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THE ESCALATION OF EVIL: A STUDY IN THE BEHAVIOUR OF JUVENILE LAW

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The behaviour of law is social.[1] By this we mean that the law takes form in the observable acts of groups and individuals, and that this behaviour has social origins and consequences. This social dimension to legal behaviour is particularly pronounced in the area of juvenile law. In part, this derives from the intent of the juvenile law to provide reformative treatment rather than to assign criminal responsibility.[2] While it is difficult to quarrel with the desire to provide such treatment, concerns frequently are expressed about actions taken by the court in the name of this goal.

One concern is that from the beginning, Canada's juvenile delinquency legislation has justified its procedural means on the basis of its reform-oriented ends.[3] The original legislation of 1908 instructed that, "This Act shall be liberally construed to the end that its purpose may be carried out to wit: That the care and custody and discipline of a juvenile delinquent shall approximate as nearly as may be that which should be given by its parents. . . ."[4] This paternal attitude was questioned in the Commons[5] and Senate[6] Debates that accompanied passage of the 1908 Act, in consequent discussions of the revised Act of 1929,[7] and most recently in the *Report* of the Solicitor General's Committee on new legislation to replace the *Juvenile Delinquents Act*.[8] Summarizing persistent concerns about the traditional legal approach to the problem of delinquency in Canada, the *Report* observes that "while espousing help, and understanding of the problems experienced by young persons, this approach has not totally avoided the development of characteristics similar

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1 See D. Black, *The Behavior of Law* (New York: Academic Press, 1976).

2 R. Ericson, *Responsibility, Moral Relativity, and Response Ability: Some Implications of Deviance Theory for Criminal Justice* (1975), 25 U. of T. L.J. 23.

3 For historical discussions of Canadian delinquency legislation, see J. Hagan and J. Leon, *Rediscovering Delinquency: Social History, Political Ideology and the Sociology of Law* (1977), 42 Am. Soc. Rev. 587; and J. Leon, *The Development of Canadian Juvenile Justice: A Background for Reform* (1977), 15 Osgoode Hall L.J. 71.

4 *The Juvenile Delinquents Act*, 1908, Stat. Can., 7 & 8 Edw. 8, c. 40, s. 31.

5 *Can: H. of C. Debates*, Jul. 9, 1908, at 12403-05.

6 *Can: Sen. Debates*, June 4, 1908, at 1044.

7 1929, Stat. Can., 19 & 20 Geo. 5, c. 46, s. 3(2).

8 Can. *Report of the Solicitor General's Committee on Proposals for New Legislation to Replace the Juvenile Delinquent Act* (*Young Persons in Conflict with the Law*) (Ottawa: Information Canada, 1975).

to the adult criminal process . . . elements such as deterrence, punishment, detention and the resulting stigma have surfaced in the juvenile justice process despite initial intentions to the contrary."[9]

Yet, one may question how the above is known with any degree of certainty. The 1965 *Report of the Department of Justice Committee on Juvenile Delinquency* concludes that ". . . little is known in this country concerning the effectiveness of the many and varied techniques that are employed to meet the delinquency problem."[10] Similarly, another recent discussion laments that ". . . no comprehensive evaluation of the court's operation throughout Canada has been undertaken."[11] More generally, Martin Friedland recently has noted that our judicial system is one of the least studied of Canadian institutions.[12]

The purpose of this paper is to provide an empirical basis for the current debate about our juvenile justice system by analysing data gathered on its judicial component in one Canadian city. We begin by reviewing the theoretical and research literature relevant to this topic. Much of this literature is American and some of it deals with the criminal courts. Nonetheless, its significance to the topic of Canadian juvenile justice will quickly become apparent. Our review is organized in terms of three theoretical approaches taken in the study of law and judicial decision-making.[13]

A. *The Legal-Consensus Approach*

A traditional view of law is that it derives from custom, and therefore expresses values that we all share in common. Thus, Paul Bohannan asserts that "some customs, in some societies, are *re*institutionalized at another level: they are restated for the more precise purposes of legal institutions."[14] Bohannan regards this process of "secondary institutionalization" as relatively nonproblematic in that it forms "a more or less consistent cultural unit."[15] In other words, laws, and decisions based on them, are assumed to flow in a rather clear and consistent manner from the culture that surrounds them.

