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THE EXERCISE OF DISCRETION BY THE POLICE AS A DECISION-MAKING PROCESS IN THE DISPOSITION OF JUVENILE OFFENDERS

JOHN M. GANDY*

Considerable research has been done on the outcome of police encounters with juveniles and the characteristics of juveniles apprehended, the nature of the offences involved, and the attitudes of police officers. Such studies have amply documented the broad discretionary powers exercised by the police in their relationships with juveniles.¹ Only limited attention has been given, however, to the dynamics of the decision-making process in which the police select one of several available alternatives for the disposition of juvenile offenders. The result is a lack of descriptive and analytical data on this important dimension of police practice.

The disposition decision is central to all police contacts with juveniles who have violated, or are suspected of having violated, the Juvenile Delinquents Act. Although the police must make disposition decisions in the case of violations by adults as well as juveniles, two factors operate to give juvenile dispositional decisions more visibility and a character quite unlike that of decisions when adults are involved. First, police discretion in the handling of juveniles, despite its questionable legal basis, has been sanctioned by police and court practices.² Secondly, the range of actions available to the police in their handling of juveniles who violate, or are alleged to have violated, the law is greater than that for handling adults suspected of, or who have committed, comparable offences.³

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¹ For example, Irving Piliavin, and Scott Briar, "Police Encounters with Juveniles", *American Journal of Sociology*, LXX (September 1964), 206-215; Nathan Goldman, *The Differential Selection of Juvenile Offenders for Court Appearance* (New York: National Council on Crime and Delinquency, 1963); A. W. McEachern, and Riva Bauzer, "Factors Related to Disposition in Juvenile Police Contacts", in Malcolm W. Klein, ed., *Juvenile Gangs in Context* (Englewood Cliffs: Prentice-Hall, 1967) pp. 148-160; Thorsten Sellin, and Marvin E. Wolfgang, *The Measurement of Delinquency* (New York: John Wiley and Sons, 1964), pp. 96-97; Joseph H. Lohman, *The Handling of Juveniles from Offense to Disposition* (Berkeley: University of California Press, 1965); and Nelson A. Watson, and George W. O'Connor, *Juvenile Delinquency and Youth Crime: The Police Role* (Washington, D.C.: International Association of Chiefs of Police, 1964).

² Police discretion in the handling of juveniles is a case of "delegated discretion", whereas most discretion in handling adult offenders is "unauthorized" and something which the officer invents, claims, or usurps. For a discussion of the distinction between "delegated" and "unauthorized" discretion in police work and the problems associated with these, see Jerome H. Skolnick, *Justice without Trial* (New York: John Wiley and Sons, 1966), pp. 71-73.

³ Thorsten Sellin, and Marvin E. Wolfgang, *The Measurement of Delinquency* (New York: John Wiley and Sons, 1964), pp. 58-59.

This paper reports on a study of the dispositions available to the Metropolitan Toronto Police for the formal and informal regulation of the behaviour of juveniles, the situations in which the various dispositions are seen as appropriate, and the criteria used by the police in making choices among the several alternatives. The relationship between the relative importance of certain criteria in the selection of a particular disposition and the officer's assignment within the department will also be examined.

Setting and Methodology

The field research on which this paper is based was undertaken in the summer and fall of 1965 in the Metropolitan Toronto Police Department. The data were from four sources: departmental records, published reports, structured interviews with a sample of police officers, and unstructured interviews with police officers not in the sample. The sample of 75 officers selected for structured interviews included the 17 officers assigned to the Youth Bureau, 53 officers in the Uniform Branch, and 5 in the Criminal Investigation Branch.⁴

The focus of the research on the perspective of the police in the handling of juvenile offenders, to the exclusion of the perspective of society or that of the juvenile, might be considered a limitation. While it is recognized that the juvenile offender and his perceptions and attitudes as well as those of his parents and others are important dimensions of the decision-making process, the position taken here is that it would not enhance understanding of the decision-making process to attempt to look at it simultaneously from two or more points of view. Two major considerations in the choice of the focus of the research were: (1) the perspective of the police is important in shaping the decision-making process; and (2) an effort to understand several perspectives simultaneously would not be productive at this stage of our knowledge about police-juvenile relationships.

The Decision-making Process

The decision-making process⁵ in the disposition of juvenile rule violators includes some, or all, of the following series of behaviours and actions by the police: (1) assessment of the complaint, event, and/or the juvenile to determine whether any action, official or unofficial, by the police is indicated; (2) analysis of the circumstances surrounding the event of complaint and the characteristics of the juvenile and his family; (3) identification of alternate courses of action; (4) assessment of the consequences of the various alter-

⁴ For a description of how the sample was drawn and the methodology of the study see John M. Gandy, "The Exercise of Discretion by the Police in the Handling of Juveniles" (D.S.W. Dissertation, School of Social Work, University of Toronto, 1967).

