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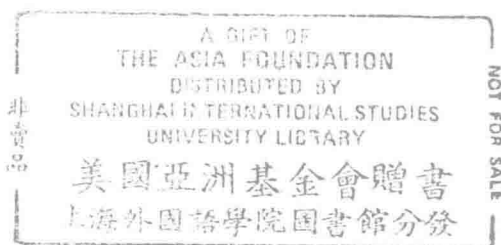
THE JUVENILE JUSTICE SYSTEM

Malcolm W. Klein
Editor



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THE JUVENILE JUSTICE SYSTEM

MALCOLM W. KLEIN, *Editor*



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PUBLISHER'S PREFACE

The success of past volumes of the *SAGE CRIMINAL JUSTICE SYSTEM ANNUALS* and the enthusiasm that they have created among scholars and practitioners who wish to contribute to the series (and, in some cases, utilize it in their classes) have prompted us to enlarge the program. Beginning with this volume in 1976 (for at least a two-year trial period) two volumes will appear during each calendar year (one in the spring and one in the autumn). Among the topics selected for future volumes are criminal justice and the victim (to be edited by William F. McDonald), modeling the criminal justice system (under the editorship of Stuart S. Nagel) and corrections and punishment, their structure, function, and process (to be edited by David Greenberg).

We believe that this shift from annual to semiannual publication will enable us to provide more continuous and timely coverage of the criminal justice field—a field that is drawing the interest of ever-growing numbers of social and behavioral scientists, students of law and public administration, policy makers and professionals in the fields of corrections, law enforcement, and the social services. Our expansion of this series is our way of thanking those subscribers, authors, and editors who have encouraged us over the years. We are, of course, eager to learn of our readers' reactions to these plans for expansion—as well as their suggestions for future volumes.

Sara Miller McCune
Publisher

Beverly Hills, California
February, 1976

*for Laurie and Leigh
and for their generation*

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PREFACE

It is common in the criminological literature of the 1960s and 1970s to speak of the "nonsystem" of criminal or juvenile justice. We have become so discouraged by the inefficiencies, ineffectiveness, and inequities of our systems of social control that we blame these systems for their intrinsic deficiencies and vituperatively label them nonsystems. It is an unfair label.

What we have, instead, are systems with somewhat ambiguous boundaries and shifting interdependencies. Their mode of functioning is, to an unacceptable degree, unplanned and inadvertent. Thus we have too much of a *reactive* and not enough of a *proactive* approach to dealing with criminal justice problems. A *reactive* system, no matter how unsatisfactory, is still a system, but one that leaves much room for rational assessment and improvement. This volume is concerned with such assessment and improvement, with specific reference to the juvenile justice system.

Since the late 1960s which saw the publication of the report of the President's Commission on Law Enforcement and Administration of Justice (1967), we have been undergoing a very perceptible period of change and experimentation. It is fashionable—and probably justifiable—to characterize federal commissions as ineffective. Such cannot be said of the Crime Commission, especially in the area of the juvenile system. Programs of diversion and deinstitutionalization, the development of Youth Services Bureaus and community-based treatment programs, and the promulgation of procedures appropriate to the Gault decision have all been greatly accelerated by the Commission's work. Much of this change is reflected in the chapters of this volume.

Perhaps equally important to the current status of the system, although much more difficult to document, is the impact of and reactions to the "war on crime" initiated under the Nixon administration. The most visible impact of this "war" has been the development of the enormous bureaucracy of the Law Enforcement Assistance Administration, the fifty state planning agencies, and numerous regional planning agencies across the nation. The expenditure of billions of dollars through these funnels has had tremendous impact on the component agencies of the juvenile justice system, but seemingly little or none

on the volume of delinquency to which they respond. The inequality of impact on system and on delinquency is clearly mirrored in a number of the chapters in this volume.

The opening chapter is the only one not composed originally for this volume. It is an edited summary of a brief conference of scholars which expresses some emerging views on the present and future status of delinquency prevention. The focus is off the delinquent and on the socializing and controlling institutions which seem to produce and treat him. The stance taken is strongly liberal and anti-control, emphasizing decriminalization and normalization while playing down the distinctions between delinquent and nondelinquent youth. The views enunciated in this first chapter are echoed again and again in succeeding chapters.

