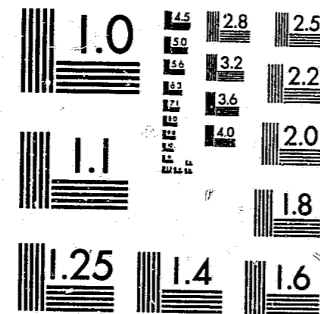


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POLICE HANDLING OF JUVENILES

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PREPARED FOR THE
U.S. OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION
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FOREWORD

The National Institute for Juvenile Justice and Delinquency Prevention established an Assessment Center Program in 1976 to partially fulfill the mandate of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, to collect and synthesize knowledge and information from available literature on all aspects of juvenile delinquency.

This report examines the relationship of the police to the juvenile justice system in order to provide the reader with an understanding of the state-of-the-art in this changing field.

The assessment efforts are not designed to be complete statements in a particular area. Rather, they are intended to reflect the state-of-knowledge at a particular time, including gaps in available information or understanding. Each successive assessment report then may provide more general insight on a cumulative basis when compared to other reports.

Due to differences in definitions and the lack of a readily available body of information, the assessment efforts have been difficult. In spite of such complexity, the persons who participated in the preparation of this report are to be commended for their contribution to the body of knowledge.

J. Price Foster, Director
National Institute for Juvenile Justice and Delinquency Prevention

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PREFACE

As part of the Assessment Center Program of the National Institute for Juvenile Justice and Delinquency Prevention, topical centers were established to assess delinquency prevention (University of Washington), the juvenile justice system (American Justice Institute), and alternatives to the juvenile justice system (University of Chicago). In addition, a fourth assessment center was established at the National Council on Crime and Delinquency to integrate the work of the three topical centers.

This report on "Police Handling of Juveniles" has been developed by the American Justice Institute. The report examines whether police work with juveniles can be made both more evenhanded and more effective in the prevention of delinquency.

Other work of the American Justice Institute as part of the National Juvenile Justice System Assessment Center includes reports on the serious juvenile offender, the less-serious juvenile offender, the status offender, child abuse and neglect, classification and disposition of juveniles, juvenile advocacy, 24-hour intake, job opportunities for delinquents, the cost of juvenile crime, special problems of juveniles, sexual abuse and exploitation of juveniles, victimization of juveniles, change strategies, numbers and characteristics, standards, and court decisionmaking.

In spite of the limitations of these reports, each should be viewed as an appropriate beginning in the establishment of a better framework and baseline of information for understanding and action by policymakers, operational personnel, researchers, and the public on how the juvenile justice system can contribute to desired child development and control.

David J. Berkman, Director
National Juvenile Justice System Assessment Center

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EXECUTIVE SUMMARY

This topical report examines the relationship of the police to the juvenile justice system in terms of the history of the modern urban police, policy recommendations on styles of policing, the social organization of police work with juveniles, empirical studies of police decisionmaking, and police diversion. The major issue addressed in the report is whether police work with juveniles can be made both more evenhanded and more effective in the prevention of delinquency. Major points may be summarized briefly.

1. History: Since the Progressive era, American police have been expected to prevent crime and aid the reform of society as well as to enforce the law. Their preventive role was to be enacted particularly with juveniles, in close conjunction with the developing juvenile court. While these new responsibilities have not caused juvenile crime to abate, they have created role conflicts for police, and led to the need and opportunity for police to exercise discretion so broad as to be subject to abuse.
2. Police roles: Police in practice may emphasize the "legalistic" aspect of their role, and by focusing on the apprehension of criminals neglect the task of prevention. Police organizations that stress their "rehabilitative" role on the other hand are likely to neglect due process rights in their attempt to coerce juveniles into proper behavior. Police organizations that seek to combine the two roles are likely to use informal, "rehabilitative" means to seek the ends of social control.
3. Organizational context: The structural position of police in modern society is one that creates insularity, prevents articulate control, and surrounds day-to-day police decisionmaking with a cloak of secrecy. While there is some evidence that organizational context affects the style of police work, that effect is obscured by the invisibility of most police decisions.
4. Police decisionmaking: Empirical research yields no comprehensive, generalizable model of the determinants of police behavior in encounters with juveniles. The clearest effects are observed with factors that are subjectively assessed aspects of the specific encounter, i.e., victim or complainant's preference, demeanor of the juvenile, and the juvenile's history of contacts with social control agencies.
5. Police diversion: Police diversion programs present the opportunity for the expansion of police discretion and sanctioning power, with no corresponding mechanism of control of accountability. Diversion programs reviewed in this report have unclear goals, are poorly evaluated, and show uneven results.

Conclusions suggest that the arbitrariness and discretion inherent in police-juvenile encounters can only be limited effectively if the purview of the juvenile justice system as a whole is reduced.

Chapter I

HISTORICAL THEMES AND CONTINUITIES IN POLICE-JUVENILE RELATIONS

INTRODUCTION

In the period between 1880 and the end of the First World War, many of the enduring institutions of urban America were born or transformed decisively by diverse movements of social reform. Collectively, the movements of this era were called "Progressivism." The Progressive umbrella covered drives to reform charity administration, urban finance policy, child welfare, public health, corrections, and a myriad of other problems encountered by a newly urbanizing society. This chapter will be concerned with two institutions which were special targets of Progressive reformers: the police and juvenile justice.

Research is already available which demonstrates that the creation of the juvenile court in 1899 was a crowning achievement of Progressive reform (see, e.g., Platt, 1969; Rothman, 1980). The juvenile court is an exemplar for two reasons: first, it betrayed the characteristic Progressive concern for the welfare of children. The court was to serve as the nexus of an array of physical, emotional, and moral services that had hitherto been available only on a fragmented and ad hoc basis, if at all. Second, the new court was the embodiment of the Progressive ideal of individualized justice. No longer would society be content with a legal system that merely punished (and did that arbitrarily and cruelly); henceforth the law would be a reformatory device, both for the criminal and for society at large. In the juvenile court, evaluation of the child's condition was more important than evidence concerning the child's acts. In this, the new court paved the way for reforms in the criminal justice system as well.

Urban police existed long before the Progressive era, but challenges mounted by reformers resulted in profound changes in the nature of American policing. These changes were most marked at the ideological level, but they had practical consequences as well. In brief, reformers sought to transform local units of poorly trained, poorly led, and ill-controlled officers into well-disciplined cadres of pacification and social uplift. As this chapter will show in part, aspiration far outran achievement in the area of police reform. Nonetheless, Progressivism created an ideal model of the methods and goals of police work that still dominate public discussion of the social role of the police.

Today, both the police and the juvenile justice system are under attack by a new generation of reformers who question the ability of these agencies to fulfill their broad mandates within the confines of legality as it is defined in a democratic society. In both cases, the issue is one of discretion: how far can public officials be trusted--whether police or probation officers or judges--to exercise discretionary authority? At what point does discretion result in bias that subverts

the goals of rehabilitation? And finally, how can discretion be controlled, if at all? This chapter will suggest that discretion is a structurally necessary feature of police practice, that the problem of police discretion is most acute in the area of juvenile crime, and conversely that the problem of arbitrariness in juvenile justice is most severe when police are the key decisionmakers.

The goal of this chapter is to describe the intertwined histories of police and juvenile justice reform in this crucial period, and to articulate some crucial dilemmas of police work with juveniles in a modern, democratic society. It is more than coincidence that police and juvenile justice reform were undertaken at the same time; in fact, the two reforms were byproducts of a larger Progressive agenda, and were in many ways complementary and interdependent means of achieving social control and reform.

THE ORIGINS OF MODERN POLICE AND THE JUVENILE COURT

According to Bittner (1970), the institution of police in Western society was one result of a general trend toward the pacification of social life. Bittner is not suggesting here that spiritual aspirations toward brotherly love and humanitarianism have ever achieved widespread practical application, or that everyday life today is free of violence. Rather he is observing that the development of the modern, centralized nation-state and the creation of bureaucratized armies, courts, and elaborate codes of laws have permitted the rationalization of violence. It is a characteristic of modern societies that individuals do not settle serious disputes by the use of person-to-person force. Rather the state has assumed a monopoly on the legitimate use of coercive force; an individual must--or should--apply through proper channels to see that force is applied: he calls the police; he files suit; he testifies. Thus the police, like other agencies of the State, emerged not from idealism but from the practical notion that violence must be conserved and focused on situations where its application is unavoidable.

Yet the police are different from courts, armies, and other coercive arms of the State. Like these agencies, the effectiveness of the police lies more in potential than actual applications of violence. Unlike others, however, police are constantly visible. While the soldier administers violence to outside--and usually unseen--enemies, and while the judge is distanced by myth and ceremony from the sanctions he applies, the policeman is an agent of internal pacification with access to the streets and houses of the domestic population. They are less able than others to distance themselves from the violence that constitutes their role; in the worst of cases, their only authority is their personal potential for violence.

The nakedness of police force is a fundamental problem of policing in Western civilization, and one that different societies handle in different ways. In Britain, for example, as Banton (1964) has pointed out, police access to violence is downplayed and, because the police are organized as a national force, the individual officer is recognized as an agent and representative of the national government. In the United States, however, police are agents of local governments. Their prestige is generally low, and their authority is constantly precarious. Policing in the United States is thus a profoundly personal occupation.

With this background in mind, the efforts of early 20th century police reformers to regularize and professionalize police work, as well as the limitations of those efforts, can be better understood.

The Thrust of Urban Police Reform in the Progressive Era

Urban reform movements that emerged in the late 19th century were motivated by two complementary changes that had occurred in the structure of urban democracy. First, city populations had increased enormously since the end of the Civil War, and as the population increased, so did the demand for effective social services and for public expenditures to meet those demands. Second and at least as important, urban areas were administered by machine politicians who shared none of the traditional American small-town conceptions of democratic principles and civic virtue (Schiesl, 1977:7). The reformers themselves were overwhelmingly middle-class. They were especially incensed by the power of political bosses who, as they saw it, exercised illegitimate and subversive power on behalf of immigrants and workers. The reformers "interpreted democracy in terms of property rights and assumed that government should be in the hands of well-educated and 'respectable' people" (Schiesl, 1977:2).

Typically, the earliest reformers lacked a clear understanding of the new world that was opening up before them. Their program for reform consisted primarily of replacing bad people with good people. By the dawn of the 20th century, however, "structural reform" became the byword. Activists recognized that the complexities of the new urban situation could not be mastered by increasing the morality of the persons in office, but rather required new administrative techniques that would assure efficiency. Their program had three main points: nonpartisanship, a strong executive, and "the separation of politics from administration" (Schiesl, 1977:3). In short, the city was to be run like an efficient business, and freed from the grips of machine politicians and spoilsmen.

Police reform was an integral part of the general urban reform agenda because, in most major urban areas, police departments were the servants of the political machines. Walker (1975:xiii) states that "the police were perhaps the most important part of the political machines, because of the patronage jobs they offered, the status of being the official agents of the established order and because of the very real power to enforce or subvert the law." Police cooperation was required for the machines to provide effective service to their constituents. Where those services were illegal, police cooperation became corruption. At the same time, however, the machines were often the only means available for immigrants and the working-class poor to achieve effective political representation. Thus police reform, like urban reform in general, was a class issue. Reform was supported by elitists who sought to wrest control of the cities from the machine politicians, and opposed by the machines themselves (Walker, 1975:54-55).

In many cases, attempts were made to use police to control workers and suppress labor organization. Early police could not always be counted on to perform such functions effectively, however. Many policemen self-consciously thought of themselves as workers, and many were of ethnic immigrant origin. One alternative to the use of local police was the creation of private police forces, such as the infamous Pinkertons; another was to use Federal Army or National Guard troops as strikebreakers in extreme cases. Wherever possible, however, policemen of one ethnic group were used to control workers of another:

Officers were most often from an earlier immigration than most members of the working class, so that American-born police officers controlled Irish workers, Irish officers controlled Polish and Italian workers. Police officers were frequently paid at twice or more the rate of laborers, allowing them to move

into more comfortable neighborhoods and fostering a class identification with the urban elites (Center for Research on Criminal Justice, 1977:27).

But the issue of police reform was more complicated and more important than the simple problem of who would command the police. Progressive reformers sought not to enter the arena of partisan political struggle, but to transcend it. They had a whole new vision of the future of urban government in general, and of the role of the police in particular.

Urban social service reformers had two closely allied goals that were characteristic of the general thrust of Progressive reform. On the one hand, they sought to make urban expenditures more rational and efficient. On the other, reformers hastened to assure their audience that efficiency did not mean tight-fistedness. Rather the savings resulting from efficient administration would be used to expand social services. Reformers proposed, in short, that the state assume responsibility for the coordinated delivery of welfare services from the traditional, unsystematic private charities (Schiesl, 1977:118-119).*

Police reformers after 1900 had a similar dual agenda, based on the ideal of police professionalization. First, they maintained, police departments had to become efficient, a goal that could be achieved by adopting the administrative model of the well-run corporation. Second, the police could become more than agents for the repression of crime; they could become affirmative agents for social reform through the adoption of "a host of new techniques, including women police officers, juvenile bureaus, and in some instances procedures to divert offenders from the criminal justice system" (Walker, 1975:53). Reformers demanded that corruption be eliminated by placing control of the police under nonpartisan administration, and that police adopt an orientation toward prevention:

The main criticism the Progressives leveled at the conventional police was that instead of providing the harmonizing function that modern society required, they more often aggravated conflict through corruption, brutality and general incompetence.... The main concern of the Progressive police reformers was to transform the police into an agency that would help to secure the loyalty of the potentially "delinquent classes" at the same time that it efficiently contained their disruptive behavior and kept the lid on their protests against the existing distribution of power and privilege in U.S. society (Center for Research on Criminal Justice, 1977:34).

Two points must be emphasized here. First, the Progressive agenda assigned to the police two sets of potentially contradictory responsibilities: on the one hand, to repress a potentially discordant population and control crime, and on the other to socialize the recalcitrant immigrant, rehabilitate the delinquent, and diagnose social maladjustments before they flowered into criminal activity. Second, the

*The charity organization movement was an aspect of Progressive reform that overlapped both the movement for municipal reform and the juvenile court movement. Space precludes detailed consideration of the drive for charity organization here. It will suffice to observe that the movement proposed that local charity institutions should be funded and supervised through centralized administrative agencies, and that charity work--including social work, probation, and prison administration--should be professionalized. (See, e.g., Watson, 1971; Lubove, 1965.)

rhetoric of prevention and rehabilitation applied to the police is strikingly similar to that issued by juvenile court reformers. The connection between police and juvenile court reform was more than rhetorical and philosophical; it was above all practical. Reformist police chief August Vollmer of Berkeley (California) demanded that police fulfill their preventive mandate by focusing on the predelinquent behavior of children:

Among the children in our schools today are to be found the gangsters, thugs and murders (sic) of tomorrow, and, inasmuch as we have had pointed out to us by scientific studies and our own observations that the majority of our professional crooks were troublesome children long before they became criminals, it behooves the policeman to concentrate his attention upon the problem child during the predelinquent period (Vollmer, 1923:281).

Vollmer suggested in exceedingly mundane terms how the policeman's role as child social worker should be systematized. The policeman should maintain a map, he said, on which the residences of "potential delinquents on his beat" could be identified with colored pins. The color of the pin would denote the specific problem of the individual child: "blue may be used to denote that the child is troublesome; red, immoral; green, pugnacious; yellow, light-fingered; black, habitual truant; white, mentally defective, etc." (Vollmer, 1923:282). Within these banalities, however, lay the potential for considerable abuse of the law: under the guise of professionalism, the police were to assume new and essentially unbridled powers of surveillance and control over the lives of juveniles.

The writings and pronouncements of Progressive reformers betray a general lack of concern over the potential for abuse inherent in many of their proposals. Indeed, they saw governmental reform as a means of eliminating the motivation for abuse. By removing political hacks and careerists from positions of authority and replacing them with nonpartisan administrators, they felt they could clear the way for rational, businesslike decisionmaking to determine the fate of city government. The major vehicle for achieving nonpartisan administration was civil service reform.

Civil service reform was proposed as the practical means through which the spoils system, which supported the political machines, could be eliminated from urban government. According to the reformers, civil service would result in a meritocratic administration based on performance on competitive examinations, and in consistent, uniform administration of government business "in accordance with middle-class notions of efficiency" (Schiesl, 1977:33). Civil service reform was, of course, opposed by machine politicians and immigrant groups, who rightly perceived it as a threat to the benefits they enjoyed through the spoils system. Critics suggested that civil service would result in an elite class of professional bureaucrats, who would rule without regard to the will of the people; proponents, on the other hand, suggested that civil service exemplified democracy by making governmental positions accessible to people on the basis of merit rather than kinship ties or political influence (Schiesl, 1977:29-33).

Civil service reform was adopted unevenly among the cities and States in the United States, and where it was adopted, it generally failed to achieve the more sublime objectives expected by its supporters. It did not result in a fuller democratization of city government; rather it altered the social class composition of municipal administration by increasing the power and participation of upper-income groups. Nor did it remove politics from government. Instead, it altered the form of

political struggle in this country by creating "expert" administrative agencies with ties to elite business and civic groups: "the machine bureaucracy, popularly based, was...replaced by career agencies, professionally organized" (Schiesl, 1977:191).

The drive to apply civil service requirements to police recruitment practices was slower to take hold than it was in other areas of government, and had even fewer beneficial results. In the late 19th century, there were no professional police organizations to demand the de-politicization of law enforcement. Such calls came mainly from outside police ranks, especially from the National Prison Association. Beginning in the 1870's, the Association suggested that prison reform was best served by aggressive preventive activities by police, and forcefully supported the separation of police from politics through civil service reform. Their demands met little response, however, until the 1890's (Walker, 1977:38-39). In police departments as in other areas of government, civil service reform altered the class base of urban power by increasing the percentage of police who were native-born Americans: "The meritocratic standards of professionalism inevitably discriminated against the lower class and helped to break the power of the blue-collar-dominated political machines" (Walker, 1977:45).

The ideal of professionalization caught on in police circles in the early decades of the 20th century, but even then the movement was diverse and fragmented, and reform was achieved unevenly if at all. The major impact of the reform movement was ideological rather than practical, in that it set standards of police performance that are still conjured with today (Walker, 1977:54). The disappointing success of police reform relative to other institutional reforms that originated in the Progressive era is due in part, Skolnick suggests, to the fact that there was so much more about the police that needed reforming. Since American police reform has typically focused on preventing egregious brutality and corruption rather than assuring observance of the rule of law, "it is not surprising that the solution to the 'police problem' in America has been frequently conceived as changing the quality of people, rather than the philosophies of policing" (Skolnick, 1967:4).

Despite the failure of the police in America to become professionalized, the ideology of professionalization assumed a power of its own. The professional ideal has had two major consequences, suggested by Walker (1977:55), that will become salient in the chapters that follow. First, the demand for increased efficiency justified the centralization of police operations, which in turn has facilitated the development of inbred, obdurate police organizations that are unusually isolated and immune from public criticism. Second, the goals of reform and prevention invited discretionary intervention into the lives of individuals that would have been precluded under a more straightforward law enforcement model of police administration. In the next section of this chapter, it will be shown that the fate of reform in the juvenile court closely paralleled that of the police: similar criticisms were raised by similar groups, who demanded similar structural changes in the administration of justice, with the same ambiguous results.

The Juvenile Court

Juvenile court reformers shared with other Progressives the dual commitment to efficiency and social uplift. The juvenile court was offered by proponents as a means to systematize and rationalize the processing of juvenile offenders, and by "diverting" juveniles from formal court proceedings and institutions to render both financial savings and superior treatment. In an address before the National Council of

Charities and Corrections in 1903, Judge Ben Lindsey of the Denver Juvenile Court claimed that his court reduced the number of institutional commitments from Denver, and saved the State of Colorado \$88,000 in 18 months (Lindsey, 1903:213).

Many more thoughtful commentators, especially those interested in systematizing juvenile court administrative procedures for adoption in new areas, gave special credit to the probation officer as the official who would enable the juvenile court to deal efficiently and helpfully with offenders, while at the same time reducing institutional commitments (see, e.g., Thurston, 1905:184-5). Furthermore, juvenile court activists were completely in tune with other reformers on the need to assure nonpartisanship in the court. According to Hastings Hart, the usefulness of the juvenile court:

depends chiefly upon the character and spirit of the Judge and the efficiency of the probation officers. To preserve these essentials, it is necessary to free the Judge and the probation officers from the vicissitudes and the paralyzing influence of partisan politics....

Where the Court has been left to be simply an agent of perfunctory officialism, with probation officers selected under the old spoils system, as a reward for partisan services rendered, it will invariably be found that the Juvenile Court is held in contempt both by the judges and the officers of the Court and by the intelligent members of the community who observe its operations (Hart, 1906:90, 91).

Thus, when juvenile court reformers discussed practical problems of implementation, their solutions were precisely those of activists involved in municipal government and police reform. Their program went beyond general calls for nonpartisanship and appointment on the basis of merit, and included notions of centralized administration and professionalization of probation work. One commentator remarked in 1906 that "The quack, the unprofessional doctor, is no greater menace to the community than the unprofessional, paid charity-worker, and the sooner we cease to tolerate the latter, the better it will be for the community" (Pear, 1906:106). Homer Folks, Chairman of the New York State Probation Commission, proposed that probation work be regulated by independent local commissions. He was adamant that, while the probation officer could be expected to carry out the wishes of the judge in a particular case, he or she should be ultimately responsible to the probation commission, and not the judge (Folks, 1906:117-123). Judge Julian Mack concurred in the call for an independent, professionalized probation service: "Probation work ought not to depend for its efficacy upon the personality of the judge" (Mack, 1906:128). Mack recommended that administrative bodies be set up at the State level to oversee probation work, and that probation officers be paid and trained "in the field of philanthropy and sociology" (Mack, 1906:129).

Thus when the sentimental rhetoric is stripped away, similar themes developed by both police and juvenile court reformers can be seen. In both cases, practical utility and efficiency was proposed as the yardstick by which the reforms were to be measured. Prevention, the reformers proposed, is more efficient than apprehension; appointment by merit and centralized administration are more efficient than local patronage; professional expertise is more efficient than sentimental voluntarism.

This ideology proved to be more effective in the case of the juvenile court than in the case of the police: juvenile court legislation had been passed in most States

by 1920, but police reform did not gather steam until the 1930's, and in many cities to this day has had only minimal impact (Walker, 1975). It is interesting to note in this regard that in the early days of the juvenile court movement, the police were often portrayed as an adversary. Not only were they the visible representatives of the legal system that uncaringly apprehended, judged, and imprisoned children, they also served as the personification of the political machines that stood in the way of more general social reforms. Judge Lindsey, charismatic defender of youth and tireless enemy of the spoils system in Denver, went so far as to portray the juvenile court as the enemy of the police:

The policeman is the boy's natural enemy. An amusing feature about our work in the juvenile court is that the boys, especially what might be termed the street boys, have a notion that the police are opposed to the juvenile court, and are in favor of putting all the kids in jail. They also think that the police department has a joke on the court every time a boy on probation is caught for a new offense. The result is they have a particular pride in fooling the police and in staying with the court (Lindsey, 1903:218-219).

In fact, police opposed some of the more significant aspects of Progressive penal and legal reform, especially probation and parole. They felt that these were simply means of coddling criminals at a time when police were under constant criticism for not preventing crime (Rothman, 1980:78-79). Police officials tended to support the juvenile court, but not for reasons the reformers would have appreciated. They believed that the new juvenile court would facilitate the removal of delinquents from the streets for longer periods of time. It was opposed, however, by rank-and-file policemen who were merely amused by the court's therapeutic posture, and who found its extra regulations and the extra labor it entailed an onerous burden (Rothman, 1980:229-230). The police at this time did not come together as a unified pressure group; therefore, their opposition was fragmented and ultimately came to no avail.

The eventual triumphs of juvenile court reform proved, as Platt (1969) and Rothman (1980) have shown, to be nearly as hollow as those of police reform. While the new court was an astounding success in terms of state legislation, in actual practice it never achieved a uniform model of administration and never thoroughly penetrated rural areas. Even in urban areas where it was most completely institutionalized, the juvenile court generally failed to fulfill its therapeutic mandate, in part because serious attention was never given to the development of competent probation (and other alternative care) services. Rothman (1980:243) observes, for example, that in the early juvenile court, policemen--as well as a motley collection of other occupations--served as probation officers; most were not the trained social workers that the reformers had had in mind.

In conclusion, the legacy of juvenile court reform, like that of police reform, has been primarily ideological, but has had important practical consequences. On the one hand, the juvenile court's parens patriae philosophy and the myth of rehabilitative expertise have provided an effective rationale for the extension of state power over juveniles who would have been immune under a legal system that limited itself to the prosecution of criminal acts. On the other hand, the doubtful scientific premises on which the court is based and its general failure to deliver treatment services--as recognized, for example, in the Gault decision--have rendered its

widened impact primarily oppressive rather than rehabilitative. Rothman (1980:251) has summarized well the meaning of juvenile court reform:

The substitution of a more bureaucratic mechanism of control (which the court at its most informal still represented) for the control of the policeman on the beat (let alone for the discipline of neighbor upon neighbor) did carry special consequences. The potential for serious abuse was always present. The courts could track and coerce in ways that a policeman or a neighbor could not; their reach was greater, the stakes were higher, and they had a much more powerful and legitimate rationale for their actions.

SOME STRUCTURAL DILEMMAS OF POLICE WORK

Thus far this chapter has been concerned with historical conditions that gave rise to problems of legality and discretion in contemporary police work. The basic finding was that the ideology of Progressivism placed certain demands on the police--and on the legal system in general--that they were ill-equipped to fulfill. In this section, the focus shifts to the present. Drawing on available literature, the suggestion is made that police work involves continuous attempts to balance conflicting priorities. These conflicts may be classified analytically in terms of three types of practical dilemmas that must be faced on a day-to-day basis by police officers and administrators: the dilemma of law enforcement and peace-keeping; the dilemma of due process and social control; and the dilemma of professionalization and bureaucratization.

Law Enforcement and Peace-Keeping

According to the imagery of popular culture and the folk mythology of the police profession itself, police work consists of the straightforward application of formal law to circumstances where that law has been violated. In simple terms, a crime is committed; police sift through available evidence in an attempt to identify the offender; once identified, the offender is arrested. This is "law enforcement."

Recent research has shown, however, that strict law enforcement accounts for a small minority of police officers' time and effort. As Banton (1964) first pointed out, police work frequently involves the settlement of legally ambiguous disputes without resort to arrest, an aspect of the police role he called "peace-keeping." Peace-keeping is a management function that is carried out by officers making discretionary decisions not to invoke the law in a particular situation: police "intervene not in the interest of law enforcement but in the interest of producing relative tranquility and order" (Bittner, 1967:713). Actions which may appear ad hoc and arbitrary are thus the products of a practical calculus of management applied by the individual officer.

