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AXES, RUBBER HATCHETS, AND DRIFTERS:

IDEOLOGY AND THE JUVENILE COURT

Volume I

By

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ABSTRACT

AXES, RUBBER HATCHETS, AND DRIFTERS: IDEOLOGY AND THE JUVENILE COURT

by

Laurence Lewis

This research attempts to explain juvenile court "policy" collectively in terms of the cognitive decision-making structures of judges. The concept of "ideology" is defined as an operational aggregate of "beliefs", "attitudes", and "values", all of which are rooted in one's social and cultural environment. It is hypothesized that the personally-held "ideological" notions of American juvenile court judges possess enough internal consistency to allow empirical examination as categories of the same entity (i.e., "ideology" as a unity rather than its constituent parts), and that ideology provides a strong influence on the judge's selective decision-making at the dispositional phase of the juvenile court process. Ideology, in short, is examined in itself and as a predictor of sentencing severity.

General structural assumptions concerning social institutions in general (as adaptive social control mechanisms) and legal order in particular, and the concepts of power and legal authority are discussed. Three sufficient conditions should be met before individual ideology becomes

a major factor in "institutional" decision-making and "policy": (1) the individual must occupy an authority position in the institutional structure; (2) institutional restraints on individual decision-making authority must be flexible; (3) the individual must have decision-making options. A review of the American juvenile justice system takes the first as evident and describes the "permissive system" required for the second condition. Choice of dispositional alternatives is introduced as a "test factor" (i.e., control variable). In addition, since some account must be taken of the subject of the decision, i.e., the case, the research design here holds it constant.

Using an anonymous questionnaire mailed to a national sample of juvenile court judges, ideology was measured for each judge by agreement or disagreement with opinion statements reflecting the ideological typologies suggested in works by Anthony Platt, Edwin Schur, Benjamin Cardozo, and Walter B. Miller. Also on the questionnaire were 11 "case summaries", where facts about fictional cases were given and the judge asked to state his/her dispositional preference--unofficial handling, formal adjudication, institutionalization, or waiver (in order of increasing severity). Test factors were measured on the questionnaire or obtained from other sources.

The responses to the ideology items on the questionnaire were manipulated using simple cross-tabulations and chi-squares, correlational measures, and cluster analyses to

obtain three ideological "types": Axes (right-wing hardliners), Rubber Hatchets (left-of-center "diversion" adherents), and Drifters (sentencing governed by short-run "situational" factors). The Axes showed a propensity toward higher dispositional severity preference scores and the Rubber Hatchets toward lower severity preference scores. Drifters showed inconsistent response patterns, but generally tended to score somewhere between Axes and Rubber Hatchets in severity preferences.

Including the effects of test factors, the study concluded that the least severe judge is most likely to be a Rubber Hatchet in a state allowing jury trials in juvenile court and who has many different dispositional alternatives available. (Having this many alternatives, he most probably will also be in an urban jurisdiction.) The most severe judge will most likely be a small-town/rural Axe in a state prohibiting jury trials in juvenile court and who has few dispositional options.

Conclusions were drawn guardedly because of overrepresentation in the sample of judges from small-town/rural jurisdictions, and because state juvenile court "official" statistics were often vague and unusable, so the link between ideology, stated severity preferences, and actual dispositions could not be shown. Consequently, conclusions had to remain at the level of preferences stated on the questionnaire, and not extended to institutional "policy".

The material in this project was prepared in part under Research Grant #75-NI99-0044 (31-1555) from the National Institute of Law Enforcement and Criminal Justice, Law Enforcement Assistance Administration, U. S. Department of Justice. Researchers engaging in such projects under government sponsorship are encouraged to express freely their professional judgment. Therefore, points of view or opinions stated in this document do not necessarily represent the official position or policy of the U. S. Department of Justice.

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CHAPTER ONE

INTRODUCTION

Juvenile justice systems in nations around the world have come under increasing scrutiny in recent years. In Europe, several major publications have arisen in the field of juvenile justice from meetings and discussions of the Council of Europe's Committee on Crime Problems. European nations have collaborated on matters dealing with juvenile delinquency in relation to criminal law, causation and prevention, and treatment evaluation.¹ In the United States, issues such as the "diversion" of juvenile offenders away from the formal machinery of criminal justice systems, prosecution and defense attorneys in a juvenile court where once there was neither, formal court procedures in juvenile court versus a "social-work" approach, and numerous other questions of a substantive nature have been argued with growing frequency in books, professional journals, newspapers, and in the annual meetings of criminal justice academics and practitioners.

Unlike many other contemporary public issues, this examination of juvenile justice has not been confined to

¹ A list of these publications is available from Manhattan Publishing Co., 225 Lafayette St., New York, NY 10012, U. S. distributors of Council of Europe publications.

academic diatribes about a seeming lack of both justice and humane characteristics in formal criminal justice systems. In 1968, the United States Congress passed the Omnibus Crime Control and Safe Streets Act, creating, among other things, the Law Enforcement Assistance Administration (LEAA) within the Justice Department. This organization was given statutory powers to assist law enforcement agencies in dealing with crime, primarily through a healthy supply of money and technical support. Since its inception, LEAA has spent many millions of dollars in the areas of juvenile delinquency and juvenile justice.² The Congress has formed several subcommittees in various parts of its complex structure to deal with problems of juvenile justice, and the United States Supreme Court has added its due, putting the weight of the law behind reform efforts in recent landmark decisions in Kent (1964), Gault (1967), and Winship (1971) cases.

Volumes of publications have resulted from projects and commissions designed to set standards for or otherwise study juvenile justice in the United States. The American Bar Association and LEAA joint-sponsored the Juvenile Justice

² This approach to the problems of crime and criminal justice contains within it the seeds of its own destruction. Pouring more money into research and statistics on crime has led to better data collection procedures and more accurate data, which in turn has led to the recording of criminals and criminal acts which may have been overlooked in previous years. This is translated by the press and criminal justice officials

Standards Project, carried out by the Institute of Judicial Administration in New York City. This endeavor has generated many publications resulting from a four-year study of American juvenile justice.³ The National Advisory Commission on Criminal Justice Standards and Goals set up a Juvenile Justice Task Force, whose job it was to produce a set of standards for all aspects of juvenile justice. They are seemingly quite similar to those standards published in 1973 for police, courts, corrections, and community crime prevention.⁴ The National Assessment of Juvenile Corrections (NAJC) at the University of Michigan has attempted to follow juveniles from the point of court intake through disposition and sentencing. Their primary focus was on the service delivery systems, laws, processing decisions, and alternative correctional modes of juvenile justice.⁵ The Joint Commission on Correctional Manpower and Training has also concerned itself

as a "rising crime rate", which has led to considerable official consternation about LEAA's ability to provide for better law enforcement and methods of deterring criminality. LEAA's future was, for some time, in doubt.

³ A list of publications of the Juvenile Justice Standards Project is available from their offices at 80 Fifth Avenue, Room #1501, New York, NY 10011.

⁴ All of the 1973 publications are available from the Superintendent of Documents, U. S. Government Printing Office, Washington, DC 20402. The latest one is its Juvenile Justice and Delinquency Prevention, 1976.

⁵ Publications of the NAJC are available from NAJC, Institute of Continuing Legal Education, School of Social Work, University of Michigan, Ann Arbor, MI 48104.

with juvenile justice, particularly from the standpoint of professional and volunteer personnel needs.⁶ LEAA's in-house academic wing, the National Institute of Law Enforcement and Criminal Justice (NILECJ), has either sponsored or carried out research on juvenile justice through such national projects as "Pilot Cities".⁷ In short, attention from many quarters is currently focussed on how America and the world responds to their juvenile law-breakers.

Most of the discussion and action in this area has been issue-oriented or geared to an examination of one method of correctional treatment versus another. Until very recently, very little has been done in the way of empirical research concerning the reasons an individual might take one side in these debates and another the opposite side. And what are the qualitative and quantitative characteristics of the various "sides"? This work will approach these questions and others from the standpoint of an inclusive cognitive concept and the conflicts which underlie its discrete categories, and will relate this concept to dispositional decision-making in the juvenile court.

⁶ Rubin & Smith, The Future of the Juvenile Court, 1968.

⁷ Many of the "pilot cities" projects have juvenile justice components. Annotated publications lists from the various pilot cities programs are available from either the Technology Transfer Division, NILECJ, LEAA, Washington, DC 20530, or from the National Technical Information Service,

Decision-making action can generally be termed selectivity, the choosing of one from several alternatives. There are two kinds of selectivity which are often at issue-- "institutionally" and "individually" inspired selectivity. One chooses actions based on a bias which could, in turn, be based on any criteria. One could "select" out any criteria from any number of possibilities and base one's decisions for differential treatment upon it.

One reads much today about "institutional" racism, sexism, and other such forms of bias. Institutional selectivity says that the consequences of such bias (e.g., in the criminal justice system, differentials in arrest, detention, conviction, and institutionalization rates for different types of offenders) are the result of the normal operations of the relevant systems. For instance, the use of monetary bail as a form of insurance that a person will appear for his assigned day in court institutionally excludes from pre-trial release the poor, a large portion of America's ethnic minorities (because they are more often poor), and possibly the currently and chronically unemployed. Although socioeconomic status, ethnicity, and occupation (or lack thereof) are supposedly irrelevant to the assigning of bail, the consequent overrepresentation of some of these groups incarcerated as "awaiting trial" in city jails

U. S. Department of Commerce, 5285 Port Royal Road, Springfield, VA 22151. See also, NILECJ, Prosecution in the Juvenile Courts, 1973.

and other detention facilities is well documented.⁸

On the other hand, individual selectivity is the result of attitudes, beliefs, situational contingencies, and all other aspects of one's cognitive structure and information set, the latter including perceptions of the policies of institutions. It is a consequence of one's lifelong socialization through agents and situations native to the cultural and social systems in which one resides. In the United States, the general cultural and social milieu is one of heterogeneity and pluralistic thought, and although this may become less so as one focuses on power structures within the U. S., we are not a very homogeneous society. Using the example of bail again, we would want to ask about the assigning of bail in the first place, as opposed to "release on recognizance" or third-party or surety bonding. For the institutional policy of bail to be selective, it must be used, a contingency primarily governed by judicial discretion, i.e., individual selectivity.

If institutional considerations give the rules under which interaction is played out, to what extent do individual phenomena account for the consequences of action, when other influences are controlled? If individual decision-making accounts for some part of the total action of an institution,

⁸ National Criminal Justice Information and Statistics Service, Survey of Inmates of Local Jails, 1972, n.d., p. 17.

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what accounts for individual decision-making? If the source of individual selectivity is in one's social and cultural setting, can one find a descriptive concept which characterizes this setting as it is manifested in the individual? What sort of "gyroscope" or "steering system" guides an individual to choose one alternative over another? If selectivity is a fairly inclusive concept for the actions individuals take, what would such a concept be called that would cover the roots of selectivity?

The concept proposed here is ideology. Personally-held ideology represents an aggregate of beliefs, attitudes, and values, and is rooted in one's social and cultural environment. The hypotheses here are that ideological beliefs, etc., possess enough internal consistency among American juvenile court judges to allow empirical examination as categories of the same entity, and that it provides a strong influence on their selective decision-making at the dispositional phase of the juvenile court process. Ideological stance will be examined in and of itself and as a predictor of sentencing disparity.

This being only an introduction, further discussion of the topics introduced here is reserved for succeeding chapters. Chapter Two discusses in some detail the nature of the "social and cultural environment" of the American juvenile court and the concept of ideology as it is used in this research. A model for the sources of decision-making processes

is introduced which serves as a graphic display of the ideas presented and an outline of the chapter itself. Chapter Three concerns the methodology of the research and a statistical description of the responding juvenile court judges. The internal consistency of ideology, the first hypothesis, is the topic of Chapter Four, which focuses directly on ideology and the ideological typologies which serve as the starting point of this work. These typologies are examined on their own merits, then modified and re-examined in light of the findings. Chapter Five discusses dispositional decision-making as it is used here as a dependent variable, and relates the concept to ideological typologies resulting from the previous chapter. It is here that the influence of ideology on decision-making, the second hypothesis, is examined. Finally, Chapter Six gives an overview of the findings and conclusions, and assesses the optimum places where further research is called for as a result of this study.

CHAPTER TWO

LAW AND THE COGNITIVE DETERMINANTS OF DECISION-MAKING

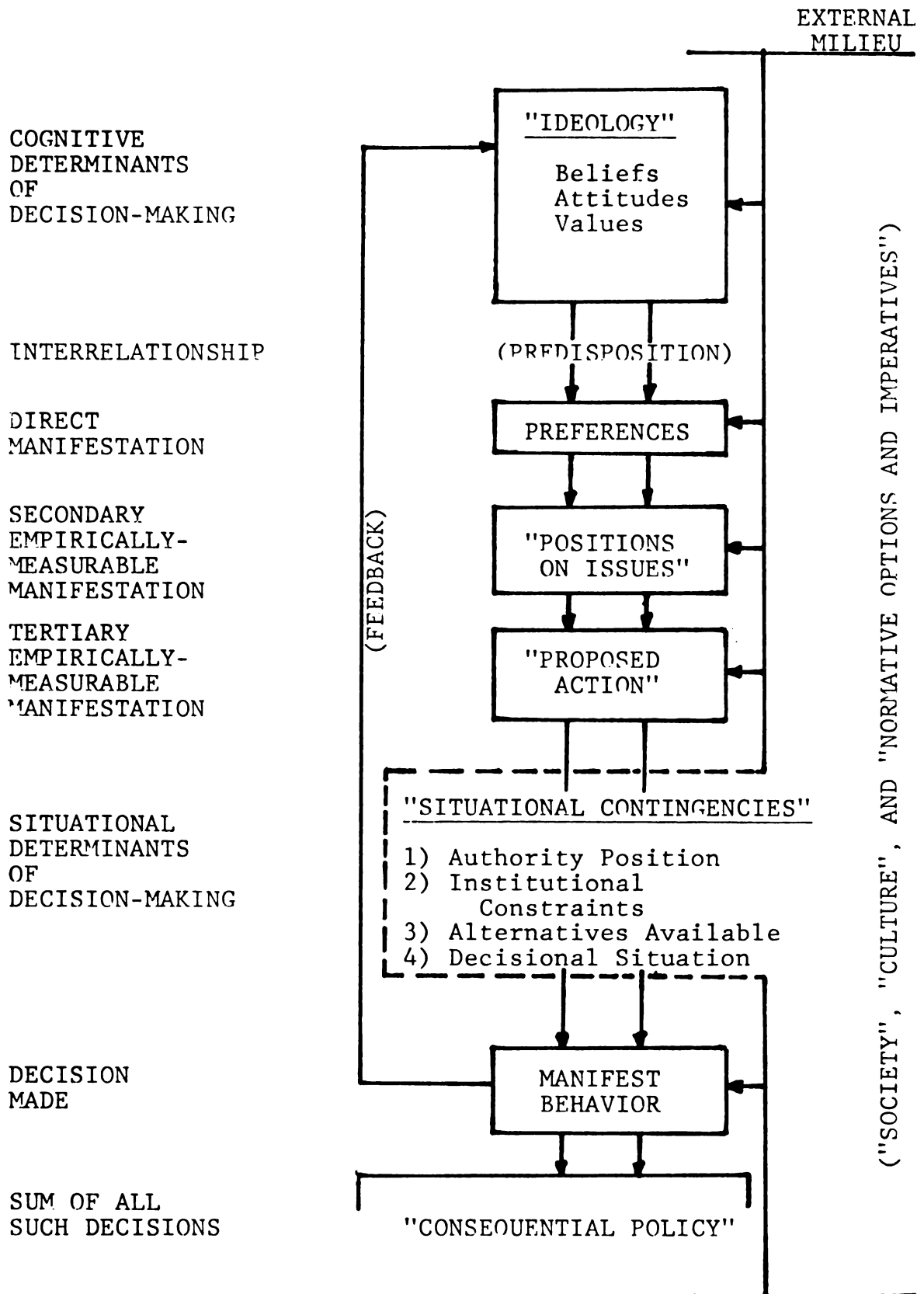
Given that the introductory ideas of "institutional" and "individual" selectivity have been put forward, it remains for this chapter to elaborate these ideas. Figure A presents the starting model of the decision-making process as envisioned in this research, and serves as an outline for this chapter. We begin with a discussion of the "external milieu"--what we have referred to as the "social and cultural environment" of juvenile court judges in the U. S. This is limited to a general essay on American law and society (the "legal order") and that part of it dealing with juvenile justice. From there we turn to the cognitive determinants of decision-making and the process leading to a decision on particular matters.

The Legal Order

When one begins by discussing the "legal order", several other concepts are necessarily intertwined and must be addressed. These concepts include "social control", "institutions", "power", "authority", and "policy".

Given that all individuals exist in a physical and social environment, Warner discusses the nature of this existence:

FIGURE A
DECISION-MAKING MODEL



"...human adaptive behavior (is) necessary everywhere for the maintenance and persistence of social and biological life of all men in all groups."¹

It is trivial to say that humans adapt to their environments. What should be our concern are the mechanisms by which human beings adapt and human societies develop. As societies grow larger and more complex, as changes occur in "environmental conditions" (glaciers, volcanic eruptions, bombs, etc.) and "historical circumstances" (cultural diffusion, conquest and colonization, etc.),² the constituent elements of culture and social structure grow larger and more complex. For example, the adaptive needs which were served almost entirely by the "corporate" family structures in early human history diffuse to other developing institutions as societies grow and elaborate.³ An institution, i.e., a social adaptive mechanism, is conceived of here as an organized system of structures of social relationships by which a society meets its adaptive needs.⁴

¹ Warner, "The Study of Social Stratification", 1957, p. 230.

² Valentine, Culture and Poverty, 1968.

³ Blitzten, The World of the Family, 1963.

⁴ Similar characterizations of institutions appear in Bierstedt, The Social Order, 1963; Horton & Hunt, Sociology, 1968.

Warner states the nature of the adaptation functions of social institutional structures as "adaptive control":

"...the control over the species, by imposing the pressures of moral forms on animal behavior, regulates the discharge of species energy; it controls the interaction of individuals and structures, their access to each other. Thus it orders the basic flow of life of the species and of each individual, including the procreative processes and the relations of the adult and the immature; it orders the expression of hostility, aggression, and violence, the disposition of prized objects, and the imposition of unpleasant tasks among members of the group. Control over the species environment means an exercise of real power..."⁵

Dahrendorf discusses at some length the nature of "conflict regulation" in industry and government.⁶ Whatever term is used to describe the nature of institutions and their structures as adaptive mechanisms, the essential element, the common denominator of all of them is the purpose of social control.

⁵ Warner, supra, note 1, p. 240.

⁶ Dahrendorf, Class and Class Conflict in Industrial Society, 1959, pp. 227-231.

One may characterize the social adaptive needs and their adaptive control mechanisms (institutions) in a general way as follows: (1) reproduction and procreation of the species (Family); (2) explanation of the metaphysical, ontological, the "unknown" (Religious); (3) extraction, production, distribution, and consumption of valued commodities (Economic); (4) socialization and training of the "immature" (Education); and (5) normative enforcement, internal and external protection (Political or Governmental--Legal and Military). It should be noted, of course, that there is much functional overlap between these institutional categories in complex societies of today. The Family certainly engages in socialization and training of the young, and both the Family and Economic institutions of a society do engage in norm enforcement. But among all of these institutions, their basic functions is to meet these adaptive needs and control them and their manifestations in individual and group behavior.

It should also be remembered that each of these institutions, regardless of the various adaptive purposes, are structurally interrelated as well:

"No one system of adaptation is entirely free from the others. No one at all times and all places will necessarily dominate the others."⁷

⁷ Warner, supra, note 1, p. 241.

Many theorists on the nature and application of power would certainly disagree with the latter statement. For example, Karl Marx might argue that control over a nation's economic institutions leads inevitably not only to control over all others, but necessarily lays the foundation for the society's system of reward distribution and social class.⁸ C. Wright Mills might in some ways agree with Marx under certain circumstances,⁹ but under other conditions would argue for the necessary dominance of political and military institutions.¹⁰ Neither would disagree, however, that the structures of these institutions exist in relation to each other.

Legal institutions are part of the general political institutions of the nation. It was stated that the primary adaptive purpose of the political-governmental institution is "norm enforcement" and "internal and external protection":

"The main functions of government are,
internally, the ultimate enforcement of norms,
the final arbitration of conflicting interests,
and the overall planning and direction of society;

⁸ Marx, Capital, 1954. For standard collections of his writings, see Bottomore & Rubel, Karl Marx, 1956, and Feuer, Marx and Engels, 1959.

⁹ Mills, "The Structure of Power in American Society", 1958.

¹⁰ Mills, The Power Elite, 1956.

and externally, the handling of war and diplomacy. To carry out these functions it acts as the agent of the entire people, enjoys a monopoly of force, and controls individuals within its territory."¹¹

It is unfortunate that Davis and Moore chose to conceptualize the state as being an "agent of the entire people", as if that was even possible, and as if the state had no interests of its own.¹² This is also a basic problem with Durkheim's view of crime and the purpose of law ("collective conscience"):

"Crime consists of an act that offends certain very strong collective sentiments... the collective sentiments which are protected by the penal law of a people at a specified moment of its history."¹³

Jurist Roscoe Pound's view of law contains similar references to "society's" mores, and to him it was "the means of a well-ordered society". Also, it is not necessary to assume that

¹¹ Davis & Moore, "Some Principles of Stratification", 1945, p. 246.

¹² See, e.g., Michels, Political Parties, 1962, on the "Iron Law of Oligarchy", or Aron, "Social Class, Political Class, Ruling Class", 1960.

¹³ Durkheim, Rules of the Sociological Method, 1938, p. 12.

the state has a "monopoly of force", only that it has access to the greatest amount of force and violence, and legally, it has the last word.

Despite these weaknesses, these theories can be boiled down to the general form of social control known as boundary maintenance, part of the general science concept of "territoriality". This says that a living animal organism or group of organisms will select a "niche" out of its physical environment and defend and protect it as its most immediate life space. One may look at the history of international conflict and conquest as human groups selecting, defending, and altering territorial boundaries. From the environmental imperatives out of which all institutional forms of social control emerge (size, elaboration, etc.), there comes an adaptive need for normative boundary definition, maintenance, and redefinition as well. It becomes the purpose of the political-military institutions to maintain, defend, and sometimes redefine physical territorial boundaries, and analagously, it becomes the purpose of the developing legal institutions to maintain, defend, and redefine normative boundaries.

Legal institutions operate under the auspices of a codified set of rules which we call law. In conjunction with Warner's concept of institutions as "adaptive control mechanisms" and Davis' and Moore's view of legal institutions as society's norm enforcement machinery, Simpson and Field define

law as follows:

"...law is merely one aspect of our culture--the aspect which employs the force of organized society to regulate individual and group conduct and to prevent, redress or punish deviations from the prescribed social norms."¹⁴

Most "prescribed social norms", however, are not regulated by the entire "force of organized society". Law can best be viewed as a subset of society's normative structure. Norms, and therefore laws, have their roots in the "environmental conditions" and "historical circumstances" which produce what Valentine calls "culture".¹⁵ Norms are at least the shoulds or should-nots of behavior within a given society. They vary among groups within society, and include such things as "etiquette", "tact", and "taste". An example would be the character Audrey Hepburn played in the Broadway musical "My Fair Lady". She systematically violated a wide variety of the "predetermined norms" of "polite" English society. The language is full of colloquialisms to describe such norm-violators--"bumpkin", "boor", "hick", "yokel", "yahoo"--and all

¹⁴ Simpson & Field, "Law and the Social Sciences", 1946, p. 858.

¹⁵ Valentine, supra, note 2.

imply rudeness or ill-breeding.

Laws, however, are the must and must-nots of society. According to Bloch and Geis, they differ from simple norms in at least three ways--explicitness, scope, and formality:

"The law as distinct from customary controls over human behavior tends to be specific about behavior defined as an offense and about the nature of the sanctions or punishments to be meted out. Second, the law is conceived as universal in its scope, within the confines of a given society...(It) is meant to be applicable to all segments of the society and to impose the same degree of sanction, regardless of group, class, ethnic, and sectional differences. The law is also a formal statement... (It) is deliberately contrived through some type of formal mechanism in which specially delegated personages and legislative bodies play significant roles."¹⁶

The law is a formal statement of rules by which representatives

¹⁶ Bloch & Geis, Man, Crime, and Society, 1970, p. 37. Although the authors never reference Max Weber, these are essentially his criteria for the bureaucratization ("rationalization") of law in a democratic society.

of formal social control institutions act on individuals or groups who violate certain important social norms. The fact that these norms are often violated by large segments of a population, despite strong penalties for doing so, is irrelevant to the questions of their specificity, universal application, or formal nature.

In addition to the norm-enforcement functions of legal institutions, the substance of laws and the processes of law-making and law enforcement may serve other functions for a society. Finnish criminologist Patrik Tornudd postulates two of them:

"General Integration. The identifying of criminal acts allows a harmless channeling of aggression which at the same time group solidarity and similar general social values are reinforced. The quotation frequently used to illustrate this mechanism, "nothing unites a nation as much as its murderers", obviously has a larger frame of reference than the homicide norms...Innovation. Deviant acts serve as innovation models and as foci of innovational motivation. Innovation is undoubtedly necessary for the survival of a society. While certain normative innovations may be carried out on the basis of 'thought crimes', fundamental moral innovations seem to

call for deviancy manifested in action, with the attendant conflict as a necessary element of the innovational process."¹⁷

"General integration" refers to group solidarity, a generalized "we"-feeling or group consciousness. To have a "we", there must be a "they". The criminal law defines who "they" are and the criminal processes holds them up for viewing and scorn. "Innovation", and its necessity for society, conforms with the notion of institutions as adaptive mechanisms. For a society to adapt to changing environmental conditions, historical circumstances, etc., the law creates deviants which, through an open dialectic process ("deviancy manifested in action" and the "attendant conflict"), produce necessary changes in the social and legal order, i.e., they promote adaptation. This history of laws dealing with the use of marijuana and the contemporary changes in those laws being experienced in many states serve as an example of this process.

Being rooted in the culture, law has been said to be a function of the "social life" within a society. Malinowski studied trade relations between two societies living on the same Pacific island. One was agricultural and lived inland; the other was a fishing society residing on the coast. Each depended on the other for fish and agricultural products, res-

¹⁷ Tornudd, "The Futility of Searching for Causes of Crime", 1971, p. 26.

pectively, so the formal laws of both societies were concerned primarily with trade and economic matters.¹⁸ As such, Malinowski defines laws as:

"...a class of rules too practical to be backed by religious sanctions, too burdensome to be left to the mere goodwill, too personally vital to individuals to be enforced by an abstract agency."¹⁹

Malinowski's characterization of law brings up the issue of which rules are the "shoulds" and "should-nots" and which are the "musts" and "must-nots". This particular class of rules, in Malinowski's case, were matters which affected the health, and possibly even survival, of both societies. However, all laws do not relate to matters of survival, and they may or may not have been imperative at some time in the history of a society. How do norms become laws? In the absence of survival necessity, why do they persist?

Tornudd's two auxilliary functions of criminal law, "general integration" and "innovation", may help to explain some of the continued presence and enforcement of certain laws. With increasing formality, law also becomes more resistant to

¹⁸ Malinowski, Crime and Custom in Savage Society, 1932.

¹⁹ Ibid., p. 67. It should be noted, however, that

change, a phenomena contemporary Dutch researches describe by using a term which translates to "shell formation".²⁰

Stated another way, law becomes a Durkheimian "social fact" with a power of its own.²¹

Nadel explains this perseverance of law as a function of collective "habit". Like Malinowski, he studied non-industrial societies and explains the pull of habit (tradition) as either social acceptance (a form of value-orientation) or a pragmatic method of "least risk":

"...traditional or customary behavior operates reliably only when two other conditions apply and derives its force and apparent self-propulsion from them. Either acting in accordance with tradition (i.e., in accordance with old inherited models) is as such considered desirable and good; or, this way of acting happens also to be the safe, known routine. In the first case the traditional action is also

these rules may be enforced by strong religious and informal sanctions as well.

²⁰ National Institute of Mental Health, Crime and Delinquency in Selected European Countries, 1971, p. II. This concept also refers to the process of labelling criminals and isolating them from their society, i.e., putting them in an ever-hardening "shell".

²¹ Durkheim, supra, note 13.

value-oriented, being short-lived without this support, as instanced by changing fashions and fads. In the second case the custom remains such because its routinized procedure affords maximum success with least risk."²²

The notions of habit, "universal" application, "shell formation", "general integration", and "innovation" have some explanatory power as to the endurance of certain laws. However, there is one more element of the concept of law which should be made explicit. As societies become more complex, certain social functions become delegated to "third-parties". Functions which were originally confined to the family unit are delegated to other individuals and groups. Earlier, we discussed social adaptive needs and their control mechanisms (Family, Religious, Economic, Educational, Political) in terms of their control functions. Originally, all of the functions fell to the family, or later on (as man became more gregarious), to a small group of families. As these groups become larger, a division of labor occurs, and specializations develop. The transition from individual and family hunting and gathering to wage labor serves as an example. Authority for social enterprises become vested in third-parties.

The same is true in the case of legal institutions.

²² Nadel, "Social Control and Self-Regulation", 1953, p. 266.

It is this third-party nature of law, the delegation of power and authority for its creation and enforcement, which led to Hobhouse's classic definition of law:

"...a body of rules enforced by an authority independent of personal ties of kinship and friendship..."²³

Another way of looking at the third-party nature of law is by examining the interaction norms between social roles. Around each social position in a society are clustered certain rights, duties, and proscriptions ("role norms", "role-requirements", "behavioral expectations") which are associated with the role on a scale of "optional" to "mandatory". These role norms are usually stated in relation to the interaction of the role in question with other roles in a social context, i.e., in a form of "exchange" relationship. These exchange relationships between social roles are either "intrinsic" or "extrinsic". The principal difference between intrinsic and extrinsic exchange is in degree of formality and locus of sanction. The rights and duties of social roles in intrinsic exchange are informal and sanctioning is intrinsic to the relationship. When one person gives a party for another, the expectation is that the other will, at some future date, recip-

²³ Hobhouse, Morals in Evolution, 1951, p. 73.

rocate more or less in kind and in value. Sanctioning power for non-compliance with this expectation (norm) lies in the parties themselves. If the other person does not reciprocate, the individual may sanction him informally through gossip, verbal ostracism, or termination of the relationship. This kind of exchange becomes extrinsic when, as social needs and their adaptive mechanisms grow in size and complexity, the rights, duties, and proscriptions associated with the interacting roles become "formalized" (i.e., contractual and codified) and the locus of sanction is vested in a designated third-party. If that third-party is the political institution of the society, then those formalized role-norms become law. Laws, then, are those interactional role-norms which have become sanctionable by the state. This is merely an elaboration, in "social exchange" terms,²⁴ of Hobhouse's definition.