An interesting example of the echo emerges from Empey's review of the historical context of "adolescence." He suggests that current juvenile justice reforms may merely reinvent some old wheels. It may well be, according to Empey, that current reforms are based on unexamined contemporary values and habits of thought which are therefore self-limiting and unlikely to lead to truly fundamental changes. Clearly, taking account of this historical context leaves us less certain of the moral and legal assumptions underlying our legislation and our preventive and rehabilitative practices for children.

Spergel's chapter reminds us that the juvenile justice system emerges from and operates in a community context, that in fact the justice system is a *subsystem* subsumed under the community. To yield a better grasp of the community/system connections, Spergel undertakes an unusual interorganizational analysis of types of communities, illustrating how variations in community structure are related to variations in delinquency and its control.

The development of system diversion noted by Pink and White and by Spergel involves the community as the absorber of its own delinquents. Prominent issues in this development are highlighted in the paper by Klein and his colleagues. The negative tone in this chapter derives not from failures of diversion programs but from the plethora of unexamined assumptions and unanticipated consequences of these programs which seem to involve system change without the benefit of system measurement.

The chapter by Carter is highly unusual, but in a volume of this sort it may provide a very useful antidote to the scholar's view of someone else's system. Carter lets the cop have his say, in his own words, about his perspective on the system in which he is imbedded. If the policeman does indeed feel so negatively toward the juvenile justice system—and Carter suggests that he must, given the nature of his role in that system—then what hope is there that the system will ever work smoothly?

The Rubin chapter presents one answer to this question: return the system to its status as a criminal court, and let the *court* serve as the fulcrum of the system. Rubin provides a useful overview of the many factors impinging on the juvenile court judge, especially the pressures from community and professional interest groups. Additionally, he portrays the wide variety of court patterns in the United States—so many, in fact, that one might well question whether or not we do have *one* system of juvenile justice.

Like several of the earlier chapters, the piece by Sarri and Vinter on juvenile corrections reminds us of the very *local* (community) stamp on both walled institutions and community-based facilities. This exhaustive review of the current situation is discouraging in its documentation of the lack of change in incarceration rates and in its data-based suggestion that community alternatives do *not* seem to be accompanied by consequently smaller institutional populations. Additionally, Sarri and Vinter provide ample illustration of the many legal and procedural inequities in the correctional terminus of the justice system.

The final chapter, by Gordon, represents somewhat of a departure from the others, being concerned less with the nature of the system and its context than with critical measures of youth behaviors leading to involvement in the system. Gordon provides a brief, concise review of alternative delinquency indices—self-report, victimization, seriousness, prevalence—and indicates something of their complexity and interrelatedness. His own preference for elaboration is prevalence, a relatively undeveloped but important measure. Gordon's analysis of differential racial contributions to prevalence rates may make some readers unhappy. His analysis of the I.Q./delinquency relationships will absolutely enrage many others. Perhaps there is no better way to finish a volume like this than to provoke a genuine controversy.

If the editor may be allowed a personal word: I am very grateful to the contributors of this volume who were so willing to contribute brand new materials to a venture that must at first have seemed highly ambiguous. I invited them to work in areas of their own expertise, but to do so with an emphasis on the *system* aspects, on the inter-component areas so traditionally omitted in criminological texts. I knew what I wanted, but the contributors had to interpret my fantasies as best they could. I could not be more delighted with the outcome. The opportunity to put all these materials together has renewed my own hope that conceptual and perhaps practical progress can indeed be made.

Malcolm W. Klein

Los Angeles
November, 1975

Chapter 1

DELINQUENCY PREVENTION: THE STATE OF THE ART

WILLIAM T. PINK and
MERVIN F. WHITE

INTRODUCTION

Prevention strategies receive little attention in the delinquency field. In 1973 a group of experts gathered in Portland, Oregon, to participate in a two-day invitational seminar convened by the Regional Research Institute at Portland State University. The task was to provide perspectives on new directions in delinquency prevention. The following is a report of their meeting. It shows plainly that they believe we treat delinquent youth badly, sometimes even stupidly.

