CHAPTER SIX

JUVENILE JUSTICE AND ROLE OF POLICE

I. Introduction

The process of rehabilitation begins from the first moment the offender comes into contact with the policeman. The youngster who gets himself into trouble generally wants to get himself out of it, too. If the first contact he has with the law is both friendly and understanding, he will probably be more amenable to the treatment he is going to get. If the officer is really in charge of the situation and of himself, the child's attitude will cool gradually, and the job at hand will be easier as a result. This, then, is the most important part of the rehabilitation an officer can play: to remember that he is the first step in a continuous process which has as its goal the making of a delinquent into a good citizen.1

The police, some one million people working2, are the important part of the criminal justice system management that is in direct daily contact, both with crime and with public. About two lakh juveniles annually come into contact with police for some or the other offence under the Indian Penal Code and Local and Special Laws.3 Besides this, the number of non-delinquent juveniles (neglected and destitutes), who are brought with in the processing system of juvenile justice system, is much more. The majority of these juveniles is in the age group of 12-21 years in case of delinquent and in the age group of 7-18 in the case of non-delinquent juveniles. These are children who usually have unmet needs.

The police officer in his brief but important contact with the child can be of assistance in seeing that the child's initial needs are met.


2. The Police strength in India in the year 1983 was 9,44,652 and by now the strength of police must be more than a million. See Crime in India-1983, p. 145.

3. In the year 1983, the recorded juvenile delinquency number was 559,704. See, Crime in India-1983, pp. 106-107.
All juvenile delinquents and most of the non-delinquent juveniles falling within the scope of juvenile justice system first pass through the hands of the police, and therefore, it is police action that determines the kinds and numbers of cases that ultimately are processed by many variables of the juvenile justice system. The police are also the first point of contact between the juvenile and formal legal authorities. The approach of a police officer towards a child in the course of his duty is of extreme importance. A negative or punitive approach generally provokes fear, hatred and revolt towards any person in authority specially in the case of a police officer. On the other hand, kindness understanding and fair treatment will go far towards gaining the youngster's trust and injecting in him the desire to adjust to the demands of society. The truth of this assertion is amply attested to be the recorded and unrecorded statements of delinquents. One of the young delinquent with a revengeful look in his eyes in a fairly representative statement, accused the police of brutality:

They grabbed me by my hair and threw me on the ground. They hit me with their boots and loudly abused me with choicest abuses which even I had not heard earlier. They abused my parents. If you are in their custody, they can say and do anything they want to you. Even off-duty, they are like that. They think they can do anything because they are the law. They cannot get into trouble for what they do.

As with most other discussions of police and delinquents, the foregoing account paints a negative picture of the police. This is not wholly unreasonable. Some of the basic facts, however bitter, are known to the government.

The last police commission had pin pointed the flaws in the police system and


5. Barse, Sheela, "Imprisoned Children", Indian Express (Chandigarh), Nov. 27, 1962. (cited.)
suggested a number of steps to tone up the force. But as in other walks of national life, no concerted effort have so far been made to do what should have been very obvious.

To ensure that police do not present an oppressive picture, it seems necessary to place clear boundaries on what they do and how they do it with young offenders and other juveniles who come within jurisdiction of police duty role. While we know that it is not possible to regulate the last detail of complex human interactions by legislation, we can go a considerable way towards ensuring that the pretty picking of non-delinquent juveniles and even some small juvenile offenders does not take place. It would not be difficult to prepare operation procedures which safeguard the interests of vulnerable young unfortunates.

II. Some Basic Facts About Police and its Working

Police establishment is a single compact working unit with different areas of operation falling within its jurisdiction. There are some general drawbacks in the police establishment and its working. These drawbacks become more pronounced when it comes to dealing with juveniles in different capacities from the point of arrest to detention, investigation and ultimately aftercare service. These contacts may be for a very small durations but they require a very high degree of professionalism, intelligence, ability to take decisions and fair use of discretion. Some of the weaknesses of the police set-up and its working have been identified under the following headings.

(1) Orthodox Outlook

Police agencies have traditionally viewed themselves as "created to rule" organisation. The implications are that their loyalties are misplaced. A deli-
cation to the principle of organisation predominates in their dealings with human problems. Acceptance of human relations concepts as modifying force has little impact in their day to day working specially in the lower rungs of police set-up who in most of the cases get the first opportunity to handle social and individual problems within the area of their jurisdiction. Even in the higher police set-up emphasis has always been on formal organisation which represents authority as viewed by top management of the department. The informal or desired social organisation which needs personal contacts with the outfits of main responsible social working contours of the society has received little attention and is more often than not completely ignored. Thus the overall working of the police system, as it generally prevails, is over and above the people for whom it is meant. This working has inducted a deep sense of alienation between the police force and the community at large. As a consequence of this, police force is handicapped from the major support-system for the successful performance of its diverse duties.

Crime is not the business of the police alone. As one commentator has picturesquely put it: "Law enforcement is not a game of cops and robbers in which the citizens play the trees". But our police system has yet to accept this reality. They still regard crime as the exclusive province of the police department and not the concern of community and various other departments of the government like Social Welfare, Health, Education and Planning and Housing. In the words of Weller, himself a police officer:

> Community service agencies and law enforcement agencies have become polarized and isolated, each acting as though they are operating at opposite ends of the service continuum.7

(ii) Localism in Police Set-up

An other major distinctive feature of the police system in India is its extreme localism. There is neither a National Police Department nor any national co-ordination of any significance of the police departments.

