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**The Juvenile Court:
a Case in Organizational
Behavior**

by

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INTRODUCTION

Most of the research in juvenile justice decision making has focused on outcomes, the criteria on which outcomes are based, the doctrine of *parens patriae* or the concept of "*individualized justice*." Both of these approaches lose much of the richness of organizational behavior and organizational processes to an empirical calculus that does not portray an accurate image of how juvenile justice decisions are made. These perspectives blur our vision because they conceal that decisions in juvenile court are socially produced by the varied actors and agencies in the juvenile judicial system. This report adopts a gestalt perspective of juvenile justice decision making. The gestalt perspective emphasizes that the functioning of parts is determined by the nature of the whole, and social wholes are functionally indivisible. It will demonstrate that juvenile court decisions do not hinge on one key actor or one or two key variables. Rather, they are a social product, produced by several actors involved in various locations in the adjudication and the disposition of juvenile justice.

THE JUVENILE COURT

The Traditional Approach

A child in juvenile court faces a variety of procedures. There is the plea of the child, the prosecutor's presentation of evidence, the defense's presentation, the cross-examination of witnesses, and the finding of the judge. The prosecutor's case usually begins with the testimony of the arresting officer and witnesses. Then defense counsel cross-examine the prosecution's witnesses and present witnesses or evidence favorable to their client. The prosecution has the opportunity to cross-examine defense witnesses and when this is complete, the defense and prosecution make summary statements to the judge who then announces a verdict. Once a youth is determined or adjudicated delinquent by the court, the usual procedure is to schedule a separate dispositional hearing to allow the probation officer assigned to the case time to prepare a social study of the youth and make recommendations to the court.

The social study of the delinquent contains a number of factors (e.g., school attendance and grades, family structure and support, degree of maturity and sense of responsibility, relationships with peers, participation in community activities and sense of responsibility). It often includes a recommendation to the court for an appropriate sentence. Although the recommendations of the probation officer are usually followed, studies show that the most influential factor(s) in judicial decision making are prior decisions by juvenile court personnel (Cohen, 1975), or the perceived seriousness of the offense and previous contacts with the court (Thornberry, 1979). Finally a judge must

consider the options actually available as the most desirable option may not be currently open.

The Gestalt Approach

The manner decisions are made in juvenile court entails several factors. However, some influential factors may not be easily observed. These include informal features of organizations and agencies. Cavender and Knepper (1992) champion an alternative approach to examining juvenile justice decision making---the gestalt perspective. They write, "[r]ather than focusing on outcomes or the criteria on which they are based, the gestalt perspective emphasizes the social production of decisions" (P. 387). In addressing the social production of decisions I will focus on three aspects of decision making in the gestalt perspective: 1) the theory of office, 2) organizational context, and 3) accounts.

The Theory of Office

Central to the processing of cases is the theory of office. The theory of office refers to a "set of simple working categories for defining and responding to so-called deviants with which [agents] must deal" (Rubington and Weinberg, 1981:130). As stated by Drass and Spencer (1987) "a theory of office is a 'working ideology' ...which consists of typologies of deviant actors and appropriate processing outcomes, as well as rules which link the two" (P. 278).

Research shows clearly that agents of social control "process and respond to cases with relation to, or as part of some larger, organizationally determined *whole*" (Emerson, 1983:425). One aspect of this is making the cases *fit* preestablished categories. This is

achieved by "linking or articulating characteristics of a particular case with the characteristics of one or more general types of cases" (Drass and Spencer, 1987:278). Cicourel (1978) referred to this as "abductive reasoning" where social control agents obtain information about a case, then apply this information to a typology as criteria, then seek to verify or disconfirm the typing through gathering further information. These typologies--either client types (e.g., manipulator, negative attitude, bad person, sociopathic personality, not a criminal, substance abuser, jerk, asshole, etc.) or case types (e.g., burglary, theft, driving under the influence, possession of a controlled substance, etc.)--are the intellectual property of a local agency and perhaps shared, between agencies within the organizational framework of the juvenile justice system. These typologies are then used by the various agents in performing their duties. Besides providing a basis for investigation and eventual disposition, these typologies influence and reflect the goals and functions of the particular agencies within the juvenile justice system and the goals and viewpoints of the agents themselves who acquire the particular theory of office through their professional socialization within these organizational arrangements.

Finally, the decisions of social control agents must be conveyed and justified to others working within the same or related organizations. This is done through providing *accounts* of their decisions, in language and through concepts legitimated for the organization---here legal and/or psychiatric language and concepts---rendering their decisions reasonable, *rational* and open to scrutiny. The issue of accounts will be discussed

in greater detail in a later section of this report, but as accounts relate to the theory of office, Drass and Spencer (1987) emphasize that:

In many instances, such accounting by social control agents takes the form of referencing "what everyone knows." ...Since these accounts are directed to other agents who presumably share the same theory of office, "what everybody knows" will include the typologies of deviants which agents share, which presumably guided the decisions in the first place, and which therefore serve as evaluative criteria (P. 279).