Following Warner, it was stated earlier that the "essential element" in the operation of social institutions is adaptive control. Warner himself stated that control within institutions of social adaptation is an "exercise in real power". He defines power as:

"...the possession of control over other beings and objects in the social and natural environments, making it possible to act on them to achieve out-

²⁴ Homans, Social Behavior, 1961.

comes that would not have taken place if control were not exerted."²⁵

The reference to the results of the application of power, i . e . , achieving outcomes that would not have occurred otherwise, is seemingly apparent in Max Weber's definition of power, quoted by Dahrendorf:

"(Power is) the 'probability that one actor within a social relationship will be in a position to carry out his own will despite resistance, regardless of the base on which this probability rests.'"²⁶

There are at least several bases by which any one individual may possess power in any given situation where power is exerted. A person may do what another wants of him because of mutual attraction (friendship, love) or certain personal qualities (Weberian "charisma"), the other's monopoly over valued resources in one's life-space (material resources, know-

²⁵ Warner, supra, note 1, p. 238. This does not necessarily imply the threat or application of violent force. Socialization has been shown often to be more effective in achieving results in this regard. See, e.g., Tapp, "A Child's Garden of Law and Order", 1970. However, just because one does not verbalize a threat of force in explaining why one does something one dislikes does not mean that the person does not recognize such a threat from an institutional authority.

²⁶ Dahrendorf, supra, note 6, p. 166.

ledge, skills), their differential access to violence (political, legal, military), or their relative positions in a hierarchy (structural). These bases of power are not mutually exclusive of each other. A President of the United States or a particular judge may have structural position and thereby access to great violence and control over a wide variety of "valued resources" (one's freedom, for instance). In some cases, (e.g., J.F.K.), he or she may also have "charisma".

When we refer to authority, we are referring to power based on the occupation of a structural, hierarchical position in society. Power derives from the position one occupies. Institutional authority is the occupation of a position of adaptive control in the structures of organizations which carry out the purposes of adaptation for that particular institution. The "amount" of authority an individual has depends at least on the relative positions one holds in the same or, more importantly, different institutional authority structures or, in general, the number of alternative power bases. However, since the purpose of this study is not to discover the specific sources of the power of judges, in general or in particular, we will assume that judges attain their power by virtue of their attainment of a place on the bench. They may also be business leaders, or have "charisma", but this simplifying assumptions will be necessary for us to proceed. The power which will specifically concern us here will be the power

to deny an individual his freedom to move in society at will, and this power is the result of the judge's position of authority in the structure of the American legal institution.

In summary, legal institutions, as part of the general political institution, function primarily as social control mechanisms to define (enact), maintain (enforce), and modify (adapt) certain normative boundaries within a society. Laws (a political category by definition) are that part of a society's normative structure considered important enough to be formally codified at some point in its history. Authority for their further enactment and enforcement is delegated to formal third-parties within the legal institutions of a society. Laws and legal institutions, then, originate and evolve together. Social habit and acceptance, "shell formation", integration, and innovation are factors in explaining the endurance of laws.

Legal power is the power to enact, enforce, or change laws. Legal authority is legal power that is based on the occupation of a structural position in the legal institutions of a society. As such, the preponderance of legal authority to make laws lies in the third-parties called "legislatures" and, to no small extent, in the judiciary. Cardozo recognized judge-made law in the appellate judiciary early on, claiming that judges, through their interpretive function, fill in the "interstices" or "fissures" in the law, i.e., what the statutes

omit in their application to real-life situations.²⁷

Becker, Erikson, and other "labelling" theorists have begged the questions of "legal power" and "legal authority":

"...social groups create deviance by making rules whose infractions constitute deviance, and by applying those rules to particular people and labelling them as outsiders. From this point of view, deviance is not a quality of the act the person commits, but rather a consequence of the application by others of rules and sanctions to an 'offender'. The deviant is one to whom that label has successfully been applied: deviant behavior is behavior that people so label."²⁸

"...the term 'deviance' refers to conduct which the people of a group consider so dangerous or embarrassing or irritating that they bring special sanctions to bear against the persons who exhibit it. Deviance is not a property inherent in any particular kind of behavior; it is a property conferred upon that behavior by the people who come into direct or indirect contact with it. The only

²⁷ Cardozo, The Nature of the Judicial Process, 1921, Pp. 70-71.

²⁸ Becker, Outsiders, 1963, p. 9.

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way an observer can tell whether or not a given style of behavior is deviant, then, is to learn something about the standards of the audience which responds to it."²⁹

The particular questions which are begged by such statements are: Which social groups create deviance? Who confers upon certain kinds of behavior the label "deviant"?

These questions are also begged by other works so far considered. We earlier doubted the contention that the state is an agent of all, or even the vast majority, of the people in a society. If not, then which people are served by the state? We defined the primary function of legal institutions as "normative boundary maintenance", to which was added punishment of those who deviate from "prescribed social norms". Whose norms? Who "prescribed" them? Following Malinowski, who decides the "class of rules" that are "too Practical" and "too vital" to be enforced only informally? How "universal" is the law? Who benefits most? Who are the "third-parties" responsible for American law who are, according to Hobhouse, not bound to their charges by "kinship or friendship"?

An important thing to remember concerning legal power and legal authority is that the two concepts do not necessarily

²⁹ Erikson, The Wayward Puritans, 1966, p. 6.

represent the same universe of individuals and groups. Many have legal power without legal authority. In the American case, legislators are often influenced by economic authorities, and at times may be one and the same persons. Wealthy farmers and, later, industrialists have had a strong hand in the past and present in writing both the U. S. Constitution and other forms of law, i.e., they were the social groups who defined deviance to a large measure. As Dahrendorf observes, laws, being codified norms, are not independent of the people who write them:

"Norm is a very general category. Its relevance... begins only when we ascertain which particular norms and laws are prevalent in a given society and which particular people or aggregates of people either tend to enjoy privileges or suffer deprivations by virtue of the prevalent norms. The statement that the rule of the capitalists has been replaced by that of 'the law' or the general will is remarkably meaningless..."³⁰

Many heads of government agencies that regulate economic activity are businessmen.³¹ Many of the lawyers in

³⁰ Dahrendorf, supra, note 6, p. 96.

³¹ Domhoff, The Higher Circles, 1970.

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legislatures are corporate lawyers. In the history of juvenile law, many of its writers were wives or other associates of the wealthy industrialists of the day.³² They were many of the same people who formed most of the settlement houses in the slum districts of the nineteenth century.³³ And, especially during the 1950's and 1960's, much of the responsibility for solving many social problems was delegated to the economic leaders in the form of tax incentives for certain hiring practices and programs. In defining law, Timasheff observes that:

"...the legal order is a part of the social order, with the social force called law always tending to mold individual behavior in accordance with pre-established patterns imposed by individuals who play the role of 'supporters of patterns'."³⁴

Similarly, Becker describes legal action and legal change as often the result of the behavior of "moral entrepreneurs".³⁵ Throughout American history, then, one can often find a tie

³² Platt, The Child Savers, 1969.

³³ Domhoff, supra, note 31.

³⁴ Timasheff, Introduction to the Sociology of Law, 1939, p. 10.

³⁵ Becker, supra, note 28.

between the monied elite of the day and these "supporters" and "entrepreneurs".

If habit, "shell formation", general "integration", and the like are factors in the endurance of laws, then through the judiciary, the law has another important source of "staying power". The importance of precedent in judicial decision-making, particularly at the appellate level, makes present-day laws:

"...largely a collection of past cases and decisions, a synthesis of the various confrontations which have occurred in the life of the legal order."³⁶

More will be said about this later, but given this, it would not seem surprising that dispositional differentials based on wealth and socioeconomic class would occur in the operation of the criminal justice system, both in preceding decades as well as today. The American legal institutions state "equality before the law" and "blind justice" among its basic tenets, i.e., its universal applicability to all segments of society. Yet American capitalist economics (the "Protestant ethic" and "free enterprise" dogmas) promotes the contrary principle that rewards should be proportional to input.³⁷ It would seem reason-

³⁶ Erikson, supra, note 29, pp. 11-12.

³⁷ "You get out of it what you put into it." In terms of social behavior in general, this is similar to (and probably the underlying metaphor for) Homans' principle of "distributive

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able to attribute socioeconomic class differentials in legal processing decisions to this latter principle in operation (e.g., more money to buy lawyers' services to find tax loopholes and to carry out lengthy appeals). If all societal institutions are intertwined, if economic "elites" have strongly influenced the direction of our law, and if the power of "precedents" remains strong in American jurisprudence, then it would be unreasonable to assume that legal institutions could actually operate by a different principle, regardless of their stated dogmas.

To round out this discussion of the legal order, we look at the notion of policy. Webster's Third Edition dictionary defines the term as a "definite course or method of action selected from among alternatives and in the light of given conditions to guide and usually determine present and future decisions." One often hears statements from representatives of the upper-level hierarchies of government and other organizations which begin with a phrase such as, "Our official policy in this matter is" such-and-such. This refers to the framework of standards by which representatives of the organization are to interact with others coming within its purview and under which they are to make decisions in those interactions. It specifies the conditions under which interaction is to take place, the manner in which it is to begin, proceed, and terminate". See Homans, supra, note 24, pp. 72-78.

inate, and the norms under which it is to be carried out. This type of policy will be referred to in this work as institutional policy.

In these terms, the law is the institutional policy of legal institutions in their dealings with rule-violators, i.e., in their "normative enforcement" functions. These laws are the important normative prescriptions and proscriptions formally set down by the third-parties who are delegated that function within society. The laws made may or may not represent the feelings of the population of the society as a whole (certainly not in the U. S.), and possibly not even a majority of that population. However, they are rooted in the environmental conditions and historical circumstances (i.e., the "culture" of the society), and are the institutional policy of that society's legal institutions. Laws, as such, would also define the sub-systems under which interaction between legal-institution representatives, its duration, and the general "rules of the game". The rules of formation and formal procedure of such legal sub-systems as police, courts, the practice of law, certain administrative boards, and the army are examples.

There is, however, another type of "policy" which should be considered. It is the "policy" that results from the decisions made during the interaction taking place under the framework of institutional policy. It is an aggregate of

decisions made and actions taken by the representatives of the organization. This type of policy will be called consequential policy. It is the "real" policy that results from social action. The characterization of consequential policy also closely conforms to the dictionary definition, i.e., a "definite course or method of action". Webster's definition seems appropriate in its entirety to the legal system, where action (in a court) which guides "present and future decisions" is known as "precedent", the power of which in maintaining the legal system has been noted.

By way of example, in the American legal and criminal justice system, the official institutional policy (laws, rules, guidelines, etc.) is "blind justice", a proscriptions against discriminatory handling of offenders on the basis of ostensibly irrelevant criteria such as sex, race, or socioeconomic status. However, as in our previous example on the use of bail, and according to a multitude of studies of criminal justice processing decisions (i.e., "consequential policy"), there is often such differential treatment on these bases.³⁸ If it was found "beyond a reasonable doubt" that the American criminal justice

³⁸ For a few of many recent examples, see Eisner, The Delinquency Label, 1969; Chesney-Lind, "Judicial Enforcement of the Female Sex Role", 1973; Thornberry, "Race, Socioeconomic Status and Sentencing in the Juvenile Justice System", 1973; Chiricos, et al, "Inequality in the Imposition of a Criminal Label", 1972.

system gave preferential treatment to whites, or blacks, or men, or women, then would it be wrong to call this a "policy" of the system, as many of its detractors have done? I think not, particularly since this type of policy ("consequential policy") is based on what is done rather than what is stated or intended.

There is much incongruence between institutional and consequential policy in many different areas of social life. The bail example cited earlier is such an instance. Sociologist-philosopher W. I. Thomas was said by Alfred Schutz to have remarked that that which is perceived as real is real in its consequences. Borrowing on this idea, an oversimplified form of one theory of why revolts take place is that such a discrepancy between institutional and consequential policy is perceived as just that and reacted to violently by those not getting the preferential treatment. Although this is an interesting problem, racial or sexual bias in the criminal justice system is only of peripheral concern to this research. It was used merely to illustrate the difference between institutional and consequential policy.

If power and status are more or less equal in the interaction between representatives of organizations and parties who come into contact with them, then the nature of the interaction itself would be the proper focus of study. Decisions made would best be conceptualized as some function of elements

of the encounter and interaction process. For instance, in a sales transaction, the customer wants to buy something and the salesperson wants to sell something. The store has set up various institutional policies for interaction between its employee and the customer (e.g., "the customer is always right", "don't be pushy", "plug these items", etc.). Since one needs the other to satisfy both, status and power considerations would probably tend to cancel each other. Barring such compelling situational contingencies as subliminal advertising or a Smith-and-Wesson in the hands of the customer, the results of the interaction would depend upon cues, impressions, strength of needs, the actual material desired and to be sold, and other such variables idiosyncratic to the interaction.

However, when an individual comes into contact with the legal and criminal justice systems, the status and power of him and that of the system's representatives are never even close to equal. It is a situation that always has a dominant and subordinate party--the authority person and the individual, respectively. In dealing with the law versus the lawbreaker, any interaction that takes place under this framework must, to a greater or lesser extent, depend not only on the institutional policy of the system, but also on certain aspects of system representatives (authorities) who hold the power. It is the contention here that one must look to the decision-making

apparatus not only of the system, but of the individual or group actually making the decision as well. So often one reads in the sociological literature about institutions or organizations "interacting" with one another, "interorganizational relations", and organizational "behavior" in general, all as an explanation of certain kinds of consequential policy.³⁹ What is missing from much of this literature is an appreciation of the idea that in all results of system and organizational "behavior", someone at some time had to make a decision from some set of given alternatives. Organizations are abstractions composed of individuals and smaller groups of individuals which make the organization "behave" and "interact" as it does. Too often, aspects of the individuals or groups involved are ignored in sociological research.

But what determines the "greater or lesser extent" to which individual decision-making comes into play? When and under what conditions will it occur? Partially, of course, the answer lies in social, cultural, and environmental factors. One such direct influence on the consequential policy of an

³⁹ This, of course, is not to deny system-level considerations, but too often they are used more or less independent of their effects on and for individuals and small groups within the system. To use a uniquely structural-functionalist metaphor, the human organism depends on the functioning of the entire circulatory system. However, that system's most important components toward the health of the organism are the many thousands of capillaries. For an example of this overdependence on structure for explanation, see Bailey, Stratagems and Spoils, 1969. By contrast, see Silverman, The Theory of Organizations, 1970.

institution is the extent to which institutional policy sanctions the alternatives, and specifically, how many are so sanctioned. It would seem, then, that decisions made would be related to the range of alternatives available. Once this range rises above one, the elements of individual decision-making must be considered, i.e., someone has a choice.

Another consideration here must be the institutional policy itself, and any prescriptions and constraints which are embodied in it. Where institutional policy constraints on the actions of its agents are rigid, then consequential policy should parallel institutional policy. Where they are flexible, consequential policy should vary more directly with aspects of the decision-makers. In the latter case, the explanation of consequential policy of a system becomes more problematic, since more diverse variables would have to be considered. Simply, more people are making the consequential policy of that system.

To summarize, there are at least three conditions necessary to consider individual decision-making an influence on the consequential policy of a system or organization. First, the individual must be in a position of authority within that system or organization to carry out decision-making for it, i.e., he must be one of the "representatives" or "agents" discussed above. Second, that individual's discretionary decision-making should be subject to relatively lax institut-

ional policy constraints. The less the constraints upon him, the greater the chance that consequential policy is influenced by individual variables. Third, decision-making alternatives must be available to him in his operational field. The more alternatives available in his purview, the greater the probability that individual variables influence consequential policy.

These characteristics of the "external milieu" are specified in Figure A. In addition, the decisional situation is also separated out. This refers to characteristics of the interaction, but unlike interaction where the parties are of equal status, the interaction of interest is primarily one-way--the decision of the dominant party. The decisional situation is the subject of this person's decision, i.e., the problem or case at hand that he or she is deciding upon. The special characteristics of this situational contingency may also affect the decision made by the institutional agent.

The general conflicts between the institutional and consequential policies of the American legal institution would be an interesting topic for research. However, our concern here is particularly with a somewhat unique sub-category of this institution--the juvenile justice system.

Juvenile Law and Juvenile Justice

As Warner pointed out, one of the major social phenomena subject to the control of social institutions are the

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"relations of the adult to the immature", and it is these relations and their control by American legal institutions that concerns this research. The particular agency on which we will focus is the juvenile court. We will be concerned primarily with a particular legal authority, the juvenile court judge, and how he exercises the legal power given to him by virtue of his position on the bench. Since we are concerned with the United States, a very complex society, it would be beneficial to examine juvenile law by illustratively dividing the concept of law into three "ideal types": substantive, adjective (or procedural), and legitimative.⁴⁰

Substantive law is the formal codification of particular behaviors as "prescribed" (rights and duties) and "proscribed" ("criminal" or "illegal").⁴¹ Differences in the substantive laws between adults and children date back many centuries.⁴² In the past, children were considered a parent's

⁴⁰ These terms have been used by many in discussing law. See, e.g., Enschede, "Some Reflections on Priorities in the Field of Criminological Research", 1970, pp. 470ff. They are used here only as tools for illustration. In an in-depth study of the laws of a society, I doubt that an empirical distinction could be maintained between the three categories.

⁴¹ Incidentally, crime prevention is a duty. Two basic legal precepts of Anglo-Saxon common law are actus reus (causing a criminal act to be committed) and mens rea (criminal intent). Included in these principles of "causation" and "intent" is the intentional failure to prevent a crime. Not wanting to "get involved" could conceivably make one an accomplice.

⁴² Weinstein, Legal Rights of Children, 1974, p. 1.

possessions:

"Until the last half of the 19th century, children were treated as subjects of a private family government--analagous to family chattels. The state intervened only in situations involving extreme violence constituting criminal activity on the part of the parents toward their children. (The) child had no separate status."⁴³

There remains today a legal rule-of-thumb which says that the best possible social milieu for the child is in the home, at least until age 17 or 18. Laws concerning juvenile misconduct have traditionally reflected this:

"Underlying the entire purpose (of the Colorado Juvenile Code) is a fundamental concept that the child and the family unit must be preserved whenever possible. This is consistent with a policy that the preservation of the family unit will benefit society as a whole in the long run."⁴⁴

Similar sentiments are expressed by the President's Commission

⁴³ Ibid., p. 1.

⁴⁴ Russell, "Child Abuse Cases", 1972, p. 1.

on Law Enforcement and Administration of Justice concerning delinquency prevention.⁴⁵ This fundamental concept has now been incorporated into the recommendations of the National Advisory Commission on Criminal Justice Standards and Goals. Specifically, they recommend that juvenile courts be abolished that they be replaced in their functions by "family courts":

"Jurisdiction over juveniles of the sort presently vested in juvenile courts should be placed in a family court. The family court should be a division of the trial court of general jurisdiction, and should have jurisdiction over all legal matters related to family life. This jurisdiction should include delinquency, neglect, support, adoption, child custody, paternity actions, divorce and annulment, and assault offenses in which both the victim and the alleged offender are members of the same family."⁴⁶

Although this recommendation is not likely to be adopted en masse by the American juvenile court judiciary in the foresee-

⁴⁵ President's Commission on Law Enforcement and Administration of Justice, Task Force Report: Juvenile Delinquency and Youth Crime, 1967, pp. 45ff.

⁴⁶ National Advisory Commission on Criminal Justice Standards and Goals, Courts, 1973, p. 293.

able future, it does point to the socio-cultural importance of the family as the basic unit of American life, and that a juvenile's proper place is within its domain.

Children, however, are no longer "chattels". Today, in a broad sense, it is the job of the juvenile court to intervene into the relationship between parent and child "on behalf of" both the state and the child. When the juvenile court does intervene in this parent-child relationship, it has traditionally done so in accordance with its own doctrine of parens patriae. This para-legal concept is a derivative of medieval English law and its justification for the English Courts of Chancery. In contemporary American society, it is meant to describe the qualitative nature of juvenile court intervention into the family:

"The fundamental right of the child is not to unrestrained liberty, but to custody. The custody, care and discipline to which a child is entitled should as nearly as possible be equivalent to that which wise parents give to their children. This is essentially what is meant by the expressions that the juvenile court acts as parens patriae or in loco parentis."⁴⁷

"The initial concern of mixing children with

⁴⁷ Resteiner & Quinn, Juvenile Law and Procedure, 1973, p. 2.

adults in jails and prisons gradually evolved into an all-consuming philosophy, in some jurisdictions, of protecting children in their right to normal physical, emotional and moral development. Basic to this thought was the concept of parens patriae: that the state would supplant natural parents when they failed, and sit as a benevolent, wise parent doing that which ought to be done for the child."⁴⁸

In other words, the parens patriae notion is an attempt to recognize certain socio-cultural norms about the reciprocal role relationship between parent and child in a family structure, and to define the character of state intervention into this relationship.

For our purposes, a somewhat simplistic "structuralist" definition of "social role" will be used to characterize the parent-child relationships in the family. Such a role is:

"A position which can be filled by an individual and to which distinctive behavioral expectations and requirements are attached..."⁴⁹

⁴⁸ Garff, Handbook for New Juvenile Court Judges, 1973, p. 5.

⁴⁹ Lenski, Human Societies, 1970, p. 501. Similar definitions appear in Rommetveit, Social Norms and Roles, 1955, pp. 31-32; Levinson, "Role, Personality, and Social Structure in the Organizational Setting", 1959, p.172; Mott, The Organ-

The two particular roles which concern us here are those of "parent" and "child" in American society. The behavioral expectations between parent and child are interlocking and reciprocal, characterized as a "right" or a "duty", depending upon the role being considered. Many of these rights and duties are codified into the laws of the state. In this case, the parent-to-child expectation is that the child, in return for provision and care, will reciprocally obey the reasonable demands and wishes of the parent. This represents child-initiated behavior, and is a "right" for the parent and a "duty" for the child. Conversely, equally important is the reaction to disobedience when it occurs. The relevant expectation which concerns us here, then, remains a parent-to-child phenomenon, i.e., discipline. Both the "provision and care" and the "discipline" phenomena appear in the descriptions of parens patriae above, and are in fact the legal elements of the concept of custody.

By the "legal" elements of custody, it is meant that each element represents a different type of justification for state entry into the parent-child relationship. If "provision and care" are not being maintained, the law refers to the case as "dependency", "neglect", or in some cases, "abuse". Juvenile law also contains what are called "status

ization of Society, 1965, pp. 15-16; Chinoy, Society, 1967, p. 35.

offenses", i.e., acts which are illegal only for juveniles. Although all state juvenile codes define some of these acts specifically (e.g., drinking alcoholic beverages, smoking, curfew violation), these codes also contain rules governing general "uncontrolled" behavior. These normally are abbreviated by acronyms like PINS ("person in need of supervision") or CINS ("child in need of supervision"), or simply by some general term like "incorrigible".⁵⁰ Although these terms are meant to describe the child, parents are still legally responsible for their minor children. Therefore, state intervention into this type of case is based on a failure in the maintenance of the second legal element of custody--discipline.

The juvenile court, then, has traditionally entered the family situation "on behalf of the child" when they and other state officials felt that parents "failed" in their "provision and care" or "disciplinary" responsibilities, and thus had retarded the child's "normal physical, emotional, and moral development". And it is this that is reflected in the substantive law of juvenile justice in the United States.

The second form of law, adjective law, refers to

⁵⁰ Even if a specific offense is stated in the arrest report, a youth is often sent to juvenile court only as a "PINS" or "incorrigible". Often, these categories are worded vaguely enough to bear an explicit similarity to Article #134 of the Uniform Code of Military Justice, which sanctions punishment for "conduct unbecoming a member of the United States Armed Forces."

procedural rules of enforcement within the criminal justice system. Many of the recent U. S. Supreme Court decisions-- concerning equality in the use of capital punishment (Furman vs. Georgia), formal notification of pre-adjudicative rights (Escobedo vs. Illinois, Miranda vs. Arizona), rules of admissible evidence (Mapp vs. Ohio), procedural "due process" in the juvenile courts and transfer of jurisdiction (Kent vs. U. S.), notification of constitutional safeguards in court (In re Gault), "proof beyond a reasonable doubt" vice "a preponderance of evidence" in juvenile court (In re Winship), and a juvenile's lack of a Constitutional right to a jury trial in juvenile court (McKeiver vs. Pennsylvania)--would be examples of the creation and modification of adjective law.

Most recent Supreme Court decisions which concern the juvenile court specifically have had their effect primarily on adjective court rules and procedures. They are an attempt to modify these rules or make them explicit, with the intention of guaranteeing a modicum of procedural "due process" at the adjudicatory phase. Prior to the decisions in Kent, Gault, and Winship, the child was subject to a quid pro quo in juvenile court proceedings:

"...in return for denying the juvenile his rights, the state gives him 'treatment' and rehabilitation instead of punishment and retribution."⁵¹

⁵¹ Dorsen & Rezneck, "Gault and the Future of Juvenile

In other words, the court could virtually do what it wanted with the youth under the guise of "treatment" and "rehabilitation" (including incarceration) without the child having his "day in court".

The result was all too often the "arbitrariness" alluded to by Justice Fortas in Gault, where he comments negatively on the juvenile court's goals of protection and rehabilitation:

"The constitutional and theoretical basis for this peculiar system is--to say the least--debatable. And in practice...the results have not been entirely satisfactory. Juvenile court history has again demonstrated that unbridled discretion, however benevolently motivated, is frequently a poor substitute for principle and procedure...The absence of substantive standards has not necessarily meant that children receive careful, compassionate, individualized treatment. The absence of procedural rules based upon constitutional principle has not always produced fair, efficient, and effective procedures. Departure from established principles of due process have frequently resulted not in enlightened pro-

Law", 1967; quoted in Garff, supra, note 48, p. 22.

cedure, but in arbitrariness."⁵²

Previous to Gault, in Kent vs. U. S., the Court overturned the conviction in adult court of a juvenile accused of burglary, robbery, and rape, who had been sentenced to 30-90 years in prison. The reason was that he had been denied "due process" when the juvenile court waived jurisdiction to adult court without first stating the reasons for the transfer in writing, granting the juvenile the hearing he requested, and without giving the youth's lawyer access to the social service records of the boy which influenced the judge's decision to waiver.⁵³

Gault, some say, could have been predicted from the ruling in Kent. Gerald Gault was a 15-year-old boy in Arizona who was accused of making an obscene phone call, and received a penalty amounting to nearly six years in a state juvenile correctional institution, far more than the two-month jail sentence an adult could have received for the same offense. The Court overturned a supporting Arizona Supreme Court decision in a habeas corpus action filed by Gault's

⁵² In re Gault; in President's Commission on Law Enforcement and Administration of Justice, supra, note 45, p. 60 (footnotes deleted).

⁵³ Kent vs. U. S.; See also Garff, supra, note 48, pp. 18-19; Weinstein, Supreme Court Decisions and Juvenile Justice, 1973, pp. 1-2, and supra, note 42, pp. 8, 17, 28-29; National Advisory Commission on Criminal Justice Standards and Goals, supra, note 46, pp. 300-301.

parents. The Supreme Court held that, for adjudicatory hearings, the youth and his parents are entitled to their rights of representation by counsel, cross-examination of witnesses, notification of hearing date enough in advance to allow for preparation of a defense, and against self-incrimination.⁵⁴ This is by far the most often cited decision in articles concerning juvenile court reform.

The decision in Winship stemmed from a New York case, and stated basically that the juvenile court needs "proof beyond a reasonable doubt", instead of merely "a preponderance of evidence", to show delinquency when the act committed by the juvenile would constitute a crime if committed by an adult.⁵⁵

A fourth decision, that of McKeiver, prevented a certain right from being established in the juvenile court, rather than upholding one. It prevented a dimension of criminal procedure, the jury trial, from entering into the juvenile justice system on a national scale by upholding a Pennsylvania decision to that effect.⁵⁶ To quote Justice Blackmun in his concurring

⁵⁴ In re Gault; see also Neigher, "The Gault Decision", 1967; Resteiner & Quinn, supra, note 47, pp. 3-4, 10-11; Garff, supra, note 48, pp. 19-22; Dorsen & Rezneck, supra, note 51; Weinstein, supra, note 53, pp. 3-7.

⁵⁵ In re Winship; see also Garff, supra, note 48, p. 22; Weinstein, supra, note 42, pp. 20, 29-30, and supra, note 53, pp. 8-10.

⁵⁶ McKeiver vs. Pennsylvania; see also Weinstein, supra, note 42, p. 30; National Advisory Commission on Criminal Justice Standards and Goals, supra, note 46, p. 291.

opinion:

"Notwithstanding the disappointments and failures of the juvenile court procedure and its idealistic hopes relating to rehabilitation, nevertheless trial by jury in the juvenile courts at the adjudicative stage was not a constitutional requirement, particularly since requiring a jury trial might remake the juvenile proceedings into a fully adversary process, with attendant delay, formality, and clamor of such a process, and would effectively end the juvenile system's idealistic proceeding."⁵⁷

Most criminal justice authorities I have spoken with and read in the journals seem to be either on the side of formal criminal procedure and due process in the juvenile court, or else they decry these decisions in defense of a parens patriae approach to handling juveniles. This latter group often cites or paraphrases Justice Stewart's lone dissenting opinion in Gault:

"Whether treating with a delinquent child, a neglected child, a defective child, or a dependent child, a juvenile proceeding's whole purpose

⁵⁷ Ibid.; quoted in Weinstein, supra, note 42, p. 30.

and mission is the very opposite of the mission and purpose of a prosecution in a criminal court. The object of the other is conviction and punishment for a criminal act...(This case) serves to convert a juvenile proceeding into a criminal prosecution. The inflexible restrictions that the constitution so wisely made applicable to adversary criminal trials have no inevitable place in the proceedings of those public social agencies known as the juvenile court and to impose the Court's long catalog of requirements upon juvenile proceedings in every area of the country is to invite a long step backwards into the Nineteenth Century. In that era there were no juvenile proceedings, and child was tried in a conventional criminal trial. So it was that a 12-year-old boy named James Guild was tried in New Jersey for killing Catherine Beakes. A jury found him guilty of murder, and he was sentenced to death by hanging. The sentence was executed. It was all very constitutional."⁵⁸

Is the court to be a "court" in the legal sense of the term, or

⁵⁸ In re Gault; in President's Commission on Law Enforcement and Administration of Justice, supra, note 45, pp. 75-76.

is it to be, as Justice Stewart says, a "public social agency"? The dilemma is summed up by Short:

"The flexibility urged as essential to the proper functioning of the court confers great power on juvenile court judges. Concern with the rights of children and parents arises in countries with strong democratic philosophies, not because miscarriage of justice is probable, but rather because it is possible. Hence, a dilemma is built into the structure of juvenile courts: how to provide the discretion and flexibility necessary to the prevention of delinquency and the rehabilitation of delinquents, while at the same time preserving due process under the law."⁵⁹

To many, these Supreme Court decisions signalled not just a "dilemma", but the beginning of the end for the parens patriae doctrine of the juvenile court.

