

with related programs which had successfully represented clients in such actions. And certainly the threat of resort to the courts for resolution of client-agency disputes was inherently present even though nonexpressed.

The lesson seems clear. Not only do youth need

advocacy which includes the provision of legal counsel and service, but means must be found to provide the necessary service to such disadvantaged client groups without subjecting the program to the continuing threats of possible termination for lack of financial support.

Evaluation of Adult Diversion Programs: The California Experience*

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DURING recent years, perhaps the single most popular concept within criminal justice has been the implementation of diversion procedures (Brakel 1971, Carter 1975, Nimmer 1973). Commensurate with this growth in diversionary projects has been a proliferation in efforts to evaluate the impact of such programs (Caro 1971, Viano 1975, Zimring 1974). In California, a major effort in evaluating diversion projects was attempted when the Research Unit of the California Department of Corrections (CDC) was awarded a contract by the State Office of Criminal Justice Planning (OCJP) to conduct an evaluation of adult diversion programs receiving Law Enforcement Assistance Administration funds.

The CDC evaluation project, Community Based Corrections Evaluation Project (CBCEP), intended to evaluate all adult diversion projects in California. However, of the 105 programs in the diversion category during 1974, the vast majority served a juvenile clientele. It was impossible to find 15 adult diversion programs suitable for evaluation when diversion was restricted to those efforts aimed at pretrial intervention. A broader and rather nebulous definition of diversion, therefore, was reached: Any program which attempts to minimize the individual's penetration into the criminal justice system. This expanded view of diversion enabled the CBCEP to locate enough programs to fulfill OCJP contract requirements.

A list of programs chosen for evaluation was then submitted to the OCJP direction for review

and recommendation by a steering committee. The steering committee, composed primarily of representatives from the regional planning offices and the OCJP staff, approved 16 projects for evaluation by the CBCEP. These projects fall into three categories: Pretrial diversion, residential alternatives to incarceration, and alcohol and heroin detoxification. This diverse aggregate of projects is representative of adult diversion efforts in California.

The projects evaluated are geographically spread throughout the State. Some are in major urban centers, some in small communities. There are projects with relatively large and small budgets. Some are located in highly specific ethnic locales, employing a paraprofessional staff, while others are professionally staffed. Every project, however, possesses a common fabric: It is designed to minimize the penetration of individuals into the criminal justice system.

The basic methodology of the project was the development of an information system. This information system centered on two data forms: One for use at the time of client intake and the second to be utilized at designated followup intervals. Supplemental information was gathered through interviews with project staff, their clients, and the managers of business enterprises who had entered complaints against people who were ultimately diverted into the projects under evaluation.

To describe the severity of offenses for which action was initiated, a scale was developed using as a base the standard bail schedules from Alameda, Sacramento, and San Diego Counties. (Most

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of the projects are based in these counties.) This scale, called the California Offense Severity Index (COSI) ranges from 1, for the most benign crime, to 999 for the most serious offense. The average weighted bail in dollars is calculated for each offense, using weights which equalize the relative contribution of the three schedules. The last digit in each schedule was omitted and a few scores over 1,000 (\$10,000) set at 999 (\$9,999) to create the overall scale (Warren 1964).

Summary of Project Clientele Characteristics

Intake data were acquired in 1,222 admissions into the projects evaluated. The size of the project samples ranged from 194 to 9. The samples from the various projects were admitted during differing periods of time. This was unavoidable because start-up time varied from project to project.

Diversion clients are young, with 60 percent of the sample between 18 and 30 years of age. The exception to this trend was the alcohol detoxification projects which necessarily serve an older clientele. Almost two-thirds of the clients, 64 percent, were males. Aside from one Property Crime Deferred Prosecution project with a 64 percent female population, no project was comprised of more than 29 percent females. Ethnically, 68 percent of the total sample were white, 16 percent black, 10 percent Mexican American, and 6 percent reported various other ethnic origins. Because clients were diverted on a "prearrest" basis no offense was involved in 376 of the 1,222 total admissions into the projects. Of the 837 cases which were charged with an offense, 351 (42 percent) involved petty theft, and 176 (21 percent) involved possession of marihuana. On the COSI, which ranges from 1 to 999, both marihuana and petty theft have a scale value of less than 99. Overall, 672 (80 percent) of the charged offenders had crimes with scale values between 1 and 99. Only 18 persons were charged with an offense having a scale value over 500. The largest group charged with a relatively severe offense was 35 persons for burglary (which is 401 on the COSI). The vast majority of persons in the sample were charged with very minor crimes.

