

**NEW DIRECTIONS
FOR CORRECTIONS**

Creative Concepts for Future
Criminal Justice Planning

~~X~~ **The Juvenile Justice System:
New Directions in Policy and Programs**

April 25, 26, 1977

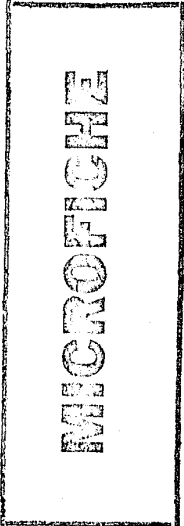
Co-Sponsored by:

The Institute for Urban Studies
The University of Houston
College of Social Sciences
Houston, Texas

and

The Institute of Urban Studies
Research and Service Programs Division
The University of Texas at Arlington
Arlington, Texas

Volume IV



56707-
56717

56713

DILEMMAS OF SOCIAL POLICY REFORM: THE CHINS EXAMPLE

DR. GERALD R. WHEELER

Dr. Wheeler is currently the Director of Pre-Trial Release Programs for Harris County, Texas. He holds a doctorate degree in social work and was formerly associated with the Institute for Urban Studies, University of Houston.

The purpose of this report is two-fold. First, I will summarize research findings on entry and utilization of youth services. Secondly, the report will discuss social policy implications of these results on the bureaucracy for troubled youth. We know that thousands of petitions are filed in courts each year by police, social welfare agencies, probation departments, and parents. Knowledge of service effects, however, and what happens to children after they are taken from their parents remain scarce. Rights of children, and the legal standards concerning these rights, are scarcely more precise than a hundred years ago. However, far more complex administrative processes are involved.

Today, a case usually reaches a court after "wading" through the social welfare bureaucracy, including numerous officials such as social workers, probation officers, and court personnel, who may have had contact with the youth and family. Who are these youth? They are children in need of supervision, such as runaways, physically abused children, malnourished kids, and youth displaying criminal behavior. Profile data show that these youth are disproportionately poor, stemming from a minority background and broken homes. However, no causal relationship between these factors in legal classifications can be inferred from

represented surveys. The vast majority of low income minority youth living in single parent homes do not generate delinquency.

In terms of foster care entry, we found that judgment in foster care placement was a function of predominant placement patterns of the child welfare agencies. In 1967, Rynn's study of service acceptance of public and private agencies found that cases representing parental problems were least accepted, cases representing unmarried mothers most accepted, and cases reporting childrens' problems were between the two extremes. Surprisingly, suburban residents were related to higher service acceptance rates. The researcher concluded that white collar workers have about twice as great a chance of being accepted than persons receiving public assistance in regard to all referral sources, with medical referred sources resulting in a relatively high proportion of acceptance. Self-referral and referral from relatives and clergy resulted in a low proportion of acceptance.

In 1969, the study by the Child Welfare League of America concerning placement decisions showed a range in different communities from 1 to 23% of placements to institutions for normal children. Similar variations were observed in Davenport's reports (1966 national analysis). He observed that the type of institution in which a child was placed was also influenced by practical factors that were extremes to the child's needs, for example, availability of facilities. Interestingly, Davenport found that private residential programs keep youngsters two to three times longer than their public counterparts. When a youngster goes to a private setting, we are talking about an average stay of three to five years.

Because of the similarities of a service structure, the decision-making process is appropriate to compare research findings on detention entries with foster care. In Sonner's 1970 analysis of detention rates of 11 California counties, characteristics found to be unrelated to detention decisions were the sex of the child, the source of referral, and the nature of the alleged offense. Another surprising finding on an organizational level is that staffing a case load size appeared not to have much impact on California's high and varying juvenile detention rates.

The authors concluded that this raises a basic issue: has the time come to forego the notion that manpower shortages account for all shortcomings in job performance and to investigate, instead, the possibility that how existing manpower is used is a more important variable?

Indeed, a pattern of arbitrary and random selection of youth for detention was indicated in a 1975 study in Denver, sponsored by the LEAA. About the only thing the study could find that entered into the youth being selected for detention was the number of prior court referrals. Issues like present activity of a youth, i.e., whether he was working or at school, family stability (had he lived in an intact home), referral agents, age, sex, seriousness of offense, socio-economic status and ethnicity has nothing to do with whether the youth was being detained in terms of statistical finding. Together these variables accounted for less than 10% variation in detention decision outcomes. This means 90% of the detention decisions are unexplained. These findings suggest that entry to foster care and detention is extraneous to legal and social characteristics of the child. What we are doing is basically demonstrating statistically the hard evidence of why some of these issues are being raised and there is a different look in terms of juvenile justice in reference to the determinant vs. the indeterminant sentence.