This theme of clarity and consistency is paralleled in the work of Lon Fuller, who argues that certainty and predictability are the highest values of a legal order.[16] Thus Fuller defines law as ". . . the enterprise of subjecting human conduct to the governance of rules."[17] What binds men together in lawful conduct, according to Fuller, is the desire that these rules be formally

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[9] *Id.* at 3.

[10] Can. *Report of the Department of Justice Committee on Juvenile Delinquency* (*Juvenile Delinquency in Canada*) (Ottawa: Queen's Printer, 1965) at 273.

[11] See Leon, *supra* note 3, at 105.

[12] M. Friedland, *Courts and Trials* (Toronto: University of Toronto Press, 1975).

[13] For a more general discussion of the first two theoretical approaches that we will consider, see W. Chambliss and R. Seidman, *Law, Order and Power* (Reading, Mass.: Addison-Wesley, 1971).

[14] P. Bohannan, *The Differing Realms of Law* (1965), 67 Am. Anthropologist 33.

[15] *Id.* at 51.

[16] L. Fuller, *The Morality of Law* (New Haven: Yale University Press, 1964).

[17] *Id.* at 91.

applicable in a predictable manner. For Fuller, it is this shared goal that determines the character and content of the "inner morality of law."

What unites the thinking of Bohannan and Fuller is the assumption that the law and its application flows from shared values. Although Fuller is further concerned with the conditions that may undermine shared conceptions of legality, he nonetheless assumes that proper conditions insure legality, and, therefore, the straightforward application of laws.[18]

Various researchers have attempted to demonstrate that the application of law in the juvenile and criminal courts *is* ruleful, expressive of common values, and therefore free of *extra*-legal biases. For example, Edward Green examined the records of 333 adult defendants who were sentenced for crimes of theft, burglary and robbery from 1956 to 1957.[19] Green concludes from the analysis of this data that judicial decisions are not capricious, but rather based on legal criteria: ". . . the results provide assurance that the deliberations of the sentencing judge are not at the mercy of his passions or prejudices, but comply with the mandate of law."[20]

Using a similar strategy of analysis, Terry examined the 246 cases that appeared in the Juvenile Court of Racine, Wisconsin (n=246) between 1958 and 1962.[21] In this study, Terry finds that type of offence and previous record have a persistent impact on the decision-making process, implying that juveniles are processed in a rather "legalistic" manner.

Finally, Lawrence Cohen has analysed the record of the 4,938 juveniles who were referred to the Denver Juvenile Court between January and December, 1972.[22] This research again finds that severity of disposition is most strongly associated with the legal variables just discussed. Nonetheless, and despite the support given the legal-consensus theorists by the research of Cohen, Terry and Green, there is a second theoretical approach that takes almost the opposite point of view.

B. *The Conflict-Realist Approach*

While the legal-consensus theorists assume that the law and its application expresses with certainty and predictability the values that all of us share in common, the conflict-realist theorists argue that the law and particularly its application reflects the value differences that *divide* us. Here there is less certainty and predictability than there is conflict and change. Oliver Wendell Holmes succinctly summarized an early version of this viewpoint with his frequently cited conclusion that "The life of the law has not been logic: it has

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[18] *Id.* at 39.

[19] E. Green, *Judicial Attitudes in Sentencing* (London: Macmillan, 1961).

[20] *Id.* at 102.

[21] R. Terry, *Discrimination in the Handling of Juvenile Offenders by Social Control Agencies* (1967), 4 J. of Research in Crime & Delinquency 218.