Contrary to the beliefs of those who administer it, they said, the juvenile justice system does not work. It may feed and clothe the judges, jailers, and

AUTHORS' NOTE: This paper was edited from Delinquency Prevention: A Conference Perspective on Issues and Directions, 1974, and is a report of a conference among David Bordua, Lois Defleur, LaMar T. Empey, Peter Garabedian, Donald Garrity, Don C. Gibbons, Malcolm W. Klein, David Matza, Kenneth Polk, Clarence Schrag, and James F. Short, Jr. The conference was sponsored by the Regional Research Institute for Human Services at Portland State University, Portland, Oregon, 1973. Edmund V. Mech was project coordinator.

agencies dealing out justice; but those being processed through these hands are none the better for it. In fact, they are the worse. Furthermore, the system's hands are clumsy and cannot sort the children who fall into them. All are tossed in the same bag, the rapist with the runaway.

How to make sense in the way we handle juvenile delinquents was the issue of the conference. As conferees saw it, until we begin to treat "institutional" causes and deficiencies we will have no cures. That means finding out just how we can transform the homes, the schools, the neighborhoods, and the churches that these children come from. How can we get them to work together to meet their fundamental responsibility toward youth? It is the rare judge or jailer who can help a child find his way. But the family, with a little help, might be able to. Getting him a job he likes might help. Making school curricula more relevant to his life might help. Finding a way for those who shape him to work together, that indeed might help. Such programs as these might prove far less costly than the current juvenile justice system. We owe it to our youth to rethink the business of how we prepare them for the world they must make their way in. This report is a step in that direction.

CONFERENCE AIMS

Everyone wants to prevent delinquency. Yet views in the field of prevention seem naive, vague, and out of touch with research. Basic concepts in the field lack precision, and few attempts have been made to build programs around consistent theoretical concepts. Accordingly, to explore the state of the art in delinquency prevention, a panel of theorists, researchers, and analysts in the field of delinquency met early in 1973 for an intensive two-day delinquency prevention seminar.

The prevention proposals of conference members were wide-ranging and ambitious. Among other things, they discussed proposed changes in juvenile statutes, keeping juveniles out of the courts, and broadly reforming society. Debate was lively and at times intense, but it did not yield a blueprint for preventing delinquent behavior. Such a blueprint would require data that do not exist. Conferees also observed that in the long run some delinquent behavior will remain, however effective a society's efforts at reform.

The conferees agreed that the following social changes were needed: (a) delinquent youth should be helped to reenter the mainstream of community life, and (b) institutions should work together more efficiently to prevent delinquency. The conferees viewed the conference as a chance to sort the issues and lay out the directions for change.

Almost at the outset, two types of institutions were identified.

The first type are those that maintain bounds or set limits. They include such institutions as the police, courts, prisons, and parole boards. These institutions are controlled by and mainly concerned with illegitimate behavior. They deal with individuals who have violated society's legal norms and who have been processed through the legal justice system: the majority of youth have no contact with such institutions. The thoughts and deeds in such institutions center on social control. They tend to be negative and separatist in nature. Their detached position from the mainstream casts doubt on their ability to resocialize the youth who encounter them.

A second type of institution seeks to help youth establish a legitimate identity. It includes the school, the family, employers, peers, and political groups. The emphasis in such groups is essentially positive. They are concerned with fostering acceptable identities, relationships, and opportunities. They tend to relate to youth very differently from institutions concerned with controlling and rehabilitating the "bad."

Attempts at delinquency prevention have typically been concentrated in negative institutions. Over the years we have failed to appreciate fully the bad effects of removing delinquents from mainstream institutions (especially the home and school) to rehabilitate them. The conferees felt that for most adjudicated youth a segregated and highly punitive rehabilitative process was bound to fail. Changes that would affect the workings of these two types of institutions and their interrelationships were proposed. Conferees emphasized the need for everyone concerned to work together. They argued that juveniles not be branded as delinquent, that they be kept out of court, that the juvenile justice statutes be reformed, and that there be well-integrated reforms in schools, jobs, and communities.

The following sections are an attempt to organize the somewhat disparate views voiced during the conference. This document should not be construed as a surefire blueprint for preventing delinquency. It is primarily intended to clarify issues, point to directions of change, and stimulate research.

DELINQUENCY PREVENTION: SELECTED PRINCIPLES

The current state of the art regarding delinquency prevention and rehabilitation programs can be summed up in a few words. By and large, nothing we have done has seemed to work. Experimental studies have usually failed to produce results any better than those achieved by conventional correction programs. As for the latter, whatever good they do seems unrelated to their programs. Offenders who go straight apparently do so independently of their correction experiences.