Drass and Spencer then outline five propositions that summarize the theory of office:

1. Social control agents process cases of deviance with reference to a theory of office which provides agents with typologies of deviant actors and appropriate reactions.
2. Agents accomplish the processing of cases by linking characteristics of the individual case with characteristics of typologies of deviant cases.
3. Typologies and their use reflect organizational arrangements as well as agents' perspectives within these arrangements.
4. Since agents' decisions are subject to review, they account for their decisions in the course of preparing reports.
5. Agents account for their decision by invoking the typologies of deviant cases provided by their theory of office. These typologies are invoked by the strategic use of information about a case which reflects the typing work the agents have accomplished (P. 279).

The concept of the theory of office is important in that it reminds us that the use of official statistics to indicate rates of deviance or delinquency are themselves social, not objective, facts; that they are the products of "actions taken by persons in the social system which define, classify and record certain behaviors as deviant" (Kitsuse and Cicourel

1963:135). As such, the typologies employed are discretionarily based on categories provided by the organization, and utilizing a variety of input characteristics (characteristics of offenders, cases and victims) which affect the outcome decisions regarding the nature and extent of sanctioning.

Organizational Context

The organizational context approach highlights that decisions are sensitive to the effects of organizational factors. As the discussion of theory of office demonstrates, individual cases are not treated as discrete units, instead they are processed "in ways that take into account the implications of other cases for the present one and vice versa. These wider, *holistic* concerns and influences are an important organizationally-based factor that shapes [*sic*] decision outcomes" (Emerson, 1983:425-426, emphasis in original).

Emerson (1983) argues that there are four factors within the organizational context that determine how cases are processed: 1) relativity in judgement; 2) resource allocation; 3) partial caseload effects; and 4) sequence and precedent.

Relativity in Judgement

Relativity in judgement means that a case within an agency, is not seen in isolation from the total case set but as an occurrence along some particular dimension(s). One such dimension may be seriousness of a case. For example, rural areas regularly treat "minor" offenses as more serious than inner city agents do; in fact, charges for these offenses are regularly dismissed in inner city areas whereas in rural areas prosecution is the norm. The reason for this is that the offense is not viewed as serious compared with other cases by

inner city agents or agencies (Utz, 1979). "Such findings suggest that the makeup or shape of the total collection of cases processed by an agency provides a contextual gestalt relative to which particular diagnostic assessments will be made" (Emerson, 1983:429). That is, there is a "strain towards consistency" that is driven by the local theory of office.

Within the juvenile court this often creates problems as youths are often identified as "good kids" by some agencies of social control and as serious delinquents by others. This problem stems from the gestalt created by the types of cases regularly seen by the differing agencies (Emerson, 1969). In a similar vein, tension may be produced by being aware of the differences in relative judgements between organizations. For example, a youth whose "appropriate" sentence, as seen by the juvenile court, might be supervised probation may get a harsher or more lenient sentence by that court due to the perception that juvenile probation officers would not look at the youth's case as particularly important.

In addition, problems are created by newcomers on the scene as they lack the backdrop of cases to provide a basis to possess a relative judgement.

Resource Allocation

Issues of resource allocation, although seldom explicit, are critical in the categorization processes discussed in the prior section. For categorizing cases as serious or not so serious is fundamentally *practical* in character and impetus. It is done not for its own sake but *in order to act*, hence, recognized categories both reflect the options available ...in a particular setting and facilitate choices among options. In this respect, categorization decisions are inherently tied to decisions allocating resources among cases (Emerson, 1983:436, emphasis in original).

Like any business enterprise, the allocation of resources within juvenile justice agencies is important. In social control agencies, the allocation of scarce resources implicitly directs the typologies and relative judgements made by the agency and their outcome decisions. It is therefore a reasonable assumption that any change in the resources available to an agency will affect the categorizations and hence the outcomes. This takes place in several ways. First, an increase or decrease in resources available may alter the cutoff points on the decision dimensions of the agency. Second, the outcome decisions may change even if the theory of office does not. As Emerson (1983) highlights:

A critical process in social control decision-making is how to *allocate resources* among the particular cases that make up a larger whole. While different resources may be at issue in particular settings, allocation of the following are especially important in handling caseloads: the amount of *time* that a worker can make available; the amount of energy and *commitment* to be invested in particular cases; and the variety of *special options* that might be employed. Caseloads, in general, accentuate problems of allocation since what is done in one case has implications for what can be done in others (P. 439).

It is important to note that resource availability does not alter the typologies or categorizations made by the agency. It instead influences the realistic or operational treatment options given the demands placed on the system by other cases. Thus, decisions may be based on "necessity" rather than on "appropriateness." Decision-makers often identify how constraining resources necessitate *inappropriate* responses but depict the rational character of the decision given the constraints on the agency. Such descriptions are referred to as *member accounts* (Garfinkel, 1967) which again will be dealt with later in this report.