There is the possibility, however, that although parens patriae may fail altogether eventually, the Court decisions described above have not caused it to occur as yet. In terms of today's norms, how does a wise, affectionate, care-

⁵⁹ Short, "Delinquency", 1968, p. 75.

ful, and benevolent parent apply "provision and care" or "discipline" to his child such that his "physical, emotional, and moral development" will not be impeded?

In previous years, the phrase, "a child should be seen and not heard", dominated much of the American thinking about the interrelationships between parent and child. Marked changes have occurred over the years in the nature of child-rearing modes and decision-making in the family. One reason is the changing thoughts about the nature of the child:

"One of the most striking changes in American thinking about children from the nineteenth and early twentieth centuries to the more recent past and the present is the radical change in the conception of the child's nature. From the nineteenth-century belief in 'infant depravity' and the early twentieth-century fear of the baby's 'fierce' impulses, which, if not vigilantly curbed, could easily grow beyond control and lead to ruin, we have come to consider the child's nature as totally harmless and beneficent."⁶⁰

In short, children are morally neutral and do not need vigilant repressiveness, but tender-loving-care.

⁶⁰ Mead & Wolfenstein, Childhood in Contemporary Cultures, 1955, p. 146.

While commenting on studies in child care and youth guidance in several cultures, the same authors liken parents of previous decades to "gardeners":

"The child is likened to a plant that the parents must tend but whose development they cannot wholly control--they are gardeners, not gods. This image may be used to moderate parental tyranny, suggesting the limits of their powers, the degree to which the growing potentialities of the child should be respected...In early twentieth-century American child-rearing literature, the plant image seems to carry not only the connotations of fragility but also those of uncontrollable growth (a figure for impulses which may grow beyond control). In contemporary American writing in this field the plant image seems to have dropped out, partly, one may suppose, because children have grown sufficiently tough and parents sufficiently tender."⁶¹

In other words, parental "tyranny" and child "impulse control" are seldom at issue with the dominant segment of the population, and there is no longer any reason for the child-rearing literature to argue the point. Children today are more often

⁶¹ Ibid., p. 147.

credited with being "harmless", "beneficent", and "tough". They are granted much more individuality, freedom, and decision-making power in the family than in previous years, including having a say in their own defense when their behavior is at issue. They are more often allowed to give their side of the story at the family "hearing", and often share in decisions about the appropriate discipline in the "dispositional stage" of the process. Children, and especially teenagers, are more and more getting what might be called "due process" in contemporary families, the justification often being that it stimulates their emotional and moral development in preparation for adulthood. And it is in this light that one may view the recent U. S. Supreme Court rulings in Kent, Gault, and Winship.

These Court decisions may represent a parallel type of development in juvenile court procedure, but must be formal because of differences in the nature of the interactional settings (i.e., the family vs. the court). These decisions are based on the recognition of a child as a person rather than a chattel, and are an attempt to bring the concept of parens patriae into the late twentieth century. It is the juvenile court equivalent of "a-child-should-be-seen-and-not-heard" and "father-knows-best", the judge's near absolute power, that is being discarded. Children are human beings with feelings, morals (be they sometimes strange to older-generation judges), intelligence, as well as rights. Through

Kent, Gault, and Winship, the Supreme Court seems to be telling the juvenile courts that a wise, affectionate, benevolent, and careful parent of today should recognize this, and allow the child his side of the story through certain procedures (e.g., counsel, cross-examination, etc.) long accepted as fair under American historical jurisprudence. In a court setting, which is always more formal than a family milieu, at least his much procedural due process is necessary to insure the "wisdom" and "benevolence" required of parens patriae.

Although several states grant a youth the right to a jury at adjudicatory hearings, the McKeiver decision prevented this right from being granted nationwide. In terms of parens patriae and its relation to contemporary parent-child relations described above, such a "jury trial" would be akin to having the neighbors (or strangers) come into one's home and decide the child's guilt or innocence and his punishment. I know of no "wise" parent who would stand for that. As such, it is possible that a twentieth-century form of parens patriae will remain at least as long as McKeiver is not overturned.

Regardless of how one interprets these decisions or how one feels about them, they have certainly had at least one effect on juvenile justice. By opening to serious questions many specifics of juvenile law and juvenile court procedures, they have put this entire legal sub-system in a state of flux

and uncertainty. Even today, seven years after the latest of these decisions, these specifics are still being ironed out in litigation. However, although juvenile court judges today may not legally do many things to youths that they once could, they remain the primary power source of the juvenile justice system, particularly at the dispositional phase. Most of these decisions affect pre-adjudicatory or adjudicatory procedures. They have little to do with post-adjudication decision-making.

In addition to substantive and adjective law, the formal mechanisms of law enforcement must be granted their powers by law. This is what is meant by legitimative law. It is simply the law which delegates enforcement authority to a "criminal justice system". It gives police, courts, and other enforcement agencies their legal authority to use the resources of the state to enforce the law.

Enschede brings up some interesting questions concerning the nature of this legitimative law and its ramifications for research:

"The law permits (criminal justice authorities) to use their powers, but normally does not compel them to do so. What, then, are the criteria governing the police, judicial and executive authorities in the forming of their policy in such matters as arrest, bail or custody, in matters of investigation

and trial, sentence, probation, conditional release, etc....? What kind of steering system is complementary to the law's permissive system?"⁶²

Criminal justice system personnel may either abstain from criminalizing a person, thereby leaving his acts a matter for informal interpretation and possible sanction, or they may bring criminal action against the individual. In other words, legitimative law can be described as permissive, i.e., allowing considerable individual selectivity of enforcement as part of the formal role norms of criminal justice authorities. Cardozo saw this in appellate court judges:

"...codes and statutes do not render the judge superfluous, nor his work perfunctory and mechanical. There are gaps to be filled. There are hardships and wrongs to be mitigated if not avoided...In the long run 'there is not guaranty of justice,' says Ehrlich, 'except the personality of the judge'."⁶³

⁶² Enschede, supra, note 40, p. 473. His concept of "steering system" is similar to Reisman's idea of a "psychological gyroscope" in his "inner-directed" person. See Reisman, et al, The Lonely Crowd, 1961, p. 16.

⁶³ Cardozo, supra, note 27, pp. 14, 16-17.

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And in their study of the juvenile codes in the United States, Levin and Sarri state that legal constraints and guidelines concerning the use of particular dispositional alternatives in particular situations are virtually non-existent:

"Despite the existence of a variety of dispositional alternatives from among which judges and referees may choose, few policies or rules are available in the Codes to guide their decisions. Unlimited dispositional discretion, with infrequent review, prevails. The Codes typically also fail to deal with length of commitment, place of commitment, or transfer to adult facilities without a special hearing or review."⁶⁴

And if this is true, says Enschede above, then on what basis do criminal justice authorities, in this case juvenile court judges, "select" their criminal dispositions? What is the common "steering system"?

Although Enschede never specifically defines the concept of "steering system", it can be inferred from his writings that he is referring to some cognitive organization of selection criteria which is applicable within a given society.

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Levin & Sarri, Juvenile Delinquency, 1974, p. 63.

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A major point to be emphasized first is that many stratification and power theorists like Dahrendorf, Warner, Davis and Moore, Marx, and Mills, play down the effects of the individual dimension in social conflict situations. Legitimative law being "permissive", the role norms of the various authority positions in the juvenile justice structure are flexible and often uncertain, and much personal leeway is allowed in dispositional decision-making. It is well not to forget that someone, some person, within a role is actually making the decisions. And it is then that one can examine the selection criteria (the "steering system") by which that individual, and others holding the same authority position, makes decisions. These criteria are crucially important to an understanding of criminal justice decision-making in the aggregate ("consequential policy").

Cognitive Determinants and General Hypotheses

We have discussed three minimal situational determinants of decision-making in an organizational setting: the position of authority one holds in an organization, the relative amount and/or strength of institutional policy constraints, and the relative availability of alternatives in one's perceptual field. These, however, are not enough to explain actual decision-making manifestations. If one assumes that an individual is an "actor", and this his or her actions are to some extent reflections of their own cognitive-evaluative pro-

cesses, then a discussion of these processes is in order. It is also wise to assume that, like the situational components, society and culture (environmental conditions and historical circumstances), as well as one's specific experience with them, are the roots of the cognitive processes. Returning to Figure A, it diagrams this cognitive component and the decision-making processes as it is envisioned in this research.

First of the components of this cognitive scheme is beliefs. Beliefs are defined here as one's perceived "realities"; one's perception of what is in the world and what it means. Throughout one's lifelong socialization to cultural meanings, one develops beliefs about such things as the outstretched left hand of another person, a pistol in the right hand, and a frown or glare. When these phenomena are displayed by another person and combined with the verbal statement, "Gimme your bread!", one can assure oneself of the belief that this event is a "robbery". Beliefs are evaluative only in this sense, i.e., where "evaluation" is synonymous with "interpretation". The objects of beliefs (or "stimuli", if you prefer) include all objects, persons (including oneself--as in "self-image" or "self-concept"), actions, and events located or occurring within one's perceptual field. As such, the concept of beliefs is not distinct from "perceptions" (views of reality) or "cognitions" (what one "knows" or accepts as fact).⁶⁵

⁶⁵ This is the popular cognitive definition of the term,

The concept of attitudes has probably received more attention in the literature than most other cognitive-structural elements here combined. In this research, attitudes are defined as the remaining evaluative element of the cognitive components of decision-making; i.e., the "good" or "bad" evaluation. "Evaluation" in this sense, then, is synonymous with "appraisal", the ascription of value or moral worth to the object, action, person, or event.⁶⁶ It is this moral dimension which leads me to separate attitudes from beliefs. The "robbery" described above would not only be defined as such through the interpretation of both participants in the interaction, but would also be evaluated as "bad" by the victim and "good" (or maybe "profitable") by the robber through appraisal.

Values are defined here as ideal modes of conduct or end-states of existence. They represent a kind of "sum" of one's attitudes and beliefs transposed into ideal modes of behavior and social life.⁶⁷ To the extent that these values

except that it has no positive or negative connotation.

⁶⁶ This is basically an early definition of L. L. Thurstone which, according to Kiesler and his colleagues, he abandoned and later regretted having done so. See Kiesler, et al, Attitude Change, 1969, p. 2. It is also the basic definition used by Edwards (Techniques of Attitude Scale Construction, 1957) and turned out to be one of the most powerful scales in early works on "semantic differential" scaling (Osgood, et al, The Measurement of Meaning, 1957).

⁶⁷ This is the definition used by Rokeach, Beliefs, Attitudes, and Values, 1968, p. 124.

are possible either for the individual or for all individuals to achieve, these may contain elements of a "fantasy" world-view, or "utopia", as well as specific end-points to one's manifest actions ("goals"). They also differ from attitudes and beliefs in that they are more generalized, i.e., they are not tied to specific objects, events, etc., or even classes of these phenomena.

It is difficult, as well as of questionable utility, to keep the interrelationships between beliefs, attitudes, and values conceptually distinct in research projects such as this. Each appears dependent upon the other. In addition to this kind of tautology, all are fixed by the cultural options, imperatives, and meanings which are prevalent in the society and which can be transferred through learning and socialization. Decisions made and manifest actions performed also serve as a form of "feedback" (see Figure A) through which beliefs, attitudes, and values are maintained and modified. Also, one's general values and one's beliefs and attitudes about specific objects, actions, persons, or events influences one's belief and attitudes about similar objects, actions, etc. The boundaries of these "classes" of phenomena are also problematic to research, since what things one sees as similar to what others may also be dependent upon these cognitive phenomena and the culture.

The point here is that an inclusive concept which

covers all of these individual elements and their inter-relationships would seem to be useful for my research purposes.

The concept of ideology has been discussed and researched many times in the sociological literature on power and authority structures,⁶⁸ including its own supposed demise in the 1950's.⁶⁹ It has been discussed as a topic related to criminology and the criminal justice system in general,⁷⁰ and to the juvenile justice system in particular.⁷¹ Most of these works deal with what has been called "institutional policy", discussing primarily the place of the ideology of dominant or authority-holding interest groups and how their ideology helped shape the laws of society and the rules and guidelines of their subject agencies or institutions. We are concerned here with

⁶⁸ Mannheim, Ideology and Utopia, 1936; Bendix, Work and Authority in Industry, 1956; Ryan, Blaming the Victim, 1971; Seider, "American Big Business Ideology", 1974.

⁶⁹ Bell, The End of Ideology, 1962.

⁷⁰ Radzinowicz, Ideology and Crime, 1966; Hills, Crime, Power, and Morality, 1971; Miller, "Ideology and Criminal Justice Policy", 1973; Ryan, supra, note 68, pp. 185-210; Packer, The Limits of Criminal Sanction, 1968; Griffiths, "Ideology in Criminal Procedure", 1970; Cardozo, supra, note 27.

⁷¹ Platt, supra, note 32; Schur, Radical-Non-Intervention, 1973; Lemert, "The Juvenile Court--Quests and Realities", 1967, and Social Action and Legal Change, 1970; Vinter, "The Juvenile Court as an Institution", 1967; Griffiths, supra, note 70, pp. 399-404.

the personally-held ideologies of particular juvenile justice authorities which can be used empirically to explain selective decision-making. For these reasons, the definition of ideology used in this research is that of Walter B. Miller.⁷²

Miller defines the concept as a self-contained, self-reinforced, emotionally-charged, change-resistant network of "unexamined presumptions" which underlie positions taken on issues. More specifically, it is:

"...a set of general and abstract beliefs or assumptions about the correct and proper state of things, particularly with respect to the moral order and political arrangements, which serve to shape one's position on specific issues."⁷³

The concept of beliefs is explicit in this definition, and those of attitudes and values are implicit in the statement about the "correct and proper state of things".

Miller also cautions us about assuming that ideology is an easily detectable phenomena. He adopts Walter Lippman's term, "hidden agenda", and emphasizes the opposite:

"The major contention of this presentation is

⁷² Miller, supra, note 70.

⁷³ Ibid., p. 142.

that ideology and its consequences exert a powerful influence on the policies and procedures of those who conduct the enterprise of criminal justice...the degree and kinds of (which) go largely unrecognized. Ideology is the permanent hidden agenda of criminal justice."⁷⁴

Miller is referring to the ideological "hidden agenda" underlying various institutional policies of criminal justice agencies. This ideology is the personally-held ideology of those with legal power, and it is the case of institutions in general applied particularly to legal/criminal justice institutions. Law is an example, but sociological studies of legislators and of other regulatory agencies with legal authority (e.g., Federal Trade Commission, Securities Exchange Commission, Civil Aeronautics Board, Nuclear Regulatory Commission) are generally narrow in scope. They are usually limited to case studies in government monographs or are studies of priorities among a variety of issues, rather than research concerning general personal ideologies.⁷⁵

By "unrecognized", Miller is referring to it being

⁷⁴ Ibid., p. 142 (emphasis added).

⁷⁵ To some extent, an exception is Kannensohn & Lyday, "State Legislative Perception of Criminal Justice Issues", 1974.

hidden from the general public, and possibly from those who come into contact with the criminal justice system. However, it will also be assumed here that one's own personally-held ideological stance is primarily an unconscious phenomena, i.e., it is "unrecognized" by the persons maintaining it. To show that selection from alternatives consistent with one's ideology is deliberate would require a considerably more complex methodology than that used here.

Figure A illustrates the positions of other common cognitive phenomena as well. Many scholars, particularly those of the "symbolic-interactionist" school of thought, prefer to think of attitudes as "predispositions to behave" in one way or another, i.e., as "plans of action". A predisposition, unlike other concepts, is not a structural element at all, but a name for a hypothesized relationship between cognitive structure and action. The model in Figure A states that a particular set of cognitive elements ("ideology", or one's ideological "type" or "stance") predisposes one toward preferences of behaviors, and that these preferences are reflected in one's opinions about specific matters (or "positions on issues"). As such, one's "predispositions" are the result of all cognitive elements, and not just a characteristic of "attitudes". The measurement technique employed here--the questionnaire--is intended to invite an anonymous "verbalization" of those opinions, from which one can study the nature

and structure of this summary cognitive determinant of decision-making: ideology.

"Proposed action" is a statement of what one says one would do, as opposed to what one actually does ("manifest behavior"). It represents the course of action an individual would choose if he had no situational constraints upon him, and as such, may be an approximation of the symbolic-interactionist notion of a "plan of action". Proposed action is a step in the process initially because of the concept of a "reflexive self":

"...this reflexive process takes the form of the person making indications to himself, that is to say, noting things and determining their significance for his line of action."⁷⁶

Ideology, as defined, is the cognitive framework within which interpretations and appraisals of the actions of oneself and others is made.

According to Blumer, "manifest behavior", the actual decision made or action taken, is the result of this reflexive process:

"Action is built up in coping with the world

⁷⁶ Blumer, Symbolic Interactionism, 1969, p. 63. Blumer is contrasting George Herbert Mead's concept of "self" with Freud's concept of "ego": "...the ego, as such, is not

instead of merely being released from a pre-existing psychological structure by factors playing on that structure. By making indications to himself and by interpreting what he indicates, the human being has to forge or piece together a line of action...Action is seen as conduct which is constructed by the actor instead of response elicited from some kind of preformed organization within him."⁷⁷

It is in these "thought processes", i.e., the reflexive interactions with oneself, where various possible responses to the acts of others are carried through in one's imagination, then the action deemed most appropriate to the interpreted intentions and meanings of the other's behavior is chosen. The sum of these actions by agents of an organization or institution constitutes the consequential policy of that organization.

Ideology, then, is a kind of sum of assumptions, beliefs, and general views of reality which produce particular configurations of opinions about issues--in this case, views of "crime" and the practice of "criminal justice". Miller sees it as a "network" of interrelated beliefs with enough

a self; it would be a self only by becoming reflexive, that is to say, acting toward or on itself." (p. 63)

⁷⁷ Ibid., pp. 64, 65.

internal consistency to allow reification and labelling, making it empirically researchable as an interval-scalar phenomenon. In the first hypothesis of this research, however, the internal consistency of any given ideological configuration is problematic--Miller's among others. To be internally consistent, it would be reasonable to expect that the beliefs, attitudes, opinions, etc. of a given ideological stance should at least correlate positively with each other and probably correlate negatively with the beliefs, etc. of opposing ideologies. The specific hypothesis is that there is some set or sets of beliefs, etc. among juvenile court judges which are internally consistent, as defined.

Miller states that one's ideology influences "positions on specific issues". If one is in a position of power and authority, one can seemingly make one's "positions on issues" felt by direct social action in the field of one's power. It is the second hypothesis here that, under certain conditions, the makers of criminal justice system consequential policy (here, juvenile court judges) act in accordance with their own personally-held ideological beliefs. Police, prosecutors, judges, probation and parole officers, and corrections personnel are the "bottom line" of those who "conduct the enterprise of criminal justice".

There are certain conditions under which personally-held ideological stance may operate as an influence on decision-

making and, thus, the consequential policy of an institution. Figure A shows the four primary "situational contingencies" coming into play between "proposed action" and "manifest behavior". This is based on the notion that what one says one would do and what one actually does are not necessarily the same thing. Certain considerations intervene which make outcomes different from plans. It is the contention here that at least these four situational factors are such considerations.

First, the individual making the decision must be in a position of authority in the organization or institution whose consequential policy is under consideration. The subjects of this national study are judges of the juvenile courts in the United States. Their decisions concerning the dispositions of juveniles brought before the court constitute that part of juvenile court consequential policy which is being examined here.

Second, institutional policy constraints on this dispositional decision-making power must be relatively flexible. We have shown that, although juvenile court judges may not have the unlimited power they had prior to recent "landmark" Supreme Court decisions, the effect of these decisions has not completely hampered judicial discretion in general, and has had little effect on decision-making at the post-adjudicatory, dispositional phase of the juvenile court process.

Third, the authority must have a choice from among

decision-making alternatives. The juvenile court judges of the United States do have dispositional options. There are, as a rule, at least four primary alternatives--dismissal, "unofficial handling", institutionalization, and waiver. Also, there are usually several options for "unofficial handling" (group homes, restitution, counsel-and-release, etc.). This research will look at all of these except dismissal.

Fourth is aspects of the decisional situation itself. This is to be held constant in this research in that all respondents are asked to decide on the same "cases".

This is by no means an exhaustive list of social, cultural, and environmental contingencies which may affect decision-making. There could be many others. For this reason, "control" variables (or "test factors") will be introduced into the analyses for evaluation and explanation as to their quantitative and qualitative effects on juvenile court consequential policy.

The juvenile court judge, then, is in a "permissive" legal structure, allowing much personal discretion in how he or she disposes of the cases brought before the court. Institutional policy, represented by laws, court rules, and appellate-level decisions, are relatively lacking in many areas pertinent to the judge's dispositional decision-making. Much of the sentencing differentials resulting from decisions of the juvenile court judges in the U. S. (consequential policy) may

be attributable in a large part to the individual "steering system" (ideology) of the judges themselves. In short, it is hypothesized that the personally-held ideological stances of juvenile court judges account for much of the consequential policy of the court, as a sub-system of the American legal institution.

CHAPTER THREE

METHODOLOGY AND SAMPLE DISTRIBUTIONS

The issues and concepts used here are broad and encompass many research projects of lesser scope. Many questions have to be asked and answered by many people. This chapter will describe in some detail the general and specific research methods employed in this research, the control variables (or "test factors") used, and the distributions of these and other characteristics in the final 242 usable observations.

General Methodology

Why study the juvenile court? Why not juvenile corrections or prosecution or police juvenile officers? And why only judges? Why not court intake or probation officers? All of these juvenile authorities make decisions which could be categorized in terms similar to those of judges. For instance, police juvenile officers engage in a form of "unofficial" handling known as the "station adjustment", where the youth gets a stern lecture, his parents are called, and he is released into their custody.¹ If a youth is referred by

¹ See, e.g., Kobetz, The Police Role and Juvenile Delinquency, 1971, pp. 114-121; Bottomley, Decisions in the Penal

police to the juvenile court, he or she may be treated similarly by court probation or "intake" officers.² In short, a study of the decision-making of any of these juvenile justice system agents could explain some part of its consequential policy as well.

The primary reason for the selection of juvenile court judges was the easy availability of a roster from which a sample could be randomly chosen. The National Council of Juvenile Court Judges (NCJCJ) in Reno, Nevada publishes every few years a Directory of all juvenile court judges in the United States. No other such listing for any of the other authorities could be located.

The use of judges may cause an important drawback to such research. As pointed out above, many dispositional decisions may be made prior to the case ever coming to court. The police officer on the street has the initial discretionary power in whether or not to arrest a youth. Depending upon the location, the youth may then proceed through the juvenile justice system by contact with police juvenile officers, court intake officers, and any number of pre-adjudicatory "diversion" program supervisors and personnel before ever reaching the

Process, 1973, pp. 64-73.

² See, e.g., Venezia, Unofficial Probation, 1972. This is also discussed to some extent in Kelley, et al, "Decentralized Intake and Diversion", 1976; Cole, "Diversion and the Juvenile Court", 1976.

attention of the judge. Within the court structure, the judge is not the only person, then, to make dispositional decisions. Probation officers and court "referees"³ often make decisions on many youths without the ongoing knowledge of the judge. The judge is often a kind of "last resort" in the court heirarchy.

In brief, the consequential policy of the juvenile court is not made only by judges, but referres and intake people as well. There is no way of knowing exactly what types of cases they handle, since this varies from jurisdiction to jurisdiction. And since this is particularly true in the large urban areas, the consequential policy of the American juvenile court as shown by this study as a whole may reflect a rural bias, where there are fewer authorities making decisions other than the judge. It may be possible that the effects of this problem is tempered by the fact that most judges, as the primary authority in their courts, have the right to actually hire and fire other court staff. The seem-

³ These persons normally function like state court "trial commissioners" or Federal Magistrates in that they have some special jurisdiction in certain types of juvenile cases. In some places, where juvenile jurisdiction is vested in the trial court of general jurisdiction, the referee may, for all purposes, be the juvenile "judge". In other words, his "special jurisdiction" would be all juvenile cases. For a state-by-state comparison of statutes relating to the jurisdiction of juvenile court referees, see Levin & Sarri, Juvenile Delinquency, 1974, pp. 45-46.

ingly inescapable yet unapproachable question is how much of this hiring is of a "rubber-stamp" or "good-ol'-boy" nature.

When one chooses a method of testing specific hypotheses, or of merely doing some exploratory research, the cardinal rules are to see that the method fits the problem and that it is not too prohibitive for a possible variety of reasons. One method, for example, that would have been prohibitive in this research is participant observation. Age prohibits this researcher from committing a crime and falling within the purview of the juvenile court, so to view the court from the "client" perspective was definitely out. Since juvenile court hearings are generally closed to all but participants and cognizant authorities, it would also have been extremely difficult to enter these hearings as an observer. Juvenile court judges today are being carefully scrutinized by many people, and given the contemporary emphasis on the rights of the accused in juvenile court adjudicatory hearings, it is very difficult to talk a judge into giving one access to these hearings.

The other way to gain such access is to become a juvenile probation officer or other such authority, a prospect severely hampered by diminishing local government funds and the resulting sensitive job market. Cicourel⁴ did do this in his

⁴ Cicourel, The Social Organization of Juvenile Justice, 1968. Interesting though this book was to me, it was out of print three years after its publication.

detailed account of human interaction processes within juvenile halls and probation departments. Such an approach, however, was not feasible here.

There remains several ways in which this research might have proceeded. One might examine judicial ideology and decision-making through a series of intensive interviews with or a limited survey of juvenile court judges, presumably within some state or local jurisdiction, where juvenile court institutional policy could be held relatively constant. There is, of course, a Federal juvenile code and justice system, but the vast majority of youths who come in contact with law enforcement do so at the state, county, or municipal level. Juvenile codes are, for the most part, products of state legislatures and are enforced by state and local authorities, making these the optimum universes for interview and small survey types of research. Such research problems as differences in the enforcement techniques of the several subsystems of juvenile justice or the experimental or "quasi-experimental"⁵ testing of different treatment modalities on selected groups of offenders may best be examined at this level using localized jurisdictions.

It was felt, however, that this method did not fit the problem at hand. Most of the published works on ideological

⁵ Campbell & Stanley, Experimental and Quasi-Experimental Designs for Research, 1963, pp. 34-64.

typologies and the issues subsumed under them possess at least a national character and are relevant to national institutional and consequential policy. This fact suggests a "national" study. Juvenile codes (institutional policy) across the nation are extremely varied in their qualitative content. By using a lower level of analysis, one would lose much of the comparative potential for a study of juvenile court policy. One would also lose the variation in jurisdictional idiosyncracies, such as geographic region and size of jurisdiction, and in many of the more homogeneous states, some demographic variations as well. Despite the fact that most juvenile codes are enacted by state legislatures, much of the institutional policy of the court has originated in recent years at the Federal level, particularly the Supreme Court.

Obviously, a national interview schedule would be beyond the financial scope of a doctoral dissertation project, so the mail-questionnaire survey method was employed. There are, of course, problems with this approach associated with item-writing, structure for the questionnaire, sampling, and increasing the response rate.

The Questionnaire

The variable of concern in the first hypothesis and the independent variable in the second is ideology. The items used on the questionnaire were intended to measure "positions on issues" directly, from which ideology could be inferred.

These items were drawn from four ideological "typologies" in the criminal justice literature: Anthony Platt's description of the historical reactions to the early juvenile court movement,⁶ Edwin Schur's "patterned reactions" to juvenile delinquency,⁷ Benjamin Cardozo's "directive forces" of judge-made law,⁸ and Walter B. Miller's "political" categories of ideology.⁹

These works were selected primarily for their thoroughness of description and, taken as a whole, for their widely varying theoretical underpinnings. Anthony Platt's work discusses the advent of the juvenile court and the conflicts inherent in this struggle for a separate juvenile justice system as it occurred within the framework of a unique period in American history. Edwin Schur's patterned reactions to delinquency and Walter Miller's political continuum are both based on national issues in criminology and criminal justice. Schur's typology appears to have its roots in the American educational system, and Miller's seems to conform to everyday American definitions of the political "Right" and "Left",

⁶ Platt, The Child Savers, 1969.

⁷ Schur, Radical Non-Intervention, 1973.

⁸ Cardozo, The Nature of the Judicial Process, 1921.

⁹ Miller, "Ideology and Criminal Justice Policy", 1973.

"conservative" and "liberal". Cardozo's work is at least national in character and application, and possibly international. His subject was judges at the appellate level, who not only have large jurisdictions, but whose decisions often take on a national scope. His categories of logic, custom, tradition, and "sociology" are also more broad, having a character which may apply at least to the Western world.

Each author discussed in some detail the prevalent issues and concerns of each ideological "type" in his typology. For instance, Miller's political Leftist and Rightist types are both concerned with the issue of punishment-vs.-rehabilitation as reactions to crime, and each would differ considerably in their opinions about it. However, the positions of each can be exemplified by a simple statement of their opinions, under a general issue category like "treatment of offenders".

The issues upon which the ideological statements, or "positions", used here were based are those which were raised by the authors themselves. For each issue, items were drawn up which exemplified the position of each ideological type on that issue. There were a total of four different typologies, each containing three or four different types, and each measured either three or four different criminal justice issues. Items were in the form of statements which were quoted or paraphrased directly from the author's work.

Each ideological statement on an issue was followed by a 5-point Likert-type scale to measure relative agreement or disagreement with the item (i.e., "strongly disagree", "disagree", "neutral", "agree", and "strongly agree"--scored from 1 to 5, respectively). This presents a moderated form of forced-choice response. Alternatively, one could have asked respondents for an agreement or disagreement with the item, followed by some kind of open-ended explanation. However, analysis of these types of responses is very difficult and classification is highly subjective, despite some progress in "ethnomethodology" in recent years. On the other extreme, one could have requested a strict forced-choice response between the ideological statements of one or the other ideological type. In the case of Miller, for example, this would be saying, "Either you agree with the Left or the Right". This method, however, might also have forced a certain amount of internal consistency within the types.