The localism of the Indian police in an expression of the country's history and culture. It is also the result of traditionally strong opposition to central intervention in domestic affairs of any distinctive geographical and cultural group. Desire to keep important but day to day functions at the local level by regional governments further strengthened the regional development of police system.

One of the consequence of this strong localism has been that the system of policy has grown in India without planning and co-ordination. The States have not done much in terms of providing training, setting standards, and co-ordinating law enforcement activities to meet the new challenges in the area of criminology and penology. In effect, the states have not been sufficiently tough in forcing local police departments, and allied services (jail department, probation system) to improve their performance and to set higher standards. This fragmentation of policing in India continues even after more than four decades of independence. Some central police agencies like Central Bureau of Investigation & Intelligence Bureau have a very limited role to play at the grassroots level. Their jurisdictional areas are optional and mostly used for political ends than for national.

As a consequence of the system's localism each state's police department has evolved independently, roughly according to the historical, political and other local needs and cultural values.
Thus in 1970s when the police in Punjab were confronted with fundamental crisis: Nexlite problem, which resulted in tremendous increase in calls to the police for many and diverse services. When police tried to handle the situation with iron hand there were demands that the police should treat with respect and civility the people with whom they dealt. As a result of the inability of police department to resolve these cries (which often involved conflicting demands), people began to question the wisdom of some of the widely accepted precepts of the last many decades. Similar situation is being faced by the police in Punjab now with the ever-increasing menace of terrorism. Again same conflicting demands are there. But unfortunately our police set-up has never been trained to meet such challenges inspite of lessons from political history of the country.

(iii) Poor Perceptions About Police Duties

We have already completed four decades of independent living, but most of our administrative departments remain as they were during the British rule; inefficient, poorly managed, composed of under-qualified and under-paid people, performing increasingly difficult and complex work. Police is one of them. Their preparation is grossly inadequate, their equipment poor, their understanding of their (new) roles incomplete. Above all this, the most dangerous development, that has hampered the working of police departments, is the ever-increasing and undesired political interference in the day to day working of the police department. Of course freeing police from political interference does not mean non-accountability for their actions. For fixing the accountability of the police internal checks have to be evolved and strengthened.

Our police force is just not tuned to the task expected of it. Not that there is dearth of public-spirited officers, but the overall attitude of the
police force remains feudal and unprofessional. The machinery and equipment too are antiquated. There are no ready made answers to the problems afflicting the guardians of law and order. The task is stupendous and it is doubtful whether modern equipment alone can give the police force the seal of respectability. It needs concerted efforts to remove the prevailing ills from the police establishment and to induct professionalism in the force.

Actually, policemen often display two different types of behaviour in the performance of their duties, depending upon whether they are dealing with people of a higher social echelon, protected by the network of social and political relations, or with common people including not only the poor and illiterate but also the middle-class, "unprotected" families with no connection in upper strata. Since most of the juveniles falling within the scope of juvenile justice system come from poor backgrounds so they suffer the most in the hands of police. They leave police stations with a strong sense of hatred not only towards police but towards every one in authority. Any intervention by such juveniles in their life style is taken as punishment. One of the reasons for the weakness of the police structure is that it concentrates in certain individuals a degree of power and prestige which they neither deserve nor their training or moral standards equip them.

In general, police departments appear unwilling to abandon out-moded concepts. The broader view of this aspect of police functioning, which has far reaching effects on its working, is reflected by the manner in which people are selected and prepared for police work. It is still believed that the only significant police function is to "fight crime" and the most important qualification of police officer is "size and strength". On the other hand, it is expected from a police officer to learn and follow the rules of the police, understand the human behaviour and apply the rules accordingly. If this is to be achieved
the most desired qualification of police officer should be passivity and adaptability. In the present day social set-up, a police officer is expected to deal with variety of human problems, many of which are complex and nearly all of them require to be handled under difficult and uncertain conditions. If this is so, then the most important qualification for police officer should be intelligence, judgement, integrity and ability to exercise discretion in fair manner. But we are yet to accept this reality. The level of understanding and complexity of thinking expected from our police force does not prevail specially in the lowest ranks of the police who are responsible for most of the day to day tasks of detection and apprehension of delinquents and non-delinquents falling within the scope of juvenile justice system. The department functions, and that is taken as enough. Ad-hocism is still considered the best answer to any demanding and new situation. The prevailing attitude must change if the police are to meet the changing conditions in the area of preventing and controlling crime and delinquency.

"Every activity of police administration will require new ideas effectively put into practice to meet new conditions. This is particularly true within the area of police management." 8

Unfortunately, the police and academic worlds have not yet collaborated to induce necessary change. There seems to be a schism between the two, which includes mutual suspicion and lack of confidence. 9

(iv) Detention Facilities

Detention facilities in the police stations, specially in the cases of children, is another major problem of our police set-up. No effort has been.

made in this regard. Good number of police stations are housed in the buildings which have already been declared unfit for human dwelling. There is not even a single police station, as per the information obtained from the Home Department Punjab, which has the special and separate provision for the detention of children. All such children, who are brought before the processing agencies of juvenile justice system by the police, are kept in regular jails or other places where adult criminals are confined. This causes a stigmatising effect even upon non-delinquent children in whose cases it should have been avoided at every cost.