The peculiar dilemma of peace-keeping arises from the fact that, while policemen are formally expected fully and impartially to enforce the law, both the practical conditions of their job and public expectations make full enforcement impossible. Police are not formally empowered with discretion not to enforce laws; on the contrary, statutes and police manuals tend to describe the duty of the policeman as full enforcement (Goldstein, 1960:557; LaFave, 1962b:182-184). Peace-keeping activities of police are neither emphasized in police training nor systematically recorded by police departments. Yet the function of the "peace officer" is a role

that is explicitly offered as a justification for the existence of the police, and has been an important part of policing from the outset (Bittner, 1967:700).

Thus while peace-keeping is an integral part of the police role, it is an invisible function, one that cannot be effectively regulated by law or department policy simply because a decision not to arrest is unlikely to appear on any written record. Discretionary nonenforcement is made possible in part by legislative ambiguity (LaFave, 1962b), and may be guided in a broad sense by department policy to emphasize enforcement of certain laws at the expense of others (Goldstein, 1960:554). But in a specific situation, the decision to invoke or not to invoke the law--to emphasize law enforcement or peace-keeping--is ultimately left to the individual officer.

It is important to ask, then, under what structural conditions the demands of peace-keeping are likely to supersede those of law enforcement. Bittner (1967:702-704) has suggested five such types of circumstances. First, peace-keeping is likely to be the predominant goal of the policeman engaged in routine regulatory activities, such as directing traffic. Second, arrest may be avoided in situations where it is technically possible, but for some reason undesirable--in the case of minor offenses, for example, or where evidence is ambiguous. In these cases, nonarrest often implies the use of alternative sanctions. Third, police are often called upon to give general aid and comfort, for example when various types of family problems occur. Fourth, police are called upon to regulate various forms of mass phenomena, from concerts to riots, where the attempt is made to avoid encounters necessitating arrest. Finally, police have special responsibilities to monitor stigmatized populations such as the mentally ill, young people, vagrants, and minorities.

Three observations may be made that relate especially to the discretionary use of police authority with regard to juveniles. First, juveniles are especially likely to encounter police under conditions where peace-keeping is the predominant norm, and therefore where police decisionmaking is least subject to regulation. Of the situations mentioned above, cases of minor offenses, family problems, and the regulation of stigmatized populations are ones where juveniles are prone to come to police attention. Second, peace-keeping does not necessarily imply an absence of sanctions or control; rather it opens up a range of potentially serious sanctions short of arrest: "Not to make an arrest is rarely, if ever, merely a decision not to act; it is most often a decision to act alternatively" (Bittner, 1967:703); "the withholding of punishment demonstrates the use of arbitrary power and a contempt of law just as much as illegal punishment" (Banton, 1964:129). Finally, because laws regulating juvenile behavior are so numerous and ambiguous that virtually all juveniles are at one time or another at risk of arrest, the meaning and strategic use of arrest are transformed with juveniles as they are with other high-risk populations (Bittner, 1967:713). Arrest is not a straightforward outcome of crime and its detection, but rather a perpetual threat that may be applied as situational exigencies demand.

Ultimately, Bittner suggests, law enforcement and peace-keeping cannot be separated. In routine police activities--i.e., those not involving the solution of a major crime--law enforcement in the form of arrest is used as a means of peace-keeping: "The real reason behind an arrest is virtually always the actual state of a particular social situation," rather than the applicability of a formal, legal norm (Bittner, 1967:714). Thus when more focused questions about the circumstances under which juveniles are arrested are asked, the concern will not be exclusively with

the "facts" of the alleged "crime." Instead the inquiry must be with the practical evaluative criteria by which officers judge that less formal means of processing have failed.*

Due Process and Social Control

The dilemma of due process and social control presents the issue of police discretion from another aspect. If law enforcement and peace-keeping describe the practical, routine activities of policemen, due process and social control describe the normative ends served by routine activities. Police may, on the one hand, see themselves as servants of the law, with responsibility to insure fair treatment and legal protection to all whom they encounter. On the other hand, they may see themselves as agents of social control, responsible primarily for the maintenance of order and the enforcement of the law. In practice, their dilemma is to achieve a workable balance between the two roles. Where that balance lies is in part a function of the discretionary latitude they enjoy in carrying out their duties (Skolnick, 1967:71). Increased emphasis on social control necessitates increased discretion, and legality can only be assured where discretion is minimized.

Skolnick suggests an important distinction between delegated discretionary authority, such as that which inheres in any bureaucratic position, and illegitimate discretion used to satisfy "personal or institutional motives" (Skolnick, 1967:73). Thus the appropriate analytical question is, under what circumstances are opportunities for illegitimate discretion maximized? The suggestion offered here is that encounters between police and juveniles are structurally conducive to the expansion of discretion and an emphasis on social control.

Police in general tend to be oriented toward social control more than due process because of the biases inherent in their occupational role:

The policeman views criminal procedure with the administrative bias of the craftsman, a prejudice contradictory to due process of law.... He sees himself as a craftsman, at his best, a master of his trade. As such, he feels he ought to be free to employ the techniques of his trade, and that the system ought to provide regulations contributing to his freedom to improvise, rather than constricting it....

In contrast to the criminal law presumption that a man is innocent until proven guilty, the policeman tends to maintain an administrative presumption

*Donald Black has offered as a theoretical axiom the notion that formal law is invoked only when less formal means of dispute-settlement have broken down: "Law seems to bespeak an absence of community, and law grows ever more prominent as the dissolution of community proceeds" (Black, 1971:1108). The point made here is somewhat different: the failure of informal social control is not an objective fact, but is rather imputed by the police on the basis of limited situational evidence. As Bittner (1967), Cicourel (1968), and Werthman and Piliavin (1967) have observed, police may perceive an "absence of community" in minority neighborhoods on the basis of a priori typifications, and may arrest juveniles there at a disproportionate rate out of a sincere belief that they require more formal control than their families can provide. This issue will be taken up in subsequent chapters.

of regularity, in effect, a presumption of guilt (Skolnick, 1967:196-197--emphasis in original).

The police thus tend to see themselves as the end rather than merely the beginning of the criminal justice process. That perception tends to be strongest in situations where the policeman feels most vulnerable, where the law he is called upon to enforce is vaguest, and where he feels his judgement is most likely to be questioned at subsequent stages of the legal process (Skolnick, 1967:89-90). Where such circumstances exist, the officer is most likely to seek out opportunities for discretionary action that may circumvent or undercut the rule of law. Such opportunities do not arise, for the most part, from the psychological prejudices of the individual officer; rather they are customary techniques that are necessitated by the structurally induced ambiguity of the officer's role. They are in a sense a set of deviant norms that are shared with and mutually enforced by his fellow officers:

A measure of role ambivalence is an inevitable part of the policeman occupation in a democratic society. While he is responsible to protect the members of his society from those who would do them harm, the corresponding powers for carrying out this mandate are not delegated. To perform his designated duties, the conscientious policeman often must violate the very laws he is trying to enforce. This poses a serious dilemma for the police officer since his attempt to effectively discourage violation of the law among the general public is often hinged to extra-legal short-cut techniques which are in common practice by his law enforcement cohorts.... These procedures are reinforced through coordinated group action (Stoddard, 1974:220-221--emphasis in original).

In juvenile encounters, moreover, these conditions are exacerbated. Here the officer is expected to perform the "preventive" role for which he is ill-prepared; his decisions are often invisible and immune from regulation; and he is least likely to be supported in cases where he feels severe sanctions should be applied. Thus in juvenile cases all the preconditions exist for the police to maximize their illegitimate discretionary authority and emphasize short-run social control measures at the expense of due process.

Professionalization and Bureaucratization

The professionalization-bureaucratization dilemma is the organizational analog to the normative dilemma of social control and due process. Professionalism implies expertise, initiative, and discretion, while bureaucratization implies hierarchy, routine, and control. The police officer is neither, and both: he has the de facto power and responsibility of the professional, with little of the professional's formally delegated authority, and he is subject to hierarchical regulations of command and control characteristic of a rigid bureaucracy, but control is perpetually problematic.

The policeman is unique among all occupational groups in his potential power to levy ultimate sanctions on the basis of his own judgement: "The authorization and the obligation to use force on the basis of no more than reasonable belief that the undertaken action is justified is the exclusive monopoly of the police. No other official in any branch of civil government has this right or this duty" (Bittner, 1970:34). The actual frequency with which police use violence is not relevant here. The point is not that police are violent, but rather that they bear a trust which is denied even to medical professionals. According to Bittner, it is this trust and its precarious nature that defines the function of the police in society: "the role

of the police is best understood as a mechanism for the distribution of non-negotiably coercive force employed in accordance with the dictates of an intuitive grasp of situational exigencies" (Bittner, 1970:46). Because the police are the repository of the violent potential that society does not trust itself to bear, the relationship between the police and society is tense and ambivalent (Bittner, 1970:8). In an attempt to control the police, two mutually exclusive models of organization are applied simultaneously--the professional and the military.

Neither model is applied consistently. "In principle and in rhetoric, a police organization is one characterized by strict subordination, by a rigid chain of command, and more doubtfully, by a lack of formal provision for consultation between ranks." On the other hand, "in many ways policing is a highly decentralized operation involving the deployment of large numbers of men alone or in small units where control by actual command...is difficult" (Reiss and Bordua, 1967:48-49). Even where violence is not a reasonable option, routine peace-keeping activities require delicate diplomacy and the discretion of a true professional; yet the militaristic structure permits costly sanctions to be brought to bear against officers whose decisions turn out to be wrong from the standpoint of the department. The lowliest patrolmen constantly make decisions that are of profound organizational significance, often based on "considerable ad hoc interpretation" of the law, formal policy, and informal custom (Cicourel, 1968:47).

The conflict between professional and bureaucratic ideals has an ultimately conservative effect on police practice. For one thing, the conflict appears endemic and perpetual: if policemen were in fact trusted experts, there would be no need to treat them like "soldier-bureaucrats," but as long as police work is bureaucratized--even if bureaucratization is ineffective as a control mechanism--the development of professional attitudes and expertise is impossible (Bittner, 1970:61). The police officer, like any other worker, cannot be expected to develop initiative if he is constantly wary of attack; he cannot, as it were, look forward and over his shoulder at the same time. This conservative attitude further encourages the officer to de-emphasize due process considerations in favor of short-run concern for individual and organizational priorities: "The more closely people are supervised, the more they bend their energies to satisfying the supervisor instead of to doing the job" (Banton, 1964:161).

SUMMARY AND CONCLUSION: DISCRETION AND THE CRIMINALIZATION OF THE ENVIRONMENT

This chapter has presented a historically informed account of the origins of some generic dilemmas of police work, and especially of police work with juveniles. The discussion suggested, first, that Progressive drives for reform in government and social service delivery placed severe strains on police and the legal system. Attempts at police and juvenile court reform gave rise to ideologies of prevention and rehabilitation, professionalism and efficiency, that have never been carried out in practice. Expectations engendered by these ideologies have, however, created spheres of discretionary action for both police and juvenile court personnel that invite abuse and the subversion of the rule of law.

Four general points may be made by way of summary. First, police discretion is an inevitable part of the legal system that cannot be eliminated by changes in administrative policy. "Police work constitutes the most secluded part of an already

secluded system and therefore offers the greatest opportunity for arbitrary behavior" (Skolnick, 1967:14). Moreover, the potential for serious consequences resulting from the abuse of discretion is greater at the arrest stage than at any other point in the system (LaFave, 1962a:125). This potential for abuse is not a function of the quality of police personnel; therefore improvement of recruitment standards, supervision, or administrative regulations will not eliminate it. Rather discretion is an ontological condition of police work, resulting from the necessary vagueness of legislative mandates, limitations on police resources which prevent the arrest of all known violators, and the emphasis on individualized treatment which runs throughout the legal system in some degree (LaFave, 1962a:112-116).

Second, the modernizing processes that brought police into existence are still continuing, and are perhaps making the job of the police more difficult. On the one hand, the public expects its institutions of social control to provide an ever more peaceful environment. On the other, the standards of legality to which the police must comply are continually being raised, and thus subjecting police to increasingly formal means of control. As Banton (1964:155) suggests, the attenuation of informal norms governing police behavior and the substitution of formal prescriptions may be perceived by officers as signs of eroding status and public trust.

Third, the tendency that American law inherited from Progressivism to attempt to enforce moral standards strains the ability of the police to operate within the rule of law. Roscoe Pound recognized early on that the "limits of effective legal action" had been reached and breached in such social legislation as that which established the juvenile court: "In modern law not only duties of care for the health, morals and education of children, but even truancy and incorrigibility are coming under the supervision of juvenile courts." Such duties, he wrote, "morally are of great moment but legally defy enforcement" (Pound, 1917:162). Moral legislation, by "criminalizing the environment," creates many more opportunities for enforcement than the police can pursue, and therefore require police to select the laws they will enforce. This is an open invitation to arbitrariness, corruption, and the further isolation of the police from the public: "In such cases an 'operational code' [of enforcement] develops that is antagonistic to the principles of due process of law" (Skolnick, 1967:227). Thus police work is rational, but its rationality does not derive from the straightforward application of legal rules or departmental policies; rather police must "interpret a community's legal order by resolving the practical problem of implementing a set of rules that appear explicit," and they do so by reference to informal norms applied through on-the-spot improvisation.

If police discretion is ubiquitous and involves considerable situational interpretation of legal norms, how is it possible to develop a systematic understanding of police decisionmaking in regard to juveniles? While discretion is ubiquitous, it is by no means constant. There is considerable evidence to show that there is some regularity in the relationship between the style of police behavior and the social organization of police work at the community, organizational, and even patrol level. In subsequent chapters, this report will (a) review some ideal-typical "styles" of juvenile policing proposed by various policy groups in light of the conclusions of this chapter; (b) assess the findings of previous studies on the organizational determinants of police decisionmaking; (c) review empirical studies of police decisionmaking in regard to juveniles; and (d) discuss the potential benefits and problems associated with police-juvenile diversion programs.

Chapter II

POLICE ROLES IN JUVENILE MATTERS

THERE IS considerable variation among communities in the roles assumed by police in preventing and controlling juvenile crime. This variation is an aspect of the emphasis on local control and particularized decisionmaking that has characterized juvenile justice from the outset: "There is general recognition of the fact that the procedures which society approves for the handling of juveniles differ at all levels--including police practice. The justification for procedural differences rests upon the belief that juvenile offenders are immature and therefore unable to assess their own conduct to the same degree as an adult" (Kobetz and Bosarge, 1973:110). Since the founding of the juvenile court in 1899, the police have played a crucial role in juvenile justice simply because they are usually the first official contact a youth will experience in the system. Kobetz and Bosarge (1973:111) emphasize the significant role that police play in the juvenile justice system:

Society's objectives for errant children offer certain implications of significance in defining the police role. First of all, it is obvious that the police occupy a strategic and influential position. Society has given the police the authority to intervene officially in instances involving misbehavior that are within purview of the law. The police may, on behalf of the people, legally detain, request explanations and hold for further inquiry. They may, if circumstances seem to warrant, short circuit the criminal justice machinery and choose alternatives to court action. The police most often exert the first, and frequently the most influential, restraint on juvenile conduct. And it is the police who hold the key to initial procedural strategies appropriate to the realization of society's objectives.

The initial contact between a juvenile and a police officer may have a profound effect on the juvenile and his or her potential future delinquent activities. The juvenile's perceptions about the police and other professionals in the juvenile justice system may be formulated, in part, by a police officer's attitude and demeanor. Thus, it would appear that consistent and impartial treatment by police officers may be an effective means of promoting respect for law enforcement officials and the law in general.

In statistical terms alone, the potential effect of police intervention is profound. In 1977, 2.5 million juveniles entered the juvenile justice system in the United States. Of these, 90.7 percent were initially processed by law enforcement agencies (Black and Smith, 1979). Yet the policeman's role vis-a-vis the juvenile is fraught with ambiguity. In the most basic sense, the policeman is entrusted with the protection and well-being of the community through the exercise of the law-enforcement function. Yet at the same time, the community in general and the express philosophy of juvenile justice requires him to be mindful of differences

between adult and juvenile offenders, to show concern for the potentially stigmatizing effects of official contact, and even to act as an agent of rehabilitation for the offender.

The mediation of these disparate roles and responsibilities is, as suggested in Chapter I, primarily the task of the individual officer. The individual policeman in effect makes juvenile justice policy each time he encounters a juvenile in the line of duty. The inevitable result of this practice is arbitrariness and inconsistency, the very antithesis of the rule of law. In order to remedy this situation, the recommendation is heard from time to time that police departments develop clear administrative policies that will guide the officer in his decisionmaking with due regard to community values, the rights and needs of the juvenile, and the availability of treatment resources. In this chapter, three types of roles will be discussed that may be assumed by police dealing with juveniles. These are both descriptive and normative types; that is, they represent in varying degrees the postures taken by actual police organizations in processing juveniles, as well as models upon which affirmative and detailed policy guidelines may be based.

The National Task Force to Develop Standards and Goals for Juvenile Justice and Delinquency Prevention (1977) has suggested that there are essentially three role models that police departments may adopt: the Legalistic, the Rehabilitative, and the combination Legalistic/Rehabilitative. It is important to note that these roles are ideal-typical; that is, aspects of each model may be found in any police juvenile unit, though it is expected that each organization will emphasize one or another in actual practice. The discussion of each type will first describe the role, and then present some criticisms both of the role itself and of the problems of translating the roles into formal policy.

THE LEGALISTIC ROLE

A police agency that exemplifies the legalistic role emphasizes the maintenance of law and order and the suppression of crime among juveniles. Due to recent Supreme Court decisions, new restrictions on police have made it necessary to observe certain formalities of the legal process when juveniles are first taken into custody. When investigating a criminal case involving a juvenile, the police officer must not only apprise the offender of his or her constitutional rights, but he also must apprise the parents of these rights.

Recent increases in rates of officially reported crime have served as a justification for this type of police role. Chief of Police Stephen F. Seckler, an advocate of the legalistic model, suggests that

...we have come, from the early part of the century, when juvenile rights were indeed neglected and the punishment too severe, to a present system of far too much leniency. We must re-evaluate procedures that not only allow many guilty to go free to murder, rape, steal, and break-and-enter again; but also upon an adjudication of guilt, continue to release these same people (Seckler, 1978:69).

Thus informal, "lenient" methods of processing juveniles such as diversion, informal counseling, and referral to outside agencies may be minimized in a police department that is legalistically oriented. In such a department,

Arrests are made when criminal code infractions occur; selective enforcement of laws and individualized treatment of alleged offenders is minimized; investigative techniques are used for fact gathering as those facts relate to the offense rather than the offender; record-keeping is depended upon for case work-up. The use of detention is relied upon to guarantee court appearance (Rovner-Piecznik, 1977:31).

Police departments may find it convenient to assume a legalistic posture in dealing with juveniles because it is compatible with their traditional normative role in dealing with adult criminals. Under the legalistic model, the emphasis is returned, at least nominally, to strict enforcement of the criminal code; police once again assume a "reactive" posture in relation to offenders; and they are relieved of the burdens of delinquency prevention, which they may view as more appropriate for the social worker or probation officer. Furthermore, to those concerned with the civil rights of juveniles, the legalistic model appears to reduce opportunities for discretionary and arbitrary decision-making by substituting legalistic criteria of arrest and due process for the "soft" criteria traditional to juvenile justice.

Nevertheless, three major criticisms may be offered of the legalistic approach. First, the increased use of detention is a trend that would not easily be controlled. The National Advisory Committee recommends that detention should be limited to protective and not punitive measures. Theoretically, detention should be utilized only when a juvenile poses a threat to the community, a threat to his or her own safety, or when the juvenile is wanted by other legal authorities. Yet there is a general tendency for police to appropriate available sanctioning mechanisms for their own short-run purposes (see, e.g., Skolnick, 1967:110-111). Where the use of detention is not tightly controlled by statute, therefore, it can be expected that it will be used for purposes other than those intended by policymakers.

Second, a legalistic department is handicapped in its ability to make appropriate referrals to juveniles genuinely in need of aid. A police department that focuses on law violations may ignore the need to integrate and coordinate its services with the needs of the community. Legalism may only exacerbate the "go it alone" attitude endemic to law enforcement, and thereby may minimize effective communication and understanding among community agencies and official agencies of the juvenile justice system. Because of the crucial gate-keeping function of the police, this emphasis is likely to result in the elimination of such "social work frills" as diversion in favor of court processing for juvenile offenders: "Insofar as the police responsibility to the people of the community is concerned, they are expected to take aggressive and technically competent action to solve crimes--whether the perpetrators be adults or juveniles" (Kohetz and Bosarge, 1973:100).

Third, despite the apparent symmetry between aggressive, legalistic law enforcement and due process, change in police policy may have only minimal impact on police practice, and will certainly leave discretion in the rest of the juvenile justice system untouched. In the criminal justice system, the major control over police behavior is that which is exercised by the courts in consideration of actual cases. Courts do not issue instructions to police; rather they dismiss cases or, at most, issue negative rulings on police practices that are translated ambiguously, if at all, into

actual practice (Reiss and Bordua, 1967:34; LaFave, 1962a:122-124). Despite the apparent legalization of its procedures, the juvenile court remains far more discretionary than the criminal court. As several post-Gault studies have shown, juvenile courts have been reluctant to put into practice the mandates issued by the Supreme Court (Sosin and Sarri, 1976; Lefstein, Stapleton, and Teitelbaum, 1969); it is doubtful therefore that juvenile courts would be able to provide an effective review of police arrest procedures.

In summary, proponents of "legalized" police processing of juveniles fail to appreciate the opportunities for discretionary decisionmaking that will still inhere in such a system. Where police are given sanctioning powers that are not effectively controlled, where they are given responsibility to make referrals but no encouragement to make them knowledgeably, and where they are held to standards of due process that are not practically enforceable, there is a danger that the "legalistic" model will degenerate into a merely punitive approach, and that arbitrary intervention into the lives of juveniles will be continued under the popular guise of aggressive law enforcement.

THE REHABILITATIVE ROLE

A second option available to police involves a more rehabilitative stance. This is attained by de-emphasizing the law enforcement role in dealing with juvenile offenders, and concentrating police-juvenile manpower on delinquency prevention activities, with officers serving more in the manner of social workers. Police juvenile officers in such a department tend to embody the traditional juvenile justice philosophy by becoming more client-oriented and placing emphasis on the circumstances surrounding the commission of crimes rather than the violation itself. The legal concepts of guilt and innocence are secondary in a model stressing rehabilitation. While both legalistic and rehabilitative models are concerned with identifying delinquents, the latter approach places emphasis on finding alternatives to which a juvenile can be referred, thus minimizing penetration into the juvenile justice system.

In the rehabilitative model, the preferred goal of police activity is disposition within the community. Diversion and referral to community agencies are the primary methods utilized in dealing with juvenile offenders. Diversion is generally defined as the process designed to turn the juvenile away from the formal system, while referral is the process, usually within the offender's community, in which a diverting agent (police, probation, or intake officer) initiates a connection between the offender and another agency.

The rehabilitative model is designed to be "proactive" in that it involves the participation of law enforcement officers in activities which are intended to prevent delinquency. Community projects, police athletic leagues, and diversion programs are a few of the prevention areas in which police have operated. Increased training and specialization of police juvenile officers usually implies movement toward a proactive role.

A major criticism of the rehabilitative model is that there is a tendency for police officers to undertake activities beyond the conventional law enforcement work for which they have been trained. Such a role encourages police to develop formal and informal means of short-circuiting juvenile court processes through, for example, unofficial probation or police-run diversion programs. Yet the ability of police to administer rehabilitative activities and programs has been seriously questioned by the

President's Task Force (1967) which suggests that community adjustment be limited to release and referral. Police officers' counseling capability has been criticized on the grounds that they lack adequate training. A selected study of 17 States by Chamelin (1975) revealed that the hours of training a juvenile officer received in juvenile subjects varied considerably, from 1 to 14 hours. It would appear that the training received by juvenile officers is woefully inadequate, especially considering the potential impact of the officer's intervention on the lives of juveniles.

Even where police attempt no in-house delivery of services, there are some grounds to question their ability to make appropriate referrals. Often there is a presumption by police departments that appropriate agencies exist to provide the services needed by juveniles. Referral criteria are few, and may result in indiscriminate referrals; police agencies often lack the resources, personnel, and time to maintain contact with referred youth; they may lack both the time and the inclination to follow up on referrals to assure delivery of services. Juveniles may fail to participate in the programs to which they are referred and may simply "fall through the cracks" of the system. Finally, in a rehabilitatively oriented police department, there are constant opportunities to draw more juveniles into the rehabilitative "net." That is, serious juvenile cases may continue to be treated in a formal and punitive manner, and informal "rehabilitative" services may be utilized as surveillance mechanisms for nonserious offenders who would otherwise have been released outright by the juvenile court.

THE LEGALISTIC/REHABILITATIVE ROLE

A third option, which views the police role as one encompassing both a legalistic and rehabilitative function, has been recommended by the President's Task Force (1967) and the International Association of Chiefs of Police. In their view, the ideal police department would combine law enforcement and preventive functions "...emphasizing neither at the expense of the other, yet striving to divert many juveniles from the formal adjudicatory processes" (National Task Force to Develop Standards and Goals for Juvenile Justice and Delinquency Prevention, 1977:7). The juvenile officer assumes a dual role by focusing on the prevention and detection of juvenile crime while serving as a social worker attempting to prevent delinquency through community involvement.

This model is the most acceptable of the three discussed here to the standard-setting groups and the majority of police administrators in the United States. On the one hand, it permits departmental resources to be utilized for the development of programs which involve juvenile officers and facilitate informal contact with juveniles in schools and neighborhoods. It supports the use of diversion programs to avoid the stigmatization of formal processing through the juvenile justice system, and to decrease the juvenile court caseload. On the other hand, this model supports the aggressive apprehension and prosecution of juveniles who may be resistant to less coercive forms of treatment, and serious offenders that the community demands be taken "off the street."

Yet this combined approach to juvenile policing is subject to all the criticisms leveled at the legalistic and rehabilitative models, plus a few more. This model assumes, first of all, that the juvenile officer is not only capable of being both social worker and law enforcer, but of judging which role is appropriate in each situation. In light of Chamelin's (1975) findings regarding the training of juvenile officers, policemen may not be ready to assume such responsibilities. Role

conflicts may not be mediated evenhandedly: when confronted with an ambiguous situation, there are sound structural reasons for officers to adopt a course of action that will maximize their control over the situation, hence their ability to keep the peace. If the insights developed in Chapter 1 are correct, the officers' decisions will be made on pragmatic, situational grounds, and will be left largely untouched by the pronouncements of national, State, or even departmental policymakers. Such pronouncements do not narrow the structural parameters of police discretion, rather they increase it. Thus the "combined" model of police decisionmaking in regard to juveniles may result not in the best of both worlds, but rather the worst: the broad discretion inherent in the rehabilitative role and the severe sanctions that underpin legalism.

CONCLUSION

Because communities vary in their nature, needs, and values, different styles of policing are bound to exist. National statistics suggest the parameters of this variation: data for 1977 reveal that 53.2 percent of juveniles arrested were referred by police to court intake. Referral rates vary enormously from state to state, from a low of 7.0 percent in Michigan to a high of 89.5 percent in New Mexico (Black and Smith, 1980:157).