By using the Likert scale of responses, a respondent could conceivably agree or disagree in an easily analyzed manner with both the Left and the Right positions, an event which would call into question the validity of the typology itself. It is this validity which is addressed by the first hypothesis, i.e., the question of the internal consistency of theoretically competing ideological types. Forcing any such

consistency would make the hypothesis moot.¹⁰

The particular consequential policy element chosen as the dependent variable in the second hypothesis is the dispositional decisions made by judge of the juvenile court. These are measured by a series of fictional case summaries, each followed by six choices of disposition. These fictitious paragraphs are "nutshell" sketches of cases which could possibly come before the juvenile court in almost any state in the Union. The major inspiration for using this method was Gottfredson's use of similar "vignettes" in his research into authority attitudes toward pretrial detention of juveniles.¹¹ It is actually a method borrowed from an examination procedure used in medical schools in the U. S., and as such is an apropos analog to the "treatment" ideology of parens patriae. A series of symptoms of a malady, often in a particular syndromic pattern, is presented in a simple format to a medical student, then he or she is asked to diagnose the problem and prescribe a treatment. These case summaries do the same thing, except that the malady is social rather than physical and the judge is the "doctor".

¹⁰ "Ideology" is discussed in detail in Chapter Four.

¹¹ Gottfredson, Measuring Attitudes Toward Pretrial Detention, 1969; Gottfredson & Gottfredson, "Decision-Maker Attitudes and Juvenile Detention", 1969. For a similar method (though less prosaic) in a study of traffic offenses in England, see Hood, Sentencing the Motor Offender, 1972.

Each summary represents different combinations of thirteen variables which a host of previous studies have deemed relevant to juvenile justice decision-making: sex, race, age, type of offense, assaultive vs. non-assaultive nature of the offense, previous contact with police, previous institutionalization, police "recommendation", family socioeconomic status, school record, social service investigator recommendation, youth's demeanor, and parents' demeanor. A limited degree of realism is hopefully attained in presenting the judges in this survey with multivariate stimuli in a more or less coherent format, using a manageable number of cases--eleven. Each of the thirteen variables used has been dichotomized or trichotomized for simplicity in all cases, and control over this "decisional situation" comes from the fact that each of the sample judges sees the same eleven cases. Although these cases are creations of my own imagination, much of the phraseology and some specific terms used are based on quoted or paraphrased statements and general themes presented in Gottfredson's work, or from actual police and investigator reports cited by Carey and his colleagues or by Cicourel.¹²

The particular choices of disposition ("proposed action") were narrowed to six:

¹² Gottfredson, supra, note 11; Cicourel, supra, note 4, pp. 170ff; Carey, et al, The Handling of Juveniles from Offense to Disposition, 1967.

- (1) NOT FILING PETITION; HANDLING UNOFFICIALLY = I would favor handling the case through social service agencies, "informal probation", family counseling, returning to custody of parents, or other appropriate "unofficial" channel, as opposed to filing a formal petition to the court for a delinquency adjudicatory hearing.
- (2) FILING PETITION; IF ADJUDICATED, CERTAINLY NOT FAVOR INSTITUTION = I would favor handling the case by filing a formal petition for a delinquency adjudicatory hearing, but if adjudicated delinquent as a result, I would certainly not favor placing this youth in a state juvenile correctional institution.
- (3) FILING PETITION; IF ADJUDICATED, PROBABLY NOT FAVOR INSTITUTION = I would favor handling the case by filing a petition for an adjudicatory hearing, but if adjudicated delinquent, I would probably not favor institutionalizing this youth.
- (4) FILING PETITION; IF ADJUDICATED, PROBABLY FAVOR INSTITUTION = I would favor handling the case by filing a petition for an adjudicatory hearing, and if adjudicated delinquent, I would probably favor institutionalizing this youth.
- (5) FILING PETITION; IF ADJUDICATED, CERTAINLY FAVOR INSTITUTION = I would favor handling the case by filing a petition for an adjudicatory hearing, and if adjudicated delinquent, I would certainly favor institutionalizing this youth.
- (6) TRANSFER JURISDICTION TO ADULT COURT = I would favor transferring jurisdiction in this case to adult court for criminal prosecution.

These choices represent a scale of seriousness of proposed action. The extremes are represented by not filing a formal delinquency petition at all and, at the other end, by waiver of jurisdiction for trial as an adult. The former could be done in almost any case, and the latter would normally

require the committing of a felony or serious misdemeanor (although it could be done for any misdemeanor). In addition, waiver normally requires the stipulation by the judge, prosecutor, and/or intake worker that the youth is not amenable to other forms of treatment.

The middle range of the scale concerns filing a petition in all cases, but is divided by the degree to which one favors institutionalization of the youth, i.e., placing him in a juvenile correctional facility, the most serious of official juvenile court dispositions barring waiver.

Following each case summary, these six proposed dispositional alternatives were given, and the judge was asked to select the one which best described his inclinations in the case. They were scored as they are numbered, from least (1 = not filing a petition) to most serious (6 = waiver).¹³ The least serious of all official dispositions--dismissal of the case--was not considered.

Many of the items used on the questionnaire are "control" variables. Control variables are used to specify the conditions under which an independent variable (e.g., ideology) relates to a dependent variable (e.g., dispositional decisions). As "conditions", they should not be called "variables", but "test factors", a term used in a major work by

¹³ The "case summaries" are discussed in detail in Chapter Five. Gottfredson and Hood (both supra, note 11) also scored responses by "seriousness".

Kendall and Lazarsfeld.¹⁴ These factors should help the researcher characterize not only the conditions under which a relationship holds, but should also tell us something about the nature of the relationship between the independent and dependent variables.

Too often, the nature of the effects of test factors go unexamined. Cicourel has stated the problem:

"Each sociological variable is located within a particular time perspective. Structural or locational variables such as occupation, age, and sex contain unspecified compressions of relevant cultural meanings. The variables determining social perception include ambiguous cultural 'rules' of interpretation and cannot be treated as self-evident."¹⁵

Using the variable "age" as an example, we would want to know the qualitative characteristics of being a certain age and what

¹⁴ Kendall & Lazarsfeld, "Problems in Survey Analysis", 1950.

¹⁵ Cicourel, Method and Measurement in Sociology, 1964, p. 160 (emphasis added). Cicourel himself apparently tried to do this, although somewhat vaguely, in his discussion of the "negotiation of meanings" of age, social status, and occupational differentials in the confrontations between juveniles and their probation officers. See Cicourel, supra, note 4.

meaning is attached to it, particularly by social researchers. Jensen, for instance, finds that younger adolescents are more prone to believing the adage, "Crime doesn't pay", than are older adolescents and that their self-reported delinquency varies inversely with the prevalence of this belief. He explains it as a result of a younger person's lack of experience with social reality, i.e., his social immaturity.¹⁶ Nowhere, however, are youths in the different age groups asked why they do or do not believe in the statement. Also, when today's 12-year-old becomes a 17-year-old, will his beliefs match today's 17-year-old? What these questions point out, among other things, is that the "unspecified relevant cultural meanings" of test factors like "age" must be "decompressed" and examined empirically, which is often a matter of finding ways to ask, "Why?". Younger age implies a relative lack of "social experience", true, but experience with what? It also implies puberty, the beginning of courtship relations, and other aspects of the life cycle. Older age not only implies greater social "maturity", but also such things as greater physical mobility as the result of a driver's licence.

The point of these last paragraphs is merely to specify what is meant by a "test factor", and to state an important characteristic of all such conditions which must

¹⁶ Jensen, "'Crime Doesn't Pay'", 1969.

necessarily be addressed in the interpretation of the results. Many of the test factors were designed to be comparable to the sample obtained in a recent "profile" of juvenile court judges in the United States completed by Smith.¹⁷

There were several test factors asked about directly on the questionnaire. First was personal demographics. The traditional three categories of personal characteristics were measured here: sex, race, and age. Age group categories were drawn to correspond with Smith's "profile", and the categories of "race" are identical to those used on the application to take the California State Service Entrance Examination.

Second is method of selection. These items ask whether or not the respondent judge was elected to his or her position on the bench, and if so, whether or not he or she ran unopposed. It was felt that this variable may be an effective test factor in looking at dispositional decisions. One who is elected may be less hasty in making decisions which reflect personal bias since that person must answer for the decisions every few years. Those who are appointed or who have run on a "Shall we retain..." basis may be less inhibited. In the case of an elected judge, whether or not he or she ran unopposed refers to the most recent election.

¹⁷ Smith, "A Profile of Juvenile Court Judges in the United States", 1974.

Third is the year the judge's juvenile jurisdiction began. It differs somewhat from longevity as a juvenile court judge. Although actual length of time spent with juvenile jurisdiction may be a meaningful test factor, it was felt that the actual year in which it began (from 1964 on) was more to the point. The Supreme Court decisions in Kent (1964), Gault (1967), and Winship (1971) were milestones which gradually eroded some of the discretionary power of juvenile court judges at the adjudicatory phase. It was felt that judges who had sat through these changes on the juvenile bench and actually experienced this erosion in their own power would differ in both their attitudes and actions from those who did not.

Fourth is full- vs. part-time judgeships. Juvenile justice has often been in the hands of part-time judges, although this phenomenon has been decreasing in prevalence in recent years as more states modify their juvenile codes. It is, however, still a factor.

Fifth is the amount of judicial time spent on juvenile matters. Even some full-time judges only spend part of their time as juvenile court judges. In many states, juvenile cases are one of many types of cases handled by a trial court judge. In California, Superior Court judges handle juvenile matters; in Michigan, Probate Judges have this jurisdiction; and in many other states, County Judges have been judges of

the juvenile court,¹⁸ and in some states, certain judges handle only juvenile cases.

The final test factor used on the questionnaire is the extent of dispositional alternatives available to the judicial respondents. It was stipulated in Chapter Two that at least three conditions are necessary for individual selectivity to be operational and to affect consequential policy (occupying an authority position, being subject to lax institutional policy constraints, and having a choice of decision-making alternatives), not to mention the "decisional situation" itself. It is the extent of choice of alternatives which is this last test factor.

Several items were included concerning not only the number and types of dispositional alternatives present in the court's purview, but the judges' perception of the number and types of those alternatives which, although present, are very often unusable. Because an alternative that, say, is full to capacity most of the time is no alternative at all, a measure of "net" available dispositional alternatives was also deemed necessary.

¹⁸ "County Judges" in Kentucky, for example, not only had judicial authority but are also the fiscal administrators of the county government. However, with the passage by the voters of a state Constitutional Amendment in November, 1975, these "judges" will no longer have judicial authority. A new "District Judge", who is elected and will have to be an attorney, will have juvenile jurisdiction beginning in January, 1978.

The questionnaire listed nine different dispositional alternatives and asked the respondent to check off the alternatives which were "available" to him in the dispositional placement of juveniles. Following this, the respondent was asked, "Of those placement alternatives you have listed above as 'available', which of them seem to you to be full or otherwise unusable most often when you attempt to use them?" This is a question of perceived reality. In the same way that a discouraged job-seeker may eventually stop looking for work, a judge who is often faced with a "no vacancy" response from a particular alternative may eventually stop asking. There is little question to the fact that if a choice is not there, none will be made. It is the contention here that if a choice is perceived as futile, a similar response toward that choice will occur. Again, "That which is perceived as real is real in its consequences."

For each alternative, the number which respondents indicated alternatives as often unusable was subtracted from the number checked as "available", giving a "net availability" of alternatives available.

Aside from those actually stated on the questionnaire, several other sources for test factors were utilized. Levin and Sarri's comparative study of American state juvenile codes for the National Assessment of Juvenile Corrections (NAJC)

was one of these sources.¹⁹ Their research is a content analysis of the juvenile codes of all 50 states and the District of Columbia. Results of this analysis were coded into multiple-foil items, a codebook for which appears in an appendix to the cited work. It is from this codebook and the text and footnotes of the work that these items were drawn.

The foreword of Levin and Sarri's work, written by their NAJC colleague Robert Vinter, states that "more than two-thirds" of the states enacted "major modifications" in their juvenile codes between 1969 and 1972,²⁰ when their analysis was completed. There is no reason to suspect anything different in the other one-third of the states between 1972 and 1975, when this study was being carried out. Although these data are important to this research in that they depict aspects of court circumstances and institutional policy, interpretations based upon the NAJC test factors should be stated cautiously.

Although many variables appearing in the codebook to this research²¹ were drawn from the NAJC Project, only three

¹⁹ Levin & Sarri, supra, note 3.

²⁰ Ibid., p. viii.

²¹ See Appendix B for the complete codebook for this research. Not all variables for which there are measures in the data set are used here. Many of these appear irrelevant

were retained for use as test factors in this research.

First is jury trial policy. As discussed in Chapter Two, the U. S. Supreme Court decision in McKeiver (1970) denied juveniles an automatic right to a jury trial in juvenile court. However, several states grant that right by statute, another allows it at the discretion of the judge, and a few others grant juveniles a statutory right to be tried as an adult, i.e., to waiver, thereby allowing an adult jury trial.

Next is the status of the juvenile court within a state's court heirarchy. The appeals structure of the state courts system was felt to be the best measure of the "status" of the juvenile court in Levin and Sarri's²² work and in this research. The reference point is in its position in the court structure in relation to the state's trial court of general jurisdiction. If an appeal from juvenile court is heard in an appellate-level court, it then has the same status as the trial court; if it is heard by the trial court, the

to the questions at hand, leading one to muse about why they were measured at all. The late songwriter Woody Guthrie once remarked that, in order to have a few good songs, one must write a lot of them. (He wrote several hundred.) Following this truism, it was felt that, in order to obtain a few good test factors, one must measure many face-valid possibilities. Closer post hoc examination, however, revealed many of these to be unintended "red herrings".

²² Levin & Sarri, supra, note 3, pp. 37-39.

juvenile court's status is lower. Judicial salary might be another method of measuring court status within a state (i.e., the salary of juvenile court judges vs. that of trial court judges), but cross-state comparisons would have been difficult at best.

Last is attorney-requirements for juvenile court judges. With the strong concern expressed by many people for the legal rights of youths in juvenile court, much discussion has been generated in recent years about the fact that many juvenile court judges are not lawyers. The U. S. Supreme Court, in North vs. Russell (1976), ruled that an individual empowered with judicial authority need not be a lawyer, so long as defendants or litigants could appeal any judgment to a lawyer-judge. States, however, can and do enact laws requiring a judge to be an attorney.

These three variables, taken together, address the legal "sophistication" of the system of juvenile courts in the state by examining certain aspects of its institutional policy. It was felt that the extent to which the juvenile courts resemble the trial court of general jurisdiction in a state indicated the degree to which the juvenile court was a true "court".

For all three variables, the state juvenile code provision was the source of the test factor category, and each responding judge was assigned the category of his or her

respective state.

Two additional test factors were used here. Geographic location is the location of the courthouse listed in the NCJCJ Directory. Census Bureau classifications of states were used: the four major geographic regions (north-east, north central, south, and west) and the nine sub-regions of which they are composed.

The other factor was urbanization, which refers to the population of the Ranally Metro Area (RMA)²³ in which the courthouse is located. The RMA measure roughly approximates Census Bureau "urbanized areas". A more common measure, the Standard Metropolitan Statistical Area (SMSA), is far too broad in that its smallest division is the county, even if only one township or other subdivision of the county is "urbanized". The easier accessibility of the RMA's versus the "urbanized areas" was the major motive for using RMA's here.

Once the original items were completed, it was deemed prudent to carry out a pretest-type evaluation of those items. To begin, three evaluators were chosen first--the three living sociologists whose ideological writings are used here as source works.²⁴ A copy of the items drawn from their own

²³ Rand McNally Commercial Atlas and Marketing Guide, 1975, pp. 51ff.

²⁴ Famed jurist Benjamin Cardozo, the author of the

typologies was sent to Dr. Anthony Platt at the School of Criminology, University of California, Berkeley; to Dr. Edwin Schur, Chairman of the Sociology Department, New York University; and to Dr. Walter B. Miller at the Center for Criminal Justice, Harvard University Law School. Each was asked to evaluate the items in terms of their own intended meanings; in short, they were asked, "Does this item reflect what you meant by...?"

It was also felt that a sample of juvenile court judges to evaluate the questionnaire in its entirety would also be helpful. It was decided arbitrarily that 50 evaluation judges would be sufficient for this purpose, so the total number of judges listed in the NCJCJ Directory (3439) was divided by 50, leaving approximately 69. Then, starting with the first name in the Directory (listed alphabetically by state and city), every 69th name was selected. Each of the selected judges was sent a copy of the preliminary questionnaire and asked to evaluate it in terms of its clarity and to point out anything else which they felt may otherwise discourage the response of their colleagues.

In addition, three other names were added to my evaluator list and sent the same instructions as the judges. They were Mr. Louis McHardy, Executive Director of the NCJCJ in Reno, Nevada; Judge Edward Healy, Judge of the Family Court in

fourth typology, died in 1938.

Providence, Rhode Island, and then President of the NCJCJ; and Dr. Hunter Hurst, Director of the National Center for Juvenile Justice (research arm of the NCJCJ) in Pittsburgh, Pennsylvania.

The evaluations returned by these respondents were generally positive. Criticisms concerned the length of the questionnaire (14 pages), the use of the Likert scale of responses (as opposed to open-ended answers), the the complexity or wording of specific items.²⁵ As a result of these critiques, certain modifications were made in the original instrument, and a final questionnaire drawn up.²⁶

Sampling

The sample of juvenile court judges for this survey was drawn from the NCJCJ Directory, 1973-74. This directory lists those judges in the United States who spend at least part of their time as judges on juvenile matters in their district.²⁷ Jurisdictions are listed alphabetically by state and name of the city in which the court is located (as well as

²⁵ A more detailed discussion of these critiques appears in Appendix A, pp. A-1 to A-5.

²⁶ A copy of the final questionnaire, exactly as it was mailed, is presented as Appendix C.

²⁷ In states where "referees" handle all juvenile cases, the name of this person was often listed in lieu of the trial court judge. As such, they were sometimes included in the sample.

by state and surname of the judge). The former list was utilized in the selection of this sample.

Previous surveys of juvenile court judges have either attempted to include the entire population,²⁸ or have concentrated on a very limited and unrepresentative sub-population, such as those judges attending a particular seminar or symposium.²⁹ Sampling the entire 3439 juvenile court judges listed in the NCJCJ Directory was neither necessary nor feasible. The time and cost involved in such an endeavor are highly prohibitive, and the criterion of generalizability to the national level does not require it. On the other hand, restricting the sample to some special function presents a severe handicap to such national-level generalization, a similar problem to that presented when one samples too small a locality. Consequently, a "happy-medium" was needed to balance these problems, and a one-in-five sample was decided upon, somewhat arbitrarily but with the economics of a mail survey in mind. The starting point of selection from the Directory (i.e., the first, second, third, fourth, or fifth name) was obtained by drawing off the top of a well-shuffled

²⁸ Smith, supra, note 17; McCune & Skoler, "Juvenile Court Judges in the United States, Part I", 1965; Block, Ventures in Judicial Education, 1967, pp. 106-129.

²⁹ Walther & McCune, "Juvenile Court Judges in the United States, Part II", 1965; Block, supra, note 28.

deck of playing cards until the first card between one (ace) and five appeared.³⁰ This worked in most states, but modifications had to be made for others.³¹ A final sample of 646 juvenile court judges across the United States was chosen.

Increasing the Response Rate

Because the final questionnaire remained lengthy and somewhat detailed, it was necessary to find a procedure designed to increase the rate of response. Consequently, some of the suggestions of Dillman and his colleagues were adopted.³² This involved four separate mailings ("phases") spaced at certain intervals, as well as certain stylistic procedures. Also, since judges are, unlike other groups,³³ notorious non-respondents to questionnaires, these additional sampling procedures were seen as possible aids to increasing the response rate. The goal for the sample of juvenile court judges was 50%, or 323 respondents. A "minimum" goal was set at that obtained by Smith in his "profile" of juvenile court judges in the

³⁰ It was a four.

³¹ A discussion of these modified samples appears in Appendix A, pp. A-5 to A-6.

³² Dillman, et al, "Increasing Mail Questionnaire Response", 1974. A more detailed discussion of Dillman's suggested methods and how they were used here appears in Appendix A, pp. A-6 to A-9.

³³ Ibid., p. 745 (footnote #1).

United States (38.2%).³⁴

After the first and second mailings, some questionnaires were returned "undeliverable" by the post office or returned by the judge stating that he or she was no longer a judge or no longer possessed juvenile jurisdiction.³⁵ Much of this seeming error was because the NCJCJ Directory was out of date. The issue was dated "1973-74 (volume 4)", indicating that the data was updated last in late 1972 or early 1973. Some of the originally sampled judges had passed away since that time as well. In as many of these cases as possible, the questionnaire was returned to the same jurisdiction at the next regular mailing, addressed either to "Juvenile Court Judge" or to another judge (if the original judge had given the name of the new juvenile judge).

³⁴ Smith, supra, note 17, p. 28.

³⁵ My most interesting letter in this regard came from a law firm in a Texas city where the sampled court was located. It is quoted here without superfluous narrative:

"Dear Mr. Lewis:

Please be advised that _____, formerly the judge of the juvenile court, has been convicted of the offense of theft, embezzlement and several other crimes. He has been disbarred. Please remove his name from Juvenile Judge list.

Happy to say he was placed on probation.

Yours very truly..."

A comparison of the response rates of this research with the five studies cited in the Dillman research and that of Smith's "profile" of juvenile court judges is illustrated in Table 1. As can be seen, the minimum rate desired for this sample (Smith's 38.2%) was nearly attained (37.5%). Smith achieved it in one mailing, though his research instrument was considerably shorter (about 40 items) and less complex, and he managed to obtain a cover letter written by the then President of the NCJCJ. It can also be seen that, at every phase, the response rate was lower than in those studies discussed in Dillman's work, even though the "phases" here were generally of longer duration. This would be expected, however, for several reasons cited earlier. The number of respondents did rise rather steadily with each mailing, and given the differences between the percentages at the end of the first and last phase, the multiple mailing procedure seems helpful. It is possible that respondents take a questionnaire more seriously if there is some follow-up. All things considered, particularly the length and detail of the questionnaire and the busy schedules of juvenile court judges, a 37.5% (242 of 646) response rate is adequate for most purposes and probably is the best to be expected under the circumstances. It represents slightly over 7% of the total 3439 names listed in the NCJCJ Directory.

TABLE 1
RESPONSE RATES COMPARISONS

Phase	Cumulative Response Percentages:						
	LEWIS	WA-1970	WA-1971	NC-1973	AZ-1973	IN-1973 (b)	SMITH
I	13.5%	27.0%	26.3%	20.6%	26.5%	18.6%	38.2%(c)
II	23.1%	45.7%	51.1%	35.1%	41.6%	36.5%	--
III	31.3%	59.2%(d)	67.6%	53.0%	60.1%	55.3%	--
IV	37.5%	75.0%	75.2%	69.7%	71.3%	70.9%	
	(646)	(4137)	(4175)	(4470)	(2021)	(7558)	(3202)

- (a) Dillman, et al, supra, note 32, p. 748 (Table 2). The abbreviations WA, NC, AZ, and IN refer to the states in which their surveys were carried out (Washington, North Carolina, Arizona, and Indiana, respectively), which are followed by the year of the survey.
- (b) In the Indiana, 1973 (IN-1973) survey, the questionnaire was the shortest (8 pages), personalization procedures were omitted except on the fourth mailing, and the researcher's signature was multilithed rather than individually signed. (Dillman, et al, supra, note 32, p. 746)
- (c) Smith, supra, note 17, p. 28. Smith sent out only one mailing.
- (d) No replacement questionnaire was sent out in the third mailing in the Washington, 1970 (WA-1970) survey.

Sample Distribution on Test Factors

The first analyses of variables performed on the data from the 242 responding judges concerned the distribution of the sample along test-factor categories. This was done to establish possible social, cultural, and environmental biases in the sample. As a result, three of the initial test factors were eliminated from further consideration.

The data showed the sample to be, for all purposes, white male. With regard to sex, Smith's sample was 96.2% male and 3.8% female,³⁶ compared to 95.8% and 4.2%, respectively, in this sample. This indicates that these percentages might be a fair representation of juvenile court judges across the country. This sample was also 97.5% white, 1.7% black, and 0.8% "other" in terms of race. Smith, however, did not measure this, and no other comparative figures were available.

For these reasons, sex and race would produce very small numbers of respondents among women and blacks, so these personal demographic conditions were eliminated from subsequent analysis.

Also scratched was the 9-category breakdown of geographic region. In addition to objectively low "N"s within certain categories, there was another problem with this factor. Relative to the region's population, too small a number of

³⁶ Smith, supra, note 17, p. 30 (Table 1).

respondents came from the Middle-Atlantic and Pacific states, and judges from East South Central and West North Central states were overrepresented. However, the 4-category breakdowns of geographic region (northeast, north central, south, and west regions) was retained as a test factor, since it was believed that some measure of the part of the country a judge is from may be an important condition.

These eliminations resulted in a total of eleven test factors which could be used as conditions in this research. To obtain a large enough within-category sample size, several of the initial categories of some variables were consolidated.³⁷ The final test factors and the distribution of the responding judges on their categories appear in Table 2.

The Northeast, North Central, South, and West regions represent 23.3%, 27.1%, 31.9%, and 17.7% of the population of the United States, respectively.³⁸ The Northeast is, then, the most underrepresented and the North Central the most overrepresented regions in the sample. However, the differences in their percentage of population and of the sample are not great (8.0% and 7.6%, respectively).

The sample is decidedly rural. Only about 27% of the

³⁷ For an analysis of the initial categories of all test factors, see Appendix A, pp. A-9ff.

³⁸ July 1, 1974 estimates of the U. S. Census Bureau.

TABLE 2
SAMPLE DISTRIBUTION ON TEST FACTORS

Test Factor	% of Usable Responses
GEOGRAPHIC LOCATION:	
Northeast	15.3%
North Central	34.7%
South	36.4%
West	<u>13.6%</u>
	100.0%
	(242)
URBANIZATION:	
Large City (RMA=500,000+)	19.8%
Small City (RMA=Less Than 500,000)	21.9%
Small Town/Rural (Non-RMA)	<u>58.3%</u>
	100.0%
	(242)
AGE GROUP:	
45 or Less	21.2%
46 - 60	52.5%
61 or More	<u>26.3%</u>
	100.0%
	(240) (a)
FULL- VS. PART-TIME JUDGESHIP:	
Full-Time Judge	86.1%
Part-Time Judge	<u>13.9%</u>
	100.0%
	(238) (a)

(CONTINUED)

TABLE 2 (Continued)
SAMPLE DISTRIBUTION ON TEST FACTORS

Test Factor	% of Usable Responses
TIME SPENT ON JUVENILE MATTERS:	
25% or Less	62.8%
Half or More (but not <u>all</u>)	26.5%
All or Virtually All	<u>10.7%</u>
	100.0% (234)(a)
SELECTION METHOD:	
Not Elected	24.6%
Elected Unopposed	26.7%
Elected With Opposition	<u>48.7%</u>
	100.0% (236)(b)
YEAR JUVENILE JURISDICTION BEGAN:	
Before <u>Gault</u> (1967 or Before)	49.4%
After <u>Gault</u> (1968 or Later)	<u>50.6%</u>
	100.0% (239)(a)
JURY TRIAL POLICY:	
Statutory Right in Juvenile Court	18.2%
Statutorily Possible in Juvenile Court	9.1%
Statutorily Prohibited in Juvenile Court	<u>72.7%</u>
	100.0% (242)

(CONTINUED)

TABLE 2 (Continued)
SAMPLE DISTRIBUTION ON TEST FACTORS

Test Factor	% of Usable Responses
STATUS OF JUVENILE COURT:	
Equal to Trial Court	52.1%
Below Trial Court	35.9%
Mixed or Other	<u>12.0%</u>
	100.0%
	(242)
JUVENILE COURT JUDGE REQUIREMENTS:	
Attorney Required	70.7%
Attorney Not Required	<u>29.3%</u>
	100.0%
	(242)
NET DISPOSITIONAL ALTERNATIVES:	
4 or Less	14.5%
5 - 7	58.7%
8 or More	<u>26.9%</u>
	100.1%(c)
	(242)

- (a) Differences between totals and 242 indicate the number of respondents who did not answer that item.
- (b) Five respondents who answered that they were elected did not indicate whether or not they had opposition, and one respondent answered neither item.
- (c) Percentages different from 100.0% due to rounding.

population of the United States as a whole live outside Standard Metropolitan Statistical Areas, and although SMSA's are not directly comparable to the Ranally Metro Areas (RMA's) used here, the near 60% small-town/rural proportion of this survey leads to a definitive bias. Conclusions based on data from the sample as a whole may not reflect the universe of juvenile court judges in the U. S. There are, however, enough persons in the "large city" and "small city" samples to allow the effects of urbanization to be monitored.

The bulk of the respondents are between 46 and 60 years of age, which matches roughly the age distribution found by Smith.³⁹ In addition, the vast majority (86.1%) of judges responding to the questionnaire were full-time judges, which also is close to Smith's findings (89.9%).⁴⁰ But regardless of whether or not the individual is a full- or part-time judge, most of the judges in the sample were not full-time juvenile court judges.⁴¹ The majority spend one-fourth or less of their time on juvenile cases.

Nearly three-fourths of the judges were elected to their position on the bench, and almost half faced opposition

³⁹ Smith, supra, note 17, p. 30 (Table 1).

⁴⁰ Ibid., p. 35 (inferred from Table 8).

⁴¹ See the cross-tabulation of these items in Appendix A, Table K, p. A-25.

in their last campaign. Also, almost half of them had juvenile court jurisdiction prior to the "landmark" Gault decision of the Supreme Court in 1967, and can be assumed to have experienced an erosion of their own pre-adjudicatory power.

In most states in which the respondents practice, there are statutory prohibitions against a jury in juvenile adjudicatory hearings. Their juvenile courts are also more often than not of equal status with the state's trial court of general jurisdiction.⁴² Also, seventy percent of the judges are from states where a juvenile court judge must be an attorney.⁴³

Levin and Sarri's statement that juvenile court judges around the country do have choices⁴⁴ appears to apply to the judges in this sample as well.⁴⁵ The third criteria, then, for the influence of individual ideology on decision-

⁴² They are, in fact, often an appendage of the trial court.

⁴³ Even the majority of the other 30% of the judges are attorneys. Although not shown here in tabular form, a full 84% of the responding judges possessed law degrees, and 82% were members of their state bar association.