Detention, in so far as children are concerned, is defined, as holding them in secure custody while awaiting investigation and disposition by the Juvenile Court or Juvenile Welfare Board. It, therefore, should not be confused with commitment by the court. Detention should apply only to those children being held in connection with serious delinquency. As for dependent, destitute or neglected juveniles are concerned, they should be kept separate from delinquents. The very fact that in spite of adverse socio-economic and family situations the child did not adopt an anti-social way of life shows something better in him in comparison to those attracted towards indulging in anti-social activities in the similar situations. But in practice this has been treated a highly neglected area in administration of juvenile justice system. Even in cases where law provides release of the child to parents or guardians to await court action every effort is made to keep the child in police custody unless something extra-legal happens.

(v) Powers to Arrest

The Juvenile Justice Act, 1986 creates no distinction whatsoever in the police dealing with the neglected and delinquent juveniles except the terminology
of "arrest or detained"\textsuperscript{10} for the delinquent and "take into charge"\textsuperscript{11} in case of neglected juveniles. The police officials are well trained in dealing with criminals and to keep law and order is their primary function. Use of the same police force to tackle the neglected children in need of care and protection who are non-delinquent, certainly fall in different category as compared to delinquent juveniles. The police have a more positive and constructive role to play in case of juvenile delinquents than ordinary adult criminals. Furthermore, it requires a high degree of professional competency to handle non-delinquents who too fall within the duty roaster of a police officials. Expecting these different and to some extent opposite roles in all the situations from an average police man is self-deceptive. With the quality and competence our police has, it is too much to expect justice in all these roles.

To do justice in all these roles may not be possible even for a specialist. But how much more difficult will be for the average police man! Our police constable who has passed the eighth standard or tenth standard and Station House Officer who may be a matriculate, inter pass or at the most graduate, have certainly not been given any specialization courses nor are they trained for any specialised task. The average police constable or Station House Officer has neither the talent nor the training, and in urban areas, nor time either, to handle this multi-dimensional work. He simply leans heavily on his authority to be effective. during personal contacts it was observed that most of the police officers even do not know for what purpose the Juvenile Justice Act, 1986 stands for.

(vd) Investigations

The process of investigation in the cases of delinquent juveniles is no

\textsuperscript{10} Juvenile Justice Act, 1986, Sec.18(1).
\textsuperscript{11} Id.Sec.13(1).
different than in the case of ordinary adult offender. The powers employed by the police officer under Section 157(1) of Criminal Procedure Code, 1973 and subsequent sections in the chapter do not make any substantial difference in dealing with adult or juvenile delinquent. With the same police force to deal with and similar powers under the law there cannot be any qualitative difference in dealing with the cases involving juveniles.

The general attitude of average police personnel towards public is unswervingly cynical. "He cannot even understand you when you tell him that every citizen ought to be treated with respect. How can he respect criminals? He argues, how can he expect the offender to co-operate in the process of sending him to jail? For him, the theory of sustained interrogation, proper documentation and application of the correct laws does not exist. Because he cannot work as a professional in this force. The telephone does not work, the other concerned agencies are not work-oriented, vehicles are either not available or are out of order, colleagues refuse to stop for a pittance, the police, prosecutor does not know the law, the boss is not willing to fight for better support structure, the government is unhelpful. Against this back-drop the officer is accountable for containing crime in his area. How does he do? By short-cut methods avoiding sustained and sophisticated methods for better results. He is over burdened with work, lacks in talent and support from the appropriate authorities." 12

Handicapped in such a serious manner the police personnel cannot make any distinctive change in the investigation of cases involving juveniles. Whatever may be the reasons for non-performance or wrong performance of his duties as investigating officer, the casualty is juvenile justice system and sufferer is the unfortunate young child.

The police officer investigating the offence reportedly committed by a juvenile must first determine the validity of the complaint and ascertain whether the juvenile was involved. He should use scientific tools of crime detection available to him. He should accept responsibility for preparing a 'social evaluation' of the child. The 'social evaluation' should not be regarded as a social history but rather it should include the officer's observation of factors having social significance. In almost all cases police officer is the first person in an official capacity to enter a home. What he hears or observes can be of considerable help in determining what action he should take. Dispositions of children coming to the attention of the police should be based upon all the facts of the case, including the seriousness of the offence, the social factors revealed, the protection of the society, the legal requirements of police, and the previous police experience with the juvenile. Police officer should be permitted to warn and release the child and then make a record for the future use of police and related agencies.

Police should have the power to refer a delinquent juvenile to agencies (Juvenile Welfare Board), other than the juvenile court, when in their opinion an available social service can be of assistance to the child and his family and when there is no need for official court action.

All this is possible only through a specialized agency with proper training for the job.

