

PROCEDURES; PEOPLE AND ATTITUDES INVOLVED  
IN THE HANDLING OF JUVENILES BY POLICE IN ADDIS ABABA\*\*

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INTRODUCTION

In 1971, the author and several part-time research assistants conducted a survey of the juvenile aspect of police operations in Addis Ababa. The following report is the result of that study. It is divided into two parts. The first will examine in the light of relevant legal provisions police procedures as revealed by a study of official files. The second will attempt a profile of the officers primarily involved in handling juveniles and their attitudes based upon questionnaires administered to them.

SECTION I

POLICE PROCEDURES IN HANDLING JUVENILES

One of the problems facing Ethiopia in the development of its legal system is the difficulty some of its institutions are encountering in trying to absorb Western based legal principles adopted for the country. These principles in respect to the handling of juvenile delinquents have been codified in such a manner as to make it difficult even for Western legal experts to determine what is to be done.<sup>1</sup>

The purpose of the study reported in this section was to help to ascertain the extent to which the police are having such interpretive problems by examining police procedures in

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1. See S. Fisher, Criminal Procedure for Juvenile Offenders in Ethiopia, 7 JOURNAL OF ETHIOPIAN LAW [J. ETH. L.] 115 (1970).

handling juveniles so that these procedures could be compared with the Criminal Procedure Code. Toward this end, every fourth file in the records of the Addis Ababa Police Department's Special Juvenile Section for the most recent three year<sup>2</sup> period was analyzed.<sup>3</sup> The total number of files examined using this method was 256. In addition, a number of key police officers were interviewed in order to enable the researchers to better analyze the files. The files generally had most of the information necessary for the analysis although some were incomplete. Before discussion of the files concerning the handling of juveniles, some background on the organization of the Special Juvenile Section of the police in Addis Ababa is in order.

#### Organization of the Juvenile Section of the Police

Since 1942 when Ethiopia established a modern police force,<sup>4</sup> the police have had some notion of treating juveniles differently than adults.<sup>5</sup> In the early days, a juvenile would rarely be taken to court. Instead, the police would usually informally dispose of the case and send the boy home. But the police would be compelled to take the juvenile to court if there was a private victim of the juvenile's acts who insisted that the juvenile

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2. The years covered are from and including 1960 to the beginning of 1963, Ethiopian calendar (September, 1968 to September, 1970).

3. When two or more youths were processed by the police for allegedly committing the same crime together, there was usually only one file kept on them and joint reports were written regarding them. Thus, 290 youths are identifiable in the 256 files examined. Because of the tendency of the police to process all boys in one file in the same way, or to fail to record differences in process if there were any, the base number in our sample has been taken as 256 unless otherwise indicated.

4. Police Proclamation, NEGARIT GAZETA 1st Year No. 6 (1942).

5. Interview with Lieutenant Tekle Wolde and Corporal Maru Shanko, members of the Special Juvenile Section of the Addis Ababa police in the Central Investigation Department, May 1, 1971.

be taken to court.

It was officially decided in 1960 that there should be special handling of juveniles in the City of Addis Ababa.<sup>6</sup> This measure was justified in view of the rapid expansion of the capital as a consequence of increased migration. Included in the migrants were many juveniles cut loose from their families. One of the six police stations in the City was to deal with juveniles at large. Station No. 6 was chosen. The other stations, consequently, were instructed to send the juvenile offenders found in their respective areas to Station No. 6. Station No. 6 lost this function in 1967, however, when it was decided that since the Central Investigation Department (CID) coordinated all police functions, the handling of juveniles from throughout the City should be transferred to it. So a sub-department was created in the CID which became known as the "Special Juvenile Section" of the police. Once again all of the six police stations were told to bring juveniles immediately after arrest to this Special Section which is presently located in one of the buildings of the CID.

The Special Section has a staff of thirteen policemen working full time on juveniles.

One point to remember here is that though the Special Section has primary responsibility for dealing with juveniles, a large share of the youths are handled, in the first instance, by personnel from the neighborhood police stations.

#### A Comparison of the Law with the Practice Regarding Handling of Juveniles

##### 1. Age of "Juveniles" Processed by Special Section

Who are the "juveniles" who are entitled to special treatment under the law and thus are the group, presumably, that the Special Section was set up to handle? The Penal Code of 1957 speaks of three penal law regimes for juveniles. First, there are "infants" who have not attained the age of nine. These "infants" are deemed not to be legally responsible for their acts.<sup>7</sup> The second group are those "young persons" between the

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6. Id.

7. ETH. PEN. CODE art. 52.

ages of nine through fourteen. For this group there are special provisions in both the Penal Code and the Criminal Procedure Code.<sup>8</sup> The third group of youths are those between the ages of fifteen through seventeen. As to this group, which has been called "post juveniles," it is provided that their trial shall be conducted under the ordinary provisions of the Penal Code but with a discretion left to the trial court, with respect to sentencing, as to whether or not to apply one of the special penalties specified for young persons, or the provisions on mitigation.<sup>9</sup> Thus only those boys and girls who are between the ages of nine through fourteen are entitled to a special procedure for handling although it may be said that youths under nine are entitled to a "special procedure", *i.e.*, release to their parents or some other responsible adult as soon as possible.

