DELINQUENCY

AND

JUVENILE
CONTROL

A
Sociological
Perspective

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preface

This book uses the tools of sociology to examine delinquent behavior and the operation of the juvenile control system. Empirical research and theories that interpret and explain research findings are thus the backbone of this book. However such an approach need not be highly technical, dry and boring. I have attempted to communicate sociological understanding in a readable and interesting form. I hope that my enthusiasm for the subject matter will be contagious.

My desire to write a book about delinquency and juvenile control grew out of several "hands-on" experiences in the juvenile and adult criminal justice systems. As an undergraduate student I worked as an intern in a juvenile detention facility. At the end of this summer-long experience I wrote a lengthy report to the state Director of Juvenile Corrections, detailing what I saw as the major problems in the system and proposing a number of changes designed to remedy some of them. The ensuing meeting with the Director was an education in the social and political contexts in which correctional systems operate. As the discussion turned to the funding of the system and institutional inertia, I was quickly disabused of my naive beliefs about how the system works.

Following graduation, I worked for a year as a probation caseworker in the adult correctional system. My interest in juvenile justice continued, as I became impressed with the lengthy juvenile records of many of my clients, the extent to which they had been bounced around from one program or facility to another, and the minimal impact achieved by the juvenile system.

Frustrated with agency work, I returned to graduate school. My doctoral dissertation was based on ten months of participant observation research in an urban police department. Through this street-level research I gained new insight into crime and the crime control system.

My teaching experience in undergraduate courses in juvenile delinquency has provided a sense of what "works" in delinquency textbooks and what

constitutes a solid, basic-level text. The function of a textbook, as I see it, is to communicate to readers the current state of knowledge in a field. Textbooks should organize and present scholarly material published by professionals in a form that is understandable to student audiences.

I have attempted to minimize the use of jargon and to avoid extensive discussion of technical issues that may be important and interesting to professional sociologists but inappropriate for undergraduate students. Throughout the book examples are used to illustrate and clarify major points. A concerted effort has been made to establish continuity between material covered in different sections of the book. At the end of each chapter a summary of major points is provided.

I have departed from the more or less standard organization of delinquency textbooks which divides material into fifteen to twenty relatively short chapters. Artificial divisions in the subject matter and weak chapters dealing with peripheral issues are often the result. Rather I have organized this book into eight lengthy chapters that provide an in-depth sociological examination of core issues in the field of delinquency and juvenile control.

This organization provides flexibility and avoids artificial divisions in the subject matter. Longer, focused chapters on measurement and data patterns or theories of delinquency lend themselves to course structures where these topics are examined during two- or three-week segments of the course. For example, rather than organizing official, self-report, and victimization survey data into separate chapters, I integrate findings from each data source under each topic or issue covered. The presentation is less fragmentary, and a clearer picture is provided to the student reader. I do not feel that instructors will have any great difficulty in adapting these chapters to their course structures and topic outlines.

Part I of the book consists of four chapters. The first examines the history and origins of American delinquency laws and the control system for dealing with problem youths. This historical material represents important background for understanding topics developed later in the book. My approach is to examine the social, political, legal, and economic developments which gave rise to new delinquency laws and control mechanisms in the United States. The approach is not merely descriptive but links changes in the conception and treatment of delinquency to broader societal processes.

Chapter 2 examines empirical patterns of delinquency. It represents perhaps the most challenging chapter of the book for students, and reflects my view that the examination of research findings is the most fruitful avenue to understanding delinquent behavior. The chapter moves from general issues (how many youths engage in delinquent conduct, what proportion of all criminal offenses are committed by juveniles) down to narrower ones (differences in delinquency involvement by gender, social class, etc.). Throughout this chapter, core patterns are identified which must be accounted for and explained in the theory chapters. A distinctive feature of this chapter is its

contents

8

1

the history
of delinquency laws
and delinquency control

The structure of our current juvenile justice system is familiar to most readers. Special delinquency laws which are distinct from adult criminal codes govern the conduct of juveniles. A separate court system handles juvenile cases. Separate correctional facilities exist for the incarceration of youthful offenders. This familiar structure, however, is a relatively recent development and represents a dramatic departure from earlier methods for dealing with youthful misbehavior.