The National Task Force to Develop Standards and Goals has recognized that community differences require different standards of policing: "Police policy should reflect community standards. To make policy more visible, guidelines need to be established and set forth in writing, particularly to provide guidance for the police when handling juveniles" (National Task Force to Develop Standards and Goals for Juvenile Justice and Delinquency Prevention, 1977:9). The Task Force suggests that close coordination of police policy with the efforts of other community organizations will better serve the needs and values of the community in pursuit of delinquency prevention.

The Task Force offers three standards which specifically relate to the police juvenile role:

Standard 4.1 Police Policy as an Expression of Community Standards

The police role in juvenile justice and delinquency prevention should be responsive to community needs. The police should function in both an enforcement and prevention capacity, emphasizing neither role at the expense of the other.

Standard 4.2 Police Responsibility in Protecting Integrity of the Law

The police objective in protecting the integrity of the law should be twofold: (1) to enforce the law and maintain order; (2) to insure impartiality of enforcement.

Standard 4.6 Participation in Policy Formulation Efforts

Police chief executives should broaden the scope of participation in police policy-formulation efforts affecting juveniles to include lay persons, other

juvenile justice system personnel, community youth service groups, educators and other persons and/or groups who work in a youth-serving capacity.

These are indeed laudable goals. Yet they show an almost extraplanetary ignorance of the political, organizational, and everyday practical realities of police work, and they contain a host of unexamined assumptions. Our summary criticisms may be presented as a series of questions.

First, are rehabilitative and legalistic roles practically compatible? The normative position suggested in Standard 4.1 implicitly demands a broad range of police discretion both in making decisions about whom to arrest, but also about appropriate referrals. Standards 4.1 and 4.2 invoke standards of the rule of law that must be observed in dealing with juveniles. This in turn implies a reduction of discretion, and effective controls on the exercise of discretion such as those normally provided in the criminal courts through judicial review. It was suggested above that no such controls exist in the juvenile justice system.

Second, what are the practical limits to community participation in police policy-making, and will official policy have any salutary effect on policing at the street level? Observers such as Banton (1964:223) have noted the tendency of American police to see themselves as isolated and beleaguered representatives of the law and public morality, and thus to become an "in-group" resistant to control by outside agencies. Even where police administrators make gestures of cooperation with community agencies, the power of the administrator to enforce cooperation at the street level--indeed, to enforce any command decision at all--is limited by the decentralized nature of most (especially urban) police departments, and by the isolation inherent in patrol work (Reiss and Bordua, 1967:48-49).

Third, what is the "community"? Does this term represent a concrete reality, a comprehensive constituency through whom policy may be developed, or a euphemism for the elite reform groups mentioned in Standard 4.6? To put the problem another way, the typical urban police force personifies the authority of a broad, formal political unit--i.e., a city. A city typically contains a variety of communities, each of which may invoke police intervention under different circumstances, and each of which may desire different forms of police intervention. Research suggests that in fact police practices vary depending on the locale--it is, as Black (1972:1105) says, "radically democratic;" yet this form of democracy does not result in uniform standards of justice, but rather the particularization of standards within a given context. Such particularization must be regarded as an impediment not only to the development of coordinated policy, but to the enactment of the rule of law itself.

To summarize: in this chapter, some normative models of police practice in regard to juveniles have been reviewed, and some of the difficulties encountered in translating policy into actual practice have been suggested. Above all, this chapter suggests that these models of the police role suffer from a lack of empirical grounding, a sense of what police actually do when they encounter juvenile misbehavior and why. The next two chapters will attempt to provide some of that empirical grounding by examining, first, organizational variation in police juvenile work, and second, research on police decisionmaking in regard to juveniles.

Chapter III

THE ORGANIZATIONAL CONTEXT OF POLICE-JUVENILE RELATIONS

INTRODUCTION

This chapter is concerned with organizational factors that affect police decision-making in juvenile cases. The discussion is concerned with the police as an organization in a broad sense; that is, exclusive concern will not be directed to the internal structuring of authority relationships in police departments. Rather this chapter will consider a broad range of factors that affect police work with juveniles, including political interrelationships that exist at the community level as well as priorities emerging from the organization of the police department itself.

The account presented here will neither be exhaustive nor conclusive. Available research literature is too sparse, and police behavior itself is too elusive, to permit a thorough and generalizable explanation of police decisionmaking. This chapter has two more limited goals: first, to present a descriptive account of the social contexts and processes within which police deal with juveniles. The second goal is to lay a foundation for a critical discussion of empirical studies of police-juvenile encounters that follows in the next chapter.

The thesis of this chapter is that police behavior is activity that is largely improvisational in character and which is oriented primarily toward maintaining the integrity and authority of the acting officer and the organization he represents. Such behavior may not be understood straightforwardly by reference to legal norms. Rather the central job of the police is the maintenance of relationships with individuals and organizations outside the boundaries of police organizations; "the central meaning of police authority itself is its significance as a mechanism for 'managing' relationships" (Reiss and Bordua, 1967:26), and legal rules are strategic tools of management.

The organizational context of police behavior will be discussed at three levels: the community, interorganizational relations, and the department.

THE COMMUNITY AND POLICE DECISIONMAKING

The impact of community variation on police decisionmaking will be discussed in two ways. First, two studies will be examined which focus on differences in the political cultures of large cities; second, consideration will be given to patterns of variation within cities.

Political Culture

Two studies of police-juvenile relations in different cities by Wilson (1968) and Cicourel (1968) form the basis of this discussion. Both studies found that significant differences in arrest rates were related to the organizational structure of law-enforcement institutions, and ultimately to the type of political authority that was dominant in each city.

Wilson studied departments in "Western City" and "Eastern City." In Western City, he found that more juveniles were arrested or cited, as a proportion of those processed and as a proportion of the juvenile population, than in Eastern City (Wilson, 1968:15). Wilson explained this variation in terms of differences in law enforcement "style" or "ethos" and organizational structure. In Western City, the police department as a whole was more centralized; juvenile officers were more distinct and isolated from the opinions of patrolmen and detectives; and officers tended to be recruited more from middle-class backgrounds and from geographic areas outside the city. The Eastern City department in contrast was relatively decentralized, tended less to set its juvenile officers apart from regular officers, and more often recruited officers from within its own jurisdiction (Wilson, 1968:19-25). In short, the Western City department was "professional," insofar as it emphasized the application of general, impersonal rules, recruitment by achieved criteria, evenhanded enforcement, less corruption, and special training for juvenile officers. The Western City department, which showed a relative lack of these characteristics, was "fraternal" (Wilson, 1968:11).

Wilson suggests also that the structure of the respective juvenile justice systems had an impact on arrest rates. In Eastern City, officers tended to be involved with a case all the way through the court process, whereas in Western City a probation officer took the case over as soon as the officer had filed the initial report. As Wilson points out, however, differing levels of involvement by juvenile officers does not explain the difference in arrest rates shown by patrolmen, who usually made first contact with the juvenile (Wilson, 1968:20).

Cicourel found similar results of his study of "City A" and "City B." Juvenile arrest rates were higher, generally and by offense, in City A. Similar structural correlates of arrest rates were found as in Wilson's study: police in City A were relatively professionalized, and internal police policy was subject to little interference by outside officials. In City B, police were intimately involved with a generally corrupt and graft-ridden city government (Cicourel, 1968:ch. 3). The police department in City B was rather loosely administered, and juvenile officers were formally subservient to detectives. Openly liberal juvenile officers were often ridiculed by other police. Prominent politicians and police officials in City B frequently intervened in juvenile cases on behalf of the children of local notables. City A's department was administered according to criteria of "efficiency" in a city dedicated to "good government." Juvenile officers there were more autonomous, but were held to a rigorous accounting for their time; there was less outside interference in cases; and in general a higher degree of formality was shown in the handling of cases (Cicourel, 1968:175-177).

The results of these two studies are somewhat in contrast with what common sense would suggest. It might be imagined, for example, that a loosely-administered, "fraternal" police department would be less mindful of legal niceties and hence more oppressive in the exercise of their authority--in short, that they would arrest more

juveniles. If these findings are generalizable, however, it appears that the opposite is true: the more "efficient," more highly bureaucratized department is the one that uses its formal sanctioning power more frequently. In fact, these findings are entirely consistent with the discussion in Chapter I: the lower arrest rates of Eastern City and City B do not betray a reluctance to impose sanctions, but merely the opportunity and willingness to impose informal sanctions that never appear on written records. The juvenile officers in the less bureaucratized departments discussed here are part of a larger web of police politics; they are not encouraged to develop a distinctive identity and expertise; they are not structurally distanced from the informal norms of the communities in which they operate. The interactive effects of community norms and police priorities will be the subject of the next section.

Community Culture

Police in the United States are much more subject to the pressures of community norms than are police in Britain, for example. In the United States, the officer's authority is largely personal; it does not, as in Britain, derive from the impersonal authority of the central state. According to Walker (1977:14-15), the authority of the British police is underpinned by a highly stratified economic system that supports a view of the police as an authoritative elite. American police reformers failed to understand this basic social-structural difference, and thought police could be "professionalized"--i.e., taught to behave according to universalistic norms--without reference to community sentiment. As will be shown, the structural need for the policeman to maintain order in a heterogeneous city leaves a great deal of leeway for discretionary adaptation to local sentiment.

Such adaptation requires a diplomatic balance between conserving and spending power. On the one hand, under-enforcement may result from the officer's desire to work within the moral consensus of the community. They seek to establish their authority, not just exercise power: "In most situations the police seem to expect those with whom they deal to regard policemen as being morally justified in dealing with them as they do. They try to get offenders to recognize explicitly the norm of proper conduct and to agree to observe it more carefully in the future" (Banton, 1964:147). Citizen support of police authority not only makes the officer's job easier in a practical sense, but also reinforces the officer's status as protector of valued moral norms. Thus one study found that police deal with juvenile gangs in a "peace-keeping" mode, by permitting groups to maintain control over certain street areas, with only occasional shakedowns to maintain the image of authority (Werthman and Piliavin, 1967:62). A policeman in such situations may decline to enforce all the laws at their disposal, tempering legalism with consideration for community standards of fairness: "If he is too legalistic, he runs the risk of being perceived as arrogant and unjust; but if he tailors his standards to the practices of the neighborhood rather than to its ideals, he is looked down upon for abdicating his responsibilities altogether" (Werthman and Piliavin, 1967:66). At the extreme, under-enforcement can lead beyond a solicitous concern for local values, and can become a form of passive, institutionalized racial bias: "Some policemen feel, for example, that assault is an acceptable means of settling disputes among Negroes, and that when both assailant and victim are Negro, there is no immediately discernible harm to the public which justifies a decision to invoke the criminal process" (Goldstein, 1960:575).

On the other hand, police assessment of a community's moral character can lead to increased surveillance and relative over-enforcement. In day-to-day practice, police

make ecologically-based inferences about the juveniles they encounter in various territories of the city:

Past experience leads them to conclude that more crimes are committed in the poorer sections of town than in the wealthier areas, that Negroes are more likely to cause public disturbances than whites, and that adolescents in certain areas are a greater source of trouble than other categories of the citizenry. On the basis of these conclusions, the police divide the population and physical territory under surveillance into a variety of categories, make some initial assumptions about the moral character of the people and places in these categories, and then focus attention on those categories of persons and places felt to have the shadiest moral characteristics (Werthman and Piliavin, 1967:75).

Hence, as found by the study by Wilson (1968) discussed above, the "fraternal" police in Eastern City arrested fewer juveniles overall, and arrested black youth at a higher rate than police in Western City. Wilson suggests that this is not a direct result of personal bias by Eastern City officers, but rather a result of the cognitive map of "trouble" areas that they share as a strategic device. A black youth is perceived as an "alien," as "one who has no home life"; and since police in Eastern City are more concerned with the maintenance of informal family authority than those in Western City, they are more likely to use the perceived absence of a good family life among black youth as a rationale for court referral (Wilson, 1968:26). According to Cicourel, the behavior of juvenile officers can only be understood by reference to the set of "preconstituted typifications" that alert them to potential trouble: "Particular ecological settings, populated by persons with 'known' styles of dress and physical appearance, provide the officer with quick inferences about 'what is going on,' even though this knowledge is of no factual, legal relevance in the ultimate determination of guilt or innocence (Cicourel, 1968:67).

POLICE-COURT RELATIONS AND POLICE DECISIONMAKING

In Anglo-American law, the institutional separation of the police from the courts has deep historical roots, and is in large part a product of the development of legal philosophy itself. By the mid-19th century, all schools of legal philosophy agreed that the enforceability of a specific law had no bearing on its inherent justice or appropriateness. In the 20th century, the expansion of law and the application of law to public policy reform and hitherto private morality had practical consequences: "Such ideas persisting into a period of legal expansion and copious law-making have much to do with the divergence between the law in the books and the law in action which is so marked in this country to-day" (Pound, 1917:158). In other words, the passage of unenforceable legislation such as juvenile court laws opened up new arenas for discretionary legal action, and set the stage for conflict between police and courts.

Under the traditional American doctrine of the separation of powers, law enforcement at Federal, State, and local levels is a function of the executive branch; thus courts have no formal control over police. They have some informal influence, however, arising from two factors. First, police generally want to see their arrests result in successful prosecution (whether out of "punitive zealotry," bureaucratic pressure, or a sincere conviction of the rightness of the law), hence police may be expected to pay some attention to court rulings in order to assure the legal

integrity of their arrest practices. Second, police departments are chronically fearful of scandals, hence may be expected to avoid more egregiously illegal exercises of police power (Bittner, 1970:27). Yet court decisions are not systematically incorporated into police practice. One reason for this is that court decisions are ex post facto; they are communicated to the involved officer only in an ambiguous fashion emphasizing his errors rather than his future practice; these rulings are passed on to the rest of the force informally, if at all. Another reason for a lack of direct communication is that police may simply disagree with court criteria for charging and adjudication, and may evade court rulings by continuing to make illegal arrests without any expectation of prosecution, by applying informal sanctions in lieu of arrest, or by ignoring similar situations entirely (LaFave, 1962a:122-124). In any case, the rule of law as interpreted by the courts is inadequately translated into police practice, and may result in encouraging discretionary nonarrest or spurious harassment arrests.

According to Bittner (1970:28-29), court influence over the police is especially limited in four areas. The first area includes minor offenses where no vigorous defense is anticipated. Second, in situations offensive to the public--for example, an aggressive drunk or a violent criminal--observance of legality may be seen as ineffectiveness, and the officer may defer to community yearning for quick social control. Third, in some areas of law enforcement harassment arrests may be used as a management device even when there is no expectation of prosecution. Examples of this include control of prostitution and juvenile gangs. Finally, where police are called upon to ease "social strains" such as marital disputes and family problems, judicial review seldom becomes an issue. It is significant that all four of these areas--minor offenses, public nuisances, management, and family problems--describe circumstances under which encounters with juveniles frequently occur. This provides some explanation for Cicourel's finding that in the apprehension of juveniles and the investigation of their cases, officers generally disregarded formal legal procedures or considerations of constitutional rights (Cicourel, 1968:63).

The relationship between courts and police is characterized by conflict and negotiation. The relationship takes on a special tone in the context of the juvenile justice system. Because of the emphasis on "peace-keeping" in juvenile matters, and because police are aware of the potentially harmful effects of legal processing on juveniles, they are usually prepared to give juveniles "breaks" or "second chances" (Lemert, 1970:64). They seek to treat juveniles informally if they feel they are amenable to such treatment. The decision to arrest and to refer to the juvenile court thus signifies "the failure or inappropriateness of mediation and informal settlement" (Emerson, 1969:42). When the officer makes such a decision, in his capacity as a competent craftsman, and especially when he has extended himself in the past on behalf of a particular juvenile, a refusal to prosecute or a court dismissal may be viewed as an affront to his professional judgement. This sort of conflict is endemic to police-court relations, but is exacerbated in cases where considerations of rehabilitation are prominent, especially those involving drunks, vagabonds, and juveniles (Reiss and Bordua, 1967:33).

At the same time, police have special sources of leverage on the juvenile court that they do not have in adult courts. The prominent role of probation officers--many of whom are ex-policemen, and share many police officers' attitudes toward juvenile crime--makes them ideal mediators between the police and the court (Emerson, 1969:51). Police may seek court cooperation via the probation officer not only to prosecute cases, but in some instances to honor bargains made by the officer to forego

prosecution, for example in cases where the juvenile confesses and "clears" several crimes in return for immunity. The wide latitude police enjoy in juvenile matters gives them extraordinary negotiating power; in effect, the ability to sanction the court for non-cooperation. Police control over juvenile court input allows them, for example, to refuse to refer all but the most serious cases to the court. Such an action would not only threaten the court's posture as a rehabilitative agency by increasing the necessity for severe sanctions, but would also threaten the probation caseload and hence the tenure of the probation staff (Emerson, 1969:43-45).

In summary, interorganizational negotiation and conflict in the criminal justice system, and even more strongly in the juvenile justice system, tend to erode the ability of the system as a whole to enforce the law. When police decisions are reversed by courts, the thwarted officer has only the police subculture to turn to for advice. The results are often inimical to the goals of justice: "Negative sanctions by the court and prosecutors thus lead to a deterioration of police practice which subverts judicial goals" (Reiss and Bordua, 1967:34). Whether the "legalization" of juvenile court procedure will change this tendency is problematic. The Gault decision, for example, did not in any way affect the relationship of the police to the juvenile court, nor did it eliminate the broad discretion inherent in the enforcement of statutes governing juvenile morality. Thus as Emerson speculates, increased emphasis on due process in the juvenile court may lead to an increased use of informal dispositions by police (Emerson, 1969:41 n. 7).

POLICE ORGANIZATION AND DECISIONMAKING

The organizational issues covered thus far--the effects of community norms and of interorganizational conflict--where seen to have only general effects on police practice, even if under some circumstances those effects may be quite profound. In both contexts, police behavior is primarily reactive rather than active; it is a response to externally-induced strain rather than an affirmative process of policy formation.

It is within the confines of the police organization itself that police goals, often in collision with the demands of formal legality, become translated into systematic behavior. Because of the insularity and provincialism of police departments, however, the outcome of that process is parochial. That is, while the stresses on police organizations and the means available for responding to stress are generically similar, particular police departments and individual officers each must improvise their own unique strategies for asserting and holding authority. Thus this section will assess only the general properties of the processes from which police behavior is emergent. Those properties include police insularity; problems of command and control; the relationship of juvenile units to the police organization as a whole; and negotiations with offenders.

Police Insularity

The institutional separation of the police from the community is maintained in large part by common policies of recruitment and advancement. Police departments tend to be "closed systems," in that they recruit only at lower levels of the force, and advancement is restricted to those already in the system. Because of this closed quality, new recruits rapidly learn that their futures depend on loyalty to organizational norms. The result tends to be inbreeding, a commitment by officers to the local status quo, and an inbred resistance to reform at all levels of the police hierarchy (Bent, 1974:21). This inbreeding process tends to remain consistent over

time because police recruitment practices consciously or unconsciously lead to a high level of homogeneity among personnel. Most police, thus, are working- or lower-middle-class whites of a conservative bent and a "penchant for 'action,'" and homogeneity may be further cemented because of a reluctance on the part of incompatible candidates to apply (Bent, 1974:16-17).

The institutional isolation and homogeneity of police departments combine to support a unique "working personality" that is characteristic of members of a stigmatized occupational group (Skolnick, 1967:42; Bittner, 1970:12-13). The organizational defense of police departments is made possible in part by officers' tendency to develop a strong collective identity as society's "true custodians of morality," and a system of norms that supports that identity--the "code" of police behavior (Reiss and Bordua, 1967:37).

This "code" is a set of working rules that includes the aforementioned typifications of geographic trouble areas and suspect individuals, and also includes a host of norms regulating dealings with fellow officers, superiors, and representatives of other organizations in the legal system. It is primarily a code of loyalty: its primary tenet is support of brother officers. Thus by necessity it is secret. It is withheld from the public because otherwise it would cease to be the exclusive tool of the police; it is taught to rookies through a process of informal socialization (Stoddard, 1974:222-223; Bent, 1974:36-37). The rookie officer must pass the test of the code of loyalty before he is accepted and trusted by his fellow officers. Sometimes, such loyalty involves covering up for dishonest or corrupt behavior (Stoddard, 1974:221). Always, however, loyalty to the code involves complicity in the routine deviance of nonenforcement. That is, the young officer learns from his more experienced fellows the practical rules that determine when the power to arrest is to be invoked, and when informal sanctions are more appropriate.

Problems of Command and Control

The fact that so much of the craft of policing is learned informally belies the ideology of police professionalism. As Bittner (1970: ch. 9) notes, the "code of secrecy" is distinct from the occupational identity of a "true" professional--which implies situationally transcendent standards of expertise, ethics, and certification--and it subverts the aims of bureaucratic regulation. What goes by the name of professionalism in police work is in reality a craft-guild ethos, designed to induce solidarity and insulate police craftsmen from interference both by civilians and by police executives (Bent, 1974:22).

As Bent has suggested, administrative control over police behavior has proved impossible because, ultimately, all policy must be filtered through the personal experience of individual officers. Attempts to regulate officers' behavior will have a uniform effect only insofar as their experiences are similar (Bent, 1974:15). Indeed, LaFave found no evidence of any attempt to rationalize administration of policies of nonenforcement:

Police decisions not to invoke [arrest] are made on an ad hoc basis, and there is little attempt to rationalize the process. Beat patrolmen are not advised of nonenforcement policies by official departmental pronouncements, but make these decisions based only upon their own attitudes, observations of more experienced officers, and some informal (and often divergent) advice from precinct personnel reviewing those arrests which are made (LaFave, 1962a:131).

There is one important means through which extraorganizational control and internal administrative regulation affect routine police practices; however, evidence suggests that these controls have the effect more of widening than narrowing police discretion. Police, like any other public agency, must justify themselves before the public to assure continued funding as well as to maintain authority. But by what criteria is police "success" to be measured? General trends in crime rates are tricky measures of police effectiveness: a recorded drop in crime may be interpreted as a sign of police success, for which they deserve further funding; on the other hand, it may signify a lack of need for police services.

Further, police are largely unable to control the courts, where their success is ultimately validated in the form of convictions. Thus their major organizational defense and justification involves what Reiss and Bordua (1967:37) call the "separation of enforcement from outcome." One such strategy is to focus on the successful solution of particularly egregious or well-publicized crimes. Another is to develop statistical summaries of aggregate success in the form of crimes cleared by arrest or amount of stolen property recovered (Reiss and Bordua, 1967:34). These measures are independent of court decisionmaking. Their impact on the individual policeman is to make him "production-oriented," and encourage him to lose sight of the ultimate ends of the legal system. The orientation toward the compilation of an impressive statistical record may lead the officer to forego some arrests, or in other cases to make arrests when there is no intent to prosecute. In either case, the officer is acting according to department criteria to manage his segment of the legal arena, with little hope of support from or articulation with courts. In this sense, the police are organizationally impelled to act as the endpoint of the legal system (Reiss and Bordua, 1967:37). Thus standards of efficiency and effectiveness can result in what Skolnick (1967:180) calls "positive deviance": the achievement of impressive clearance rates may undermine the rule of law by creating a need for the compromise of long-run goals in order to achieve routine production goals, much like the industrial worker may produce shoddy parts and thereby threaten his employer's future in order to meet a daily quota.

The Function of Specialized Juvenile Units

In industrial organization, a typical strategy used to avoid the dilemma of "positive deviance" is specialization and increased division of labor. As production units are broken down into more discrete functional components, the power of discretionary decisionmaking is removed to higher levels of authority, and the opportunity for individual workers to take short-cuts destructive to the entire organization is reduced. Similarly, the bureaucratization of police work through the formation of specialized units--such as juvenile bureaus--may be seen as an administrative attempt to routinize police behavior within a more restricted arena of action.

The bureaucratization of the police juvenile function through the creation of juvenile bureaus has been a response to the especially complicated nature of police work in urban areas, a problem that is exacerbated in the juvenile realm by the need both to enforce the law and to cooperate with child-caring agencies and the peculiarities of the juvenile court. One result of the formalization and specialization of juvenile bureaus is a high rate of formal processing relative to less bureaucratized and more rural law enforcement agencies (Lemert, 1970:64-65).

The creation of specialized police units casts the operational distinction between "peace-keeping" and law enforcement into an organizational structure. Special purpose officers such as detectives, traffic policemen, and juvenile officers are "law

officers' whose contacts with the public tend to be of a punitive or inquisitory character, whereas the patrolmen...are principally 'peace officers' operating within the moral consensus of the community" (Banton, 1964:7). As Werthman and Piliavin (1967:69) point out, this organizational distinction results in distinct styles of work. In general, police "solve" crimes in one of two ways: either they begin with particular crimes and attempt to link them with previously known suspects, or they focus on "suspicious" individuals and attempt to link them with previously known crimes. Because of their differing organizational contexts, juvenile officers, like detectives in general, tend to operate in the former manner, and patrolmen in the latter. Thus once a case is referred to a juvenile officer for investigation, the officer must rely on his stock of information about known offenders to focus in on likely suspects and effect a plausible arrest or other disposition. As will be seen below, the procedural laxity of the juvenile justice system permits broad latitude in the conduct of this investigative process.

One final peculiarity of the juvenile unit must be mentioned. Juvenile officers are not just like other detectives; they are separated from other officers by varying degrees of status distinctions. In Wilson's (1968) Western City and Cicourel's (1968) City A, juvenile officers clearly enjoyed a higher sense of status and *esprit de corps* than their counterparts in Eastern City and City B. Yet in general, since police ideology and organizational strategy are primarily oriented toward making big arrests of serious criminals, "juvenile officers occupy marginal positions on the police force" (Emerson, 1969:40; see also Skolnick, 1967:118). Even in the relatively professionalized California police departments studied by Lemert, "arresting young children is hardly a fact that adds to a policeman's status, either in the community or within his department" (Lemert, 1970:64).

Too little is known about the effects of juvenile specialization to permit statements of general, conclusive findings. The fact that formal arrest rates appear to be higher among more professionalized departments and among more professionalized juvenile units may mean that in more functionally specialized law enforcement organizations, legalistic considerations and/or bureaucratic imperatives are more successful in reducing the frequency with which informal sanctions are substituted for court processing. At the same time, it may mean that professionalization increases the salience of clearance rates as measures of juvenile officers' success. Where such production criteria are emphasized for juvenile officers as they are for other policemen, one may expect to see them approach their jobs like other sorts of detectives, and use their negotiating power to achieve desired outcomes with accused offenders. That process of negotiation forms the subject of the next section.

Negotiations With Suspects

The need to show high productivity and efficiency through the production of clearance rates is the most direct way in which organizational imperatives affect the arrest behavior of policemen. The emphasis on arrests does not, however, have the straightforward result of causing police officers to arrest every suspect who comes to their attention. If nothing else, resource constraints alone preclude this. Rather it creates additional opportunities for officers to expand and use discretion as a negotiating tool. This phenomenon has been shown to operate in both criminal and juvenile justice arenas.

