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JUVENILE COURT INTAKE
An Analysis of Discretionary
Decision-Making

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This study represents one activity of the local Pilot City Program under Section I.c. of its Model Juvenile Justice System Planning Guide, which calls for "an on-going project involving (1) the study of the exercise of discretion at various stages of the juvenile justice process and (2) efforts to improve and structure decision-making." Research and methodology in this study will also be utilized in a subsequent study of the screening of juvenile offenders which will attempt to further develop policy and administrative implications of such research for the City of Norfolk.

Despite an early suggestion that criminology should be concerned with "the process of making laws, of breaking laws, and of reacting toward the breaking of laws," (Sutherland, 1938: 3) the majority of the significant developments in the field have generally been in more restrictive areas than these. For example, the development of theoretical models that attempt to account for either the forces that push individuals toward criminality and delinquency or that make such behavior an attractive alternative to conformity has drawn much attention (cf. Cohen, 1955; Glaser, 1956; Merton, 1957: 131-160; Miller, 1958; Cloward and Ohlin, 1960; Matza, 1964; Downes, 1966; Burgess and Akers, 1966; Quinney, 1970; Sutherland and Cressey, 1970: 71-93). Attention has also increasingly focused on correctional organizations and the consequences of confinement in various

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types of correctional settings (cf. Sykes, 1958; Clemmer, 1958; Cloward, et al., 1960; Cressey, 1961; Wheeler, 1961; Glaser, 1964; Ward and Kassebaum, 1965; Giallombardo, 1966; Street, et al., 1966; Wellford, 1967; Hazelrigg, 1968; Irwin, 1970; Hefferman, 1972; Thomas and Foster, 1972, 1973; Thomas, 1973). This is all well and good. We are developing some reasonably good ideas about the causes of crime and delinquency, and we are beginning to better understand the long and short-term consequences of confinement. But we are also confronted with a paradox: despite our increasing knowledge about the causes of crime and the operation of the correctional process, we know very little about the manner in which law is created and applied.

This study represents an attempt to extend our understanding of the factors that influence the application of the law. Based on an analysis of records data obtained from a juvenile court system, we attempt to evaluate the criteria employed in determining whether a juvenile should be referred for a formal juvenile court hearings. This decision is generally the responsibility of intake or probation officers (Gibbons, 1967). Given the rather considerable discretionary power that many jurisdictions invest in these positions, it is surprising that so little attention has been focused on the determinants of their behavior. Still, it can reasonably be assumed that at least two basic sets of influences are of potential relevance at this level of processing. First, their decisions could

result from a consideration of variables directly related to the alleged offenses. These we will refer to as "legal factors." Second, it is also possible that these decisions are related to extra-legal factors associated with the personal characteristics of the alleged delinquent and his social background. These we will term "social factors." The goal of our analysis is to determine the extent of which social factors may alter the degree of association between legal factors and case dispositions.

Related Research

Although a considerable increase in the quantity and quality of research on reactions to deviance has followed the surge of interest in the labeling or interactionist perspective, sound research on the operation of the juvenile court system is far from extensive. Sound research on the determinants of probation officers' decisions to refer juveniles for court hearings is particularly scarce. Nevertheless, a number of relevant findings are pertinent.

First, it seems clear that a considerable volume of delinquent and criminal behavior never even becomes known to social control agencies (cf. Porterfield, 1943; Short and Nye, 1958; Akers, 1964; Voss, 1966; Ennis, 1967; Farrington, 1973). Even among those juveniles whose delinquency comes to the attention of the police, relatively few will find themselves referred for further processing (Gibbons and Griswold, 1957; Sheridan, 1962; Goldman, 1969; McEachern and Bauzer, 1964; Piliavin

and Briar, 1964; Terry, 1967a, 1967b; Wheeler, 1968; Wilson, 1968; Wheeler, Bonacich, Cramer, and Zola, 1968; Hohenstein, 1969; Ferdinand and Luchterhand, 1970; Ferster, Courtless, and Snethen, 1970; Black and Reiss, 1970; Weiner and Willie, 1971; Arnold, 1971; Ferster, and Courtless, 1971; Williams and Gold, 1972; Chused, 1973; Kieckbusch, 1973; Thornberry, 1973). Attempts to account for the considerable selectivity of this screening process have related the probability of reaction to such legal factors as the seriousness of the offense committed, extent of harm or damage associated with the offense, and the prior offense record of the offender. In addition, however, the attitude of the offerder towards those reacting to his behavior, his social class background, age, sex, race, religion, residence, family status, and so on all represent social factors that have been associated with the decision to refer cases for further review.