Why did this distinctive structure develop in the United States? Why did the juvenile justice system develop along different lines from the adult system? Have the same arrangements for dealing with youthful deviance evolved in other societies? These questions represent the central concerns of this chapter. Examining these issues is important for two reasons. First, significant departures from past practices don't "just happen." New laws and official structures are products of the concerted efforts of groups and individuals. By examining the motivations and goals of these interested parties, we gain insight into our distinctive thinking about and methods for dealing with delinquent youths. Second, many features of the contemporary juvenile justice system are rooted in developments which occurred before the turn of the century. As background for our understanding of contemporary delinquency, then, we need to examine how the legacy of the past has shaped the current system.

Delinquency Laws

The outstanding feature of American delinquency laws is the broad range of youthful behavior covered. Our delinquency laws have two components. Any violation of adult criminal statutes, such as burglary, larceny, assault, and other familiar offenses, is also a delinquent act. Beyond these criminal offenses, delinquency laws also include *status offenses*: acts committed by a juvenile that would not be a crime if committed by an adult.

This special provision first appeared in Illinois law in 1901 and became the model for juvenile law throughout the country. Incorrigibility, associating with immoral persons, and growing up in idleness and vice were designated as delinquent behavior (Hawes, 1971). A variety of other acts have been incorporated into state delinquency laws as status offenses: truancy, running away from home, sexual immorality, curfew law violations, underage drinking, smoking cigarettes, and using obscene language (Sussman, 1959).

This two component structure of delinquency laws continues today. The inclusion of such a broad range of status offenses in delinquency laws is virtually unique to the United States (Gibbons, 1981). In other societies, juveniles also skip school, defy their parents, and get into mischief, but this conduct is not treated as a legal violation. In other societies this sort of troublesome but noncriminal behavior on the part of juveniles is either handled informally within the family or is dealt with under welfare or civil procedures (Klein, 1984).

2

Delinquency Control

During the nineteenth century, influential segments of American society began to view delinquency as a serious and growing problem. The methods for controlling youthful misbehavior which existed at the time no longer seemed appropriate. The search for new ways of controlling youthful deviance is a rapidly changing society culminated in the creation of a separate and specialized juvenile court.

The juvenile court emerged with a philosophy and a mission quite different from the adult criminal courts. Ideally, the juvenile court would guide and assist young persons who ran afoul of the law and steer them away from repeated infractions and criminal careers. A crucial legal arrangement resulted from this mission: the constitutional protections contained in the Bill of Rights and afforded to every adult accused of a crime did not apply in juvenile court. The right to a public trial, a trial by jury, protection against self-incrimination, and other defining elements of adult criminal procedures were withheld in the legal processing of accused juveniles. Instead, the juvenile court has assumed the role of "superparent," with wide discretionary authority to intervene, supervise, and control the lives of youths under its jurisdiction. Only recently have Supreme Court decisions extended some, but not all, constitutional protections to juveniles.

Among the new tools developed to control the delinquency problem were supervised probation and separate correctional facilities designed exclusively for youthful offenders. For well over a hundred years, there has been an ongoing debate over the goals and methods of juvenile corrections. Whether the aim is to punish, deter, or reform continues to be a hotly debated topic today. Arguments concerning the merits of correctional institutions versus treatment in the community have been raised again and again since the establishment of the first juvenile institutions.

In this chapter, we will examine youthful misbehavior and how it was handled prior to the emergence of a formal juvenile justice system, and the origins and development of the current structure of delinquency control.

HOMOGENEITY AND RULE BREAKING
IN COLONIAL SOCIETY

The social organization of colonial life provided potent mechanisms for generating conformity in youth and provided few opportunities or rewards for deviating from community standards. Colonial society, by contemporary standards, was quite homogeneous. The cultural and religious backgrounds of the early settlers were largely Northern European and Protestant. Although they came from varied social class backgrounds, ranging from wealthy landowners, to comfortable merchants and craftsmen, to laborers and indentured servants with few resources, the colonists in general shared a similar set

of values and beliefs (Michalowski, 1985). The population resided largely in rural areas and small towns. Everyday social interaction occurred within small social networks of family, relatives, and neighbors. Children grew up surrounded by a circle of adults who had known them all their lives, and there were few opportunities for youths to escape the watchful eyes of their elders in the community.

