

**Edward Eldefonso**

**Law Enforcement and the Youthful Offender:  
Juvenile Procedures**

# *Law Enforcement and the Youthful Offender: Juvenile Procedures*

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John Wiley & Sons, Inc.      New York • London

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*Library of Congress Catalog Card Number: 67-15893*

*Printed in the United States of America*

## Preface

This book is designed to cover the major aspects of police work with juveniles and, therefore, the subject matter is extensive, covering such widely diversified matters as *national and international trends, the role of law enforcement in the prevention and control of delinquency, juvenile court law, theoretical approaches to delinquency causation, police services for delinquent and neglected children, and special problems confronting law enforcement*; i.e., juvenile gangs, teen-age drinking, adolescent drug addiction, school drop-outs and delinquency and sexual misbehavior among adolescents.

Within the above framework, an effort has also been made to capitalize upon the student's interest in probable future police work. There is thus more material than in similar books on investigative techniques, juvenile court law, and special problems.

At the conclusion of each chapter the student will find a brief summary to serve him as a guide to the contents of that chapter, and to strengthen his memory of the prominent features after he has read it. Furthermore, at the end of each summary there are a number of questions designed to test the student's retention of textual reading.

I feel that this book provides the prospective police officer with ready access to a comprehensive, integrated, and, at the same time, authoritative textbook which embraces all aspects of police work with juveniles. This book may also be utilized by classes dealing with *Juvenile Procedures for Law Enforcement*, or any course in juvenile delinquency.

Many obligations have been incurred during the preparation of *Law Enforcement and the Youthful Offender*, some of them as impossible to identify as they are to repay. Among those persons whom it is impossible to thank, however, are two individuals who actually made it possible for me to write this text: B. Earl Lewis, Director, Department of Law Enforcement Education, Foothill College, Los Altos, California; and Robert E. Nino, Chief Juvenile Probation Officer, County of Santa Clara, San Jose, California. These men gave me an opportunity to instruct classes in Juvenile Procedures — the course for which this text was intended. I am also indebted to the following agencies for the coopera-

tion extended in accumulating material: International Association of Chiefs of Police, specifically Nelson A. Watson, Project Supervisor, Research and Development; National Council on Crime and Delinquency; Federal Probation; Children's Bureau, U. S. Department of Health, Education, and Welfare; and the Federal Bureau of Investigation. For their individual contributions, I owe much to the following academicians: W. E. Thornton, Chief Probation Officer, County of Sacramento, California; R. E. Rice and R. B. Christensen, County of Los Angeles Probation Department, Los Angeles, California; G. Geis, Professor, California State College, Los Angeles, California; and W. C. Kvaraceus, Boston University, Boston, Massachusetts; each will recognize the points which he has contributed.

My special appreciation is extended to Naka Prastalo for her genuine enthusiasm and support and to Mildred Ann Eldefonso for reading and criticizing the manuscript—specifically the footnotes and bibliography; also, for “putting-up” with my changes of mood during the final stages of refining the manuscript. Appreciation is also extended to the several authors and publishers who gave permission to quote copyrighted material; specific acknowledgments are accorded each quotation in the text.

Edward Eldefonso

San Jose, January 1967

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# PART ONE

*Introduction*

*Definitions . . . Inadequate*

*Cases Involving Youthful Offenders*

*Scope of Problem . . . National and International Trends*

*Prevention Is the Answer*





## Chapter 1

### *Introduction*

CRIME IS NOT A NEW INVENTION; it is as old as time. Furthermore, juvenile delinquency has been its constant companion and, as such, has served as a "training school." Socrates is alleged to have declared:

*The children now love luxury. They have bad manners, contempt for authority, they show disrespect for elders and love chatter in place of exercise. They no longer rise when their elders enter the room. They contradict their parents. Chatter before company. Gobble up dainties at the table, and tyrannize over their teachers.*

Although the problem of youthful crime is not new, current statistics indicate a development alarming enough to make it imperative we make some adjustments in our approach concerning the responsibility of juveniles for their crimes.

Just how serious is the problem?

Crime in the United States increased four times faster than the nation's population in the last five years! Serious crimes—murder, robbery, forcible rape, burglary, aggravated assault, larceny of fifty dollars or more, automobile theft—have mounted steadily since the end of World War II. According to the FBI, in 1951 criminal acts topped the one million mark, and in 1962 the two million mark was passed. There is a serious crime committed *every fifteen seconds*.

Graver still, however, is one chilling development in these statistics with respect to our most precious asset—the youth of the United States. In 1965, according to the Uniform Crime Reports, we witnessed the seventeenth consecutive year in which youthful criminality increased over the previous year! During that period, young offenders were represented in over 52 per cent of total arrests.

*What* social and environmental factors contribute to juvenile crime? *Who* should be responsible for the suppression and control of delinquent behavior?