Police have at their disposal a variety of sanctions that can be applied in a given case. These sanctions are much more important as potential than as actual outcomes.

Just as the sentencing power of the court is significant as a potential sanction when a defendant engages in plea bargaining, so the potential of arrest or court referral is an important means by which police may achieve the cooperation of suspects. In Skolnick's (1967) terms, sanctions are the policeman's "capital assets;" their value increases if they are not spent easily or foolishly.

Police have the opportunity to create a "discretionary structure" that allows them to bargain with and penalize uncooperative suspects through the general nonuse of available sanctions (Skolnick, 1967:110). Examples of discretionary structures include the possible use of quarantine holds on unmanageable prostitutes, or the threat of prosecution used to turn small-time narcotics offenders into police informers. Another salient example is found in Werthman and Piliavin's (1967) analysis of police-gang relations. Police enjoy some measure of control over and tolerance by juvenile gang members because they diplomatically permit the juveniles to maintain control over their streetcorner domain, with only occasional and ritual assertions of police authority. In such a context, the officer who rigorously enforces minor laws against vagrancy and loitering will not only be bitterly resented by gang members, he will probably be unable to find them when a serious crime has occurred and he is in search of likely suspects.

The impetus to the development and use of these sanctions is not personal bias, but the structurally induced need for the officer and the department to display efficiency: "Their actual behavior seems to be influenced more than anything else by an overwhelming concern to show themselves as competent craftsmen" (Skolnick, 1967: 111). Skolnick writes further that increased penalties--for narcotics crimes, for example--increase the capital assets of the policeman in bargaining with a potential informer. Thus despite public pronouncements, the major practical effect of increased penalties is not deterrence, but increased leverage. This generalization may be extended a bit, and applied to the juvenile justice system. Where so many of the crimes encountered are minor in nature, not only more severe penalties, but also a broader range of less severe penalties may suffice to create a discretionary structure through which the cooperation of juvenile offenders may be secured. For example, a juvenile officer investigating the case of a child with a "school problem" or an "incurable" child might have no intention, or even the legal option, to refer the child to detention or to the juvenile court for formal processing. In such a case, the threat of even a minimally coercive diversion program could be successful in eliciting a satisfactory show of penitence and cooperation.

Emerson's (1969) analysis of one juvenile justice system revealed how the police may make systematic use of the juvenile court without actually making a referral:

The juvenile officer's job is not so much to solve "crimes" committed by juveniles as to handle often legally ambiguous complaints involving juveniles. The juvenile officer seeks both to satisfy the complainant and to keep the youth from making further trouble. Given this emphasis on settling trouble cases within the community, not on abstract law enforcement, the policeman's power to arrest provides a strategic weapon to be used to cajole and threaten juveniles into better behavior. Arrest and court action thus become more effective in this respect when posed rather than actually invoked (Emerson, 1969:42).

Cicourel's (1968) discussion of the case of "Mark" illustrates the juvenile officer's use of potential negative sanctions to clear a case of minor robbery. The officer

first interviewed Mark's suspected accomplices, alternatively using threats and promises of a "break" in return for information. These attempts were largely unsuccessful. When Mark himself was finally interrogated, he was told his friends had informed on him, but nonetheless he refused to confess. The officer threatened him with detention, and went so far as to put him in the car and start the ignition for a trip to the detention center before Mark "copped out." The officer explained that his technique was strategically required because he "felt that this particular group was all weak-character types always in trouble in the neighborhood, and it was simply a matter of 'breaking them down' to clear many reported offenses for the area in which they resided." Thus, as Cicourel's analysis shows, the case at hand was a strategic lever with which the officer could make a more spectacular show of productivity. The interrogation process itself was unfettered by considerations of legality: "Viewed from the standpoint of the penal code, procedural due process, or the treatment-oriented juvenile court law, the conversation does not represent the model of impartial legal procedures oriented toward the dignity of the actor." Its rationality lay rather in the situation and the statuses of the actors: the superiority of the officer, the inferiority of the juvenile, and the organizational priorities toward which the officer worked (Cicourel, 1968:185).

SUMMARY AND CONCLUSIONS

This chapter has suggested that the social organization of police work has effects on police decisionmaking that are diffuse and not directly predictable. That is, interorganizational strains and intraorganizational imperatives do not determine the outcome of cases; rather they create discretionary opportunities that may be exploited to the strategic advantage of the officer. The factors discussed here merely set the stage for the improvisational drama that is acted out when the officer actually encounters a juvenile suspect. Because of the essentially *ad hoc* nature of police decisionmaking, the effect of a particular set of organizational constraints will vary from jurisdiction to jurisdiction, and from one encounter to another.

Let us review the main points of this chapter briefly. First, more professionalized police departments in "good-government" cities appear to use formal means for processing juveniles more frequently than "fraternal" departments which are closely associated with the local political system. Further, more professional departments appear to use more universalistic and evenhanded criteria in deciding whom to arrest. This finding by itself is interesting, and suggests that police reform may have a positive effect on the equity of the formal juvenile justice system in general. However, little is known about relative rates of informal sanctions applied in the two types of departments. It is apparent that juvenile officers, like all other police, use *a priori* typifications of troublesome areas and individuals to sensitize them to potential lawbreaking and danger, and in other more subtle ways adapt their behavior to local community norms. Since these typifications are by definition informal and secret, however, it is impossible to assess their systematic effects on the outcomes of police-juvenile contacts.

Second, relations between police and the juvenile court are characterized by constant negotiation over the outcome of cases. There is significant evidence that the police have more power in negotiating with the juvenile court than they do with criminal courts, because of the availability of the probation officer to mediate police-court relations and the dependence of the court on the police to provide appropriate cases.

Third, the organization of police departments themselves prevents effective outside control, and even effective administrative control by police supervisors, over police practice. Police departments are isolated, inbred bureaucracies that strive to contain conflict through the development of a craft-guild ethos that supports the autonomy of the individual officer. Both the officer and his department are judged successful on the basis of aggregate statistical criteria such as crimes cleared by arrests; they are not, for the most part, evaluated in terms of how they achieve these clearances. Officers are thus continually tempted to give short shrift to long-term considerations of legality in the short-run pursuit of impressive arrest statistics. The only structural difference between juvenile officers and others in this regard is that juvenile specialists are unfettered by the need to show even the pretense of legality in their negotiations with suspects.

In summary, these findings suggest that the criteria by which police make processing decisions are highly localized, and even individual. They are not anarchic, however; nor are they primarily a product of the officer's personal biases. But neither are they a simple result of applying legal rules. According to Werthman and Piliavin (1967:72-74), the outcome of the police dispositional process is a product of a "moral assessment" of the juvenile based on the magnitude of the offense, the frequency of the juvenile's previous contacts with the police, assessments of the quality of parental control, and the penitence shown by the juvenile. As Cicourel found, the juvenile's character is inferred from an impressionistic collection of information, and legal norms are applied post hoc to rationalize this informal inference:

The police officer is convinced that what he "knows" about the juvenile is accurate and stands as adequate evidence for his official and unofficial characterizations.... The police "know" what they "know," and the problem of legal evidence becomes unnecessarily problematic for their routine procedures (Cicourel, 1968:202).

This notion raises a severe problem for any attempt to study systematically the determinants of police decisionmaking in encounters with juveniles. Generalizable, quantitative inferences about police behavior can only be made by using a priori conceptualizations of potential decisionmaking criteria. If police in practice apply criteria that are local, secret, and situationally emergent, how can their behavior be studied by the social scientist? This is the issue that is taken up in the next chapter.

Chapter IV

POLICE DECISIONMAKING REGARDING JUVENILES: A REVIEW

INTRODUCTION

Every year, law enforcement officers across the Nation come in contact with millions of persons under the age of 18 suspected of behaviors ranging from minor, noncriminal mischief to serious, criminal offenses. Many of these incidents end with nothing more than a police officer verbally warning the juvenile; others are terminated with the filing of a field contact report. A relatively small number--between two and two-and-one-half million annually--result in arrest. It has been estimated that police then refer slightly more than half of these arrests to juvenile court intake.

It is apparent from these statistics that police make many "screening" decisions that determine the juvenile's penetration into the juvenile justice system. These decisions, made in the field or at the police station, can have a profound influence on a suspected offender. As the initial contact in the juvenile justice system, police can activate the legal machinery that ultimately leads to adjudication, disposition, and loss of liberty. More importantly, perhaps, police inaction in a given case virtually precludes the possibility of further legal action.

What determines the outcome of police action in encounters with juveniles? In the last chapter it was suggested that such encounters take place within the context of a densely interrelated web of complex organizational influences. Moreover, these influences were seen to operate not as closed-ended determinants of police decisionmaking, but as open-ended opportunities for the exercise of police discretion. Police were seen as active, rational social actors, not as passive bureaucrats blindly applying legal or administrative rules.

This chapter examines the empirical literature on factors unique to a specific police-juvenile encounter that may affect decisionmaking. Two general classes of factors are discussed: case-related variables and defendant-related variables. The findings reported here do not present a conclusive or definitive picture of police behavior in regard to juveniles. Comparable data are not available on all factors that may affect all the processing decisions police may make, and where multiple studies have examined the same set of issues, their findings often disagree. As Sherman (1980:70) writes in his review of the literature on police behavior, "The present state of the field is best characterized as a series of bivariate assertions about the impact of certain variables on police behavior about which a moderate amount of empirical evidence has accumulated." The literature is characterized both by a lack of convincing multivariate models, and a failure to engage in the kind of comparative analyses that would include the macrosocial factors discussed in Chapter III.

CASE-RELATED VARIABLES

This section considers the effects of four variables that pertain to the alleged offense, and are at least nominally independent of the identity of the actor: offense seriousness, victim or complainant characteristics and preference, existence of codefendants, and quality of evidence.

Offense Seriousness

There is considerable agreement among researchers that significant relationships exist between type and seriousness of offense and severity of police dispositional decisions. In general, the "major" or more serious offenses are more highly associated with arrest or court referral than minor offenses. Different studies show different relationships by specific offenses, and other factors sometimes tend to mitigate the relationships, but the overall trend is supported by most research studies.

With few exceptions, studies of police-juvenile contacts support the influence of offense seriousness in the decision to arrest. For example, Black and Reiss (1970) studied 281 police-juvenile encounters and found the expected relationship between seriousness of offense and referrals was not only present but "hierarchical"; that is, the arrest rate for felonies was twice as high as for serious misdemeanors and the rate for serious misdemeanors twice that for juvenile rowdiness (1970:68-69). Examining a data base of 200 police-juvenile encounters during the period June 1970 through August 1971, Lundman, Sykes, and Clark found that the "...probability of arrest increases with the legal seriousness of alleged juvenile offenses, as that legal seriousness is defined in criminal law for adults" (1978:88). Similarly, Monahan's (1970) analysis of over 20,000 police contacts with juveniles in Philadelphia indicated that major offenses as a whole were much more likely to result in an arrest than were minor offenses. This finding held true for most individual offense types within the broad categories of major and minor offenses.

Although the effect of offense seriousness alone appears to be fairly consistent, studies which consider other mitigating factors or which categorize offenses according to different criteria uncover some variations. Monahan examined arrest decisions in Philadelphia during the 12-year period 1955 through 1966 and found that although it was clear that in all the years a very much higher (two to three times) proportion of serious cases (Uniform Crime Report's so-called Index or Part I offenses) result in arrest than do the minor and juvenile type offenses, there was a considerable decline in the proportion of serious offenses resulting in arrest during the years 1958 through 1963 (1970:136). Arrest decisions regarding minor offenses did not show any fluctuation during that period. Monahan hypothesized that "a policy decision may have operated in the mid-period so as to reduce the high proportion of arrests which prevailed in 1956 and 1957 for the serious (Part I) offense group" (1970:137). These variations may also have reflected special circumstances in the community, such as a vocal campaign against certain types of offenses (Monahan, 1970:137). Sellin and Wolfgang (1964) also uncovered a somewhat inconsistent relationship between seriousness and arrest decision. They categorized offenses according to two criteria which are indicative of the seriousness and nature of an incident: degree of physical harm done to the victim and extent of property loss or damage inflicted. They observed that not even all cases resulting in hospitalization or death guaranteed arrest--about half of the juvenile offenders involved in such offenses received remedial dispositions rather than arrest. Yet, a higher proportion

(75.2 percent) of those offenders whose victims were treated and discharged were arrested. As Sellin and Wolfgang noted, "the determination of disposition is made on more criteria than degree of harm.... Knowledge of the degree of harm alone would make extremely difficult any prediction of police disposition among these cases of physical injury" (Sellin and Wolfgang, 1964:194-195). Similarly, the amount of property loss or damage does not have an entirely consistent effect on arrest, although "arrest dispositions are significantly more likely to be made in the higher value offenses" (Sellin and Wolfgang, 1964:217). Of the offenses involving over \$200 loss or damage, 82.9 percent resulted in arrest. Offenses involving over \$20 in property loss or damage resulted in a 65.6 percent arrest rate, compared to 38.9 percent of those involving loss or damage of \$20 or less (Sellin and Wolfgang, 1964:217). The data analyzed by Sellin and Wolfgang were the same as those analyzed by Monahan (1970). As indicated previously, Monahan found a consistent relationship between offense seriousness, as measured by major versus minor offenses, and arrest decisions. However, Sellin and Wolfgang's analysis defined seriousness in a different manner, based on personal harm and property loss, and did not find the same consistent relationship.

It is apparent that offense seriousness is generally related to arrest decisions, but its specific influence may vary depending upon the researcher's study approach. It is likely that comparisons which aggregate offenses into broad categories will mask variations within those categories, as well as between offenses which carry the same legal label. For example, although the majority of all larceny offenses result in an arrest, there is considerable variation in terms of the seriousness of specific incidents based on amount of property loss, which may result in a greater or lesser likelihood to arrest the perpetrator. In addition, the specific effect of offense seriousness may be influenced by other factors. It may be that these mitigating factors are more influential for less-serious or minor offenses than for serious offenses, since the former allow room for a greater amount of discretion on the part of the arresting officer.

Most studies of the factors related to police disposition decisions have compared cases that were referred to court with those that were not. More detailed accounting of non-referrals, such as referral to social service agencies versus release to parents, has not been analyzed to any great extent. However, offense seriousness does influence court referral decisions in much the same way as it influences arrest decisions; that is, more serious offenses have a greater likelihood of being referred to court than less-serious or status offenses. In California, for instance, data on police dispositions of juveniles show a distinct difference between referral rates for felonies (74.1 percent); misdemeanors (59.1 percent); and "delinquent tendencies" (42.2 percent) (California Department of Justice, 1980:2983).

Goldman's (1963) study of four communities in Pennsylvania supports the California findings. Referral rates for the four communities combined were 57.4 percent for the serious offenses and 18.1 percent for minor offenses (Goldman, 1963:42). Although there were differences between the communities in the actual percentages referred for serious and minor offenses, the pattern of higher referrals for more serious offenses still held, with the exception of one city in which serious and minor offenses were equally likely to be referred to court. Goldman attributed this exception to certain political and policy-related factors which resulted in a "rather indiscriminate and formal" handling of all juvenile cases in that city (Goldman, 1963:91). Comparing referral rates for specific offenses, Goldman noted variations across communities. There were few offense types which resulted in 100 percent

referrals in any of the communities, regardless of their seriousness. However, those offenses in which all contacts did result in court referral generally involved very small numbers (i.e., frequencies of 10 or less across all four communities). In general, these were relatively serious offenses (robbery, assault, sex offenses, auto theft), although one community consistently referred runaways to court, and another referred incorrigibility. These variations between communities are likely to reflect differences in departmental or public concern regarding a specific offense; for example, one community was particularly strict in its handling of sex offenders (Goldman, 1963:108-109).

Terry (1967b) analyzed the relationship between 12 decisionmaking variables and severity of sanctions police placed on juvenile behavior. Attempting to isolate the factor most consistently used by police to determine case outcome, he found that offense seriousness had the highest positive relationship of the variables examined. Furthermore, he noted that "[w]hile the three least serious offenses comprise 65% and the three most serious offenses comprise 6% of all offenses appearing in the police records, the three least serious offenses comprise only 9% of the offense that appear in the juvenile court and the three most serious offenses comprise over 66% of the offenses appearing in the juvenile court records" (Terry, 1967b:1978). Thus the referral rate for the serious offenses was much higher than for the less-serious offenses. Another study by Terry (1966-67) examined a total of 15 variables and found that offense type (as measured by 13 broad types) was the most influential of all variables, and offense seriousness (dichotomized into serious and less-serious categories) ranked as third most influential (1966-67:27). It would appear that when all offenses were aggregated into the two broad categories of serious and less-serious, enough variation in severity occurred within the categories to make this a less predictive measure than "offense type."

Several other studies have found significant variation in police screening decisions by specific offenses, within categories of seriousness. 1979 California data show that referral rates for Index offenses ranged from 66.1 percent for arson to 85.2 percent for criminal homicide. Referrals for non-Index felony offenses ranged from 25.0 percent for bookmaking to 86.5 percent for drunk driving, while non-Index misdemeanors ranged from 51.4 percent in petty theft cases to 100.0 percent in cases of misdemeanor manslaughter and obscene material. Status offense referrals ranged from 33.5 percent for curfew violations to 71.4 percent for incorrigibility (California Department of Justice, 1980:3984).

Wilson (1968) observed that in Western City different offenses classified as "serious" had varying referral rates: only about half of the juvenile-police encounters for larceny and for aggravated assault resulted in court referral, while almost all of the encounters involving robbery resulted in referral. Burglary and auto theft also had relatively high referral rates. Among the less-serious offenses, drunk and disorderly behavior and malicious mischief both had 30 to 40 percent referral rates, while only about half that many were referred for loitering (Wilson, 1968:13). In Eastern City larceny was twice as likely as assault to result in a court referral. Being drunk and disorderly virtually never resulted in a court appearance nor did malicious mischief, but incorrigibility resulted in court referral in about 50 percent of the cases (Wilson, 1968:14). In this study, then, variations within broad offense categories (i.e., serious versus less-serious) are coupled with variations across communities (Western versus Eastern City). While Wilson looked at variations within broad offense categories, Bodine (1964) compared dispositions of specific offenses in his study of over 3,000 juvenile cases handled in a large northwestern

city during a 4-year period. He observed that incidents within the category of theft showed different referral rates. Although nearly three-quarters of all incidents were referred to court, 89 percent of the serious theft incidents (grand theft, burglary, robbery, and car theft) and only 64 percent of the petty thefts resulted in referral (Bodine, 1964:8).

Even studies documenting a clearcut relationship between variables such as race, sex, and age and referrals show a strong and consistent effect of offense seriousness on case dispositions. For example, while Wolfgang, Figlio, and Sellin's study of a birth cohort of male juveniles in Philadelphia reported a differential handling of whites and nonwhites, it also showed a strong relationship between offense seriousness score and referral (1972:222). Thornberry's reanalysis of the same data found that the relationship between seriousness and disposition remained when race was held constant (1973:95). Thus, as the seriousness of offense increases, police are more likely to make referrals on that information rather than on the basis of other, intervening variables. Similarly, McEachern and Bauzer's analysis of over a thousand records drawn from the Los Angeles County Sheriff's Office Juvenile Index found that the nature of the offense was a major determinant in the decision to request filing of a petition. Moreover, they found that when offense is held constant, the effects of many other variables, such as age, sex, and race, were either eliminated or considerably reduced (1967:150-151).

Two studies provided some exceptions to the above conclusions regarding the relative influence of offense seriousness. Using data gathered by Sellin and Wolfgang regarding 504 events recorded in the 1960 files of juvenile offenses in Philadelphia, Hohenstein (1969) argued that the importance of offense seriousness can be offset by other factors. While he found that offense seriousness was one of the three major factors affecting court referrals, the influence of victim's preference and the juvenile's record appeared to be more important (Hohenstein, 1969:147).

Ferdinand and Luchterhand's study of inner-city youth provided the other exception to the general pattern in which seriousness of offense is related to police dispositions of juveniles. They divided offenses into three groups: offenses against persons, offenses against property, and "other," which included juvenile crimes and offenses against public ordinances. While they found that police dispositions of male, first offenders were most lenient for those who had committed "other" offenses, they also report that police were more lenient for those juveniles who had committed offenses against persons than for those against property: over 40 percent of the juveniles with offenses against persons were given the less-serious, probation-type dispositions compared with 30 percent involved in "other" offenses and 25 percent involved in offenses against property. Similar results were reported for male third offenders with one exception: results for offenses against property and "other" were reversed (Ferdinand and Luchterhand, 1970:520-521). Thus, the expected relationship between offense seriousness and severity of disposition was only partially supported. The apparent contradiction posed by this study may be explained by the method they used to group offenses. Where this study only used three broad categories for offenses--those committed against persons, property, and other--other studies have examined more narrowly defined categories and captured the "within group" differences in dispositions for offenses. As previously mentioned, the 1979 California data showed wide dispositional variations between offenses in a given category (California Department of Justice, 1980:3983). Similarly, Wilson (1968) noted quite different court referral rates within the "serious" and "less-serious" groups. Thus, Ferdinand and Luchterhand's contradictory results may be an artifact of their method of analysis.

There are additional offense-related factors other than the legal nature or seriousness of an offense which may influence police arrest and disposition decisions. For example, Goldman (1963) examined various "modus operandi" factors, including the time of day at which the offense occurred, the sophistication of the offense, premeditation and maliciousness, and whether or not a group of juveniles were involved.

If the offense looked, in any way, "like a professional job," immediate referral to the court was indicated.... The degree to which a juvenile offense approaches the form of adult criminal conduct is considered important. Cases of robbery with a gun or "strong arm stuff" are immediately transferred to the court.... The use of burglar tools and a sophisticated approach to the crime signifies to the police the need for institutional correction.... If, on questioning the juvenile, it was felt that the offense involved premeditation or careful planning, or "if there is brains behind it," immediate juvenile court referral was indicated by 42 percent of the police.... Damage to houses under construction was usually overlooked unless the police felt the destruction was motivated by "meanness or spite" rather than mischief or play (Goldman, 1963:112-113).

Legal labels applied to offenses cannot take into account the variation in circumstances surrounding individual incidents. Nor do they reflect the cognitive mapping techniques and moral typifications which the officer brings to bear on a specific encounter. In summary, while there appears to be a generally positive relationship (with many exceptions) between offense seriousness and severity of police disposition, it is impossible to specify with certainty the direction of causal ordering. Seriousness of offense can be said to "cause" arrest or referral to juvenile court only if it is naively assumed that police "solve" crimes by assessing the available factual evidence and applying the appropriate, unambiguous legal label. If, on the other hand, it is possible that police make their dispositional decisions based on a moral assessment of the juvenile, and then apply a legal label that will rationalize the desired outcome, then the causal process is reversed: the decision to arrest "causes" seriousness of offense. The discussion in Chapter III suggested that the organization of police work and the philosophy of the juvenile court both encourage consideration of extralegal "needs" of the juvenile (as they are perceived by officials) before the legal machinery is set in motion. If this reversal of the conventionally understood causal process of arrest occurs in even a minority of cases, the attempt to explain outcome by offense is hopelessly confounded.

Victim's/Complainant's Preference

The results of many studies indicate that citizen preference is an extremely influential criterion in police screening decisions. In fact, some even consider it to be more important than either the seriousness of the offense or the juvenile's prior record.

Hohenstein (1969) analyzed 504 delinquency events* occurring in Philadelphia in 1960 in order to determine the relative importance of 14 variables** in the police screening process. Using predictive attribute analysis, three important variables were identified: attitude of the victim, previous record of the offender, and seriousness of the current offense. Further, the victim's preference was often more influential than the other two variables. As Hohenstein stated, "Regardless of the seriousness of the events or the previous record of the offenders, when victims made statements to the police that they were against prosecution, offenders were 'remediated' in 96 percent [or 179] of the cases. ...it is also important to note that the race of the offender had no effect on the degree to which he was listened to by the police" (1969:146). In contrast, only 22 percent of the 322 events in which no victim preference was recorded for or against prosecution were remediated. Thus, the police generally comply with the wishes of a victim who prefers not to prosecute. To some extent, this finding is not surprising. Oftentimes, the only evidence against a suspect is the testimony of a victim or complainant. A victim who does not wish to prosecute may refuse to testify, and thus the case will not be prosecutable. Knowing this, an officer may prefer not to arrest. However, the reverse also holds true: an officer will generally comply with the preferences of a victim who wishes to prosecute regardless of the offender's prior record. According to Hohenstein,

[in] those events in which the offender had a good previous record...the dispositions for this group again depended a great deal on the attitude of the victim. In the 15 events in which the victim wanted to prosecute, the offender was arrested in every instance. In the 96 events in which no statement was made, the offender was arrested only 46 percent of the time (1969:148).

Although this finding does not control for the influence of offense seriousness, it does show that a victim's preference either for or against prosecution is extremely important in police screening decisions at the point of arrest.

Black and Reiss (1970) analyzed 281 police-juvenile encounters and found complainants to be extremely influential in the arrest decision. In every instance in which a complainant lobbied for leniency, the juvenile suspect was not arrested. Conversely, the police officers usually complied with a complainant's preference for arrest. Black and Reiss also noted that "when the complainant's preference is unclear, the arrest rate falls between the rate for complainants who prefer arrest and those who prefer an informal disposition" (1970:71). Black and Reiss noted several possible reasons for the highly influential role of complainants:

A complainant is a witness of the police officer's behavior; thus he has the ability to contest the officer's version of an encounter or even to bring an official complaint against the officer himself.... Furthermore, when a suspect is present in the field situation, the information provided

* These represented a 10-percent sample of all reported delinquency events as collected by Sellin and Wolfgang (1964).

**The 14 variables included seriousness of the event; number, age, sex, and race of the victims; victim's attitude towards disposition; victim-offender relationship; number, age, sex, and race of offenders; information about the discovery of the event and apprehension of the offenders; and property information (Hohenstein, 1969:142).

by a complainant, along with his willingness to stand on his word by signing a formal complaint, may be critical to an arrest in the absence of a police witness (1970:69-70).

They do caution that their results possess a certain degree of unreliability due to the small number of cases and the difficulty in accurately assessing complainant's preferences.

Black and Reiss also noted the importance of a citizen's preference in parent-child conflicts: "Police control of juveniles...is partly a matter of reinforcement of the broader institution of authority based upon age status. The police support adult authority; in parent-child conflicts the police tend to support parental authority" (Black and Reiss, 1970:72, text and footnote 9). Thus, a complainant's (parents') preference may partially account for the seemingly unwarranted harshness of police dispositions in relatively minor offenses. Lundman, Sykes, and Clark (1978) replicated Black and Reiss' study in a large midwestern city during the period June 1970 through August 1971. They found that in those situations in which it was possible to determine a citizen's preference, the police always complied in their decision to arrest or not to arrest. Thus, the earlier findings of Black and Reiss were supported.