(vii) Police Integrity

Integrity is the soul of service. We cannot even think of any Government department working efficiently with low integrity. It is much more true in case of police department. Exacting ethical standards and a high degree of honesty
are perhaps more essential for the police than for any other group in society. Because the police are entrusted with the enforcement of fundamental rules that guide society's conduct, a policeman's violation of the law or his corrupt failure to enforce it dishonors the law and the authority he represents. The illegal acts of police officer and his ulterior motives for his acts and omissions are a serious threat to the very purpose for which the police force exists. This alienates the community from the police force without who's cooperation successful functioning of the police cannot be even imagined. It rather breeds contempt and indifference towards the working of the police and also towards the police personnel individually. In such a successful atmosphere expecting miracles from the police is nothing but a cry for the moon.

The dishonest policeman is, in many cases, strongly influenced by the corruption of others - politicians, businessmen, and private citizens. His extra-ordinary position and nature of his duties exposes him to many pressures and provides limitless avenues for temptation towards material gains at the cost of his duty. The most common are improper political influence; acceptance of gratifications or bribes in exchange for non-enforcement of laws or over-enforcement of laws, particularly those relating to socio-economic offences, which are often extensively interconnected with organised crime. Directly related to juvenile delinquents in this category can be cited as juvenile prostitution, organised begging, and employment of juveniles as carriers for illicit trades.

It is a commonly accepted notion that our police force has a doubtful integrity in general and as consequence they command little public support and respectability. The reasons are many and efforts to improve their image have to be planned and seriously executed. Lack of talent is most serious aspect of that.

14. Ibid.
The most qualified people that would seem to be called for, however, will not work in an organisation where they must take orders, stand at roll-call, salute, and perform the other symbolic acts of organisational loyalty now required by most police departments. Nearly all police personnel are trained and recruited with military like outlook towards their functions and duties. All decisions are made at the top of the organisation and are carried out at the bottom.

In the light of facts enumerated above some reasons for the lack of efficiency in our police system and their working can be:

1. Low salaries, and orthodox recruitment and training process.
2. Lack of professional training, in particularly specialized areas.
3. Lack of solid moral and scientific criteria in the recruitment, selection and promotion of personnel.
4. Lack of material resources to support the routine work.
5. Lack of code of ethics and misplaced loyalties.
6. Lack of professional associations, co-ordination and planning.
7. Lack of public co-operation.
8. Lack of proper internal check for maintaining integrity and honesty.

III Role of Police in Juvenile Justice Area

The average person is acquainted with such functions of the police as "preservation of the public peace", "protection of the society", upholding the law and "control of crime". Prevention of crime and delinquency and giving helping hand in the process of treatment and rehabilitation of offenders specially juveniles is the most recent police function.

In the last two decades, police have moved towards protective and more understanding handling of delinquent and neglected juveniles. Unfortunately
this development has not been uniform and has grown, more or less in topsy like way. As a result, guidelines for police in handling cases involving children are not there. The importance of these guidelines becomes more imperative in view of the possibility of conferring dispositional powers on police in cases involving petty mischief as they effect the lives of children.

There seems to be a general agreement, both in police as well as other related social agencies, with respect to the importance of preventive and protective aspects of police role. The scope of the police role now is not limited to traditional duty of apprehending the young offenders and investigating their cases. It include programmes ranging from long term prevention to immediate adjustment of cases involving juveniles. The growing interest is "due partly to influences in the field of social work and partly to a better understanding of crime and delinquency on the part of the socially conscious police officers and social defence planners.

By and large the role of police, with respect to juveniles, is specific and limited. Nevertheless, it is an important role and its importance lies in how this role is executed. Too often the community and some of the police administrations have expected the police to a primary or major role in building character and developing in children the desirable ideals essential for growing in a community. However, it is with respect to this activity that the police authorities are not trained to deal with nor adequate support system is created for effectively enforcing such laws.

15. Only few States have established Juvenile Police Bureaus (Maharashtra, Tamil Nadu, West Bengal) while in all other states juveniles are being processed by ordinary police force.
In the context of juvenile justice system the role of police is constant though short. It begins with even before the actual apprehension of the juvenile by police. Briefly speaking the police role can be divided in the following broad areas with almost same and similar powers to deal with, so for legal requirements are concerned:

(a) Role of the Police in the Prevention of delinquency.
(b) Role of the police in the treatment of juveniles and helping them in their rehabilitation.
(c) Role of the police in Juvenile Court and Juvenile Welfare Boards.
(d) Role of the police in aftercare.

The role of police in the area of juvenile delinquency has been discussed in the seminar held at New Delhi and convened by the Central Bureau of Investigation. Its major recommendations are:

1. The police must play a positive role in preventing juvenile delinquency, but before this new role is assumed, ignorance regarding procedures and methods of handling juveniles has to be removed by proper training. Emphasis has also to be placed on efficient discharge of duties, particularly by the lower ranks which come more in contact with children.

2. There should be co-ordination of efforts and unity of approach among all law enforcement and social agencies dealing with children. The police should study delinquency areas to find out causes and their cures, and efforts should be made by them to secure the co-operation of schools and to get the teachers, parents and social
and public institutions interested in the task of maintaining vigilance.