⁵ For a discussion of decision-making as a process in organizations, see William A. Gore and Fred S. Silander, "A Bibliographic Essay on Decision-Making", *Administrative Science Quarterly*, IV (June 1959), 97-121; and James D. Thompson, and Will J. McEwen, "Organization Goals and Environment", in Amitai Etzioni, ed., *Complex Organizations: A Sociological Reader* (New York: Holt, Rinehart and Winston, 1962), p. 181.

natives for the juvenile and/or the officers investigating the event of complaint; and (5) a choice from among several courses of action.

It is recognized that rarely do the police follow, either consciously or unconsciously, the sequence of steps in the decision-making process listed here. In a given case of decision-making, the police may omit one or more of the steps, or in the first instance, they may decide that official action is indicated and what the action should be before assessing the circumstances. For example, it is recognized that occasionally the offence is considered to be serious enough to warrant referral to court and the placing of the juvenile in detention without regard to the circumstances. Although in this type of situation the character of the juvenile is inferred from the nature of the offence, the result is the same as if there had been an assessment based on the questioning of the juvenile and other factual information.⁶ The steps in the decision-making process, as described here, represent a model that will be used for analytical purposes rather than being descriptive of a sequence of actions that are usually or always followed by the police in their disposition of juveniles.

The officers were considered to have five courses of action available to them for the disposition of juvenile rule violators:⁷

1. Unofficial action
 - a. Outright release following an interview (no official record).
2. Official action
 - a. Release of juvenile and submission of a Juvenile Contact Card
 - b. Referral to social agency
 - c. Release to parents with a reprimand
 - d. Referral to Juvenile Court followed by juvenile being either released to parents or placed in detention home awaiting hearing.⁸

Outright Release Following Interview Only

The outright release of a juvenile who has violated, or is suspected of having violated, the Juvenile Delinquents Act is a "low visibility" decision in which the officer decides that no official action by the police is warranted. No provision is made in the rules and regulations of the department for the

⁶ Piliavin and Briar found that "assessing the character of apprehended offenders posed relatively few difficulties for officers in the case of youths who had committed serious crimes . . . Officials generally regarded these juveniles as confirmed delinquents simply by virtue of their involvement in offenses of this magnitude" (Irving Piliavin, and Scott Briar, *op. cit.*, p. 209).

⁷ Some officers really had fewer choices, as they were unaware that certain alternatives were permitted, and for those officers the number of available alternatives was less than five.

⁸ In 1965 a total of 9,537 juveniles had formal contacts with the police. Of this number 2,373 were referred to Juvenile Court but released to their parents pending court hearing; 1,377 were referred to Juvenile Court and placed in the Detention Home pending court hearing; 18 were referred to social agencies; 5,769 were reprimanded and released to parents; 3,232 were released after completion of Juvenile Contact Cards only (*Annual Report, Youth Bureau, 1965*, p. 5).

unofficial handling of juveniles who have violated a statute or by-law.⁹ However, 70 of the 75 officers interviewed reported that they sometimes decided to handle juveniles informally when there was a violation of the law.¹⁰

There was general agreement among all officers that juveniles aged ten years and under should be released outright, with no formal involvement of the parents, unless the juvenile committed an offence that involved considerable property damage, or was a persistent rule violator, or there were unusual circumstances surrounding the violation, e.g., the juvenile was apprehended for shoplifting and it was found that he was a member of a group organized to commit petty thefts. Other criteria considered by the police in the selection of "outright release" as a disposition for the handling of juveniles were: character of the juvenile; attitude of the complainant; seriousness of the offence; and willingness of the parents to make restitution in cases of property damage or petty theft. There was widespread support throughout the department for the private adjustment of complaints through restitution when juveniles ten years of age and under were involved. The officers' choice of "outright release" as a course of action was therefore related to their perception of an offence as one that might be committed by any child of tender years without malice or danger to the community, i.e., it was regarded as a behaviour problem that could be handled by the family rather than as a crime.¹¹

The character of the juvenile became a consideration only if the officer felt that the response of the juvenile to him as an authority figure was not consistent with his initial assessment. When this criterion was used the officer based his decision on how much the child's behaviour deviated from what the officer considered to be an appropriate response to the police officer as an authority figure.¹² There was no indication that the use of this

⁹ The syllabus prepared by the Youth Bureau for use in the police training course suggests that unless the juvenile commits a series of violations of by-laws, officers should handle the case unofficially. This advice overlooks the fact that unless the police officer had previous contacts with the child, he would not be in a position to know whether the present was an isolated incident or a pattern of behaviour, since there are no records of previous contacts.