Goldman (1963) also supported Black and Reiss' conclusion regarding the influence of victims' or complainants' expressed preferences. Based on 90 interviews in Pittsburgh and its surrounding communities, Goldman found that police officers generally claim that citizen preference influences their screening decisions. Even in relatively minor offenses, an officer will often comply with the citizen's request to arrest a juvenile suspect. Many of the officers interviewed by Goldman indicated that decisions regarding a suspect are actually made by citizens rather than the police (Goldman, 1963:117-118). A similar study was done by Howard (1972), who interviewed 247 officers in police departments in two Western States in order to determine the relative importance of various factors in dispositions of petty theft cases handled by the officers. Based on a multiple regression analysis, she concluded that the offender's age was the most important variable and the victim's preference was the second most important variable (Howard, 1972:86-87).

The results of a study by Davis (1975) indicated that an officer will often release a suspect based on the complainant's preferences, even if the officer has witnessed the crime being committed (Davis, 1975:11). Davis did note that the complainant's preferences may be less influential among higher ranking officers. In certain situations, these officers may file a complaint themselves if the victim refuses to do so (i.e., the victim prefers not to prosecute). This was particularly true when actual or potential bodily injury was involved in the offense (Davis, 1975:10). It may be, then, that there is an interaction between the three variables: complainant preference, officer's rank, and offense type.

Contrary to these results, two researchers found that police officers ranked "victim's preference" quite low when asked to rank several criteria in order of importance in their screening decisions. Wilbanks (1975) administered a survey to 111 officers in American police departments to assess the relative importance of six factors in police decisions to refer a case to juvenile court. He found that the personal views of an officer and his or her perception of departmental policy were ranked as more important than the preferences of the public or the victim (Wilbanks, 1975:106). Wilbanks' results, then, were consistent with those of Gandy; that is, police officers claim that they are relatively uninfluenced by citizens' wishes.

A more recent study of this type did not support Gandy's and Wilbanks' findings. Smith, Black, and Campbell (1980) surveyed 98 law enforcement officers in 7 States and found that a complainant's identification and recommended action ranked fifth behind the nature of the offense, the juvenile's statement regarding the incident, prior history, and the juvenile's attitude and demeanor. Six other criteria* were ranked as less important (Smith, Black, and Campbell, 1980:93).

Overall, it appears that a victim's or complainant's preference is very influential in the police screening process. The two studies which did not support this finding looked only at court referral decisions, while the others examined the arrest decisions. It is likely that the citizen's wishes are most influential at the point of arrest, but that other factors come into play at the point of court referral. Considering the role of police, these findings are not surprising. Police work is primarily reactive rather than proactive; that is, their activities are typically in "reaction" to citizen-initiated calls. The preferences of that citizen are therefore very influential, at least when the officer is in the field and making a decision to arrest a suspect.

Codefendants

Many of the offenses committed by juveniles are done so in groups. For this reason, it is important to assess the influence of codefendants in the police screening process. There are basically two ways in which to examine this influence: (1) the influence of the mere presence or absence of codefendants, and (2) the influence of the number, age, and sex of codefendants.

Hohenstein's (1969) analysis of records drawn from the Philadelphia Police Department for the year 1960** indicates that all juvenile suspects in a given delinquency event generally receive the same police disposition. Of 504 events resulting in bodily injury, property loss, or property damage, over half (263) involved more than one offender. Hohenstein noted there were only three events in which offenders did not receive the same police disposition (1969:142). Although Hohenstein's analysis indicates that codefendants are generally given the same dispositions, it does not necessarily indicate why this occurs. Since Hohenstein only looked at cases involving males accused of relatively serious offenses, there could be other variables which account for the similarity in dispositions. It may be that individual offenders involved in similar offenses, although committed independently, would also receive like dispositions. Without analyzing this possibility, Hohenstein's findings can only imply that the mere presence or absence of codefendants influences police decisionmaking.

Results of Goldman's (1963) study partially support Hohenstein's findings. Based on interviews with 90 policemen in Allegheny County, Pennsylvania, he found that over half (53 percent) of the officers felt all members of a group should be handled in the same manner, often regardless of differences in the age or prior record of

* These were family attitude toward the incident, juvenile drug/alcohol history, physical description, family composition, disposition of others involved in incident, family criminal history (Smith, Black, and Campbell, 1980:93).

**Hohenstein reanalyzed records that were initially sampled by Sellin and Wolfgang (1964) for use in constructing an index of delinquency.

the codefendants. According to Goldman, officers felt that

to be "fair," either all or none of the boys involved should go to court. Thus, a recidivist traveling with a group of neophytes in crime might be released, or a first offender might be hauled into court because he was apprehended with a group of repeaters. If there is a great disparity in ages in the group, the younger boys might be released and the older ones held. All might be referred by some policemen because "in the juvenile court they can get information better" on the basis of which responsibility in the group could be determined (1963:113-114).

Also, "if the partner in crime is an adult, the juvenile must be yielded to the juvenile court in order to obtain official action against the adult" (Goldman, 1963:112). Goldman indicates that a possible reason for what appears to be indiscriminate handling of codefendants may stem from the police officer's concern about being censured by the juvenile court for referring one offender while failing to report others involved in the offense (1963:132).

Wilbanks' (1975) survey of 111 police officers in 13 departments and a training seminar does not support the notion that police officers generally give the same dispositions to codefendants. Over half (54 percent) of the officers did not feel that all codefendants in a single incident should be referred to court, regardless of differences in other factors such as juvenile's age, attitude, or prior record. However, 42 percent did support similar dispositions for codefendants, based either on their own personal views, departmental policy or practice, or State law (Wilbanks, 1975:98).

A more recent survey by Smith, Black, and Campbell (1980) assessed the relative importance of variables in police disposition decisions. The disposition of codefendants involved in an incident was found to have relatively little influence on the police decisions made regarding a given individual. They also examined the influence of this variable on decisions made at other stages in the juvenile justice system, and found District Attorneys were the only persons that felt the disposition of codefendants is an important decisionmaking criterion. According to this survey, then, police do not necessarily handle codefendants in a similar manner. Instead, other variables related to the current offense and the offender's past history are more likely to affect screening decisions. However, once a case is referred to court, the dispositions of codefendants is likely to be an important factor in prosecution.

The studies discussed thus far have only examined the influence of the presence or absence of codefendants. A study by Terry (1966-67) provides a more detailed analysis of this variable by considering the number, age, and sex of codefendants. Terry used techniques of partial association to analyze the relationship between 15 individual variables and the police dispositions associated with 3,148 offenses occurring in Racine, Wisconsin, during the years 1960 to 1970. He found that among the 10 variables associated with police disposition, the age composition of the group of offenders ranked seventh and the number of individuals in the group ranked tenth. The sex composition of the offender group was not related to disposition (Terry, 1966-67:26-27). Terry points out that even though these two codefendant variables are associated with police disposition, they are relatively unimportant. Using item analysis scores, five variables alone can be used to accurately predict dispositions given to offenders in over 82 percent of the cases. The remaining five variables, which include the codefendant items, do very little to improve the accuracy of these

predictions (Terry, 1966-67:27). Thus, the codefendant variables that Terry analyzed appear to have little or no influence on police dispositions. Another study by Terry (1967b) did note one instance in which codefendants may play a more important role in the police screening process. He found that juveniles who were involved in offenses with adults tended to be arrested more often than juveniles who acted with other juveniles (Terry, 1967b:177). This is consistent with Goldman's (1963) observation that a juvenile suspect must be referred to juvenile court in order to obtain official action against an adult codefendant.

Overall, the few studies that have examined codefendant variables and police decision-making have not been able to describe clearly the relationship between the two. Existing police records support the notion that codefendants in a single delinquency incident generally receive the same police disposition. However, surveys of police opinion indicate some variations among individual officers regarding the relative importance of codefendant dispositions.

In those instances in which codefendants are given similar dispositions, the decisions made by police appear to be motivated by a desire to make cases "prosecutable" or to avoid criticism from the court. For example, several authors indicated that juveniles who commit an offense with an adult must be referred to juvenile court in order for the adult codefendant to be prosecuted. Similarly, it may be that judges or prosecutors question the efficacy of cases in which some suspects are released while others are referred.

Evidence

The role of evidence as a criterion in police decisionmaking has received very little attention in existing research. Black and Reiss (1970) discussed the role of evidence and pointed out that juvenile suspects are generally linked to a crime for one of two reasons: direct observation by a police officer or testimony by a citizen. The primary evidence against the suspect is usually testimonial, rather than "physical clues" such as bloodstains on the juvenile's clothing (Black and Reiss, 1970:72). Because of the lack of "legal evidence" in most incidents, Black and Reiss examined the influence of "situational evidence"; i.e., "the kind of evidence that appears relevant to an observer in a field setting rather than...what might be acceptable as evidence in a court of law" (1970:72). They examined the impact of evidence under three circumstances: incidents witnessed by the police, incidents wherein a citizen linked the juvenile to a crime, and incidents in which there was no situational evidence. Findings showed that incidents involving citizen testimony were more likely to result in arrest than those witnessed by police. Situations in which no evidence existed almost never ended in arrest (Black and Reiss, 1970:73-74). Although this does not indicate how much or what type of evidence is required before an arrest will be made, it does show that most evidence is of a testimonial nature and, lacking evidence, police generally will not arrest a suspect.

Lundman, Sykes, and Clark (1978) replicated Black and Reiss' study with similar results. From June 1970 through August 1971, the researchers conducted a participant-as-observer study of police encounters in a large midwestern city. Their findings regarding police-initiated and citizen testimony incidents supported those of Black and Reiss. However, their data indicated a relatively high arrest rate for incidents in which there was no evidence. Additional analysis indicated that some of the suspects involved in no-evidence encounters were unusually respectful or disrespectful towards police, and that these two extremes led to higher arrest rates. Lundman,

Sykes, and Clark thus concluded that: "In no evidence encounters, the demeanor of the juvenile is the most important determinant of whether or not formal action is taken" (1978:84).

The impact of evidence on police decisionmaking in juvenile cases is thus somewhat unclear. Available data suggest evidence is more important in arrest decisions than in final police dispositions. There are two reasons, however, for not accepting this finding on face value. First, the juvenile court generally gives little attention to matters of evidence, especially in minor cases. Second, it is impossible to say whether the observed effect of witnesses is a result of the potential value of their testimony, or if their mere presence as observers encourages police to take formal action.

DEFENDANT-RELATED VARIABLES

This section considers the effects of ascribed characteristics of the alleged offender in police-juvenile encounters. Variables discussed include the demographic characteristics of age, sex, race, and socioeconomic status; demeanor; and prior offense history.

Demographic Characteristics

Age

Research studies have been inconsistent in their conclusions regarding the effect of age on police screening decisions. While some results indicate age is directly related to decisionmaking, others indicate that the relationship is spurious at best. McEachern and Bauzer's (1967) analysis of police records in Los Angeles County found that age was one of several factors which had some influence on whether or not a petition was requested. Overall, the proportion of petitions requested rises as age rises. For all offenses, petitions were requested for 4 percent of the juveniles aged 5 to 10 and for increasing percentages up to 41 percent for juveniles aged 17 to 18. This remained true even when the nature of the offense was held constant (McEachern and Bauzer, 1967:151).

Terry (1967b) included age as one of the 12 variables examined in relation to the severity of 9,023 police dispositions in a midwestern community. He found a strong relationship between age and disposition. Age ranked third in importance behind seriousness of offense and number of previous offenses committed, and remained important even when several other factors were controlled (Terry, 1967b:179, Table 3). Another study by Terry (1966-67) used case records on file in the Juvenile Bureau of a police department. Analyzing a sample of 3,148 offenses committed during the 10-year period between 1950 and 1960, Terry looked for a relationship between types of police dispositions and a variety of juvenile characteristics. He found that although age, sex, and ethnicity were criteria available to officers, only the age of the juvenile consistently and significantly influenced the outcome of police-juvenile contacts (Terry, 1966-67:25).

While these studies indicated that age can be a primary determinant in police decisionmaking, other studies point out that age may act in conjunction with other variables to influence screening decisions. Gandy interviewed 75 officers of the Toronto, Canada, Metropolitan Police Department to determine how discretion is used in handling

juveniles. There was general agreement among the officers interviewed that juveniles 10 years and under should be released with no formal involvement of the parents, except when the juvenile committed an offense that resulted in considerable property damage or was a persistent rule violator, or when there were unusual circumstances surrounding the violation (Gandy, 1970:330-332). In this study, then, the influence of age was related to the nature of the offense and the offender's past delinquency.

Goldman (1963) drew similar conclusions based on his study of four Pennsylvania communities:

The rate of court referrals of arrested children increases with the age of the child.... Offenders below age ten are less frequently [20.9 percent] referred to court than are older children.... Children between ages ten and fifteen were more frequently referred to court [30 percent] than were younger children.... Offenders between the ages of fifteen and eighteen were most frequently referred to court [45.5 percent] (Goldman, 1963:218).

He also found that the "increase in the rate of court referrals with age is fairly consistent in different communities" (Goldman, 1963:128). Goldman did, however, indicate that the relationship between age and police disposition may be spurious, resulting from variations in offense seriousness. That is, the offenses committed by younger juveniles may be less serious than those committed by older juveniles. Thus, age would only be indirectly related to disposition.

Similar to these research projects, Black and Smith's (1980) study of the juvenile justice system explored the relationship between selected characteristics of juveniles and how they were processed through the system. Using secondary data from a variety of sources, they found no relationship between the juvenile's age and the resultant disposition rendered by police (Black and Smith, 1980:50-54). Black and Smith did find, however, that older juveniles apprehended by the police and processed by court intake are more likely to have prior arrests. Age may appear to be related to police decisionmaking, although the actual relationship may be between prior arrest history and decisionmaking (Black and Smith, 1980:113). This explanation is supported by Terry's data which show that the number of offenses is also a decisionmaking criterion consistently used by police (1967:27). A strong, positive correlation between age and number of offenses may be the underlying basis for Terry's finding of age as a significant factor, rather than age operating independently as an influence on police decisionmaking.

The data in Bodine's (1964) study of juvenile dispositions in a large, northeastern city show smaller percentages of juveniles in the age group 7-12 are referred to juvenile court than those juveniles in the age group 13-15. However, age appeared to be less influential among repeat offenders than among initial offenders, and repeat offenders are more likely to be in the older age groups. Bodine hypothesized that prior history may be a more important factor, while age may only be indirectly related to disposition.

Other studies support the contention that age is not a major factor for decisionmaking. Sullivan and Siegel (1972), studying the decisionmaking process of 24 policemen in a northeastern metropolitan area, examined the relative importance of various types of information and decisions to charge juveniles with drunk and disorderly conduct. Although 10 of the officers selected age as the second most important piece of information, the conclusions of the study show that age, compared to

other factors, is not an important criterion for charging juveniles (Sullivan and Siegel, 1972:30). Hohenstein's predictive attribute analysis of a group of 504 Philadelphia delinquency incidents found that not only was age not the most important factor, but age of the offender was "useless in the predictive typology. At no time did [this factor] come close to splitting any of the groups" (Hohenstein, 1969:149).

In general, studies comparing age against dispositional choices are mixed in their conclusions about the actual influence of age on police decisionmaking. Findings which indicate age and disposition are related may actually be a result of the positive association between age and other directly relevant variables. One possible exception to this might be very young juveniles (below 10 years of age) who are most likely to be released by the police. While age may operate independently to influence police decisionmaking for children at younger ages, at older ages it acts as a secondary influence, with the primary influence deriving from other variables such as offense seriousness or number of prior offenses.

Sex

Many researchers have concluded there are no significant differences in dispositions given to male and female juvenile offenders. For example, Hohenstein analyzed 504 delinquency events and found that a juvenile's sex could not be used to predict police dispositions (1969:149). Sullivan and Siegel (1972) included the sex of an offender as one of 24 items of information which could be selected in a decision game designed to determine the factors police officers considered in determining the disposition of a "drunk and disorderly" case. Only 2 of 24 officers selected sex as an item of information desired before making their disposition decision (Sullivan and Siegel, 1972:256-257). The sex of an offender, then, was relatively unimportant. Similarly, Terry's (1966-67) study of over 3,000 offenses contained in the police records of Racine, Wisconsin, examined the relationship between police dispositions and 15 different variables. Initially, the sex of the offender appeared to have a slight influence on dispositions. However, using partialling techniques, Terry found the relationship to be spurious; i.e., it was a by-product of other, third variables such as the type and seriousness of the offense (Terry, 1966-67:26). Thus, Terry concluded the sex of a suspected offender did not directly influence police disposition.

A more recent study by Black and Smith (1980) supports Terry's conclusions. They examined the numbers and characteristics of juveniles processed through the juvenile justice system in order to determine which variables influence decisionmaking in each of the major system components (law enforcement, courts, corrections). Their analysis of national arrest and court referral statistics did not support any relationship between the sex of an offender and the disposition received from police:

Three times as many males were arrested in 1977 than females, and over the last three years (1975 to 1977), the male/female ratio among all juveniles arrested has remained nearly constant, with 1977 figures showing 78.5 percent of all arrests being of males and 21.5 percent of females.... Though only half of these juveniles arrested in 1977 were referred on to juvenile court, the percentage of males to females is virtually unchanged from the original arrest population, with about 80 percent male and 20 percent female. Thus, for police *the sex of the offender alone appears to have no influence on whether an offender, after being arrested, is referred to court.* This being true, the reverse is also true--that for police, the sex of the

offender apparently is not a major determinant to directing cases away from the system. Between 1975 and 1977, the same relationship holds true, with the ratio of males to females remaining virtually unchanged in court referrals from those arrested...likewise, analysis of specific offense categories shows no significant variation. Apparently, sex has little influence on whether an offender is referred to court by law enforcement, regardless of the level of seriousness of the incident offense... (Black and Smith, 1980: 50-51).

Two writers have noted slight variations in police disposition between male and female juvenile offenders, but have concluded the findings are unreliable since the number of females included in their analyses was quite small. Ferdinand and Luchterhand's (1970) study of male and female first offenders found some differences appeared when dispositions for offenses against persons and against property were compared by sex. However, they suggested the differences may not be valid, since only a small number of girls committed these more serious offenses (Ferdinand and Luchterhand, 1970:512). Similarly, Goldman's (1963) analysis of over 1,200 arrests included only 24 arrests of females. He concluded that although girls do appear to be referred to court slightly more often than boys, the differences may be due to chance alone.

Other researchers have concluded that there are, in fact, differences in the way police handle male and female juvenile offenders for certain offenses. Unlike most of the previously discussed studies, several of these researchers examined police decisionmaking at the point of arrest (as opposed to disposition). Monahan (1970), studying police screening of juveniles in Philadelphia, indicated there are differential arrest patterns for males and females for specific offenses. He reported the police in Philadelphia are more likely to release female than male juveniles suspected of larceny, burglary, or robbery; equally likely to apprehend males and females suspected of certain minor and status offenses (e.g., drunkenness or running away); and more likely to arrest girls suspected of sex offenses (1970:138). It would appear, then, that police are reluctant to arrest girls charged with major crimes but not those charged with sex offenses. However, Monahan's analysis did not consider the prior history of the offender--a variable which can be very influential in decisionmaking. If there are differences in the prior delinquency histories of boys and girls, they may account for the differential treatment received at arrest.

McEachern and Bauzer (1967) reported no significant overall difference in the proportion of petitions requested for boys and girls. However, the interaction between the offense type and the sex of the offender results in boys being less likely than girls to have petitions requested for juvenile offenses and more likely to have them requested for serious adult offenses (McEachern and Bauzer, 1967:151). These results are similar to those found in Monahan's study of arrest decisions, but are also subject to the same criticism in that the prior history of the offender is not taken into consideration.

It has been suggested that the differential handling of boys and girls may be a result of sex-role expectations held by police, rather than differences in prior delinquent history. Traditionally, the sex roles of boys and girls have been quite clear-cut: parents expect achievement, aggressiveness, and independence from their sons, and obedience, passivity, implicitness, and chastity from their daughters. Although these roles are not as clearly defined in today's society, they may still influence the decisions made by police. An early study by Pollack (1950:151) indicated that police dislike arresting girls, while Reckless (1961:39) wrote that female offenders

have a much better chance than males of not being arrested. DeFleur's (1975) study of suspected drug offenders provides support for the notion that differential patterns of arrests between males and females may be a result of sex-role expectations. Her analysis was based on police records of drug arrests from 1942 to 1970 and interviews with police officers. Females were less likely than males to be arrested if they behaved in stereotypical ways (i.e., they cried, claimed to have been led astray by men, or expressed concern about their children). On the other hand, DeFleur's personal observations and police interviews led her to conclude that "more and more young females tend to be aggressive and hostile. In my experience, the police arrested these females more often than those who behaved in more traditional ways" (DeFleur, 1975:101). Thus, police officers appear to be influenced by the demeanor of female drug offenders: those who act in a "masculine" manner are treated more harshly than those acting in a stereotypical "feminine" manner. Although DeFleur's analysis is limited to drug offenders, it may also be true for other victimless crimes (e.g., sex offenses, drunkenness, runaway).

A more recent analysis by Chesney-Lind (1979) provides support for DeFleur's conclusions. Using 1972 juvenile crime statistics for Honolulu, Hawaii, she found that young women charged with noncriminal offenses were almost three times as likely as young women charged with crimes to be referred to juvenile court. Only 6.1 percent of the females arrested for the most serious adult offenses and 12.7 percent of those arrested for less-serious adult offenses were referred to courts compared to 33.7 percent of those arrested for juvenile or status offenses. Moreover, Chesney-Lind found that police were more likely to refer female than male juveniles to court for juvenile offenses: 33.6 percent compared to 22.7 percent. She suggests the relatively harsh police response to noncriminal behavior of young women "is a result of police paternalism; police like other officers of the juvenile court tend to overlook female misbehavior of a criminal sort but are concerned, or are encouraged by a young woman's parents to be concerned, about situations which appear to endanger a young woman's 'reputation'" (Chesney-Lind, 1979:64).

Terry's (1970) review of the records of a police Juvenile Bureau in a heavily industrialized midwestern city looked at the decision point after arrest (i.e., police disposition). Table 1 (p. 51) contains his data regarding the severity of police disposition given to males and females. Terry's data indicate that female juveniles are less likely to be released than males, more likely to be referred to a social or welfare agency, and as likely to be referred to county probation department or the State Department of Public Welfare. Terry explains these differences by suggesting that while girls account for only 17.9 percent of all offenses, they represent nearly half of the sex offenses and incorrigibility cases (1970:216). Since nearly 70 percent of all referrals to social and welfare agencies are in this category, Terry concludes that the excessive severity of disposition for girls stems from their disproportionate number of arrests for offenses which result in referrals to social and welfare agencies.

Several conclusions can be drawn from the studies discussed in this section. First, the evidence indicates that arrest decisions may be influenced by the sex of a juvenile offender, if only indirectly and for certain offenses. This relationship may be partially a result of traditionally held role expectations regarding boys and girls. Girls who violate traditional "norms" by committing offenses which are promiscuous or wayward in nature, or by acting in an unfeminine, aggressive manner, are more likely to be arrested than girls who do not violate these norms. Conversely, wayward or promiscuous behavior may be more acceptable within the sex-role expectations of boys, thus allowing for less severe response from police.

TABLE 1
POLICE DISPOSITION OF MALE AND FEMALE JUVENILE OFFENDERS

Police Disposition	Sex	
	Male	Female
Released	89.7%	84.9%
Referred to Social or Welfare Agency	0.8%	7.4%
Referred to County Probation Department	8.8%	7.4%
Referred to State Department of Public Welfare	0.7%	0.3%
TOTAL	100.0% (7,411)	100.0% (1,611)

SOURCE: Robert M. Terry, "Discrimination in the Handling of Juvenile Offenders by Social Control Agencies." In Peter G. Garabedian and Dan C. Gibbons, eds., Becoming Delinquent: Young Offenders and the Correctional System, pp. 78-92, Table 4.1--Sex and the Severity of Disposition, p. 85.

At the point of police disposition, however, this differential treatment of boys and girls is not as apparent. Most studies of police dispositional decisionmaking have concluded that there are either no differences, or, if differences are detected, that they result from the type of offenses for which boys and girls are referred.

Race

The race or ethnicity of suspected juvenile offenders has been studied by many researchers to determine its influence on police decisionmaking. The results of these efforts appear, at first glance, to be quite contradictory. While some writers have concluded that the offender's race is directly related to police decisionmaking, others have found this to be an indirect relationship resulting from other, third variables. Still others have concluded that no relationship, direct or indirect, exists between the two. The apparent contradictions posed by these findings can be at least partially explained by variations in the study methodologies used by different researchers.

The first study to examine the influence of race on police decisionmaking is that of Goldman (1963). After analyzing the dispositions of juvenile arrests in four communities, Goldman asserted that "a pattern of treatment of white and Negro children seems to be established" (1963:47). His data showed that while 33.6 percent of accused white juveniles were referred to court, 68.4 percent of accused blacks were referred. However, this discrepancy only occurred among youth arrested for minor offenses. Thus, black juveniles were more likely than white juveniles to be referred to court if they were arrested for a minor offense, but about equally likely if the offense was a more serious one.

While Goldman's findings regarding the joint influence of race and offense seriousness on police disposition decisions appear to be conclusive, they should be interpreted with caution for several reasons. First, in analyzing the data, Goldman did not take into account variations in the age and prior delinquent history of the offenders. It may be that the black offenders tended to be older or have a more extensive delinquent record, and that this difference would account for their higher court referral rates. Additionally, the number of cases involving black juveniles was very small--71 arrests of blacks compared to 794 arrests of whites. The smaller number of black juveniles arrested does not provide much opportunity for an examination of differential handling across a wide range of offenses.

A much larger number of cases was included in Monahan's (1970) analysis of police-juvenile contacts in Philadelphia during the years 1955 through 1966. Monahan's findings provide some support for Goldman's conclusions. His data indicate the arrest rates for black juveniles were higher than for white juveniles, and the relative difference was more pronounced for minor offenses than for major offenses. However, Monahan, like Goldman, did not control for differences in the prior arrest histories of black and white juveniles. Additionally, Monahan noted that there may have been differences between white and black juveniles in terms of whether or not there was a "responsible adult to whose care and guardianship a child might be remanded or released" (Monahan, 1970:140).

One of the criticisms of both Monahan's and Goldman's studies, the lack of controls for prior delinquent history, was averted in Hohenstein's (1969) analysis of arrest decisions made by officers in the Juvenile Aid Division of the Philadelphia Police Department during 1960. His sample consisted of 504 juveniles charged with offenses involving injury to persons and/or loss or damage to property. While Hohenstein concluded that there was no evidence to support claims of an overall, systematic bias in police decisionmaking, he did find some variations when prior history and seriousness of offenses were introduced into the analysis. The differences occurred among first or second time offenders who committed minor offenses: 78 percent of the black juveniles in this subgroup were arrested, compared with only 22 percent of the white juveniles (Hohenstein, 1969:148). However, this was the only instance in which differences appeared, and the subgroup only represented 18 of the 504 events studied. Because of the small sample size (18 cases), the difference may have been due solely to chance.