The CBCEP noted three characteristics of diversion project operation which impede evaluation efforts: (1) The projects' variation in the degree of penetration into the criminal justice system for clients; (2) the creation of additional client information sources through the diversion process; and (3) the type of client served by diver-

sion affecting cost analysis. From the inception of the CBCEP, these characteristics of diversion operation were responsible in large measure, for the direction and outcome of the California evaluation effort. The impact of these major characteristics of diversion indicate that each diversion project is a unique entity whose descriptive operation must not be neglected by evaluators (Geis: 1975).

Penetration Into the Criminal Justice System

The basic premise of pretrial diversion is removing an individual from regular processing in the criminal justice system. This early removal is usually justified on the basis of two factors: That savings are realized in the costs of adjudicating cases, and that the defendant avoids the stigma from being convicted and sentenced. Presumably, these justifications and the benefits that they promise would lead to uniformity of procedures followed among pretrial diversion projects. There are, however, striking differences in the extent of penetration into the criminal justice system that occur in the pretrial diversion projects examined in the CBCEP affecting the possibilities for a project to attain either of the two basic objectives of diversion.

Two projects illustrate the range which an individual can enter the criminal justice system, each considered "diversion." First, the Ventura Adult Diversion Project (VADP) represents the outcome of a conscious effort to remove its clientele from as many of the usual points of contact with the criminal justice system as possible. Most clients in the VADP have been issued citations for the offense which leads to their involvement in the projects. The citation indicates a date by which the person must appear at the police station to be booked. Immediately after being issued, citations are sent to the complaint review section of the District Attorney's office. Here a determination is made whether a complaint should be issued and the eligibility of the individual to participate in the diversion project. If the case is chargeable and the individual eligible, he is referred to the diversion project. Project staff interview the individual, provide legal counsel if necessary, and, upon a favorable determination, the individual is placed on diversion. No booking occurs. The client enters the project without a court appearance.

In contrast, clients of Project Intercept in Sonoma County (PISC) are processed consider-

ably deeper into the criminal justice system than any project examined by CBCEP. The PISC takes the client through the usual booking procedure and no less than three appearances in court before he is diverted. The first appearance is for arraignment and appointment of counsel. If the client is interested and appears eligible for diversion, his counsel will request this at the second hearing. Next, there is a third appearance in court to grant a continuance with the understanding that he will participate in the diversion plan.

Such variance in the extent of penetration into the criminal justice system of the diversion client places the program evaluation in a precarious position. Procedures as the PISC deem cost-effectiveness relating to court action impossible. The VADP, however, by restricting criminal justice involvement, indicates savings in probation and court expenditures.

Record Keeping

A frequently noted benefit of diversion for the individual is the avoidance of a conviction record (Skoler, 1971). Not acquiring a criminal record, especially in California, is important. California employers may no longer ask a potential employee if he has ever been arrested. An employer may only inquire if the individual has been convicted of an offense (with exceptions if the record was expunged or sealed).

A number of critics of diversion programs, however, point out that the diverted case generates far more records than proponents of diversion have indicated. Mintz and Fagan (1975) assert that some PC 1000¹ projects do not arrange for the expunction of arrest records of the successful diveree. Under the PC 1000 alternative, the record indicates "Dismissed, PC 1000" or "Dismissed, Diversion." The existence of this type record limits the intended destigmatization of diversion. To the person reviewing a record of dismissal achieved through diversion, the notion of implicit guilt may be inferred. The likelihood of guilt is suggested to the reader by his knowledge of the circumlocutions surrounding diversion: acknowledgment by the client of "moral

responsibility" for the offense charged as a condition to diversion.