[22] L. Cohen, *Conferring the Delinquent Label: the Relative Importance of Social Characteristics and Legal Factors in the Processing of Juvenile Offenders* (unpublished Ph.D. thesis, University of Michigan, 1974).

been experience."[23] Holmes "felt necessities of the time, the prevalent moral and political theories, intuitions of public policy . . . , even the prejudices which judges share with their fellow men, have had a good deal more to do than the syllogism in determining the rules by which men should be governed."[24]

Similarly, Karl Llewellyn wrote persistently of the need, for the purposes of study, to separate the "law in the books" from the "law in action."[25] This separation of the law as it is written from the law as it is applied is fundamental to recent developments in the sociology of law. For example, Chambliss and Seidman reintroduce this distinction in sociological terms when they speak of comparisons between role-expectations and role-performances in studying the activities of official agents of social and legal control.[26]

Thus, like the legal realists, the sociological conflict theorists have sought to determine how legal behaviour varies from legal ideals, and furthermore to reveal what the social bases of these disparities might be. Among the social factors thought to be particularly influential in the application of law, the conflict theorists single out the elements of race and social class for particular attention. Thus, as a fundamental proposition of their theory, Chambliss and Seidman assert that "when sanctions are imposed, the most severe sanctions will be imposed on persons in the lowest social class."[27] Similarly, Quinney suggests that "Obviously judicial decisions . . . are made according to a host of extra-legal factors, including the age of the offender, his race, and social class."[28] These assertions take as their base a research literature that shares the doubts of legal realists about "the rule of law" in criminal and juvenile justice operations.

Although there are many studies of the criminal courts that form a part of this tradition,[29] the most dramatic is an analysis of Wolfgang and Reidel of 3,000 rape cases tried in eleven southern American states from 1945 to 1965.[30] This study reveals that during the period considered, black men raping white women were primary targets for the death penalty, while white men raping black women almost never received this sanction. Less dramatic, but no less disconcerting, are related findings in the area of juvenile justice.

The first of these studies was done by Charles Thomas, who collected data from juvenile court records of 1,522 cases appearing in one area of Virginia between 1966 and 1973.[31] Thomas correlated the socio-economic status

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[23] O. W. Holmes, *The Common Law* (Boston: Little, Brown, 1881).

[24] *Id.* at 1.

[25] K. Llewellyn, *Some Realism about Realism-Responding to Dean Pound* (1931), 44 Harv. L. Rev. 1222.

[26] *Supra* note 13, at 11.

[27] *Id.* at 475.

[28] R. Quinney, *The Social Reality of Crime* (Boston: Little, Brown, 1970).

[29] For a review of this research, see J. Hagan, *Extra-Legal Attributes and Criminal Sentencing: An Assessment of a Sociological Viewpoint* (1974), 8 Law & Society Rev. 357.

[30] M. Wolfgang et al., *Race, Judicial Discretion and the Death Penalty* (1973), 407 Annals 119.

[31] C. Thomas et al., *An Inquiry into the Association between Respondents' Personal Characteristics and Juvenile Court Dispositions* (1975), 17 Wm. & Mary L. Rev. 61.

and case dispositions of juveniles and found those lowest in status were most likely to be placed in institutions. Furthermore, when offence type was taken into account, the linkage of socio-economic status with disposition remained unaltered. Finally, Thomas found that children from "broken homes" were treated more harshly than those from "stable" home environments.

A second study is reported by Terence Thornberry on the Philadelphia juvenile justice system,[32] using a cohort sample of 1,748 juvenile males.[33] Thornberry finds evidence of racial differences in sentencing, again with legal variables taken into account: ". . . the data reveal that blacks are treated more severely than whites throughout the juvenile justice system. At the levels of the police and juvenile court there are no deviations from this finding, even when the seriousness of the offense and the number of previous offenses are simultaneously held constant."[34] Thornberry's findings with respect to socio-economic status are similar to those for race.