Ferdinand and Luchterhand's (1970) study of juveniles in six inner-city neighborhoods of Easton, Pennsylvania, yielded conclusions similar to Hohenstein's. They found that black juveniles were labeled delinquent by police and referred to court at a disproportionately higher rate than white juveniles. When offense seriousness and the age and sex composition of black neighborhoods were considered, the differences in dispositional severity were still apparent. Finally, the differences between police dispositions for blacks and whites disappeared among offenders with prior arrest records (Ferdinand and Luchterhand, 1970:511-513). Thus, the influence of race appeared to have primary importance among first-time offenders, but only secondary importance when the offender had a prior history of arrest.

Wolfgang, Figlio, and Sellin (1972) and Thornberry (1973) examined arrest and dispositional patterns of the Philadelphia Police Department and formulated slightly different conclusions than those previously discussed. Using data on a male birth cohort over an 8-year period (1955-1963), Wolfgang, Figlio, and Sellin examined the relationship between race and police decisionmaking, controlling for variation by several factors: offender's prior record, nature of the offense (injury, theft or

damage), seriousness of the offense (as measured by the Sellin-Wolfgang Index), and socioeconomic status. They found that nonwhites were consistently processed further into the juvenile justice system than whites (Wolfgang, Figlio, and Sellin, 1970:220). Among both one-time offenders and recidivists, black juveniles received more severe dispositions than white juveniles. Unlike Hohenstein, Wolfgang found the most pronounced differences among recidivists rather than first offenders (Wolfgang, Figlio, and Sellin, 1970:220-224). Using the same Philadelphia data, Thornberry (1973) examined the effect of race on severity of police disposition. Categories of dispositional alternatives were defined according to the extent of system penetration, as follows: cases that received remedial arrests (handled entirely by the police), adjusted cases (dismissed at the juvenile court level), and cases given to probation by the juvenile court (Thornberry, 1973:93). Thornberry found that, at the initial stage, police were less likely to give blacks a remedial disposition than whites (1973:94). Moreover, when he compared cases involving similar offense seriousness and prior arrest records, Thornberry found that blacks were still less likely to receive remedial dispositions (1973:94-95). Thornberry therefore concluded that legal variables (i.e., seriousness of offense and number of prior arrests) did not outweigh the influence of a non-legal variable (i.e., race).

At the same time that these studies were finding differences in police disposition between whites and blacks, other research suggested that this alleged relationship is actually a result of other, third variables. For example, Piliavin and Briar (1964) analyzed 76 police-juvenile encounters and determined that the demeanor of the juvenile and patterns of police surveillance operated to select blacks for arrest and referrals. Police discretion was strongly influenced by the demeanor of the apprehended juvenile; that is, suspects who acted in an uncooperative manner or dressed in a "tough" style were more likely to be arrested than were other suspects charged with comparable offenses. While only one-sixth of the white juveniles were uncooperative in their encounters with police, more than one-third of the black juveniles exhibited this behavior (Piliavin and Briar, 1964:164). Piliavin and Briar concluded the demeanor of black juveniles led police to not only impose more severe dispositions on blacks, but to also concentrate surveillance activities in areas inhabited or frequented by blacks. Thus, they attributed the differential handling of black and white juveniles to variables other than race per se (i.e., demeanor of the offender and police surveillance practices). The results of the Piliavin and Briar study may, however, be questioned for two reasons: the size of the sample and the study methodology. Since their sample consisted of only 76 police-juvenile contacts, their findings may not be generalizable to other populations. Similarly, the demeanor of the suspect was assessed based on observation by a single experimenter and may not be entirely reliable.

The problem of sample size was avoided in a similar study by Black and Reiss (1970). They observed 281 police-juvenile encounters in three large metropolitan areas and compared the arrest decisions in situations involving a citizen complainant with those in which there was not a complainant. Their data supported the following conclusions:

- Police sanctioning of juveniles is strongly influenced by the preferences of citizen complainants in field encounters.
- Black juveniles find themselves in encounters that involve a complainant proportionately more often than do white juveniles; and the complainant against black juveniles is generally black and lobbies for an arrest.

- Arrest rates for black juveniles and white juveniles are quite similar when there is not a complainant present (14 and 10 percent respectively).
- Arrest rates for black juveniles and white juveniles are significantly different when a citizen complainant is present (21 and 8 percent respectively).

Black and Reiss question the notion of a direct relationship between race and police dispositional severity. Their data indicate that the race of the suspected offender may not be the determining factor in the decision to arrest. Rather, a greater influence is exerted by the preferences of the complainant. Thus, the claim of racial discrimination against black juvenile offenders is not supported by the evidence in this study.

Lundman, Sykes, and Clark (1978) replicated Black and Reiss' 1970 study using a data base that consisted of 200 juvenile-police encounters in a midwestern city during a 15-month period beginning June 1970. One factor examined by Black and Reiss, the relationship between the presence of citizen complainants and police decisions to arrest, was reassessed in this more recent study. Lundman found that "encounters where a suspect and complainant were both present ended more frequently in arrest than encounters where only a suspect was present.... And, in those encounters where it was possible to determine citizen preference, the officers we observed complied with citizen preferences in every situation" (Lundman, Sykes, and Clark, 1978:83). Additionally, they found that encounters involving black suspects were more likely to contain (black) complainants than those involving white suspects, and that black complainants were more likely to demand an arrest of the black suspect than white complainants were of white suspects. This replication study supports Black and Reiss' conclusion that the "higher rate of arrest for black juveniles is attributable to black complainants who lobby for formal police action" (Lundman, Sykes, and Clark, 1978:84).

Several other studies support the conclusion that the race of an offender does not have a direct influence on decisions made by the police. McEachern and Bauzer found in a study of over 1,000 records from the Los Angeles, California, Central Juvenile Index that the proportions of arrests for which police requested petitions were similar for three ethnic categories: white, 26 percent; black, 28 percent; and Mexican-American, 27 percent (McEachern and Bauzer, 1967:150, 154-155). While they did find some variations for certain offense categories, they concluded that overall there were no systematic or consistent differences in request for petitions between the three ethnic categories. Similarly, Weiner and Willie's comparative study of police disposition decisions in Washington, D.C., and Syracuse, New York, found the race of an offender did not bias the decisions of these officers (1971:203-204). Their data show that although officers tended to have more field contacts with black than white juveniles, their court referral rates were approximately the same. Weiner and Willie conclude that, "The race of an individual youth has no influence on the disposition decisions of the juvenile officer, nor does the race of his neighborhood, nor does an interaction of the two" (Weiner and Willie, 1971:208-209).

A study conducted by Terry found that when other factors are controlled for, such as the type and seriousness of offense, prior history, and the age of the offender, the offender's race does not influence police decisionmaking (1966-67:26). Using a different study approach, Sullivan and Siegel (1972) arrived at a similar conclusion. They used the "decision-game technique" in which a group of 24 officers were asked to select items of information that they thought necessary in making an arrest

decision in a "drunk and disorderly" case. Although this only considered factors related to one offense type, race was not chosen by any of the officers as an important piece of information (Sullivan and Siegel, 1972:261). It is likely, however, that the officers play the decision game as they believe they ought to rather than as they actually behave.

Wilson (1968) compared police decisionmaking in two cities with different levels of police "professionalism." He found distinct differences between the two cities in their handling of black and white juveniles. For Eastern City, Wilson reports that the overall court referral rate was almost three times higher for blacks than whites. However, in Western City, dispositions were similar for all but two offenses: blacks were less likely than whites to be arrested for loitering and more likely for aggravated assault (Wilson, 1968:13-14). While Wilson indicates the data from the two cities are not strictly comparable--one is based on offenders and the other on offenses--he does emphasize the results are worthy of consideration. Wilson suggests that the racial bias found for Eastern City, but not Western City, may be a result of different organizational arrangements, community attachments, and institutional norms of the two departments (1968:21) (see Chapter III above).

A recent study by Black and Smith (1980) compared national arrest and court statistics for juveniles during the 3-year period 1975 through 1977. They concluded that "in 1977, there appears to be no difference in the proportion of blacks and whites arrested who are referred to court regardless of the nature of the offense. However, for less-serious offenses, the trend over the past three years has been one of equalizing what appears to have been a referral bias favoring whites against blacks" (Black and Smith, 1980:53). Thus, the 1977 national data indicate that cases involving similar offense seriousness receive similar dispositions regardless of the race of the offender. Although there appeared to be a racial bias in police disposition of minor offenders in 1975, this was no longer true in 1977.

Overall, the research to date does not support the conclusion that race or ethnicity of a suspected juvenile offender is directly and consistently related to police decisionmaking. Some studies show no differential handling, some show differential handling but attribute it to factors other than discrimination per se, and some studies show differential handling and conclude that it is a result of prejudice on the part of the police. It is possible that these differences are an effect of the use of different study methods or the analysis of different factors. For example, most of the studies that indicate race may influence police decisions agree this factor is only influential in cases involving first-time, minor offenders. However, with the exception of Ferdinand and Luchterhand (1970), most of these studies did not take into account other factors such as the offender's demeanor or the expressed preferences of a complainant. Studies that do consider these other variables have shown that the relationship between an offender's race and the subsequent police disposition is spurious. Thus, differences between disposition of black and white offenders can be more appropriately attributed to the offender's demeanor or attitude, the racial composition of the offender's neighborhood, and the preferences of a citizen complainant.

Aside from the differences in study methodology, it is quite possible--indeed likely--that the differences between the studies reflect true differences between departments. As Gibbons says, in "all likelihood, what these discrepant findings reflect is real differences among communities and police departments with regard to the salience of race in police practices...." In short, our research evidence may be mixed because

law enforcement activities are lacking in uniformity" (1976:43). Moreover, these differences may reflect changes in police decisionmaking over time. National data in one study suggests that although racial discrimination may have occurred in the handling of minor offenders as recently as 1975, the influence of race appears to have diminished in later years.

Socioeconomic Status

It has often been claimed that juveniles living in lower socioeconomic neighborhoods have a greater risk of being arrested and referred to court than those in higher status neighborhoods. In order to test this claim, researchers have examined the relationship between socioeconomic status (SES) and police decisionmaking, alone and in combination with other variables.

Terry (1966-67) compared police dispositions given to lower, middle, and upper socioeconomic status juveniles, as measured by the Minnesota Scale for Paternal Occupations. His initial analysis indicated a weak but significant relationship between SES and police dispositions. However, further analysis controlling for additional variables indicated that SES does not have a direct influence on police disposition (Terry, 1966-67:26). Terry concludes that the apparent influence of SES is actually a result of the relationship between SES and other influential variables such as type and seriousness of the offense, number of previous offenses committed, type of complainant, and age of the offender (Terry, 1966-67:26).

While Terry's results are interesting, they deserve close scrutiny as he used rank order correlations to find the association between SES and police dispositions. While this statistical method does provide some understanding of the relationship between two variables, that relationship can be misrepresented if the data are clustered. Thus, if the data for either SES or police dispositions have large number of shared ranks, a high correlation would be misleading. To determine the validity of Terry's research results, the raw data would have to be examined.

To study the relationship between socioeconomic status and police dispositions of juveniles, Weiner and Willie (1971) collected data from police and court referral records in both Washington, D.C., and Syracuse, New York. For Washington, D.C., socioeconomic status was determined by locating the juveniles' residence on census tract data, and assigning a composite index score to each tract. The index contained five highly correlated variables consisting of measures of education, occupation, and an estimation of economic status based on the market value of the homes and whether the homes were rented or owned. Weiner and Willie found that the lowest court referral and police contact rates were found in the highest socioeconomic status groups, while the highest rates of contact and court referrals were found in the lowest groups (1971:202). However, the proportion of all police-juvenile contacts resulting in referral to court was consistent across all socioeconomic groups (1971:203). Thus, Weiner and Willie concluded that "socioeconomic status appears not to be a contributing influence to the juvenile officer's decision as to whether or not a youth contacted by the Washington, D.C. police is referred to Juvenile Court" (1971:203).

The index constructed to measure SES in Syracuse was different than that for Washington, D.C. In Syracuse, cases were compared on the basis of both the SES of the individual juvenile and the average SES of the census tract in which the offender resided (Weiner and Willie, 1971:204). The general census tract data were similar for the two cities with the exception that the Syracuse data relied more heavily on occupational

prestige measures. In Syracuse, the highest referral rates occurred among juveniles exhibiting the highest individual socioeconomic status, but living in the lowest socioeconomic areas. The group with the next highest contact and referral rates were those juveniles with low individual SES status, living in low status neighborhoods (1971:206). Weiner and Willie suggest the more severe handling of high status youth living in low status neighborhoods may be a result of police efforts to "protect" these individuals from their environment (1971:206).

Weiner and Willie conclude that while the strongest association can be found between the structural effects and referral rates, they cannot conclude that police do not consider SES factors in making arrest and referral decisions (1971:209). Their conclusions can be criticized on the basis of the methods of analysis. The method used, analysis of variance, is one that should be interpreted as correlative rather than causal. However, Weiner and Willie do imply causality when they conclude that police decisionmaking is not influenced by the socioeconomic status of a suspected offender. Moreover, analysis of variance is better employed in a study in which measured treatments are given to more than one group. Thus, by comparing the within and between group differences, not only the effects of the treatment can be ascertained but the optimum application of that treatment before its effects degenerate. It can be argued that census tract data are too broad and too inaccurately measured to provide a suitable "treatment" to juveniles who come in contact with the police. Despite these methodological problems, Weiner and Willie's data do show an association between their structural measure of SES and police dispositions. Therefore, it can be argued, on the basis of their data and analytical method, that police do use SES data to help make decisions but that these decisions need not be interpreted negatively as "discrimination." Instead, Weiner and Willie themselves suggest that police often arrest high individual SES juveniles living in low SES areas on the basis of altruism (i.e., saving some juveniles from their environment).

Shannon (1963) assessed the influence of an offender's socioeconomic status alone and in conjunction with the type of offense on police dispositions. His data consisted of 4,554 offenses and 1,818 referrals reported by the police in Madison, Wisconsin. SES was measured by the percentage of single family and rental dwellings in a neighborhood and the density of dwellings per acre in the areas studied. SES alone was inversely related to court referral rates: juveniles living in high SES neighborhoods had lower referral rates, while juveniles in low SES areas had higher referral rates (1963:27). However, when the type of offense was taken into consideration, the higher rate of referrals in low SES neighborhoods was not statistically significant (1963:31). Shannon concludes that juveniles engaging in comparable acts receive the same dispositions by Madison police regardless of the SES of their neighborhood (1963:33).

Bodine examined over 3,000 records of police dispositions of juveniles collected over a 4-year period in a large northeastern city to determine the effects of socioeconomic status on police dispositions. Similar to other studies, he used census tract data to divide his sample into five income groups (1964:3). He found that juveniles from lower income areas were more likely than those from upper income areas to be selected for court appearance. However, when the number of prior offenses was considered, Bodine found that juveniles from lower income areas were more often apprehended as repeating offenders and repeating offenders had a referral rate twice that for initial offenders. Thus it was the prior delinquent record, rather than SES, that was related to court referral rates.

While the Shannon and Bodine studies share a common conclusion--the higher arrest rates for juveniles residing in lower socioeconomic areas is explained by either the type of current offense or number of previous offenses--they also share common problems. For instance, neither study investigates whether the arrest or dismissal rates are similar by offense across all SES areas. Moreover, while the studies report data for the type of current offense and number of prior offenses, neither indicate how these factors are measured. Therefore, it is not certain whether police "perceive" similar offenses the same way in dissimilar neighborhoods.

Pine (1965) investigated the association between variables measuring socioeconomic status, prestige, and social mobility and those measuring juvenile behavior and disposition of all juveniles grades 9-12 in Old Colony, New England. Unlike the preceding studies, his measure of SES was highly refined. Not only did Pine employ the usual structural SES factors such as occupation, income, and housing, but he included a measure of status (Warner's Index of Status Characteristics) and social mobility (educational aspirations).

First, Pine examined the relationship between social class and the type and frequency of delinquent behavior committed. While there was no significant relationship between social class and 12 of the 15 delinquency variables, the remaining three (alcohol, felonies, and group delinquency) did relate to social class. Upper middle class juveniles were more likely to be involved in alcohol-related and collective delinquent behaviors, while middle and lower class juveniles were more likely to commit felonies (1965:772). However, Pine did find that downward mobility was significantly related to more serious offenses while high educational aspirations were related to an overall lower delinquency rate (1965:773). Additionally, occupational aspirations were related to the types of delinquent behavior committed: juveniles aspiring to managerial positions were more likely to be involved in alcohol and familial offenses (1965:773). Once apprehended, however, Pine found no significant relationship between social class status and delinquency treatment scores, i.e., he found no preferential treatment accorded those juvenile offenders from higher class status (1965:773).

The results of Pine's study provide some insight into juvenile behavior not present in the previously discussed research. His data indicate that juveniles who have high occupational and educational prestige are less likely than those lacking such prestige to commit more serious offenses. Although Pine's study cannot be generalized to a larger population, it does support the findings that while SES has some effect on police decisionmaking, the seriousness of the offense is a more important criterion.

The results of Thornberry's (1973) study of race, socioeconomic status, and dispositions of juveniles contradict those of the previously discussed studies. While the former studies show that the relationship between SES and disposition is spurious when the seriousness and number of offenses is considered, Thornberry reports that juveniles living in lower socioeconomic status groups are less likely to receive more severe dispositions than those in high SES areas regardless of the seriousness and number of offenses (1973:97).

The contradiction between Thornberry's results and those of the previously discussed studies may stem from differences in the study samples and the definitions of "disposition." First, Thornberry's data are for a cohort of boys born in Philadelphia in 1945 and living in that city for at least 10 years prior to the study. Thus, Thornberry's cases were the same age and were more likely than participants in the other studies to have grown up in a similar environment. What is known about that environment provides some information for interesting speculation. These juveniles

were born and socialized in predominantly black, urban areas in a time best characterized by excessively high unemployment among urban factory workers, particularly among blacks who had migrated from the South to find war-related employment in northern industrial cities. The post-Second World War era was marked not only by high unemployment, but also by strikes, a mass exodus of whites from the central city, and social discrimination against minorities in the form of crowded living conditions and high rents. The behavior of the juveniles in Thornberry's cohort was probably modified by its low socioeconomic standing combined with low aspirations. Thus, while Thornberry's findings do not agree with those reported by the other studies, it probably describes what was happening in Philadelphia, at least at that time.

Another explanation for Thornberry's results may lie in his definition of disposition. In addition to looking at arrests, Thornberry examined the kind of referral made by police, i.e., whether or not the referral was remedial. Since this is more highly refined, different results should not be surprising.

This review of the association between socioeconomic status and police decisionmaking reveals that, for the most part, arrests and disposition are influenced more by the number of prior offenses and seriousness of the current offense than by the SES of an offender. What these data do not show is whether police "see" the same behavior differently depending upon the socioeconomic status of the offender.

What research does show is that juveniles in lower SES groups do tend to be apprehended for more serious offenses, as defined by the police, and that this behavior may be linked to their aspirations for upward social mobility. Additionally, study results may be dependent on the timing and the geographic location of the project. Thus, instead of generalizing that behavior does or does not remain constant over income groups, it is best to try to determine under what conditions can both the police and the juveniles be expected to act positively (or negatively).

The most obvious conclusions are that socioeconomic status is defined differently by each of the studies and, for the most part, so broadly there is little comparability across studies. While most of the studies finding SES strongly related to police dispositions relied on census tract data, the one cohort analysis reported contradictory results. Furthermore, not all studies used or bothered to define just what was meant by disposition, making it difficult to assess whether the projects were even addressing the same issue.

What may be reflected in the studies discussed is a changing societal perception of the causes of delinquency which, in turn, influence police decisions. Cohen's (1955) early study of delinquent, urban males argued that the value system and early socialization of the working-class boy did not enable him to compete successfully in the middle-class world. The result was failure and frustration which manifested itself in what Cohen described as reaction formation. The ensuing behavior is a characteristic form of delinquency subsequently labeled by Cohen as delinquency subculture. Cohen's work became part of the conventional wisdom which saw lower and working-class neighborhoods as breeding grounds for delinquent behavior. If the results of early studies can be supported by their data, it would not be unreasonable to assume that it was this "conventional wisdom" of the time that influenced police decisionmaking.

Later studies that tested the relationship between class, status, and delinquency, did not support Cohen's theory. In particular, Polk, Freese, and Richmond, testing several propositions derived from Cohen's work, found that working class delinquency is not a qualitatively different response to a qualitatively different problem

(1974:94). Thus, the finding of more recent studies suggesting police are not influenced by socioeconomic status may simply reflect changing societal perceptions of the causes of the delinquency.

Nevertheless, it can be suggested that police do utilize discretion and that discretion is never unbiased. As already mentioned, research could best apply itself to the issue of when specific biases emerge and how these biases can be employed to the best advantage of all interactants.

Demeanor

The first study of the relationship between demeanor and the police screening process was done by Piliavin and Briar (1964). Based on observations of and interviews with juvenile officers in a metropolitan police department of a large industrialized city, they concluded that a suspect's demeanor is a major determinant of the disposition accorded that suspect. Their data indicated that officers have only limited information upon which to base their decisions, both in the field (arrest) and at the station (disposition). Interviews with juvenile officers indicated their decisions were based largely on

clues from which the officer inferred the youth's character. These clues included the youth's group affiliations, age, race, grooming, dress, and demeanor.... Other than prior record, the most important of the above clues was a youth's demeanor. In the opinion of juvenile patrolmen themselves, the demeanor of apprehended juveniles was a major determinant of their decision for 50-60 percent of the juvenile cases they processed (Piliavin and Briar, 1964:159).

Juveniles who acted in a remorseful, respectful manner were thought to be "salvageable" without any judicial intervention and thus generally received formal or informal reprimands. Conversely, youths who were unruly, stubborn, or nonchalant were viewed as "would-be tough-guys" who required the more severe sanction of arrest (Piliavin and Briar, 1964:154-160). Thus, Piliavin and Briar's interviews with juvenile officers pointed out the major influence of a juvenile's demeanor, which may be partially due to the lack of other pertinent information regarding the suspect. Their direct observation of 66 police-juvenile encounters in which the suspect was classified as either cooperative or uncooperative supported their interview results. Of 21 juveniles classified as uncooperative, 67 percent (14) were arrested, compared with only 4 percent (2) of the 45 classified as cooperative (Piliavin and Briar, 1964:161). They did indicate, however, that demeanor was much less influential when a suspect had a prior record and perhaps less influential among serious offenders (Piliavin and Briar, 1964:158-160). Although Piliavin and Briar do not provide data specifically for serious or repeat offenders, it appears that a suspect's demeanor is more influential among less-serious, first-time offenders.

Black and Reiss (1970), who also used observational methods of study, did not find a clearcut or consistent relationship between demeanor and police screening decisions. Based on observations of 281 police-juvenile encounters in three cities during 1966, they concluded that the overall influence of demeanor is necessarily limited. They base this statement on the finding that in over half (57 percent) of all encounters the juvenile suspect is civil toward the police; and in another 16 percent of the encounters the juvenile's degree of deference toward the officer is unascertainable. This leaves very few instances in which a juvenile's attitude might be influential. In fact, 16 percent of the cases involved antagonistic juveniles and 11 percent involved ones who were unusually respectful. Among both of these groups, the arrest

rates were slightly higher than encounters in which the suspect was civil: 22 and 16 percent respectively. Since the number of cases at the highly respectful and disrespectful ends of the continuum were quite small, it was difficult to assess their influence for different offense types. However, this "bipolar" effect appears to hold true at least for juvenile rowdiness cases and felonies as a whole (Black and Reiss, 1970:74-75).

Lundman, Sykes, and Clark's (1978) replication of Black and Reiss' study found the same bipolar relationship between demeanor and disposition. They suggest that "deferential juveniles are suspicious [to the police] because their demeanor is so clearly different from that of their colleagues...their extreme deference is illogical or inappropriate given the circumstances in which it is expressed" (Lundman, Sykes, and Clark, 1978:87).

The results found by Black and Reiss or Lundman, Sykes, and Clark are quite different than those of the earlier study by Piliavin and Briar. Black and Reiss found that a smaller portion of their antagonistic group and a larger portion of their civil group were arrested as compared to Piliavin and Briar's sample. Additionally, the difference in arrest rates between the antagonistic and civil groups was greater in Piliavin and Briar's sample than in Black and Reiss' sample. Methodological differences may account for this variation. It may be that the observers in the latter study differed from those in the earlier study in their perceptions of demeanor. This would not be unlikely, since it often may be difficult to assess a suspect's attitude toward the officer. Additionally, the subjects of Black and Reiss' study were specialized juvenile officers. The patrol officers may make their decisions in the field, rapidly and without the benefit of extensive information regarding the suspect. Conversely, juvenile officers may make their decisions in the station, after spending some time with the juvenile and learning some of his or her background. Thus, the latter may be less influenced by the initially-perceived demeanor of the offender. This is consistent with the smaller difference between arrest rates of Black and Reiss' demeanor categories and those of Piliavin and Briar.

Based on observations of police-juvenile encounters in two California cities, Cicourel (1968) reaffirmed the role of demeanor in police decisionmaking. He proposed that a juvenile's demeanor was a reflection of his or her acceptance or rejection of a "trust" relationship with the police officer. According to Cicourel, the "police sought to establish a 'trust' relationship with the juvenile during early delinquent encounters.... When the 'trust' is viewed as broken by the police then they invoke criminal categories and relevances to explain the juvenile's actions and to construct and seek to justify a disposition. The 'trust' relationship, however, assumes the juvenile is able to convey some kind of sincerity to the officers involved so that 'treatment' as opposed to a 'punishment oriented' disposition is discussed and prescribed" (Cicourel, 1968:198).

Several researchers have either surveyed or directly interviewed police officers in order to assess the role of demeanor in decisionmaking. Wilbanks (1975) administered

questionnaires to 111 officers in 13 departments and at a training seminar in order to determine the factors that were important in police decisions to refer a case to court. Twenty-nine percent of those officers surveyed by Wilbanks indicated that an offender's attitude is the most important criterion in the decision to refer a case, while 54 percent indicated it was not. Because of the wording of the questionnaire, there is no way to know how many officers felt attitude was an important factor, even if it is not the most important one. However, the fact that over one-fourth characterized attitude as the most important factor suggests a positive association between the two.

Goldman (1963) interviewed 90 policemen in Pittsburgh and surrounding communities and found that, among 13 factors the "attitude and personality of the boy" were influential in the police screening process. Goldman indicated this influence was a result of two different, but related, considerations. First, a suspect who is well-behaved and respectful toward the officer was viewed as a "good risk for unofficial adjustment in the community." However, one who is defiant or malicious was thought to require court intervention (Goldman, 1963:12). This is similar to the findings of Cicourel, in that the emphasis is on the relationship between the suspect's demeanor and his or her likelihood of adjustment with or without official judicial processing. The second, and related, factor identified by Goldman is the "necessity for maintaining respect for police authority in the community. A juvenile who publicly causes damage to the dignity of the police, or who is defiant, refusing the 'help' offered by the police, will be considered as needing court supervision, no matter how trivial the offense" (Goldman, 1963:128). An important point here is that the juvenile's demeanor may outweigh the influence of offense seriousness.