Colonial life was organized around three dominant institutions: the family, religion, and the community. Unlike today's society where peer groups, work colleagues, and other social groups compete for the time and allegiance of individuals, in colonial society one's primary commitments were to the family. In large part, this was due to the family's role as an economic as well as a social unit. Many of the basic necessities of life were produced at home through the efforts of young as well as adult family members. Small-scale craft and production work was commonly done in home workshops rather than in separate workplaces. Among farm families, the daily work responsibilities of children represented a valuable contribution to the welfare of the family. In this preindustrial context where self-sufficiency was at a premium, the economic activities of children in producing food, making clothing, and building furniture were not simply a reflection of parental beliefs that idle hands do the devil's work; their efforts were needed and valued by the family. Through these important family roles and responsibilities, children were afforded a sense of self-worth and developed intense bonds with other family members.

Colonial communities were rather insulated, and many of the necessities of life were produced locally rather than purchased and transported from outside markets. Accordingly, the work performed by youths whether on a farm, in a family workshop, or through an apprenticeship also represented a valuable asset to the community. These experiences also paved the way for a relatively smooth movement into adult economic and community roles.

The local church was a prominent community institution and regular attendance was the norm. Early colonial laws required religious instruction for children. Generally throughout most of the colonial population, but especially in Puritan New England, religion was not compartmentalized as one of many competing concerns in a person's life. Religion was *the* major force, and ideas and beliefs about sin, salvation, and damnation were compelling realities in the colonial outlook on life. The concepts of crime and sin were virtually identical (Rothman, 1971). This provided a powerful moral charge to legal rules; violation of the law was also a sin against God. Early colonial laws were heavily geared toward governing moral conduct and contained special provisions for punishing youthful evils such as lying, disobedience, violation of the Sabbath, and idleness (Hawes, 1971).

While the Puritans were concerned with establishing a deeply religious community in the new world, the Virginia colonists were more oriented toward the secular concerns of agricultural development and commerce. The

plantation system required a sizable, controllable, and inexpensive supply of physical labor. Orphans and youths from English poorhouses were brought to the colonies as indentured servants and laborers. The ultimate solution to the labor supply problem, of course, was the slave system, with the first African slaves arriving in the Virginia colony in 1619 (Krisberg and Austin, 1978). Young slaves were particularly desirable since they could perform physical labor for more years than adults.

The Virginia colony based its law less on biblical content and more on English common law and did not contain any special provisions regarding youthful misbehavior. In spite of these differences, social life in the Virginia and Massachusetts colonies was similar in many important ways. Religion was a major influence in the Virginia colony, and religious instruction was required for young people (Hawes, 1971). In colonial society generally, life had a rural and small-town flavor and centered on family, church, and community.

Since these three institutions held very similar ideas about the proper conduct of youths, children received a relatively standardized socialization experience. The work ethic and respect for and obedience to authority were core value lessons taught to children by their parents, their ministers, and their elders. Through religious socialization, a set of "correct" behaviors was presented to children as "God's will." The Ten Commandments were not simply abstract rules but behavioral standards held up to children as the only proper way to act. There were few models of alternative behavioral standards, as might come from a high school peer group, a streetwise cousin from a large city, or groups from different religious or cultural backgrounds. Work responsibilities limited the leisure time of juveniles and restricted their opportunities for mischief.

Accordingly, colonial children had few incentives or opportunities to engage in behavior which strayed from community standards. Daily interaction within small social networks produced strong bonds between community members and a concern with maintaining the esteem of others in the community. Rule breaking risked loss of esteem in the eyes of important others.

When youthful deviance occurred, the initial response was to deal with it informally in the context of the family and community. A youth might be sent to the town minister for a lecture and stern warning against future infractions. Recalcitrant males might be apprenticed out at an early age to live and work under the discipline of an adult master. If violations continued or if a youth was defiant toward authority, community officials applied the biblical injunction of "spare the rod and spoil the child." Public whippings and other forms of corporal punishment not only impressed upon the offending youth the costs of rule breaking, but they also carried a message to other youths in the community concerning the fate awaiting those who strayed from community standards.

As a last resort and in cases of serious criminal behavior such as theft or

murder, offending youths were taken before the criminal court. Under English common law and its application in colonial courts, children under the age of 7 were presumed incapable of criminal behavior. The immaturity of young children precluded a guilty knowledge that the conduct in question was a wrongful act. Children between the ages of 8 and 14 were capable of having a "guilty mind" and were brought before the court for an assessment of their intent and their understanding of what they had done. If judged immature, they were returned home. If judged as having guilty knowledge that their behavior was wrong, they were tried in the same court and subject to the same punishments as adults. Youths above the age of 14 were treated legally as adults (Platt, 1969).

