

Chapter 7: Juveniles and the Police

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A number of studies have been conducted examining the attitudes of citizens toward the police. Fewer in number, but more recent studies have researched the attitudes of juveniles toward police. These studies are important because juveniles comprise a significant proportion of the population subject to police contact and arrests. Of the studies conducted involving juvenile attitudes, most conclude that youth in general do not possess a positive attitude toward the police (Nihart et al, 2005). Typically, males are believed to view police more negatively than females (Hurst et al., 2000). Minorities and juveniles living in urban areas view the police more negatively than Caucasians or those residing in less populated rural settings (Hurst & Frank, 2000; Taylor et al. 2001). Further, some researchers have reported that juveniles felt that the police used excessive force, unnecessarily harassed them, were slow to intervene or assist when needed (Williams, 1999), and were responsible for the fear of crime, victimization, and the worsening conditions in their neighborhoods (Nihart et al 2005; Hurst and Frank 2000). All of which may contribute to delinquent behavior.

Negative attitudes toward police seem to coexist with criminal activities. Juveniles who are involved in delinquent activities tend to form their own subculture with a different set of beliefs and values than society in general. A study of 86 active street robbers from St. Louis Missouri by Jacobs and Wright (1999) explored the impact of the street culture on an individuals' decision to engage in violent criminal behavior. Their research concluded that the ““[s]treet culture subsumes a number of powerful conduct norms, including but not limited to the hedonistic pursuit of sensory stimulation, disdain for conventional living, lack of future orientation, and persistent eschewal of responsibility.” Involvement in street culture was reported to be an important intervening variable that shaped and directed the robber's perceived need for fast cash.” (Nihart et al 2005).

Juveniles belonging to these subcultures are responsible for a significant portion of the crimes committed. Studies from both arrest data and self-report surveys show that 18 is the peak year for offending and that adolescents commit crimes at higher rates than the remainder of the population except young adults. Many studies assessing juvenile attitudes toward police have found that involvement in delinquent activities is directly correlated with a negative attitude toward the police (Cox & Falkenberg, 1987; Hurst & Frank, 2000; Jackson, 2002). People with a negative attitude toward the police are more likely to be part of the subculture that commits crime. Whereas “people who believe that the police are performing their duties with professionalism and integrity are more likely to obey laws and support the system by acting as witnesses” (Horowitz, J. 2007). Thus, prevention of juvenile crime can be facilitated by improving the attitudes toward the police by youth. If law enforcement can generate and instill a positive attitude toward youths, they may be able to reduce the disproportionate amount of juveniles involved in the criminal justice system.

The purpose of this chapter is not to analyze or reassess these studies, but rather to discuss the policies and statutory guidelines implemented presumably as a result of the assumptions generated by the research. The attitudes of juveniles toward police are not solely the responsibility of the police. Attitudes toward other authority figures such as parents and teachers carry over and contribute toward a juvenile's view of law enforcement.

The research suggests that attitudes toward police are shaped by a combination of variables including, police citizen encounters, demographic variables and interpersonal attitudes and experience. Some of these factors can be controlled by the police, especially those that are a direct result of the officer's actions and demeanor while interacting with juveniles. Police provide the first line of intervention in criminal activities. They are empowered to arrest juveniles, but they also possess the

ability to use informal techniques of social control. The actions of the police can dissuade or encourage juvenile criminal conduct.

Concerning the actual criminal offense, the police have several options within their discretion. The police may ignore the activity altogether and go about their normal routine. Many officers opt for this approach as they believe that the juvenile system is a joke and the paperwork involved is more work than worth. Another option available to the police is to address the juvenile informally and then release the child at the scene. Some police prefer to refer the youth to one of DYS's agencies or programs such as D.A.R.E or P.A.L. Other officers go through the motions and take the child down to the station, reprimand, and release (Illinois refers to this as a stationhouse adjustment). A similar option allows the police to return the juvenile to his parents with a warning. A more formal approach involves issuing a citation and referring the entire incident to court. The final option and by far the most severe, is to take the child into custody, seek detention and recommend a referral to juvenile court.