Prior Delinquency History

The prior history of an offender is undoubtedly influential in police decisionmaking, either as the primary or a secondary decision criterion. Most researchers have assessed the effect of prior police contacts or arrests, without considering the type of previous offenses or disposition given to the offender. The decision point most often studied is final police disposition (e.g., release or referral to court), although a few writers have examined the relationship between prior history and arrest decisions.

One study which did examine the arrest decision was done by Hohenstein (1969). Analyzing 322 Philadelphia delinquency events, he found a juvenile's prior record second in importance only to the complainant's expressed preference. In those events in which there was no express preference for or against prosecution, the most important screening variable was the juvenile's prior record. Suspected offenders with a record of more than one previous police contacts were arrested 91 percent of the time, compared with only 53 percent of those with one or no prior contacts (Hohenstein, 1969:146). Although this does not consider the offense type, the evidence indicates that, overall, prior record is a primary screening criterion in certain situations (e.g., when there is no dispositional preference expressed by the complainant).

Bodine's (1964) study of 3,343 male juvenile offenders found prior record was a primary determinant of court referral rates. According to his evidence, "Only slightly more than a quarter of the initial offenders are sent to court, but more than half of the repeating offenders have their cases disposed of in this manner" (Bodine, 1964:5). Similarly, McEachern and Bauzer (1967) determined that the number of previous offenses committed by a juvenile and the probation status of that juvenile were both related to the decision to file a petition. The influence of prior offenses was somewhat inconsistent as a juvenile's record became more extensive. The proportion of petitions

requested increased progressively as the number of previous offenses increased from one to three, but then "seesawed: up and down for four or more offenses. However, the proportions were consistently higher among offenders with 5 to 18 prior offenses than among those with 1 to 2 prior offenses (McEachern and Bauzer, 1967:156). It may be that the number of offenders with extensive prior records was relatively small, and thus the proportion of petitions requested was inconsistent due to chance alone. The influence of probation status appeared to be even stronger than prior record: petitions were requested for nearly one-half of those on probation compared with about one-fifth of those not on probation (McEachern and Bauzer, 1967:156). This finding is not surprising, since an offender generally must remain free from arrests as a condition of probation.

Ferdinand and Luchterhand (1970) found that the existence of a prior record was a primary determinant of police dispositional patterns in six inner-city neighborhoods of a large eastern city. Furthermore, the influence of a prior record negated the effects of another variable found to be important in this study; i.e., the race of the offender. While race was a major determinant in the dispositions given to male first offenders, it did not appear to influence dispositions for third offenders (Ferdinand and Luchterhand, 1970:512 and 520). In addition, for each racial group, first offenders were more likely to receive probation type dispositions than were third offenders (Ferdinand and Luchterhand, 1970:513 and 520). Wolfgang, Figlio, and Sellin (1972) observed similar dispositional patterns in a male birth cohort in Philadelphia. Although they found race to be an important screening criterion, prior record was even more predictive of police disposition. Thornberry's analysis of the same data showed a similar pattern with regards to socioeconomic status, a variable which is highly related to race (1973:97).

Terry's analysis of dispositions for over 9,000 juvenile offenses in a midwestern city found that the number of previous offenses was consistently significant as a criterion in the screening process (1967b:178). He noted that "[f]irst offenses constitute 38.2% of the offenses occurring at the police level of analysis, but only 7.3% of those at the juvenile court level and 4.0% of the offenses that result in institutionalization. On the other hand, offenses involving offenders who have committed five or more previous offenses constitute 20.4% of the offenses occurring at the police level of analysis, but 58.1% of those at the juvenile court level and 70.4% of the offenses that result in institutionalization" (Terry, 1967b:181). Furthermore, Terry indicated the importance of a prior record was second only to the seriousness of the current offense (1967b:178).

The studies discussed thus far have all relied on analysis of existing police records as the major source of data. Other researchers have used different study methods and still drawn very similar conclusions. Wilbanks (1975) used a decision-game technique and found prior record was an important factor considered by police in making decisions. Nearly 75 percent of the officers who participated in the study indicated that the statement "[f]irst offenders should not be sent to court unless the offense is very serious or the victim insists" was either a personal rule of thumb, departmental practice or policy, or state law (Wilbanks, 1975:98). Since this study looks only at first offenders, it can only indirectly assess the role of a prior record. Additionally, Terry's evidence implies a relatively greater importance of offense seriousness and the expressed preferences of the victim.

Several studies have used direct observation of police officers' behavior as a means of assessing the influence of prior record. Based on observations for several years in two cities, Cicourel concluded that knowledge of a prior record may influence an officer to give a serious disposition for a minor incident: "Juveniles considered

'bad,' or 'punks,' for reasons like prior petty theft, grand theft auto, burglaries, and malicious mischief may be recommended for serious disposition because of activities (otherwise viewed as trivial) in drunk parties, fighting, and so on" (Cicourel, 1968:119). In Cicourel's opinion, then, a juvenile's prior record might be more important than the seriousness of the current offense in certain situations.

Two other studies relying on observation of police officers pointed out that general patrol officers either do not have knowledge of a suspect's prior record or are not interested in that information. Piliavin and Briar indicated it was only occasionally that "officers apprehended youths whom they personally knew to be prior offenders. This did not occur frequently...for several reasons. First, approximately 75 percent of apprehended youths had no prior records; second, officers periodically exchanged patrol areas; and third, patrolmen seldom spent more than three or four years in the juvenile division" (Piliavin and Briar, 1964:159). Black and Reiss indicated that prior record may be a more important criterion to youth bureau officers; "youth officers" may, for example, be more concerned with the juvenile's past record, a kind of information that usually is not accessible to the patrolman in the field setting. Furthermore, past records may have little relevance to a patrol officer who is seeking primarily to order a field situation with as little trouble as possible" (Black and Reiss, 1970:69).

Unlike the previous studies, Coffee (1972) assessed the influence of prior police contact in which no arrest was made. His primary purpose was to examine the record system maintained by the Youth Division (Y.D.) of the New York City police. In doing this, Coffee found "a one hundred percent correlation between a past history of four or more Y.D. reports and a referral.... For juveniles with no Y.D. history, referral occurred in only 20% of the cases. Juveniles with one to three cards had a 40% chance of referral" (1972:597). Thus, even a record of police contacts in which no arrest ensued resulted in a higher likelihood of being referred to court. This finding has important implications for departmental policy. According to Coffee, records of nonarrest contacts with juveniles are subject to numerous criticisms: offense descriptions are often inaccurate or vague; records are seldom subject to review or verification; juveniles are not given any opportunity to refute or amplify the information contained in their records; and records may be widely disseminated to courts, probation, schools, and welfare agencies (1972:572-573). Since this "non-arrest" record can be very influential in future decisionmaking regarding a juvenile, it is critical that police departments maintain the accuracy and confidentiality of these records if they are to be maintained at all.

Overall, prior record has been shown to be consistently and significantly related to police decisionmaking. Although the seriousness of the current offense and the expressed preferences of a complainant or victim are likely to exert a greater influence, particularly at the point of arrest, prior record is still a primary influence in police decisions. There was no information regarding police disposition of prior offenses and how it might influence decisions made regarding a current offense. Additionally, the relative importance of varying number of prior offenses has not been extensively studied. Both of these provide areas for future research.

Chapter V

POLICE DIVERSION: A POLICY AND ITS PROBLEMS

INTRODUCTION

Since criticism began to mount of the arbitrary and often harsh actions taken toward juveniles in the traditional juvenile court in the 1960's, reformers have cast about for means of treating troubled juveniles without involving them in juvenile court processing. Serious shortcomings of the juvenile court were noted by the President's Commission on Law Enforcement and the Administration of Justice in 1967:

Studies conducted by the Commission, legislative inquiries in various States, and reports by informed observers compel the conclusion that the great hopes originally held for the juvenile court have not been fulfilled. It has not succeeded significantly in rehabilitating delinquent youth, in reducing or even stemming the tide of delinquency, or in bringing justice and compassion to the child offender (U.S. President's Commission, 1967a:80).

The Commission recognized further that the failure of the juvenile justice system was not due solely to the failings of the juvenile court, but to shortcomings in local communities and in associated agencies. In particular, however, it was the noted lack of effective dispositional alternatives that led the Commission to recommend that the police should utilize nonjudicial avenues of disposition, rather than formal processing wherever possible (1967b:19). Diversion, as such alternatives are generically referred to, has in the ensuing years become a trend of almost tidal proportions. Its special relevance to this report is that diversion is the latest in a series of policies through which police (among other juvenile justice system agents) are expected to carry out the preventive responsibilities that were first laid upon them in the Progressive era. Thus a major issue to be addressed in this chapter is whether diversion is qualitatively different from previous, perhaps less formal, means of nonjudicial handling available to police. Further issues include whether police diversion programs live up to their stated expectations; and whether such programs may be administered so they do not become tools for the extension of police discretion.

This Introduction will present a general background to police diversion programs, and a brief history of their development. Subsequent sections will discuss normative policy models of police diversion; descriptions of selected police diversion programs; and a critique of the relative benefits and hazards of police diversion.

Background

The term diversion has been defined in a number of ways, some restrictive and some broad; but in general the term refers to almost any discretionary action take by law.

enforcement, court intake, or correctional officers that minimizes the penetration of youth into the juvenile justice system. Almost every writer on the subject presents their own definition of diversion. The National Advisory Commission on Criminal Justice Standards and Goals (1976) defined diversion as follows:

Diversion refers to formally acknowledged...efforts to utilize alternatives to...the justice system. To qualify as diversion, such efforts must be undertaken prior to the adjudication and after a legally proscribed action has occurred.... Diversion implies halting or suspending formal criminal or juvenile justice proceedings against a person who has violated a statute in favor of processing through a non-criminal disposition (National Advisory Committee on Criminal Justice Standards and Goals, 1976:50).

It is worth noting that by this definition, the entire juvenile justice system as it was originally proposed was the first diversion program. The major emphasis of the Chicago reformers was on the need to remove juveniles from jails and courthouses and provide an extralegal means of referring them to appropriate charity resources.

Additional definitions are employed by Klein (1976), Nejelski (1976), and Dunford (1977). Diversion as defined by Klein includes "any process employed by components of the criminal justice system (police, prosecution, courts, correction) to turn suspects or offenders away from the formal system or to a 'lower' level of the system" (Klein, 1976:421). Note that Klein's definition contains no implication that formal services are necessary to qualify as a form of diversion. It is this "loophole" in the definition of diversion that has enabled some police agencies to qualify for Federal and State monies even when services are not provided to a diverted juvenile.

Nejelski (1976) defines diversion more restrictively as "the channeling of cases to noncourt institutions, in instances where these cases would ordinarily have received an adjudicatory (or fact-finding) hearing by a court" (1976:396). Nejelski's definition limits juveniles eligible for diversion to those who would have otherwise been processed by the juvenile court. Dunford offers yet another definition of diversion, stating that it is "a process of referring youth to existing community treatment or prevention programs in lieu of further juvenile justice system processing at any given point between apprehension and adjudication" (1977:336). Dunford's definition acknowledges that "formal" diversion should include the provision of services to juvenile delinquents. This excludes such methods of diversion as the outright release of a child to a parent or guardian, or moralistic lectures by police officers in the field.

National guidelines for the use of diversion have been specifically formulated by the National Advisory Commission on Criminal Justice Standards and Goals (NACCJSG, 1976). These guidelines must, in turn, be interpreted by State and local law enforcement agencies. Different interpretations of the meaning and function of diversion lead to different practices from one area to another. Other factors also may be responsible for varying applications of diversion. For example, police personnel may be unaware of restrictions on the use of diversion and their significance to the efficacy of a given program; agencies may understand these restrictions, but nonetheless seek to adapt them to the perceived needs and values of a local community; or program guidelines may be ignored by police because the program itself is co-opted to the needs of the police organization rather than the needs of the juvenile clients.

Recommendations set forth by the National Advisory Commission governing the use of diversion by police state that:

Where permitted by law, every police agency should immediately divert from the juvenile justice system any juvenile for whom formal proceedings would be inappropriate or other resources more effective. All such police diversion decisions should be made pursuant to written agency policy that insures fairness and uniformity of treatment.

Police chief executives should develop written policies and procedures that allow juveniles to be diverted from formal proceedings in appropriate cases. Such policies and procedures should be prepared in cooperation with other elements of the juvenile justice system (National Advisory Commission on Criminal Justice Standards and Goals, 1976:216, Standard 5.10).

The National Advisory Commission further recommends that these guidelines should be developed by the police chief executive in cooperation with the court, community, and correctional agencies, and various other organizations associated with the juvenile justice system. Juvenile participation in a diversion program should be voluntary; and, in the event a juvenile refuses to participate voluntarily, no further legal action should be taken on the original charges.

No specific criteria for police diversion have been developed by the National Commission. However, the Commission does recommend that at least three general principles should guide diversion practices within the juvenile justice system. First, diversion should entail the use of some effective service or treatment in which the juvenile may participate. This is to insure that a juvenile is not turned away without any direct service. Second, an increase in the number of diversion programs should not increase the total number of juveniles which are under some form of supervision in the justice system. Finally, juveniles who are candidates for diversion should have the same due process rights as those juveniles who are formally processed within the juvenile justice system (National Advisory Commission on Criminal Justice Standards and Goals, 1976:217).

In summary, diversion is not a well-defined phenomenon. Philosophically, it harkens back to the origins of the juvenile court itself. In its contemporary form, diversion is better informed about what it is to avoid--i.e., formal legal procedures--than what it is to provide in the way of services. Police diversion especially is an ambiguous area, fraught with idealistic assumptions and potential for abuse. National Commission standards in particular rest on two assumptions that will be questioned in the remainder of this chapter. The first assumption is that police officers are capable of determining for which juveniles formal processing is "inappropriate," and which alternative services would be "effective." The second assumption is that police administrators can use written guidelines to monitor and control the decisions of officers in the field.

Historical Development and Organization of Police Diversion

Police diversion is not a new idea. It has been utilized by law enforcement officers for centuries in the form of discretionary decisions not to invoke arrest. Approximately 25 years after the development of the juvenile court in 1899, however, various programs were created by police departments in an effort to provide "treatment" for the prevention of juvenile delinquency. Some of the first such programs were established

in Berkeley, California (1925) and in New York City's Juvenile Aid Bureau (1930). The New York program utilized social workers and policemen trained in juvenile matters as active members of the program staff. In other areas, less formal means were used to achieve similar ends:

Various other voluntary programs such as a type of voluntary probation, work programs, and informal police hearings were also attempted. However, little formal recognition was given to the practice and until very recent years, there was little research done in the area (Stratton, 1974:47).

Through the years, the practice of diversion has become quite prevalent. Its spread was encouraged by passage of the 1974 Juvenile Justice and Delinquency Prevention Act, which made Federal funds available for the establishment of programs which would serve as alternatives to formal juvenile justice system processing.

Though diversion has been practiced in one form or another since the early 1900's, diversion programs as envisaged by the President's Task Force (1967) differ from past practices. Police have always had discretion to turn juveniles away from the system. Informal means of diversion have included police-supervised "probation" (a practice that has since been discouraged by the International Association of Chiefs of Police) (O'Connor and Watson, 1964:42); the release of a juvenile to parents or guardians; the filing of a report and subsequent release of the juvenile; or counseling and releasing the juvenile. However, findings of the President's Task Force led to the recommendation that informal diversion be de-emphasized in favor of more specific and formal programs which could provide treatment by personnel trained in juvenile delinquency. Generally, diversion programs today offer some type of formal assistance and are guided by formal procedures that are intended to reduce the potential for the arbitrary exercise of discretion.

Historically, the police have played a crucial role in the diversion of juveniles; however, police may become frustrated when they find that they have only two dispositional options--either send the child to court or do nothing. Diversion provides alternative dispositional options that may be used to provide needed services (Rothenberger and Shepherd, 1978:75) and as alternative sanctions short of arrest and court referral.

Police diversion programs have been designed and implemented in a variety of ways. In some programs, police personnel provide services directly; in others, they only supervise the delivery of services by others. Diversion programs also vary in the target populations they attempt to serve. Generally speaking, minor offenders, status offenders, and first-time offenders are prime candidates for diversion. Serious offenders, felons, and drug offenders are generally ineligible. Repeat offenders and probation and parole violators may also be viewed by the local juvenile justice system as unqualified for diversion. Additionally, juveniles may be excluded from a diversion program if they resist counseling, reside outside the jurisdiction, or maintain their innocence.

Eligibility criteria vary considerably from one jurisdiction to another. The Juvenile Drug Abuse Program in San Diego, California, for example, limited eligibility to juveniles between the ages of 14 and 17 charged with a narcotics violation. The Youth Services Program operated by the Dallas Police Department serves a wide range of arrested youth, including accused felons, misdemeanants, first offenders, and repeat offenders. The National Commission recognized this variation, and the significant

power that these programs could place in the hands of police: "The police role in diversion programs varies greatly from State to State and even among different cities within a single State. In some instances, the police are vested with considerable discretion in determining which juveniles to divert from formal proceedings" (1976:216).

A NORMATIVE MODEL OF POLICE DIVERSION

Despite the wide variation in the practices of actual diversion programs, it is possible to describe in ideal-typical terms some characteristics of diversion programs in general. This section will describe the diversion process, with special attention to decisions that are made at each stage of the process; and second, will review recommended decisionmaking criteria.

The Diversion Process*

The police diversion process as described here consists of three stages: field contact, station house processing, and the diversion conference.

Field Contact

Generally the first contact that a police officer has with a juvenile is in the field, in the course of routine patrol. This is also the first point at which a suspected offender may be diverted from the system, albeit on an informal basis: it is always within the officer's power to ignore the case entirely or dispose of it with only a verbal admonition.

The initial contact may be generated either by a complaint by a citizen or police observation of "suspicious" activity. The responsibility of the officer at this point is to ascertain the facts pertaining to the case and make a decision regarding what course of action to take. The significance of the field officer's role at this stage has prompted Lemert to remark that "theirs is the strategic power to determine what proportions and what kinds of youth problems become official and which are absorbed back into the community" (Lemert, 1971:54). It is at this stage that all the complex factors discussed in preceding chapters come into play, as the officer decides whether circumstances warrant a formal apprehension or whether the juvenile may be released with no written record of the encounter. Only if the officer decides in favor of arrest is the juvenile eligible for a diversion program.

Station House Processing

It is at the point of apprehension that a juvenile is considered for diversion, and a department's diversion criteria may be systematically applied. Formal criteria for diversion decisions may automatically exclude some juveniles from consideration. Ideally, the decision to divert is made only after a thorough investigation of the alleged offense and after diversion criteria have been applied by those responsible for such decisions. In a large police department, the responsibility for diversion decisions usually rests with specialized juvenile officers, while a smaller department may designate one individual for this task.

*This description of the police diversion process is drawn from an exemplary working model in Michigan described by Rothenberger and Shepherd (1978).

Initial guidelines may be used by a police department to eliminate some cases from those considered for diversion. Thus juveniles who are parole violators, violent offenders, repeat offenders, drug dealers, or felons may be referred to court as a routine matter of police policy. On the other hand, minor or first-time offenders may automatically be diverted. Thus screening guidelines of this sort have two functions. First, using offense classifications as a shorthand designation of the juvenile's needs and amenability to treatment, such screening criteria provide a crude means of diagnosis. Second, they increase the department's "efficiency" by substantially reducing the workload of individuals responsible for making diversion decisions.

The Diversion Conference

Before the juvenile is officially diverted, the juvenile and parents may be invited in to the police station for a conference to discuss the possibility of participation in a diversion program. Ideally, a decision to divert should be made prior to a conference and the offer to the parents should be made without threats, coercion, or bargaining. It should be emphasized to the juvenile and parents that participation in the conference is voluntary. However, if upon invitation to a diversion conference the parents or juvenile refuse to participate, their refusal is taken as an indication to refer the case to the juvenile court.

The diversion conference may be viewed as an important part of the diversion process. By inviting the juvenile and parents to a diversion conference, the officer may present a number of dispositional alternatives for consideration. Upon explanation of the diversion options, the juvenile and parents may then make a choice free of overt coercion or threat. Thus once again, this part of the diversion process serves a dual function. Its first function is to provide the juvenile officer with background data about the juvenile's suitability for diversion. Its second function is to co-opt the juvenile and his or her parents into the implicit process of judgement and sanctioning.

Diversion Criteria

The criteria applied to the diversion decision may include any of a number of variables. Typically the type of offense has been the deciding factor, but taking only one variable into account may insufficiently address the moral character and needs of the juvenile. The National Advisory Commission on Criminal Justice Standards and Goals recommends that diversion criteria be flexible since each case is unique and must be judged on its own merits. The National Commission has recommended some general guidelines that police should consider in diverting a juvenile (National Advisory Commission on Criminal Justice Standards and Goals, 1976:217):

1. Nature of the Alleged Delinquent Act

Juveniles committing their first delinquent act and such acts that would be a misdemeanor if committed by an adult, should be considered for diversion. However, the delinquent act should not be the controlling factor since the intensity of the act may dictate an approach other than diversion. Additional factors such as the seriousness of the offense; the degree of bodily harm inflicted on one's self or others; and the degree of criminal sophistication involved in committing the act, are other variables that should be considered in the decision to divert.

2. Complainant's/Victim's Rights

The right and/or desire of the complainant/victim to prosecute should be respected when considering to divert a juvenile.

3. Age of Suspect

A suspect's age may be an important factor to consider but should not be the sole criterion since age may not reflect a juvenile's intellectual and emotional security and development.

4. Family Responsibility/Employment Status

Serious consideration should be given to diverting a juvenile when he/she is married and has a family to support. In addition, a juvenile misdemeanor or first offender that is gainfully employed may not be considered for diversion if the juvenile's continued employment would be jeopardized.

5. Nature of the Problem Leading to the Alleged Delinquent Act

Investigations on first offenders and juveniles alleged to have committed acts that would be misdemeanors for adults should be initiated to reveal any emotional, psychological, physical, or educational problems that a juvenile might have. Personal and social problems should be an important consideration to divert a juvenile since a diversion program may be able to provide professional assistance.

6. Attitude Toward Self-Improvement

A juvenile's attitude or demeanor may help determine whether or not the juvenile is suitable for diversion. A positive attitude toward self-improvement and a willingness to participate in a diversion program may be important considerations of whether or not to divert.

7. Character

The decision to divert a juvenile may involve a certain amount of risk since the possibility of recidivism is a factor to be considered. The National Advisory Commission has suggested that a juvenile's character might be evaluated by assessing such factors as whether the juvenile has experienced previous warnings by the police or other authority figures; evidence of alcoholism or drug addiction; indications of a psychological disorder; or evidence of dangerous behavior toward others or oneself.

8. Availability of Community-Based Rehabilitative Programs

The decision to divert assumes that there is some type of formally structured community rehabilitation program available for referral. Police may develop working relationships with community agencies and staff which may facilitate and stimulate mutual feedback. Cooperation between the police and the diversion programs establishes a basis for police confidence in the diversion program and insures continued utilization.

9. Parental Responsibility

The parents' understanding of the seriousness of their child's involvement with the police, as well as their ability to control and discipline the child, are also considerations in a decision to divert. The parents or guardians, in addition to the juvenile, must recognize the seriousness of the alleged delinquent act and should express a desire for rehabilitation before being considered for diversion.

By way of a concluding observation, it is remarkable how many of these standards mirror the informal decisionmaking criteria already used by police, discussed in Chapters III and IV. In simple terms, the officer is invited by these standards to employ subjective judgements on the seriousness of the unadjudicated offense; on the degree of criminal intent betrayed in the act; on the preferences of the victim; on the etiology of the alleged act; on the degree of penitence shown by the juvenile and his or her parents; and on the quality of the juvenile's family life. In effect, these standards require that informal and routine policy biases be raised to the level of formal policy.

DESCRIPTIONS OF SELECTED POLICE DIVERSION PROGRAMS

Ever since the President's Commission on Law Enforcement and the Administration of Justice (1967) recommended the use of diversion at all levels of the juvenile justice system, the use of diversion has become increasingly popular. The expansion of diversion programs led Klein and Teilman to conclude that "they are literally exploding in numbers across the nation" (Klein and Teilman, 1976:1). However, in spite of the popularity of diversion, a review of the literature has revealed that there are few findings that deal with its development, implementation, and effectiveness. There is an abundance of literature on the issues and hazards surrounding the use of diversion, but little literature that deals directly with police diversion. Cressey and McDermott conclude that:

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 (Cressey and McDermott, 1973:8-9).

Although dated in 1973, many of the problems described by Cressey and McDermott are still obstacles for the evaluator of today. Formidable difficulties such as small numbers of juveniles diverted, a lack of specific goals, and a lack of systematic record-keeping by diversion agencies have presented methodological problems for an evaluator in determining the efficacy of diversion. Alleviation of these methodological difficulties is a worthwhile goal to pursue for the future. The methodological problems encountered in any evaluation of a police diversion program might be avoided through the development of a basic outline which a police department may adopt to facilitate the ease of evaluation. Such an outline might include the following:

- The development of program goals into written policy.
- Written policy governing the use of diversion.

- A statistically measurable definition of diversion goals.
- A uniform method of record-keeping.
- A built-in evaluation design.

Many diversion programs have incorporated some of these measures, but only a handful have incorporated all. The preceding suggestions would allow for program flexibility to meet the varying needs of a department and community, yet provide an amenable method of evaluating diversion programs.

Youth Services Program

A police diversion program operated by the Youth Services Program of the Dallas Police Department's Youth Section reveals two types of diversion programs. The First Offender Program (FOP) consists of first-time minor offenders. If a juvenile is referred to the FOP, the juvenile receives two 3-hour "awareness lectures" by police officers within one month following arrest. In its first year of operation, 2,282 juveniles were referred to the program with 69 percent participating. Using a comparison group (n=445), the authors found that the recidivism rate for FOP juveniles was 9.6 percent as opposed to 15.5 percent for the comparison group (Collingwood, Douds, and Williams, 1976).

The second diversion program operated within the Youth Services Program by the Dallas Police Department is the Counseling Unit. The Counseling Unit (CU) consists of repeat offenders, first offenders, and misdemeanants and felons. A juvenile assigned to the CU undergoes a 6-month training phase which consists of three components: physical fitness, emotional skills, and study/learning skills. In its first years of operation, 1,084 juveniles were referred to the CU, with a participation rate of 75 percent. Using a comparison group (n=196), the recidivism rate for CU juveniles was 10.7 percent compared to the comparison group rate of 50.5 percent. Furthermore, the authors reported that those juveniles who completed the 6-month program showed a significantly lower rate of recidivism (2.7 percent). Thus, the findings of the study support a positive relationship between diversion and the reduction of recidivism (Collingwood, Douds, and Williams, 1976).

The goals of the Dallas program were to divert juveniles from the juvenile justice system and to reduce recidivism. It appears the latter goal was achieved and in regards to the former, the authors reported that by providing its own diversion program, the Youth Section reduced referrals to the County Juvenile Department by 7.2 percent. However, one problem which plagues nearly all evaluations of diversion programs is the accuracy and significance of the reported recidivism rates. Collingwood, Douds, and Williams fail to describe the time period they used to measure recidivism rates, or the process by which program participants were selected. A question which this and other evaluations of diversion programs fail to address is the effect of diversion on recidivism over a substantially longer period of time.

