on the basis of fact whether using "other means" to define and process young people's problems is better, or less harmful, than using the official actions of the juvenile justice system.

Study of "minimization of penetration" could conceivably determine whether use of a new piece of official juvenile justice machinery is better, or less harmful, than using the older equipment. In this case, however, policy makers utilizing the research results would find it necessary to use their best judgment as to whether the new machinery is in fact just a piece of the old juvenile justice apparatus with a few nuts and screws removed.

THE EXPLORATORY STUDY

The literature on juvenile justice is virtually devoid of studies of the variety, functioning, and effects of diversion policies and practices. Upon reflection, this is not surprising since, on the one hand, diversion as a self-conscious practice is relatively recent, and, on the other, it is rather difficult to describe and assess, owing to the multitude of diverse operative patterns and to the paucity of systematic record-keeping by the agencies purporting to engage in diversion.

This exploratory study was conceived and conducted with three purposes in mind: to provide a brief description of a range of diversion practices so that juvenile justice personnel and policymakers as well as researchers in the juvenile justice field might have at least a beginning picture of "what is"; to suggest a number of research issues and approaches that might be pursued in an effort to clarify the nature and effects of diversion policies and practices; to suggest, tentatively, the implications of the diversion policies and practices we observed in the state and communities we studied or learned about elsewhere.

The bulk of our observations were made in three communities—"Westlane," "Scottville," and "Van Dyke"—located in what we shall call the Mountain View Metropolitan Area. Reference is also made to "Londondale," another large metropolitan area in the state. We chose fictitious names because we promised the agencies and officials who cooperated with us that, while we would accurately report what we saw and heard, we would not publicly identify who and where they were. Actual locations and names are not as important, in any case, as are the nature and implications of the events and issues described.

Westlane was selected for a variety of reasons. It is developing a model criminal justice system; it has an innovative criminal justice planning board and a creative criminal justice planning director; it is relatively small in size; and we were well acquainted with officials in the juvenile justice agencies there. In many ways, our work in Westlane was the pilot phase for our whole exploratory study; it was in Westlane that definitional problems and organizational complications were first encountered and tentatively resolved.

Scottville was chosen principally because of its sophisticated Diversion Unit. It was recommended as a study site by officials of the state juvenile corrections agency.

Van Dyke was selected primarily because so

many state and local officials told us about the innovative programs being developed there; we found widespread enthusiasm for the community's Youth Service Bureau programs. We also went to Van Dyke for a concentrated, if superficial, across-the-board look at one community's juvenile justice system.

Because even an exploratory study in Mountain State seemed somehow incomplete without mention of Londondale, we decided at the last minute to carry out a whirlwind inspection there. In the following chapters, we refer to Londondale policies and programs only where we think we learned enough to say something specific.

The chapters that follow are organized to parallel the hierarchy of discretionary policies, programs, and decisions a juvenile might conceivably encounter after his "initial court contact" with a juvenile court intake officer. Discussion of some "special programs" relevant to diversion are placed near the end. We conclude with a brief chapter on some implications of our observations for research and policy relative to diversion.

CHAPTER 2. INTAKE PROCEDURES

The design of the buildings and rooms used for giving justice to juveniles hides the fact that the intake officer is the most important person in the juvenile justice system. This man's workroom is smaller and barer than the "chambers" of juvenile court judges, the suites used by Chief Probation Officers, and the offices of the probation department section chiefs called supervisors. In his little cubicle there are no flags, no polished-wood furniture, no panelled walls, no carpet, and no statue of the blindfolded lady. The cubicle is equipped with a cheap metal desk and a couple of straight-backed chairs. A few unframed prints and a diploma or two are temporarily taped on the walls. The intake officer doesn't wear a robe or a wig. He sits at his bare desk, often wearing an open-collared shirt, and does justice.

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 unofficial or official police diversion program. The remainder are either escorted to the intake officer's cubicle or ordered to appear there in the company of their parents or guardians. The intake officer, in turn, filters out most of these cases and orchestrates action on the rest.

In the adult criminal justice system a "complaint officer" deals with pieces of paper rather than with people. Policemen bring criminal complaint forms to his desk, and he must decide which ones to "file," meaning that they are sent along the criminal justice path, not that they are put away in a drawer. But in the juvenile justice system, the intake officer deals with people. Children and parents are there, in his cubicle, and he must tell them where to go next.

He tells most children to go home with their parents, dismissing them with only an official warning. He places others on "informal probation," meaning that they will be on probationary status for an offense for which they have only been accused, not convicted. He tells other children to go to a special diversion unit that his probation department runs, and he diverts a few more to private or public social welfare agencies. Those remaining are told to appear before a juvenile court referee or judge for a formal hearing.

The intake 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 intake officer decides are the facts of the case, the technicalities of the arrest, the probabilities of proof. The decision is affected even more by the intake 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 what in the criminal justice system would be called prosecution. He sends other children home or diverts them, or puts them on informal probation, 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. The juvenile's attitude plays a paramount role here. In all these actions, the intake officer clearly acts as a judge, just as a policeman acts as judge when he informally settles juvenile delinquency cases without arrest or citation.

Even in probation departments with official diversion policies, diversion is likely to occur only if the intake officers want it to occur. Although these men 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 is influenced by the individual intake officer's conception of justice and his philosophy and theory of correction, as well as by his knowledge of community resources, by his relationships with other professional welfare workers both within and without his department, by his personal assumptions, attitudes, biases, and prejudices, by the size of his case load and the work load of his department, and by many other subtle conditions. He cannot easily be ordered to make his decisions in a specified way. Ultimately, then, decisions to divert or not divert are his to make. Pressuring him to make his decisions in a certain way, overruling his decisions, and even hesitant questioning of his decisions are usually viewed as unwarranted interference by both intake officers and their superiors.

INITIAL CONTACT

Children come to intake officers' cubicles along three major paths. Terminology and administrative procedures differ from place to place, but the routes are essentially the same.

Detained juveniles are brought over from the juvenile detention center. These are the juveniles whom law enforcement officers arrested and officially booked into the detention center yesterday afternoon or last night. Some were detained because their alleged offense was serious, but most were held because the arresting officer could think of nothing better to do with them. A hitchhiker or runaway, for example, can hardly be released to his parents. Detained juveniles are by law entitled to an intake hearing within forty-eight hours of their booking. Further detention is allowable only with the consent of a juvenile court referee or judge.

Juveniles who have promised to appear, arrive at a designated time, usually accompanied by their parents. Law enforcement officers have recently released these youths to their parents or guardians, issuing a citation (much like a traffic ticket) that specified the complaint. A parent or other responsible adult has signed the citation/ticket, thus agreeing to appear with the juvenile before an intake officer on a specified day. Intake officers themselves sometimes write up such agreements. For example, in some jurisdictions the police release the juvenile but submit a contact report to the intake officer, who then notifies the family and makes arrangements for a hearing.

Informal contacts seek out the intake officer. These teen-agers (and their parents) are usually called "walk-ins" or "phone contacts." Note that there is a significant difference here between the criminal justice system and the juvenile justice system. No burglar walks into the courthouse and applies for criminal justice. It is the welfare aspects of the juvenile system that make the difference. Some walk-in cases are handled officially and others are not, depending principally upon the seriousness of the problem as viewed either by the intake officer or the clients.

Intake officers often work for the probation department which, in Mountain State, is part of the *judicial* branch of county government. This contrasts with the policemen and assistant district attorneys serving as complaint officers in the *criminal* justice system, and it makes a difference. As part of the executive branch of government, a policeman or prosecutor either dismisses a case, handles it informally, or turns it over to the judicial branch for further processing. But intake officers, as members of the judicial branch, have cases turned over to them. Accordingly, their decisions are judicial, no matter how administrative they appear. A policeman can divert children *from* admission to the juvenile justice system, but an intake officer can only divert them *out* of the system they have entered, or minimize their penetration after they have entered.

Intake units ordinarily have only two levels of rank—a supervisor and the intake officers. The unit supervisor's essential contribution to the diversion process seemingly lies in the general

"tone" or "atmosphere" he establishes with reference to punishment or treatment, and the degree to which he becomes involved in the allocation of cases. For example, if he takes the percentage of petitions filed for formal hearings as his yardstick for unit success or failure, he *might* strongly discourage or encourage diversion. In dividing the work load among the intake officers, he *might* allocate cases to officers according to type of offense, sex, age, race, and his estimate of the individual officer's ability to handle them. If he doesn't favor diversion of a specific case, he can hand it to an intake officer who doesn't favor diversion for any case. Some supervisors deny such specialized allocation of cases, invariably on the grounds that "all my officers are equally qualified or they wouldn't be here." It is true, of course, that large numbers of cases are both allocated and disposed of without the direction of any supervisor. At night and especially on weekends, all cases may be handled by the intake officer who happens to be on duty.

There is wide variation among intake units in the age, experience, and civil service rank of the intake officers. If the chief probation officer recognizes the critical importance of intake officers' decisions, all the officers are likely to be Senior Probation Officers. On the other hand, if the intake process is viewed as mere routine screening, intake officers might be Deputy Probation Officers or even Probationary Probation Officers.

No matter what their rank or experience, all intake officers are likely to engage in four different roles or sets of activities. Variation in units is principally variation in the mix of these activities—in one unit the focus may be on screening, in another on conducting hearings, and so on.

As a *screening officer,* the intake officer separates out minor cases either for informal handling or specialized handling; for example, all "predelinquents" are sent to a special unit. He may also work out screening routines that amount to perfunctory handling of the caseload: all first offenders get released, second offenders get informal probation, all third offenders get petitioned. Sometimes intake officers are specifically assigned as screening officers, but more commonly, there is a known attitude about intake work. No matter what the practice of an intake unit, routine processing according to formula is quite common and is frankly admitted to "off the record," but it is officially denied on the basis of the ideal of "individualization" of cases. One man seems to have viewed his work as similar to police and district attorneys who serve as criminal complaint officers but who rarely see a criminal: "You know what you are going to do or recommend after reading the report and records," he said. "You don't have to see the kid."

As a *hearing officer,* the intake officer disposes of a case only after a detailed reading of all records on file; taking a sample of the opinions or recommendations of school officials, the arresting officer, and others; interviews with the parents and the juvenile; and the professional evaluation of the "attitude" and "needs" of the juvenile as evidenced during a hearing. This is the most commonly accepted "official" function of the intake officer. The intake officer thus views his job as one of diagnosing a problem and referring it to public or private agencies capable of resolving the issue. But it should be pointed out that all this work is done in hearings that rarely last more than an hour; in the vast majority of cases, only a few minutes are used to review, hear, and dispose of a case. Bear in mind that only this one individual at this particular point in time determines "penetration into the system" or the manner of diversion. His knowledge of public and private resources thus is crucial, but it is often minimal. As a result, typical disposition is either dismissal or entrance into some sector of the system—"true" diversion is the exception.