3. The police should take special measures for patrolling high delinquency areas. Special efforts must be made to protect children in places where their safety is in danger due to any reason. The police must also participate in organising recreational activities for juveniles. It was also felt that the police could do much in enforcing laws and regulations concerning neglected and victimised children. Special attempts should be made by the police in rehabilitating persons released from correctional institutions to enable them to adjust to normal life.

4. Police investigations have to be specially directed towards finding out adult offenders who exploit children for personal ends.

5. A more careful attempt should be made by the police especially the lower ranks, to avoid any unnecessary arrests and delays in prosecution or in production of witnesses. Supervising officers have to pay special attention to this, particularly with reference to bail where the interest of the child is primary consideration.

6. The police should play a positive role in maintaining vigilance at the pre-delinquency stage by helping individuals and the community agencies to become aware of such problems. They also help in follow up work which would eliminate recidivism.  

Almost similar were the conclusions in the studies conducted by some researchers on the role of police for the prevention and control of juvenile

17. Proceedings of Seminar on Juvenile Delinquency—Role of the Police, convened by Central Bureau of Investigation, Govt. of India, Ministry of Home Affairs, (1965).
The basic question in this context is how to give practical shape to these suggestions so that some visible improvement in the juvenile justice system could be made. Problem is complex and solutions cannot be ready made. It requires a planned, systematic and phased improvement in the police establishment, their attitudes and working and their powers and duties towards the juveniles in problem. It is not possible to reshape the existing police set-up as a whole and to tune them with their new responsibilities. But a beginning has to be made to reach at the destination, however slow that beginning may be.

Some of the peculiar features which were observed during field study, specially in the Ferozepur district, and which have direct reflections on the working of police with juveniles can be briefly summarized:

1. It was found that about 30 per cent of cases under the Excise Act involving juveniles were concocted. In fact juveniles were substituted for adult offenders in connivance with parents who actually were found doing wrong by the police. This was being done because of lenient disposition of juvenile offenders at the hands of the Court. Money was the most attractive consideration for the police to show this favour. Thus the police becomes a willing party along with the parents against the young child.

2. In the courts police acted as an active agent for arranging plea bargaining for the juvenile delinquent. Police acts as a "go-between" between the parents of the juvenile and the court through the public prosecutor. In most of the cases young delinquent is made to agree to confess his guilt in the court and the case is disposed of by imposition of fine or by releasing the juvenile on probation.

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19. More than 20 per cent of total juvenile crime in Punjab is under Excise Act and Gambling Act (776 juveniles were apprehended under these two Acts (432, 344 respectively), out of the total of 1896 in the year 1983. See Crime in India-1983, pp. 100-102.
extra legal activity goes against the interests of the child while it goes in favour of all the other agents connected with the case. Police secures conviction, prosecution wins the case, court disposes the case that adds to its units.\(^{20}\) Parents feel happy with the immediate release of the child and thus feel obliged to the police and prosecution for saving them from lot of botheration.

3. Neglected and destitute juveniles are not handled by the police in practice. They are, in almost all the cases, brought before the appropriate body, by parents or social worker or voluntary institutions. When I encountered with the police on their obligation in this regard pet came the answer, "What we will get out of this. They are liability without any possibility of credit. It is the duty of those who give them birth to look after them. If they do not bother about them, why should we?".

4. In large cities where prostitution, as an under hand profession, exists, the social evil continues with the help and connivance of the police to a great extent. Since prostitution involves young girls, who are always in demand, under the supervision of some elderly women, so they become a concern of the juvenile system. With a friendly persuasion, I could find out that these elderly head girls work as an agent of the police and help the police in getting some customers redhanded. It is all planned. A police personnel is deputed to keep the track, of course with the consent of head girl, and as and when the situation arises the police personnel is signaled to apprehend the

\(^{20}\) Every court is required to dispose of certain amount of court work on monthly basis. Unit system has been prescribed which is calculated on set basis, like, final disposal of the case some units, close of evidence some units etc.
customers. Afterwards money changes hand and police shares the money with the ladies on 80:20 basis. This trap is laid down twice a month and in lieu of this these head girls are permitted to continue their profession with the help of young girls.

5. On my suggestion about special police Bureau to deal with cases of juveniles the immediate reaction was indifferent and of outright rejection. "Who will work for it? He will have to live in his salary" was the remarks by one of them. During my interaction with the police personnel I could hardly find few persons who accept 'social service image' of the police personnel.

6. Another feature of the police working with regard to juveniles that could be noticed is the non-exercise of powers vested in the police for the protection of juveniles from cruelty, organised begging, exploitation by employees etc. In Punjab, to some extent, the neglect of the police towards their protective duties under the Juvenile Justice are understandable due to their pre-occupation with terrorist crime. This is rather, more the reason that goes in favour of establishing a specialized police unit, with whatever name it may be called.

7. Young offenders, specially those who have no person to follow their case, are used as servants during their stay in the police station. They are made to do all kinds of manual labour. This goes on under the nose of senior police officials who just ignore such irregularities.

8. Inspite of clear judicial prohibition handcuffing of juvenile delinquents is a matter of routine. In order to escape judicial scrutiny the police has adopted a method of taking off handcuffs just before entering the courtroom. After the hearing when juvenile is taken out he is again handcuffed outside the court room. The juvenile does not dare to complain to the court about this practice due to fear. Court, though unofficially aware of this fact, prefers to close its eyes in order to save itself from avoidable conflict with the police.