Not only does the elected choice of options affect the juvenile's attitude toward the police, but also how the choice is effectuated. The quality of the contact between juveniles and police are also responsible for the unfavorable attitude toward police. These contacts include both direct (personal) and indirect (eyewitness and hearsay) interactions between the police and civilians (Nihart et al 2005; Hurst and Frank 2000).

Historically, when the juvenile justice system was initiated, juveniles were at the mercy of the police. Constitutional protection of juvenile rights did not exist until the late 1960s and few laws existed that protected juveniles. As the Supreme Court of the United States began asserting due process requirements for juveniles, things began to change. But even those changes, as significant and as valuable as they were, did not afford absolute protection or protection as virile as those given to adults. For example, *In re Gault* (discussed previously herein) appeared to shore up the Fifth Amendment right against self-incrimination and the Sixth Amendment right to counsel for juveniles. The decision did not however, settle the issues or provide absolute protection against abuse.

The Supreme Court did not affirmatively supply answers determining at what age could these rights be waived, under what circumstances would a waiver be valid, and whether the juvenile could make these decisions without the assistance of his/her parent. The only guidance given concerning this issue came in 1979 in the case of *Fare v. Michael C.* Therein the Supreme Court established that the legal standard of a knowing and voluntary waiver of Miranda used by adults was also to be by juveniles. Therein the court held that the same totality of the circumstances test used for adults was appropriate for juveniles as to whether the rights have been waived. The totality of circumstances depends upon age, experience, education, background and intelligence. This standard was reaffirmed recently in *Yarborough v. Alvarado* in 2004.

On a similar vein, although juveniles believed that they possessed the Fourth Amendment right against unreasonable searches and seizures and the exclusion of evidence seized on less than probable cause equal to that of adults, a 1985 Supreme Court decision held otherwise. In *New Jersey v. T.L.O.*, juveniles were afforded a limited level of Fourth Amendment protection. Therein, the Supreme Court held that the legality of a search of a juvenile at school depends not upon having probable cause that the child has committed an offense, but rather upon the reasonableness of the search considering the scope of the search, the juvenile's gender, age, and behavior at the time of the search.

Consistent with the trend and pursuant to the Supreme Court dictates, Missouri's Family Court has also become more cognizant of the recognition of juveniles' civil rights. Thus, police discretion to interview suspects who are juveniles is now controlled and limited by statutes and rules. In Missouri, the police may interview a juvenile but only in the presence of the parent and a juvenile officer. The Miranda

and McMillan rights are to be read and if the juvenile or his/her parent requests an attorney, the interview must cease until an attorney is present. Further, the juvenile and/or his/her parent can refuse to be interviewed by the police. Additionally, Missouri limits the use of admissions, confessions, and statements by the juvenile to the juvenile officer or court personnel.

Supreme Court Rule 122.05 provides that prior to the police conducting an in-custody interrogation, "the juvenile shall be advised by the juvenile officer or by a designee trained by the juvenile officer that the juvenile has the right to remain silent, that the juvenile has the right to an attorney and if the juvenile is unable to afford an attorney that one will be provided, that whatever the juvenile says to the juvenile officer or court personnel can be used in later proceedings, that if the juvenile does talk the juvenile has the right to stop talking at any time and that whatever the juvenile says to the police or persons other than the juvenile officer or court personnel may be used against the juvenile if the juvenile is prosecuted as an adult" (Rule 122.05).

This provision may have been implemented not only by judicial fiat but also perhaps, partly in response to a study done of juvenile subjects aged between ten and sixteen years who were housed in a St. Louis County detention center in 1981 by T Grisso. Grisso study assessed not only the procedures used by law enforcement officers in interviewing suspects but also "the cognitive and emotional characteristics of the juvenile which might suggest diminished ability to meaningfully decide to waive [Miranda] rights" (Grisso, 1981, p. 43). Grisso's procedure involved using three tests presented both verbally and visually to determine whether juveniles were able to understand the significance of the Miranda warnings. The first test asked the juveniles to paraphrase each warning to test their overall comprehension of the procedure. The second test was a vocabulary test to determine the juvenile's comprehension of key terms such as attorney, entitled, consult, appoint, interrogation, waiver and right. The final test assessed whether the subject comprehended the meaning of each of the Miranda phrases by presenting similar or dissimilar statements and asking whether the statement was true or false compared to the actual Miranda warning. Grisso concluded that although almost all juveniles questioned by the St. Louis police had waived their Miranda rights, most of them, especially those under age fifteen did not understand the meaning of the warnings and their implications adequately enough to be able to knowingly and intelligently waive their rights. Specifically Grisso concluded that most juveniles misunderstood at least one warning, 45% revealed only a partial comprehension of the right to consult with an attorney before or during questioning, and few understood the warning regarding the use of statements in court (Grisso, T. 1981).