Having sketched the people who are entitled to a special procedure according to the Penal Code, let us now glance at what our survey of police records shows regarding the ages of people being processed through the Special Section.

Table I.

	<u>Age</u>	<u>Percentile</u>
Not responsible	8	0.7
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"young persons"	9	0.7
	10	3.0
	11	7.0
	12	19.0
	13	26.0
	14	23.0

8. Id. arts. 162-172; ETH. CRIM. PRO. CODE arts. 171-180.

9. ETH. PEN. CODE art. 56.

	<u>Age</u>	<u>Percentile</u>
"Post juveniles"	15	16.5
	16	1.0
	17	1.0
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Adults	18	0.7
	19	0.7
	20	0.7

The 256 files analyzed contain the cases of 290 persons<sup>10</sup> between eight and twenty in the percentages shown on the chart. The Special Section of the police had processed all of these persons although this age range includes all of the four penal law regimes; namely: "infants", "young persons", "post-juveniles", and adults.

This information is evidence of a severe problem the police face in determining the exact age of the persons with whom they are dealing. There is at present no system of registration of civil status, including birth, in Ethiopia.<sup>11</sup> Furthermore, even if a youth wishes to reveal his exact age it may not be possible for him to do so especially if he is not living with parents who may be able to tell him from memory.

The question of age arises for the first time when an officer is about to arrest a youth. At this moment, the policeman on patrol must make judgments as to who is an "infant", "young person", a "post-juvenile", or an adult. The second time the question comes up is when the youth is officially booked in the police records at the Special Section. Thus, the relevant age for purposes of assuming jurisdiction by the

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10. See note 3, supra, for an explanation of the 290 figure.

11. The Civil Code provisions on registration of the status of persons are not yet in operation.

Special Section of the police is the one given by the youth himself to the police at the time of questioning. The third time the question of the age of the youth may arise is when he is taken to the Juvenile Court. If the judge, or a relative of the accused, or the accused himself raises a question as to his age, he may be taken to one of the hospitals in the City to have his age certified.<sup>12</sup> In the absence of registration of civil status in Ethiopia; there is no other way of certifying a person's age.

Under these circumstances a patrolman, assuming he has been made aware that a person entitled to special processing must be between the ages of nine through fourteen, may be excused if he apprehends and delivers someone over fourteen to the Special Section. Furthermore, the Special Section, little better prepared to establish the exact age of a youngster, may be justified in continuing to process a certain percentage of youths who report their age as fifteen or over. It is possible that some young people, for whatever reason, will report their age as older than it actually is. With this in mind an officer may make a judgment that the youth is at a level of maturity justifying the special treatment envisioned for "young persons" by the law. If this is what is happening in Addis Ababa, as revealed by the above table, it may not be what the Penal Code technically calls for, but it may be the best the police can do at the moment.

Before leaving this area we might glance at the other side of the coin. Another result of the present lack of a system for establishing a person's exact age may be that some people fourteen or over may intentionally be reporting their ages as younger if they are aware that they may thereby get special procedural treatment and sentencing consideration (under fifteen) or special sentencing consideration (under eighteen). If this is happening to some extent, it may be contrary to what the law envisages, but it is not shocking. It is a bit shocking, however, to consider that some youths actually under nine may for some reason be reporting their ages as nine or over thereby subjecting themselves to police processing and possible conviction and punishment whereas they would be deemed not responsible for their crimes if their true ages were known.

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12. Interview, note 5 supra.

## 2. Special Procedure for Young Persons

The Criminal Procedure Code devotes a chapter of ten articles to the processing of "young persons,"<sup>13</sup> i.e., people between the ages of nine through fourteen.<sup>14</sup> The article which is most relevant to police practice is Article 172 which reads as follows:

"Art. 172. -- Institution of proceedings.

- (1) In any case where a young person is involved, he shall be taken immediately before the nearest Woreda Court by the police, the public prosecutor, the parent or guardian or the complainant.
- (2) The court shall ask the person bringing the young person to state the particulars and the witnesses, if any, of the alleged offence or to make a formal complaint, where appropriate, and such statement or complaint shall be recorded. The court may give the police instructions as to the manner in which investigations should be made.
- (3) Where the accusation relates to an offence punishable with rigorous imprisonment exceeding ten years or with death (Art. 173 Penal Code) the court shall direct the public prosecutor to frame a charge.
- (4) Where the case requires to be adjourned or to be transferred to a superior court for trial, the young person shall be handed over to the care of his parents, guardian or relative and in default of any such person to a reliable person who shall be responsible for ensuring his attendance at the trial. The witnesses shall be bound over to appear at the trial."

From a literal reading of the Code, it would appear that only the special procedures established by the ten special

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13. ETH. CRIM. PRO. CODE arts. 171-80.