As *counselor,* the intake officer tries to give advice, help, and even therapy. All intake officers "counsel" most of their cases in some manner, but such counseling is usually limited either to lecturing the juvenile about his responsibilities or

to trying to scare the hell out of him. This kind of counseling is ordinarily referred to in the most common disposition of cases by intake officers as "CWR"—"counseled, warned, and released." Some specialized intake officers, however, do engage in a different kind of counseling and identify themselves as counselors rather than as intake officers. For example, in separate diversion units with intake power it is typical for participating officers to view counseling as an important part of their job. Such specialized individuals are often, in fact, torn between diverting children out of the unit and keeping them in it for intensive counseling. Only in such settings with such officers do the delinquent and his family receive professional and in-depth counseling at the intake level.

As *intake investigator,* the intake officer goes to the field and personally conducts a probation investigation, which is then presented, with his recommendations, to the referee or judge when the petition for a hearing is filed. It was commonly believed in the past—and even today many persons believe—that probation departments at intake merely gather "facts" and leave decision-making to the judge. The variation is the intake officer who may "screen," "hear," or "counsel" (as above), but who also personally investigates those cases in which he decides to file a petition. This practice is found in areas as diverse as metropolitan Londondale County and small rural counties with few probation officers.

Once an official petition has been filed, the juvenile's case passes from the intake officer to the discretion of a probation investigating officer. It is the latter's task to verify the facts of the case and to submit a report of his findings to the juvenile court. In addition to looking at the evidence behind the complaint and petition, the officer looks at the background of the juvenile and the circumstance of his offense. His report to the court will contain a "probation plan" if probation rather than incarceration or detention for further diagnosis (or punishment) is recommended. As part of a proposed probation plan the officer may recommend a specific program—such as drug abuse education—conducted either by the probation department or by some other agency, public or private. His report may, alternatively, ask for dismissal of the petition so that the juvenile can be placed on informal probation. Another alternative, rarely used, is to ask for dismissal with no further action. In one jurisdiction, the juvenile court judge grants such dismissals by signing a supply of blank request forms. Dismissal, then, may occur with a minimum of "official" action.

Most investigating officers feel confident that officers of the intake unit would not file a petition without due cause. Consequently, they, like assistant district attorneys, view their primary responsibility as that of developing cases that can be "won" in a courtroom. In some cases, however, the presumption of probable cause is overcome by the investigation. Perhaps the investigator becomes convinced that the juvenile has had a change of heart since the intake interview, or that sending him into the courtroom would be too hard on him. In the first instance the officer simply asks that the petition be dismissed. In the second instance, he will recommend that the petition be dismissed if the juvenile agrees to participate in some special program, one that is community-based or one conducted by the probation department.

Such "arrangements" are wholly informal. The process resembles that which occurs when a prosecuting attorney lets an accused armed robber plead guilty to disturbing the peace or some other lesser offense. Although in the juvenile justice system the *name* of the offense does not determine or even limit dispositional alternatives, as it does in the criminal justice system, the juvenile nevertheless in effect pleads guilty in exchange for a mild disposition. Like an accused felon, he somehow comes to understand that compromise is better than forcing court action.

Since the most common reason for dismissal of a petition is lack of evidence, it is quite possible

that the investigating officer's willingness to "compromise" often stems from his judgment that the case is not likely to stand up in court.

The great majority of cases are either reported on or dismissed, although dismissal with referral back to intake for placement on informal probation is common. Few cases are referred directly to community agencies because investigating officers, like other probation workers, either are unfamiliar with available services or are dubious of their value. If a case is referred to an agency other than the probation department, it is most likely to end up in the hands of the welfare department or the mental health department. Whenever an investigating officer becomes too involved in diversion, he is apt to be reminded that his job is one of case preparation rather than case disposition. The segmented responsibilities of trained professionals serve to place subtle controls upon their discretionary power.

Little difference was found between the operations of the investigation units in Westlane, Van Dyke, and Scottville. In Londondale, however, there is a partial combination of the role of intake officer and investigator. "Intake investigating officers" do preliminary investigations on juveniles who are being considered for informal probation. The same investigation may become the basis for filing a petition. Intake officers delay formal petitioning until an investigating officer has completed his study and made a recommendation. If a petition is filed, the case goes to a regular probation investigation unit, as in Metropolitan Mountain View.

The Londondale procedure seems meant to relieve the pressure on intake officers, and at the same time give greater attention to the due process rights of juveniles. The broad discretionary power available to investigating officers could be—and perhaps is—a major diversion device. But using their power for diversion purposes is surely offset by high case loads that frustrate adequate analysis of the juveniles' needs; by lack of awareness and understanding of alternative community programs; and by professional needs to support the decisions of a professional colleague and co-worker—the intake officer.

INTAKE OPTIONS

No matter what the organizational structure of an intake unit, and regardless of the orientation of supervisors and individual officers, six different dispositional options are available to intake officers. We shall list them in the decreasing frequency with which we believe they are used, but it should be understood that there are variations from unit to unit.

Counsel, Warn, and Release is the most commonly utilized option. This disposition is an almost automatic response to cases brought in via citations. The child is usually discharged after a warning, a lecture, or a short conference with him and his parents. The case is not carried in the official records as "dismissed," even though CWR is sometimes called "dismissed" rather than a disposition.

Informal probation is the option whereby, under Mountain State law, a juvenile might be placed on a maximum of six months informal probation if he and his parents agree to it. In practice, the term of probation is rarely less than six months. Since this disposition is quite controversial and varies greatly from department to department, it will be discussed in more detail in a later section.

Probation diversion units may be used for the particular types of cases they have been established to receive. The intake officer may be required to refer certain cases (usually predelinquents or minor lawbreakers) to such a unit. In addition, or in some locations, he may opt to send other cases there. When a child is sent to a diversion unit, his case is officially logged as "dismissed." However, the child is strongly urged to participate in the special unit's program. Diversion units will be discussed later in some detail.

Referral to another agency (or to a person) is a common disposition of walk-in and phone contact cases. Such referral is an attempt to handle the case "unofficially" by sending the juvenile to someone that "is better able (qualified) to handle his case." This disposition is sometimes used for other than "walk-ins" by intake officers on night duty. These officers tend to be viewed by detention center staff members and the police as "trouble shooters." Intake officers receive cases from them that have not "officially" come to the attention of the juvenile justice system, and they dispose of them unofficially. It is questionable, then, whether such referral are "dispositions," "diversions," "dismissals," or something else.

Petition for an official hearing before a juvenile court referee or judge is the "classic" disposition used in "serious" and "last resort" cases. It is something like the filing of charges in criminal cases. The papers on the case are simultaneously filed with the court and with a regular probation officer (as indicated above) who makes an investigation and reports back to the court, which then conducts a hearing.

Dismissal is the least-used option. It occurs most frequently when the intake officer decides there is not enough evidence to justify further action, or when he believes the technicalities of the arrest were improper.

OBSERVATIONS: INTAKE

Westlane

The Westlane intake unit is small, reflecting the size of the community it serves. The unit consists of one supervisor and seven officers. The chief probation officer views intake as a key function within the department, and this is evident from the fact that all intake personnel are senior probation officers. Outside the regular intake unit, three school-community officers have intake power, seemingly conferred upon them as a back-up coercive device they can use when informal counseling is not effective. (See Chapter 5 on special programs.)

The distribution of intake power is unique in Westlane because the Predelinquent Diversion Unit was set up with the understanding that its staff would not engage in intake decisions. The effect of this design will be discussed in the next chapter.

The unit supervisor allocates cases to the intake officers *during the periods he is on duty*. On weekends when the supervisor is off duty, cases are handled or allocated by whoever is on duty.

When the supervisor allocates cases, he pulls out most predelinquent cases and sends them to the Predelinquent Diversion Unit. He is free to decide which cases to send to the Unit. Because some of the intake officers have mixed feelings about the effectiveness of the Diversion Unit, they are likely to ignore it as an alternative when they are in charge of allocating cases. Cases other than predelinquents are theoretically allocated according to the sex of the juvenile and the work load distribution in the intake unit. Allocation of cases by sex (female offender plus female officer) is attempted, but it rarely approaches an equal distribution since many more boys than girls are handled. As soon as the Diversion Unit receives the juvenile's records, the case is officially dismissed and a notation to this effect appears on the record kept by the intake unit.

Intake personnel and others argue that since all intake personnel are senior officers, strict guidelines concerning disposition of cases would be an unwarranted restriction of their discretionary powers. Accordingly, disposition statistics probably, in general, reflect human differences rather than policy implementation. Roughly speaking, cases are summed up, typed, or categorized according to the officer's conception of the seriousness of offense, the juvenile's record with the police and school, the degree of parental control, and the juvenile's attitude. Although officers deny using "rules of thumb," such as dismissal of all first offenders, most say that one gets a "feel"

for most cases in five minutes or less. Further, they say, disposition is usually decided nearer to the beginning of the hearing than the end—sometimes even before the hearing—but the dispositional decision is not revealed until the very last minute.

Although the Westlane intake officers, like others, have a variety of dispositional options, the great majority of cases are disposed of via CWR, informal probation, or dismissal. A formal petition is filed in about a third of all cases appearing in the intake unit.

Informal probation is widely used, seemingly as a means of getting the same results as court-imposed wardship and probation without imposing additional stigma upon the juvenile, without overloading the court, and without overloading the probation investigation unit.

It is a moot point whether informal probation is used in the interests of bureaucratic efficiency or for the well-being of the child. Since both the bureaucracy and the juvenile (and his family) usually agree that informal action is better than official disposition, informal probation has not been challenged as an infringement of due process rights. In cases where the juvenile maintains his innocence, informal probation is not used; a petition is filed and a court appearance guaranteed. Overt coercion upon the juvenile and his family to agree to informal probation is not evident, but subtle pressures are brought to bear. For better or worse, in Westlane about 50–65 percent of all persons under probation supervision are juveniles on six months informal probation.