¹⁰ All officers, with the exception of the Youth Bureau officers assigned to the Juvenile Court, were asked: "In what kinds of situations involving violations of the law by juveniles do you not take any official action, even to the completion of a Juvenile Contact Card?" Only five officers reported that they always complete a Juvenile Contact Card or take other official action when there has been a violation of any kind. Three of these officers were assigned to the Youth Bureau and two to the Uniform Branch.

¹¹ Officers tend to have their own conception of what is normal behaviour. For example, a Youth Bureau officer commented: "I think of shoplifting and malicious damage as reasonably normal behaviour for children. I also don't view fighting as very serious if the boys are of about the same age. I only handle fights in an official manner if the fight results in a cost to one of the parents because of a broken tooth or something like that. I grew up on the west side of Toronto and I got into lots of fights."

¹² In such instances, as Lemert points out, "frequently it is impossible to predict what kind of behaviour will result in an arrest and adjudication of a child as a delinquent, unless it represents a highly visible threat to patterned values of property and person" (Edwin M. Lemert, "Social Structure, Social Control, and Deviation", in Marshall B. Clinard, ed., *Anomie and Deviant Behaviour* [New York: The Free Press, 1947], p. 94).

criterion was related to social class for younger juveniles whose contacts with the police resulted from the commission of minor offences.

The officers usually did not seek to obtain information beyond that gained from the external circumstances surrounding the event and the episodic interaction with the juvenile. Only occasionally did officers have to seek knowledge regarding prior contacts with the police, family relationships, and other social data.

Although "outright release" is not officially acknowledged by the department as an alternative available to the officers in the disposition of juveniles, it is not a residual category but rather a standard practice for which the officers have developed operating procedures that have been elevated to the force of official policy through continued and unquestioned use.

Release of Juveniles and Submission of a Juvenile Contact Card

The Juvenile Contact Card, sometimes called a field interrogation card, is a form used by the department for recording police contacts with juveniles under a variety of circumstances and conditions. The rules and regulations of the department indicate that the Juvenile Contact Cards are expected to accomplish two interrelated but different purposes: first, to provide information that will assist the police in carrying out their responsibility for crime prevention through an extensive program of questioning juveniles designed to deter them from violating the criminal code; and second, to provide information that will assist in the investigation of serious offences such as thefts and burglaries. Thus, while the Juvenile Contact Cards represent a disposition available to the officers when there has been a violation, the primary objectives to be served in the use of these cards relate to crime prevention through the deterrence of repressive patrol and greater efficiency in investigation. Most of the situations in which the cards were used involved juveniles who were apprehended by the police, not for violations of the Juvenile Delinquents Act, but because the police evaluated them as suspects or potential rule violators.

The Youth Bureau has developed guidelines for the use of its officers in an effort to make the departmental purpose and objectives more specific and to give more emphasis to the child protection function of the police in their use of the Juvenile Contact Card. The result was a difference in perception between the Youth Bureau officers and the other officers of what they should seek to achieve through the use of the cards. Because of this difference, and the fact that the Youth Bureau officers spent less time on patrol duty, it was decided in this investigation to examine the use of Juvenile Contact Cards by the Youth Bureau officers separately from the use made by the Uniform Branch and C.I.B. officers.¹³

¹³ The Uniform Branch officers have the primary responsibility for enforcement of statutes and by-laws, and one of their duties is the patrolling of public places. In carrying out this duty they handle a high percentage of all juveniles with whom the department has contact.

The release of juveniles following submission of a Juvenile Contact Card was seen as applicable in a limited number of situations by the Uniform Branch and C.I.B. officers. For the most part they did not consider this disposition as applicable in situations where the police contact was based on a complaint of a citizen regarding a violation by a particular juvenile or in situations in which the juvenile was apprehended while committing an offence. The Uniform Branch and C.I.B. officers made the greatest use of this disposition in instances where they accosted a juvenile on the street or in some other public place late at night or under other "suspicious circumstances".¹⁴ The decision of Uniform Branch and C.I.B. officers to submit a Juvenile Contact Card was influenced by factors other than the rule-violating behaviour of the juvenile. Among the more important criteria used by these officers in deciding to submit a Juvenile Contact Card were: attitude, dress, and deference shown by the juvenile; the crime rate in the neighbourhood in which the juvenile is accosted; and the distance between the place where he is contacted by the police and his home. If the contact with the juvenile is the result of a complaint by a citizen regarding a minor offence, the Juvenile Contact Card is used by some officers in order to establish for the record that the juvenile was handled officially. The use of the Juvenile Contact Card as a measure of the performance of Uniform Branch officers was also found to be a factor in the frequency with which it is used.