14. Id. art. 3.

articles<sup>15</sup> should apply to young persons. As pointed out by one author, "inevitably, such brief coverage has kept many matters unsettled, and it is often problematic whether and how much of the rest of the Code [applicable to adults] should be used to fill the gaps."<sup>16</sup> The problem has become more complicated in Addis Ababa with the establishment, mentioned earlier, of one Juvenile Court to which all of the functions of the Woreda Courts referred to in Article 172(1) have been transferred. This Court meets only on Tuesday and Thursday afternoons, making it difficult, e.g., to present a child "immediately" to that Court when he is apprehended on Friday. The reader is referred to Fisher, "Criminal Procedure for Juvenile Offenders," in Volume VII of the Journal of Ethiopian Law for an excellent detailed exposition of these problems. The following analysis will simply trace the extent to which certain provisions concerning adults are applied to young persons and whether and to what extent certain provisions of the special procedure for juveniles are used without trying to resolve the issue of whether or not these provisions are mutually exclusive or how they should complement each other if at all.

### 3. Practice with Regard to Complaints.<sup>17</sup>

Article 172(2) of the Code, set out above, suggests that a "formal" complaint against a young person can be made only in court. It is arguable, however, that informal complaints, written as well as oral, might still be made by complainants at a police station.<sup>18</sup> In any event, some of the files analyzed contain written and signed complaints against the juveniles, and many contained orally given complaints recorded by the police.

Many of the complainants implored the police to investigate the case on the ground that if the accused were threa-

15. Id. art. 171.

16. FISHER, supra note 1, at 127.

17. See Id. at 131, n. 108 and 109 for the technical meaning of the words "accusation" and "complaint". Here "complaint" is used in a generic sense to include both.

18. Id. at 133.



tened with some kind of measure he would tell the truth about the matter. This may have been done by some complainants in an effort to avoid the difficult job of presenting enough hard evidence to establish a reasonable cause warranting investigation of the allegations. The files show a number of complainants promising to bring their witnesses and other evidence soon. The youth is then detained by the police for some days after which the complainant fails to pursue the case and the juvenile is released either on the execution of a bond or without one.

Without suggesting that any of the complainants noted above acted improperly, it might be observed here that the Code provides sanctions against people who make false complaints<sup>19</sup> and that this apparently applies to complainants against youths as well as adults.<sup>20</sup>

#### 4. The People Who Arrest Young Persons.

The Code presents perplexing difficulties on the question of who is authorized to arrest a young person given the right circumstances.<sup>21</sup> It seems clear that the public prosecutor, the police, and a parent or guardian may do so. But who else? One interpretation could be that only persons injured by an offence can arrest in addition to those mentioned above. Fisher concludes that the more reasonable interpretation is that "any informant," for example, an eyewitness to a murder or the victim of an attempted robbery, may be an arresting person.<sup>22</sup>

The practice seems to be as broad or broader than Fisher's interpretation. One-hundred-seventy-six files in the sample had information as to who made the arrests. In these cases complainants made 60 per cent of the arrests. Another ten per

19. ETH. CRIM. PRO. CODE art. 18.

20. Id. art. 16(1), states that complaints are to be made against young people in accordance with art. 172, but the special provisions for young people contain nothing regarding false complaints. However, art. 18, which does, is unlimited in scope.

21. See FISHER, supra note 1, at 131.

22. Id. at 131 n. 109.

cent were arrested by persons acting on behalf of the private complainants. Twenty-one per cent were arrested by passers-by, guards of storehouses and relatives or guarantors of the youths. In only nine percent of the files with information on the point were the juveniles arrested by the police. The probable explanation for this small figure is that of the 80 files in the sample that were silent as to the arresting parties, all or most were police.

##### 5. Arrests without Summons or Court Warrants

Of the cases in our sample where circumstances of arrest were clearly indicated, many were "on the spot" arrests. But 31 per cent (80 of the files) showed some time lag between the commission of the alleged offences and the arrests. Out of this group, 26 per cent were arrested within 24 hours after the offence was committed, 49 per cent between two days through seven and nineteen per cent between eight days and a month. Five (six per cent) were arrested over a month after the alleged offence was committed. There were no copies of summons or court warrants for arrest and no references to them found in any of the files. It is possible that this reflects mere recording omissions but a source close to the recording process has indicated that if summons or warrants had been issued, copies would have appeared in the files.<sup>23</sup>

In Ethiopia today it is not clear under what circumstances a young person can, without a summons or warrant, be arrested an appreciable time after the alleged offence has occurred. There seems to be little doubt that the constitutional and statutory provisions in this regard apply to juveniles as well as adults.<sup>24</sup> However, due to inconsistencies in drafting, there is considerable doubt as to what the Constitution and statutes permit.<sup>25</sup> In this respect, the interpretation most favorable to the police would permit arrests a considerable time after the alleged occurrence only if the offence were "serious".

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23. Interview with Lieutenant Tekle Wolde, member of the Special Juvenile Section of the Addis Ababa Police, July 19, 1971.