In Westlane, little if any diversion occurs at the intake level. Perhaps a CWR accompanied by a recommendation to go somewhere else for help can be considered diversion, but even this disposition is rare. As we have said, intake officers by and large feel there is a scarcity of viable community resources, public or private, despite protestations to the contrary by the three delinquency prevention officers. Service agencies do in fact exist within the county, but intake officers are either unaware of their presence and their specialties, or they oppose or distrust the various goals and capabilities of the agencies.

The Diversion Unit receives a meager percentage of all cases appearing before intake officers, and if only those few cases directed to this Unit are considered "true" diversion cases, then only two or three percent of all cases handled by the intake unit are officially diverted. Not one individual interviewed in the Westlane probation department felt that there was any real difference between informal and formal probation. The "minimization of penetration" concept is the hallmark of the Westland experience. As one supervisor commented, "This department never developed the attitude of giving the problems to somebody else."

Van Dyke

The Van Dyke intake unit has a somewhat greater range of dispositional alternatives than the Westlane unit. The difference stems from certain organizational innovations and the widespread acceptance of diversion-out-of-the-system as a primary goal of the department. The existence of successful Youth Service Bureaus (YSB) has had an effect upon juveniles who are counseled, warned, and released, as a considerable number of these cases are now *strongly urged* to utilize the services of a Youth Service Bureau, although such "coercive" tactics are discouraged by YSB personnel.

The Youth Service Bureaus are an outgrowth of the National Crime Commission recommendations quoted earlier. They were created in the hope that they would serve as central coordinators of all community services for young people. But, in particular, they were envisioned as providing services lacking in the community, especially services for less seriously delinquent juveniles. The ideal here is nonjudicial handling of youths in, or close to, the areas in which they live. In Van Dyke, about eleven percent of all YSB cases come to them from the probation department,

mostly from intake. Youth Service Bureaus, together with the services of a well-organized Police Juvenile Branch, seem to have reduced the load of the "predelinquent" type cases at the probation level.

A unique Predelinquent Diversion Unit concept was recently developed whose key aspect is its intervention at the intake level. The intake unit maintains a "screening officer" at the detention center, and any *female predelinquent* is referred directly to him by the detention desk. If, after consultation with the girl, the officer believes she is suitable for "diversion," she is physically removed from detention and taken down the street to the facilities of the Good Neighbor Agency, to whom she is released, and her case dismissed. Thus, no "official" intake action has been taken, e.g., opening of a juvenile record. Although such a disposition is at the discretion of regular intake personnel, who rotate through the screening officer position, the only criteria seem to be the willingness of the juvenile to participate, and the sex of the female predelinquent. No problem with lack of cooperation from intake officers was evident. (The Van Dyke Diversion Unit will be discussed in detail in Chapter 3.)

Van Dyke intake officers understand that when they utilize informal probation they have committed the juvenile to a program qualitatively different from official probation. A special informal supervision unit receives all such cases; it uses intensive counseling made possible by specialized professional personnel with small case loads. (Details about this unit are given in Chapter 4, on informal probation.)

At first glance, the intake attitude appears to be that placing a child on informal probation *is* diversion and that the child will receive more help from the informal supervision unit than he would from many other agencies. However, it looks as though juveniles believed to be a shade too tough for CWR or the Youth Services Bureaus are the ones placed on informal probation.

Perhaps because of the existence of other intervention units (Youth Service Bureau and Police Diversion programs) informal probation is used somewhat less in Van Dyke than in Westlane. CWR is still the most prevalent disposition (50 percent), but it appears that juveniles appearing before the probation intake unit are those who have exhausted "other chances." If this is so, it might be expected that the percentage of cases disposed of via filing a petition will be on the rise. The creation of the informal supervision unit seemingly provides the intake officer with one last alternative to filing a petition, and this has probably retarded the increase (thus far) in official petitions.

The close, informal working relationship between intake officers and the personnel of the Youth Service Bureaus must not be taken lightly. Most of the YSB probation people came directly from intake (one Youth Service Bureau director was known as "Mama Intake"). There is some evidence that a significant number of case dispositions are decided after informal discussion about the facts of the case—over lunch, phone, etc. The model for this might be:

> Intake Officer: Do you want to work with this kid? He doesn't seem too far gone.
>
> YSB Counselor: Sure, we'll give him a shot—send him over.
>
> Case Disposition: CWR

Our general impression of the Van Dyke experience was one of ongoing organizational innovation at the intake level.

Scottville

The existence for nearly two years of a large-scale Predelinquent Diversion Unit (now receiving some lawbreakers) was bound to have both a practical and an ideological influence on the existing Scottville intake unit. Because the Diversion Unit functions as a specifically designated "experimental program" and has all the powers of the regular intake unit, it now has more officers than the parent unit (ten to seven). Handling of predelinquent-type cases by the regular intake unit was reduced to three days a week. (Exceptions to this procedure, and other details of the Scottville Diversion Unit will be discussed later.)

Diversion seemingly became the watchword among most Scottville juvenile-related agencies about two years ago. The result—beyond a simple reduction in the number of children processed by the regular intake unit—has been a gradual change in the *type* of juvenile received by regular intake. As in Van Dyke, juveniles that "make it" to the intake unit through a maze of diversion units are apt to be viewed as "losers." Consequently, intake officers probably feel under pressure to "do something" with such cases. Whatever the motivation, in Scottville there has been a decrease in the use of informal probation and a corresponding increase in petition filing. Still, approximately fifty percent of all intake unit cases are handled as CSR's.

Informal probation has never been used extensively by Scottville intake officers. Now only about one-third of the probation case load is made up of informal probationers (in contrast to two-thirds in Westlane). It is generally "understood" that a juvenile on informal probation receives treatment no different from that given to youths on official probation. In the past, there was a tendency for informal probation to be used mostly for white, Anglo, middle class offenders. This misuse has been rectified, to what extent we do not know, by supervisory rules. Informal probation is viewed as a suitable option for juveniles deserving one last chance before more official action is taken.

A senior probation administrative officer handles the intake of most truancy cases. The unwillingness of the Diversion Unit or the regular intake officers to handle such "undesirable" cases has, by intent and by default, evolved into a seemingly unique role—that of truancy screening officer. Although this position was not observed in action, it seems to be based on the concept of informal counseling, i.e., setting the child straight on his responsibilities. The coercive weapon used for uncooperative children seems to be informal probation.

Referral by intake officers—whether in the Diversion Unit or not—to community agencies is a rarity for two main reasons. First, the officers feel that most community service agencies are either ineffective, or inappropriate, or understaffed. Second, the opinion prevalent in the intake unit is "we have a service (informal and formal probation) to offer to the individual and, if he cooperates, he can derive some benefits from it." This opinion, we hasten to point out, is one of the very few we heard explicitly in support of the notion that it might be better for the juvenile to be kept *in* the system rather than diverted *from* it or *out* of it.

The "success" of the Diversion Unit is likely to produce further organizational changes in the probation department: this special Unit is likely to come under the auspices of the regular intake unit, together with a stipulation that the overall unit ought to engage in the policies and procedures heretofore reserved for the Diversion Unit. If such a union occurs, it will be interesting to see which "philosophy" will prevail. At present there seems to be a tendency for the regular intake unit to shift all minor cases to the Diversion Unit—in some cases disregarding the experimental controls. The regular unit is thus left with the "tougher" cases for which action is deemed necessary. Scottville, it seems, is in the beginning stage of an ideological struggle likely to result in a compromise of both philosophies to the enhancement or detriment of both.

Londondale

The most striking difference between the intake procedures of Londondale County and the procedures of smaller communities is the greater degree of specialization and formality found in Londondale. Legality rather than informality seems to be stressed. It might well be that the complexity of the metropolitan area and its con-

sequent depersonalization of human interaction has led to a greater concern for the formalities of due process. The principle here would be that the smaller the community, the more informal and personal the relationships, and the greater the stress on "doing justice," perhaps at the expense of the letter of the law.

Of the seventeen area offices in Londondale, fifteen of them have juvenile divisions, which handle only nondetained cases. Each area office has one individual officially termed an "Intake Officer" and a number of others known as "Investigating Officers." As we have seen, the work of these latter individuals seemingly reflects an overlapping of "intake" and "investigation" functions. The specialization seems intended to give certain cases a more detailed scrutiny beforc a dispositional decision is made.

In fact, however, the Intake Officer is the screening officer. He may receive a case via walk-ins, police or school referrals, or on referral from the bureau that handles all cases held at the juvenile detention center. Police citations operate in a somewhat different manner than in Metropolitan Mountain View. Rather than citing a juvenile to appear at the intake unit at a certain time, the police merely cite the individual and allow the Intake Officer to make appointments for appearance. This policy is said to be necessary because the great volume of cases requires the intake unit to organize and distribute its own work load.

As cases are "screened," all "minor" ones are disposed of directly by the Intake Officer. He might choose to dismiss a case, handle it in one or two counseling sessions with the family and the juvenile, or refer it to another agency. The latter option, however, has no more force than a recommendation. Cases handled in any of these three ways come under the statistical category of "miscellaneous services," not CWR. (The police have a practice and a program termed "counseled and released," and the probation people do not want their program confused with that one.) Whether or not actual "diversion" occurs at this stage depends entirely on the philosophy and knowledge of the individual Intake Officer and apparently varies greatly from office to office.

The Intake Officers' "screening" process is not generally meant to be any in-depth treatment of the case; the policy is one of leaving a wide area of discretion for Investigating Officers, who are said to have more time and resources for examining cases than Intake Officers. When a case leaves the desk of the Intake Officer, the "official disposition" is that of asking for a preliminary investigation. This eliminates filing an official petition to get the case to the investigation level, and allows termination of a case without an official court dismissal of a petition. It is the Investigating Officers, then, who have the power to dismiss the case, place the juvenile on informal probation, or file a petition.

Thus, in Londondale the responsibility for decisions concerning "diversion" is divided—the minor cases being handled by the Intake Officer, the more difficult cases by the Investigating Officers. If the decision is to file a petition, then the case goes to a regular investigation unit for an in-depth study leading to a court report.

All juveniles placed in juvenile detention come into contact with an officer of a special bureau. This person must decide within forty-eight hours to recommend continuing the detention or to release prior to adjudication. More than half of the juveniles placed in temporary custody are released from detention and their cases are referred to one of the area offices for the Intake Officer's disposition, whereby the process outlined above is begun. The juvenile detention bureau is a true screening unit, and virtually no diversion occurs or is expected to occur at that level.