The Youth Bureau officers reported that they used the Juvenile Contact Card to establish behaviour patterns of juveniles, or, as one officer pointed out, "to give the police — particularly the Youth Bureau officers — an idea of whether the boy can be reached". The Youth Bureau officers were explicit in stating that they felt that Juvenile Contact Cards have a different purpose from the adult interrogation cards, which, they stated, were designed to achieve one or more of such objectives as "to build up a file of suspects"; "to establish a crime pattern"; or "to trace the movements of adults in an area where a crime has been committed". They regard the release of the juvenile with submission of a Juvenile Contact Card as a disposition they are free to use in a variety of situations involving a range of offences, and they consider that when they use it in situations involving rule violations they are exercising discretion. They make less use of this disposition as a deterrent than do the Uniform and C.I.B. officers. The contact cards are used most frequently by Youth Bureau officers in situations where a juvenile has, or is suspected of having, violated the Juvenile Delinquents Act. However, it should be noted that most of the juveniles contacted by the Youth Bureau have been referred to them, unlike the Uniform Branch officers, which means that they are being asked to make a disposition in cases involving a violation or suspected violation.

¹⁴ Werthman and Piliavin have observed that the procedure of locating "suspicious" individuals and then attempting to link them with previously committed crimes is an inefficient, but standard, practice among patrolmen that is related to the assignment of patrolmen to geographical areas rather than to an age group or type of crime (see Carl Werthman, and Irving Piliavin, "Gang Members and the Police", in David J. Bordua, ed., *The Police: Six Sociological Essays* [New York: John Wiley and Sons, 1967], pp. 69, 75).

The responses of the Youth Bureau officers also revealed that they are oriented to child-welfare values and consider criteria other than the offence when making a choice regarding the use of contact cards. Factors most frequently mentioned were: the pattern of rule violating behaviour — first offenders are likely to be disposed of this way; co-operation received from the parents, particularly with reference to restitution in cases of wilful or malicious damage; and the attitude of the complainant. The Youth Bureau officers contact the parents more often than do other officers when they are considering the use of this disposition, and are therefore in a position to assess the background and family relationship of the juvenile at the time they make the decision. The involvement of the parents occurs much more often when this disposition is used by the Youth Bureau officers than in informal dispositions where they usually base their decision entirely on the nature of the offence and the attitude of the juvenile. The interviews suggested, but did not establish, that the Youth Bureau officers placed less emphasis on the dress and attitude of the juvenile in their decision-making at this level than did the Uniform and C.I.B. officers.

Referral to Social Agencies

There is no mention in the department rules and regulations of referral to social agencies as a disposition that is available to officers in the handling of juveniles. It is, however, reported as one of the official dispositions in the statistics maintained by the department and must be regarded as a disposition that is available to all officers. There was also no evidence that the department provided any guidelines for officers in the use of this disposition or took any action to encourage or control its use by officers. The interviews revealed that the officers who used this disposition, other than those in the Youth Bureau, did so because of their own knowledge of its availability and an assessment of its appropriateness in certain situations in which they felt they had wide discretionary powers. The Youth Bureau, on the other hand, regarded this as a major disposition, though limited in application, in which it was up to the officer to decide whether the child and his family would benefit from counselling and whether the family would appreciate and accept the help of an agency.¹⁵

In referrals to social agencies more so than for any of the other possible courses of action, the officers, other than Youth Bureau officers, were uncertain as to the position of the leadership of the department regarding use of this disposition. Consequently, the lack of explicit authority provided the reason for not using it. This disposition was also more directly related to prevention in its broadest connotation, which includes the early detection of signs of incipient delinquency in major behavioural difficulties as revealed through trivial incidents or encounters resulting from family disputes.¹⁶ In order to use

¹⁵ See Ralph Boot, "Police Interest in Juvenile Delinquency", *Corrections*, IV (January 1964), p. 55.

¹⁶ For a summary of problems faced by the police in the early detection of pre-delinquent behaviour, see Elmer Hubert Johnson, *Crime Correction and Society* (Home-wood: The Dorsey Press, 1964), pp. 734-38.

this disposition it was necessary for the officers to establish a different kind of relationship with the families than was usual in carrying out their ordinary responsibilities for social control. This disposition is one in which a family must express a willingness to accept and take some responsibility for action to implement the suggestion of the police. However, even in cases where the police do not use their authority to get the family to accept the referral, the family often get the impression that if it does not accept the referral, the juvenile will be sent to court.¹⁷

The report by the officers of the frequency with which they made use of this disposition is presented in Table I. More than half (39) of all officers interviewed reported that they had "never" referred a juvenile to a private or public agency for counselling services. The officers in this group had from one to thirty-one years of service on the force, with a median length of service of seven years. Less than one out of ten officers reported that they "seldom" (once or twice) had referred juveniles to a social agency compared with almost four out of ten who said that they "often" (on a number of occasions) made such referrals.