A third study, by Scarpatti and Stephenson, is based on 1,210 adjudicated delinquents.[35] The results of this analysis reveal that judges consider prior delinquent history, socio-economic status and personality characteristics in assigning specific dispositions.[36]

Finally, William Arnold has examined the juvenile court records of 758 offenders who were born between 1947 and 1948 in a southern city and who had committed offences prior to April, 1964.[37] According to the findings of this research, low socio-economic status and "broken home" environments do not seem to influence juvenile court dispositions, while race and ethnicity do.

Findings reviewed in this section indicate that the related variables of race and socio-economic status influence decisions of the juvenile court, suggesting support for the conflict-realist view of court operations. Alternatively, studies reviewed in the previous section provided support for the legal-consensus view that decision-making in the criminal and juvenile courts is ruleful, and therefore predictable from official case characteristics. What is required, evidently, is a theoretical viewpoint that makes sense of these contrasting bodies of research. First, however, we must consider a third approach that questions both of the preceding viewpoints.

C. *The Phenomenological Approach*

As indicated at the outset of this paper, the founding fathers of Canada's juvenile court wished to give its practitioners maximum discretion in their

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[32] T. Thornberry, *Race, Socio-economic Status and Sentencing in the Juvenile Justice System* (1973), 64 J. Crim. L. & Criminology 90.

[33] This sample was collected for the purpose of another study by M. Wolfgang et al., *Delinquency in a Birth Cohort* (Chicago: University of Chicago Press, 1972).

[34] *Supra* note 32, at 96.

[35] F. Scarpatti et al., *Juvenile Court Dispositions: Factors in the Decision-Making Process* (1971), 17 Crime & Delinquency 142.

[36] *Id.* at 151.

[37] W. Arnold, *Race and Ethnicity Relative to Other Factors in Juvenile Court Dispositions* (1971), 17 Am. J. Soc. 211.

handling of adolescents. Hogarth has noted that in Canada, criminal court judges as well have great freedom, particularly in fixing sentences.[38] The result of this situation, according to Hogarth, is that sentencing is a highly subjective or "phenomenological" process. Using data gathered on the sentencing decisions of Ontario judges, Hogarth concludes that neither the objective case characteristics emphasized by the legal consensus theorists, *nor* the objective (but extra-legal) offender characteristics emphasized by the conflict-realist theorists, have a pronounced impact on judges' sentencing decisions. Rather, Hogarth argues that it is the way individual judges *perceive* these facts that makes the difference. Thus Hogarth finds that "on average, the facts of the cases account for 9 per cent of the variation in [sentencing] practice,"[39] while ". . . about 50 per cent of the total variation in length of institutional sentences imposed could be accounted for by variations among magistrates in their perceptions of the facts of the cases."[40]

The implication of Hogarth's research is that sentencing is predominantly an *individualized* process, a process that is largely independent of the facts at hand. It is research of this type that leads the eminent jurist Marvin Frankel to believe that "the evidence is conclusive that judges of widely varying attitudes on sentencing, administering statutes that confer huge measures of discretion, mete out widely divergent sentences where the divergences are explainable only by the variations among the judges, not by material differences in the defendants or their crimes."[41]

In the remainder of this paper, we will present theory and data in support of the position that sentencing is *not* so individualized a process, but rather subject to a predictable form of social and legal organization.

D. *The Social and Legal Organization of Juvenile Justice*

The theoretical perspective to be applied in this paper begins with the obvious fact that juvenile courts are organizations. Thus, the behaviour of juvenile law takes form within a context characterized by organizational goals and priorities. One task of persons working within the juvenile courts, then, is to coordinate the substantive and procedural law with the day to day goals and priorities of the organization that surrounds them.

This organizational task is facilitated by the flexible character of juvenile court legislation. Yet, juvenile court judges do not respond to this legislation by individualizing every decision they make. Rather, the response is to look for decision-making cues which judges in common recognize as demanding a particular type of response. The ideal cues to be used in this way combine an element of moral and legal judgment.