If an officer of the detention center special bureau decides to refer a case to an area office, he merely transfers all official documents, including a "work sheet" that details the complaint and

indicates whether various agencies have been informed of the transfer. If detention is recommended, the juvenile appears before the court for the usual detention hearing. The police are urged to place a juvenile in custody only if it appears hopelessly impossible to handle the case at the area office level, and cooperation from law enforcement agencies has been good. The special bureau was established to process large numbers of juveniles detained within the initial detention term, limited by law to forty-eight hours.

The concern for due process and legality in Londondale has had an unfortunate side effect in that it is conceivable and even likely that a juvenile will find himself bounced around within the probation department like a Ping Pong ball. For instance, a juvenile placed in custody by the police must see an officer of the special bureau. If this officer refers the case to an area office (no detention), the juvenile and his parents come into contact with the Intake Officer, who might refer the case for a preliminary investigation, thus entailing contact with an Investigating Officer. The Investigating Officer, in turn, might recommend filing a petition, which means that the child and parents must see a regular probation investigation officer. If the petition is upheld and the juvenile placed on probation, he meets his probation supervision officer. All in all, then, a juvenile might come into contact with five different probation officers before receiving the assistance and supervision of probation itself. Even if the juvenile is "diverted" somewhere in the process, it is obvious that his contacts with the juvenile justice system will have been somewhat intense. It would seem that the individual's best chance for diversion occurs with the Intake Officer. The further the case moves along the path leading to probation or institutionalization, the lower the probability that a decision to divert will be made.

CONCLUSIONS

The probation department's intake officers are the first officials of the juvenile court with whom a youth in trouble must negotiate his fate. A "fair," "just," and "reasonable" disposition flows from pitting various techniques of "impression management" (on the part of both the juvenile and his parents) against the specific intake officer's theories of delinquency and correction; his awareness of the existence of alternative public and private social agencies; and his judgment of the worth of these agencies. Only rarely are the dispositions satisfactory to all the parties in the case, and often they are satisfactory to none of them, principally because they are merely stopgap actions. When "true" diversion of individual cases occurs, or even when effective diversion/minimization of penetration occurs, the quality of the alternative program is likely to reflect the capacity of an intake officer and his immediate superior to transcend the bureaucratic roadblocks (and the community apathy) that so often divert diversion programs from their objectives.

CHAPTER 3. SPECIALIZED DIVERSION UNITS

All suggestions for organizational change contain implied criticism. Deliberate, rational, directed change acknowledges the validity of such criticism. Ironically enough, then, when a probation department—functioning as an arm of a juvenile court—establishes a special diversion unit, it acknowledges that for certain juveniles the legally prescribed procedures, programs, ceremonies, and services of both the court and the probation wing are unnecessary, undesirable, or even harmful. After all, the juvenile court was established as an improvement on the criminal justice system's procedures, programs, ceremonies, and services, which were considered harmful to juveniles. Further, probation guidance and supervision services were introduced into the juvenile justice system because probation was considered a desirable alternative to programs of institutionalization and to community-based programs run by amateur child-savers.

We can still say that diversion units within probation departments fill the void created by lack of "good," "adequate," or "professional" public or private community service agencies. We can still say that such special units serve the needs of certain categories of "minor" juvenile offenders, thus relieving regular staff from the tedious job of dealing with them, and permitting these workers to do more important things. We can even say the reverse: that the cases going to diversion units are "special" and must be handled by specially trained professional personnel who are really more competent than regular juvenile justice workers.

And there are other ways of trying to talk ourselves out of the trap. But sooner or later we must stop talking and acknowledge the fact that establishing diversion units is, like the very concept of diversion itself, a damning commentary on the juvenile justice system that was intended to serve children in need of help—whether or not they have committed acts that would be called crimes if they were adults.

Personnel working in the newly established diversion units of the communities studied are not sure what they are doing. The uncertainty stems in part from the fact that they can't decide whether or not they are functioning in the juvenile justice system that is being impugned by their very presence. On the one hand, they see their job as diverting children from that system; the diversion unit is supposed to divert children sent to it for diversion. Yet this option, which amounts to "true" diversion, implies criticism of everyone in the system, including themselves. On the other hand, they see their job as one of giving help to children who have been diverted to them away from the path to the juvenile court building, the regular probation division, and institutions. This view helps. It puts the unit personnel in the business of "minimizing penetration" rather than of diversion, and implies criticism of the work of others, but not of one's self.

Some backfiring occurs. For example, personnel of a unit may opt for the notion that, for some juveniles, the best thing that could happen would be diversion from the juvenile justice system into a service agency. But then they find that there are few, if any, agencies capable of accepting the juvenile for whom such diversion is desired. The solution is to develop the unit's specialized services as a substitute for weak or nonexistent community service agencies. The result, of course, is to increase the juvenile's contacts with personnel of the juvenile justice system.

Consider also the views of intake officers. If these men think, as they sometimes do, that the workers in special diversion units are going to treat or help juveniles who would be harmed if handled by ordinary procedures, two possibilities lie open. They might "divert" to the unit youths who would otherwise be dismissed or CWR'd, thus increasing the juvenile's involvement in a system believed to be undesirable. Or they might "divert" to the unit children who might otherwise be "truly" diverted to community service agencies, principally because they believe their professional colleagues in the diversion unit give better service than the others. Here again, children's contacts with official functionaries of juvenile justice are increased, not decreased. What happens is this: diversion units become diversionary, in the sense that they distract attention from the criticism that led to their establishment in the first place.

Most diversion units have been established to handle "predelinquent" or "delinquent tendency" cases. The thinking appears to be that children with such characteristics are more in need of counseling than of supervision or detention, and that counseling and guidance techniques will work with these cases, which are not yet "hard core." The questionable corollary—which tends to reduce the frequency of diversion out of and from the system—is that such techniques will *not* work with cases legally defined as more severe. No one knows whether either supposition is correct. The matter is complicated by the fact that one juvenile might be a "hard core" predelinquent and immune to counseling, while another arrested for a more legally serious offense would respond to just such help.

If you put all six variables—"predelinquent," "lawbreaker," "hard core," "not hard core," "amenable to counseling," and "not amenable to counseling"—into an eight-fold table and stare at it a while, you can only conclude that selection of cases for attention by a diversion unit on the basis of the offense ought to be thoroughly investigated. At present, selection on the basis of offense seems to come from a combination of agencies' reluctance to assume responsibility for serious lawbreaking cases that might go sour, and judges' reluctance to grant greater discretion with the kinds of juveniles eligible for diversion unit treatment.

The particular character and organization of a diversion unit reflects, to a large extent, the degree to which its personnel are party to intake decisions. Inclusion of an intake prerogative seems mandatory for the success of a unit. It is not clear, however, at just what *level* diversion unit personnel should be able to exercise control over their own intake case load. Obviously, a unit's mode of operation, philosophy, and "success" depend greatly upon the type of clientele it receives. The reverse is also true. Establishing a diversion unit is not enough to assure that diversion will take place. A unit without access to intake decisions is at the mercy of those who make the decisions. Both drought and flood are likely.

OBSERVATIONS: DIVERSION UNITS

Westlane

Theoretically, the Westlane Predelinquent Diversion Unit handles all predelinquency cases. In reality, only a fourth to a third of such cases ever reach the attention of the two Unit officers. Transient juveniles are excluded from the diversion program as a matter of policy, but the major source of the discrepancy seems to be the lack of decision-making power at the intake level by Diversion Unit personnel. When the special unit was developed, it was stipulated that there would be no interference with the discretion of the intake officer. This stipulation has proved a major stumbling block to successful implementation of the Unit's goals. Some intake officers disapprove of, or are leery of, the policy and procedures of the Diversion Unit. Accordingly, they choose not to utilize its services and to continue processing predelinquent cases in the traditional manner—

CWR, informal probation, petitions.

In addition, if a juvenile re-offends after having once been referred to the Unit, there is a tendency to say he "had his chance." He is not likely to be sent back to the Unit for further exposure to the program. Moreover, the decision not to return to the Unit may be made by the juvenile's parents as well as by the probation officer. Parents often view the family counseling services of the Unit as both threatening and useless. They demand a more punitive approach. No matter who decides that the repeater should not return, it is problematic whether or not Unit personnel will even be notified of the reoffense, and they have no influence on the disposition of the case in any event.

The unique procedure whereby the Diversion Unit receives its cases presents a special problem to statistical analysis. When an intake officer decides to refer a case to the Unit, he officially dismisses the case. At the same time, he urges the juvenile and his family to appear for counseling when requested to do so by the personnel of the Diversion Unit. An examination of intake records would thus indicate only that the case was dismissed. The only way of knowing if the juvenile was kept in the system is to identify the officer whose signature appears on the dismissal form—if one of the Diversion Unit officers signed, then the juvenile was referred to the Unit.

Of course, there is the possibility that a juvenile referred to the Unit never shows up. The family might have second thoughts and fail to appear for the counseling sessions, which are generally scheduled once a week for three weeks. Participation is entirely voluntary and may be terminated at will by the family.

Intake officers can only hope that families experiencing the problems of a predelinquent juvenile want the help the Unit can give. Unfortunately, many or even most "predelinquency" (e.g., "out of control," "runaway") problems stem from *both* parental and child problems. Often when parents are confronted with *their* deficiencies, they become hostile to the program and stop coming. Since the juvenile has already been officially dismissed, there can be no official coercion to keep him in the program. Furthermore, the Unit's personnel stress the importance of voluntary cooperation. Unsophisticated families, however, may not understand the voluntary nature of the program and participate because they think a "suggestion" by a probation officer is a legal disposition.

The officers of the Westlane Diversion Unit considered extending their services to minor law-breaking cases and, in fact, did extend them to a few such cases before an administrative decision terminated that phase of the program. It would seem that the methods and philosophy of such "diversion" (counseling model) were not enthusiastically received or supported by intake officers and others. The Westlane juvenile court, however, has experienced a decrease in cases in approximately the same proportion as cases handled by the Diversion Unit. If such a decrease is deemed an advantage and the Unit is awarded the responsibility for such "success," it is possible that the Unit will be given greater support and an increase in staff and facilities. We think the pressures for such change must originate outside the probation department. Widespread, strong, community recognition of the Unit's "success" might do the trick. In the absence of such community pressure, it may be predicted that the Westlane Diversion Unit will either fold up or will continue its modest efforts in the direction of diversion.