⁴⁴ Levin & Sarri, supra, note 3, p. 63.

⁴⁵ It is also true that a sufficient quantity of some particular dispositional alternatives, especially the popular foster and group homes, are not readily available. See Appendix A, pp. A-30ff.

making is satisfied. However, the linearity of the assumption, i.e., that as choice increases so does the use of alternatives other than formal incarceration, remains to be examined. There appears to be a sufficient number of judges in the grouped categories shown to allow this examination.

This chapter has detailed some idiosyncracies of the sampling procedure, questionnaire, and respondents of this study, particularly those phenomena which might affect the interpretation of the results. It is at this point that we turn to the hypotheses of this research.

CHAPTER FOUR

IDEOLOGY AND THE JUVENILE COURT

The first hypothesis here is that there exists among juvenile court judges in the United States a distinct set of ideologies, or ideological "types" constituting a "typology". These types, and their underlying theoretical dimensions, can be characterized and quantified by examining the judges' relative agreement or disagreement with stated opinions, or "positions", on issues relating to criminal justice. This chapter will discuss these issues from the viewpoint of four typologies in the literature, will present the data on these for the sample judges, and will attempt to synthesize the results into a new, empirically-defensible typology.

"Ideology" here follows the definition of Walter B. Miller, discussed in Chapter Two. His use of the term as a "set of general and abstract beliefs or assumptions about the correct and proper state of things"¹ lends itself to its use as an inclusive concept for a functionally-integrated, cognitive determinant of decision-making. In this view, "ideology" is itself composed of elements well-discussed in the literature of social psychology, including beliefs (cognitions, perceptions), attitudes (moral evaluations), and values (ideals).

¹ Miller, "Ideology and Criminal Justice Policy", 1973, p. 142. See also Rokeach, Beliefs, Attitudes, and Values, 1968, pp. 123-124, where the terms "ideology" and "belief system" are used almost synonymously.

Another major aspect of Miller's view of ideology is also appealing here. This is his idea that ideology is a "hidden agenda" underlying policy decision-making, and that this fact goes largely unrecognized. By a slight extrapolation of this notion, one can assume that it is unrecognized by the decision-maker as well as by others, i.e., that it is an unconscious phenomena.

This is not to say, however, that we may not in fact be dealing with a conscious, deliberate phenomena. Some of the originators of the ideological typologies to be used here suggest as much:

"(Judges) are inspired by the same yearning for consistency, for certainty, for uniformity of plan and structure. They have their roots in the constant striving of the mind for a larger and more inclusive unity, in which differences will be reconciled, and abnormalities will vanish."²

"A strong strain to consistency usually will make those who hold basic assumptions about delinquency select research procedures and public policies that are also characteristic of the basic response

² Cardozo, The Nature of the Judicial Process, 1921, p. 50.

pattern."³

As mentioned before, however, the complexity of research design required if this issue were to remain problematic rather than assumed would be highly prohibitive for an anonymous questionnaire survey and of questionable value to the purposes here. Consequential policy in the criminal justice system would be the same, whether or not conformity to ideology is intentional.

Before discussing individually each ideological typology used here and its relevance within the juvenile court, and word about the term "typology" is in order. The concept is defined as a set of classes (or "types") of two or more dimensions of thought or opinion. It is obvious from the descriptions of the four basic typologies used here that the authors differ somewhat in their perceptions of the term. Schur and Cardozo view classes of ideology as discrete phenomena. In "ideal-type" form, they postulate mutually exclusive "types", but Schur did recognize that, in practice, they may overlap somewhat.⁴ Platt gave no indication that he considered an empirical typology of any kind to underlie the characterizations he used in his book, but we would have to

³ Schur, Radical Non-Intervention, 1973, p. 22.

⁴ Ibid., p. 22.

assume them to be discrete as well. Miller, on the other hand, views his typology as two end-points of a continuum connected by interval scores which represent the intensity of belief in these end-point categories. It should be noted, however, that these intervals may have to be combined later on to form discrete classes to make the typology meaningful.

Anthony Platt's "The Child Savers"

Platt's book traced the historical development of the 19th-century juvenile court movement, the ideological foundations of that movement, and its contemporary ramifications.⁵ The basic ideological stance of the movement, its leaders, and that of the resulting "juvenile court" in Illinois (and eventually, elsewhere) was an Anglo-Saxon common-law principle from the medieval English Courts of Chancery called parens patriae. It gave the court jurisdiction over juveniles to act in loco parentis ("in lieu of parents"); as a "wise, affectionate parent" to youths, to give them the needed guidance, treatment, and discipline to make them useful citizens. The model of action for these early reformers was medical and therapeutical--the wayward child was socially "ill" and needed "treatment". The juvenile court process was to contain a

⁵ Platt, The Child Savers, 1969. As of this writing, a second edition of this work has been published. However, all references to Platt's book in this research refer to the original edition.

"humane" quid pro quo--the juvenile was to forego any Constitutional rights to "due process of law", and in return the court was to "prescribe" whatever treatment was required (based upon court-defined "needs" of the youth) in lieu of incarceration and punishment. As such, it was to be individualistic, informal, and "rehabilitative" in character. The court's purpose was not to judge the guilt or innocence of the youth, but to ascertain the suitability of various alternatives of rehabilitative treatment either within or outside the family situation (although, until recently, it was most often the latter).

Age-status can be said to be a central theme of the parens patriae ideology of the juvenile court movement. Although, as noted in Chapter Two, differential treatment under law based on age dates to antiquity, the juvenile court represented the first time in the U. S. that an entire sub-system of criminal justice was dedicated to it. The leaders of the movement saw members of the juvenile age-status as near-totally dependent upon adults. Negatively, Platt comments:

"The benevolent philosophy of the juvenile court often disguises the fact that the offender is regarded as a 'non-person' who is immature, unworldly, and incapable of making effective decisions with regard to his own welfare and

future."⁶

The basic tenet legally justifies the intervention of the juvenile court into the lives of youths and their families when it is felt that parents have failed in their child-rearing responsibilities. This failure requires new adult supervision for the child, and given the nature of some of the "crimes" which could justify this intervention (e.g., "PINS", "waywardness", etc.), there was virtually no type of youthful exuberance which might not bring in the juvenile court authorities.

This element of prevention, the intervention of the court before any actual criminality has occurred, was based, according to Platt, on the reformers' desire to maintain "middle-class morality".⁷ By passing vaguely worded laws against behaviors not conforming to the reformers' ideas of

⁶ Ibid., p. 160.

⁷ This was a basic theme of Platt's description of the juvenile court movement. He uses the term "middle-class" in the Marxian sense of "bourgeois". Judging from the social status of the reform movement leaders (primarily wives and offspring of the 19th-century robber-barons or other industrial elites of the day), "upper-class" might be more contemporarily descriptive. This group of people were heavily involved in many of the social "reform" movements in the late 1800's (e.g., the "settlement houses"). See Domhoff, The Higher Circles, 1970. Also, the applicability of Platt's essentially Marxian explanation has been challenged in relation to the development of Canada's Juvenile Court Act of 1908. See Hagan & Leon, "Rediscovering Delinquency", 1977. However, even these authors admit that the effect of the Act in Canada was "to reinforce and increasingly intervene in informal systems of social control, particularly the family." (p. 597, emphasis added) In any case, Platt attempts to answer many of his critics in the second edition of The Child Savers.

how "good children" should behave, their implicit code of proper conduct for children is then legitimated statutorily. Needless to say, the children of the less affluent bore the brunt of early juvenile codes and court intervention.

Reflecting on these concerns with age-dependency and prevention, parens patriae reformers saw the "rehabilitative ideal" as a paramount goal of juvenile justice:

"The 'rehabilitative ideal' presupposed that crime was a symptom of 'pathology' and that criminals should be treated like irresponsible, sick patients. The older a criminal, the more chronic was his sickness; similarly, his chances of recovery were less than those of a young person...Social reformers emphasized the temporary and reversible nature of adolescent crime."⁸

Given this, these parens patriae types felt that the primary concern of the juvenile court should be the rehabilitation of youthful offenders, gearing them to the resumption of their "place in society".

Rehabilitation, as envisioned by parens patriae types, was a combination of "education" (a minimal one), guidance, restraint, and a general showing of concern by adults. This

⁸ Platt, supra, note 5, p. 45 (footnotes deleted).

was their idea of the best way to the moral socialization of wayward youths, and these principles (as they particularly view them) were embodied in their "reformatory plan".

Platt, however, provides us with a closer look at this plan. He summarizes it as follows:

"...(1) Young offenders must be segregated from the corrupting influences of adult criminals. (2) 'Delinquents' need to be removed from their environment and imprisoned for their own good and protection. Reformatories should be guarded sanctuaries, combining love and guidance with firmness and restraint. (3) 'Delinquents' should be assigned to reformatories without trial and with minimal legal requirements. Due process is not required because reformatories are intended to reform and not punish. (4) Sentences should be indeterminate, so that inmates are encouraged to cooperate in their own reform and recalcitrant 'delinquents' are not allowed to resume their criminal careers. (5) Reformation should not be confused with sentimentality. Punishment is required only insofar as it is good for the punished person and only when other methods have been exhausted. (6) Inmates must be protected from idleness, indulgence, and luxuries through military drill, physical exercise, and constant supervision. (7) Reform-

atories should be built in the countryside and designed according to the 'cottage plan'. (8) Labor, education, and religion constitute the essential program of reform. Inmates should not be given more than an elementary education. Industrial and agricultural training should predominate. (9) The value of sobriety, thrift, industry, prudence, 'realistic' ambition, and adjustment must be taught."⁹

Arguing that the "reformatory plan" was a unique method for the social control of youth, Platt continued that it was, in addition:

"...a symbolic movement which seemed to be defending the sanctity of fundamental institutions-- the nuclear family, the agricultural community, Protestant nativism, women's domesticity, parental discipline, and the assimilation of immigrants."¹⁰

Given the relatively upper-class social and economic backgrounds of the reformers, the restrictions on education, and the concern with "realistic ambitions", the reformatory

⁹ Ibid., pp. 54-55 (footnotes deleted).

¹⁰ Ibid., p. 74.

plan also provided a tool for the training and maintenance of a controlled manual labor force (their "assimilation" into society) for a growing industrial nation. This more pragmatic concern is probably more to the point than such things as "defending the sanctity of the nuclear family", since the courts most often took the child away from it. The placement of reformatories in the "countryside" may not reflect so much an idyllic, pastoral child-rearing milieu as a method of separating urban children from the families physically as well as legally.

According to Platt, there were primarily two negative reactions to the juvenile court movement and parens patriae in the late 1800's. Each was based on a conflicting ideological position. First was Moralism, the concern for the protection of the "moral fiber" of society. Crime is bad simply because it is morally wrong, not because of its material or social costs. Punishment was the best method of social control of wrongdoing. It should be firm and public enough to dramatize society's moral indignation for the offense and the offender, regardless of his or her age, and secondarily to prevent further criminality on the part of both the offender and others so disposed. Parens patriae was, to the Moralists, merely another name for "coddling" young criminals.

Whereas parens patriae types emphasized age-status and its concomitant dependency, the Moralists emphasized the

illegal act itself and its punishment. The protection of society was the uppermost consideration of Moralism, although it may have been a concern (a "hidden agenda"?) among parens patriae types as well (e.g., their "reformatory plan").

The theme of the positive value of punishment is recurrent in Moralist arguments. According to Platt, they recognized a deterrent value in punishment but emphasized its worth as its own "retributive justification":

"According to the retributive position, society has a moral right and duty to inflict punishment on offenders who consciously commit crimes... (T)he ultimate purpose of punishment is to reveal the heinous and evil character of crime, and to establish the balance of right and wrong in the cosmos."¹¹

Punishment for an illegal act constituted an expressive statement of public disapproval for that act and the actor, and the fact that the actor is a juvenile is irrelevant to the Moralists.

The Moralists criticized the parens patriae position on the role of the juvenile court (the "rehabilitative ideal") from the same "expressive" standpoint:

"With regard to juvenile delinquency, the legal mor-

¹¹ Ibid., pp. 153-154.

alists argue that it is socially undesirable to allow predatory behavior to go unpunished. They further point out that most ordinary citizens view delinquency with 'intolerance, indignation, and disgust' and that it is the proper function of the law to give ceremonial expression to this moral revulsion."¹²

They believed that the courts could best manifest this revulsion by meting out stern punishment to lawbreakers, be they adult or juvenile.

Believing that the best procedure for the moral socialization of youth in general was firm punishment for wrongdoing, the Moralists felt that the proposed flexibility and informality in the proceedings of the new juvenile court would engender disrespect for law. Platt summarized their position:

"The legal moralist views the criminal law as the symbolic expression of the institutionalized values which the criminal violates, so that punishment has an educative function which unites all non-criminals and conformists in the 'emotional solidarity of aggression'...The juvenile court, according to this perspec-

¹² Ibid., p. 155 (footnotes deleted).

tive, fails to make juvenile delinquency unattractive as a role model and has deprived the criminal law of its efficacy as an instrument of moral education because it does not formally express condemnation of anti-social behavior."¹³

The second major reaction to the parens patriae ideology was Constitutionalism, a concern for the Constitutional rights of juveniles in the criminal justice process. Where Moralism was concerned with the moral order, Constitutionalism focussed on the legal order. Constitutionalists said little or nothing about morality or the social value of punishment. They assumed that the only "morality" that counted in the criminal justice system was that embodied in the law, and that the type and severity of punishment was a secondary concern to the manner in which that stage of the legal process was reached. Their concerns, in short, were concentrated primarily on procedural ("adjective") rather than substantive law. They decried indeterminate sentences and the quid pro quo element of parens patriae because of the lack of Constitutional safeguards afforded youths in juvenile court and the court's general non-reliance on established jurisprudence. According to the Constitutionalists, parens patriae was merely a justification for oppressive state intervention into the

¹³ Ibid., pp. 157-158 (footnotes deleted).

lives of certain young people and which denied them their freedom without due process and equal protection of law.

The primary concern of the Constitutionalists was the rights of the individual rather than the protection of society from wrongdoers. The underlying assumption was that the greatest potential wrongdoer is the state itself. Whereas the Moralists believed in the universality of substantive law in its reality and in the abstract (as in "obeying the law"), Constitutionalists were more concerned with specific procedure and the adjective law which defined it. The inflicting of punishment, be it explicit or stated under the guise of "rehabilitation" and "treatment", involved an individual's loss of freedom. If this was done without benefit of Constitutional guarantees, it was unacceptable.

The Constitutionalist emphasis was not on the individual youth as a person with specific needs, as in parens patriae, but on juveniles as a class of people. Nor were they concerned with "morality", whether in its collective sense (as in "society's established morality") or its individual manifestations (immoral behavior or people). Individual persons may or may not have needs which can only be fulfilled through state intervention into their daily activities. These issues were irrelevant to the Constitutionalists. What mattered were the Constitutionally guaranteed rights of all individuals, adult or juvenile.

In this vein, the Constitutionalists contradicted both parens patriae and Moralism arguments concerning the proper role of the juvenile court. They viewed the ideal juvenile court as the guardian of the youth's rights in the criminal justice process. There seemed to be some agreement between parens patriae and Constitutionalism concerning the dependent nature of juveniles, except that the latter viewed all individuals as "dependent" and needing protections vis-a-vis the power of the state. The Constitutionalists were not concerned with giving paternalistic "care" but specific legal protections to youths.

The parens patriae reformers viewed legal safeguards like due process as hampering the flexibility and informality which they felt necessary for the treatment and rehabilitation of youthful offenders. They felt that the strictures of adult procedural law were too confining for proper evaluation of the needs of youths. The Constitutionalists viewed the proposed informal procedures, as well as the "rehabilitative ideal" in general, as a cruel farce:

"The flexibility and informality of these proceedings came under attack from moralists and constitutionalists; the former were concerned that permissiveness and judicial informality would encourage disrespect for law and negate the ceremonial func-

tions of public trials; the latter claimed that the juvenile court inflicted punishment without regard to due process or individual rights."¹⁴

In short, Constitutionalists viewed rehabilitation through an informal process as coercion and punishment without benefit of due process. The youths were getting the worst of both worlds. The Constitutionalists believed that the best method of "moral socialization" (which to them meant respect for the law) was by example. In the juvenile court, this meant that a youth would develop such respect and responsibility only if he or she saw respect for their rights as individuals being practiced in the court setting.

Inherent in Platt's descriptive account of parens patriae, Moralism, and Constitutionalism "types" are several specific issues which lend themselves to quantification. The question to be answered here is the extent to which these same issues (and ideological types) of the juvenile court reform movement in the late 1800's are prevalent among today's juvenile court judges.

The four issues derived from Platt's book are "central themes", "major concern of the juvenile court", "flexibility and informality in the juvenile court", and best "methods of moral socialization". For each issue, items were developed

¹⁴ Ibid., p. 172.

which exemplified the position of each ideological type on that issue. Items were in the form of statements which were taken directly or inferred from Platt's work. Each statement was followed by a 5-point Likert scale to measure relative agreement or disagreement with the item, and the results presented in tabular form showing the response distributions for each item for the responding judges in the survey. The actual items used to measure each ideological type on the stated issue are quoted below the table, and all percentages are rounded to whole numbers.

The first issue, "Central Themes", may be described as a conception of an age-status--"juvenile". This conception is central to the parens patriae type, but peripheral or irrelevant to the other two (although for different reasons). Table 3 shows that, of the three items, the strongest agreement by far among the responding judges (88% either "strongly agree" or "agree") was with the Constitutionalist item. Over 65% and 85% of the respondents, respectively, either "disagreed" or "strongly disagreed" with the parens patriae and Moralism statements. Judges appear to be more concerned at present with juvenile rights than with their morality and punishment or their individual need-satisfaction.

The second issue dealt with the judges' perceptions of what should be the major concern of juvenile justice in general, and the court in particular. Table 4 illustrates that

the respondents were in greatest agreement (95%) with the parens patriae item, in strongest disagreement (78%) with the Moralism perspective, and split on the Constitutionalist statement (44% agree, 40% disagree). The majority of the responding judges seem to see the juvenile court's major role as a tool for juvenile rehabilitation, although a slight plurality see it also as a protector of the rights of youths. The key word here is "major", particularly given the positive response to the Constitutionalism item in Table 3. The word "major" was underscored in each item, but a judge may have read the statement to mean "a major function..." (since the word "the" was not emphasized), and agreed. A judge may also believe that the court's greatest overall function is seeing to the rehabilitation of young offenders, read the item as intended, agreed with the item and, by definition, disagreed with the Constitutionalism item. The respondent could have do this latter and still believe that the court should protect a youth's Constitutional rights.

Table 5, concerning the built-in "flexibility and informality" in juvenile court dispositional and adjudicatory procedures, is noteworthy because there is wide disagreement with the positions of all three perspectives. A majority of the judges disagreed or strongly disagreed by 60%, 75%, and 52% with the parens patriae, Moralism, and Constitutionalism items, respectively. The judges apparently do not believe that

TABLE 3
PLATT: CENTRAL THEMES

Type	Responses:						
	(5) SA	(4) A	(3) N	(2) D	(1) SD		
Parens-Patriae ^(a)	5%	15%	12%	52%	15%	(241)	99% ^(d)
Moralism ^(b)	1%	7%	5%	52%	34%	(239)	99% ^(d)
Constitutionalism ^(c)	50%	38%	3%	8%	(0)	(240)	99% ^(d)

- (a) "Juveniles are immature and therefore incapable of making effective decisions regarding their own welfare and future."
- (b) "Punishment for an act constitutes only a statement of public disapproval for that act; the fact that the actor is a juvenile should be irrelevant to legal disposition for the act."
- (c) "A juvenile has the right to the same protections under the Constitution as an adult."
- (d) Differences from 100% due to rounding.

TABLE 4

PLATT: MAJOR CONCERN OF THE JUVENILE COURT

Type	Responses:					
	(5) SA	(4) A	(3) N	(2) D	(1) SD	
Parens-Patriae ^(a)	58%	38%	3%	1%	(0)	(238)100%
Moralism ^(b)	1%	10%	10%	61%	18%	(233)100%
Constitutionalism ^(c)	8%	36%	16%	37%	3%	(238)100%

(a) "The major concern of juvenile justice should be the future of the youthful offender and his rehabilitation, using all the social scientific methods available."

(b) "The major concern of the criminal justice system, including the juvenile court, should be to give dramatic expression to the moral revulsion of citizens toward crime through firm punishment."

(c) "The major concern of all criminal justice agencies, including the juvenile court, should be the protection of the Constitutional rights of the accused."

TABLE 5

PLATT: FLEXIBILITY AND INFORMALITY IN THE
JUVENILE COURT

Type	Responses:					
	(5) SA	(4) A	(3) N	(2) D	(1) SD	
Parens-Patriae ^(a)	6%	27%	8%	53%	8%	(237) 102% ^(d)
Moralism ^(b)	2%	10%	12%	62%	13%	(231) 99% ^(d)
Constitutionalism ^(c)	7%	26%	16%	41%	11%	(233) 101% ^(d)

(a) "The rigors of 'due process' considerations in the juvenile court hamper the flexibility and informality necessary for the treatment and rehabilitation of youthful offenders."

(b) "The flexibility and informality of parens patriae engenders disrespect for law and negates society's right to see offenders punished."

(c) "The flexibility and informality of parens patriae does not alter the reality that much of the treatment and rehabilitation practiced in juvenile justice was really coercion and punishment without benefit of due process."

(d) Differences from 100% due to rounding.

TABLE 6

PLATT: METHODS OF MORAL SOCIALIZATION

Type	Responses:					
	(5) SA	(4) A	(3) N	(2) D	(1) SD	
Parens-Patriae ^(a)	45%	48%	3%	3%	1%	(238)100%
Moralism ^(b)	3%	10%	12%	56%	20%	(241)101%(d)
Constitutionalism ^(c)	15%	31%	15%	33%	6%	(239)100%

(a) "The moral values of society are best taught to a youthful offender by a combination of education, guidance, showing of concern by adults, and restraints on his or her activities."

(b) "The moral values of society are best taught to youthful offenders through firm punishment for their wrongdoing."

(c) "The moral values of society are best taught to youthful offenders by their seeing respect for their Constitutional rights being practiced in the juvenile justice system."

(d) Differences from 100% due to rounding.

flexible decision-making structures and informal procedures engender disrespect for law, nor that society is somehow cheated this way. (They have constantly disagreed with the concept of law and its enforcement as an expressive tool for social revenge.) Nor do they believe that these phenomena are a clever guise for punishing kids without giving them their rights. It is, however, difficult to decipher from these items what they do believe. In the case of the first position, part of the problem may have been the wording. Are the judges disagreeing that flexibility and informality is necessary for rehabilitation, or are they disagreeing that due process hampers these characteristics, or both? All of these interpretations are possible.¹⁵

The last issue here concerns the appropriate "methods of moral socialization", i.e., the best way to teach a child right from wrong. As explained earlier, the three ideological types contain underlying assumptions which differ on this issue. Moralism emphasized "making examples of the bad" through firm, public punishment, Constitutionalism stresses exemplification of the "good" and legally proper, and parens patriae seems to take a middle-ground position between the two. Table 6 shows the response distributions on this issue.

The largest agreement (93%) was with the parens pat-

¹⁵ The highest item non-response was on the Moralism statement in this table (11, or 4.5%). This is quite small.

riae position, the largest disagreement (75%) with the Moral-ist argument, with feeling concerning the Constitutionalist item split (although a plurality--44%--agreed). The response pattern here is similar to that in Table 4 on the "major concerns of the juvenile court". Again, a key word (in this case, "best") was underscored, which could have led to some varied interpretation of the statements. A judge may feel that the middle-ground position of parens patriae is the "best" one, but also agree that socialization by good example is important, or part of the general term "guidance" in the parens patriae item.

In addition to scores on each issue, a summated score was obtained for each judge on each ideological type. Scores on items exemplifying a particular type (parens patriae, Moralism, Constitutionalism) were added together. On each item there was a possible score of one to five ("strongly disagree" to "strongly agree", respectively), and since there were four issues here ("central themes", "major concern of juvenile court", "flexibility and informality", and "methods of moral socialization"), the range of the summated score would be from 4 to 20. Those judges who did not answer all items of a given ideological type were eliminated from summated score analyses, then the scores for the remaining subjects were collapsed into four equal-interval groups. The distribution of these grouped summated scores for Platt's typology

appears on Table 7.

The highest scores were on the parens patriae and Constitutionalism types, and the lowest on Moralism. This could have been predicted from the results shown on each individual issue. Moralism positions scored low, i.e., majority disagreement, on all issues. Constitutionalism scored low on one issue ("flexibility and informality"), high, i.e., majority agreement, on one ("central themes"), and split on the other two. Parens patriae items scored low on two issues ("central themes" and "flexibility and informality") and high on the other two.

In Chapter Two, we described the "internal consistency" of ideological types as measurable by both of two methods. First, there must be some respectable (operationally, .20 or better) positive correlations among position statements which exemplify the same ideological type, i.e., positive "intratype" correlations. These are shown for Platt's three types in Table 8. As a matter of format, in this matrix and all others hereafter, the correlation coefficient appears in the grid below the diagonal, and the associated "N" for each coefficient in the grid above the diagonal.

As can be seen, four of the six correlations under Moralism meet this criteria, three under Constitutionalism, and none under parens patriae.

The second measurement is that there must be some

TABLE 7
PLATT: SUMMATED SCORES

Type	\bar{X}	<u>Grouped Summated</u> <u>Scores:</u>				
		4-8	9-12	13-16	17-20	
Parens-Patriae	(14.0)	(0)	21%	67%	12%	(231)100%
Moralism	(8.4)	61%	33%	6%	(1)	(226)100%
Constitution- alism	(13.3)	5%	36%	49%	11%	(226)101% ^(a)

(a) Differences from 100% due to rounding.

TABLE 8
PLATT: INTRATYPE CORRELATIONS

Type/Issue	Central Themes	Major Concerns	Flexib./ Inform.	Moral Socializ.
<u>Parens-Patriae:</u>				
Central Themes	---	(237)	(236)	(238)
Major Concerns	.070	---	(235)	(234)
Flexib./Inform.	.086	.027	---	(233)
Moral Socializ.	.146	.105	.124	---
<u>Moralism:</u>				
Central Themes	---	(230)	(228)	(239)
Major Concerns	.143	---	(229)	(232)
Flexib./Inform.	.192	.276	---	(230)
Moral Socializ.	.256	.317	.204	---
<u>Constitutionalism:</u>				
Central Themes	---	(236)	(231)	(238)
Major Concerns	.216	---	(230)	(235)
Flexib./Inform.	.113	.137	---	(230)
Moral Socializ.	.298	.292	.076	---

TABLE 9
PLATT: INTERTYPE CORRELATIONS

<u>Issue/Type</u>	<u>Parens-Patriae</u>	<u>Moralism</u>	<u>Constitutionalism</u>
<u>Central Themes:</u>			
Parens-Patriae	---	(239)	(240)
Moralism	.101	---	(238)
Constitutionalism	.124	.067	---
<u>Major Concern:</u>			
Parens-Patriae	---	(231)	(236)
Moralism	.041	---	(232)
Constitutionalism	.149	.091	---
<u>Flexib./Inform.:</u>			
Parens-Patriae	---	(229)	(231)
Moralism	.142	---	(225)
Constitutionalism	-.070	.125	---
<u>Moral Socializ.:</u>			
Parens-Patriae	---	(238)	(236)
Moralism	.205	---	(239)
Constitutionalism	.157	.129	---
<u>SUMMATED SCORE: (a)</u>			
Parens-Patriae	---	(220)	(222)
Moralism	.255	---	(217)
Constitutionalism	.123	.226	---

(a) Correlations are for ungrouped summated scores.

similarly high negative correlations between positions of differing ideological types (i.e., high negative "intertype" correlations). The matrix in Table 9 gives an indication as to how well these items differentiate competing ideologies today. If such types were relevant, we would expect that agreement with a particular position, or high summated score, on one ideological type should correspond to disagreement, or low summated score, on the other types. Positive correlations indicate overlapping agreement and disagreement between positions of different types. Near-zero correlations indicate that agreement with one position, or a high summated score on one type, bears little relation at all to agreement with a position, or high summated score, on another type.

As can be seen from Table 9, the position statements of the ideological used here have little ability to differentiate competing ideologies. Most correlations are near-zero, and a few are moderately positive. Judges in this sample found that they could agree with positions intended to be at least somewhat contradictory. It is true that part of the problem could have been the wording of some of the statements, but it is also quite possible that the issues and ideologies that separated competing groups during the initial juvenile court movement simply do not compress neatly into those which separate groups today.

The pattern of correlations illustrated in Table 9

for summated scores held, with minor variations, when the sample was subdivided into the test factor categories. Only once did some distinctly negative intertype correlations occur, and these among judges who spent "all or virtually all" of their judge time on juvenile matters (Table 10). The correlations between Moralism and parens patriae and between Moralism and Constitutionalism are respectably negative, and that between parens patriae and Constitutionalism decidedly positive. Among this particular group of judges, the Moralists tend to split off from the other two types.¹⁶ However, the number of judges upon which these correlations are based seems too small to draw any serious conclusions. The table is presented to illustrate something of the pattern for which we are looking.

In addition to the correlations, the summated score distributions, in interval form, were subdivided into test factor categories for comparison. The test-factor and summated-score cross-tabulations were examined for chi-square values which were statistically significant below, at, or near .05.¹⁷

¹⁶ Interestingly enough, though, the correlation between Moralism and Constitutionalism is less negative than that between Moralism and parens patriae.

¹⁷ Although it is used most frequently as the rejection criteria of hypotheses, there is nothing "magic" about the .05 significance level. Generally, if this level ("p" in the footnotes to the tables) was less than .10, it was included as a table.

TABLE 10

INTERTYPE CORRELATIONS OF SUMMATED SCORES FOR JUDGES WHO
SPEND ALL OR VIRTUALLY ALL OF THEIR TIME ON JUVENILE
MATTERS

Type ^(a)	Parens- Patriae	Moralism	Constitu- tionalism
Parens-Patriae	---	(24)	(25)
Moralism	-.627	---	(24)
Constitutionalism	.345	-.283	---

(a) Correlations are for ungrouped summated scores.

Table 11 illustrates these differences for the parens patriae ideological type for three such test factors. There appears to be somewhat higher parens patriae scores from judges in rural areas and among part-time judges. Although it shows some statistical significance, the relationship between number of dispositional alternatives and parens patriae scores is not only non-linear, but it is not clear either. In the lowest category of this test factor (4 or less), however, there seems to be a greater dispersion of response scores.