Grisso's findings spurred further research and debate among juvenile rights' advocates both by himself and others. In 2003, Grisso *et al* published another study comparing the abilities of youth in juvenile detention facilities with those of young adults regarding adjudicative competence. Again, his research found a level of impairment among the juveniles consistent with "incompetency" (not fit for trial) among adults. He did however, concede and conclude that the incompetency may have been caused by developmental immaturity and not mental illness or disease. Further, a recent study conducted of youth in Massachusetts found similar results. Children, for the most part, do not comprehend the Miranda terminology despite the courts' willingness to find under the totality of the circumstances the waivers to be knowingly and intelligently given (Kaban, B & Quinlan, J 2004).

Even armed with this research, most courts still allow and admit juveniles to make statements to police. Hence, juveniles are allowed to waive their Miranda rights. The courts that have ruled on the issue believe that Grisso's findings based on the "Grisso test of competency" are not sufficiently reliable as a testing instrument to meet even the more lenient Daubert analysis for scientific evidence (APRI 2006). In Missouri, juveniles continue to waive their Miranda rights and courts continue to uphold such waivers.

Nationally, seven states by statute or case law have adopted a presumption against waiver by juveniles under a certain age without an opportunity to consult with a parent (Iowa, Kansas,

Massachusetts, Montana, New Jersey, New Mexico, and Washington). Six states dictate that a parent or guardian be present during questioning when the child is younger than 13 or 14 years old (Colorado, Indiana, North Carolina, North Dakota, Oklahoma, and Vermont). Missouri and 35 other states and the District of Columbia apply the *Fare v. Michael C.*, totality-of-the-circumstances test (Coppolo, G., 2007; *State v. Barnaby*, 1997).

Although Missouri law does not require a parent or guardian's presence during interrogation, the law does require that when a child is taken into custody the child must also be advised that he/she has the right to have a parent, guardian or custodian present during questioning. This includes situations involving alleged abuse and neglect. In all circumstances, delinquency or abuse and neglect, if the child does not wish to be questioned on the allegations, or if the child wishes to have his or her parent, legal guardian, or custodian or his or her attorney present during questioning, the questioning of the child shall cease. Exceptions to this rule allow the asking of any questions necessary for the care, treatment, or placement of a child and asking questions concerning abuse and neglect where the interviewer has reason to believe that the parent, legal guardian, or custodian is acting to protect the alleged perpetrator (RSMo.211.059).

The Missouri statute also permits and presumes admissible as evidence in court all video or audio recordings of any meetings, interviews, or interrogations of a child provided that:

- there are no hearsay prohibitions;
- such meetings, interviews, or interrogations of the child are conducted by the state prior to or after the child is taken into the custody of the state; and
- such video or audio recordings were made prior to the adjudication hearing in the case.

Only upon a showing by clear and convincing evidence that such a video or audio recording lacks sufficient indicia of reliability will the recording be inadmissible (RSMo. 211.059).

Missouri law also addresses specifically a juvenile's right to counsel and provides that a juvenile is entitled to be represented by counsel in all proceedings including prior to the filing of a petition if a request is made, the court finds that the child is the subject of a juvenile court proceeding and that the child making the request is indigent (RSMo. 211.211. 1.) A child and his/her custodian are each entitled to an attorney and one will be appointed for them after a petition has been filed when necessary to assure a full and fair hearing, and in the case of the custodian, when the custodian is indigent and desires the appointment of counsel (RSMo. 211.211). The statute also dictates that counsel shall be allowed a reasonable amount of time to prepare for the case and shall serve for all stages of the proceedings, including appeal, unless relieved by the court for good cause shown. Finally a child may waive his right to counsel only with the approval of the court and waiver of counsel by a child may be withdrawn at any stage of the proceeding, in which event the court shall appoint counsel for the child (RSMo. 211.215).