Van Dyke

At the time of our visits, the Diversion Program in Van Dyke was only four months old and was restricted to female offenders. The organizational structure of the program, however, reflects a unique approach to diversion concepts. An arrangement was entered into with a Good Neighbor Agency that owned an empty twelve-bed cottage just down the street from the juvenile detention center. This agency agreed to receive

selected female predelinquency cases, and to provide living quarters and appropriate counseling for each individual for a maximum of five days. The probation department agreed to pay the agency $20 a day per child and guaranteed a fixed sum each month. So far, about 250 girls have been diverted to this agency, and all parties concerned think the program has demonstrated a degree of success.

The intake section assigns screening officers to the detention center. It is these officers who make the decision about a juvenile's appropriateness for the Diversion Program. The criteria are quite flexible, but in general seem to be based on the girl's willingness to cooperate and on a judgment that her release will not be dangerous to the community or to herself. If the juvenile seems acceptable, verbal parental permission is all that is necessary, and she is then immediately taken to the facilities down the street. The disposition of cases is managed without manufacturing official records. The juvenile avoids a detention booking, and the only "record" of the transaction is an unofficial card placed in the file for accounting purposes. (The case is included in measures of the intake unit's workload.) It is true, however, that such dispositional information is available to a future intake officer if the juvenile re-offends on a more serious charge. There is no limit to the number of times an individual may be referred to the program.

The detention center intake officer is asked to base his decisions on the general criteria for acceptance and to refrain from imposing his own moral values (e.g., locking up all drug offenders). In general, cooperation has been excellent. The person responsible for developing the program is also the supervisor of the detention intake unit and perhaps it is for this reason that problems are minimal. Often parents are unwilling to grant approval because the receiving agency was formerly a facility for unwed mothers, and many parents fear possible stigma. Parents sometimes refuse a second or third referral to the program because they think "tougher" treatment is in order.

Once a girl is placed in the Good Neighbor Agency program she is completely out of the juvenile justice system. Thus, the probation department, by the placement, forfeits its right to file a petition for a hearing and to place the girl on informal probation. The cases are never "officially" opened. The girl is free both to leave the agency and to refuse counseling. She is not locked up and can engage in all available activities—crafts, cooking, reading, TV, etc. Only five of some 250 girls have run away. Three of these collectively cut a screen and went out a window even though they were free to leave by the front door.

Although the program has not been in existence long enough for a meaningful evaluation, there is some indication that recidivism may be lower than it is among girls detained in juvenile hall or those placed on informal probation. The idea of direct diversion from probation to a community agency is, of course, quite appealing as nearly all contact with the juvenile justice system is thus avoided.

Van Dyke was fortunate enough to find an established agency with an available facility in a convenient location. Other communities cannot expect such luck. It would seem, however, that most communities have some kinds of facilities that might be used as Van Dyke uses the Good Neighbor Agency cottage. There certainly are community agencies that would be willing to accept the responsibility for counseling and supervision; all that is needed to activate the facilities and personnel is some "selling" and some money. The cooperation and support of probation personnel is mandatory, and the community must be willing to accept the idea of diversion. We think the Van Dyke program can be duplicated in any community where intake officers are willing to apply the energy to make it work. At the minimum, Van Dyke's Diversion Unit demonstrates the possibility of close public and pri-

vate cooperation in developing diversion programs.

Scottville

The Scottville probation department, in cooperation with a local college, has developed a large-scale experimental Diversion Unit for predelinquents and minor lawbreakers. The idea, put simply, is to compare an experimental group of cases, handled by the Diversion Unit, with a control group. On one of the four experiment days of each week (days are rotated), the Unit takes nearly all predelinquency cases referred to intake. The cases referred during the remaining three days are handled by regular intake.

The individuals who developed the experimental model intended to stress diversion from the juvenile court, rather than diversion out of the system via referrals. In other words, the Unit was to receive children diverted to it. Unit personnel were trained in family counseling techniques and were expected to make contact with each youth and his family for a minimum of two counseling sessions and a maximum of five sessions. It was expected that most problems could be at least temporarily resolved through crisis-intervention counseling and that only extremely difficult cases would be referred to other agencies.

Disagreement about duties and responsibilities within the Scottville Diversion Unit reflect the more general problem of defining just what is meant by "diversion." Some staff members feel strongly that diversion is not diversion unless it directs the juvenile totally out of the juvenile justice system. They believe their major responsibility is to hear a case, identify the major problem area, and then dispose of the case by referring the juvenile and his family to an appropriate community service agency. Other officers feel that since they have been adequately trained in counseling techniques, they are competent to handle almost all cases themselves. Children are thus "diverted" from the juvenile court but they are not sent to community agencies, which are considered weak, untrustworthy, overcrowded or even nonexistent.

The polar extremes of such staff disagreement were observed in two officers, both of whom are "doing the job." One refers cases to a variety of community service agencies at the slightest excuse or hope of success, often via telephone conversations. The other officer virtually never refers a case and in fact encourages youths and parents to come into the Unit for a counseling session or two even if he believes the problem to be a very minor one. In general, the staff leans toward the referral model. Many cases are closed after a mandatory single counseling session rather than the recommended minimum of two sessions. Many such one-shot affairs are referred to other agencies for further work. A considerable number of cases received through phone contacts are also referred to social agencies without further official action.

There has been great difficulty in maintaining the purity of the experimental and control groups, and this factor tends to cast some doubt on the reliability of the statistics compiled by the Unit staff. Not all regular intake personnel or other agency personnel—particularly police—understand the procedural discipline necessary for a satisfactory experiment. For example, regular intake officers have unofficially referred cases to the Unit rather than handling the case themselves. This puts cases in the experimental group that should be in the control group. Similarly, and perhaps more importantly, referrals from law enforcement agencies, and even walk-ins, tend to come to the attention of intake officers on days when the Diversion Unit is handling intake. Further, at about the time of the advent of the Diversion Unit, law enforcement agencies in the Scottville area began to develop their own diversion programs, thus to some unknown degree affecting the kinds of cases getting into the Diversion Unit experiment.

The family counseling approach to handling predelinquency cases seems to have won the approval of the probation department in general, as well as that of officers of the Diversion Unit. Recently, however, when the experiment, as planned, branched out into the area of minor lawbreaking cases, some staff dissatisfaction and doubt developed about whether the family counseling, crisis-intervention model is appropriate.

In the majority of predelinquency cases, it is felt, the family recognizes that the problem is "beyond control" and that there is need for professional help. In lawbreaking cases, however, the tendency is for the family to reject the idea that the juvenile's offense is a result of a family failure; and often the family is hostile to a psychiatric approach that to them is irrelevant to the child's problem. The experiment with lawbreaking juveniles has been underway for only about four months, and it appears likely that the new program will encounter more difficulties than has the lauded program for predelinquents.

The predelinquency portion of the experiment is reaching the end of its scheduled two-year life. The experiment is considered a "success." Quite possibly one outcome will be a recommendation that family counseling be used in *all* predelinquency cases. The Diversion Unit is credited with reducing the number of petitions and consequent court appearances. It has filed petitions or placed on informal probation only about two to six percent of its experimental cases. But there is room for doubt about whether the reduction of predelinquency cases in juvenile court reflects successful *treatment* of juveniles or a mere change in the bureaucracy's attitude toward petitioning cases. As one individual commented, "Filing a petition is a no-no." The reduction of petition filing, then, might not have occurred only because juveniles have increasingly been either treated or referred to "other means." The reduction might stem also from a conception of diversion that maintains, simply, that doing something "official" to a juvenile delinquent is not always better than doing nothing.

CONCLUSIONS

Specialized units, by their very existence, underscore the failure of the regular juvenile justice format to meet the criticisms of modern delinquency theory. The creation of such units might well indicate that we are on the verge of a new era during which the present pseudo-legalistic nature of juvenile justice will be replaced by a nonpunitive, noncoercive "service" agency combining features of the probation, welfare, and mental health departments. Or, diversion units might also be viewed as last ditch attempts to maintain jurisdiction by "proving" that probation is as capable of both diversion and rehabilitation as any old or new organization.

We are witnessing a reevaluation of the role of juvenile justice. For juveniles whose offenses would be crimes if committed by an adult, there appears to be both an increasing stress on legalism and an abandonment of the traditional juvenile court philosophy that such juveniles are being helped rather than punished. For predelinquents, however, the old benevolent philosophy is being refurbished and perhaps reconstituted. If diversion units, as a part of such refurbishment, are deemed "successful," their personnel will find themselves ideologically isolated from their friends in the parent agency. Calls for the creation of a new official agency to care for predelinquents may thus be as emphatic from within juvenile justice as from its critics.

CHAPTER 4. INFORMATION PROBATION

The Mountain State Juvenile Code permits the placement of juveniles on "informal probation" for a period of up to six months. No intake officer or anyone else need file a petition for a juvenile court hearing. No judge need adjudicate the case. For that matter, none of the "legalities" of due process ordinarily associated with the words "court" and "justice" need be followed. Instead, a juvenile court intake officer is allowed to decide that it is in the best interests of all concerned to place a child on probation before he is judged to be a delinquent. It is only in this sense that the procedure is "informal." The process could be more accurately described if an adverb were to replace the adjective; for example, "Intake officers may informally assign to any child coming to his office the legal status of a delinquent on probation." All that is demanded of the child and his parents is acquiescence. They must agree in writing to cooperate.

By providing for informal probation, then, Mountain State law permits the handling of delinquency cases out of court. But the process is different from that occurring when the police informally settle delinquency cases out of court. It differs also from the out-of-court settlements made by intake officers when they dismiss juveniles coming before them accused of delinquency. Further, the out-of-court informal probation settlement differs from that occurring when intake officers send children home on CWR's.

The difference lies in the fact that the juvenile on informal probation remains in the custody of the state. All the good things happening to children adjudicated to be delinquents and assigned to a term of probation can happen to him. But all the bad things happening to adjudicated wards on probation can happen to him, too.

Assigning youth to informal probation status is not unlike the process whereby prosecuting attorneys let accused felons plead guilty to misdemeanors only, thus limiting the sentence a judge may impose. For example, suppose an armed robbery charge is filed against a drunken man who, with a toy pistol in his belt, stumbled around a liquor store asking for a bottle of booze. If the man pleads guilty to the charge, or goes to trial and is found guilty, the consequences will be quite severe—a term on probation or a term of imprisonment and then parole, plus the loss of civil rights and other stigmata accorded felons. However, if he and his attorney arrange with the prosecuting attorney to accept a plea of guilty of disturbing the peace, only a fine or a short term in the county jail can be imposed. The question of whether the man is guilty of either armed robbery or of disturbing the peace hardly arises. Everyone knows he is guilty of *something,* even if it is not the crime he pleads to.