Partial Caseload Effects

"[P]artial caseload effects occur whenever a decision in one case is tied to or has implications for the treatment of a set of other cases which are conceived of as a set precisely because of the way they relate to the first decision" (Emerson, 1983:444).

The issue of partial caseload effects appears most evident in two situations: where resources become scarce and competitive, and where *special commitments* exist among some subset of exceptional or deserving cases.

When resources are plentiful, decisions may be made based on assessed need, however, when resources become scarce each next decision by implication competes with other actual or anticipated cases. In some situations, each decision confronts limited resources and in these instances choices are made not on the basis of need, but deserving cases compete with one another for the limited resource.

Special commitments are a subgroup of cases to which extra effort is dedicated. This constitutes more than is routinely performed for such cases. In these situations, agents must proceed largely on their supervisors' recommendations rather than their normal handling of cases. This often implicates agents' reputations and self-images as competent employees.

Special commitments may take another form in that they may compete themselves for a limited resource. To illustrate, an agent may believe that a particular subset of juveniles deserve leniency. But consistent recommendations of leniency may lead to greater scrutiny of his/her recommendations. In these situations the recommendation of

leniency must be used sparingly because the risk of generating a pattern of recommendations may jeopardize his/her credibility. Hence some cases may be under-represented while others over-represented.

Sequence and Precedent

Sequence and precedent impact agency decisions in that the order in which cases are handled may affect future decisions. For example, when an agency is constrained by a limiting resource, and the initial case gets some of that resource, subsequent cases are less likely to be allocated a portion. In this situation the sequence of cases influences the relative likelihood that cases have access to whatever the constraint may be.

In other instances, precedent may be important. Precedent combined with sequence becomes important when the treatment of one case becomes the approach for other cases even when they might not merit such handling. Sequence and precedent interact together and have the potential for affecting outcomes. In examining juvenile court proceedings, however, Emerson (1983) cautions that precedent may be of less concern. He writes:

Where those subject to such decisions are segregated from one another, as in juvenile court proceedings, establishing precedent is of little concern because future litigants cannot be instructed by what occurs in earlier cases, and they are unlikely to know enough to hold the decision-maker to what was done on earlier occasions. Moreover, to the extent that an audience can be prevented from effectively monitoring the processing of ongoing cases, sequential effects will be weakened (P. 452).

ACCOUNTS

An account is "a statement made by a social actor to explain unanticipated or untoward behavior" (Scott and Lyman, 1968:46), or "the language people use to make actions intelligible to evaluative inquiry" (Cavender and Knepper, 1992:388). In general there are two types of accounts: excuses and justifications. Although both come to play in the juvenile court, of primary concern here are justifications.

If an account is to be honored it must be introduced within a social circle or group which is receptive to the justification(s) employed. In such a situation the *background expectancies*¹ of those involved will determine and direct those justifications as acceptable or unacceptable. Through the process of interaction, professional socialization and the theory of office, those who are regulars in the juvenile court process will learn a repertoire of background expectations appropriate for a variety of situations. Scott and Lyman (1968) explain how this process may be viewed within the juvenile court process. They write:

Organizations systematically provide accounts for their members in a variety of situations. The rules of bureaucracy, for instance, make available accounts for actions taken towards clients---actions which, from the viewpoint of the client, are untoward. ...[T]hese accounts "work" because of a set of background expectations. Thus when people say I must perform a particular action because it is the rule of the organization, the account is regarded as at least reasonable, since "everyone knows" that people follow rules (pp. 54-55).

¹"By background expectancies we refer to those sets of taken-for-granted ideas that permit the interactants to interpret remarks as accounts in the first place" (Scott and Lyman 1968:53).

Accounts are used by juvenile justice agencies to justify particular outcomes. As Cavender and Knepper point out:

they [accounts] are constructed so that the outcome appears to be the only possibility. Accounts are designed to "cool out" defendants/clients. They also "cool out" reluctant decision makers, inviting them to see themselves as professionals who agree with an outcome. ...Accounts are an aspect of the professional socialization of decision makers; they refer to and validate the theory of office (P. 388).

DISCUSSION

This report analyses social processes that produce juvenile justice dispositions. The theory of office provides agents with typologies that assist them in interpreting delinquent acts and in determining appropriate case outcomes. In establishing guilt during juvenile court proceedings, the prosecutor emerges as a key player, while in dispositional hearings that role is adopted by the juvenile probation officer assigned to the case.

The players are familiar with their respective roles and act in concert as a professional team that administers juvenile justice. Their decisions are steeped in an organizational context that requires carefully considering resource allocation, that entails partial caseload effects and their relativity judgements, with typologically implied dispositions sometimes upset by sequence and, to a lesser extent, precedent effects. Once a decision is reached, however, the ruling is justified through the use of accounts rife with the ideals of the *parens patriae* doctrine.

The gestalt perspective provides one way to examine how the juvenile court conducts its business. It highlights how juvenile judicial decision making emerges from mundane

social processes, how decisions become routine rather than based on the ideals of individualized justice for the offender, and how accounts are used to sustain a working ideology.

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