Positive Direction Program

The Positive Direction Program utilizes a diversion score sheet as a means of determining those juveniles eligible for a diversion program. Based on the type of offense, existence of prior records, whether or not there was injury to the victim and whether property was stolen, a juvenile is assigned a numerical value by the line

officer which determines whether a juvenile is eligible for diversion. In addition, the recommendation to divert is based on the line officer's judgement based in writing. The diversion score sheet provides an interesting variation on how diversion selections may be made. However, evaluators of the program noted that 18 percent of those youth actually diverted did not meet the criteria for diversion, while 42 percent of those juveniles cited or booked had scores that qualified them for diversion.

Consideration for the diversion program stipulated that a juvenile must voluntarily agree to participate and must admit guilt for the alleged act. Moreover, incidents involving more than one juvenile required that both admit to guilt before either juvenile was diverted.

Thirty-four community-based juvenile serving agencies were used as resources in the San Francisco program. The period of service lasted a minimum of six months and if the juvenile committed no further delinquent acts, the record of the violation was expunged. In the program's first year of operation, 330 juveniles were diverted and received services. However, a limited evaluation conducted by Altschuler and Lawrence (1977) on a portion of the diversion clients revealed that there were few significant differences in recidivism rates among those juveniles admonished and released, diverted, or cited and booked. Recidivism measures in a 9-month period revealed that rearrest rates for diverted youth amounted to 11.5 percent; 12.5 percent for juveniles that had been admonished and released; and 19.2 percent for juveniles cited and booked. The measures of recidivism as reported by Altschuster and Lawrence must be viewed with caution since the evaluators used a small non-random sample.

Alternate Routes

An evaluation by Gilbert (1977) of a juvenile justice system project between 1971 and 1975 in Orange County, California, revealed that juveniles in the Alternate Routes project had "a significantly lower rate of recidivism in both the six-month and one year periods than did those in the traditional juvenile justice system" (1977:307). The rates of recidivism for those juveniles in the Alternate Routes program and those processed through the traditional justice system varied at 29 and 53 percent respectively for a 6-month period and 35 and 65 percent respectively for a 1-year period. Gilbert concluded that the results must be viewed with caution because a true experimental design was not employed in the study. The differences in recidivism between juveniles that had been diverted and those processed through the juvenile justice system may have been attributable to other systematic factors.

Social Agency Referral

Initiated in 1972, the Social Agency Referral program is a project of the Seattle Police Department. The program was developed by the department's Juvenile Diversion detectives in response to the need to offer a juvenile assistance outside the traditional avenues of court referral. The project was established to develop a diagnostic and referral system in which juveniles could be diverted to a wide variety of community agencies and programs. The criteria for deciding which juveniles should be diverted was based on the judgement of Juvenile Diversion detectives and included such criteria as whether a personal or family problem existed, the potential for recidivism, and the potential that services offered through the project would be utilized by the juvenile. Juveniles under the age of 18 comprised the eligible target population.

An evaluation design utilizing 12- and 6-month test and control groups found that the juveniles diverted by the Social Agency Referral program failed to demonstrate statistically significant declines in recidivism. Moreover, a series of t-tests conducted on selected pre-test variables such as age and the total number of contacts in the 6-month period preceding referral indicated no significant trends between the experimental and control group.

Orange County Regional Juvenile Diversion Program

Under the title of the Orange County Regional Juvenile Diversion Program, a network of six regional diversion programs was developed in 1976. The major goal of this program was the reduction or complete elimination of the handling of status offenders beyond police processing. An additional goal of the program was to reduce the recidivism rate by 75 percent in the number of juveniles charged with status offenses who were treated within the program. Despite the fact that these juveniles diverted represented roughly 10 to 20 percent of all juvenile arrests made in Orange County, the juvenile arrest rate for the first 6-month period of the evaluation showed no substantial decrease from the previous six months.

The plan of the diversion program was to concentrate on young juveniles who were charged with status offenses or those charged with a first offense. However, the diversion criteria actually used by officers included such factors as prior record, the severity of the offense, and the attitude and demeanor of the juvenile and parents. Overall, the recidivism rate for those juveniles who were diverted was slightly higher than for those who were referred to court and was also higher than for those juveniles who were counseled and released by police officers.

Youth Resources and Diversion Program--San Diego Police Department

The Youth Resources and Diversion Program was initiated under the auspices of the San Diego Police Department in 1973. Two primary goals of the program were to reduce the number of juveniles entering the juvenile justice system and to reduce the recidivism rate of participating juveniles through early intervention and treatment. In addition, it was hoped that improved police public relations in the community would result through reduced alienation of juveniles and improvement of the police image.

Formal guidelines and selected criteria were utilized to determine whether a juvenile would be eligible for a diversion program. Factors that might exclude a juvenile from consideration for diversion included whether or not the juvenile was currently under formal or informal supervision; records could not show that the juvenile was a habitual delinquent; both youth and family would have to show a potential for benefiting from diversion; the juvenile could not be a ward of the court; and juveniles who had failed previous attempts in a diversion program generally would not be considered for diversion again. It was felt that the development and application of formal standards and guidelines in the application of the program might help to reduce decisions based upon arbitrary discrimination and discretion. The program was primarily aimed at serving status offenders.

Upon the decision by a juvenile officer to divert a juvenile, the officer could formally divert the juvenile to a rehabilitative agency or divert informally by release to the custody of the parents and closure of the case. In the decision to divert formally, the juvenile officer sought the voluntary approval of the juvenile and/or parents.

Published statistics as reported by Leblang (1978) indicate some reduction in recidivism, and some success in diverting juveniles from the juvenile justice system. In the year 1974-1975, 1,599 juveniles were diverted from the judicial system with a participation rate of 74 percent. Furthermore, statistics for the last six months of the fiscal year 1974-1975 indicated that only 15 percent of those juveniles arrested for possession of marihuana had second contacts with the police, while those arrested for narcotics and dangerous drug charged had only a 5.6 percent recidivism rate.

DISCUSSION: CLAIMS AND CRITICISMS OF POLICE DIVERSION

This chapter has reviewed police diversion by examination of its origin and structure, discussion of policy standards for diversion programs, and a review of selected diversion program descriptions and evaluations. These concluding remarks will include a summary presentation of the rationale for police diversion programs, and a critique of diversion as an ideology and as a practical enterprise.

The Rationale for Diversion

Reduction of Court Burden

Diversion, whether formal or informal, may play a role in reducing the number of cases that come under the purview of the juvenile court. In a court system overburdened with requests for services, diversion provides important flexibility. If every juvenile case received was processed by the procedures that each statute or appellate decision demanded, the official system would be inundated with cases and taxed beyond the limits of its resources. "Diversion, like discretion, is an inherent part of a system based on decisions by individuals about other individuals. The question is not whether it should exist but when and under what circumstances it is best encouraged" (Nejelski, 1976:397). The use of diversion may not only serve to reduce demands on the juvenile court, but may also facilitate the delivery of services to eligible youth, since cases petitioned to court may encounter prolonged delays.

Labeling

The use of diversion may avoid the stigmatization inherent in the "delinquent" label. Formal contact with the juvenile justice system, it is thought, may do more harm than good. "Adjudication of delinquency has serious consequences for the future responses the child receives from teachers, parents, and police. Moreover, the child may internalize a negative self-image as a result of this contact with the justice system, which in some cases, may lead to further acts of delinquency" (National Advisory Commission on Criminal Justice Standards and Goals, 1976:142). Diversion, it is argued, allows the juvenile to escape this process of labeling by avoiding the juvenile justice system before a label is attached.

Labeling theory proposes that to reduce delinquency, diversion programs should aim to reduce a youth's feelings of alienation, increase a youth's self-esteem, provide increased access to conventional social roles, and prevent negative labeling.

Dispositional Alternatives

Since diversion is practiced at all stages of the juvenile justice system, it provides an option for system personnel to deal with juveniles who might not benefit from either a brief informal lecture and release or formal court processing. When alternative services are available, juvenile justice system personnel may have more ways to serve delinquent youth. Thus diversion is presented both as a means to circumvent formal court processing, and to expand the system's ability to fulfill its traditional function.

Recidivism and Rehabilitation

Proponents of diversion maintain that diversion can reduce recidivism through alternative rehabilitative efforts. A number of researchers have shown (such as Gold, 1970) that higher recidivism rates may be due to the fact that people with a record are treated in a different manner than people without a record, and consequently may follow in the same pattern of delinquent behavior. The concept of diversion envisions the juvenile court as an avenue of last resort to be reserved for the "hard core" delinquent. Children not fitting this classification may be referred to a diversion project that can better serve their rehabilitative interest.

Cost Savings

Processing a juvenile through each stage of the juvenile justice system can be expensive. A significant cost saving can be achieved if a juvenile is kept out of the system. Furthermore, if police are successful in reducing the recidivism rate among juveniles, additional savings to the community and the society as a whole can be realized. The National Commission (1976) indicates that scarce judicial resources may best be utilized by reserving formal processing for cases involving serious misconduct. Justice system agencies may realize further cost savings if diverted youth are directed into general community resources and private programs.

A Sacramento, California, diversion project reported an average total cost of \$29 for the handling of "one-contact only" cases, compared with a cost of \$222 for youths referred to juvenile court intake. In cases of repeat bookings, costs rose to \$170 and \$405 for each group respectively (Baron, Feeney, and Thornton, 1973:18). A 1973 report by Gemignani estimated that by 1977, about \$1.5 billion could be saved with the adoption of diversion nationally. A review of the literature revealed little cost-effectiveness research on diversion, therefore no conclusive results may be reported. However, more recent estimates using 1977 data indicated that overall police and court processing costs have averaged \$912 per juvenile case. For serious offenders, costs were estimated at \$1,071, while less serious offenders incurred costs averaging \$766 (Babst, Smith, and Phillips, 1980:77). With these figures in mind, the potential for savings is greater than earlier studies had suggested.

Humanitarian Benefits

By providing direct services and individual attention, diversion programs may offer a more humanitarian response to the juvenile delinquent than conventional court and correctional institutions. The juvenile court today is highly bureaucratized and at times may seem to be severely impersonal. Mistrust and hatred of the system may be generated because of the "nonperson status" granted the juvenile in court (Platt, 1969) and the arbitrary exercise of power over the lives of juveniles by

court personnel (Matza, 1964). Referral to community agencies, it is suggested, may result in more sympathetic attention to the problems of the individual youth.

Additional Benefits

The President's Task Force (1967) and the National Advisory Commission (1976) emphasize that community involvement should be an important consideration in the development of diversion programs. Since diversion occurs at the local level, the design of the programs may affect the needs and character of a community. Properly designed programs may encourage community involvement and provide an integrative nexus between the juvenile justice system and the community in the effort to reduce delinquency. Community involvement in diversion may create a greater awareness of community problems and consequently may enable the community to come to grips with its juvenile offender problem.

The Commission's recommendations for formalized policy governing the use of formal diversion (National Advisory Commission on Criminal Justice Standards and Goals, 1976:216, Standard 5.10) is designed to help reduce the field discretion exercised by individual police officers. A major purpose of creating explicit policy guidelines is to reduce the degree of discretion that officials within the juvenile justice system can exercise and decrease the possibility that they will act arbitrarily or with bias. This factor is appealing to juvenile justice administrators who are concerned with the equitable application of the law.

Critique of Police Diversion

Research on the topic of diversion has uncovered both hazards and criticisms of the use of diversion, especially at the police level. The most salient criticism is whether diversion represents an actual policy or treatment mode, or whether it is just a new name for the old practice of discretionary non-prosecution. Stratton observed in 1974 that "there is very little literature dealing directly with whether or not diversion is successful or just a temporary removal from the system" (Stratton, 1974:49). As the literature reviewed for this report shows, this is still a valid issue.

Compounding the controversies regarding the usefulness of diversion is the tremendous amount of variability in its application. Programs may vary in their eligibility criteria, program goals, services offered, and so on. This diversity makes it difficult to discuss them at all, let alone evaluate them collectively. The remainder of this section will present more specific criticisms of police diversion.

Old Stigma for New?

Critics of labeling theory have remarked that the actual effects of formal court processing are not certain. The assumption that juveniles are stigmatized by contact with the juvenile justice system, they suggest, is unproven. Thus the premise on which diversion programs is based is cast in doubt. At the same time, analysts sympathetic to the labeling approach have questioned whether juveniles who are formally diverted actually avoid stigmatization. As Cressey and McDermott wrote,

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 (Cressey and McDermott, 1973:59).

Klein has suggested that the practice of diversion may avoid criminal or delinquent labels only to apply new labels to juveniles as "disturbed" or "mentally ill" (1976:424). Most diversion programs claim that the reduction of unnecessary stigma through diversion will help abort potential delinquent careers. Yet, according to Klein, "proposals for diversion programs have seldom sought supportive evidence...and the programs ordinarily make only feeble pro forma attempts to collect such evidence from their own activities" (Klein, 1976:24). Many diversion programs employ professionals that belong to the fields of mental health, welfare, and education. Therefore, critics claim, there may be a substitution of stigma associated with diversion programs and services.

The Numbers Game

The dependence of diversion programs on evanescent Federal, State, and local funds can lead to a sort of "numbers game" that works to the disadvantage of program clients. The survival of a diversion program may hinge on its ability to process a large number of juveniles. As Dunford writes, "In order to justify their existence to funding agencies they must 'treat' a large number of youth. In order to 'treat' large numbers of youth, time spent with individual referrals must be minimized" (Dunford, 1977:339). When the survival goals of the program subordinate the treatment needs of the clients, the entire purpose of the program is undercut. Furthermore, in programs where services are provided by agencies other than the police, those agencies may become dependent on the police (for an adequate number of referrals, and for appropriate referrals) to an unhealthy degree.

Widening the Net

A major criticism of diversion is that more juveniles may be channeled through the diversion system than would otherwise have been handled by the juvenile justice system. This process, known as "widening the net," means simply that the diversion program serves as a simple means for police to extend the scope of their surveillance of and social control over juveniles. Klein and Teilmann (1976) surveyed 35 police departments participating in diversion programs, and found that

while there is clearly a desire in some police departments to divert juveniles from the system, the more common feeling is that referral should be used as an alternative to simple release. In short, the meaning of diversion has been shifted from "diversion from" to "referral to." Ironically, one of the ramifications of this is that in contrast to such earlier cited rationales for diversion as reducing costs, caseload, and the purview of the justice system, diversion may in fact be extending the costs, caseload and system purview even further than had previously been the case (Klein and Teilmann, 1976:10).

It may be argued that the expanded caseload is justified because the additional juveniles brought into the system need the services offered by the diversion program. Yet it is likely that, if diversion is indeed viewed as an "alternative to simple release," referrals will not be made on the basis of demonstrated need, but rather for those cases where the police feel that official supervision is required but successful prosecution is unlikely.

Rights of Due Process and Coerced Participation

National Advisory Commission guidelines reviewed above stress that participation in a diversion program should be voluntary, that the juvenile should receive full due process rights unless those rights have been knowingly waived, that diversion should preclude further prosecution on the original charges, and that participation must not be the result of threats or coercion. A review of the literature has revealed that a juvenile chosen as a candidate for diversion may not be free of the threat of further court processing. Despite guidelines stipulating non-coercion, this threat may be implicit in a referral to a youth service bureau or community agency.

In the Bronx Neighborhood Youth Diversion Program, for example, diverted juveniles remained under the jurisdiction of the juvenile justice system and thus could be liable for formal processing. Even though juveniles were referred by probation intake officers and the program itself was run by community residents, unsatisfactory performance by the diverted juvenile could result in a referral to court intake (Nejelski, 1976).

Effectiveness of Formal Guidelines

While national standards also require the creation and observance of formal policy for diversion referral decisions, there is some evidence that such criteria are both rare and often ignored. A study conducted by Rothenberger and Shepherd (1978) in Michigan found that only 12 percent of the police agencies studied had formalized guidelines, and 77 percent responded that they desired written policy which they could implement. In addition, 85 percent of the police agencies requested training in the use of diversion (Rothenberger and Shepherd, 1978:74).

Even where formal guidelines exist, they may not be used. In three reports issued by the Claremont Graduate School Evaluation Team (1977) of a study in the Los Angeles area, it was found that most diversions were made by a relatively small number of officers and that there were great disparities in the criteria used to divert juveniles. "Among all three programs during the first year, 88 different officers made 1,250 diversions but slightly over half of the officers made less than 10 diversions" (Claremont Graduate School Evaluation Team, 1974:14). Interviews with those officers diverting the largest numbers of juveniles revealed that even they held varying ideas about what type of juvenile should be diverted. Diversion programs thus appear to add to, rather than subtract from, the discretionary power of police officers.

Reduction of Recidivism?

Evaluation results available so far present no convincing proof that diversion programs succeed in reducing the amount of juvenile delinquency. This is due in part to a lack of clarity about the programs themselves, and in part to the inadequacy of their evaluations. In a review of diversion evaluations, Gibbons and Blake (1976) found that such shortcomings as small sample sizes and ambiguities about program content made it difficult to determine the efficacy of the programs. Many of the programs reviewed lacked a specific set of goals--whether it be a reduction in recidivism, avoidance of court stigma, or simply keeping juveniles off the street--upon which to formulate evaluation criteria. Problems concerning the definition of diversion used by a particular department, the criteria used by the officers for diversion, and generally poor statistics are difficult for researchers to overcome. Cressey and McDermott conclude that "evaluation of diversion programs based on recorded

information will be a time consuming and expensive process and without the brightest prospects for meaningful results" (Cressey and McDermott, 1973:33).

The tendency of police to make decisions based on informal criteria that are unrelated to written policy, and therefore are not accurately recorded in preconceptualized statistical categories, makes meaningful interpretation of evaluation data impossible. As Dunford wrote,

Diversion, as envisioned by its early advocates as a viable alternative to penetration into the justice system, may well be rejected or otherwise perverted on the basis of definitions and operationalizations entirely foreign to the conceptualizations that made it so attractive to begin with (Dunford, 1977:350-351).

CONTINUED

1 OF 2

Chapter VI

SUMMARY AND CONCLUSIONS

THIS TOPICAL REPORT has approached the subject of police-juvenile relations from a number of substantive directions. Throughout, the unifying focus has been on the problem of balancing society's need for social control over juveniles with the rights and needs of juveniles themselves in the specific operational context of police work. The thesis of the report, suggested in Chapter I and elaborated in subsequent chapters, is that police work is only precariously controlled by the requirements of legality in modern democratic society, and that that control is most precarious in the juvenile justice system where the ideology of rehabilitation invites the abuse of discretionary power. The chapter-by-chapter discussion may be summarized briefly.

The historical roots of the contemporary relationship of police to juvenile justice were explored in Chapter I. It was shown that police and juvenile court reform movements in the early 20th century shared the dual goals of improving the efficiency of law enforcement and transforming the Nation's legal machinery into an instrument for social reform. While these movements failed to achieve their long-range goals, they succeeded in passing legislation which placed the burden of enforcing particularistic standards of morality on the police, and thereby gave the police and the courts considerable power to investigate and adjudicate the private lives of citizens.

From this historical context arose three generic dilemmas of police work; dilemmas that present more salient problems in juvenile justice than in other areas of the legal system. First, police must both enforce the law and keep the peace. Often situational expediency requires that police use law enforcement sanctions as coercive means of peace keeping, as when an officer threatens arrest or court referral to elicit good behavior from a juvenile. Second, police must balance the legal requirements of due process with their own bias toward social control. In juvenile justice especially, where due process safeguards are relatively weak to begin with, there is an inbuilt tendency for police to overemphasize social control. Third, police are expected to act like professionals even though they work in a rigidly bureaucratic organizational system. Hence they tend to seek professional-like autonomy and discretion to prevent review of their decisionmaking practices by supervisors and the public. In brief, society makes conflicting demands on police, and the conflicts of police work both necessitate and facilitate the expansion of police discretion.

Chapter II applied these insights to some ideal-typical roles that police may assume in response to juvenile delinquency. The legalistic role emphasizes the law enforcement-social control-bureaucratic aspects of police work. It is a role that is practically impossible for police to maintain consistently, both because of the day-to-day demands of peace keeping and because of the ambiguity of most juvenile-related legislation. The rehabilitative role emphasizes the proactive, "professionalized" side of police

work. While this role is philosophically compatible with juvenile justice statutes, it is questionable whether police are adequately skilled in preventive methods, and whether they are capable of making evenhanded distinctions between preventive treatment and retributive sanctions. The combined legalistic/rehabilitative role favored by police administrators offers none of the benefits of either model and all of the problems of both. In practical terms, it makes available to the police officer all the discretion of the rehabilitative approach and the severe sanctions implicit in legalism.

Chapter III presented a discussion of the social organization of police work with juveniles. The goal of this discussion was to show how the above mentioned "dilemmas" of police work are reflected in organizational relationships. A review of the literature suggested that outcomes of police decisionmaking vary depending on the local political "ethos," the community in which the officer is operating, the relationship of the police to the juvenile court, and the organization of the police department itself. However, there is no simple correlation between organizational variation and aggregate decision outcomes. Organizational factors simply define a set of conditions which the individual officer must interpret in the context of a specific juvenile encounter. The net effect of the organization of police work is to insulate the department from outside influences, to protect the individual officer from scrutiny by his superiors and the public, and in general to make the "real"--i.e. informal--criteria of police processing decisions invisible. What is invisible, furthermore, cannot be effectively controlled to achieve desired social ends.

With a basic understanding of the organization of police work with juveniles providing a context, Chapter IV reviewed available empirical literature on police decisionmaking. Findings concerning case-related and defendant-related variables were discussed, with the following results:

Case-related variables

- Offense seriousness appears to be positively correlated with severity of sanctions applied by officers. Yet, since offense charges may be construed post hoc to justify a case outcome desired by the officer, it is impossible to say that this relationship is causal.
- Victims' and complainants' preferences affect police decisions. This effect is particularly notable in the decision to arrest.
- Existence of codefendants had an unclear effect. Codefendants are likely to be handled in a similar fashion, especially where the officer is seeking to construct a "prosecutable" case.
- Evidence has an unclear effect, in part, perhaps, because the juvenile court de-emphasizes evidence, in part because physical evidence is rarely included in a case against a juvenile, and in part because it is difficult to separate the effect of witnesses as evidence from their impact as observers.

Defendant-related variables

- Demographic characteristics of age, sex, race, and socioeconomic status show uneven effects in various studies. Differences in results may be

attributable to different research methodologies; they may as well be due to differences in police practice from one area to another, and/or to change over time in police behavior.

- Demeanor of the juvenile offender clearly affects police decisionmaking. Juveniles who refuse to recognize the authority and moral superiority of the policeman--or those who show a suspicious excess of deference--are likely to be perceived as difficult cases requiring formal treatment.
- Prior offenses on the juvenile's record also contribute to more severe formal sanctions. In this sense, police decisionmaking at one point in time provides a pretext for future decisions.

In summary, the behavior of police, like that of most legal institutions, is not well understood. Police appear not to behave with the consistent personal biases some critics would like to find; at the same time, they do not simply "enforce the law" by applying unambiguous legal labels to empirically clear instances of deviant behavior. Rather, these findings suggest, they use their formal authority in a situationally rational, strategic manner in accordance with informal norms that are either individual or shared among a group of colleagues.

Finally, Chapter V examined the widespread policy of police diversion. The contemporary ideology of diversion was shown to be an extension of the founding philosophy of the juvenile court. As such, there is more clarity about what it is intended to avoid--i.e., formal processing--than what it is to achieve. Policy recommendations for police diversion programs are generally inadequate to prevent their misuse by police departments.

Descriptions and evaluations of selected police diversion programs were reviewed, and it was concluded that these programs had inconsistent or unclear goals; that referral criteria were ambiguous or ignored entirely; and that evaluations were inadequate. Finally, it was concluded that there is not enough evidence to determine whether police diversion programs are actually reducing the harm done by the juvenile justice system, or merely providing another formally-sanctioned means for the extension of informal social control over juveniles.

In summary, the findings of this report are highly critical both of the contemporary state of police-juvenile relations and of many reforms that are currently being proposed. While research has failed to demonstrate that police are consistently, systematically biased in their handling of juveniles offenders, the very breadth of police discretion and their practical inability to enforce all the laws implies the constant use of arbitrary and invisible decisionmaking criteria. Research supports the notion that police do use their discretion to their own ends, even if it cannot predict with statistical precision how they do so.

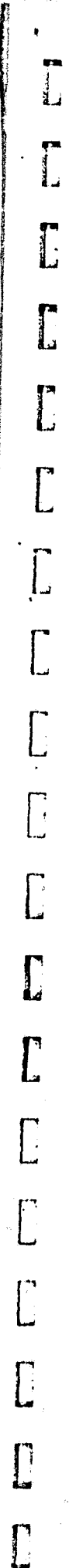
At the same time, contrary to police reform ideology, the exercise of police discretion appears not to be informed primarily by personal bias or prejudice, although these can be exploited in an unsystematic fashion. Rather police behavior appears to be a diffuse response to the difficult social role of the police and the strains to which they are subject as a group. Because these strains are structural in origin, they will not be alleviated by special training, policy recommendations, or programs that broaden the officer's decisionmaking latitude. We cannot "reform" police,

or make them more fair and more responsive to society by giving them a broader range of more complex decisions affecting a larger proportion of the juvenile population.

Those who are concerned about the excesses of the juvenile justice system--its frequent arbitrariness, its apparent biases against the poor and nonwhite, its frequent laxity and its irrational harshness--must look beyond the policeman "on the beat" and into the society itself for both cause and cure. Two issues especially deserve attention. The first is the inequality that besets American life, particularly in urban areas. Inequality sets profound institutional parameters on the behavior of police. These parameters tell the officer who has property that must be protected, and who is likely to prey upon it; they tell where surveillance should be increased, and what neighborhoods may be left alone; they determine what individuals and families will have the resources available to solve problems and settle disputes without recourse to agents of formal social control--in short, they help determine who a policeman will encounter, and under what circumstances, even before he is confronted with a decision.

The second issue is the propensity of American society to turn moral norms into legal rules. Such rules are, as critics of the Progressives pointed out eighty years ago, practically unenforceable. Because they are unenforceable, they cannot achieve the social goals they were intended to achieve. Law has not dealt successfully with any of the problems that more properly belong in the realms of public health, social welfare, and mental health. A profusion of laws criminalizing all manner of juvenile misbehavior has not made any juveniles virtuous; instead it has made all juveniles, at one time or another, violators of the law. Moreover, by inviting police to become agents of social reform, we give them ingress to realms of minor deviance where lawbreaking, if sought, can easily be found.

Control over police discretion will not be secured by heaping more responsibilities and more dispositional options on police forces already under attack for failing to enforce the law. Indeed, police discretion can never be eliminated; it can only be limited by restricting our expectations.



APPENDIX A

NATIONAL JUVENILE JUSTICE SYSTEM ASSESSMENT CENTER

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APPENDIX B

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* Indicates a report of the National Juvenile Justice System Assessment Center.

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