Now a somewhat similar process occurs in the cubicles of juvenile court intake officers. Just as a prosecuting attorney may recommend that a defendant plead guilty to disturbing the peace, the intake officer may, during the intake hearing, recommend to the youth and his family that they accept informal probation. If either suggestion is followed, there is minimization of penetration into the justice system. The accused felon doesn't go to the state prison or to the probation department. The accused juvenile doesn't even go to court. But both the adult and the juvenile whose cases are informally handled in this way get some of the goodies the state has to offer—in the one case a county jail term, in the other a term on probation.

Problems of justice arise. We don't think the problems are serious, but they are there. We cannot here review the recent Supreme Court debates about whether a plea of guilty to disturbing the peace under conditions similar to those outlined above is "voluntary." Neither can we review the questions of justice arising when a prosecutor, who knows he could not get a trial conviction on a serious charge, settles for half a loaf. Considerable legal and sociological research has been done on such issues, and our only real concern is that the results of this research should be utilized to study how and why, in intake offices, the decision to grant informal probation is made.

Intake officers are court officials, even if called probation officers. To a family with a boy in trouble, a court official's recommendation or suggestion of informal probation may sound like an official disposition of the court. We have never heard a conversation exactly like the following, but it sets forth what we have in mind—and something like it occurs on many occasions, usually after the intake officer has lectured the juvenile and his parents about the seriousness of the offense.

> Intake Officer: "I'm going to put you on informal probation for six months, what do you think?"
>
> Youth: "Okay."
>
> Parent: "Okay."
>
> Intake Officer: "You'll have to sign this form agreeing to the probation department rules, okay?"
>
> Youth: "Okay."
>
> Parent: "Okay."

We expect, also, that occasionally informal probation is suggested when the intake officer is doubtful that the evidence is sufficient for successful prosecution in court. Perhaps, like the district attorney suggesting that an accused felon plead guilty to a misdemeanor, the intake officer tries for half a loaf. He "knows" the child is guilty, despite shaky evidence. Moreover, the child and his family are eager to avoid a fearsome, complicated, time-consuming, stigmatizing court hearing, so they volunteer for the informal disposition. A compromise is reached, as in the felony case. The intake officer (and perhaps also the arresting policeman at his elbow) is pleased because *something* has been done, and the juvenile and his family are pleased that the child "got off easy" or even that he "beat the rap." The youth in effect admits his guilt in exchange for an informal disposition of his case.

We do not know how frequently the above-mentioned manipulations occur. We do not know, either, how often informal probation is used as a measure to reduce the work load of juvenile court referees, judges, and probation investigating officers, thus assisting these officials rather than the accused juvenile and his family. Our limited experience suggests that intake officers don't give the matter much thought, one way or the other. Informal probation is simply a service, provided for in the law, that can be given a child and his family.

Some intake officers don't even think of informal probation as "diversion," "minimization of penetration," or some other alternative to official action. It simply is there, and it is used. Others deliberately and purposively use it because they consider it good, and just, to divert the juvenile from a court hearing, where bad things might happen to him or, to put the matter another way, to minimize the extent of his penetration into the juvenile justice system. Thus, informal probation is used when it is deemed that the child is in need of supervision and help, but also worthy of an attempt to minimize the greater stigmatization of official action, wardship, and possibly, institutionalization.

Unfortunately, once the placement is made, the services given the youth might be uneven, inappropriate, or nonexistent—as they might be with children on regular probation. The nature of informal probation depends on a number of variables: policy of the probation department, ideology and training of the supervising probation officer, size of the probation officer's case load,

availability of service agencies that can be of assistance and, last but not least, the degree of cooperation of the juvenile.

The most important administrative decision concerning the handling of informal probationers is whether to treat them differently from court wards placed on official probation. In most jurisdictions, official policy is that there should be no difference in treatment. Unofficially, however, supervising probation officers tend to select one of two alternatives. Either they give their informal probationers more intensive supervision and help than the others, or they provide them only perfunctory supervision, reserving their time and energy for what they view as more difficult cases. In the first instance, an informal probationer is viewed as not yet "hard core" and thus possibly receptive to guidance; in the second, he is shuttled aside for the same reason. Some informal probationers do receive exactly the same services as official probationers, and those services reflect all the variables mentioned previously.

Because it is usually the intake officer who makes the decision to place a juvenile on informal probation, much depends upon his expectations of what informal probation will do for the youth. In most jurisdictions, the intake officer expects the case to receive the same attention as it would if it were an official case. He may stipulate certain conditions of conduct in the signed agreement—for example, the juvenile shall participate in a drug abuse education program—and such stipulations provide the probation officer with clues on how to handle the case. In addition, informal discussion of the case between an intake officer and a supervising probation officer may determine the mode of supervision. Only in the rare jurisdiction where special provision is made for informal probationers, is the intake officer quite sure what he is committing the juvenile to. Usually, however, intake officers only know that their action has, temporarily at least, diverted the juvenile from the juvenile court.

There is an official catch for the child agreeing to the conditions of informal probation, whatever they may be: the original charge is not dismissed. It is merely held in abeyance until the juvenile "proves himself" by completing the informal supervision period without re-offending, without violating any agreed-upon conditions, and without offending his probation officer. Thus it is legally possible to revoke a child's informal probation for due cause, and to file a petition for a hearing on the original complaint, as well as on any additional indiscretions committed during the period of informal probation.

The fact that official action on the original charge always hangs over the juvenile's head reinforces the point that informal probation is not "true" diversion. In no way has the juvenile been released from either the complaint against him or from the juvenile justice system. Although many jurisdictions claim that the right to file on the original complaint is seldom implemented, the fact remains that probation officers and intake officers retain the legal right to do so. Because the juvenile and his family are apt to be made aware of such legalisms, they are likely to view the informal probation disposition as coercive rather than diversionary.

OBSERVATIONS: INFORMAL PROBATION

Westlane

The Westlane Probation Department strongly advocates the use of informal probation. One-half to two-thirds of all juveniles on probation are on informal probation. Theoretically, they receive the same degree of attention as official probationers. But there seems to be an unwritten understanding that "informals" will receive more intensive handling than the others because "one can work with these types of kids." The actual handling of individual cases is left to the discretion of each probation supervision officer. Generally speaking, little treatment (counseling) or diversion (referral) takes place once the juvenile is assigned to a case load. However, he is apt to have more frequent contacts with his probation officer than children on regular probation.

Westlane intake officers may stipulate specific conditions as part of the formal agreement about informal probation. While violations of these conditions may be, and sometimes are, looked upon as grounds for filing a petition on the original complaint, in general the conditions are intended only as guidelines for the probation officer. Although it is possible for a juvenile to be placed on informal probation more than once, recidivism or lack of cooperation during an initial period is normally considered grounds for filing a petition. Informal probation is often viewed as a juvenile's "last chance" before intake officers get tough and take more official action.

Van Dyke

Approximately two years ago, the Van Dyke Probation Department developed a special Informal Supervision Unit charged with supervising all children placed on informal probation. The program was based on the idea that small case loads would allow in-depth counseling with the juvenile and his family. To a degree, the program is "voluntary." Even after a child and his parents have signed the required agreement to participate, they are allowed to help in determining the extent of the counseling relationship. There is a strong feeling among Unit staff that they should not receive a case unless the family is really ready to "work" (participate in counseling, etc.).

Unfortunately, a good number of cases come to the Unit via the unofficial coercion described previously. The Unit sends each new family a letter stressing the fact that the Unit is concerned with "helping" rather than supervising. "Selling the family" is the hardest task, but the staff believes that breaking down the "mystique" around the probation officer is vital to establishing a successful counseling relationship.

Four classes of supervision are available: Maximum, Medium, Minimum, and Special. As one goes down the scale, there is less and less contact with the Unit—from a maximum of a couple of times a week to a minimum of once every three or four months. The juvenile is rewarded for good conduct by a lowering of his supervision status.

Because the Unit does not have input at intake level, it receives many cases its staff view as unfit for the program. Staff members feel that cooperation from intake personnel is minimal, perhaps due to lack of understanding of the program. Intake officers, however, indicate that they feel better about placing juveniles on informal probation now that they are assured of special handling. Both intake officers and Unit staff members believe that the goals of the program have been frustrated by an increase in the Unit's case loads (due to loss of staff). Originally, a maximum case load was to be fifty cases. Now, case loads of around sixty or seventy curtail intensive counseling and have led intake officers to believe there is no longer much difference between informal and formal probation.

The unique aspect of this program is the attempt to implement an intensive supervision model in cases that are not necessarily "hard core" (as determined by court action). The policy of the department and the belief of Unit supervising officers obviously is that informal cases should receive more attention than is normally possible in regular probation case loads. This philosophy stems from the belief that by intervening at this level the juvenile will be prevented or diverted from a career in crime and consequent greater contact with the juvenile justice system. This idea became manifest in one officer's comment that "the theoretical oppressiveness of probation is bullshit." To this officer, probation was a valuable service to juveniles, not their enemy.

In Van Dyke, then, diversion *from* the system is viewed as possible by way of diversion (informal probation) *within* the system. The justification for such diversion is not that community

resources are lacking—the community's Youth Service Bureaus are highly rated, but rather, that there exists a certain type of juvenile who needs a more disciplined form of counseling than others. Unfortunately, the program has not received the financial support necessary for implementing its original goal of small case loads and intensive counseling.

Scottville

In Scottville the official policy of the Probation Department is that juveniles on informal probation are treated the same as wards of the court. In general, field probation officers seem to subscribe to this policy and act accordingly. There does, however, appear to be some reluctance to file formal petitions for a hearing on either the original charges or on new charges, when a child violates the conditions of informal probation. Perhaps the officers do not want to commit the juvenile to further contact with the juvenile justice system.

Informal probation is not extensively used in Scottville. Currently, less than one-third of all supervision case loads consist of informal probationers, compared to up to two-thirds in Westlane. From the time the Diversion Unit and a variety of law enforcement diversion programs were created, the percentage of informal probation placements has been on the decrease; intake personnel believe this is because juveniles now handled by regular intake officers are more serious offenders, unsuitable for the informal probation program. Juveniles committing minor offenses are now diverted.

Any reduction in the percentage of cases assigned to informal probation is likely to be accompanied by an increase in the percentage of cases on which official petitions are filed, and not by an increase in the percentage of cases dismissed or CWR'd. It might be that as diversion programs absorb more and more of the supposedly minor cases, the regular intake process will become more and more "judicialized," meaning that it becomes increasingly like the formal charging process used for criminal cases by district attorneys.