24. FISHER, supra note 1, at 132.

25. FISHER, Some Aspects of Ethiopian Arrest Law: The Eclectic Approach to Codification, 3 J. ETH. L. 476-88 (1966).

In this context serious means "where the offence is punishable with simple imprisonment for not less than three months."<sup>26</sup> A petty theft, for example, would not be a "serious" offence.<sup>27</sup> It is likely that the majority of the alleged thieves in our sample (who were 67 per cent of the whole sample) were in the petty theft category. Here again, the codes present interpretative problems as a petty thief is defined as one who takes a thing of "small value." It is left to the courts to determine what constitutes "small value" given all the circumstances of the case.<sup>28</sup>

Nevertheless, it is unlikely that many of the youths in the 31 per cent who were arrested without a summons or warrant had allegedly committed "serious offences." The apparent police conduct in making such arrests could certainly be excused if they are confused by the law in this regard. However, it is possible that a practice of arrest without summons or warrant is taking place without an attempt to comply with legal provisions.

#### 6. Police Investigation of Juveniles

When an adult offender is arrested the police normally make a preliminary investigation to determine whether there is good reason to present him to a court, which must be done within 48 hours of arrest. It will be remembered, however, that in the case of young persons, Article 172(1) requires "immediate" presentation to a court after arrest. That Article further provides that the court may give the police instructions as to the manner in which investigations should be made. It seems clear that this scheme contemplates no investigation by the police until after the court appearance. If "the court" were sitting 24 hours a day, seven days a week, this scheme would be workable. But in Addis Ababa particularly today this code mandate presents the police with a serious dilemma. The court to which the Addis police have been told to look sits only on Tuesday and Thursday afternoons. Assume a child is arrested and brought to the

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26. ETH. CRIM. PRO. CODE art. 50; but see FISHER, supra note 25, at 481 n. 81.

27. ETH. PEN. CODE art. 806.

28. Id.

Special Section on Thursday evening falsely accused of a serious offence such as homicide. Are the police to keep him in custody until Tuesday afternoon without investigating to determine if the accusation has any basis? Or should they turn him loose, with or without bail, and hope to be able to find him again on Tuesday in order to present him to the court?

If a mere complaint is made to the police without the youth being taken into custody a different situation is presented. Here too, it could be argued from a literal reading of Article 172 that no investigation on any scale should be conducted by the police until the youth is presented to a court and ordered to do so. Fisher, however, is of the opinion that the Code leaves room for the police to make an investigation at this point to determine whether or not there is sufficient probability of guilt to justify arresting the young person and taking him to court.<sup>29</sup>

The practice in regard to police investigations before court appearance as evidenced by the files in our survey was not limited to the "reasonable cause" or surface type of inquiry that the above discussion indicates is permissible or should be permissible under the Code. In a few cases in the sample the police were observed releasing youths or dismissing complaints after a limited inquiry indicated the complaint was completely groundless. But if the police were convinced there was some substance to the complaint they would normally continue their investigation up to and including preparing evidence that they felt could serve to convict a youth -- all before appearing before the Juvenile Court for the initial hearing.

It should be observed that, given the inconsistencies between the mandates of the Code regarding "immediate" presentation to a court and the limited session times of the Juvenile Court in Addis, such practice by the police is understandable and in some instances the best practical solution. But to the extent that investigations are continued in order to build up a good case for conviction against a boy without being so ordered by a court after a date when the case could have been presented to the court in accordance with Article 172, it is improper. The information to be presented infra on the length

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29. FISHER, supra note 1, at 132-4.

of time certain boys are kept in custody before being initially presented to a court will throw further light on the extent to which this is happening.

#### 7. Interrogation of Juveniles and Confessions Obtained

Article 27 of the Criminal Procedure Code recites the right of an accused to be silent when being questioned in a police station. As gathered from the files examined the police have tried to apply this procedural right to the cases of juveniles. The files of more than 60 per cent of the sample mentioned Article 27 of the Criminal Procedure Code as having been complied with during the police interrogations. After some preliminary entries on the age of the boy, his occupation, and his address, these records show a statement to the effect that Article 27 was cited to the accused and that he was informed about his right to be silent and that any statement made by him could be presented in court as evidence.

There is evidence however that not all cases of interrogation of juveniles employ Article 27 to the juvenile's advantage as properly as the records in our survey would indicate.<sup>30</sup> It is known that in some cases a full interrogation has taken place before the youth has been made aware of his rights under Article 27. The boy would be presented with his entire statement as written down by the interrogator, then informed of his rights before being asked to sign it. This, of course, is contrary to the spirit of Article 27. If a youth is to exercise his free choice as to whether or not to remain silent he must be told of this right before he speaks.

It is not known to what extent the above described practice occurs. When it does occur it may be attributable to a failure on the part of the interrogator to understand the rationale of Article 27 and that the admonition it contemplates for the accused is only fully effective if it is presented to him before he is asked questions relating to the allegations. It may also sometimes be attributable to a realization by the

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30. The discussion on the subject is based on personal, first-hand knowledge of one researcher and an interview with a one-time high ranking police interrogator whose identity must remain confidential.

interrogator that a signed statement is more likely to be obtained if the youth is told of his rights after the questioning is completed.