Fines, public whippings, and the stocks and other forms of public humiliation were the favored methods of punishment in colonial communities. Colonial courts were fundamentally concerned with dispensing punishment to transgressors, not in bringing about the reform of offenders. The permanent elimination of offenders through capital punishment was the community's ultimate response to serious threats and violation. Execution also represented a practical solution to the problem, since colonial communities had no provisions for long-term incarceration of criminal offenders.

Order was achieved in colonial society in the absence of a highly developed, formal social control apparatus. Control mechanisms familiar to us today, organized police agencies and prison systems, did not emerge until early in the nineteenth century. Small, local jails existed not as places where offenders were sent by courts for punishment but as detention facilities for persons awaiting trial or unable to pay fines or other debts.

Youthful misbehavior was held in check less by formal mechanisms to detect, punish, and deter deviance than by features of colonial social organization which generated willing conformity. Children grew up enmeshed in a network of close and binding social relationships, receiving consistent socialization in support of community standards, and were channeled and integrated into economic activities valued by the community. With such powerful tools at their disposal, colonial parents and communities had little difficulty in fostering conforming behavior on the part of most of their children.

CHANGE IN THE SOCIAL FABRIC: FROM HOMOGENEOUS TO HETEROGENEOUS SOCIETY

The character of social life was transformed dramatically as a consequence of social and economic developments during the nineteenth century. Industrialization was one of the great engines of change. Gradually at first, and later more rapidly, the factory system replaced the farm and home workshop as the economic foundation of the society. Urbanization accompanied this

economic transformation, as the factory system required a concentrated rather than a dispersed population. Immigration produced not only a great population increase but also a population now having diverse cultural backgrounds. Together, the processes of industrialization, urbanization, and immigration transformed American society into an increasingly heterogeneous one. As social organization changed, so too did the nature of social relationships. For large segments of the population, the close family and community ties which had generated conformity in colonial society were fractured. The standardized socialization experience of earlier times was replaced by a socialization context of alternative values and competing behavioral guidelines. Especially in the cities, young persons were no longer under the ever present scrutiny of familiar community members whose opinions were highly valued.

This great transformation of social life spawned an increase in rule-breaking behavior, a growing public and official concern with rule breaking, and the development of new formal mechanisms to control crime. Accordingly, a closer look at these nineteenth-century social developments is necessary.

Through the colonial period and until the second decade of the 1800s, the American population was centered in relatively small communities and was religiously and ethnically homogeneous. Overwhelmingly, the population was Protestant; 60 percent was English, and the remaining 40 percent largely Northern European (Finestone, 1976). A population of 1.25 million in 1750 had grown to 10 million by 1820 and 31 million by 1860 (Bureau of Census, 1975).

The *composition* of the population was altered significantly through immigration and urbanization. Successive waves of immigration produced an influx of persons having different religious (largely Catholic) and cultural backgrounds. Between 1825 and 1860, 5 million immigrants arrived in America (Bureau of the Census, 1975:105). Typically, it was the poor and propertyless segments of a society that had the greatest incentive to seek a better life, and as most immigrants entered the new society at the bottom of the social ladder, the lower class of American society began to swell in size.

The population began shifting from small towns and rural areas into growing cities. In 1860, only 20 percent of the population lived in urban areas. By 1900, the urban population had reached 40 percent; the number of people living in urban areas increased from 6.3 million to over 30 million during this period (Michalowski, 1985). The explosive urbanization of the nineteenth century is illustrated in the growth of the city of Chicago. Originally settled as a trading post, it was a village community of about 200 people in 1833. In 1840, it still had a population of less than 5,000, but by 1890 the population exceeded 1 million (Platt, 1969).

At the time of the American Revolution, the work force was overwhelmingly self-employed. Farming and small-scale hand production were

the primary economic activities. During the second half of the nineteenth century, the industrial system began to dominate the economy. Between 1848 and 1899, there was a fivefold increase in the number of manufacturing workers, from less than 1 million to over 5 million (Michalowski, 1985). Economic resources became consolidated under the new industrial system, and the gulf between the haves and have-nots widened.