CONCLUSIONS

Informal probation might well provide a vehicle for resolving the question, "Diversion to Whom?" Special informal probation units such as the one in Van Dyke might represent a middle ground between the more overtly coercive nature of incarceration and probation on the one hand, and the more lenient, less supervision-oriented special diversion units on the other. But maintaining a middle-of-the-road position is always difficult. Even in middle-ground informal probation units there is always the danger that personnel will become too "official" while attempting to avoid official actions such as regularized court procedures. There is also a counter possibility that they will become too "lenient," due to an inability to sustain an adequate level of supervision, or due to routinization, indifference and neglect, and the subsequent attitudes of indifference on the part of the client, his parents, and the personnel of other agencies.

CHAPTER 5. TWO SPECIAL PROGRAMS

In previous sections we have noted that in some communities, agencies established for dealing with youth problems have an important impact on the diversion policies and practices used by juvenile court intake officers and others—such as the Van Dyke Good Neighbor program described in Chapter 3. Here, we shall describe two other special programs, the one functioning inside a juvenile court's general diversion apparatus, and the other functioning somewhat outside such an apparatus.

Ideally, every community with a diversion program would also have many publicly or privately financed "special programs," staffed by personnel willing and able either to facilitate the diversion process or to receive the diverted children.

WESTLANE: SCHOOL-COMMUNITY OFFICERS

The Westlane Probation Department began assigning a full-time probation officer to the schools of the county as early as 1958. Currently the program has three full-time officers on assignment and appears to be unique in the state. The idea is to intervene in cases identified by school officials as likely predelinquents *before* the juvenile progresses to the point of contact with law enforcement agencies. Each probation officer is assigned a certain number of school districts to "cover," but he usually concentrates his efforts at the junior high level. He establishes fairly stable office hours at each of the schools in his district, during which time he counsels students referred by the school administration plus any students who choose to solicit his aid. Although serious cases come to his attention (drugs, sex offenses), the great majority of his contacts involve minor "predelinquencies" such as truancy or "acting out" in class. Each officer usually sees from 75 to 100 children each month during the school year.

The School-Community Officer is not expected to engage in long-term counseling or supervision. If he cannot resolve the immediate problem in one or two sessions, he refers the case either to another agency or to the official attention of the juvenile court. Since the School Officer has official intake power, he may determine when a child is in need of "official" action and place him on informal probation. He may also determine that another child is in need of even more "official" action and file a petition for a juvenile court hearing.

Although School Officers down-play the official, authorization aspects of their position, it appears that they take official action in approximately ten to twenty percent of their contacts. It is problematic whether the very presence of the School Officer serves to bring into the juvenile justice system individuals who would otherwise remain outside. School Officers rationalize their action on the ground that the juvenile is heading for serious trouble, and that early intervention may "divert" him from engaging in a serious offense.

It appears that the School-Community Officers are taking over some of the work normally expected of school guidance counselors. Although the successful diversion of juveniles from the juvenile justice system is laudable, it may be that the probation presence relieves the schools of their responsibilities. Even minor contact with a representative of the juvenile justice system seems unwarranted in cases that could readily be handled by school officials.

The success of the present program is difficult

to judge. It would require an act of faith to maintain that juveniles interviewed by the School Officers are diverted from a life of delinquency. But some of them probably are. On the other hand, it could be that contact with an arm of the juvenile court about a relatively minor problem serves to stigmatize the juvenile, thereby increasing his chances of entering the system. Were that the case, a program set up for diversion purposes—albeit rather accidentally—would have become the very program from which children were to be diverted. Before the Westlane program is recommended for adoption by other jurisdictions, it should be subjected to a long, hard look, with many side glances at the responsibilities of school officials.

VAN DYKE: YOUTH SERVICE BUREAU

In Mountain State, the Youth Service Bureau type of program appears in many forms. The major programs are supported by funds administered by the State Law Enforcement Planning Agency (LEPA). They operate under the board guidelines and supervision of the state's Department of Juvenile Corrections. Each community writes its own proposal for funding, so there are organizational variations from community to community. Moreover, a number of communities use the Youth Service Bureau title for programs not funded through LEPA. These programs, like those guided by the Department of Juvenile Corrections, may be sponsored and controlled by either a public or private agency.

The Van Dyke Youth Service Bureau is perhaps the most successful of several similar programs in Mountain State. It actually consists of several Bureaus, not one. The community plan calls for the development of twelve additional Bureaus, indicating, we think, that budget-setting officials like what they see. The success of the organization seems attributable to dynamic leadership, excellent public relations and, most important, cooperation with and control of the Bureau by the concerned public agencies.

The initial Bureau was staffed by out-stationed personnel from the Probation Department, the Welfare Department, and the Police Department. This model has been followed in each additional Bureau established in the community and will most likely stand as the organizational structure of all new Bureaus. The program was staffed by two probation officers, one welfare worker, and a city police officer. In plain words, each participating agency was able to feel it had "a piece of the action" and consequently became supportive of the program rather than alienated from it.

The excellent job of coordinating the efforts of competitive and often hostile public agencies is the key to the organizational success of the Van Dyke Youth Service Bureaus program. As with all delinquency prevention and diversion programs, the task of evaluating the degree of its "success" with juveniles is another matter.

Perhaps the most outstanding "success" of the Youth Service Bureaus in Van Dyke is in the area of image change. Public and private agencies and, what is more important, a significant number of juveniles, have learned that youth problems are family *and* community problems and that they are perhaps easier to resolve outside the traditional authoritarian framework than within it. Thus, in Van Dyke many juveniles go to a Bureau office for help in times of crisis. They have learned that the YSB is a "no bust" agency, even if the person who counsels you is an "off duty" cop or probation officer. For once there is a quasi-public agency that seems to want to help rather than lecture or convict.

Policemen, like delinquents, have come to learn that the YSB makes their lives more pleasant. We saw no other facility where both policemen and juveniles just drop in for a talk or a cup of coffee. Interagency cooperation and community involvement seem to have at least initiated

development of a milieu where juvenile problems are viewed as everybody's problems.

The Van Dyke YSB, in virtually all cases, attempts to involve the family in counseling. There are no time limitations, and a case may remain "open" almost indefinitely. The YSB has been careful to maintain the "establishment" image deemed necessary for securing the cooperation of community agencies. At the same time, the cooperation of the juvenile and his parents is secured by making the "image" a nonthreatening one. The quasi-official nature of the Bureau is not overlooked, but rather down-played.

Although a particular juvenile may not be aware that staff members are really policemen, probation officers, and social workers, the staff members themselves use their occupational status both to establish and maintain contact and cooperation with their parent agencies. Such cooperation is often evident in unofficial or informal contacts made by telephone, at lunch, at parties, etc. In the informal encounter, a juvenile's case may be diverted from police or probation to the Bureau without any official action at all.

Perhaps the Youth Service Bureau is a part of the juvenile justice system, perhaps it is not. Staff members are officially still employed by their parent agencies, and the Bureau's guidelines come from the Department of Juvenile Corrections. But after working a short time, staff members acquire a we-they perspective of their parent agencies. Therefore, we think that when a juvenile comes into contact with the Youth Service Bureau he is *out* of the juvenile justice system. Of the more than 1,800 juveniles having had contact with the Van Dyke Youth Service Bureau, only three have been referred back to the official juvenile justice system.

The Bureau seems to have developed at the right time, in the right place, under the direction of the right people. A publicly funded Probation Department project with a close operational relationship with the Police Department and the Welfare Department, it, almost unbelievably, has been left alone to develop as a "private" agency. If the major chore of the Youth Service Bureau is to coordinate community services so that they meet the needs of juveniles, the Van Dyke YSB has accomplished its task.

CONCLUSIONS

As special programs "prove" themselves by demonstrating their ability to relieve the pressures for change in the realm of juvenile procedures, they will exert their influence upon existing agency formats. The theories and techniques of the special programs might well be incorporated into the established structures. But it is not altogether clear if the result will be "better" traditional structures, or mere tinkering with innovative and promising programs that are half-heartedly supported or even openly resisted by traditionalists.

If the special programs are perceived as dramatically successful, it is possible that they will provide the incentive to create a totally new structure designed to deal with particularly troublesome areas of juvenile justice such as "predelinquents." It is in the establishing of "special programs" that the first skirmishes are fought in the ideological battle around "correct" juvenile justice philosophy.

CHAPTER 6. IMPLICATIONS FOR RESEARCH AND POLICY

Diversion policy, whatever its base in theory, is bound to inhibit and frustrate anyone wanting merely to study diversion programs, let alone anyone who desires evaluation of them. Taking the matter of informal diversion, for example: agents of the juvenile justice system are asked to avoid official, formal actions in their processing of juveniles in trouble. Stated another way, the agents are asked to use their own judgment, to exercise individual discretion, to take informal and unofficial actions. But when individual discretion is manifested in informal action, there surely has to be a sharp reduction in the formal rules directing the agent's conduct, with a consequent muddling—even in the mind of the agent—of the criteria on which decisions are based. This muddling, in turn, makes accurate record-keeping almost impossible, even if such record-keeping is desired, paradoxically, by the same people who would make all actions unofficial and, thus, unrecordable. Such a situation clearly complicates the task of the researcher, especially one who seeks statistical and survey data that can be generalized.

Consider again the key diversion position within the juvenile justice system, that of the intake officer. His decisions are generally held to be too sensitive to be bound by specific criteria, and the officer is left free to exercise his discretion, so that the criteria for diverting juveniles vary greatly from officer to officer. Any intake officer's diversion decisions depend principally on his own general correctional philosophy, knowledge of alternative services, informal relations with other probation officers and personnel of outside agencies, and the types of juvenile cases he receives, or thinks he receives. His department's official policy or philosophy establishes only the direction or trends he should try to follow.

It is not surprising, then, to find the stated goals of a diversion policy or program at variance with the actual mode of implementing those goals. Today everybody is for apple pie and "diversion," but opinions vary on how best to make the pie and on how best to divert. To one intake officer, a CWR or placement on informal probation is "diversion." To another, diversion has not occurred unless a referral to an outside agency is made and the case officially dismissed. Rarely, if ever, do even a minority of officers within a unit agree on what diversion is all about. Nearly everyone we talked to asked us to help clarify the definition of diversion. We started out trying to learn something about diversion practices but wound up responding to questions about the form and content of "proper" diversion programs. When the identity of the thing being studied is so obviously up for grabs, the overall statistics showing how it works or whether it is a "success" aren't likely to be very meaningful to the scientifically oriented researcher.