9. Taking of fingerprints even of young offenders after they are held guilty is still a normal practice with the police irrespective of the age and nature of offence. It may be important from point of view of future investigations but unrestricted use of this practice for every case is not desirable.

10. As desired under Section 19(b) of the Juvenile Justice Act no reports are sent by the police to the probation officer regarding the arrest of a juvenile. This is necessary in order to move the probation officer for making preliminary report concerning the juvenile to the appropriate authority who is to process his case. This inquiry report shall be the guide for the processing authority. But our police is not yet tuned to work for treatment and rehabilitation. Authority is the sole proud feeling of the police personnel. So in practice this provision of the Act has not so far been implemented.

11. In couple of cases it was found that the police actively connived with the young persons and their parents for the purpose of helping them.

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take the benefit of probation, which is considered as good as release. Wrong names of persons with lesser age shown in the records in criminal cases, specially pertaining to excise, so that the person is given the benefit of being a juvenile delinquent. Thus young offenders who in fact do not fall within the scope of juvenile justice, are given the benefit by showing the name of some other younger person in the records. Money plays an important part in this fraud with the law. This may be just a tip of an ice burg while actual number of such cases may be much more.

With such an attitude and approach of the police towards juvenile, the role our police actually plays in the discharge of their obligations under the juvenile justice system, could be any body's guess.

IV. Desirability of a Special Juvenile Police Bureau

Helping youngsters in trouble is the combined concern of law enforcement officers, judges, probation officers, social welfare agencies, health care services and the community as a whole. A sound community pattern is made up of professionally competent personnel to manage these service areas.

In the present day complex society crime too has acquired specialized trends and dimensions, like traffic, narcotics, sexual crimes. In the years to come, in view of technological and scientific developments, the new areas of criminal activity which are likely to be widespread are in the fields of "intellectual property" "computer frauds" and "remote control crime-commission systems" and other highly intelligent modes of crime commission and escape. Police, in its traditional roles may not be in a position to prevent and control such crime situations. Thus specialized services within the police set-up have become inevitable,if police system wants to keep a proper track of the developments taking place in the area of crime and its modes of commission. Juvenile
delinquency too has become a specialized service within the police set-up and for effective discharge of duties in this area police set-up must meet certain standards and have particular qualifications. Consequently, there is a real necessity for knowledge and training in juvenile problems. The police officer who is designated to deal with juveniles in problem situations must know how to work with that child. He must know how to dispel the child's fear and put him at ease so that he will be co-operative and responsible to police handlings. The police officer must be capable to make the child understand that society is concerned with his welfare and he is being dealt in such a way as will benefit him ultimately. It is not an easy job for any generalist in the police force. Even specialist may not succeed in all cases and in equal proportion. How to conduct himself with a child is only one phase of the police officer's role.

The problem of congestion in urban communities and increased migration to the sub-urban areas has caused law-enforcement problems and major area of concern has been "juvenile delinquency" and allied problems. An observation made in the context of American society two and a half decades back is equally relevant to the present day fast changing Indian society.

There are law-enforcement problems in a nation on the move from the farm to the city—such as the United States. The technological and industrial facets of our economy have met to bring people into the crowd of centralized living. We have moved from a farm-based economy to a citi-centered economy. The compression of persons into our urban centres had added to the complexity of our concern....the density of population in our cities serves only to bring persons into conflict with increased frequency...the phenomenon of juvenile delinquency and youthful criminology represent the end products of diverse, complex, and presently insoluble social and personal problems.23

In view of the fast social changes taking place, inducting new dimensions in the delinquency and its causal factors, it becomes inevitable to induct new ideas in delinquency prevention and control. Most of the processing agencies, dealing with the problems of juveniles, have already been given separate and specialized status. Juvenile court and Child Welfare Board in place of ordinary criminal court, juvenile corrections in place of adult jails, juvenile probation system in place of general probation services are some of the statutory examples of this change towards specialization. But in the case of police administration in their relations to juveniles very little care has been taken at national or state level. Though some of the states have started experimentation with specialized police agency to deal with the cases involving juveniles but this has not yet become a national move. Even the Juvenile Justice Act, 1986 and Rules framed thereunder are silent about it.

Regarding need for a different approach in relation to children and youth there is an immediate requirement of specialization in this aspect of the police work. Cities with large population and high concentration of juveniles falling under juvenile justice system must go ahead with the establishment of separate unit or at least appoint a specialist to work with children. The work of the specialist unit must, of course, be fully integrated with the normal police work at the foundation level of police station.

The purpose of such unit is to emphasize on the understanding, control and suppression of juvenile delinquency, the elimination of detrimental influences and the protection of delinquent, dependent, neglected and mistreated juveniles. Generally speaking, these special units have the same objectives as that of the entire police department, however, in view of the fact that the juvenile justice laws are essentially protective and rehabilitative, it is most necessary to
modify the police set-up and its procedures for the handling of juveniles coming into contact with the police.