So many elements must be considered with regard to the curbing and eventual control of delinquency that to give primacy to any one

factor outside the home would be extremely difficult. Among other factors to consider, good—not adequate—police work is mandatory. Good law enforcement depends, to a great extent, on the quality of men selected and the effectiveness of the training they receive. Although the well-trained officer is a poor substitute for parental control, he is a vital component in effective delinquency control and prevention programs.

In almost every situation involving a delinquent act the police officer's role is a vital one, and he is *initially* involved. He sums up, in his person and his uniform, the true meaning of "Law Enforcement": *he represents the law*. Therefore, his demeanor and actions impress a lasting image in the mind of the juvenile. This image relates directly to the child's understanding of law and law enforcement and, in many instances, to his subsequent behavior.

The police officer's role in delinquency control *does not*, as many suppose, automatically end with detection and apprehension. On the contrary, Uniform Crime Reports reveal that as many juvenile cases are handled within police agencies as are referred to juvenile courts. For example, in 1965 more than 47 per cent of all juveniles taken into custody were handled on the police level with an admonishment or turned over to parents or private welfare agencies. The remainder were referred to juvenile courts, to criminal courts for trial as adults, or to other law enforcement agencies.

This may be startling to many who for the first time are shocked into an awareness of the scope of police responsibilities with relation to juveniles. The need for good judgment, bulwarked by sound training, is apparent. The police officer inescapably finds himself in a position where he must make a decision which will have its indelible effect on a young and impressionable person. The arresting officer must consider the child and the gravity of the offense. The officer must ask and answer the following questions:

Will the ends of justice and the best interests of the community and the juvenile be served merely by an oral reprimand?

Or shall the parents be advised of the offense and urged to exert closer supervision over the minor?

Or is the offense one which requires referral to juvenile court or another agency?

It is common knowledge that almost without exception the police officer is the first to approach the child in trouble. He or other members of his department make a preliminary assessment of all juvenile offenders taken into custody. Thus the police officer, in effect, sits as judge or serves as social worker in many instances. His findings deter-

mine the final disposition of almost half the cases involving juvenile offenders who are taken into custody. In order to make the correct decisions, knowledge of motivation is important. So is knowledge of juvenile court jurisdiction and procedures as well as disposition of prior cases. The progressive police officer needs to be aware of basic concepts in the social, psychiatric, and rehabilitative fields. Since much of police work relates to crime prevention, the police officer needs perception in public and human relations.

In the light of the above, it goes without saying that training is essential. Modern law enforcement, recognizing this fact, is promoting increasingly broad programs in this field. Many local training units give lengthy and detailed courses in this area of police work. From recruits and through the ranks to supervisory and command levels, this aspect of police training is considered vital. Officers needed to man juvenile divisions, as a general rule, are selected with care and are given specialized training beyond that afforded other officers.

*The basic responsibility of law enforcement is the protection of all people.* Law enforcement officers must learn to differentiate between the apple-stealing prankster of tender years and the knife-wielding, chain-swinging hoodlum, also of tender years. There is a difference between delinquency and criminality. Certainly, the police—and the courts—must remove from circulation those who violate society's rules to the extent that they constitute a menace to the welfare of the community, regardless of their age.

Almost any aspect of police work may involve juveniles. Statistics for 1964–1965 reveal to some extent police encounters with juvenile violators of the law. Arrest of persons under 18 years of age made up more than 48 per cent of all arrests for criminal acts in cities and rural areas. The statistics presented in Chapter 3 reflect the seriousness of the problem. These statistics also indicate clearly the importance that must be attached to the problem itself and to the officer charged with the initial responsibility in the confrontation of that problem. That officer—every officer—must be adequately trained if he is to discharge his duty effectively. He must be trained in order to instruct by action, by precept, and by example.

The need for informed and well-trained police officers in combating juvenile delinquency and juvenile crime goes beyond actual apprehension and detection. Day after day, week and week, the officer who is fulfilling his task effectively is automatically helping children arrive at acceptable standards of conduct. His insistence on obedience to the law, and his firm but fair attitude in dealing with those who violate the law, assist the young child in arriving at a sound conclusion of what is

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acceptable and what is not. Again and again the police officer must serve as teacher, explaining the law and pointing up the inevitable retribution that follows its violation. But even the most effective law enforcement officers, putting forth their best efforts, cannot stem the tide of delinquency flowing from parental failures in growing numbers of homes.

The increase in juvenile crime (current statistics reveal that delinquency is skyrocketing by more than four times the rate of national population growth) is a continuing reason for concern. It is a sound reason for mobilizing community resources in behalf of crime-fighting agencies. It is a reason which should prompt civic-minded citizens to support a basic, progressive, continuous law enforcement training program. Unquestionably, the well-trained local law enforcement officer is a vital ingredient in crime control.