Second, even a superficial review of the relevant literature leaves one with the rather uncomfortable feeling that the only consistent finding of prior research is that there are no consistencies in the determinants of the decision-making process. Given the general thrust, and perhaps the ideological orientation, of labeling perspectives, it has often been assumed that such factors as sex, race, and social class are related to the selectivity of the screening process. Although some studies provide empirical support for such an assumption, an equal number have found little if any association between these attributes and the decision to react. A substantial

number of methodological explanations for these contradictory findings are entertainable (type of sample drawn, source(s) of data, sophistication of analytical techniques employed, systematic differences between the criteria deemed appropriate in various court jurisdictions, and so on). In addition, there is substantial reason to believe that the level at which the processing is being done is a major determinant of which criteria will assume salience. Recent research, for example, has shown that as cases move from the domain of the police to that of the probation officer to that of the court, the types of criteria that are employed vary considerably (Williams and Gold, 1972).

Unfortunately, this still does not account for the fact that the available analyses of the decisions made by probation officers provide grossly different depictions of the kinds of factors that influence processing of delinquents. Part of the problem seems to be tied to the multiple duties that probation officers typically carry out. In many jurisdictions they decide on whether a juvenile should be referred to court, they make recommendations on the appropriate dispositions for the cases that are referred, and they evaluate the degree of progress made by juveniles who are under the formal or informal supervision of the juvenile court. Thus, just as the criteria that are employed at the various stages of processing may be quite different, the criteria being used by the probation officer may well vary in accordance with the specific function he is fulfilling (Cohn, 1963).

Given the increasing consensus in the field on the notion that referral to the juvenile court is of considerable social relevance in and of itself, the focus of this paper is only on the analysis of the determinants of court referral. Even on that restrictive topic we find inconsistent leads from a review of the pertinent literature. Gross (1967), for example, attempted to determine the criteria that probation officers preferred to use in making their decisions. The four most preferred criteria were the juvenile's attitude toward his offense, family background information, delinquency record, and present offense data. We have been unable to find any research evidence on the attitude variable in this specific stage of processing, but the other criteria have not been consistently reported as relevant. Williams and Gold (1972) found that among those with prior offense records, blacks were more likely to be referred to court than were whites. This association between ethnicity and case disposition has also been noted by Cohn (1963) and by Goldman (1969). Terry (1967a, 1967b), however, found that ethnicity was uncorrelated with the dispositions made by probation officers and that the only statistically significant predictors of referral were offense, offense history, and age of the juvenile.

Conceptual Orientation

The contradictory findings that are reported in the available studies of factors that influence the decisions of probation officers renders the development of an adequate

conceptual model a difficult task. Still, research on other aspects of legal processing and the basic framework that has been advanced by proponents of the labeling approach provide support for some initial propositions.

Initially, there is clearly no question that the disposition of juvenile cases is typically accomplished with considerably more flexibility than is true with adult criminal proceedings. Indeed, the explicit rationale upon which our juvenile court system is based holds that the adversary system of criminal proceedings is inappropriate for juvenile courts whose primary function is the protection of the child and the provision of assistance for juveniles deemed in need of help. More than a few professionals in the fields of law, criminology, sociology, and related disciplines have argued that the pursuit of individualized treatment by the juvenile justice system has often led to inappropriate encroachments on the principles of equity, equal protection, and due process. The thrust of the United States Supreme Court decisions in such cases as Kent, Gault, and Winship notwithstanding (cf. Carver and White, 1968; Lemert, 1970;), formal procedures throughout the juvenile court system remain relatively relaxed and flexible rather than constrained by strict interpretations of constitutional and procedural law (Lefstein, et al., 1969; Reasons, 1970; Duffee and Siegel, 1971). While this flexibility may be viewed as a necessary condition for progress toward a more effective system of individualized justice, it also leaves the door open for the

utilization of screening criteria that are far removed from what we have termed legal factors. Given these observations, several points are clear. First, the probation officer has considerable power in the decision-making process because typically he determines who will be referred for formal court hearings. Second, for better or worse, juvenile proceedings are not conducted under the same procedural constraints as are typical in criminal courts. Third, although probation officers are formally defined as officers of the court, their academic and professional training tends to be much more oriented toward social work than toward law. Thus, they can be expected to place considerable importance on extra-legal variables (cf. Cohn, 1963). Finally, the data upon which their decisions are made (police reports, intake records, individual interviews, background investigations, and so on) typically provide them with a good deal of information, only a fraction of which is specifically related to such legal factors as the nature of the offense and prior offense record.