It is possible that the practice of "post interrogation warning" explains some of the large number of confessions that were made by juveniles in the sample during interrogation in the Special Section. Some files, twelve per cent of the sample, did not have information as to whether the juveniles confessed or denied the charges. But a large number, 65 per cent of the juveniles, had fully or partially confessed to the charges. Only 23 per cent were reported as having denied the charges. It is not very clear from the files as to how the confessions were procured by the police. Many files show denials up to a certain moment with a gradual appearance of confused statements of part denials and part confessions progressively turning to full confessions.

#### 8. Gathering of Evidence

The files examined did not reveal much about evidence gathering by the police. Of course, the obtaining of confessions as discussed above is in this category. In addition, 22 per cent of the 256 files analyzed showed witnesses giving the police statements about the alleged offence. Also a few of the files on theft cases showed the allegedly stolen material, usually found with the youth when apprehended, being brought to the Special Section and kept there as evidence.

#### 9. Time Spent in Police Custody

The mandate of Article 172(1) that any young person who has been taken into custody shall "immediately" be taken before a court has already been noted. It has been speculated that this directive was intended to eliminate, as much as possible, custody over juveniles by the police without the knowledge or approval of a court.<sup>31</sup> We have also noted how administrative directives creating a special court sitting two afternoons a week have made it impossible for the police in Addis to comply with Article 172(1) without releasing many arrested boys and hoping to be able to find them again just before the next court session. With this in mind let us examine our figures on the

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31. See FISHER, supra note 1, at 134.

time the boys in our sample spent in police custody before initially being presented to court or released without court presentation.

Out of the total sample, 68 per cent of the cases analyzed show the number of days the youths spent in police custody. The number of days spent in custody was not explicitly reported in the files. However, it was possible to determine the figures by finding the difference between the date of arrest and the date of first appearance in court where there was no evidence of the youth leaving the police station in the interval. This method has certain limitations. When the police in the Special Section received a youth there they apparently usually assume he has just been arrested. It is possible that in some cases the youth had been detained for some time in a local police station and this fact is not brought to the attention of the recording officer in the Special Section. Thus, our figures as to time in police custody may be somewhat on the short side in a few cases.

The time spent in custody by the 172 youths in the sample for which information was available in this respect ranged from a few hours to 47 days. Seventy-seven per cent of these were in custody from a few minutes or hours through five full days, 18 per cent from six days through a month. Five per cent (8 youths) were in custody for over a month.

Giving the authorities every benefit of the doubt, there could be justification for keeping these youths in police custody for up to five full days. If a juvenile is arrested on Thursday evening in Addis the Juvenile Court does not sit again until Tuesday afternoon. The youngster may be of a sort who cannot be released to a responsible adult.<sup>32</sup> Thus he must be kept in custody for almost five full days.

But how can one explain the detention of youths in police custody beyond five days? This happened to 39 boys in the sample. It is unlikely that the special court was too busy to hear these boys' cases on the next session day after arrest or on the next after that.

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32. See *id.* 135-8 regarding the applicability to juveniles of the adult provisions on release under bail bond.

A feeling for what is happening in some of these instances can be gotten from the case of the boy in the sample who was detained for 47 days. He was brought to the police by a shopkeeper who said he caught the boy running away with two packets of cigarettes which he took from the complainant's shop without paying the price. The boy denied the allegation. After 47 days in police custody, the boy was set free on the ground that there was no evidence to take him to court and the private party had failed to pursue the case.

The explanation for some of these long detentions without presentation may lie in an incomplete understanding of the scheme contemplated in Article 172. It clearly envisions that a boy whom the police feel must be kept in custody pending investigation be presented to a court as soon as possible. The court will not conduct a full trial of the boy when this is done but will only look at what is known at the moment and decide whether there is a reasonable basis for beginning or continuing an investigation. The court will also at this "initial hearing" decide who is to look after the boy during any investigation. If an investigation is ordered and conducted and suggests that a trial is necessary, the parties will return to a court for that purpose.

#### 10. Cases Disposed of by Police without Court Appearance

In the next subsection we will discuss what our sample showed regarding court disposition of the cases therein. Two-hundred-and-thirty-seven cases in the sample were disposed of in this way. Some of the remaining cases had no indication of disposition in the files. Others were suspended because the complainant failed to press the case. But 28 can be classified as cases where the police exercised discretion in the matter and released the boy.<sup>33</sup> Of these 28, seven files simply recited that the youths were "released" by the police, five said there was a release because no evidence was found and fourteen said the youth was either a first offender or "young"<sup>34</sup>

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33. The files on youths arrested for committing the same offence together clearly distinguished between such youngsters regarding disposition, so a base figure of 290 rather than 256 was used here; see note 3 supra.

34. "Young" here did not mean under the legal age of responsibility (9 years) as these youths were older than that.



and therefore was released.