## *Definitions...Inadequate*

JUVENILE DELINQUENCY means different things to different people. To some, a juvenile delinquent is a boy or girl arrested for a law violation. To others, a single appearance in Juvenile Court identifies the delinquent. To many, the term covers a variety of anti-social behavior which offends them, whether or not a law is violated.

*Juvenile delinquency* is a blanket term which obscures rather than clarifies our understanding of human behavior. It describes a large variety of youths in trouble or on the verge of trouble. The delinquent may be anything from a normal, mischievous youngster to a youth who gets into trouble by accident. Or he may be a vicious assaultive person who is proud of his anti-social conduct. As a blanket term, delinquency is like the concept of illness. A person may be ill and have polio or measles. The illness is different, the cause is different, and the treatment is different. The same is true of delinquency. Like illness, delinquency describes many problems that develop from varied causes and require different kinds of treatment.

The number of acts by which a juvenile can be identified as a delinquent are almost limitless. In addition to the major violations defined in the criminal codes, a juvenile is described, in some jurisdictions, as delinquent for habitually disobeying parents, truancy, petty stealing, keeping late or unusual hours, running away from home, sexual misconduct, or other nonlaw violating irregularities.

In its broad general meaning delinquency includes:

Officially adjudicated offenders.

Unofficial delinquents, or those handled informally by the courts or by some designated agency.

Cases handled by the police.

Children with special behavior problems or those displaying evidence of anti-social behavior or treated by private agencies.

Children presenting evidence of anti-social conduct, whether or not they are taken before official or private agencies.

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Such breadth of meaning explains why a large number of acts may constitute delinquency.

However, in a strictly legal sense, the term should be applied only to those adjudged delinquent by a juvenile court, but young offenders who become involved with the police and courts are only a part of juvenile law violators. There is no way of telling how many youngsters commit crimes and are not caught.

State laws differ as to the age which determines whether a young offender will be handled as a juvenile or as an adult criminal. Most states have age 18 as the limit, others 16 or 17. Some state laws require persons of juvenile age to be tried in an adult criminal court for certain crimes such as murder. In many states, the juvenile court can waive jurisdiction so that a juvenile is tried in an adult criminal court for offenses such as a felony.

### WHAT DOES JUVENILE DELINQUENCY MEAN?

The many variations in juvenile court law are confusing. For example, in one state a child who commits a specific offense may be handled as a juvenile delinquent while one who commits the same offense in another jurisdiction may be handled as an adult criminal. This makes an accurate definition or statistical count of juvenile delinquents difficult, as Table 1 in Appendix A shows.

Today the term *juvenile* when applied to delinquency refers to a major social problem involving a specific age group defined locally by law. Until 1899, when the first juvenile court law was enacted by the Illinois legislature, all juveniles who came into contact with the law technically fell into the category of "criminals."<sup>1</sup>

As Dr. Milton L. Barron so eloquently pointed out in his book, *The Juvenile and Delinquent Society*, in terms of historical perspective there have been three dominant movements contributing to the emergence of the concept of the juvenile delinquent and the institution of the juvenile court as differentiated from crime and criminal proceedings.

The concept that *immaturity* exempts the individual from moral responsibility in choice of behavior is perhaps the earliest movement in this direction. In common law, a child up to the age of 7 has long been held to be non-responsible under the principle of *mensrea* (blame intent based on the minor's ability to distinguish right from wrong). Furthermore, common law declares that the child from 8 to 14 years of age has been presumed to be incapable of guilt, and thus irresponsible, because

<sup>1</sup>W. C. Kvaraceus and W. E. Ulrich, *Delinquent Behavior, Principles and Practices*, National Education Association of the U.S., Washington, D.C., 1959, p. 114.

of immaturity unless he could be shown to have sufficient intellectual capacity to perceive the difference between lawful and unlawful behavior. The second movement is reflected in current juvenile court processes.

This principle of *chancery of equity* was established by early English kings in reaction against the rigidity of the law and court as applied to minors and to those needing aid. Under the principle of *parens patriae* (father of his country) and its modern counterpart, *in loco parentis* (the state standing in place of the parent), the child's rights have been ordered in civil law in such matters as neglect, dependency, and guardianship. From this principle emerged the concept of "the ward of the state" to apply to the juvenile handicapped by lack of effective parental supervision or control.