Table 12 illustrates that the only test factor to relate significantly to Moralism and Constitutionalism scores is method of selection. Those elected with opposition agree more with Moralism than do those selected in other ways. Concerning Constitutionalism, those not elected at all show more dispersed scores.

Three general conclusions are indicated by these data. First, despite the differences between certain sub-groups of the sample on a particular ideological type, no systematic differences were evident between any such sub-group on all three types, the closest being the method of selection on two of them. Therefore, all results taken together, the most supportable conclusion is that, although Moralism and Constitutionalism both had some respectable intratype correlations, positions on these issues do not by themselves differentiate contemporary competing ideological types. Some of the issues

TABLE 11

PARENS-PATRIAE SUMMATED SCORES VS. VARIOUS TEST FACTORS

Test Factors	<u>Parens-Patriae Grouped</u>				
	<u>Summated Score:</u>				
	4-8	9-12	13-16	17-20	
<u>Urbanization: (a)</u>					
Large City	(0)	21%	75%	4%	(48)100%
Small City	(0)	39%	55%	6%	(51)100%
Small Town/Rural	(0)	14%	69%	17%	(132)100%
					(231)
<u>Full- vs. Part-Time (b)</u>					
<u>Judges:</u>					
Part-Time	(0)	16%	58%	26%	(31)100%
Full-Time	(0)	21%	69%	10%	(196)100%
					(227)
<u>Net Dispositional (c)</u>					
<u>Alternatives:</u>					
4 or Less	(0)	21%	64%	15%	(29)100%
5 - 7	(0)	20%	64%	16%	(136)100%
8 or More	(0)	23%	76%	2%	(62)100%
					(227)

(a) Df=4, chi-sq=20.433, p=.0004, r (ungrouped) = .253. Ungrouped "urbanization" variables were numbered 1 to 7 from largest to smallest, therefore the positive correlation means that the smaller the area, the larger the Parens-Patriae score.

(b) Df=2, chi-sq=6.050, p=.0486.

(c) Df=4, chi-sq=8.857, p=.0648, r (ungrouped) = -.149.

TABLE 12

MORALISM AND CONSTITUTIONALISM
SUMMATED SCORES VS. SELECTION METHOD

Selection Method	<u>Grouped Summated</u> <u>Score:</u>				
	<u>4-8</u>	<u>9-12</u>	<u>13-16</u>	<u>17-20</u>	
	<u>Moralism: (a)</u>				
Not Elected	76%	23%	2%	(0)	(53)101%(c)
Elected Unopposed	68%	28%	3%	(0)	(60) 99%(c)
Elected With Opposition	50%	40%	9%	1%	<u>(108)</u> 100%
					(221)
	<u>Constitutionalism: (b)</u>				
Not Elected	12%	23%	49%	16%	(49)100%
Elected Unopposed	2%	43%	46%	9%	(117)100%
Elected With Opposition	5%	34%	53%	9%	<u>(59)</u> 101%(c)
					(225)

(a) Df=6, chi-sq=13.400, p=.0371.

(b) Df=6, chi-sq=14.140, p=.0281.

(c) Differences from 100% due to rounding.

may be of concern among juvenile court judges today, but the "lines" between ideological groups are not drawn the same as in the late 1800's, when the juvenile court was a movement rather than a functioning criminal justice institutional appendage.

Second, it appears that juvenile court judges are still in strong agreement with the "rehabilitative ideal" of that movement, despite other differences. Based on the notion that juvenile crime is reversible, the judges believe that rehabilitation should remain the ultimate goal of juvenile justice. And this finding becomes more interesting in light of their responses to two other items, all three of which are illustrated in Table 13.

Corresponding to their agreement with rehabilitation as a goal, the judges also agreed with a juvenile's right to "due process" and other adult constitutional rights, and disagreed that implementation of these rights in juvenile court may be a detriment to rehabilitation. This may be an indication that practicing juvenile court judges do not view Supreme Court decisions such as Gault and Winship and their effects on efforts at rehabilitation with much alarm. Supporters of Justice Stewart's cries of impending doom to juvenile justice resulting from Gault may not have as much of a following as the literature might lead the scholar to believe.

Given these recent decisions and modifications in

TABLE 13

THE REHABILITATIVE IDEAL AND DUE-PROCESS

Type	Responses:					
	(5) SA	(4) A	(3) N	(2) D	(1) SD	
"The <u>major</u> concern of juvenile justice should be the future of the youthful offender and his rehabilitation, using all the social scientific methods available."	<u>58%</u>	<u>38%</u>	3%	1%	(0)	(238)100%
"A juvenile has the right to the same protections under the Constitution as an adult."	<u>50%</u>	<u>38%</u>	3%	8%	(0)	(240) 99%(a)
"The rigors of 'due process' considerations in the juvenile court hamper the flexibility and informality necessary for the treatment and rehabilitation of youthful offenders."	6%	27%	8%	<u>53%</u>	<u>8%</u>	(237)102%(a)

(a) Differences from 100% due to rounding.

state juvenile codes, the institutional policy of juvenile justice at present seems to be away from parens patriae and toward Constitutionalism at the adjudicatory phase of processing, yet much of the former ideology (e.g., McKeiver) and a little Moralism remain in evidence.

Edwin Schur's "Radical Non-Intervention"

Schur's book, a product of research completed under the Juvenile Justice Standards Project, describes what he calls "patterned reactions" to juvenile delinquency. The four discrete categories of these reactions are ideological in that they are, as Schur explains:

"...grounded in certain core assumptions and basic outlooks that in turn imply a whole complex of interrelated preferences."¹⁸

Schur claims that patterned reactions, combined with an assumed strain toward "cognitive consistency":¹⁹

"...will make those who hold particular basic assumptions about delinquency select research procedures

¹⁸ Schur, supra, note 3, p. 22.

¹⁹ Or, if you prefer, a strain toward the reduction of "cognitive dissonance" (Festinger, A Theory of Cognitive Dissonance, 1957). For good summary discussions of these types of theories, see Kiesler, et al, Attitude Change, pp. 155-237 (chaps. 4 and 5); Aronson, "Dissonance Theory", 1968, pp. 5-27.

and public policies that are also characteristic of the basic response pattern."²⁰

As such, they appear to be "ideal types" of cognitive ideological stances upon which positions on particular issues are based.

Schur, like Platt, feels that most of the institutional policy toward juvenile delinquency has reflected a concern with the "rehabilitative ideal", though not necessarily as embodied in the original "reformatory plan" of the early court reformers. Schur, however, attempts to more precisely examine this notion in terms of the theoretical bases for varying uses of the phrase. In doing so, he arrives at his first classification of patterned reactions--"individual treatment".

The Individual Treatment reaction theoretically comes closest to the traditional parens patriae philosophy of the juvenile court, where the concept of treating the individual child was, in fact, the basis of the "rehabilitative ideal":

"Delinquency...was seen as a symptom of some treatable disorder, and the judicial mechanisms themselves were geared to rooting out the underlying causes...The problems and situation of each

²⁰ Schur, supra, note 3, p. 22.

child brought before the court were to be considered in depth, and efforts made to adopt a program of rehabilitation suited to the particular child's needs. These needs, rather than the details of whatever specific incident gave rise to the court hearing in the first place, constituted the major concern of the court, for the focus was on antecedent root causes."²¹

To people holding this view, then, juvenile delinquency is primarily a symptom of certain personality defects of individual youths.

This notion is based upon an assumption of "differentness" which characterizes much psychologically-based theory and research on delinquency:

"Delinquency, in this view, is attributable primarily to the special characteristics of individual delinquents...Similarly, efforts to deal with delinquency problems must center on the problems of these offending individuals. Basically, we have delinquency because we have delinquents; we must do something to or for them..."²²

²¹ Ibid., p. 70 (footnotes deleted).

²² Ibid., p. 29.

The sources of delinquent behavior, to adherents of the Individual Treatment ideology, lie in psychogenic phenomena, i.e., the "delinquent" is considered "psychopathic" or "sociopathic", an anti-social, aggressive personality. Criminogenic conditions in the family, the psyche, or the genes²³ are most often blamed for delinquency.

The Individual Treatment pattern is also characterized by the idea of "pre-delinquency":

"It is understandable...that those adopting an individual-oriented outlook on delinquency persist in believing that it is possible (and desirable) to spot 'predelinquents' before they get into serious difficulty, and to 'nip in the bud' their antisocial behavior."²⁴

This is, likewise, an underlying assumption of the parens patriae philosophy of the juvenile court:

²³ Family influences are most often seen as primary in the formation and development of the psyche and, naturally, as the source of genetic abnormalities. Criminal parents, for example, are thought to bear strongly on the delinquency of their offspring. Theories on the influence of genetics on criminal and other "abnormal" behavior are enjoying somewhat of a rebirth in the literature of criminology with recent studies of the chromosomal structures of certain incarcerated criminals. See, e.g., National Institute of Mental Health, Report on the XYY Chromosomal Abnormality, 1970.

²⁴ Schur, supra, note 3, p. 46.

"The very wording of the juvenile statutes--which enable the court to intervene at the slightest sign of trouble or misbehavior--indicates the hope that these tribunals would undertake this kind of far-reaching assessment of individual cases. It may be significant, in this connection, that the first juvenile court act (in Illinois, in 1899) even authorized penalties for 'predelinquent' behavior."²⁵

The key to delinquency prevention to the Individual Treatment types, then, was in the early identification and "treatment" of potential delinquents.

Adherents to the Individual Treatment pattern have favored research strategies which also center on the individual delinquent:

"To understand delinquency, we must pursue research aimed at ferreting out the delinquent's unique characteristics--accumulating data about individual offenders through in-depth clinical observation and analysis, or through statistical comparison of 'matched' samples of delinquents and nondelinquents."²⁶

²⁵ Ibid., pp. 70-71 (footnotes deleted).

²⁶ Ibid., p. 29.

The focus of both treatment and research on juvenile delinquency, then, should be the individual delinquent, particularly his biological, psychological, and family history, who should then be compared on the same dimensions with "non-delinquents". Statistics which measure the properties of two "different" populations (e.g., t-test, A.O.V.) are normally utilized.

To the extent that the Individual Treatment reaction rests on the traditional focus of psychology (the individual) and early case-work studies, Schur's second patterned reaction--Liberal Reform--has its roots in certain sociological "delinquent gang" studies conducted in the late 1950's and early 1960's. These studies focused on the potential criminogenic aspects of the socioeconomic structure of society:

"If in both research and public policy the key reference point for the treatment reaction is the delinquent himself, the reform response devotes greater attention to the social class system, the neighborhood setting, and the group and subcultural contexts of youthful behavior."²⁷

Juvenile delinquency, to the Liberal Reformers, is a symptom of "pathological" social and economic conditions within society

²⁷ Ibid., p. 81.

to which certain youths are reacting in the form of anti-social behavior, or to which they are conforming (i.e., adhering to "pathological" subcultural value structures).

In particular, these research efforts focused not on all socioeconomic strata, but on the lower levels only. They did not focus, as a rule, on all types of delinquency, but primarily on "gang" or "group" delinquency, and on the social structure of the "gangs" themselves. There seemed to be an underlying assumption that juvenile delinquency was a lower-class phenomenon, and despite the seemingly greater prevalence of "gangs" in lower-class areas, the importance of these studies in terms of their theoretical import may be somewhat limited.²⁸ It was, to them, aspects of the lower class social order or "subculture" which laid open to its youths the path to criminal careers, as a way of "letting off steam" or of attaining acceptance, status, and sometimes material rewards. Such structurally-based factors as a relative lack of normative commitment to law-abiding behavior,²⁹ the

²⁸ See, e.g., Cohen, Delinquent Boys, 1958; Miller, "Lower Class Culture as a Generating Milieu of Gang Delinquency", 1958. Indeed, if lower-class culture generates lower-class gang delinquency, the question of theoretical import would be answered if middle- and upper-class cultures generated common middle- and upper-class forms of delinquency, respectively.

²⁹ Merton, "Social Structure and Anomie", 1938; Nye, et al, "Socioeconomic Status and Delinquent Behavior", 1958; Clark & Wenninger, "Socio-economic Class and Area Correlates of Illegal Behavior Among Juveniles", 1962.

presence of greater opportunity for law-breaking and concomitant lack of same for conventional behavior,³⁰ and the presence of norms and values specifically conducive to breaking the law³¹ in lower class social structures became the criminogenic factors of the Liberal Reform ideology.³²

Some parallels between the Individual Treatment and Liberal Reform reactions are apparent. The common denominator of these similarities is that both reactions are highly deterministic:

"Certainly the versions of constraint posited under the individual treatment and liberal reform reactions differ, and to that extent the logical policy implications under the two modes also differ; but both responses rest on the general notion that man's behavior is strongly determined, that there are powerful forces (whether 'internal' or 'external') that push the individual toward particular actions."³³

³⁰ Cloward & Ohlin, Delinquency and Opportunity, 1960.

³¹ Miller, supra, note 28; Kobrin, "The Conflict of Values in Delinquency Areas", 1951.

³² Hirschi further divides these types of theories into three more categories: strain, control, and cultural deviance theories. See Hirschi, Causes of Delinquency, 1969.

³³ Schur, supra, note 3, p. 30.

There is, then, an assumption of "differentness" between delinquent and non-delinquent in the Liberal Reform ideology as well as with Individual Treatment. However, to the Liberal Reformers, they are not different because they are acting on different personality traits, but because they are reacting to different environmental stimuli.

As Schur mentions, the shifting of the locus of causality from internal to external phenomena would alter one's outlook concerning particular criminal justice issues:

"From this standpoint, the root causes of delinquency are socioeconomic inequality, racism, and widely prevalent criminogenic value systems. Direct and meaningful measures to eliminate or reduce poverty, inequality of opportunity, and associated living conditions are seen to have a particularly strong potential for ultimately reducing crime and delinquency."³⁴

The key to delinquency prevention for the Liberal Reformers would then be the increased funding and implementation of programs aimed at eliminating these and other social ills.

Like Individual Treatment, the Liberal Reform adherents favor research strategies which compare different popu-

³⁴ Ibid., pp. 105-106 (footnotes deleted).

lations. However, rather than comparing different individuals, they would favor comparing groups from differing socioeconomic communities or ecological areas:

"Social theory begins with the observation that there are gross differences in the rate of delinquency by class, by ethnic affiliation, by rural and urban residence, by region, and perhaps by nation and historical epoch. From these gross differences, the sociologist infers that something beyond the intimacy of family surroundings is operative in the emergence of delinquent patterns; something in the cultural and social atmosphere apparent in certain sectors of society."³⁵

They are led, then, to the proposition that epidemiological analyses of delinquency-rate variations among different socioeconomic areas, i.e., the "distribution" of delinquency, should be the major focus of research efforts.³⁶

According to Schur, there are only minor differences between Individual Treatment and Liberal Reform on the role and focus of the juvenile court in reducing delinquency:

³⁵ Matza, Delinquency and Drift, 1964, p. 17; quoted in Schur, supra, note 3, p. 82.

³⁶ See, e.g., Eisner, The Delinquency Label, 1969.

"While the reformist favors community-based programs, he would not necessarily advocate abolishing efforts to rehabilitate individuals. All such efforts, he would argue, should reflect awareness of the social context in which the delinquency developed. Juvenile justice personnel should be given better training, especially in social science, and greater job incentives should be provided to attract more highly qualified individuals...In short, the reformist considers the overall system worth keeping--indeed in some ways it should be strengthened--but it should be given a broader sociocultural focus."³⁷

Basically, then, judges should simply broaden their horizons on considerations of causality and a youth's needs, particularly in their interpretation of the "social histories" of the youths who come before them.

In recent years, a third kind of ideology, which Schur calls Radical Non-Intervention, has crept into the scene. There are several theoretical bases for this ideology. Its adherents start with two assumptions: first, "juvenile delinquents" engage in more conventional behaviors than they do illegal behaviors; second, that many if not most youths engage

³⁷ Schur, supra, note 3, pp. 110-111.

in a good deal of illegal behavior, but are never caught. Anonymous, self-report studies of delinquent behavior seem to support the latter contention.³⁸

Given these assumptions, the theories put forth by proponents of the "situational approach" to understanding juvenile delinquency come into play.³⁹ Rather than being compelled by internal (Individual Treatment) or external (Liberal Reform) forces to engage in delinquent behavior, youths are seen as neither compelled nor constrained from taking part in illegal actions in any given situation. Employing a major tenet of the "symbolic interactionist" school of sociological thought,⁴⁰ that social situations in which individuals find themselves in daily life are fluid and are major predictors of how they will act in that and similar situations, youths are seen as "drifting" in and out of the realm of illegality:

³⁸ See, e.g., Murphy, et al, "The Incidence of Hidden Delinquency", 1946; Short & Nye, "Extent of Unrecorded Juvenile Delinquency", 1958; Erikson & Emprey, "Court Records, Undetected Delinquency, and Decision-Making", 1963; Gold, "Undetected Delinquent Behavior", 1966.

³⁹ See, e.g., Matza, supra, note 35; Cohen, Deviance and Control, 1966; Ohlin, A Situational Approach to Delinquency Prevention, 1970.

⁴⁰ For a detailed discussion of this school of thought in general, see, e.g., Blumer, Symbolic Interactionism, 1969; For a sampling of readings and research, see Manis & Meltzer (eds.), Symbolic Interaction, 1967.

"The image of the delinquent I wish to convey is one of drift; an actor neither compelled nor committed to deeds nor freely choosing them; neither different in any simple or fundamental way from the law abiding, nor the same; conforming to certain traditions in American life while partially unreceptive to other more conventional traditions... The delinquent transiently exists in a limbo between convention and crime, responding in turn to the demands of each, flirting now with one, now the other, but postponing commitment, evading decision. Thus he drifts between criminal and conventional action."⁴¹

The "image", thus far, is anti-deterministic in that structural and personality variables may contribute to a conscious decision to engage in illegal behavior,⁴² but does not determine whether or not one will. Radical Non-Interventionists generally will not look for the "causes" of delinquency, but will try to examine an array of factors which may influence a youth in a given situation to opt for the illegal act.⁴³

⁴¹ Matza, supra, note 35; quoted in Schur, supra, note 3, p. 136.

⁴² See Matza's notion of "will" in Becoming Deviant, 1969.

⁴³ For an interesting social-psychological scheme

Although most youths get away with many delinquent behaviors, a certain percentage of youths will get caught and be processed by juvenile justice authorities.⁴⁴ The Radical Non-Interventionists take this fact as their major point of departure and, using concepts from "labelling theory",⁴⁵ establish the interaction between the "drifting" (but apprehended) youth and the criminal justice agencies as the major "cause" of "juvenile delinquency":

"So-called delinquents, in this view, are not significantly different from non-delinquents--except that they have been processed by the juvenile justice system. What they suffer from, more than either problems of the psyche or socioeconomic distress, is contingencies. Processing contingencies significantly shape delinquency rates,

of multiple-factor causation in general, see LeVine, "Culture, Personality, and Socialization", 1969. Concerning crime and delinquency in particular, see Tornudd, "The Futility of Searching for Causes of Crime", 1971; Cohen, Juvenile Delinquency and Social Structure, 1951, pp. 5-13.

⁴⁴ Erikson theorizes that this "percentage" of labelled law-breakers is primarily a function of the "holding capacity" (personnel, facilities, norm-defining units) of a social system available in a given society. See Erikson, The Wayward Puritans, 1966, pp. 163-181 (chap. 4).

⁴⁵ See, e.g., Becker, Outsiders, 1963; Erikson, *supra*, note 44, and "Notes on the Sociology of Deviance", 1962; Kitzuse, "Societal Reaction to Deviant Behavior", 1964.

and in large measure also determine which specific individuals reach the various stages in the juvenile justice system."⁴⁶

Juvenile delinquency, or more specifically what is called the "juvenile delinquency problem", is primarily an artifact of differential and discriminatory processing decisions made by juvenile justice authorities. The original delinquent action was governed by situational factors. When the youth was caught, arrested, and further processed by authorities, he or she was then labelled a "delinquent", and these situational factors change. When one is officially labelled as such (i.e., gets a "record" or "rap sheet" in criminal justice agency files), he is treated differently not only by these authorities (i.e., becomes "known to police" and is subjected to continued police contact and questioning when similar offenses occur in the neighborhood)⁴⁷ but is often regarded by friends and neighbors with suspicion and distrust as well. When one is defined in the same way by so many so often, one begins to define oneself the same way. The adage, "If you want a youth to be a delinquent, the fastest way to insure it is to treat him like one", fits well into Radical

⁴⁶ Schur, supra, note 3, p. 154.

⁴⁷ See, e.g., Piliavin & Briar, "Police Encounters with Juveniles", 1964; Goldman, The Differential Selection of

Non-Interventionist thought.⁴⁸

Adherents to this ideological type see juvenile justice and "juvenile delinquency" as a power conflict between youths (and their parents) against the official enforcement mechanisms of the state. Their emphases are on building up the "community" as an alternate mechanism to deal with juvenile problems and the concomitant de-emphasis of the juvenile justice system's involvement in what they believe is essentially child-rearing. Schur describes this ideology as "universalistic" and "radical" compared to Liberal Reform because such issues as delinquency prevention involve considerably more than the relatively particularistic elimination of one social problem or another:

"Piecemeal socioeconomic reform will not greatly affect delinquency; there must be thoroughgoing changes in the structure and the values of our society. If the choice is between changing youth and changing society (including some of its laws), the radical non-interventionist opts for changing

Juvenile Offenders for Court Appearance, 1963.

⁴⁸ See, e.g., Goffman, Stigma, 1965, and Presentation of Self in Everyday Life, 1959; Lofland, Deviance and Identity, 1966. For an interesting example of how this process works, in both a positive and a negative sense, see Kinch, Social Psychology, 1973, pp. 81-82 and 208-213, respectively. And for a colorful description of this process in the person of Willie-the-Wiggler, see Wittman, "My Create-a-Criminal Kit", 1974.

the society."⁴⁹

In this view, then, the solution to the delinquency problem, and many others as well, is primarily a political one. It means a complete redistribution of power and its bases, particularly among individuals and their community on one hand, and the state and its agents on the other.⁵⁰

Like most tenets about research which have been propounded by the symbolic interaction school of thought, the Radical Non-Interventionists feel that the focal point of research should be the interaction between individuals and their situations and environment. The primary interaction of concern here is that of individual youths and their parents and community with the social control agencies.⁵¹

The juvenile court's role in this process is, put simply, as little as possible:

"Thus, the basic injunction for public policy becomes: leave the kids alone wherever possible...
The juvenile justice system should concern itself

⁴⁹ Schur, supra, note 3, p. 155.

⁵⁰ See also Martin, Toward a Political Definition of Juvenile Delinquency, 1970.

⁵¹ Schur, supra, note 3, pp. 160-165. See also his Table I, p. 20.

less with the problems of so-called 'delinquents', and more with dispensing justice...Individualized justice must necessarily give way to a return to the rule of law. This means that while fewer types of youthful behavior will be considered legal offenses, in cases of really serious misconduct such traditional guidelines as specificity, uniformity, and nonretroactivity ought apply. Juvenile statutes should spell out very clearly just what kinds of behavior are legally proscribed and should set explicit penalties for such violations (with perhaps some limited range of alternatives available to sentencing judges)."⁵²

Theoretically, then, Radical Non-Interventionists share many beliefs with Platt's Constitutionalists.

Schur does not elaborate on his remaining patterned reaction--what he calls Get Tough. In its clearest form, this type of thinking is characterized most notably by a belief in stern punishment by authorities (parental and judicial) for youthful wrongdoing. Juvenile delinquency is primarily the result of some "rotten apples" who enjoy making others miserable, and whose parents should have taken a shelele to

⁵² Ibid., pp. 155, 168, 169.

at an early age. And since they probably did not, the courts should now.

To the Get Tough types, most research on juvenile delinquency is a useless waste of time and money, and in the end amounts to little more than making excuses for young criminals. To them, delinquents are "bad" by their own choice, a notion which Schur attributes, at least in part, to "the powerful 'good guys and bad guys' theme" in American popular culture.⁵³ It is interesting to note that these "heightened notions of individual responsibility",⁵⁴ which is different from the psychological causation theory of Individual Treatment, reflect a strong anti-determinism and gives the Get Tough types something in common with the Radical Non-Interventionists. Schur points out, however, that measures employed by the Radical Non-Intervention types:

"...would not constitute a 'get tough' policy so much as a 'deal evenly' one, and--it should again be emphasized--they would apply to a much narrower range of 'offenses' than now exist."⁵⁵

In other words, anti-determinism may be all they have in

⁵³ Ibid., p. 19.

⁵⁴ Schur, personal letter dated November 25, 1974.

⁵⁵ Schur, supra, note 3, p. 22.

common.

Although Schur suggests that the consequential policy of juvenile justice may have underlying strains toward the Get Tough reaction,⁵⁶ he believes that institutional policy in juvenile justice has been dominated by Individual Treatment and Liberal Reform thinking,⁵⁷ and that the two are not really distinguishable in practice:

"Some of the more sophisticated methods of 'treating' individuals clearly take socioeconomic status and cultural context into account, and practitioners who use these methods may well hold 'liberal reform' assumptions. Similarly, efforts to control delinquency through the community and 'street' activities that reform premises dictate cannot avoid dealing with (if not formally 'treating') individuals. Furthermore, certain critics of liberal reform have suggested that basic assumptions of the treatment model (particularly the differentness, even the blameworthiness, of the offender) continue to lurk behind policies supposedly concerned with

⁵⁶ Ibid., pp. 19-21. See also Platt, supra, note 5, pp. 176-181, part of which is quoted in Schur, p. 21.

⁵⁷ Schur, supra, note 3, p. 22.

more general social reform."⁵⁸

He also claims that the Get Tough ideology "does not exert at present a significant influence on delinquency policies,"⁵⁹ at least not overtly.

One might be tempted to say that, since "diversion" programs and restraints on the juvenile court are coming fast and furious today, the Radical Non-Interventionists are beginning to get their way. And it is true that some voices are beginning to be heard in high places which may be friendly to this ideology--like from a judge of the U. S. Court of Appeals in Washington, D.C.:

"If we somehow managed to make our juvenile courts more efficient, we might only succeed in cranking out delinquents more efficiently...The youth who cannot make it with his own parents needs a room at the Y, a foster home, a supervised shelter, or some sort of home substitute that will work for him. And the parents who couldn't handle him may well need counselling or other assistance themselves. If the juvenile court had no jurisdiction to commit children in such situations, the community would

⁵⁸ Ibid., pp. 22-23.

⁵⁹ Ibid., p. 19.

have to come up with a solution. Neither the parents nor the community need to look for solutions while the juvenile court is available."⁶⁰

As can be detected from the final sentence, Judge Bazelon's tone is not that the juvenile court has deliberately overstepped itself, but that it was forced into doing so.⁶¹ In any case, these kinds of statements, particularly concerning "dependency" and "status offense" cases, are becoming more frequently heard from potential influencers of policy-makers.

However, programs designed to divert juvenile offenders away from formal criminal justice system processing are a mixed bag. Many are operated entirely by criminal justice agencies (a contradiction in terms?), many are operated by private individuals and groups but are totally dependent upon the good will of criminal justice agencies for referrals, and the few which seem to be "independent" operations normally do depend quite heavily on some state or Federal agency for funding (i.e., survival).⁶² In addition, there are no juvenile

⁶⁰ Bazelon, "Beyond Control of the Juvenile Court", 1971, p. 3.

⁶¹ He may have a good argument, particularly in the case of "status offenders". It is seemingly true that most formal petitions for court intervention of this type come from exasperated parents. See, e.g., Mahoney, "PINS and Parents", 1974.

⁶² For generally good descriptive commentaries on

diversion programs which are mandatory in juvenile court sentencing.

Related to this last comment is the question of the restraints being placed on the juvenile court. These have almost exclusively concerned procedural due process. They have left judicial discretion at the dispositional phase of processing, with few exceptions, virtually untouched.

In short, although the "diversion" idea has caught on, some constraints are now on juvenile justice processing, and big people are talking, the Radical Non-Interventionist "movement" (if it can be called that) has seemingly yet to begin. All the prerequisite shifts in power relationships described earlier have remained essentially undone.

Whereas Platt's categories were based upon "reactions" to the advent of a particular, well-documented historical conflict (the juvenile court movement of the late 1800's), it is sometimes difficult to ascertain the roots of Schur's

various diversion projects, see Lemert, Instead of Court, 1971; California Department of the Youth Authority, Youth Service Bureaus, 1972; National Institute of Law Enforcement and Criminal Justice, New Approaches to Diversion and Treatment of Juvenile Offenders, 1973. For an encapsulization of justifications for the diversion of status offenders from the criminal justice system, see Couch, "Diverting the Status Offender from the Juvenile Court", 1974. Two publications of the National Assessment of Juvenile Corrections are also relevant. Concerning diversion in particular, see Cressey & McDermott, Diversion from the Juvenile Justice System, 1973. Concerning juvenile corrections in general, including diversion programs, see Vinter, et al, Time Out, 1976.

typology. It seems to reflect, for the most part, certain educational (or lack thereof) biases. First, his concern with different types of "research procedures" and public policies, gleaned from his literature search, leads one to believe that his object populations, the group he is writing to, is social scientists and those public policy-makers who are educated in the social sciences.

Second, the differences between his Individual Treatment and Liberal Reform modalities seem to reflect a traditional psychology-sociology arena of conflict. The former focusses on the individual, the latter on socioeconomic structure. The differences between Liberal Reform and Radical Non-Intervention ostensibly reflect the differences within sociology between "structural" and "interactionist" perspectives. The Get Tough reaction appears to be a category for the "uneducated", or at least those not educated in psychology or sociology. The fact that he did not spend much time on this type of reaction further indicates that he was primarily concerned with social scientists. The Get Tough people presumably get their views on criminal justice issues from American popular culture (the "good-guys vs. bad-guys" syndrome), unaided by a social science educational "filter" for this phenomenon.

The issues around which Schur's discussion centered did not have to be inferred, as in Platt's work, but were

directly stated at the beginning of the book. The four issues chosen for quantification here were: "basic assumptions about causation", "delinquency prevention", "focal point of research", and the proper "role of the juvenile justice system".⁶³ Tables 14-17 show the response distributions for each of the four ideological types on the four selected issues. As in previous tables, the actual items used to measure any given issue on any typology appear below the frequency distribution table.