The scheme contemplated by Article 172 of "immediate" presentation of youths to a court would presumably leave relatively little discretion in the police as to whether to release an arrested boy. If there was enough justification for the police to take the boy into custody, the Code apparently envisages that a judge should make such decisions thereafter. In the absence of an adequate court structure to effectuate Article 172, it is clear that the police are justified in acting on their own to release many boys who have been apprehended. To take our example of an arrest of Friday evening on the basis of a reasonable suspicion; if by Saturday evening a diligent search has turned up no evidence of the boy's guilt but some evidence of his innocence, surely the police need not wait until the Juvenile Court session Tuesday afternoon to get permission to release the boy. However, this cannot cover all of the cases in our sample where the police acted on their own to release an arrested boy.

Fourteen were released because they were first offenders or "young" (but over nine years). There is no authorization in the codes for the police to take this type of action. On the contrary the statutes contemplate that discretion of this type shall reside in the courts in adult cases at least.<sup>35</sup> But if (1) first offenders or "young offenders" should be released under certain circumstances and (2) if Article 172 has as a purpose to keep youngsters out of police custody without court approval as much as possible and (3) if because of the present court structure in Addis presentation in court may not be possible for a few days, is not the police action in these cases practical and appropriate?

#### 11. Court Disposition

As mentioned earlier, 237 cases in our sample were disposed of in a courtroom. In seventeen per cent of these the court exercised the sort of discretionary judgment discussed above in releasing these defendants after giving a warning or advice though they were found guilty of the offences. All of these released youths had either pleaded guilty to the charge or were "first offenders" or both. The existence of these factors

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35. See ETH. PEN. CODE art. 79.

apparently prompted the judge's leniency.

In 30 per cent of the cases disposed of by a court the defendants were sentenced to from six months through five years in the Addis Ababa Boys Training School and Remand Home. The other cases were rather evenly distributed among other types of disposition available to the judge including probation and directing that boys be stroked or flogged. Some juveniles were released on the ground that the private complainant did not pursue or withdrew his case.

### Conclusion

By and large, the police in Addis Ababa seem to be proceeding against young persons fairly well under circumstances beyond their control which make literal compliance with some provisions of the Criminal Procedure Code impossible. The task of the police would be much easier and clearer if the Special Juvenile Court of Addis Ababa were to sit every day -- preferably 24 hours a day -- so as to make possible literal compliance with the "immediate" presentation after arrest provision of Article 172. Until that happens the police should make every effort to comply with Article 172 to the extent possible. This means they should at the earliest possible moment present to the court an arrested young person whom they feel cannot be released to a responsible adult pending trial or other disposition.

## SECTION II

### A PROFILE OF THE POLICE HANDLING JUVENILES IN ADDIS ABABA.

The following statement, made in another societal context, would seem to be equally applicable to Ethiopia:

In making a study of the role of the police in society's attempt to handle problems connected with juvenile delinquency..., it is necessary to examine police philosophy or policy and police practice. Practice has its roots in policy. What police officers do is based upon concepts as to what they ought to do. These concepts,

in turn, originate in the philosophy of the executives who formulate policy. The philosophy of these executives arises out of their experience and accumulated cultural values.<sup>36</sup>

In line with these thoughts a questionnaire<sup>37</sup> was designed and administered in order to ascertain certain opinions of Addis Ababa police officers regarding juveniles and to cast some light on the manner in which the police handle them.

#### Method of Study

The sample for this survey was selected on the basis of information supplied by some of the captains of the Addis Ababa police stations and other delegated officers who volunteered to provide the names of all officers who had had some degree of juvenile experience. This method of selecting the interviewees for the survey had obvious imperfections. A sampling of the entire police force was contemplated and suggested but was met with resistance by certain of the police captains. The method of selection used, however, may have had the advantage of producing virtually the complete sub-population of the police force that was in a position to have informed opinions and information on juveniles and the handling of them. The total number of officers that the official referrals produced was 48.

Administration of the questionnaire was performed at the various police stations by a group of law students. The questionnaire was prepared first in English then translated into Amharic. Copies were given to the interviewees with the request that they fill in the answers in the presence of the interviewers. This procedure was adopted to avoid possible discussions among the interviewees and to allow the police officers to receive help or explanations on the more difficult questions. Some respondents failed to express an opinion on some of the questions or gave unusable answers. The percentages given below are based on the total number of respondents who answered each

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36. G. O'CONNOR and N. WATSON, JUVENILE DELINQUENCY AND YOUTH CRIME 79 (1964).

37. Some of the questions were adopted from the O'Connor and Watson study. Id. at Appendix.

question in a usable fashion.

Before moving on to the data a word should be said about difficulties the research design faced in respect to opinion questions. The very idea of being interviewed was new to most of these policemen. There was a prevalent attitude among the group that they should defer to superior officers regarding opinions. The interviewers tried to explain thoroughly that representative opinions of the police and not "expert" opinions were being sought and that there were no right or wrong answers. In spite of the apparent acceptance of these explanations it must be noted that distortions in terms of cautionary answers might be present in the survey.

### Background of the Officers

The first few questions asked were on the background of the respondents. These questions dealt with the degree of contact the interviewees had had with juveniles, the number of years they had spent as police officers, their ages and information about their own children and the educational background of the officers.

#### 1. Contact with Juveniles and Years in Service

The first question the officers were asked was how often they come into contact presently with juveniles in their capacities as policemen. The answers are shown in Table II.