(i) Characteristics of Juvenile Police Bureau/Unit

Robert W. Bowling and Wayne R. Davidson²⁴ aptly summarize the basic characteristics common to police juvenile bureau:

(a) The approach to the juvenile is non-judgemental.
(b) The legal authority for dealing with juveniles is conceived to be broad enough to include dependent and neglected children in need of police service.
(c) Great discretion is used in the disposition of cases, even to the extent of releasing those who are technically guilty of offences.
(d) Cases are sometimes referred to social agencies for treatment and for other services.
(e) Traditional police procedures are dispensed with so far as possible.
(f) Special case work, recreational, and educational services are sometimes provided to 'delinquents' and potential delinquents.
(g) Personnel selected for such an agency is chosen on the basis of personality or training or both.
(h) Administrators of such bureaus participate in community planning with administrators of other agencies.

In view of the possible option for specialized police personnel, it becomes imperative to remould the whole system of police recruitment training and procedures to make them suitable for the new job. For effective operations

²⁴ Bowling, Robert W. and Davidson, Wayne R., Administrative Aspects of Delinquency Control, p. 2.
the police bureau should actively participate in the work with "near delin­quents and those exposed to high-risk situations....particularly in view of the limited facilities of other agencies which force them to restrict their attention to children in greatest need."25

(ii) Functions of Police Juvenile Bureau

In order to fulfill the desired objectives the bureau has to discharge variety of functions with down to earth flexible, fair but firm approach. These functions are many and complex. They include, in the words of Pauline v. Young:26

1. Twenty four hours coverage, seven days a week, fifty two weeks a year, and night emergency service in all matters of crime and dependency of children.

2. Inspection and supervision of commercial amusement places and in some cases, arrest of proprietors who do not prevent exploitation and demoralization of minors.

3. Investigation of all criminal phases of cases involving children and youth, including offences involving drunkenness, sex misconduct, and dope problems, as well as neglected and abandonment of children.

4. Investigation of gang activities and welfare of gang in minority groups.

5. Operations of night radio patrol cars whose function it is to enforce the curfew law and to make periodic checks at pool halls, bars and

other hot spots from which juveniles are not barred or which create opportunities for juveniles to get into difficulties.

6. Investigation of questionable activities of children presumed to be engaged in street trades, particularly at night, but often selling salacious literature and carrying on "under cover operations" or soliciting for prostitution and other similar enterprises.

7. Investigation of and setting the prosecution machinery into operation against, all adults who have committed crimes against children or have contributed by commission or omission of their delinquency.

Inspector John E. Winters,\(^27\) who actually worked with the juveniles in the police, has detailed the responsibilities of a special police unit which he encountered as such police officer. His account of the responsibilities of a special police unit is more nearer to practical realities in the context of juveniles in problem. He lists these responsibilities as:

1. Process through to disposition all juvenile matters coming to the attention of the police.

2. Co-ordinate a preventive programme within the department with emphasis on the discovery of delinquents, potential delinquents and conditions conducive to delinquency.

3. Investigate family offences, such as neglect, abuse or abandonment.

4. Investigate adults contributing to the delinquency of juveniles.

5. Co-operate with school authorities in controlling truancy and other school problems.

6. Investigate reported violations relating to child labour laws.

7. Investigate the sale or possession of obscene of pornographic material where juveniles are involved and furnishing of alcoholic beverages to those under the legal age to receive those beverages.

8. Investigate bicycle thefts, predominately a juvenile offence.

9. Investigate juvenile gang conditions.

10. Investigate conditions wherein any police officer has reported such conditions believed to be detrimental to the welfare of children.

11. Patrol and keep under surveillance all places which tend to promote the incidence of delinquency, taking remedial measures or action wherever possible.

12. Screen and dispose all matters reported concerning juveniles.

13. Maintain complete records pertaining to unit and its actions for comparison and evaluation purposes.

Some Implications

Improvements do not come by asking. It needs vigorous efforts to make any visible change in the existing police system and its working. There follows some outlines and some probabilities and opportunities for improving policing in the context of juvenile delinquency in the years to come. While not an exhaustive listing of all that should be done is possible, the ideas and concepts that follow are important ones, which have emerged with in recent years experience and are likely to - or ought to - receive concentrated attention during the coming decade.

1. Development of Effective Training and Education Programmes for officers who are to work with the juveniles: The basic reason
for such a little change in policing and its attitudes is, to a great extent, because of lack of proper training and education. Most police training programmes are unimaginative and help to perpetuate the myth that officers spend most of their time enforcing the law. Training and education programmes must be altered radically so that they must reflect more accurately the nature and extent of their new roles, particularly the nature and importance of the non-criminal aspects of police work. Police morale should be improved by taking an interest in the human side of police work and strengthening the fair relationship between officers and their subordinates.

2. Development of the Relationship between police and the general public:

Without public co-operation the success of police work, specially in the prevention of delinquency and treatment and rehabilitation of juveniles, is doubtful. Public co-operation and help can be attained only if the police commands respectibility in the society. Respect can be commanded only by good results. This requires involvement of public in the police work by accepting constructive criticism and presenting an examplary conduct. Efforts must be made to ensure that different information media and other organs in the field of education and culture are helping to eliminate misconception on the part of the public concerning the police and to enhance public awareness of the need to co-operate with the police. The result of this direct co-operation would be in the interest of the public.