In brief, both our observations and the available literature suggests that probation officers exercise considerable decision-making power. Their power is typically not governed by strict procedural rules, but by traditional expectations that encourage them to tailor their decisions "to the needs of the juvenile." Presumably striving for the goal of providing such individualized justice, probation officers typically receive, solicit, or collect information on a substantial number

of extra-legal factors. Under these circumstances the real question is not whether extra-legal data is used in the rendering of decisions, but how it is used.

Notwithstanding thoughtful criticisms of the present status of labeling models (cf. Bordua, 1967; Akers, 1968; Gibbs, 1972; Schervish, 1973), examinations of court processing can profit from the logic of this approach. Although neither a review of the labeling perspective nor the development of a labeling model is within the scope of this brief essay, a few fundamental points are relevant. First, there is nothing inherent in the nature of the alleged delinquent act that necessarily leads to formal reactions to that behavior by the police, probation officers, or courts. Instead, the behavior itself is simply a variable which, together with knowledge of the extent of prior delinquency, provides a cue to the commitment of the juvenile to a delinquent career.¹ All other things being equal, the greater the degree of deviance that is perceived to be represented by the behavior and the greater the perceived commitment to delinquency, the greater the probability of a formal court referral. But all other things are not equal. The juvenile enters this stage of

¹Readers who are unfamiliar with the development of labeling models would profit from a review of such basic sources on the topic as Lemert (1951, 1972); Erickson (1962); Becker (1963); Scheff (1966); Matza (1959); Douglas (1970); Scott and Douglas (1972).

processing as considerably more than an individual who is, for example, alleged to have stolen a car and who has been warned about truancy violations twice in the past. On the contrary, among other things, the available data might depict him as a bright 17 year old white male who recently dropped out of school following the divorce of his parents and who has been questioned by the police about his truancy on two occasions prior to his arrest for auto theft.

The basic point is that there are contingencies that are not directly associated with a specific delinquent act that will alter the probability of further proceedings. The types of contingencies are numerous. Some tend to affect the understandability of the behavior. In the example cited earlier, for example, the arrest for car theft is more understandable if it can be viewed as a reaction to the stress created by the divorce of the juvenile's parents. Other contingencies would effect the ascription of culpability to the juvenile. For example, juveniles from some social class backgrounds may be excused from responsibility because "they simply weren't taught to know that stealing is wrong." Still other contingencies define status differentials between the juvenile and those reacting to his behavior, degrees of social distance, relative access to legitimate power, and so on. At this time, however, our goal is not to develop a typology of influential contingencies that may increase or decrease the probability of formal reactions to deviance. We simply wish to point out

the fact that important contingencies do exist, and that they must be taken into consideration if the screening process in the juvenile justice system is to be better understood and utilized.

Research Methodology

In order to assess the influence of several theoretically significant social factors, we abstracted information from the offense records of all juveniles whose most recent offense had come to the attention of the juvenile court in a small southeastern city not in the Pilot City area between January 1, 1966 and December 31, 1969. Only the most recent offenses and dispositions that had been recorded for those in this sample were included in our analysis. This provided us with data on the most recent offenses that had allegedly been committed by an initial sample of 352 juveniles. Six juveniles charged with minor traffic violations were removed from the sample. Our analysis is based on the remaining 346 cases.

The independent variables for our analysis are seriousness of the current offense and frequency of prior delinquency. The offense variable was trichotomized into felony offenses, misdemeanors, and strictly juvenile offenses. The prior offense variable was dichotomized into no prior offenses and one or more prior offenses. The prior offense variable is used as an indicator of degree of commitment to delinquency.

Our conceptual model suggests that the level of association between these independent variables and case disposition

will vary between categories of variables that are not directly related to either the offense or the offense history of the juvenile. This led us to introduce sex of the juvenile, ethnicity, social class of origin, age at first and age at last offense, number of co-offenders, and degree of family stability and unity as the control variables. With the exception of the social class variables, all of our indicators were directly derived from formal case records that were maintained on the 352 juveniles. When the occupation of the juvenile's father was not contained in these records, the local city directory was consulted. The occupational scale of the Hollingshead Two Factor Index of Social Position was used to categorize the social class position of each juvenile (Hollingshead, 1957). In those cases where the mother was the head of the household, the mother's occupation was used.