TABLE II. AMOUNT OF WORK WITH JUVENILES\*

<u>Frequency</u>	<u>%</u>
Almost all	22
Much	4
About one-half	35
Some	15
Very little	24

\*Unless otherwise indicated in these tables and textual reports all 48 interviewees gave usable answers. Here only 44 did so.

It was expected that the respondents would have various degrees of contact with juveniles. The reason for this is that, as a departmental policy, all policemen, with the exception of those officers who are members of the Special Section, handle both juveniles and adults. Still, some of the officers have more contact with juveniles than others depending on the instructions they receive from their superiors and the localities to which they are assigned when they are on patrol.

Regarding years in police service the group ranged from one to 24 years. When the data was divided according to five year service periods, the largest group, 31 per cent, was in the eleven through fifteen year category. The rather balanced picture presented by Table II, above, and the years in service data suggests that the group would present a balanced viewpoint on substantive questions asked, neither overly jaundiced by frequency of contact nor too inexperienced or detached.

## 2. Age, Children and Education of Officers

The ages of the interviewees were as follows:

TABLE III. AGES\*

<u>Age</u>	<u>%</u>
Under 21	4
21 through 30	56
31 through 40	33
41 through 44	7

\*Three did not answer this question.

Seventy-two per cent of the interviewees answering (two did not) said they had children and the average age of all those reported was seven years.

No figures were available as to the ages of police officers in general in Addis. But whatever those figures would show, it can be said that the men who deal with juveniles in Addis are

relatively young considering the population as a whole. This, plus the fact that most have children of their own, would seem to be a healthy condition inasmuch as this group of men should be relatively well-suited to perceive and appreciate the problems of the present generation of juveniles.

Of course, something in terms of wisdom may be lost because of the relative youth of those men, but to some extent that loss could be compensated for by formal education. Eighty-eight per cent of the group reported having attended at least elementary school with seventeen per cent of those who attended having attained the junior high or high school level. This school attendance profile is high considering the low attendance rates in the Empire as a whole and may be partially explained by the police force policy in recent years of recruiting actively among school drop-outs. The high educational attainment of these men is encouraging as it may make future instruction on appropriate handling of juveniles easier.

#### Understanding of Delinquent Behavior

The police were presented with a statement that "though the police may try, it is difficult to understand the peculiar behavior of delinquents" and asked to agree or disagree. Eighty-three per cent agreed strongly or agreed while seventeen per cent disagreed or strongly disagreed.

It appears very significant that such an overwhelming majority of the group (83 per cent) felt unable to understand delinquent behavior in spite of the relative youth of the group and the fact that most have children of their own. It would seem that an educational program in this regard should be considered by the authorities. This is not to say that anyone is presently in a position completely to understand delinquent behavior in Ethiopia. But it seems that a program designed to point up to policemen the difficult problems faced by many youths in Addis and the possible motivations for much of what they do would be beneficial.

The receptivity of the police to such an educational program may be indicated by the interviewees' responses to a set of statements designed to test their opinions of the importance of police having a "feeling" for young people. The group was presented with three choices and asked to select the one

which most nearly accorded with their view.

TABLE IV.

IMPORTANCE OF A "FEELING" FOR JUVENILES

<u>Statement</u>	<u>%</u>
As long as one does his job and follows the rules it is not so important how one feels about young people.	20
To do a good job regarding juveniles it is better for a policeman to have a lot of feeling for young people.	64
A policeman cannot do a good job at all regarding juveniles without a real feeling for young people.	16

The twenty per cent figure is not alarming in view of the remaining 80 per cent who would probably be receptive to a program designed to give them a better "feeling" for young people.

Handling of Delinquents

1. Opinions Regarding Need for Strictness and Firmness

As a transitional question from those regarding understanding delinquents into those regarding handling, the interviewees were given the following statement and asked to agree or disagree:

Understanding may be important in helping delinquents but what is really needed is strictness and firmness.

Nearly 80 per cent strongly agreed or agreed, twelve per cent disagreed or strongly disagreed and eight per cent were unsure (one did not answer).

Then, two questions were put which both received virtually

100 per cent strong agreement or agreement:

- (1) Firmness will help delinquents learn right from wrong.
- (2) Society is going to have to get a lot tougher than it has been if it is going to cut down on delinquency.

Finally the group was presented with a statement bringing them closer to home:

It should be the policy of the police department to be kind to good people and rough with criminals and gangsters.

The unanimity receded here with 74 per cent strongly agreeing or agreeing and 26 per cent disagreeing or strongly disagreeing (five did not answer).

The pattern revealed above suggests a clear disposition on the part of the police to handle juveniles firmly and perhaps be "rough" with them. It should be noted here that this tendency may be in large part merely a reflection of the Ethiopian tradition that authority figures, including parents, handle children in this way.<sup>38</sup>

## 2. Actual Treatment of Juveniles

When asked about the treatment of young people by the police 92 per cent chose the answer option stating that the police treat young people fairly. Four per cent chose the option that the treatment was harsh but that was because many young people deserved such treatment. Four per cent thought the police are often cruel to young people for no good reason.