Thus, two legal history variables, the age of first arrest and the most

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[38] J. Hogarth, *Sentencing as a Human Process* (Toronto: University of Toronto Press, 1971).

[39] *Id.* at 349.

[40] *Id.* at 350.

[41] M. Frankel, *Criminal Sentences: Law Without Order* (New York: Hill and Wang, 1973) at 21.

serious prior disposition against the offender, represent cues that can be consensually identified by members of the court as calling for a particular type of response. Tannenbaum recognized the potential consequences that the first arrest and disposition can have, referring to this early set of events as "the dramatization of evil": "The first dramatization of the 'evil' which separates the child out of his group for specialized treatment plays a greater role in making the criminal than perhaps any other experience."[42] Tannenbaum's concern is that "there is a gradual shift from the definition of the specific acts as evil to a definition of the individual as evil. . . ." Yet, for judges to ignore previous arrests and dispositions would amount to a rejection of actions already taken by colleagues and subordinates. On the other hand, responding regularly and predictably to these cues in judicial decision-making is precisely the way in which the dramatization of evil proceeds. Thus, it is our argument that the *cumulative* impact of these variables over time can amount to an "escalation of evil" which is viewed with sufficient moral and legal consensus to regularly yield severe dispositions.

However, evil is not only recognized in an adolescent's legal history, but in his social history as well. The juvenile court is mandated by legislation to play a paternal role in the life of the adolescent, and this is done in part by reacting to the family situation of the youth. Thus, J. J. Kelso, the father of Canada's delinquency legislation, noted that "Prevention—that is, the prevention which purifies the home life and restores maternal care and affection, is the very highest form of child-saving work, and the ideal toward which all efforts should tend."[43] It is here, however, that value conflict is most likely to intrude into the work of the court. The problem is in determining what kinds of family life are "good" and "bad" for children. Typically, the legal status of the parents as divorced or separated offers a base from which such moral judgments proceed. Even more problematic, however, is the decision as to which "broken homes" are morally most reprehensible, and therefore candidates for removal of the child. Most often, it is the broken home in a low income neighbourhood that in a common sense manner is collectively identified by members of the court as likely to intensify the "escalation of evil" discussed above. Again, this collective definition is itself a part of the escalation process.

Summarizing, we have specified a number of objective cues that are organizationally recognized by members of the court as justifying severe dispositions. The accumulation of these factors successively escalates the likelihood that an adolescent will be consensually identified as "evil" and responded to as such. Thus, prior court knowledge of the youth's activities, the prior response to these activities by the court, the family situation of the youth, and the social economic resources available to the family, all narrow the disposition possibilities of the presiding judge.[44] It is our position that these

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[42] F. Tannenbuam, *Crime and Community* (New York: Columbia University Press, 1938) at 19.

[43] J. Kelso, *Can Slums be Abolished or Must We Continue to Pay the Penalty?* (Toronto: n. pub., n.d.) at 4-5.

[44] A. Cicourel, *The Social Organization of Juvenile Justice* (London: Heinemann, 1976) at 67.

factors can be objectively identified, independent of the perception of the individual judge, and that these factors collectively play an influential role in determining juvenile court dispositions. Evidence in favour of these assertions follows.

1. Sample

The sample of this research is taken from Youth Bureau records of the Police Department for Metropolitan Toronto and the Juvenile and Family Court records of the same city. Any juvenile offender who comes to the attention of the Youth Bureau has a "contact card" filed in the Office of Youth Staff Services (approximately 330,000 cases are on file). When a juvenile is sent to the Juvenile Court for legal adjudication, a personal folder is developed containing all "contact cards" and all official record sheets upon which are recorded the personal and official facts of each encounter the juvenile has had with the police and the judiciary.