TABLE I

FREQUENCY OF REFERRALS OF JUVENILES TO SOCIAL AGENCIES
FOR COUNSELLING, BY ADMINISTRATIVE SUB-UNITS

| Frequency of Referral | Total | Uniform Branch | Youth Bureau | C.I.B. |
|-----------------------|------------|----------------|--------------|----------|
| TOTAL | 73* | 53 | 15 | 5 |
| Never | 39 | 35 | — | 4 |
| Seldom | 7 | 6 | 1 | 0 |
| Often | 27 | 12 | 14 | 1 |

*Two Y. B. officers who had not direct responsibility for referrals were not asked the question that provided the data presented in this table.

Although the majority of all officers interviewed indicated that they "never" had used this disposition, there were differences between the Youth Bureau, Uniform Branch, and the C.I.B. in the reported frequency of use. While none of the Youth Bureau officers reported that they had "never" used this disposition, four of the five C.I.B. officers and two of every three officers in the Uniform Branch were in this group. When the frequencies of "seldom" and "never" are combined, with the officers interviewed being placed in two groups, Youth Bureau and non-Youth Bureau, the difference in the frequency of reported use of this disposition for the two groups of officers is statistically significant at the .001 level (1 d.f., χ^2 2.89. $P < .001$). Although this is not an unexpected finding, for reasons that have already been discussed,

¹⁷ In any event, many social agencies would refuse to accept referrals from the police if they felt that there had been coercion used in completing the referral. For a discussion of these points, see Richard A. Myren, and Lynn D. Swanson, *Police Work with Children* (Washington, D.C.: U.S. Department of Health, Education, and Welfare, Children's Bureau, 1962), p. 30.

some of those reasons deserve further emphasis. The Youth Bureau officers have continuing contacts with a number of community agencies and services. They carry out more extensive investigation of complaints and have therefore more information on juveniles and their families than have the other officers. The self-image of the officers in the Youth Bureau is that of a helping, as well as a controlling, person in their contacts with juveniles. Moreover, referrals to social agencies are supported by the leadership of the Youth Bureau, whereas the position of the leadership of the Uniform Branch and the C.I.B. is unstated and unclear. Also, the therapeutic insights and attitudes associated with this disposition are contrary to the training, experience, and stance of the officers in the Uniform Branch and, to a lesser degree, in the C.I.B., whose position is not unlike that of the police officer in dealing with mentally ill persons as described by Bittner:

. . . such dealings (with the mentally ill) are stylistically incompatible with the officially propounded conceptions of the policeman's principal vocation. It included none of the skills, acumen, and prowess that characterize the ideal image of a first-rate officer. Given the value that is assigned to such traits in furthering a man's career, as grounds for esteem among his co-workers, it is a foregone conclusion that conveying a "mental case" to the hospital will never take the place of catching Willie Sutton in the choice of worthwhile activities.¹⁸

The limited use made of "referral to agencies" in the handling of juveniles by officers outside the Youth Bureau reflected the lack of department policy on the use of this disposition and the absence of any consistent procedures at the operating level. Officers were therefore generally unaware, or unsure, that referral to agencies was a course of action that was acceptable to their superiors. Officers outside the Youth Bureau had little knowledge of the social services in the community and of the mechanics of making referrals. Although some felt that referrals should be the responsibility of the Youth Bureau, many questioned whether referral to an agency was a proper function of the police. The Uniform Branch and C.I.B. officers who stated that they had made some referrals regarded this disposition as one to be used when they were asked by the parents for help in dealing with a juvenile who was out of control, or when the behaviour of the child seemed to be directly related to family problems which resulted in the police contact. The uncertainty of the officers about their authority and competence to make referrals, the incompatibility of this course of action with the policeman's perception of himself as a law enforcement official, and the lack of conviction, or suspiciousness, of the effectiveness of agency efforts to treat and rehabilitate juveniles, all contributed to the limited use made of this disposition by officers other than those in the Youth Bureau.

The Youth Bureau officers, with one exception (a constable who had been in the Bureau for two years), reported that they "often" referred juveniles to social agencies. These officers referred juveniles whose behaviour they considered to be symptomatic of deeper emotional problems. However, they, like the other officers, reported that this disposition was seldom used in handling juveniles whose "acting out" behaviour resulted in the commission of serious offences. There was evidence that some of these officers had been

¹⁸ Egon Bittner, "Police Discretion in Emergency Apprehensions of Mentally Ill Persons", *Social Problems*, XIV (Winter 1967), 281.

successful in establishing positive relationships with agencies based on mutual respect and understanding. Others who had made referrals to agencies expressed little confidence that the treatment or services provided would help the juvenile or his family. The leadership in the Youth Bureau encouraged the officers to make referrals to agencies, but it was left to the individual officers to arrive at a *modus operandi* with most of the agencies, with the result that the relationship of the officers and the staff of the agencies was uneven.