To further protect children's rights, in 1995, the Missouri Legislature enacted new provisions in the Juvenile Code regulating police conduct concerning the apprehension of juveniles and their booking procedures regarding fingerprints and photographs. The new law allows police to photograph and fingerprint juveniles who were apprehended for a felony but the fingerprints and photographs are to be kept separate from adults and in a central depository with the Missouri Highway Patrol. Prior to this provision, a Court Order was required before fingerprints or photographs could be taken and used in a specific case.

The law allows law enforcement officers to take fingerprints and photographs of a juveniles taken into custody for any offence that would be considered a felony if committed by an adult without the approval of the juvenile court. Fingerprints and photographs of a juveniles taken into custody as a result of being either the victim of abuse/neglect or as a status offender or for an offense that would be

considered a misdemeanor if committed by an adult may only be fingerprinted or photographed with the consent of the juvenile court. Records of the juvenile who has been fingerprinted and photographed shall be closed (sealed) if no petition is filed within 30 days of the date the child was taken into custody. If no petition is filed within one year of the date the child was taken into custody, any records relating to the child may be expunged (RSMo. Sections 610.122 to 610.126).

As previously mentioned the role of police in the juvenile justice system is not limited to procedures regarding custody, apprehension, arrest and interrogation. Police are also becoming more active in preventing and innovating interventions that promote and prevent delinquent behavior. Although political action against juvenile crime was dominated in the 1990s by new laws allowing transfer or reclassifying of serious adolescent offenders to adult courts and correctional facilities, police are still partially responsible for the decline in serious violent offenses. Public consent and support of law enforcement are critical components in reducing crime (Tyler, T.R. 2005).

One of the ways Missouri is enhancing the perception of police in the community and in the eyes of juveniles is through the Missouri Police Juvenile Officers Association (M.P.J.O.A). The M.P.J.O.A. is a non-profit organization designed to provide education, training, and an exchange of information concerning police work with juveniles. It is hoped that by initiating and promoting research projects, by sharing information with the public and other law enforcement professionals, increased cooperation will occur with the courts, the agencies and the youth to the public's benefit. Additionally, the promotion and provision of training will encourage ethical behavior and standardization of police juvenile policies, procedures, methods and concepts.

Other ways the police respond to juvenile matters include community policing, school police liaison arrangements, and engaging in pro-active prevention programs like Project DARE (Drug Abuse Resistance Education). D.A.R.E. was brought to Missouri and the St. Louis area in 1989. Since then Missouri police departments have been instructing the program in area schools.

Yet another approach involves pursuing problem oriented policing. Traditionally police responded to crime by reacting to individual events. The police respond to a call for service, they investigate that particular crime, interview witnesses to the event, and if possible apprehend the offender. Problem oriented policing involves the police responding to the circumstances that create the problems rather than the individual incidents that arise out of the cause. Gang related activities, drug abuse and use situations, school violence, and handgun violence by juveniles are all ideal circumstances that lend well to problem oriented policing techniques.

For example, in response to violent juvenile crime, the public has demanded that violent juvenile offenders be held accountable for their actions. Many jurisdictions, including Missouri allow juveniles to be transferred to adult court for thus type of felony conduct; but as discussed before, the transfer does not reduce the conduct. The cause for the crime may still exist such as gang involvement or drug dealing for profit. When juveniles are released back into society, they typically resort back to their prior pursuits – back to their friends who are involved in gang activity, or back to drug distribution since juveniles possess few legal skills of which to obtain lawful employment. Findings support that transfer to criminal adult court may actually increase the future criminality of youthful offenders. Numerous studies relate that juvenile offenders who are transferred to criminal court recidivate sooner, more often,, and with more serious offenses than those who are treated in juvenile programs or institutions. Institutions are often referred to as schools of criminality.