The lower-class urban immigrant segments of the population were not enmeshed in the kind of stable social relationships that had produced a high stake in conformity in earlier times. As this segment of the population grew, so too did the fear of social unrest and predatory crime. Among the advantaged middle and upper segments of the population, attention was focused on the problem of "the dangerous classes." It was apparent that rule breaking could no longer be held substantially in check by the informal controls of family and community. Crime was now a public problem requiring formal mechanisms of control. The first full-time professional police forces were organized in Boston in 1838 and New York in 1845 (Lundman, 1980).

The administration of criminal law reflects the concerns and interests of those groups in a society with the power to influence the content and enforcement of the law. During the colonial period, the religious values of the Puritans, in particular the equation of crime and sin, shaped the operation of the criminal law. Of the cases brought before Massachusetts courts between 1760 and 1774, 51 percent involved behaviors which violated the Puritan moral code: fornication, adultery, violation of the Sabbath, and blasphemy. Another 28 percent involved crimes against person and property, such as theft, robbery, and assault. The remaining 21 percent included a wide variety of offenses, from poaching to selling spoiled food (Michalowski, 1985). With the decline in power of the Puritans and the emergence of wealthy property owners and entrepreneurs as the most powerful groups in the society, the criminal law became secularized under the influence of these newly dominant segments of society. In Massachusetts by 1810, criminal prosecutions for morals and church-related offenses declined to less than 1 percent, while crimes against property rose to 50 percent of all prosecutions (Michalowski, 1985). This shifting emphasis of the criminal law reflected the industrialization and urbanization processes which were transforming American society, and the guiding hand of the upper and middle classes in shaping both the content and enforcement of criminal law.

HOUSES OF REFUGE: THE STATE AS SUPERPARENT

From Family to State-Centered Control

The decade of the 1820s brought the increasing heterogeneity of American society into sharp focus. Established groups feared social unrest and increasingly were concerned with preserving their version of order and with

finding ways to promote social stability in a rapidly changing society. Social reform would control disruptive forces:

> The rapid growth of New York City had been accompanied by the sudden emergence of a segment of the population, largely composed of destitute immigrants, that the reformers thought threatened their own interests and values. They feared these people as possible sources of violence and anarchy. They were all too aware of the havoc the street mobs caused during the French Revolution and saw these outcasts as possible sources of similar civil disturbances. There were indeed some human obstacles that appeared to be strewing the road to utopia and the old middle classes were determined to remove them. The idea of reform had already taken solid root among them (Finestone, 1976: 19).

The reformers were concerned above all else with the problems of immigrant and lower-class children. Parents of these youths were seen as being unable to provide proper socialization; the children would grow up to swell the ranks of an already-growing criminal class. Reform measures were geared to remedy the perceived failings of lower-class and immigrant families.

One thrust of these efforts was public education. Although compulsory education on a nationwide scale would await the turn of the century, reformers in the 1820s saw public education as a homogenizing mechanism that would contribute to social order and stability. The existing private and charity schools were not reaching the target population. "Thus, under the assumption that it would be good for everyone if the poor were virtuous, the city's elite chose schooling, in one form or another, to uplift, correct, and establish surveillance over the lower class family" (Schlossman, 1977:20).

In addition, the legal arrangements for handling problem youths increasingly were seen as inadequate for the new urban environment. Since juveniles were subject to the same punishments and incarcerated in the same prisons as adults, imprisonment was seen as hardening young inmates and schooling them for future crimes. As a result, juries were reluctant to convict youthful offenders and citizens were hesitant in pressing charges against youths who had committed crimes (Schlossman, 1977). There was a growing concern among city officials and reformers that if juveniles knew they would be able to escape punishment, they would be encouraged and emboldened to commit further misdeeds.

This dissatisfaction with the legal treatment of juveniles, combined with the belief that many poor families were unable to socialize their children properly, gave rise to the first specialized institutions for dealing with wayward youth. It was private philanthropists, rather than government, who were instrumental in founding these institutions, and their efforts embodied a curious mixture of motivations. These "conservative reformers" saw themselves as God's elect and the elite of the society (Mennel, 1973). Social reform was seen as part of their moral obligation as the most privileged segment of the society. On the other hand, reform represented a means of protecting