There are two alternatives for dealing adequately with the problem of records within diversion. The first is to use the statutory mechanisms for expunction and sealing. The second is to establish as few records as possible outside the project. This approach is well represented in the procedures of the VADP. No record of a particular arrest is established in the police department, nor is the arrest communicated to the Bureau of Criminal Identification and Investigation (CII). The project communicates with CII for records of previous arrests, but no new "rap sheet" is established if no prior criminal history is evident. Ordinarily a rap sheet would be established for the case when there is no previous record with the notation of the arrest for the charge leading to diversion. If the client successfully completes diversion, the record of the arrest would remain with "Dismissed, Diversion," indicated as the disposition. The principle underlying the VADP recordkeeping policy is that diversion from the criminal justice system implies that minimum indicators of a client's involvement should remain.

The same determination to avoid creation and communication of records is evidenced by the VADP at additional points of the project. An ethos which justifies diversion as a mechanism for reducing stigmatizing effects of contact with the criminal justice system similarly dictates that any evidence which points to such contact be minimal. A judge or probation officer investigating a subsequent case may equate "Dismissed, Diversion" with conviction. If the meaning of the term "diversion" is considered literally, a previous successful diversion should not be available to criminal justice personnel to be regarded as a negative indication about the individual. Presently, one of the best methods of restricting access to records of diversion clients is to limit the creation and storage of such information. The approach utilized by the VADP of maintaining records will insure that the diverted individual has in fact been truly diverted. The VADP should be considered a model for future diversion endeavors.

Clientele of Diversion Projects

A frequent criticism of diversion projects is that they deal largely with individuals charged with minor offenses, extending services of a kind and cost that would ordinarily be provided to a clientele who had been not only charged, but con-

¹ Instituted in 1972, California Penal Code section 1000 allows for the suspension of court proceedings for a period of from 6 months to 2 years for certain first-time drug offenders. Suspension of prosecution is contingent upon the defendant's meeting specific criteria: no prior conviction for any offense involving narcotics, the offense did not involve a crime of violence, no prior record of parole or probation violation, and review and recommendation by the district attorney. Those diverted from the court system are referred to community services for education and treatment. If the diveree successfully completes the program, charges against him will be dismissed. If the diveree is arrested and convicted for any offense while in the program, he is referred back to court for prosecution.

victed of more serious charges. The distribution of offenses in projects examined by the CBCEP is indicative of this nature. The clients of these projects are charged primarily with minor offenses, but not convicted of them. They receive services ordinarily extended to persons convicted of graver offenses. In some projects the staff-client ratio is greater than within the probation department itself. Project administrators justify this by noting that the period of supervision is short. Diversion services are necessarily more intense than probation, because probation is much longer.

Since diversion projects deal primarily with minor offenses they are in a difficult position to demonstrate cost-effectiveness. If no court appearance is involved in the process of admission, cost savings compared to conventional processing will be noticed. But, any savings must be balanced against costs of maintaining the project. Inevitably, the cost of supervision would be greater than the savings from the avoidance of prosecution; because the costs of prosecuting minor offenders is minimal. The cost of supervision must also be judged against costs of postsentence services for individuals prosecuted for similar offenses.

Such prosecutions generally dictate a fine or short period of summary probation: the former financially advantageous, the latter of minor expense. Also, diversion projects serve a clientele which includes not only cases which would be prosecuted in the absence of the diversion alternative, but clients who would not be prosecuted without such an alternative. The existence of a less stigmatizing diversion penalty may promote the use of that mechanism against individuals who previously would have charges dismissed "in the interests of justice" or for insufficient evidence. This circumstance has implications for the criminal justice system existing beyond the defendant-law enforcement structure. For example, does the existence of a diversion alternative induce a business firm to report noncriminally oriented persons which its staff has apprehended in petty thievery on the assumption that they will be diverted rather than prosecuted?

It is difficult to escape the conclusion that diversion projects represent a very expensive alternative to formal processing. Two solutions would greatly improve the diversion mechanism. One is to retain the principle of diversion, continuing to deal with minor offenders, but discarding the element of quasi-probationary case supervision. The