The limited use of this disposition by all officers is indicative of the nature of the relationship between the police and social agencies. As no formal provisions were made by the department for interaction with social agencies, the relationships established by the Youth Bureau affected only a small percentage of the officers in the department. Consequently, there was little integration of the efforts of two of the major community institutions having a primary responsibility for social control. It is also indicative of the isolation of the police. In this connection, Clark has observed:

Both formal regulations and informal understandings require interaction between the municipal police and other control agencies under certain circumstances. Although the great majority of such contacts are left to the discretion of the agencies involved, the failure of the police to initiate interaction with another control agency when situations dictate they should, or for the other agency not to establish contact with the police in similar situations, would indicate something of the quality and quantity of police isolation in a given community.¹⁹

Release to Parents with a Reprimand

When a juvenile is reprimanded and released to his parents, he is usually taken to the police station and detained until the parents come to discuss the violation with the investigating officer or Desk Sergeant. The child and his parents are given a warning and the child is released. When the officer opts for this course of action, it involves an assessment of the potential of parents for controlling the future anti-social behaviour of the child, as well as of the juvenile himself and the circumstances surrounding the violation. Interviews with senior officers indicated that they rely on the experience of the officer, or his supervisor, to determine when a juvenile should be released to his parents with a reprimand.²⁰ Officers at the operating level must therefore look to their immediate supervisor for guidance as to when to use this disposition. The officers, at the time of the research, were in the position of being permitted to use their own judgment, within an organization that makes little allowance for poor or inappropriate judgments.

¹⁹ John P. Clark, "Isolation of the Police: A Comparison of the British and American Situations", *Journal of Criminal Law, Criminology and Police Science*, LVI (September 1965), 312. Clark reports further that the mutual isolation of the police and other social control agencies was particularly noticeable between the police and public social workers, which he suggests "may reflect the presence of conflicting operating ideologies, lack of professional respect, and ignorance of other operations (*ibid.*, 314).

²⁰ The department provides no guidelines for the officers to use in deciding on this course of action in the handling of juveniles. However, the Inspector in charge of the Youth Bureau has written as follows about the criteria that should be considered when release to parents with a reprimand is being considered: "This disposition is involved if it is a first offense and of not too serious a nature and if, in the opinion of the investigating officer, the child will benefit from a caution without the necessity of a court appearance" (R. Boot, *op. cit.*, p. 55).

The position of reprimand and release is one that has been widely used by the police, and there is a considerable body of literature on when and under what conditions its use is deemed to be appropriate, in preference to referral to court.²¹ Eleven criteria (Table II) that have been widely accepted as appropriate were selected and each of these was put on a separate card. Each officer was to rank the cards "in order of their importance as factors in your (the officer's) decision to release a child to his parents with no referral to court".

Table II shows the average rank of each criterion for all officers and for officers by administrative sub-unit. The data show a general pattern of consistency of ranking between the Uniform Branch and the C.I.B., with some small differences in the ordering. There were some differences in the ranking of the Youth Bureau officers but these were limited in number. However, one of the important differences was the lower ranking of the offence by the Youth Bureau. Within the three administrative sub-units there was the most agreement among C.I.B. ranking of criteria. There was a lack of agreement on the ranking of most of the criteria among both the Uniform Branch and Youth Bureau officers. An analysis of variance of the rankings showed that there were significant differences (at the .001 level) in agreement on ranking within the groups. This finding would suggest that the various sub-units utilize criteria differently in deciding when to use this disposition. This is not an unexpected finding, but it is a significant one because of its implication for the processing of juveniles.

²¹ See John P. Kenney, and Dan G. Pursuit, *Police Work with Juveniles* (Springfield, Illinois: Charles C. Thomas, 1962); Lewis F. Russell, "Police Authority under Juvenile Law" in Southwestern Law Enforcement Institute, *Law Enforcement and the Juvenile Offender* (Springfield, Illinois: Charles C. Thomas, 1963); James T. Carey, Joel Goldfarb, and Michael J. Rowe, *The Handling of Juveniles from Offense to Disposition*, Volume I (Washington, D.C.: Supt. of Documents, 1967); U.S. Children's Bureau, *Police Services for Children* (Washington, D.C.: Supt. of Documents, 1954); and Nelson A. Watson, and George W. O'Connor, *Juvenile Delinquency and Youth Crime: The Police Role* (Washington, D.C.: International Association of Chiefs of Police, 1964).

