

## STATUS OFFENDER TREATMENT IN THE JUVENILE COURT: A CONFLICT THEORY APPROACH

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### INTRODUCTION

Status offenses are behaviors which are legal for adults, but illegal for juveniles. They are termed status offenses because "only persons of a juvenile status can be accused, convicted and sentenced for committing them." (Lerman, 1971:35) Typical status offenses include truancy, runaway, "waywardness", and "incorrigibility". Many persons and organizations, have urged the repeal of all status offender laws. Critics of status offender jurisdiction argue that the vagueness of the laws gives the court too much discretion and, "perhaps worse, it causes great variations in the application of the juvenile laws." (Barrett, 1969:353)

Status offenders nationally account for about 30-40% of all juvenile court adjudications, but the scarcity of data makes it difficult to know precisely Grough & Grilli (1972). Calof (1974) estimates that 40-50% of all children in state juvenile institutions are status offenders, and that about 70% of all girls in state institutions are status offenders.

The treatment of status offenders must be understood within the historical context of the juvenile court and the theoretical context of the sociology of law. Platt (1977) contends that the origin of the juvenile court was a means of preserving traditional, rural, middle-class values against the "negative" influence of urbanization, and that the "child-savers" were primarily concerned with "protecting" and controlling children, particularly lower-class children, by imposing middle-class values of them. The court reformers made previously legal but undesirable behaviors illegal. The juvenile court, based in a "welfare ideology," extended its control over young people, regardless of their actions.

According to Chesney - Lind (1978), through its jurisdiction over status offenses, the court serves to preserve the traditional family system and the sexual double standard. A major criticism of the juvenile court's jurisdiction over status offenses is that, as a result of its wide discretionary powers, it engages in systematic discrimination against females (Murphy, 1974;

Riback, 1971). A majority of girls in the juvenile court are alleged to have committed a status offense compared to only 1/5 of boys. While girls make up only 1/4 of all youngsters who appear in court, they comprise 50% of all status offender proceedings. Other criticisms of status offender jurisdiction include the arguments that court procedures "criminalize" status offenders (Couch, 1974), that status offenders are detained under poor conditions (Abadinsky, 1976), and that "charges of 'ungovernability' or 'irreparability' also serve as euphemistic vehicles for complaints involving sexual misbehavior or promiscuity" (Sussman, 1977; 182).

There have been few research studies conducted on the topic (Siegel & Senna, 1981). Status offenders are more likely to be referred to court than are delinquents. They also found a negative correlation between the seriousness of the offense and the severity of the court decision. "Late hours, assault, and long runaway are treated very leniently, in contrast to such allegations as truancy and vile language" (Andrews & Cohn 1977;72). Researchers, have found little, difference in the incarceration rates, length of stay, and dispositions of status offenders and delinquents (Lerman, 1978; Wheeler & Nichols, 1974).

A theoretical context of the juvenile court in relation to status offenders can be found in the sociology of law. The traditional view is that of consensus functionalist theory (Durkheim, 1949; Pound, 1964; Houghteling, 1968). The assumption of consensus theory is that "The thing that makes societal integration and stability possible is the general agreement of its citizens on basic values and beliefs." (Empey, 1978:373) From this perspective, criminal law is an expression of shared values within society. Laws are viewed as maintaining the interests of society; they "transcend the immediate, narrow interests of various individuals and groups, expressing the social consciousness of the whole society" (Hills, 1971:13) From this perspective, the state is seen as a means for value-neutral accommodation of the conflicts

within society.

The conflict perspective holds that order results from the coercion and influence employed by powerful interest (Chambliss, 1976; Quinney, 1979). Thus, "society is held together, not by an overriding consensus on basic values and rules, but by force and constraint" (Empey, 1978: 374). Quinney, views crime as consisting of legal definitions by those in power. These legal definitions are designed to protect the interest of the powerful, and law enforcement is a means of interest-group protection.

From these two perspectives on law there emerge two views of delinquent behavior. From the consensus model, the delinquent is the young person who violates the shared rules of society. From the conflict model, the delinquent must be viewed as a young person who is defined as a law violator because of behaviors that do not accord with the interests of those in power.

Does the juvenile court treat delinquents and status offenders differently? There is some evidence that the court treats both groups similarly (Wheeler & Nichols, 1974). The question from conflict theory is: Are status offenders as violators of middle-class morality treated more harshly than delinquents as violators of criminal law? It is hypothesized that they are.

#### DATA COLLECTION

A sample of 184 persons were referred to the Tulsa County (Oklahoma) Juvenile Court during 1977. The sample was divided into delinquents and status offenders. The delinquents category consisted of those persons referred for violations of the criminal law and the status offender category consisted of those persons referred for juvenile-only violations. The sample was also divided according to one of three dispositions by the court: "dismissed", "probation", and "institutionalization". For purposes of analysis, the "dismissed" and "probation" categories were combined to form the "less severe" disposition and were compared to the "more serious" disposition of institutionalization.

#### RESULTS

Of the delinquents, 66% received less severe dispositions compared to 42% of the

**TABLE 1: JUVENILE OFFENDER CLASS AND DISPOSITION (Percent)**

Offense Type	N	Punishment		Chi <sup>2</sup>
		Lenient	Confined	
<b>Males</b>				
Delinquent	113	65	35	5.3
Status	20	40	60	
<b>Females</b>				
Delinquent	23	70	30	4.1
Status	38	43	57	
<b>Combined</b>				
Delinquent	136	66	34	9.4
Status	48	42	58	

status offenders, and 58% of the status offenders were institutionalized in comparison to 34% of the delinquents. As Table 1 indicates, there is a significant difference in the dispositions of delinquents and status offenders and, as predicted, the status offenders tended to receive a more severe disposition of institutionalization while the delinquents were more likely to receive a "less severe" disposition of dismissal or probation. Both groups had similar percentages of dismissed cases, but the status offenders were far less likely to receive probation and more likely to be institutionalized. Therefore, the evidence suggests significant differential treatment according to offense category, with criminal law violators receiving more lenient dispositions than those persons who violated purely juvenile laws.

Further examination of the data continues to support the conflict hypothesis of differential treatment. Table II presents that data on offense and disposition controlled for sex. 1) The original difference in treatment by offense category remains significant. Male delinquents tended to be treated more leniently than male status offenders and female status offenders were treated more severely than female delinquents. 2) Females were more likely to be referred to the court as status offenders while males were more likely to be referred as delinquents. Over half (57%) of the females were referred as status offenders compared to 13% of the males.

When controlled for other variables age and race, the results continue to support the hypothesis. Younger (under 16) and white status offenders were treated more harshly than were younger and white delinquents but

there were no differences between older (16 and over) and non-white delinquents status offenders. The conflict hypothesis that status offenders are treated more harshly by the court than are delinquents was supported.

#### DISCUSSION

The data provide some support for conflict theory and its assumptions of differential treatment of offenders. The continuing concern by the juvenile court over the morality of certain offenders as opposed to their violations of criminal law is evident.

The data also provide support for the usefulness of conflict theory in the Sociology of Law. Whatever shortcomings conflict theory may have, it helps to explain the working of legal institutions with wide discretionary powers. The juvenile court, since its inception, has had tremendous discretion and potential for discrimination. These data indicate two possible forms of discrimination by the court: 1) discrimination based upon a concern for middle-class morality, and 2) discrimination against female offenders.

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