As a case in point, most of the readily available statistics on intake dispositions refer only to the number of bodies processed in certain ways—"thirty percent CWR, twenty percent petitioned, thirty percent on informal probation, twenty percent dismissed." Maybe there will be a simple male-female breakdown, maybe not. There will be little else, and almost certainly there will be nothing to help the outsider discover the modal patterns of even officially processed cases, let alone the ones handled "informally."

As a general rule, a social history or "face sheet" is compiled only when a case becomes officially official, i.e., when a petition is filed. These sheets can be used as a source of data on

socio-economic background, race, offense, parental relationships, etc. But most likely there will be no face sheets for the juveniles handled by a disposition short of petition. Moreover, the information on the sheets that can be located is likely to be incomplete—whether a piece of information is recorded depends entirely upon whether obtaining and recording such information was deemed important by the intake officer.

It must be recalled that these difficulties are encountered even when dealing with "officially" processed cases. Coincident with pressure on officers to divert, many cases—such as walk-ins and telephone referrals—are handled without *any* official paperwork. Even in the Scottville experimental Diversion Unit, phone contacts are merely noted on the listing taped to the wall (name and date), and such notation is frequently forgotten. The Scottville Unit was attempting to maintain a running inventory of social data for its experimental cases, but data gaps were prolific and varied for all the above reasons. In not a single instance did we find a probation office maintaining a complete inventory. Although many individual officers said such an inventory might be very helpful in reviewing their own decisions, they claimed they had no time to invest in the additional work necessary to maintain an inventory. Perhaps such data are unconsciously considered threatening.

With the exception of Scottville, even rates of recidivism are most often mere guesses. "Success" at diverting is customarily equated with avoiding the filing of an official petition and *not* with degree of positive help given the juvenile. Rarely is a case followed for more than six months or a year, hence whether or not diversion is permanent (i.e., the juvenile never again encounters the juvenile court) is pretty much guesswork. In line with this seemingly narrow definition of success, most diversion personnel feel that, regardless of the permanence of their diversionary action, contact with their service is more beneficial than harmful for the juvenile.

Social data do exist, but digging them out will entail an exhaustive, personal, "raw data" examination of the files of individual agencies. Upon completion of this job the information gathered would still, we think, be very fragmentary, because each officer differs in his approach to recording data.

We are pessimistic, but we do not entirely surrender. A quantitative study of discretionary programs and practices is not impossible. Each probation department maintains a statistical or "research" unit, usually a single clerk or secretary. Some digging in the files of this unit should produce a somewhat accurate listing of all currently active official juvenile cases—those to which a case number has been assigned. A random sample could be pulled, and a social data code could be developed to organize the material in at least a preliminary manner. The files on many "active" cases will be on someone's desk, not in the record office, but this problem is not insurmountable. Important data, such as socio-economic class, would probably have to be inferred by using a number of methods, depending on what is in the files; in one case, "father's occupation" might be recorded, in another it will be "family income," and in still others it would be necessary to infer class from the area of residence.

Clearly, evaluation of diversion programs based on recorded information will be a time-consuming and expensive process and without the brightest prospects for meaningful results.

When probation personnel were asked what they thought of such an involved quantitative analysis, they usually laughed. One officer said, "Go ahead and do it if you want, but it wouldn't be worth the paper it was printed on, except to help snow the public."

There is a pressing need to study the careers of juveniles who are diversion fodder. Most current concern (including ours) has been for changes in juvenile justice bureaucracies. Evaluation of the correlated change, if any, in the juveniles who

have been processed is mostly an uncharted area. The faddist nature of diversion has produced a proliferation of diversion units and programs without generating a close look at whether the juvenile subject to all this attention is receiving a better deal. It is quite possible that participating personnel have revamped terminology and procedures without seriously altering what happens to the juvenile.

So far as we know, no one has shown that the juvenile offender and his family perceive their handling as materially different under the auspices of a diversion unit than under a more traditional juvenile justice agency. The question is rarely formulated, let alone asked. It is probable that the juvenile does not discriminate as readily as the intake officer between such realities as counseling, informal probation, regular probation, and coercion. It seems plausible that if an act of diversion were truly successful in an individual case, the subject of the act would perceive that something positive had entered his life and something negative had gone away. For this reason, it seems crucial that in-depth qualitative and longitudinal studies be the first order of business for subsequent diversion research.

Compilations of official data will be greatly aided by clear narratives explaining what actually happens to juveniles confronted by the juvenile justice system and its programs. Such study would examine the perspective and the working milieu of the individuals charged with doing the diverting. One finding here may be that explicit or implicit labeling of juvenile justice workers as bad or inefficient will make them bad or inefficient. Our observation is that, thus far, the diversion demands have not had this effect; they have only raised a specter of self-doubt, perhaps justifiably, perhaps not. One unit supervisor complained.

> True diversion supposedly means referral out of the system, but what if competent community services are not available? What's more, why do planners seem to take for granted that probation personnel are not competent for counseling roles? Our people are all highly trained and probably are *more* competent than most personnel in community service agencies.

When the professional person's career and services are called into question by establishing some organizational alternative to them, the result is likely to be a defensive reaction, not a shift in career or even in orientation. Teachers reacted to the "Free School" movement by noting the "incompetence" of noncertified teachers and the "inadequacy" of cheap buildings and furniture. Juvenile justice workers have reacted to the presumed threat of "diversion" by developing and lauding their own diversion programs—sponsored, developed, and directed by juvenile justice professionals—claiming them to be better than the shoddy facilities and "do-gooder" motifs of the paraprofessionals in community service agencies. Research should be addressed to an understanding of the organizational realities of bureaucratic professionals engaged in the dual process of implementing social ideals and establishing successful professional careers.

The temper of national and local justice agencies seems to indicate that diversion is the watchword of the day. On the adult level we are seeking to empty our prisons by diverting offenders to local control agencies. In Massachusetts, state juvenile incarceration facilities have gone by the board, and in California a transfer of the state Youth Authority correctional services to the county level is being considered. Everywhere in the realm of juvenile justice there is the belief that a new day is dawning.

The enduring and often intransigent philosophy of juvenile justice that developed at the beginning of the century is experiencing both attack and revival. The *Gault* decision by the Supreme Court in effect asked that the system for processing juveniles be modelled on the processes used in the criminal courts. The specter of juveniles being submitted to all the disabilities of the adult model of criminal justice had, however, seemingly stirred juvenile officials to reexamine

their services. Diversion has been embraced and lauded as a means of implementing the humanistic elements of juvenile justice philosophy—but without incorporating the more structured humanism of the adult due process model. Thus, it is maintained that diverted juveniles do not need the legal rights available to adults for they have been removed from the system to be "helped." After all, isn't diversion really rehabilitation or prevention rather than punishment?

The near future should witness many structural changes in the realm of juvenile justice. It appears that there will be a polarization of attitudes and programs: lawbreaking juveniles are likely to be processed along the lines of the adult model, and hence will receive more due process and less humanistic consideration—after all, are they not merely small criminals? Juveniles who have been called "predelinquents" because they can't get along at home or in school will be diverted.

The emphasis on diversion, unfortunately, diverts our attention from the etiology of juvenile offenses. It serves to focus our resources on the problem of secondary deviancy rather than on the problem of preventing juveniles from engaging in *initial* acts of deviancy. As a consequence, the proactive process of delinquency prevention is downgraded in favor of expanding our reactive capabilities. We suggest that opinion leaders and decision-makers within juvenile justice systems must worry not only about reform of juvenile courts and correctional programs, but also about the conditions in homes, schools, and communities that launch children on the march toward the door of the juvenile court in the first place. After all, the labeling theory and differential association theory underlying diversion programs also suggest better child rearing practices, better educational techniques, and more respect for the delicate status of juveniles.

If recent attempts to guarantee the civil liberties of minors prove successful, present definitions of what constitutes "predelinquency" will become both inadequate and unconstitutional. Juveniles now defined in negativistic terms as "runaways" or "out of control" probably will be redefined as individuals with a legitimate say about their place of residence and other living conditions, including the nature and degree of control imposed by parents or other adults. At present, when communication within a family breaks down, aggressive actions of the adult members are viewed as unfortunate, while aggressive acts of a minor are typically viewed as "predelinquent," "delinquent," or even criminal. As our laws are reformulated to correct this injustice, they will extend constitutional due process rights to youngsters, creating a critical need for agencies and programs that are truly helpful and noncoercive.

If the policies and programs of diversion serve to pave the way for a better blend of juvenile justice theory and actual societal responses to the problems of youth, then they deserve to be lauded. If, however, diversion becomes merely a bureaucratic means of diverting attention from needed changes in the environment of youth, it will do great injustice. Diversion in the form of rhetorical gloss or mere bureaucratic manipulation is self-serving for the agencies involved, and perhaps it serves only to perpetuate anachronistic institutions. But if other forms of true diversion receive adequate public and private support, they may mitigate the problem of secondary deviancy, and also serve as models for more effective and responsive youth service agencies.

NOTES

1. President's Commission on Law Enforcement and Administration of Justice, *Task Force Report: Juvenile Delinquency and Youth Crime,* Washington, D.C.: U.S. Government Printing Office, (1967), p. 2.

2. For summary statements of labeling theory, see John I. Kitsuse, "Societal Reactions to Deviant Behavior: Problems of Theory and Method," *Social Problems* 9 (1963), pp. 247–256; and Jack P. Gibbs, "Conceptions of Deviant Behavior: The Old And the New," *Pacific Sociological Review* 9 (1966), pp. 9–14.

3. For summary statements of differential association theory, see Donald R. Cressey, "Epidemiology and Individual Conduct: A Case from Criminology," *Pacific Sociological Review* 3 (1960), pp. 47–58; Robert L. Burges and Ronald L. Akers, "A Differential Association-Reinforcement Theory of Criminal Behavior," *Social Problems* 14 (1966), pp. 128–147; and Melvin DeFleur and Richard Quinney, "A Reformulation of Sutherland's Differential Association Theory and a Strategy for Empirical Verification," *Journal of Research in Crime and Delinquency* 3 (1966), pp. 1–22.

4. Elaine Duxbury, *Youth Service Bureaus in California* (Sacramento, California: Youth Authority Progress Report No. 3, 1972), p. 5.

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