TABLE II

MEAN RANK OF SELECTED CRITERIA CONSIDERED BY ALL OFFICERS
IN THE CHOICE OF RELEASE OF JUVENILES TO PARENTS
WITH A REPRIMAND AS A DISPOSITION FOR
JUVENILE RULE VIOLATORS
BY ADMINISTRATIVE SUB-UNIT

(figures in parentheses represent rankings within sub-groups)

| Criteria | Administrative Sub-Unit | | | |
|--|---------------------------|---------------------------|-----------------------------|-----------------|
| | All Officers (N-68) | Youth Bureau (N-16) | Uniform Branch (N-47) | C.I.B. (N-5) |
| 1. Offense is minor in nature | 3.9 | 4.6(4) | 3.7(1) | 2.8(1) |
| 2. Child has shown no habitual delinquency pattern .. | 4.3 | 3.7(1) | 4.6(3) | 3.6(2) |
| 3. The parents seem aware of the child's problems and are able to cope with them | 4.4 | 3.9(2) | 4.4(2) | 5.0(5) |
| 4. The parents understand that even minor offences, if the juvenile is not impressed with the importance of obeying the law, can lead to more serious crimes | 4.6 | 3.9(3) | 4.9(4) | 5.2(6) |
| 5. The relationship between the parents seems to be one of respect and understanding | 5.3 | 4.9(5) | 5.5(6) | 4.8(4) |
| 6. Child is less than 10 years of age | 5.3 | 5.4(6) | 5.1(5) | 6.2(7) |
| 7. The child is co-operative with the police in their investigation of the offense | 5.9 | 7.1(9) | 5.6(7) | 4.2(3) |
| 8. The child is receiving counselling services from a public or private welfare agency—such as the Big Brothers, Catholic Family services | 5.9 | 6.3(7) | 5.7(8) | 7.0(9) |
| 9. There is no indication that the child needs special treatment or psychiatric help | 7.1 | 6.8(8) | 7.2(9) | 6.6(8) |
| 10. The parents enjoy a good reputation in the community | 9.6 | 10.0(11) | 9.4(10) | 10.8(11) |
| 11. Parents are well educated | 9.8 | 9.6(10) | 9.8(11) | 9.8(10) |

Referral to Court

Referral to court is the only legal sanction available to the police in the disposition of juveniles and is the most serious. This disposition has more visibility than any of the other courses of action followed by the police in the handling of juveniles. During the year in which the research was conducted, the police referred to court 30 per cent of all juveniles who were officially handled.²² As with other dispositions, the department has not provided guidelines to assist officers in deciding when to follow this course of action.

The officers were asked to rank 10 criteria found to be related to this disposition. The criteria were selected in the same manner as those related to release to parents with a reprimand.

Table III presents the average rank of each criterion for all officers and for officers by administrative sub-unit. The Uniform Branch and C.I.B. were in complete agreement that the two most important criteria in their decision to refer a juvenile to court were the seriousness of the offence and the previous contacts of the juvenile with the police. The rankings of the Uniform Branch and C.I.B. officers were in agreement on the relative importance of most of the criteria, the most noticeable exception being the C.I.B. officers' ranking of the attitude of the juvenile as being of considerably more importance in their decision to refer a juvenile to court. The Youth Bureau officers disagreed with the other officers on the ranking of criteria in order of importance, but otherwise their rankings followed the same general pattern as those of the other officers. For all officers, the age of the juvenile, his attitude, and the attitude of the complainant were the criteria that were considered least important. As in the case of the previous disposition, an analysis of variance of the ranking by administrative sub-unit revealed significant differences (at the .001 level) in agreement within the administrative sub-units. This finding is, of course, consistent with those presented earlier, that in a large police department there are identifiable and predictable patterns of response to juvenile misbehaviour associated with the assignment and duties of the officer.

²² Metropolitan Toronto Police Department, *Annual Report: Youth Bureau, 1965*, p. 7.

TABLE III

MEAN RANK OF SELECTED CRITERIA CONSIDERED BY ALL OFFICERS
IN THE CHOICE OF REFERRAL OF JUVENILES TO COURT AS A
DISPOSITION FOR JUVENILE RULE VIOLATORS BY
ADMINISTRATIVE SUB-UNIT