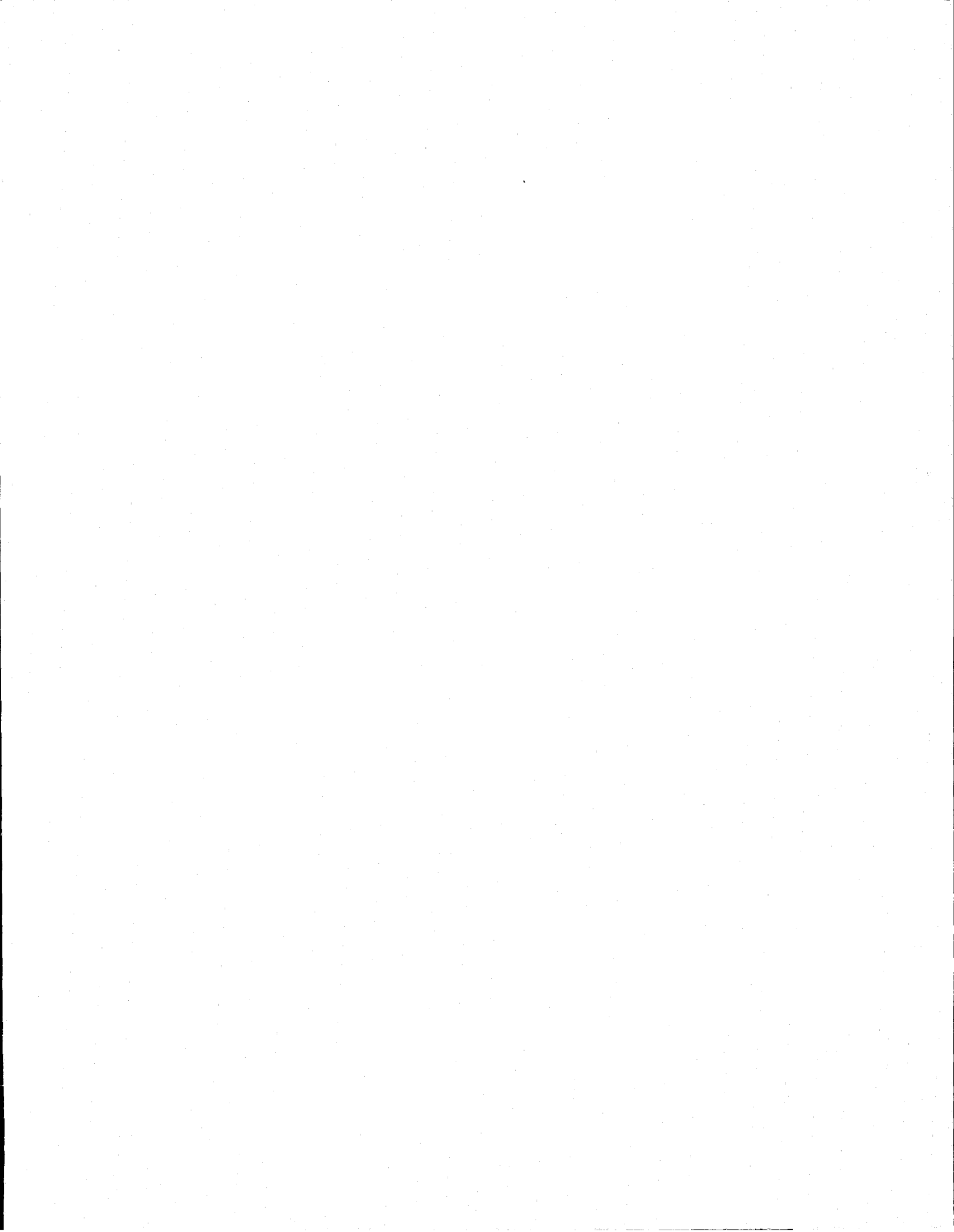
second is to expand the clientele to include more serious offenders of the kind who would ordinarily receive a disposition of probation if they were prosecuted, convicted, and sentenced. The adoption of the first policy involves the creation of a diversionary equivalent of summary probation: The defendant diverted would not be required to report to a case supervisor operating within a diversion project. He would simply be carried on the books for a defined period of time and terminated upon the expiration of this period if he was arrest free and if any other stipulations were appropriately consummated. Adopting the second policy, assigning diversion projects more serious offenders, is dependent upon an evolutionary process and the political atmosphere within the immediate jurisdiction.

Summary

For over 2 years, adult diversion projects in California, dealing primarily with minor offenses, were evaluated by the Department of Corrections Research Unit. Three diversion characteristics which seriously influence program evaluation were discovered: a client's penetration into the justice system, information systems of diversion projects, and type of clientele served by diversion projects. These factors, more than any others, directed and determined the California adult diversion program evaluation and findings.

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