On the first issue, "basic assumptions about causation", Table 14 shows no majority opinion on the causes of delinquency. The item with the highest agreement (49%) and the lowest disagreement (30%) is the Liberal Reform opinion, but this item causes some doubt since it also showed the highest "neutral" percentage (21%). The item does not seem particularly vague, at least no more so than any of the other items with less "neutral" responses, so it may indicate a

⁶³ See the chart in Schur, supra, note 3, p. 20. There are actually seven issues stated there. It was felt that two of the others, "favored methodologies" and "representative causal perspectives", were subsumed to a great extent in "focal point of research" and "basic assumptions about causation", respectively. Also, they referred to social science phenomena (e.g., "ecological analysis", "anomie theories", etc.) with which the responding juvenile court judges may be unfamiliar if read on a questionnaire item, and which could be inferred by sociologists from the responses on the four issues used. The remaining issue, "treatment", seemed simply too vague in its descriptions as differentiated across ideological categories. Items attempting to measure positions on this issue would necessarily be vaguer yet.

certain hesitancy of response. The Get Tough and Radical Non-Intervention items brought on a considerable number of disagreements (81% and 77%, respectively), and the Individual Treatment statement on this issue brought out a mixed reaction, though more disagreement than agreement (49% vs. 38%, respectively). All of these taken together seem to indicate that the judges know what the causes of juvenile delinquency are not, but are less sure, or at least unwilling to commit themselves, about what they are. It is also possible that they see some value in all of them, but reject single-cause theories about causation, and as such, rejected the items individually.

Concerning "delinquency prevention", Table 15 shows that by far the greatest agreement among the judges (82%) was with the Individual Treatment item. The Liberal Reform position showed a split response, with greater agreement than disagreement (46% vs. 31%, respectively), yet again we see a high percentage of "neutral" responses (23%). The same is true in this instance of the Get Tough item, except that there were more disagreements than agreements (41% vs. 38%, respectively, with 21% "neutral"). The item showing the strongest negative reaction (58%) was the Radical Non-Interventionist statement. The judges here seem to agree most with the traditional parens patriae method of delinquency prevention, which is part of the Individual Treatment philosophy.

TABLE 14

SCHUR: BASIC ASSUMPTIONS ABOUT CAUSATION

Type	Responses:					
	(5) SA	(4) A	(3) N	(2) D	(1) SD	
Get Tough ^(a)	3%	9%	7%	61%	20%	(242)100%
Individual Treatment ^(b)	3%	35%	13%	44%	5%	(237)100%
Liberal Reform ^(c)	2%	47%	21%	29%	1%	(238)100%
Radical Non-Intervention ^(d)	(0)	8%	15%	55%	22%	(238)100%

(a) "'Juvenile delinquency' is primarily the result of a few 'bad apples' who enjoy making life miserable for others."

(b) "Juvenile delinquency is primarily a symptom of certain personality defects of individual youths."

(c) "Juvenile delinquency is primarily a symptom of pathological social and economic conditions within society to which certain youths have been exposed and to which they are reacting."

(d) "'Juvenile delinquency' primarily reflects differential and discriminatory processing decisions made by agents of the juvenile justice system."

TABLE 15
SCHUR: DELINQUENCY PREVENTION

Type	Responses:					
	(5) SA	(4) A	(3) N	(2) D	(1) SD	
Get Tough ^(a)	9%	29%	21%	36%	6%	(242)101% ^(e)
Individual Treatment ^(b)	22%	60%	10%	6%	1%	(240) 99% ^(e)
Liberal Reform ^(c)	4%	42%	23%	31%	(0)	(239)100%
Radical Non-Intervention ^(d)	3%	22%	17%	43%	16%	(241)101% ^(e)

- (a) "The key to delinquency prevention is in parents who are not afraid to paddle their children when they misbehave."
- (b) "The key to delinquency prevention is in the early identification and intensive treatment of potential delinquents."
- (c) "The key to delinquency prevention is in increased funding of existing community-oriented programs which are aimed at such things as unemployment and poverty."
- (d) "The key to delinquency prevention is in collective programs designed to engender massive and complete reform at all levels of American society, particularly those programs which involve none-to-minimal intervention of the juvenile justice system into the lives of youths."
- (e) Differences from 100% due to rounding.

TABLE 16

SCHUR: FOCAL POINT OF RESEARCH

Type	Responses:					
	(5) SA	(4) A	(3) N	(2) D	(1) SD	
Get Tough ^(a)	3%	10%	17%	55%	15%	(240)100%
Individual Treatment ^(b)	6%	43%	23%	26%	2%	(240)100%
Liberal Reform ^(c)	2%	20%	35%	35%	7%	(235) 99% ^(e)
Radical Non-Intervention ^(d)	6%	55%	17%	21%	1%	(239)100%

(a) "Most research on juvenile delinquency amounts to making excuses for young criminals."

(b) "The major focus of research on juvenile delinquency should be the biological, psychological, and social-psychological histories of individual delinquents."

(c) "The major focus of research on juvenile delinquency should be the distribution of delinquency among different communities and various levels of the socio-economic class structure."

(d) "The major focus of research on juvenile delinquency should be on the interaction between the processes of the juvenile justice system and the youths who come in contact with them."

(e) Differences from 100% due to rounding.

TABLE 17

SCHUR: ROLE OF JUVENILE JUSTICE SYSTEM

Type	Responses:						
	(5) SA	(4) A	(3) N	(2) D	(1) SD		
Get Tough ^(a)	3%	15%	12%	54%	17%	(239)	101% ^(e)
Individual Treatment ^(b)	25%	62%	8%	5%	(0)	(232)	100%
Liberal Reform ^(c)	21%	65%	8%	7%	(0)	(236)	101% ^(e)
Radical Non-Intervention ^(d)	3%	23%	21%	48%	5%	(237)	100%

(a) "The focus of the juvenile justice system in reducing delinquency should be getting judges who are not afraid to deal out stern punishments to young criminals."

(b) "The focus of the juvenile justice system in reducing delinquency should be the personal needs of the youth and the treatment of his individual problems."

(c) "The focus of the juvenile justice system in reducing delinquency should be the social, economic, and cultural factors that generate delinquent behavior, and in attracting juvenile justice personnel with advanced training and expertise in this area."

(d) "The focus of the juvenile justice system in reducing delinquency should be in narrowing the jurisdiction of juvenile justice through formalization of juvenile codes and juvenile court procedures in accordance with the Constitution."

(e) Differences from 100% due to rounding.

The responses on the third issue, the proper "focal point of research" on juvenile delinquency, appears in Table 16. Interestingly, the highest agreement, a majority (61%), is with the Radical Non-Interventionist item. It is possible, however, that the judges' concern with the individual in relation to the criminal justice system is a matter of "caseflow", i.e., the speed of processing youths through the court and consequent reduction in court "backlog". This is not the way the item was intended to be interpreted, but given the answers to the items on the first two issues, it seems a plausible possibility.

The highest disagreement was with the Get Tough statement (70%). The Individual Treatment items showed some high agreement (49%), and again, the most notable characteristic of the Liberal Reform response was the high percentage of "neutrals" (35%). This figure is higher than the agreement percentage on that item, and almost as high as the disagreement proportion.

The response distribution for the last issue considered, the appropriate "role of the juvenile justice system" in reducing delinquency, is illustrated in Table 17. The greatest agreement here is with the Individual Treatment (87%) and Liberal Reform (85%) items,⁶⁴ and the majority of judges

⁶⁴ The highest item non-response on Schur's items was on the Individual Treatment reaction in Table 17 (10, or 4.1%),

disagreed with both the Get Tough and Radical Non-Intervention reactions.

Among juvenile justice policy-makers, Schur declares that some combination of Individual Treatement and Liberal Reform is the favored ideological type. Given an overview of these four item-response tables, this would seem to be true among practicing juvenile court judges as well. Get Tough scores "low" (high percentage of disagreement) on three issues and split on one ("delinquency prevention"). Radical Non-Intervention scores low on three issues and "high" (high percentage of agreement) on one ("focal point of research"), and there are possible doubts about the respondents' interpretation of the latter item. Liberal Reform scores high on one ("role of juvenile justice") and split on the other three, although with high pluralities of agreement on two of the latter. Individual Treatment scores high on two issues ("delinquency prevention" and "role of juvenile justice") and split on the other two, although both of the latter had high pluralities of agreement.

The predominance of the Individual Treatement and Liberal Reform types is further indicated by the score distribution and means of the summated ideology scores in Table 18.

which is very small. It was interesting, at least to me, to note the relatively low percentage of "neutral" responses on the Liberal Reform item on this table, compared to that of previous tables. I had considered this item to be the most complex of all Liberal Reform position statements.

TABLE 18
SCHUR: SUMMATED SCORES

Type	\bar{X}	<u>Grouped Summated</u> <u>Scores:</u>				
		4-8	9-12	13-16	17-20	
Get Tough	(9.7)	40%	44%	14%	3%	(237)101%(a)
Individual Treatment	(14.1)	1%	23%	62%	15%	(226)101%(a)
Liberal Reform	(13.1)	4%	34%	57%	6%	(227)101%(a)
Radical Non- Intervention	(10.8)	18%	59%	22%	(1)	(232) 99%(a)

(a) Differences from 100% due to rounding.

The highest scores are on these two types, with Radical Non-Intervention falling a poor third and Get Tough scoring lowest of all.

The first measure of the consistency of ideological types, the "intratype" correlations among issues, appears in Table 19. All six correlations under Get Tough are greater than the .20 lower guideline stated earlier. This is followed by three of the six in Liberal Reform, and two of the six in the remaining two types. In these latter cases, however, most barely get above this lower guideline.

The second measure, the prevalence of strong negative correlations between the types on any issue, can be seen in the correlation matrices in Table 20. These matrices show the items to have little ability to differentiate competing ideologies. A few negative correlations do occur, but their magnitudes are barely greater than zero. Although the Get Tough ideology shows relatively strong internal consistency with itself, there is still a fair amount of co-agreement and co-disagreement between ideological types, and many of the high correlations within the Get Tough ideology can probably, as in the case of Platt's Moralism, be attributed to the respondents' consistent disagreement with these items, regardless of what they actually agreed with.

As with Platt, the summated score correlations in Table 20 were run again, controlling for each test factor

TABLE 19
SCHUR: INTRATYPE CORRELATIONS

Type/Issue	Caus- ation Assump.	Delin- quency Prev.	Focal Pt. of Res.	Role of . Juv. Just.
<u>Get Tough:</u>				
Causation Assump.	---	(242)	(240)	(239)
Delinquency Prev.	.323	---	(240)	(239)
Focal Pt. of Res.	.440	.349	---	(237)
Role of Juv. Just.	.396	.442	.338	---
<u>Individual Treatment:</u>				
Causation Assump.	---	(235)	(235)	(227)
Delinquency Prev.	.211	---	(240)	(231)
Focal Pt. of Res.	.177	.086	---	(231)
Role of Juv. Just.	.146	.168	.211	---
<u>Liberal Reform:</u>				
Causation Assump.	---	(236)	(232)	(234)
Delinquency Prev.	.200	---	(233)	(234)
Focal Pt. of Res.	.195	.175	---	(229)
Role of Juv. Just.	.211	.229	.153	---
<u>Radical Non-Intervention:</u>				
Causation Assump.	---	(237)	(235)	(235)
Delinquency Prev.	.251	---	(238)	(236)
Focal Pt. of Res.	.108	.101	---	(235)
Role of Juv. Just.	.208	.167	.133	---

TABLE 20
SCHUR: INTERTYPE CORRELATIONS

Issue/Type	Get Tough	Indiv- idual Treatment	Liberal Reform	Radical Non- Interv.
<u>Basic Assumptions About Causation:</u>				
Get Tough	---	(237)	(238)	(238)
Individual Treatment	.225	---	(233)	(233)
Liberal Reform	-.006	.135	---	(236)
Radical Non-Interv.	.196	.140	.138	---
<u>Delinquency Prevention:</u>				
Get Tough	---	(240)	(239)	(241)
Individual Treatment	.136	---	(238)	(239)
Liberal Reform	.040	.082	---	(238)
Radical Non-Interv.	.061	.088	.186	---
<u>Focal Point of Research:</u>				
Get Tough	---	(238)	(233)	(237)
Individual Treatment	-.002	---	(234)	(237)
Liberal Reform	.142	.041	---	(232)
Radical Non-Interv.	-.031	.033	.172	---
<u>Role of Juvenile Justice System:</u>				
Get Tough	---	(231)	(235)	(236)
Individual Treatment	-.008	---	(231)	(230)
Liberal Reform	-.010	.163	---	(234)
Radical Non-Interv.	.186	-.103	.046	---
<u>SUMMATED SCORES: (a)</u>				
Get Tough	---	(224)	(224)	(229)
Individual Treatment	.223	---	(218)	(220)
Liberal Reform	.109	.258	---	(222)
Radical Non-Interv.	.232	.162	.431	---

(a) Correlations are for ungrouped summated scores.

category. The types failed to show any strong negative correlations within any category. The pattern of correlations held regardless of the test factor, with the occasional exception of the correlation between Individual Treatment and Liberal Reform (.258) and between Get Tough and Individual Treatment (.223). Although no discernible pattern emerged, these correlations dropped to near zero for several categories of test factors. The correlation between Get Tough and Radical Non-Intervention, despite the fact that it held for the test factors, is difficult to interpret exactly, but it is most plausibly due to the large amount of general disagreement with both types. Because of this, it would be difficult to find an indication of a direct relation, despite Schur's statement of the anti-deterministic commonality of the two types.

The theoretically interesting correlation in Table 20 is the .431 between Liberal Reform and Radical Non-Intervention. Unlike the latter and Get Tough types, the response distributions between the two types are quite dissimilar, so the relatively high correlation cannot be attributed to general agreement or disagreement with both. This correlation also held for all categories of test factors, even in one case when all five of the other correlations dropped to near zero (among judges in the Western region of the U. S.). The conclusion, then, could be that, despite Schur's efforts to por-

tray the similarities in theoretical underpinnings of Individual Treatment and Liberal Reform, judges in the field expression their positions on issues indicate a closer correspondence between Radical Non-Intervention and Liberal Reform. This also indicates that despite the predominance of the Individual Treatment and Liberal Reform reactions among the judges as a whole, the two types are often seen as exclusive of each other.

As in the analysis of Platt's work, the grouped summated score distributions were also examined controlling for the test factors. Table 21 illustrates, first of all, an interesting relationship between age group and Radical Non-Intervention score. Although the one individual who scored in the highest category on Radical Non-Intervention was under 45 years of age, a plurality of those in the next highest score group (40%) were over 61 years old (followed by 38% who were between 46 and 60). The seeming conclusion for true Radical Non-Interventionists is for them not to stress getting younger (and presumably more "radical") judges on the juvenile bench. The table shows that they are more likely to find friends among older judges.

Table 21 also shows the relationship between time spent on juvenile matters and Get Tough summated scores. People of the Get Tough persuasion would seemingly do well to stem the tide of calls for full-time juvenile court judges,

TABLE 21

GET TOUGH AND RADICAL NON-INTERVENTION SUMMATED SCORES
VS. VARIOUS TEST FACTORS

	<u>Grouped Summated</u> <u>Score:</u>					
<u>Test Factor</u>	<u>4-8</u>	9-12	13-16	17-20		
<u>Radical Non-Intervention:</u> (a)						
1) <u>Age Group:</u>						
45 or Less	26%	20%	22%	(1)		
46 - 60	52%	58%	38%	(0)		
61 or Over	<u>21%</u>	<u>23%</u>	<u>40%</u>	<u>(0)</u>		
	99% (e)	101% (e)	100%	(1)		
	(42)	(137)	(50)	(1)	(230)	
<u>Get Tough:</u> (b)						
2) <u>Time Spent on</u> <u>Juvenile Matters:</u>						
25% or Less	33%	44%	19%	4%	(144)	100%
Half or More	48%	44%	7%	2%	(61)	101% (e)
All/Virtually All	58%	38%	4%	(0)	(24)	100%
					<u>(237)</u>	
<u>Get Tough:</u> (c)						
3) <u>Net Dispositional</u> <u>Alternatives:</u>						
4 or Less	29%	46%	23%	3%	(35)	101% (e)
5 - 7	37%	44%	15%	4%	(139)	100%
8 or More	51%	44%	5%	(0)	(63)	100%
					<u>(237)</u>	
<u>Radical Non-Intervention:</u> (d)						
4 or Less	9%	46%	46%	(0)	(35)	101% (e)
5 - 7	19%	64%	16%	1%	(135)	100%
8 or More	21%	55%	24%	(0)	(62)	100%
					<u>(232)</u>	

(a) Df=6, chi-sq=11.649, p=.0703, r (ungrouped) = .086.

(b) Df=6, chi-sq=24.935, p=.0004, r (ungrouped) = -.279.

(c) Df=6, chi-sq=11.584, p=.0719, r (ungrouped) = -.216.

(d) Df=6, chi-sq=16.160, p=.0129, r (ungrouped) = -.152.

(e) Differences from 100% due to rounding.

since higher Get Tough scores are associated with less time spent on juvenile matters. The table also illustrates that higher Get Tough scores also associate negatively with number of available dispositional alternatives. However, Radical Non-Interventionists should have mixed emotions about increasing the number of dispositional alternatives available to judges, despite the fact that the proposition may be related in some way to their cause. The table also shows that the number of such alternatives also associates negatively with Radical Non-Intervention, although not to the extent that it does with Get Tough. They may take some solace, however, in the fact that some 46% of those reporting 4 or less alternatives available did score in the second highest category of Radical Non-Interventionism.

The first general conclusion concerning Schur's typology is that, like Platt, the types do not differentiate into competing ideologies among contemporary juvenile court judges. There was much overlap in agreement and disagreement between the types, although the Get Tough type did show some internal consistency of seemingly general disagreement.

Secondly, juvenile court judges generally adhere to the "treatment" philosophy of traditional juvenile justice, but they also have expanded it to include, as Schur puts it, "a broader sociocultural focus". This is indicated by the high agreement with both Individual Treatment and Liberal Re-

form positions. However, there is an indication that some of the Liberal Reformers are not the same judges as those who subscribe to the Individual Treatment ideology, and since there was a high correlation between Liberal Reform and Radical Non-Intervention ideologies, we may actually have only three ideological types among the judges. They would be the few Get Tough people, a combination of Individual-Treatment/Liberal-Reform group who probably make up a majority or strong plurality, and a smaller group of Liberal-Reform/Radical-Non-Interventionists who show little orientation to the individual delinquent.

Benjamin Cardozo's "Nature of the Judicial Process"

The typologies of Anthony Platt and Edwin Schur addressed issues which are relevant to the day-to-day operational life of the juvenile court--the management and control of juvenile offenders brought before the court. Variations in beliefs about the causes of delinquency, methods of delinquency prevention, the relative flexibility and informality of juvenile court proceedings and challenges to same by recent Supreme Court decisions, and the role that the juvenile courts play in decreasing juvenile delinquency are the stuff of many contemporary writers. However, one seldom sees in the literature an attempt to get at judicial feelings concerning more general aspects of the judicial and legal systems.

The juvenile court is part of the larger legal and

criminal justice order in the U. S., which is, in turn, a part of the nation's political institutions. Juvenile court judges may never hand down "landmark" decisions (although some may become so later) and they may have little time to ponder the philosophical and theoretical nature of the law, but they are certainly affected by these institutional contingencies. For that reason, the next typology was included, which is based on beliefs concerning the legal order, legal philosophy, and judicial decision-making in general.

The late jurist Benjamin Cardozo delivered a series of lectures in 1920 at Yale University Law School where he discussed, among other things, his scholarly as well as impressionistic evaluation of what he called "judge-made law". The lectures were published from transcribed accounts in 1921 under the title The Nature of the Judicial Process, and they have received considerable attention since then among students and practitioners of law and legal science.

Cardozo characterized judge-made law as those court decisions, particularly at the appellate level, which interpret legislatively-enacted laws whose intentions and meanings are ambiguous, nonexistent, or inapplicable to a case at hand. Quoting Gray, Cardozo states that:

"...the difficulties of so-called interpretation arise when the legislature has had no meaning at all; when the question which is raised on the stat-

ute never occurred to it; when what the judges have to do is, not to determine what the legislature did mean on a point which was present in its mind, but to guess what it would have intended on a point not present to its mind, if the point had been present."⁶⁵

Judges have had to do this kind of thing for many years with pornography statutes and their phrases such as "redeeming social importance" and, currently, "prevalent community standards".

Cardozo claims that, through their decision-making authority, judges must supply meaning to the "interstices" in the law that were unforeseen by those who enacted it:

"...codes and statutes do not render the judge superfluous, nor his word perfunctory and mechanical. There are gaps to be filled. There are doubts and ambiguities to be cleared. There are hardships and wrongs to be mitigated if not avoided. Interpretation is often spoken of as if it were nothing but the search and discovery of a meaning which, however obscure and latent, had none the less a real and ascertainable pre-

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Cardozo, supra, note 2, p. 15 (footnotes deleted).

existence in the legislator's mind."⁶⁶

The judge looks for the "creative energy" behind the law, and when it is not apparent or cannot be found at all, he supplies it.⁶⁷

What Cardozo is describing is a legal order that we earlier called a "permissive system", and pointing out in a general way the places where judicial discretion has the least constraints upon it, i.e., in unforeseen "gaps" in the statutes. As such, Constitutional and statutory law are not rigid imperatives to the judges who administer them. That such judicial discretion will be exercised was not a bone of contention to Cardozo:

"I am not concerned to inquire whether judges ought to be allowed to brew such a compound at all. I take judge-made law as one of the existing realities of life."⁶⁸

What he considered important was how this law, this "compound", comes about and endures, i.e., the "directive forces" of

⁶⁶ Ibid., pp. 14-15.

⁶⁷ Ibid., pp. 18-19.

⁶⁸ Ibid., p. 10. See also his comments on Chief Justice Marshall in shaping the U. S. Constitution (pp. 169-170) and his quotation of Geny (pp. 173-174).

judge-made law.⁶⁹

According to Cardozo, when a judge is faced with a situation where the correct application of statutory law is ambiguous or non-existent, he first consults the past decisions of other judges in ostensibly similar cases, i.e., he looks to "precedents":

"Back of precedents are the basic juridical conceptions which are the postulates of judicial reasoning, and farther back are the habits of life, the institutions of society, in which those conceptions had their origin, and which, by a process of interaction, they have modified in turn. None the less, in a system so highly developed as our own, precedents have so covered the ground that they fix the point of departure from which the labor of the judge begins. Almost invariably, his first step is to examine and compare them."⁷⁰

Cardozo, then, recognized well the power of precedents in the shaping and persistence of law, and which he stated is both necessary and inevitable:

⁶⁹ Ibid., p. 30.

⁷⁰ Ibid., pp. 19-20 (footnotes deleted).

"...the labor of judges would be increased almost to the breaking point if every past decision could be reopened in every case, and one could not lay one's own course of bricks on the secure foundation of the courses laid by others who had gone before him."⁷¹

Precedent, then, is the first and foremost "directive force" behind judge-made law.

Cardozo also recognized that, in most cases, several contradictory precedent-setting decisions could apply:

"The sentence of today will make the right and wrong of tomorrow. If the judge is to pronounce it wisely, some principles of selection there must be to guide him among all potential judgments that compete for recognition."⁷²

Different sets of precedents, as well as overlapping sets put together in different ways, may lead a judge to very different decisions. And it is this compilation and choice of precedents, done at the "point of departure" of judge-made law--when the precedents are examined and the solutions is not

⁷¹ Ibid., p. 149.

⁷² Ibid., p. 21.

cut-and-dried--where one must begin to examine the personal "principles of selection" of the judge.

Referring to judge-made law, Cardozo claims that:

"Not a judge on the bench but has had a hand in the making. The elements have not come together by chance. Some principle, however unavowed and inarticulated and subconscious, has regulated the infusion."⁷³

This subconscious element which regulates judge-made law and its creation is a "steering system" within individual judges which, in the end, according to Cardozo, determines its content:

"There is in each of us a stream of tendency, whether you choose to call it philosophy or not, which gives coherence and direction to thought and action. Judges cannot escape that current any more than other mortals. All their lives, forces which they do not recognize and cannot name, have been tugging at them--inherited instincts, traditional beliefs, acquired convictions; and the result is an outlook on life, a conception of social needs, a sense in James' phrase of

⁷³ Ibid., p. 11.

'the total push and pressure of the cosmos',
which, when reasons are nicely balanced, must
determine where choice must fall."⁷⁴

This "stream of tendency" is, then, the cognitive determinant of behavior, encompassing such concepts as beliefs and attitudes ("convictions"), values, and "inherited instincts".⁷⁵ What he calls "philosophy" is what we have called "ideology", i.e., a group of behavior-influencing, particularistic cognitive phenomena conceptualized as a single unit.

As with Schur, the idea of a subconscious "consistency" between action and ideology enters Cardozo's formulation. Quoting James Harvey Robinson, Cardozo states:

"We are suggestible not merely when under the spell of an excited mob or a fervent revival, but we are ever and always listening to the still small voice of the herd, and are ever ready to defend and justify its instructions and warnings, and accept them

⁷⁴ Ibid., p. 12 (footnotes deleted).

⁷⁵ Concepts such as "human instincts" and "human nature" were heavily in use in scholarly circles at the time. Cooley's Human Nature and the Social Order and Wallas' Human Nature and Politics (the latter of which Cardozo references) were relatively popular among social scientists and other academics in the early part of the century. This concept, however, varied in its meaning from writer to writer, so it is difficult to determine whether Cardozo's use of the term "inherited" referred to cultural transfer and socialized behavior

as the mature results of our own reasoning."⁷⁶

This inarticulated, unconscious loyalty one one's ideology in decision-making (and to that of one's significant groups or the community, i.e., the "herd") is a form of a "hidden agenda" in judge-made law, resulting in judges being "...kept consistent with themselves, and inconsistent with one another".⁷⁷

This inconsistency between judges leads Cardozo to postulate four ideological types through which judges "make law", particularly in their use and interpretation of precedents for that purpose:

"The directive force of a principle may be exerted along the line of logical progression; this I will call the rule of analogy or the method of philosophy; along the line of historical development; this I will call the method of evolution; along the line of the customs of the community; this I will call the method of tradition; along the lines of justice, morals, and social welfare, the mores of the

patterns or to genetic motive forces and innate reactions to certain stimuli, or possibly both, or neither in particular.

⁷⁶ Cardozo, supra, note 2, pp. 175-176 (footnotes deleted).

⁷⁷ Ibid., p. 12.

day; and this I will call the method of sociology."⁷⁸

Terminology is often a problem for the reader of Cardozo here. He alternately refers to these ideologies as the methods of "logic", "history", "custom", and "social utility", respectively. His usage of the term "sociology" is also not the customary one among sociologists of today. However, we will retain the terms used in the major chapter headings of the book, since they are the most often employed: the Methods of Philosophy, History, Tradition, and Sociology, respectively.

The first of his four types is the Method of Philosophy. It refers to a subconscious adherence to order and logic, and decision-making which exemplifies this in both process and outcome. In this type, consistency with ideology may be a conscious process in that action should reflect consistency for its own sake. In using precedent as a criteria of decision-making in cases at hand, a judge who adheres to this method would pay particular attention to constructing an orderly progression of precedents. Then, by applying rules of formal logic, he or she would hand down a decision such that the written opinion of judgment would read as a paragon of exemplary logical reasoning. To Cardozo, this method was simply the result of an "...intellectual passion for elegantia

⁷⁸ Ibid., pp. 30-31.

juris, for symmetry of form and substance."⁷⁹

An assumption which underlies this position is that the law itself is a logical, symmetrical entity.⁸⁰ And if parts of it are not, then they should be made so. To Cardozo, these individuals view the law as irrelevant to the particular historical circumstances at the point of creation or modification, as if formal logic were the reason for the law's existence rather than a method of interpreting it:

"These variant conclusions are not directed by variant considerations of policy or justice. They are projections of a principle to its logical outcome, or the outcome supposed to be logical."⁸¹

This method, then, allows a judge to pay little or no attention to the decision itself, its effects upon the participants in the case, or the community reaction to the decision. In short, the means to others is an end itself to the Method of Philosophy, and the law per se becomes an object manifestation, a "reification", of the ideal of symmetry.⁸²

⁷⁹ Ibid., p. 34 (footnotes deleted).

⁸⁰ Ibid., p. 32.

⁸¹ Ibid., p. 39.

⁸² Ibid., pp. 44-47.

The second of Cardozo's ideological types is the Method of History. This type emphasizes a concern with the historical point of origin or points of evolution of precedents in relation to the events which surrounded them and the intentions of the decision-makers at the time. A judge who ascribes to this method would construct his opinions and judgments in concurrence with these intentions. He would ask first, "What was this precedent-setting or precedent-modifying decision intended to accomplish at the time it was made?"

Referring particularly to laws of contract and real property, Cardozo states that:

"Restraints upon alienation, the suspension of absolute ownership, contingent remainders, executory devices, private trusts and trusts for charities, all these heads of the law are intelligible only in the light of history, and get from history the impetus which must shape their subsequent development."⁸³

Since history has a "logical consistency" of its own, in that everything is to some extent a product of its own historical circumstances, he continues:

⁸³ Ibid., p. 55.

"...the conceptions themselves have come to us from without and not from within, that they embody the thought, not so much of the present as of the past, that separated from the past their form and meaning are unintelligible and arbitrary, and hence that their development, in order to be truly logical, must be mindful of their origins."⁸⁴

Cardozo seemed to feel, in addition, that this method was in use more widely than the Method of Philosophy.⁸⁵

The concepts of social utility, logic, and community customs would seem to bear little relevance to the Method of History. The written law, be it judge-made or otherwise, is the primary directive force, as opposed to the tenets of logical reasoning in the Method of Philosophy. Although individuals who adhere to the Method of History (as well as other methods) would certainly agree that laws are evolutionary, fostered and shaped by their particular historical precedents, Cardozo appears to see this method of decision-making as a form of tunnel-vision. It is paying attention only to the historical meanings of precedents, at the expense of their applicability to today's community standards or the effects of

⁸⁴ Ibid., p. 55.

⁸⁵ Ibid., p. 52. See also his quote of Oliver Wendell Holmes on p. 55: "...a page of history is worth a volume of logic."

decision-making on individuals involved in the case. As such, the law itself becomes primary and little legal change would seem possible from the bench. If a set of precedents did not accomplish today what it did historically, that set would seemingly be discarded from a judge's consideration, regardless of whether or not it might, for instance, accomplish some other useful purpose, or with some modification, might accomplish something similar to its historical purpose.

Cardozo's third type is the Method of Tradition. This refers to decision-making which reflects the traditional and contemporary customs and standards of the community being served. Judges would interpret the law in such a way as to minimize its apparent conflict with community "morality":

"General standards of right and duty are established. Custom must determine whether there has been adherence or departure...The triers of facts in determining whether that standard has been attained must consult the habits of life, the everyday beliefs and practices, of the men and women about them."⁸⁶

In short, it is an expanded form of "listening to the voice of the herd".⁸⁷

⁸⁶ Ibid., pp. 62-63.