In response to the escalating gun violence and related criminal activities increasingly occurring among youths within the St. Louis community, the St. Louis Missouri Police Department developed and implemented a Firearm Suppression Program (FSP) in 1994. The strategy involved obtaining parental

consent to remove firearms from juveniles. The police, after gaining information concerning gun violence, would visit the residence, speak with an adult therein, typically a mother, and request written permission to search the home for illegal weapons. The program's purpose was carefully explained indicating that the reason for the search was to confiscate illegal firearms, particularly those accessible to juveniles and to remove them from the premises. By signing the consent form, the police agreed not to file charges against the consenting adult for illegal possession of a firearm. Between 1994 and 1997, 260 searches were conducted per year, resulting in gun recoveries in about half the homes. During these searches more than 1300 guns were seized.

The program was lauded by some as successful. So much so, that in 1997, the Firearm Suppression Program was incorporated into the broader law enforcement initiative known as Cease Fire. Cease Fire is part of the federal Project Safe Neighborhood coordinated law enforcement agency effort designed to reduce youth violence. Cease Fire is spearheaded by the U.S. Attorney's Offices in Missouri and Illinois and partners with most state, local and federal criminal justice agencies. FSP has also been criticized for both depriving citizens of the right to defend themselves against crimes and most often, in reference to the provision preventing arrest of the adults who consented to the searches.

Cease Fire also has a Gang Outreach component program that targets youth in neighborhoods that have either high levels of gang involvement or few social service resources. After a gang-involved shooting occurs, counseling professionals contact the injured individual and meet with their families to discourage retaliation and to encourage abandoning gang membership. Meanwhile the FSP attempts to seek permission to search the victim's home to remove firearms to further facilitate neighborhood peace. Unfortunately, as the Cease Fire and Gang Outreach initiatives became known, the offenders began moving their weapons from homes into the community and abandoned buildings within the neighborhood. This then led to another police initiative entitled the Demolition Project. Under the Demolition Project, police identify properties that are linked to gang-activity and secure permission to raze, remove, or secure them. OJJDP now reports that 40% of the abandoned buildings that are searched contain firearms or contraband (OJJDP Consent to Search Report 2007).

Missouri is reforming its perception of police by juveniles. Law enforcement is making great strides in understanding the causes of juvenile attitudes toward police and is addressing the issues head-on. The work of the M.P.J.O.A is opening communications between juveniles, the police and the courts. Programs like DARE , the Firearms Suppression Program and Cease Fire are instilling greater trust and respect between the police and the population they serve. The implementation of rules and statutes protecting juvenile rights and the police compliance are improving the attitudes toward police and among those who have contact. The entire system is striving toward professionalism which translates to a perception of fairness between the two groups.

The reduction in crime by juveniles and the low rate of recidivism of juvenile offenders in Missouri attests to the fact that law enforcement agents are better equipped to handle juvenile matters and are positively influencing youths. The better juvenile/ police relationship has already led to great success in community policing programs like Cease Fire that rely heavily on improved relationships between law enforcement and the public. With time, the improved relations between police and citizens and police and juveniles, coupled with an increased knowledge and respect about the role of law enforcement in communities, will yield an even greater impact on reducing the level of crime and improving the quality of life.

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Internet Links for Additional Information:

<http://www.ncij.org/stateprofiles/profiles/MO06.asp>

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Review Questions

1. Summarize the legal rights of juveniles in Missouri concerning interrogation.
2. Discuss whether or not juveniles should be allowed to waive their Miranda rights in light of the research conducted by Grisso and others.
3. What is the most effective method of improving juvenile attitudes toward police?
4. Discuss whether or not the DARE program has had any effect on preventing drug use in your area and whether or not the program assisted in creating a more positive attitude toward law enforcement.
5. What is your perspective on the limitations on law enforcement activities by police in light of the Supreme Court cases?
6. Discuss examples as to when law enforcement conducted warrantless searches at your school and evaluate whether this practice offends your sense of privacy for juveniles.