3. The Development of a New Generation of Police leadership committed to change in policing:
It is not possible to change the existing manpower in the police establishment, but efforts can be made to induct new and dynamic leadership in the police force. It will take time to change the attitude and outlook of the police and to make it in tune with its new responsibilities. But future planning has to start from now and earlier we do it better it will be.

4. Research and Development:

To study some fundamental issues involving policing research must be carried out in co-operation with the police department, keeping in view the practical police problems and the dynamics of change. Police department, in turn, will have to be more open and up to date in keeping its records and maintaining statistics relating to juveniles.

5. Internal Investigations:

The major complaint against the police and its working is that there is nobody to check its illegal acts. For that it is necessary that police department maintains an internal investigation unit whose purpose is to investigate all alleged breaches of police integrity, and complaints made against members of a department. This will go a long way in restoring the shaken faith of public in the police. The function of internal investigation unit has been described by International Association of Chief's of Police as:

All complaints and breaches of discipline must be thoroughly investigated and reported to administrators through channels. Responsibility and authority for investigations is placed with internal investigation division. Other sub-units of the department are required to co-operate with these investigation. The order
insures that penalties imposed for breach of discipline are fair and equitable.

Over and above its role in the investigation of complaints and supervision of discipline by line units, the internal investigation division should constantly and critically examine all areas of police action which represent hazards to the integrity of the department. Misconduct must be discovered at its earliest stages and prompt action taken to correct unsatisfactory conditions.  

In the Indian police set-up this appears to be a very hard decision, but it is a must if some visible change has to be made in the working of our police system.

Besides these general suggestions which can go a long way in the improvement of police image and its working specially in the areas which require a High degree of humanism, still being firm and fair, some other positive changes that can be immediately made in the context of police's working with the juveniles.

(a) Juvenile Police Bureau/Unit must be established in each city with an appreciable juvenile concentration falling within the scope of juvenile justice system. This Juvenile Police Unit must be a specialized agency with professionally competent persons, expert in dealing with problem children. Since this unit shall have the basic responsibility to process all cases at the first stage of contact with the juvenile and take many important decisions concerning the juvenile so the unit must be managed by a person of high professional competence and integrity.

The Juvenile Special Police Unit must be given an important role as one of the major "Gate Keeper" to the criminal justice system. The effectiveness of the decisions made by this agency should be studied in a well-controlled follow-up research. In research of this type, the relative success of cautioning and other dispositional methods, as opposed to the more stigmatizing decisions of prosecution, in preventing future delinquency should be compared. It would provide us with valuable and much needed information as to the long range effect of the decisions made within this important social control agency.

(b) Every juvenile falling within the scope of juvenile justice system and coming into contact with the police must be interrogated by the special police unit. The Juvenile police unit must be conferred with the power to dispose of cases of juvenile delinquents where the delinquent conduct is of a very small magnitude. All cases which could be tried summarily\(^\text{29}\) and where the juvenile involved is of 14 years or less must be given to special police Unit to dispose of without referring to the juvenile court. In such cases the special unit must have the discretionary power either to informally dispose of the case without referring to the juvenile court or to refer the case for juvenile court's processing. The decision must be reasoned and based upon factors like age of the child, nature of the offence, previous conduct of the juvenile character and antecedents of the juvenile and his general aptitude.

(c) All cases involving neglected juveniles must be handled only by special juvenile police unit. Neglected juveniles must be excluded from

\(^{29}\text{Criminal Procedure Code, 1973, Sec. 260.}\)
the jurisdiction of ordinary police personnel who are professionally not trained for this job. This should be the immediate arrangement. After strengthening the juvenile probation services, the neglected juveniles should be taken out of the jurisdiction of police personnel, whether ordinary or special police unit. As the very contact of the police, however, soft it may be, has its detrimental effects upon the unfortunate child. Voluntary social welfare associations or organisations should be promoted and strengthened in order to seek their help in dealing with neglected juveniles besides the juvenile probation officer.

(d) All cases of juvenile delinquents involving juveniles of 12 years or less age should be referred to Juvenile Welfare Board instead of the juvenile court unless the juvenile special police unit considers its own disposition suitable to that case. However, the Juvenile Welfare Board should have the power to refer the case of such juvenile to juvenile court if the circumstances of the case so demand.

(e) The following disposition alternatives must be made available to the special police units.

(1) Outright release after warning.
(2) Official reprimand and release to parents/guardian.
(3) Release the juvenile after warning with regular supervision of the special police unit.
(4) Compromise with the consent of the victim of the offence, that also includes compensation to victim, if possible.

However, the police special unit must keep all the records of such cases for future investigation and also for research and statistics in the field of delinquency.
(f) All children below the age of 9 years should be treated as 'doli incapax' for the purpose of penal liability. This will reduce innocent and immature young kids from the intricate process of juvenile justice system. They should be processed by the Juvenile Welfare Board for the purpose of determination of treatment alternative necessary in his case.

(g) The police should be directed to discharge their obligations under the Juvenile Justice Act strictly so that the juvenile justice process makes a good beginning. It should be departmentally stressed that the report to the probation officer regarding the arrest of a juvenile should be immediately sent as desired under Sec.19(b) of the Act.