Our expectation was that the associations between the two independent variables and case disposition would be stronger among those cases involving black offenders than among those involving whites. Similarly, we hypothesized that the associations would be stronger for cases involving lower class juveniles than middle or upper class juveniles. Sex and age at both the time of the first and at the most recent offense were used as control variables because of the ascriptive nature of sex and age roles in this society. In particular, the suggestion has been made by other researchers that females are less likely to reach this level of processing than are males, but

that they are more likely to be referred to court than are males when they do come to the attention of the juvenile authorities. Thus, we would expect a stronger association between the independent variables and disposition among the cases involving females than among those involving males. Young children are also treated by the juvenile legal system in a manner similar to females given that a child may be considered to be too young to realize the consequences of his behavior. The juvenile authorities will not readily subject a younger child to official court attention unless the alleged deviancy is particularly severe, but we would expect that the relationship between the independent and dependent variables will become stronger as age of the juvenile increases. For similar reasons, the court can be expected to intervene in cases where the juvenile is living in what it defines as an unstable home or family situation. In the stable home, it is often expected that the juvenile is receiving adequate supervision and is, therefore, not in need of official supervision by the juvenile court. The number of co-defendants should also influence the relationship between the independent variables and case disposition. Juvenile delinquency may be a manifestation of status seeking behavior among peers and, therefore, may bring about increased visibility of potential delinquency. As a result of this increased visibility, the juvenile authorities may be more likely to process the case. Thus, among juveniles with one or more co-defendants or correspondents we

expect a stonger degree of association between the independent variable and the dependent variables.

Analysis and Findings

The initial question that must be raised in our analysis pertains to the relative importance of legal and social factors in the prediction of case dispositions. The relevant statistical data are summarized in Table 1.

(INSERT TABLE 1 ABOUT HERE)

Two points seem clear. First, the rank order of the several predictors can be established by the levels of association between each of the independent variables and case disposition. Their order of importance was seriousness of the most recent offense committed ($\gamma = .527$), age at the time of the juvenile's first offense ($\gamma = .389$), age at the time of the most recent offense ($\gamma = .323$), number of co-defendants ($\gamma = -.299$), race ($\gamma = .288$), family stability ($\gamma = .219$), and sex ($\gamma = .113$). There was no association between social class and case disposition ($\gamma = -.006$) and number of prior offenses ($\gamma = -.054$). Although these zero-order measures of association must be interpreted with caution because of the obvious interactions between several of the variables, they do provide some initial support for the hypothesis that social factors are influential in the decision-making process. Second, however, the levels of association show that no single variable other than seriousness of the

most recent offense accounts for more than a relatively small proportion of the variation in the dependent variable. Indeed, despite the common belief that social factors exert a major influence in legal dispositions, these data show only low to moderate correlations between social factors and case disposition. Still, because of the intercorrelations between several of the independent variables, it seems probable that a more thorough understanding of the determinants of case dispositions can be achieved by taking additional contingencies into consideration.

Controlled Analysis

The logic which provides the foundation for our multivariate analysis can be stated in a fairly simple fashion. The zero-order associations show that the most powerful predictor of case dispositions is the seriousness of the most recent offense. Indeed, the notion of equal protection under the law would lead one to predict such a relationship if all other things are equal. Obviously, however, all other things are never equal. Thus, the question we are posing relates to whether or not this type of relationship will remain constant when other potentially relevant factors are not allowed to vary. For example, is it possible that the importance of the seriousness of the offense will alter when the alleged offender is a female rather than a male, when he is black rather than white, when he is from a broken home rather than one which is intact? To resolve these and related questions one need only hold a third variable constant and then examine the conditional

associations which can be derived from the multivariate treatment of the available data. Tables 2 and 3 provide a summary of these conditional associations.

(INSERT TABLE 2 AND TABLE 3 ABOUT HERE)

In Table 2 we have presented the conditional associations between seriousness of offense and case dispositions when sex, prior offense record, age at first offense, age at most recent offense, ethnicity, social class of origin, family stability, and number of co-defendants are held constant. A review of these findings reveals that the relative importance of seriousness of offense in the determination of case dispositions is greatest when the alleged offender is male, has a prior offense record, is black, comes from a lower social class background, is in an unstable family setting, had one or more co-defendants, and when the age at first and most recent offense was between 16-17. Under all other conditions the seriousness of the offense was not so relevant in the determination of the appropriate case disposition. This does not necessarily imply the conclusion that one category of juveniles will be treated more or less harshly than another. It does indicate, however, that the social meaning of the type of offense which had allegedly been committed was quite different when the alleged offender was, for example, from a stable rather than an unstable home, male rather than female, and so on. Thus, it is

quite clear that variables not directly related to the alleged violation of state statutes are being taken into consideration in the disposition of juvenile cases.