(figures in parentheses represent rankings within sub-groups)

| Criteria | Administrative Sub-Unit | | | |
|--|---------------------------|---------------------------|-----------------------------|-----------------|
| | All Officers (N-69) | Youth Bureau (N-16) | Uniform Branch (N-48) | C.I.B. (N-5) |
| 1. Offense is of a serious nature | 2.7 | 4.1(3) | 2.4(1) | 1.8(1) |
| 2. The child has had previous contacts with the police around the same offense or an offense of equal or greater severity | 2.9 | 2.9(2) | 3.0(2) | 2.4(2) |
| 3. The kind of help needed by the child can only be obtained through the court and its probation department—for example, psychological testing, counselling, and supervision ... | 3.2 | 2.5(1) | 3.3(3) | 4.6(5) |
| 4. There is evidence that the parents are unable or unwilling to discipline the child | 4.2 | 4.1(4) | 4.3(4) | 3.8(3) |
| 5. The child denies the offense and there is sufficient evidence to warrant an arrest | 5.4 | 5.6(6) | 5.5(5) | 4.2(4) |
| 6. The child and his parents have shown themselves unable or unwilling to co-operate with welfare agencies such as the Big Brothers or the Children's Aid Society | 5.4 | 4.8(5) | 5.5(6) | 6.0(7) |
| 7. Parents of the child who committed the offense are hostile to the police | 7.1 | 6.8(7) | 7.1(7) | 8.4(8) |
| 8. Child is rebellious and sarcastic when questioned by police | 7.2 | 7.3(8) | 7.4(8) | 5.6(6) |
| 9. Child is 12 years of age or older | 8.0 | 7.3(9) | 8.0(9) | 9.4(10) |
| 10. Complainant insists on the arrest of the child | 8.9 | 9.7(10) | 8.6(10) | 8.8(9) |

Summary and Conclusions

This paper has reported some of the findings of an empirical study of the exercise of discretion by the Metropolitan Toronto Police in their handling of juveniles. Among the major findings were the following:

1. Differences in content and outcome of police discretion regarding the disposition of juveniles were associated with the administrative sub-unit of the department to which the officer was assigned.
2. Officers had differing perceptions of the choices of action open to them in the disposition of juveniles.
3. There were significant differences between the administrative sub-units (a) in the emphasis and weight given to the same criteria in making choices among possible dispositions; (b) in their perception of the relative seriousness of certain types of behaviour; and (c) in the frequency with which certain courses of action were selected.
4. Officers assigned to the Uniform Branch showed much greater uncertainty concerning their authority to use discretion except in minor cases of misconduct.
5. Limited use was made by all officers of referral to social agencies as a disposition.
6. The lack of clearly stated departmental policies in the handling of juveniles resulted in the development of informal procedures related to the needs of the particular administrative unit.

The different, and sometimes inconsistent, dispositions of juveniles whose misconduct and social situation are similar have implications for the juvenile and the police. The juvenile is in a position where one disposition will result in court action and his being labelled a delinquent, while with another disposition the long-term implications are considerably less. In fact a juvenile often is in a position where his handling by the police is as much a function of which officer apprehends him as it is of the offence he is alleged to have committed. The police meanwhile are open to the criticism, which they fear most, of lack of consistency and objectivity in law enforcement.

It is possible to achieve the goal of individualized handling of juveniles by the police through the development of guidelines to be used by the officers in the decision-making process.²³ As Goldstein has pointed out, differential handling is not synonymous with discriminatory handling, and in "an ideal system differential handling, individualized justice, would result, but only from an equal application of officially approved criteria designed to implement officially approved objectives".²⁴ The police can no longer justify their incon-

²³ It is recognized that the development of such guidelines presents problems. A recent report commented on this point as follows: "Such policies (regarding the handling of juveniles) are difficult to evolve—indeed, in many instances they could not be specific enough to be helpful without being too rigid to accommodate the vast variety of street situations. Nevertheless, it is important that, whenever possible, police forces formulate guidelines for policemen in their dealings with juveniles" (President's Commission on Law Enforcement and Administration of Justice, *The Challenge of a Crime in a Free Society* [Washington, D.C.: 1967], p. 78.

²⁴ Joseph Goldstein, "Police Discretion Not To Invoke the Criminal Process: Low Visibility Decisions in the Administration of Justice", *Yale Law Journal*, LXIX (1960), p. 549.

sistent approach to decision-making in the handling of juveniles on the basis of either the uniqueness of each case or the need for flexibility.²⁵ This research strongly suggests that patterns of decision-making do exist and that these are based on informal and unstated criteria. The development and use of guidelines in decision-making will increase visibility of decision-making in the handling of juveniles, which is important for an agency that is the "gatekeeper" for the juvenile justice system. An important related consideration is that the ways in which juveniles are handled by the police today will do much to determine the nature of the relationship of the police with the public in the years ahead.

²⁵ For as Vinter and Sarri have observed: ". . . the reluctance to specify the preferred alternatives, as policy guidelines, does not result in greater flexibility of action. It does lead to over-assessment of situations, to delays in decision making, and to dispositional trends based on unstated preferences" (Robert D. Vinter and Rosemary C. Sarri, "The Juvenile Court: Implications of Research Findings for Action Strategies" [Institute for Juvenile Hearing Officers, University of Michigan, June 5, 1964], p. 12).