The group was then asked how they thought most young people would answer the same question. The answers this time were 52 per cent (fairly), fifteen per cent (harsh but deserving) and thirteen per cent (cruel for no good reason). A sampling of

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38. LEVINE, WAX AND GOLD 221 (1965).



secondary schoolboys from the Menelik II School in Addis Ababa, who were interviewed for another survey conducted by the Haile Sellassie I University - Northwestern University Project concurrently with this one,<sup>39</sup> responded to a similar question regarding police treatment of juveniles in the following manner: Two per cent (fairly), 26 per cent (harsh but necessary), and 72 per cent (cruel for no good reason).

### 3. Need for Different Handling from Adults and Actual Practice

The group was almost unanimous again when asked if juveniles should be treated differently from adults. Ninety-eight per cent said "yes" (one "no," one no answer). Those who answered in the positive were asked for their reasons. The reasons most often given were the following: it is necessary to keep juveniles away from corrupting influences of adult offenders; the juveniles have the capacity to be rehabilitated or reformed very soon and easily; the very fact of the delinquents' youth entitles them to differentiated treatment since they are not in a position to distinguish well between right and wrong.

Only two officers mentioned the provisions of the Criminal Procedure Code as a reason for treating juveniles differently than adults. But it does seem clear from the answers given that even if the police are not specifically aware of different treatment called for by the law, their accumulated experiences and cultural backgrounds have given them the feeling that juveniles are to be treated differently.

But do the police in fact treat juveniles differently from the way in which they treat adults? Again 98 per cent of the group answered positively. In one respect, at least, this answer can be compared to the answers to a question put to a sample of the boys in the Addis Ababa Boys Training School and Remand Home for the Project survey mentioned above.<sup>40</sup> The boys were asked whether they were kept with any adult prisoners in the police

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39. J. BLAKE AND E. HOLLAND, THE JUVENILES: AN INTERVIEW STUDY OF FOUR GROUPS OF YOUTHS IN ADDIS ABABA 76-78 (1971) (unpublished, Haile Sellassie I University Library).

40. Id. at 84.

station. Fifty per cent of the sample said "yes," 35 per cent "no" and fifteen per cent did not answer because it was not applicable to them.

### Opinions on Other Institutions

#### 1. The Special Juvenile Court

A five choice question regarding the Special Juvenile Court in Addis Ababa was put to the group. This was done in an effort to provide a test as to whether the Court is functioning primarily in a rehabilitative as opposed to a punitive manner as some have envisioned that it should do. Given the orientation, noted above, of the police toward firmness and "toughness" toward delinquents one might expect that if the Court was attempting to perform its rehabilitative function this would be reflected in a tendency by the police to think it was "soft" on delinquents. Our figures may be supportive of this.

TABLE V. OPINIONS OF JUVENILE COURT

<u>Statement</u>	<u>% Agreed</u>
Court is too soft on the boys.	33
Court is lenient but that may be necessary.	25
Court is neither soft nor strict but generally balanced.	31
Court is strict but not overly so.	11
Court is too harsh and should go easier.	0

It should be cautioned that the small percentages at the bottom end of the table may be to some degree attributable to a reluctance to criticize authority. Nevertheless, the results seem to suggest, in a negative manner, that the Court is presenting a rehabilitative as opposed to a punitive picture to a group closely associated with its operation.

## 2. The Boys Training School and Remand Home

Fisher has reported that there seems to be a hostility on the part of the police toward not only the Juvenile Court but the operation of the Boys Training School and Remand Home as well.<sup>41</sup> He said the objection to the Home appeared to be directed toward the "soft" treatment accorded juveniles there and that the police did not readily cooperate with the Home in re-arresting escapees.

In an attempt to cast light on whether these impressions were well founded, the group was given a five choice question about the Home.

TABLE VI. OPINIONS OF BOYS HOME

<u>Statement</u>	<u>% Agreed</u>
Almost all of the boys who come out of the Home are helped and do not get into further trouble.	0
Most of the boys are helped.	15
About half of the boys are helped.	33
A few are helped but not many.	31
No boys are helped. It is just a place to send them for a while and often it makes them worse criminals.	21

Our figures do tend to support the reports that the police have a negative opinion of the efficacy of the Home. Perhaps this suggests that those concerned with its operation should join in any police educational program that may evolve in an effort to explain to the police the philosophy behind the operation of the Home.

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41. FISHER, supra note 1, at 138 n. 149.

CONCLUSION

This survey has rather clearly demonstrated the need for a police educational program regarding juvenile delinquency. The police admit to a lack of understanding of delinquent behavior yet realize that a "feeling" for young people is necessary for them. The police also appear not to be in sympathy with the manner in which the Boys Home and Juvenile Court are being operated. This attitude might change if they were adequately informed of the philosophy behind the operation of these institutions.

It is of course impractical to suggest that all police officers be made "experts" in juvenile delinquency matters. But surely a course of instruction aimed at better preparing the police who deal regularly with juveniles is feasible and should be considered by the authorities.

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