Similarly, Table 3 provides an overview of the conditional associations obtained when prior offense record, our measure of degree of commitment to delinquency, is used as the independent variable rather than seriousness of the offense. These findings show that the salience of a prior offense record is greater when the alleged offender is black, from a lower social class background, when a felony level offense is involved, when the juvenile comes from an unstable family background, when there are one or more co-defendants, and when the juvenile's age at both his most recent and his first offense are 16-17. Generally speaking, however, prior offense records do not appear to be nearly so powerful a predictor in either the bivariate or the multivariate analysis as we had expected given the findings of previous research. Although we do feel that we can provide a meaningful interpretation of this finding, its ex post facto character should be kept in mind. Specifically, in this jurisdiction the volume of cases that are handled is generally quite low, and those responsible for screening the juvenile cases frequently have considerable knowledge about the previous behavior of a given juvenile, including behavior that is not a matter of formal record. While a prior record might be taken as an important indicator in a court with a much heavier docket of cases, it probably is not

interpreted in that fashion in localities where the informal information on each case is often extensive.

Summary and Conclusions

The purpose of this study was to determine the extent to which variables not immediately related to an alleged offense may alter the probability that variables that are tied to the offense will be predictors of case dispositions. The juvenile court system is a particularly good setting within which to examine such relationships given that it is charged with a number of responsibilities, some of which may run counter to one another. The overall operation of the court system, for example, is intended to provide protection for the community while also providing just and equitable treatment of an alleged offender. In addition, however, the philosophy of the juvenile court system in this country dictates that it tailor its decision-making processes in such a way as to provide support and assistance for juveniles who are deemed to require such aid.

In our analysis we examined the relationship between two "legal variables," type of offense and prior offense record, and the decision to refer cases for a formal hearing in the juvenile court. While our initial analysis shows that blacks are more likely to be referred than whites, older juveniles more than younger juveniles, those from unstable family backgrounds more than those from stable family backgrounds, those who had co-defendants more than those without co-defendants,

and those who were relatively older at the point of both their first and their most recent offense more than those in younger age categories, the seriousness of the most recent offense was clearly shown to be the best predictor of case disposition. On the other hand, the relative importance of the seriousness of the most recent offense was shown to vary considerably when the other variables in the analysis were held constant.

These findings lead us to conclude that both legal and extra-legal factors are being taken into consideration in the determination of whether to refer a given case for a formal hearing in the juvenile court. Indeed, some social factors appear to provide an "insulation" which may inhibit such referrals. The interpretation of whether such differentials are appropriate or inappropriate depends largely on one's perspective on juvenile court operations. If, however, one is responsive to the numerous criticisms that are presently being directed at juvenile court operations, it is clear that the "due process model" is being challenged in jurisdictions such as the one in which this study was conducted. This challenge may very well not be a function of discriminatory processing, but instead, through the inclusion of variables in the decision-making process that are far removed from the specifics of an alleged delinquent act, a decision-making process within which the discretionary actions of responsible officials are largely uncontrolled and not subject to either review or challenge.

Table 2

Levels of Association (Gamma) between Seriousness of Offense
and Case Dispositions with and without Relevant Control Variables

Independent Variable	Dependent Variable	Bivariate Association	Conditional Association
			Females = .304
			Males = .590
			No Prior = .516
			1 + Prior = .602
			Blacks = .671
			Whites = .446
			Hi SES = .358
			Lo SES = .481
Offense	Disposition	.527	Family Stable = .534
			Family Unstable = .540
			Age last offense = .005
			6-12
			Age last offense = .533
			13-15
			Age last offense = .786
			16-17
			Age first offense = .331
			6-12
			Age first offense = .580
			13-15
			Age first offense = .819
			16-17
			No Co-defendants = .490
			1 + Co-defendants = .575

Table 3

Levels of Association (Gamma) between Prior Offense Record and
Case Disposition with and without Relevant Control Variables

Independent Variable	Dependent Variable	Bivariate Association	Conditional Association
			Female = -.045
			Males = -.066
			Blacks = -.278
			Whites = .017
			Hi SES = -.074
			Lo SES = -.206
Prior Offense Record	Disposition	-.054	Juvenile Off. = -.253
			Misdemeanors = -.050
			Felony Offense = -1.000
			Family Stable = -.074
			Family Unstable = -.117
			Age last offense = -.071
			6-12
			Age last offense = -.034
			13-15
			Age last offense = -.164
			16-17
			Age first offense = -.041
			6-12
			Age first offense = -.073
			13-15
			Age first offense = 1.000
			16-17
			No Co-defendants = -.156
			1 + Co-defendants = .221

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