This folder, coded by the age of the child, is retained at all times by the Youth Bureau. Copies of the delinquent's record are used in the actual court cases when the Youth Bureau officer reads out the facts of the case to the judge. These copies are filed in the juvenile's court record, which remains in the record department under the child's name; they contain the official adjudication, disposition and relevant facts relating to the offence and the offender.

In the present research, the data concerning the offence, the offender, and the disposition of the case were collected from files of the office of Youth Staff Services. These facts then were checked with files from the Juvenile Court's Record Department. This verification of Youth Bureau data was necessary because the final disposition of the case was elaborated upon in the Court files. Also, missing data from the Youth Bureau files was often available in the Court files.

The sample of 301 cases randomly taken from the Toronto Youth Bureau files involves juvenile offenders who appeared before a Juvenile Court judge between 1968 and 1976. These files contain data on approximately 7,500 juvenile offenders who were sent to Juvenile Court at least once, and often more than once, during this period. The cases sampled were chosen using a random number table. The randomness of this sampling procedure allows, with tests of statistical significance, probability statements from our findings about the court population as a whole.

2. Data

The dependent variable for our analysis is the final disposition (Y_1) imposed by the presiding judge. The range of dispositions available for use in the juvenile courts is rather extensive. Following the earlier research of Edward Green,[45] we have ranked and coded this range of dispositions in terms of the extent to which the freedom of the adolescent is restricted. These codings are reproduced in Table 1.

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[45] *Supra* note 19.

The six independent variables are also presented in Table 1 and were selected on the basis of the legal-consensus, conflict-realist, and social organizational frameworks discussed above. Thus, the first two independent variables, seriousness of present offence (X_1) and number of prior convictions (X_2), are the two variables emphasized in research of the legal consensus tradition. Offence seriousness was ranked and coded in terms of a four level scale developed by Chilton and Markel,[46] and prior convictions were coded as the actual number accumulated.

The third independent variable included in the analysis is socio-economic status (X_3), the variable of primary concern to the conflict-realist theorists. Our interest in this variable was primarily as a neighbourhood measure, and it was therefore coded in terms of the 1970 average male income level by census tract in which the child lived when arrested for the latest offence. The median annual income was $7,176; all offenders living in a census tract where the median annual income was above this figure were placed in the higher socio-economic category, and all offenders living in a census tract where the median annual income was less than this figure were placed in the lower socio-economic bracket.

The remaining independent variables considered in the analysis derive from our discussion of the social organizational perspective. Thus, family situation (X_4) is measured in terms of the status of the home as "intact" or "broken" by separation or divorce. Most serious prior disposition (X_5) was measured and coded with the scale discussed under final disposition above. And age at first arrest was coded as the actual age involved.

Added to the six independent variables of theoretical interest was a set of five control variables (X_{7-11})—age of first conviction, number of charges at latest arrest, most serious prior offence, number of prior arrests, and seriousness of offence committed at first conviction. These variables were thought plausibly to influence disposition decisions and were therefore included and statistically held constant as a means of eliminating the possibility of their confounding the theoretical issues to be addressed.

3. The Analysis

The technique used in this study is multiple regression analysis—a general statistical technique designed to examine the relationship between a dependent variable, in this case final disposition, and a set of independent or predictor variables. The multiple regression program produces correlation coefficients (r), indicating the strength of association between pairs of variables; regression coefficients (B), indicating the relative influence of any single independent variable on the dependent variable, with the remaining variables statistically held constant; and cumulative measure of explained variance in the dependent variable (R^2). The independent and dependent variables are measured in different units, and therefore the regression coeffi-

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[46] R. Chilton et al., *Family Disruption, Delinquent Conduct and the Effect of Subclassification* (1972), 37 Am. Soc. Rev. 93.

cients in this analysis are standardized to facilitate interpretation.[47] Finally, tests of statistical significance are reported as a means of estimating the probability that the findings could have occurred as a result of sampling or measurement error.