The reasons for our failure are varied and complex, but some can be identified. For one thing, most correction activities represent a crude form of intuitive tinkering or trial-and-error tactics directed at offenders. They have not grown from a clear theoretical substructure which has defined the "illness" to be "cured." Many programs have proceeded with no clear notion of what constitutes delinquency or criminal behavior.

Some correction efforts have a theoretical framework which specifies an image of the offender and links this image to certain intervention tactics thought to be appropriate. However, most of these efforts are based on the notion that offenders are psychologically sick. Also, most have been designed to resocialize individuals. But it has become clear that most conventional lawbreakers are not psychologically sick and do not need their psyches altered. Programs that center on the individual may be wide of the mark. Perhaps the delinquent and the criminal are the offspring of social systems rather than aberrations unrelated to the rest of us or our institutions.

This perspective views delinquency as a complex concatenation of behavior and events. We do not agree that if we could only discover what is really wrong with juvenile delinquents, we could try to change their behavior with recreation programs, reality therapy, street work programs, or some other strategem to make them lawabiding. Delinquency has many dimensions. To understand it we must study juvenile behavior, the workings of the police, juvenile courts, and other segments of the social control machinery and how these operations influence delinquents. Then too, rational responses to delinquency must be based on some understanding of the legal dimensions of the problem and the state of public opinion. Legislators and citizens control the resources of delinquency control programs; they specify other restraints on prevention endeavors; and they constitute part of the delinquency problem in other ways as well. A truly adequate explanation of the delinquency problem must include how it relates to such basic features of the American economy as the idleness it forces on the young and the deficiencies of the social order that have alienated the young. In short, in matters of reform, we need to study the criminal influences of modern society rather than tinker with individual delinquents and criminals.

Some might argue that we know too little to spell out a delinquency prevention theory in detail. But we have an abundance of facts about the form and scope of delinquency in contemporary America, police responses to delinquent conduct, and other matters of that sort. Accordingly, the conventions in the pages to follow are not simply uninformed guesses. They represent a set of stock-taking propositions drawn from the research.

A further comment on research is needed. Delinquency prevention work

should be a two-pronged affair: various kinds of basic research must be done side-by-side with activities suggested by the theory. Many remarks and suggestions in the pages to follow treat new lines of research which need pursuing.

We present below certain selected generalizations or delinquency principles.

Principle One: Delinquent Infractions versus Delinquency Rates

We need to distinguish between juvenile delinquency, defined as infractions committed, and official rates of delinquency such as police statistics, court cases, and the like. Although the rates reflect the infractions, they sometimes only slightly correlate with the total incidence of infraction. A high delinquency rate in a neighborhood may not necessarily reflect a high incidence of delinquent infraction. It may, instead, reflect police behavior, community concern, or some other phenomenon.

Delinquency programs usually seek to lower the incidence of infractions among youth. Most people regard delinquency prevention as getting youngsters to cease certain annoying behaviors. However, another approach might be to try to reduce delinquency rates. For example, a sizable portion of the problem could be disposed of entirely by removing omnibus clauses from juvenile court laws. Although youths might remain incorrigible, wayward, and the like, their activities would no longer concern the court, and these cases would not appear in delinquency rates.

Principle Two: Degree of Delinquency Involvement

The delinquent-nondelinquent dichotomy is incorrect and misleading. Evidence from self-report and victimization studies suggests that it is a rare person who never violates the law. Most persons break the law often and with no bad effects. A few do so in a predatory or violent way. Still fewer break laws regularly. Finally, a very few derive their livelihood from criminal behavior and are committed to crime as a way of life. The first type ordinarily receives little official attention, while the last is judged to be criminal. Although some confirmed criminals began as delinquents, not all started that way. Moreover, most delinquents do not graduate into a life of crime.

Principle Three: Specialization of Delinquent Behavior

Delinquent behavior varies in frequency, duration, and seriousness. It may also become specialized as in the careers of drug users, sex offenders, strong-arm robbers, and assaultists. Some specialized offenses are of little social significance, while others like violence may be of great concern. However, many control agencies seem to be oriented toward individual acts or single instances of conduct rather than to degree of specialization, involvement, or seriousness.