Third and most recent—the result of certain combinations of intellectual and reform movements, notably middle-class humanitarianism and child psychology—there arose a strong tendency to protect the child from the sweatshop, whipping post, and incarceration with adult offenders. At the same time, social and psychological research combined with modern penology to stress cause of crime, diagnosis, and treatment, and ultimately to focus on prevention through individual study and therapy, especially in the case of younger offenders.<sup>2</sup>

These three developments led to the present-day concept of juvenile delinquency as something quite different from adult crime. The earlier concept of the young offender to whom punishment is accorded to fit the crime has been largely replaced by the concept of the juvenile as a youngster needing guidance, much as any child in need of medical assistance in the form of diagnosis and treatment. The close affiliation of the early juvenile court with the child-guidance movement, initiated by Dr. William Healy (Cook County, Illinois, 1909), illustrates this point, although the focus was exclusively on the individual and his family rather than on environment.

Thus the term *juvenile crime* represents a contradiction within a strictly legal framework since "crime," by definition, can be engaged in only by adults. Legally, the term *juvenile delinquency* includes all the youngsters between certain age limits (7 through 18 in most states) whose behavior or series of behaviors involves infractions of rules and norms in such a manner as to bring them to the attention of authorities connected with official institutions. The official institution may be in the form of the overall legal societal authority or a sub-institution such as an education facility (school).

<sup>2</sup>*Ibid.*, pp. 45–116.

Two major kinds of violations are included in states and federal statutes: first, those violations of law which, if committed by an adult, would be called crimes; second, those transgressions peculiar to the juvenile age group, such as truancy and incorrigibility which have special significance only for members of this group. Hence, there are in the legal concept both the linear law which includes offenses ordinarily defined as "crimes" but now, because of the age factor, handled as "delinquencies" and the special infractions which are meaningful to the younger members of the community.<sup>3</sup>

What does this mean? When an attorney speaks of tort, contract, or bailment, he has in mind something specific. When the police officer, probation officer, parole officer, or deputy sheriff discusses a burglary or a robbery or a rape, he speaks of crimes that have a common law meaning. He knows the elements that make up the specific crime, and generally he knows what actions come within the offense. But this is not so when someone speaks of juvenile delinquency. There are dissertations, periodicals, books, and many media which discuss juvenile delinquency and all profess to be alarmed over it, but no one can tell exactly what it is that constitutes delinquency. A noted authority on crime and delinquency, Professor Clyde B. Vedder, states that "*a very difficult problem in studying juvenile delinquency is deciding upon an exact definition of the term itself—no two authorities agree in this matter.*"

There seems to be a concerted effort on the part of the authorities to avoid labeling juveniles as delinquents. According to statistical information from the FBI Uniform Crime Reports and the Children's Bureau of the Department of Health, Education, and Welfare, law enforcement agencies handle more than two-thirds of juvenile police arrests informally. Scrutiny of statistical information from such agencies shows that more than 1,700,000 youths have had contact with various police agencies throughout the nation—but only approximately 500,000 actually appeared before juvenile courts throughout the states on petitionable offenses.

Thus it is safe to say that more than half of the juveniles taken into custody by the various law enforcement agencies throughout the country are returned home without further action. It is also safe to say that half the juveniles who are referred to juvenile courts are released without a finding of delinquency.

### **Who Is a Delinquent?**

For purposes of further discussion throughout this book, a delinquent is defined as *any law violator under the statutory age as described by*

<sup>3</sup>*Ibid.*, p. 117.



*the state in which he resides, whether or not he comes to the attention of the court.* However, agencies such as law enforcement, school, and probation-parole officers have devised their own concepts of juvenile delinquents.

## OTHER CONCEPTS

### Police Concept

The police concept classifies the delinquent as the *statistical delinquent* or *accidental offender* and the *personality-disordered delinquent*. The statistical delinquent is a minor who, through immaturity or through impulsiveness, is involved in a delinquent act although he normally functions well. These acts usually occur during gang activities or among the "spur-of-the-moment" automobile set. However, this particular delinquent, the statistical or accidental offender, usually does not repeat and matures into a normal law-abiding citizen.

On the other hand, the personality-disordered delinquent often engages in a series of anti-social acts which necessitates an immediate referral to the juvenile probation department and, in most cases, custodial care or some type of official help appears necessary.

### School Concept

This concept is rather a general one. Schools are concerned with delinquents who fall into such categories as:

1. *The academic delinquent—a minor who is not working up to full capacity in school.*
2. *The behavioral delinquent—a boy or girl who does not get along with teachers or peers in classroom or in recreational functions.*
3. *The mentally or physically retarded delinquent—a child unable to compete with his classmates due to severe emotional or physical handicaps, thereby causing him to act out in a hostile, unacceptable manner.*

Generally, the school feels that an unhappy child is a potential delinquent. As an example, the school cites the youngster who is unable to keep up with the manner of dress utilized by his peers or the youngster who will not conform to dress standards. This youngster may be teased and taunted by peers. Eventually, he is provoked into striking back. Is this a delinquent? No, but the seed is planted.

### Probation Concept

The probation concept deals with the juvenile who is actually referred to the juvenile probation department by various agencies and