TABLE I: VARIABLES

	Scale	
Dependent Variable:		
(Y_1) Final Disposition	Caution, Suspended Final Disposition Adjourned, Withdrawn, Dismissed	(1)
	Fine, Restitution, Charity Donation	(2)
	Referral to Treatment or Social Agency Supervison	(3)
	Probation	(4)
	Institutionalization	(5)
Independent Variables:		
(X_1) Seriousness of Present Offence	Juvenile	(1)
	Least Serious Adult	(2)
	Less Serious Adult	(3)
	Most Serious Adult	(4)
(X_2) Number of Prior Convictions	Actual Number	
(X_3) Socio-Economic Status	Low	(1)
	High	(2)
(X_4) Family Situation	Intact	(1)
	Broken	(2)
(X_5) Most Serious Prior Disposition	See Y_1 (no prior conviction coded 0)	(0-6)
(X_6) Age at First Arrest	Actual Age	
Control Variables:		
(X_7) Age at First Conviction	See X_6	
(X_8) Number of Charges at Latest Arrest	Actual Number	
(X_9) Most Serious Prior Offence	See X_1	
(X_{10}) Number of Prior Arrests	Actual Number	
(X_{11}) Seriousness of Offence Committed at First Conviction	See X_1	

[47] In this analysis, use of metric and standard form coefficients yields similar substantive conclusions. However, the several theories examined assume that it is an offender's legal and extra-legal attributes, *relative to other offenders sentenced,* that determine the relative severity of dispositions imposed. In deferrence to this assumption, we have reported the standardized coefficients. On this point, see L. Hargens, *A Note on Standardized Coefficients as Structural Parameters* (1976), Soc. Methods & Research 247. For a more general discussion of the use of multiple regression techniques, see H. Blalock, *Social Statistics* (New York: McGraw-Hill, 1960).

The results of our analysis are presented in Table II. Findings are first reported for the full sample, indicating that all of our independent variables are related to final disposition in the expected way. Thus, the more serious the present offence ($r = .08$), the more prior convictions ($r = .42$), the lower the socio-economic status ($r = .17$), the more disturbed the family situation ($r = .25$), the more severe the prior disposition ($r = .55$), and the lower the age at first arrest ($r = -.10$), the more severe is the final disposition. Among the independent variables, the severity of prior disposition appears to be most important. This expectation is confirmed by the next column of the Table, indicating the effect of each independent variable on final disposition with all other variables held constant. Severity of prior disposition retains its apparent influence ($B = .43$), as do family situation ($B = .10$) and age at first arrest ($B = -.08$). The third column in this part of the Table reveals that only these three variables have a statistically significant, independent influence on disposition. Combined, these three variables explain nearly a third ($R^2 = .33$) of the variation in types of sentences imposed. The reader will note that this figure is more than three times the explained variance attributable to objective characteristics in Hogarth's research. These findings alone indicate that sentencing is a socially organized, as well as an individualized process.

In the remaining parts of Table II, we investigate further the finding that the adolescent's family situation significantly influences the disposition that he or she receives. The hypothesis derived from the social organizational perspective proposed earlier in this paper was that socio-economic status would exert its primary influence among those adolescents coming from *broken* homes. To determine if this is indeed the case, the remainder of Table II presents separate analyses for those cases involving "broken" and "intact" homes.

Thus, the second part of Table II reveals that when the home is intact, socio-economic status has no significant influence ($B = .03$, $p > .05$). Within this sub-sample, it is again severity of prior disposition ($B = .46$) and age at first arrest ($B = -.16$) that are most influential. Both of these variables exercise an influence that is statistically significant at the .05 level, with a combined explained variance of .30.

However, the final part of Table II indicates an important change in this pattern. Among those cases where the family's home is broken, socio-economic status becomes a significant influence ($B = -.14$, $p < .05$). Beyond this, severity of prior disposition retains its effect ($B = .42$, $p < .05$), while number of prior convictions ($B = .19$, $p < .05$) replaces age at first arrest ($B = -.09$, $p > .05$) as a secondary influence (cumulative $R^2 = .30$). Although the latter finding was not predicted in advance, our analysis is generally supportive of the social organizational perspective outlined above.