For children under twelve, it was observed in a 1971 study that 46% were still in foster care after a three and a half year period. In 1973, a similar study found that 62% of the foster children were expected to remain in placement throughout childhood. The average length of stay in foster care was five years. Remarkably, in 1924 a child dependency study at Columbia University showed that only 31% of the children in foster care remained after five years; 37% were discharged in the first eleven months. These results contrasted with previous findings. They also contradict Fanchel's 1976 five year analysis in which 44% of subjects were found still in placement after five years; only 24% were discharged in the first year. This suggests that in comparison to a half century ago, time in foster care today is longer and discharge more difficult. Obviously, having no way to compare proofs, any conclusion was reduced to speculation. However, recent

studies are beginning to shatter popular assumptions about factors contributing to foster care length of stay and the discharge process.

Let us look at the correctional rehabilitation analysis. Investigation of the legal and social factors relating to release practices of institutions for delinquent youth has also been revealing. Taking into account individual characteristics such as sex, offense at commitment, age, and race, this investigator found that the average length of institutional stay was a function of arbitrary release practices of individual institutions. This was a control study where we followed youngsters for two years. Nothing showed any significant relationship to institutional stay when you controlled it for the institutions. (This was within a single state). You may have a 14 year old in one institution for six months, if that is the average length of stay in that institution. In institution B the average length of stay may be 12 months for a status offender, but the average length of stay for a violent offender may be around the same amount of time. The institutional effect on average length of stay is clearly demonstrated.

Analysis also revealed a pattern of reverse discrimination when controlling for type of offense. Whites showed a slightly longer average length of stay than blacks in high cost treatment-oriented facilities. The converse was true for low cost custody-oriented settings, but again these differences were minimal when you controlled for the institution. So, what we had was a significant mismatch of resources without any consideration for the offense of commitment, whereby it was a random process again in terms of not only youngsters who were entering the system, and how long they stayed there, but also the type of institution to which they were assigned. Thus, we found a state-wide practice of granting institutional administrators and staff autonomy over intake selection and release process resulting in serious misapplication of correctional resources, and unjustified long-term confinement of minor offenders. In this instance, elimination of sentencing disparity called for enforcing entry and discharge standards at a higher level than the institution staff of the agency in question.

In conclusion, the outcome of our program indicated that agencies serving troubled youth displayed a decision-making process that was relatively random and independent of the needs of society and the youth in question. What had emerged was an irrational intake and utilization process, which produced a serious mismatch of services and resources for troubled youth. In terms of coercive intervention, agencies allowing such discretion in their practices unduly extended what the teaching profession referred to as a "therapeutic state" and its implications of control.

Where do we go from here? Unless policies are changed to reduce the random nature of intervention for the bureaucracy for troubled youth, additional funding will only perpetuate the present abuses. In the past five years, some state and local agencies have attempted to address these issues. The following represent a few examples:

1. Innovative policy can reduce negative consequences of random, coercive intervention which in my summation is a "state of the art." In foster care, deliberate introduction of case review procedure significantly reduces time in foster care. Mandated judicial review of children in foster care in New York has shown a decrease in length of stay of foster placed children.
2. Appropriate authorities should engage in effective utilization of homemaker services to families in which children are labeled for adjudicated neglect. In Los Angeles during the 60's, when I was a Child Welfare Supervisor, we found that homemaker services remarkably prevented or lessened the likelihood of removing a child from the home. The court at the time was sensitive to this issue. Since then, the homemaking services funding has been cut, and consequently, there is some evidence that children are staying longer and more children are being removed because of the absence of a mechanism.
3. Subsidized adoption has been found useful in removing children from the "limbo" state of long-term foster care. These are basically orphans or youngsters whose parents have deserted them, and who are no longer interested in their care. For the first-time offenders, the juvenile citation arbitration program has been affected. Once again, this is a punishment model and these programs for youth provide the alternative to work off the punishment in the community for such crimes as vandalism, shoplifting, auto theft, and crimes that do not involve violence. Some state statutes, e.g. Maryland, address this as an alternative; it is written in the law. We have also seen the attempt

to implement deinstitutionalization of status offenses in a number of jurisdictions.

The most critical issue in terms of the juvenile justice system is the institutionalization of status offenders. I can only give you an example, as an official in Ohio, of a status offender that was locked up in an institution for seven years. He was 17 years old and got one home visit. I contacted the superintendent and asked him why that juvenile was still there. We found that a computer monitoring system indicated that he had a family problem. I said, "What do you mean? He hasn't been home but once in seven years?" I ordered that youngster to be returned home. Some status offenders are incarcerated longer than offenders convicted of armed robbery.

One of the most effective intake controls I have found was the placement of social workers in a police department at the intake level, and they get involved with interviewing families right there "on the spot" with the police, thereby diverting youngsters from probation and court to a group project. I think this is one of the most under-utilized approaches in existence, yet, I think it may be the answer.

END