E. *Discussion and Conclusions*

This paper has sought to demonstrate that the behaviour of juvenile law is socially organized. We have argued that decision-making in the juvenile court is made predictable by a set of commonly recognized cues that signify the moral and legal status of the adolescent. In particular, age of first arrest

TABLE II: CORRELATION (r) AND STANDARDIZED REGRESSION COEFFICIENTS (B) FOR INDEPENDENT VARIABLES (X_{1-6}) AND SEVERITY OF DISPOSITION (Y_1) WITH CONTROL VARIABLES CONSTANT (X_{7-11})

Independent Variables	Full Sample			Home Intact			Broken Home		
	r	B	p	r	B	p	r	B	p
(X_1) Seriousness of Present Offence	.08	.02	p>.05	.14	.04	p>.05	.06	–.04	p>.05
(X_2) Number of Prior Convictions	.42	–.03	p>.05	.40	.00	p>.05	.43	.19	p<.05
(X_3) Socio-Economic Status	–.17	–.05	p>.05	–.12	.03	p>.05	–.25	–.14	p<.05
(X_4) Family Situation	.25	.10	p<.05	—	—	—	—	—	—
(X_5) Most Serious Prior Disposition	.55	.43	p<.05	.53	.46	p<.05	.52	.42	p<.05
(X_6) Age at First Arrest	–.10	–.08	p<.05	–.12	–.16	p<.05	.01	–.09	p>.05
		R^2=.33			R^2=30			R^2=.30	

and severity of prior disposition are thought to be legal cues that signify and escalate a judgment of "evil" that invokes severe dispositions. Beyond this, there are *social* cues that encourage this response; namely, being from a "broken family," particularly when that family is from a lower socio-economic status neighbourhood. Combined, these factors are thought to lead to an "escalation of evil" that ends in a punitive judicial response. Evidence gathered in the Juvenile Court of the City of Toronto provide support for the viewpoint we have outlined.

It is significant to recall how the perspective we have proposed differs from competing approaches. The legal consensus approach assumes that court decision-making proceeds almost exclusively on the basis of legal criteria. Alternatively, the conflict-realist position argues as if such decisions are nearly exclusively based on the extra-legal criteria of race and class.[48] Finally, the phenomenological approach suggests that neither legal nor extra-legal criteria are of much significance, insisting instead that the way in which individual judges perceive these factors will make the difference. We have not said that any of these perspectives is necessarily false; our concern is that each of these approaches overlooks the manner in which legal and extra-legal cues are organized into a judgment of evil that evokes a severe judicial response. The data we have analyzed indicates that this is done in a socially organized, as contrasted with a totally individualized, manner.

There remains the issue as to whether the "escalation of evil" that characterizes court operations can be justified in terms of juvenile court philosophy. The answer to this question depends in part on the degree of faith that one maintains in the rehabilitative capacity of court dispositions. If the rehabilitative treatment associated with severe dispositions was willingly accepted and effectively applied, one might approvingly conclude that ". . . lower class kids, . . . from broken homes are more likely to receive free, the treatment and rehabilitative services of the state."[49] The problem is that today the effectiveness of rehabilitative treatment is not so readily assumed. Instead, "treatment" is now more likely to be regarded as punishment.

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[48] An important exception to this statement is a recent presentation of the conflict position by A. Turk, *Law, Conflict and Order: From Theorizing Toward Theories* (1976), 13 Can. Rev. Soc. & Anthrop. 282.

[49] T. Hirschi, "Labelling Theory and Juvenile Delinquency: An Assessment of the Evidence," in W. Gove, ed., *The Labelling of Deviance: Evaluating a Perspective* (New York: Wiley, 1975).