⁸⁷ One of the judges who evaluated the original ques-

The primary assumption of this method is that the law is a transcribed duplicate of community mores:

"The constant assumption runs throughout the law that the natural and spontaneous evolutions of habit fix the limits of right and wrong. A slight extension of custom identifies it with customary morality, the prevailing standard of right conduct, the mores of the time...Life casts the moulds of conduct, which will some day become fixed as law. Law preserves the moulds, which have taken form and shape from life."⁸⁸

This method could then lead to legal change from the bench, but only to the extent of erasing conflicts between the law and community standards. Such standards are often very changeable, so changes could come rapidly and quite often. The inclusion of the phrase, "by contemporary community standards", in current prohibitions against pornography would seem to be an example of this method to the extreme. The highest court in the land has in fact made this "method" the law in these types of cases. However, interpretation of what

tionnaire, William Garbose of Winchendon, Massachusetts, admits to "a share of frustration in trying to reconcile law and community standards" in his own court (letter dated April 23, 1975).

⁸⁸ Cardozo, supra, note 2, pp. 63-64 (footnotes deleted).

these standards are and how they apply to a particular case remain a matter of judicial discretion.

The last type Cardozo calls the Method of Sociology. Like the Method of Tradition, this type uses "standards" as points of departure, but they are much more generalized concepts, such as "liberty" and "equality before the law":

"The great ideals of liberty and equality are preserved against the assaults of opportunism, the expedience of the passing hour, the erosion of small encroachments, the scorn and derision of those who have no patience with general principles, by enshrining them in constitutions, and consecrating to the task of their protection a body of defenders. By conscious or subconscious influence, the presence of restraining power, aloof in the background, but none the less always in reserve, tends to stabilize and rationalize the legislative judgment, to infuse it with the glow of principle, to hold the standard aloft and visible for those who must run the race and keep the faith."⁸⁹

Although Cardozo's phraseology here is somewhat melodramatic,

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Ibid., pp. 92-93 (footnotes deleted).

he sees the position of the judge by the Method of Sociology as the guardian of basic Constitutional principles, through his function as interpreter of the law.

Recognizing, however, that the meaning of such concepts and their manifestations in everyday society may vary in different cases at different times, present-day social conditions must be taken into account in light of those general Constitutional principles. With concepts like "liberty" and "equality" as guidelines, decisions are then made for the "common good":

"...in making vocal and audible the ideals that might otherwise be silenced, in giving them continuity of life and of expression, in guiding and directing choice within the limits where choice ranges. This function should preserve to the courts the power that now belongs to them, if only the power is exercised with insight into social values, and with suppleness of adaptation to changing social needs."⁹⁰

According to this method, then, not only must a judge interpret the law, but he must do so in light of his interpretation of present day social and environmental conditions.

⁹⁰ Ibid., p. 94.

The Method of Sociology, then, is seemingly a derivative of the notion of pragmatism. The law to this way of thinking is a "tool" to be adapted for the purpose of maintaining general social ideals and fulfilling changing social needs:

"Few rules in our time are so well established that they may not be called upon any day to justify their existence as means adapted to an end. If they do not function, they are diseased. If they are diseased, they must not propagate their kind."⁹¹

In examining precedents, then, a judge should evaluate what these previous decisions would have been had the decision-makers faced contemporary social conditions.⁹²

Despite some surface similarity in the descriptions, this method is distinct from the Method of Tradition. The Method of Tradition predisposes sensitivity to contemporary moral notions of "right" and "wrong", whereas the Method of Sociology sensitizes one to contemporary physical and social realities. While the former would look to "public opinion", the latter would look to "the statistics".

⁹¹ Ibid., p. 98.

⁹² Ibid., p. 84.

It should be noted that these ideologies are, like the others, "ideal types". Cardozo seemed to recognize this, but tended toward the Method of Sociology as the truth of judicial decision-making:

"We must not sacrifice the general to the particular. We must not throw to the winds the advantages of consistency and uniformity to do justice in the instance. We must keep within those interstitial limits which precedent and custom and the long and silent and almost indefinable practice of other judges through the centuries of the common law have set to judge-made innovations. But within these limits thus set, within the range over which choice moves, the final principle of selection for judges, as for legislators, is one of fitness to an end."⁹³

Although one can see logic, community custom and tradition, and historical jurisprudence itself as "ends", Cardozo is referring to the ideal and pragmatic social needs, i.e., the "ends" of the Method of Sociology.

Another way to differentiate these four ideological types is by examining the concept of justice in their light,

⁹³ Ibid., p. 103 (footnotes deleted).

a concept not treated at any length by Cardozo. To the Method of Philosophy, "justice" would be equivalent to "logic". The law is assumed to be logical, therefore justice would be measured in "logical outcomes". A criminal receives justice if "the punishment fits the crime".

"Justice" to the Method of History is whatever the written law says it is. The law is assumed to be just and fair because it has stood the tests of historical jurisprudence and has the weight of precedent to back it up. Just punishment for the criminal is any punishment that is "within the law". Judicial (as opposed to jury) sentencing may reflect this value, for in the courtroom situation, the judge is the legal expert.

To the Method of Tradition, "justice" is whatever one's community deems it to be. The majority rules. Laws may or may not be "just" by this definition, but one's peers will presumably always be. A criminal receives justice if his penalty coincides with community sentiment about what it should be, and as such, the community also gets "justice" in seeing their will carried out. This may be an underlying philosophy of the few states in the U. S. which still mandate or permit jury sentencing.⁹⁴ It may also be an ideological

⁹⁴ In practice, however, the sentence given by the jury must be within legal limits. If it is not, the judge may enter a judgment non obstante verdicto, i.e., a judgment notwithstanding the verdict, which overrules that of the jury.

basis for those who argue that the function of the law is to express community disapproval for certain behaviors, i.e., the "expressive" or "social revenge" function of law.

If a decision serves some useful purpose and at the same time promotes general social ideals, then it is "just" according to the Method of Sociology. The law is only as good as it is useful and adaptable. If deprivation of one's liberty is at stake, then a criminal (and all others) will get justice only to the extent that this deprivation serves a purpose (e.g., rehabilitation, non-recidivation) for himself and/or society. This could be an ideological basis for those who argue that "deterrence" is the main function of punishment. Whereas one could argue for capital punishment as an "eye-for-an-eye" in terms of the Method of Tradition (or Philosophy or History, for that matter), one would seemingly not be able to do so from the standpoint of the Method of Sociology. The taking of a person's life must serve some purpose. Depending upon which side of that particular question one was situated, one could argue that taking the murderer's life would not bring the victim back, but would deter further incidents of murder. On the other side, one could argue as to a lack of evidence that it does deter murder. Both arguments, though on opposing sides of the same issue, are ostensibly derived from the Method of Sociology.

As in the case of Platt's work, the issues around

which Cardozo's typology revolved had to be inferred from the text. The three chosen are titled here the proper "use of judicial precedent", the "nature of law", and the optimum "professional goal orientations" for judges and legislators. Tables 22-24 illustrate the response frequency distributions for each ideological type on the three selected issues. Actual items, as usual, appear as footnotes to the tables.

The first issue, the proper "use of judicial precedent", assumes that judicial decision-making has some basis in what has gone before, i.e., precedent. The differences between the ideological types concern just how it should be used. Table 22 shows a distinct commonality of relative agreement with all usages of precedent.⁹⁵ The most telling numbers on this table may be the relatively large number of "neutrals". In any case, there seems to be no consensus of opinion in favor of any one method on this issue.

Table 23 shows the response distribution on the issue of the "nature of laws". Although there was majority agreement on all items, it can be seen that the greatest agreements are with the positions of the Methods of Tradition and History (87% and 85%, respectively). With percentages that high, there must be some overlap, e.g., a group that feels

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Item non-response for Cardozo's items was highest on the Methods of Philosophy and Tradition positions in this table (10, or 4.1%). However, this is not particularly high.

TABLE 22
CARDOZO: USE OF JUDICIAL PRECEDENT

Type	Responses:					
	(5) SA	(4) A	(3) N	(2) D	(1) SD	
Method of Philosophy (a)	8%	52%	18%	19%	4%	(233)101%(e)
Method of History (b)	5%	46%	17%	29%	3%	(235)100%
Method of Tradition (c)	9%	48%	19%	24%	(1)	(233)100%
Method of Sociology (d)	7%	47%	17%	28%	1%	(235)100%

- (a) "In using judicial precedent as a criterion of decision-making in specific cases, a judge should pay particular attention to constructing an orderly progression of cases based on the elements of logic."
- (b) "In using judicial precedent as a criterion of decision-making in specific cases, a judge should pay particular attention to the historical events surrounding the origins and development of the precedent and construct his opinions and decisions in concurrence with its historical meanings and intentions."
- (c) "In using judicial precedent as a criterion of decision-making in specific cases, a judge should pay particular attention to the traditional and contemporary customs and standards of the community being served, constructing his opinions and decisions in concurrence with them."
- (d) "In using judicial precedent as a criterion of decision-making in specific cases, a judge should pay particular attention to what precedent-setting decisions in the past would have been had they faced contemporary social problems."
- (e) Differences from 100% due to rounding.

TABLE 23
CARDOZO: NATURE OF LAWS

Type	Responses:						
	(5) SA	(4) A	(3) N	(2) D	(1) SD		
Method of Philosophy ^(a)	5%	56%	11%	22%	6%	(235)	100%
Method of History ^(b)	11%	74%	8%	6%	(1)	(238)	99% ^(e)
Method of Tradition ^(c)	13%	73%	5%	8%	(1)	(240)	99% ^(e)
Method of Sociology ^(d)	9%	49%	17%	23%	2%	(237)	100%

(a) "Laws are, by necessity, fixed entities based on the principles of logic."

(b) "Laws are, by necessity, evolutionary growths which historical events have fostered and shaped."

(c) "Laws are, by necessity, the formalized standards of conduct of the community that must obey them."

(d) "Few laws are so well established that they may not be called upon to justify their existence as 'tools' to be adapted to the fulfillment of changing social needs."

(e) Differences from 100% due to rounding.

TABLE 24
CARDOZO: PROFESSIONAL GOAL ORIENTATIONS

Type	Responses:						
	(5) SA	(4) A	(3) N	(2) D	(1) SD		
Method of Philosophy ^(a)	5%	22%	23%	45%	6%	(238)	101% ^(e)
Method of History ^(b)	2%	12%	18%	42%	26%	(235)	100%
Method of Tradition ^(c)	10%	36%	15%	35%	4%	(239)	100%
Method of Sociology ^(d)	25%	60%	7%	7%	(1)	(236)	99% ^(e)

- (a) "The most important thing that judges and legislators should strive for is a tight and orderly body of rules based on logic."
- (b) "The most important thing that judges and legislators should strive for is definitions in laws which reflect their historical origins, meaning, and development."
- (c) "The most important thing that judges and legislators should strive for is a legal order that is in harmony with the standards of conduct and morality of the community in which they practice."
- (d) "The most important thing that judges and legislators should strive for is a legal order which adapts to changing social needs, yet maintains general social values, such as 'liberty' and 'equality'."
- (e) Differences from 100% due to rounding.

that "standards of conduct", as well as laws, are parallel evolutionary growths.

Table 24 reflects a general consensus agreement with the Method of Sociology position concerning the proper "professional goal orientations" of judges and legislators. The majority seem to agree that the law must be generally consistent in general philosophy but adaptable in its specific applications. The mixed responses to the other three items, combined with their relatively high percentages of "neutral" responses, make the judicial feelings about these positions difficult to interpret.

The summated scores on these ideological types, shown in Table 25 illustrate few differences in response patterns. Though the distributions of summated scores are not identical, they do tend to congregate around the numeric middle of the score spectrum.

Concerning the internal consistency of the four types, Table 26 shows moderately high intratype correlations on both the Methods of Philosophy and Tradition. None of the types showed majority agreement or disagreement on all issues except the Method of Sociology, whose intratype correlations are the lowest of all the types. The Methods of Philosophy and History showed majority agreement on two issues and disagreement on one ("professional goal orientations"), and the Method of Tradition showed majority agreement on two issues

TABLE 25
CARDOZO: SUMMATED SCORES

Type	\bar{X}	<u>Grouped Summated</u> <u>Scores:</u>				
		3-6	7-9	10-12	13-15	
Method of Philosophy	(9.5)	13%	33%	47%	8%	(227)101% ^(a)
Method of History	(9.3)	5%	47%	43%	5%	(228)100%
Method of Tradition	(10.4)	4%	26%	58%	12%	(231)100%
Method of Sociology	(10.7)	1%	21%	63%	15%	(229)100%

(a) Differences from 100% due to rounding.

TABLE 26
CARDOZO: INTRATYPE CORRELATIONS

Type/Issue	Use of Judicial Precedent	Nature of Laws	Professional Goal Orientations
<u>Method of Philosophy:</u>			
Use of Jud. Precedent	---	(229)	(231)
Nature of Laws	.361	---	(232)
Prof. Goal Orientations	.320	.440	---
<u>Method of History:</u>			
Use of Jud. Precedent	---	(233)	(230)
Nature of Laws	.183	---	(233)
Prof. Goal Orientations	.262	.026	---
<u>Method of Tradition:</u>			
Use of Jud. Precedent	---	(232)	(231)
Nature of Laws	.219	---	(238)
Prof. Goal Orientations	.284	.220	---
<u>Method of Sociology:</u>			
Use of Jud. Precedent	---	(232)	(231)
Nature of Laws	.118	---	(234)
Prof. Goal Orientations	.150	.014	---

TABLE 27

CARDOZO: INTERTYPE CORRELATIONS

Issue/Type	M. of Phil- osophy	M. of History	M. of Trad- ition	M. of Soci- ology
<u>Use of Judicial Precedent:</u>				
M. of Philosophy	---	(229)	(227)	(230)
M. of History	.181	---	(229)	(232)
M. of Tradition	-.062	.116	---	(229)
M. of Sociology	.098	.174	.185	---
<u>Nature of Laws:</u>				
M. of Philosophy	---	(232)	(234)	(231)
M. of History	.049	---	(237)	(235)
M. of Tradition	.121	.168	---	(236)
M. of Sociology	-.044	.170	.065	---
<u>Professional Goal Orientations:</u>				
M. of Philosophy	---	(233)	(237)	(234)
M. of History	.176	---	(234)	(231)
M. of Tradition	.166	.199	---	(235)
M. of Sociology	.089	.032	.145	---
<u>SUMMAIED SCORES: (a)</u>				
M. of Philosophy	---	(219)	(219)	(219)
M. of History	.239	---	(223)	(223)
M. of Tradition	.095	.287	---	(224)
M. of Sociology	.141	.200	.293	---

(a) Correlations are for ungrouped summated scores.

and a split response on the other (again, "professional goal orientations"). It would seem, then, that the internal consistency of these types cannot be attributed to an overall agreement or disagreement, as was the case with Platt's Moralism and Schur's Get Tough ideologies, because the type with the greatest agreement (the Method of Sociology) had the least internal consistency.

Despite this modicum of internal consistency illustrated for particular ideological types, there remains a great deal of overlap between the types. The intertype matrices in Table 27 show no large negative correlations between the types on any given issue or collectively on the summated scores. In fact, four of the six correlations of the summated scores reach the positive .20 guideline or exceed it, further indicating a general overlap of responses. This was true regardless of controls for test factor categories.

Controlling the grouped summated scores for test factors yielded two cross-tabulations which may be of some interest. Table 28 shows that Method of History scores vary somewhat directly with age group. Put another way, the proportion of the highest Method of History scores contributed by judges 61 years and older was significantly greater than chance would have predicted. Also, Method of Sociology scores seem to vary with geographic region. Southerners show lower scores, as a whole, than do other regions (although the two judges

scoring in the lowest category were from the North Central region). Social utility, then, may not be as prevalent a decision-making criteria among Southern judges as among judges from other states.

The distributions of the summated scores seemed also to vary in a pattern with the net number of dispositional alternatives available to the judge. Although some of the figures do not reach statistical significance, a greater number of alternatives yielded slightly higher summated scores on all types but the Method of Philosophy. However, a high percentage of those judges with the least alternatives available (4 or less) scored in the highest summated score category on all ideological types. The figures which illustrate this pattern are shown in Table 29. Given the differences in what each type says, this phenomena is difficult to interpret, except to say that a pattern exists.

The primary conclusion here is that, as with the two previous typologies, the types spoken to by Cardozo do not differentiate themselves into competing ideologies among today's juvenile court judges. These issues are probably not particularly relevant to the day-to-day activities and concerns of the court, and as such are not primary issues in a judge's consciousness. This was, in a way, assumed at the beginning of the discussion of Cardozo, but the typology was included here anyway to add to this analysis the type of broad issues

TABLE 28

SELECTED TEST FACTORS VS. SELECTED
CARDOZO IDEOLOGICAL SUMMATED SCORES

Test Factor	<u>Grouped Summated</u> <u>Score:</u>				
	<u>3-6</u>	<u>7-9</u>	<u>10-12</u>	<u>13-15</u>	
1) <u>Age Group:</u> (a)	<u>Method of History:</u>				
45 or Less	4%	56%	38%	2%	(48)100%
46 - 60	7%	47%	44%	3%	(120)101%(d)
61 or Over	2%	43%	41%	14%	<u>(58)</u> 100%
					(226)
2) <u>Geographic Region:</u> (b)	<u>Method of Sociology:</u>				
Northeast	(0)	14%	64%	22%	(36)100%
North Central	3%	13%	67%	18%	(79)101%(d)
South	(0)	35%(c)	52%	12%	(82) 99%(d)
West	(0)	16%	78%	6%	<u>(32)</u> 100%
					(229)

(a) Df=6, chi-sq=13.998, p=.0297, r (ungrouped) = .147.

(b) Df=9, chi-sq=22.114, p=.0085.

(c) By far the largest part (7.5) of the total chi-square value was contributed by this cell.

(d) Differences from 100% due to rounding.

TABLE 29

NET DISPOSITIONAL ALTERNATIVES VS. CARDOZO
SUMMATED IDEOLOGY SCORES

Net Dispositional Alternatives	<u>Grouped Summated</u> <u>Score:</u>				
	<u>3-6</u>	7-9	10-12	13-15	
	<u>Method of Philosophy:</u> (a)				
4 or Less	6%	31%	47%	16%	(32)100%
5 - 7	16%	32%	44%	8%	(133)100%
8 or More	11%	34%	52%	3%	(62)100%
					(227)
	<u>Method of History:</u> (b)				
4 or Less	(0)	52%	33%	15%	(33)100%
5 - 7	7%	49%	42%	3%	(132)101%(e)
8 or More	3%	43%	49%	5%	(63)100%
					(228)
	<u>Method of Tradition:</u> (c)				
4 or Less	(0)	33%	49%	18%	(33)100%
5 - 7	6%	29%	58%	8%	(134)101%(e)
8 or More	2%	16%	66%	17%	(64)101%(e)
					(231)
	<u>Method of Sociology:</u> (d)				
4 or Less	(0)	29%	54%	17%	(35)100%
5 - 7	2%	25%	58%	16%	(130)101%(e)
8 or More	(0)	11%	78%	11%	(64)100%
					(229)

(a) Df=6, chi-sq=6.877, p=.3324, r (ungrouped) = -.135.

(b) Df=6, chi-sq=12.211, p=.0574, r (ungrouped) = -.018.

(c) Df=6, chi-sq=13.533, p=.0353, r (ungrouped) = .060.

(d) Df=6, chi-sq=10.532, p=.1040, r (ungrouped) = .033.

(e) Differences from 100% due to rounding.

he approached.

The second conclusion would be that none of the four types show a staunch group of adherents when compared to the others. Majorities of judges tend to agree that laws are standards of conduct of the community and that they grow up out of an evolutionary process, and that the legal order toward which judges and legislators should strive should be both adaptable and consistent with general social goals. The specifics of these, however, are elusive given the data.

Walter Miller's "Ideology and Criminal Justice Policy"

In that the legal order is part of the political institutions of society, the issues which divide judges may reflect everyday ideological definitions present in other areas of those institutions. In the United States, these definitions would be certain conceptions of "liberal" and "conservative", which leads us to the final typology to be considered here--that described by Walter B. Miller.⁹⁶ Drawing on the publicly-taken positions of a diverse sample of noted individuals and publications,⁹⁷ Miller suggests an ideological typology containing two "ideal types": Left and Right. It is an attempt to relate decision-making in the criminal justice

⁹⁶ Miller, supra, note 1.

⁹⁷ Ibid., p. 143 (footnote #5).

system to contemporary popular notions of "liberal-vs.-conservative" viewpoints.

It is Miller's basic definition of ideology which has been used throughout this research:

"...a set of general and abstract beliefs or assumptions about the correct and proper state of things, particularly with respect to the moral order and political arrangements, which serve to shape one's positions on specific issues."⁹⁸

He elaborates that ideological assumptions are "pre-conscious" and, for the most part, not open for overt examination, and that they carry with them a "strong emotional charge":

"This charge is not always evident, but it can readily be activated by appropriate stimuli, in particular by direct challenge. During the process of formation, ideological premises for particular individuals are influenced by a variety of informational inputs, but once established they become relatively impervious to change, since they serve to receive or reject new evidence in terms of

⁹⁸ Ibid., p. 142.

a self-contained and self-reinforcing system."⁹⁹

Although he notes that these ideological types apply as well to those who engage in criminal behavior, he chooses to focus on them in terms of their effects on those charged with planning and administering the criminal justice system:

"The major contention of this presentation is that ideology and its consequences exert a powerful influence on the policies and procedures of those who conduct the enterprise of criminal justice, and that the degree and kinds of influence go largely unrecognized. Ideology is the permanent hidden agenda of criminal justice."¹⁰⁰

It may well be the "permanent hidden agenda" of decision-making of all kinds. But for our purposes, juvenile court judges, in their capacity to make decisions which affect the lives of juvenile law-breakers, appear to be an acceptable subject population for testing the validity of Miller's typology in the criminal justice system, at the primary levels of "policy-making", i.e., in the courthouses.

These aspects of Miller's work have been applied to the typologies of Platt, Schur, and Cardozo. Miller, however,

⁹⁹ Ibid., p. 142.

¹⁰⁰ Ibid., p. 142.

builds into his scheme another parameter--ideological intensity:

"This dimension has the power to transform plausibility into ironclad certainty, conditional belief into ardent conviction, the reasoned advocate into the implacable zealot. Rather than being looked upon as useful and conditional hypotheses, these assumptions, for many, take the form of the sacred and inviolable dogma of the one true faith, the questioning of which is heresy, and the opposing of which is profoundly evil."¹⁰¹

The intensity with which one adheres to a position on an ideological typology may have such consequences for the typologies of the other authors as well. However, whereas intensity has to be inferred post hoc from the others (e.g., by summated scores), it is intended to be measured directly in Miller's scheme by the insertion of intervals along a continuum between "Left" and "Right". The position statements are written for each interval point (as well as end-points), indicating the degree to which one adheres to the positions of the Left and Right. As such, Miller has drawn a scale, with Left and Right being its end-points (Left-5 and Right-5,

¹⁰¹ Ibid., p. 151.

respectively). Intermediate interval points range from 1 to 4 for both Left and Right. The higher the numerical suffix, the greater is one's intensity of adherence to Left- or Right-wing positions. For example, Left-1 could be considered as slightly more Left than Right, Left-2 or Left-3 as "moderately" Left, and Left-4 or Left-5 (the end-point) as "far" or "ultra" Left. Numeric suffixes indicate analagous degrees on the Right.

Miller further elaborates by discussing seven specific consequences of ideological intensification. First is polarization, the tendency to view adherents to one type or the other in moral absolutes. An individual who agrees with you is "good", the one who propounds the opposite position is "bad", or "immoral".

Second is reverse projection. Examples of this are the militant Leftist who views the moderate liberal as a Fascist, or the staunch John-Bircher who views moderate conservatives as "pinkos". It is the projection to the opposite end-point of the scale of an individual who is actually nearer to the same end-point of the scale, though not as near as oneself.

Third, ideological intensification leads to ideologized selectivity of tasks and resource priorities. It is often said that social scientists "create" social problems through their selection of the areas which they study, and consequently "define" as social problems. In the legal-criminal justice

system, the behaviors which legislatures declare as illegal, the laws which police choose to enforce, and the types of "criminals" that judges tend to "throw the book at" are examples of this. This effect of ideology is the core of this research, i.e., ideology's effects on decision-making.

Fourth is informational constriction, which Miller relates to an anti-research feeling among the more intensely committed:

"For the ideologically committed at both ends of the scale, new information appears both useless and dangerous. It is useless because the basic answers, particularly with respect to causes, are already given, in their true and final form, by the ideology; it is dangerous because evidence provided by new research has the potential of calling into question ideologically established truths."¹⁰²

One who believes vehemently in one position has neither the time nor the inclination to question those beliefs.

Fifth is what he calls catastrophism, the belief that unless everyone adopts one's own position, calamities of horrendous proportion will ensue and all will be lost. Miller exemplifies the criminological cries of doom of the Right and

¹⁰² Ibid., p. 153.

Left as follows:

"Right: Unless the police are promptly given full power to curb criminality and unless rampant permissiveness toward criminals is halted, the country will surely be faced with an unprecedented wave of crime and violence; Left: Unless society promptly decides to provide the resources necessary to eliminate poverty, discrimination, injustice and exploitation, the country will surely be faced with a holocaust of violence worse than ever before."¹⁰³

He also notes that these beliefs persist regardless of the fact that such catastrophes do not occur.

Sixth is magnification of prevalence, which is probably directly related to "catastrophism". Whatever one believes will be the primary causes of the final calamity is viewed as far more prevalent than either empirical research or popular conception would indicate.

Last is the distortion of the opposition. Miller states:

"...it is necessary for partisans to formulate the actual positions of the opposition in such a way as to make them most susceptible to refutation. Opposition

¹⁰³ Ibid., p. 153.

positions are phrased to appear maximally illogical, irrational, unsupportable, simplistic, internally contradictory, and, if possible, contemptible or ludicrous."¹⁰⁴

Probably the most common way of doing this is the practice of quoting an opposition proponent out of context.

Miller details the underlying core assumptions of the Left and Right. First of these is the question of the locus of responsibility for crime. To the Left, crime is primarily a product of factors external to the individual "criminal":

"Crime is to a greater extent a product of external social pressures than of internally generated individual motives, and is more appropriately regarded as a symptom of social dysfunction than as a phenomenon in its own right. The correct objective of ameliorative efforts, therefore, lies in the attempt to alter the social conditions that engender crime rather than to rehabilitate the individual."¹⁰⁵

We have seen similar assumptions among Schur's Liberal Reformers and Radical Non-Interventionists.

¹⁰⁴ Ibid., p. 153.

¹⁰⁵ Ibid., p. 145.

To the Right, crime is a product of the conscious self:

"The individual is directly responsible for his own behavior. He is not a passive pawn of external forces, but possesses the capacity to make choices between right and wrong--choices which he makes with an awareness of their consequences."¹⁰⁶

We have seen this notion before as well; among Platt's parens patriae and Moralism types and Schur's Individual Treatment and Get-Toughers.

This is the traditional "free will" versus "determinism" argument. In simplified form, the former says that an individual behaves in accordance with his own wishes, and the latter says that an individual is compelled to behave in accordance with the external cultural and social factors to which he is exposed.

The Right tends to view official considerations of social causation as "coddling criminals". One of their traditional complaints (or "crusading issues", as Miller calls them) is the excessive permissiveness they see as rampant in all facets of contemporary society, and in particular, the excessive leniency of the criminal justice system toward law-

¹⁰⁶

Ibid., p. 144.

breakers. It is often argued by proponents of the Right that criminal justice authorities (particularly the courts) are favoring the rights of offenders at the expense of those of victims and other law-abiding individuals.¹⁰⁷

The second issue in the opposing core assumptions of the Left and Right is "heterogeneity" versus "homogeneity". The Left tends toward the tolerance of greater heterogeneity and deviance in society:

"Healthy societal adaptation for both the offender and the ordinary citizen depends on maintaining the minimum separation--conceptually and physically--between the community at large and those designated as 'different' or 'deviant'."¹⁰⁸

Some of the common complaints of the Left are the perceived discrimination (racial, sexual, etc.) in criminal justice processing decisions, the over-dependence of authorities on punishment and incarceration of non-violent offenders, and the proscription in the criminal codes of many widely-practiced and morally unagreed-upon forms of behavior (e.g., homosexuality, gambling, abortion, prostitution, "cohabitation"). These complaints have their roots at least partially in the

¹⁰⁷ Ibid., pp. 143-144.

¹⁰⁸ Ibid., p. 145.

Left's positive attitudes toward social heterogeneity and diversity.

The Right, on the other hand, favors greater homogeneity and conformity:

"A central requirement of a healthy and well functioning society is a strong moral order which is explicit, well-defined, and widely adhered to... Threats to this moral order are threats to the very existence of the society...A major device for ordering human relations in a large and heterogeneous society is that of maintaining distinctions among major categories of persons on the basis of differences in age, sex, and so on, with differences in religion, national background, race, and social position of particular importance."¹⁰⁹

The Right, then, is viewed as "particularistic", intentionally viewing and acting towards persons in terms of their membership in preconceived ascribed and achieved statuses such as "national background" or "social position".

In this case, to say that the Right is "particularistic" is not to say that the Left is necessarily "universal-

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Ibid., p. 144.

istic", i.e., viewing and acting towards persons more or less in identical fashion. It is doubtful that anyone can be totally universalistic, since we all tend to notice particular aspects (or "categories", "statuses") of others and act toward them in accordance with our generalized perceptions of these categories. However, according to Miller, the Right makes these differences an overt focal object of decision-making, whereas the Left negates their importance and stresses their integration into society's mainstream.

One might also view these differing core assumptions in terms of each's view of "Utopia". According to Miller, the Left would see it as a multi-ethnic, multi-cultural society which tolerates, and even encourages, diversity for its own sake. The Right sees the ideal world as a homogeneous society where initial differences are either wiped out through assimilation and acculturation to a universally agreed-upon set of values and beliefs, or else are denounced and punished by the authorities of that society.

The third issue might be termed a concern with "power" versus "authority". In Chapter Two, distinctions were drawn between the two terms. Power is the ability to enforce one's will despite resistance and achieve outcomes which would not have otherwise occurred. Authority refers to a particular source of power--the occupation of a legitimate structural position of "adaptive control" within a society. "Parent",

"teacher", "President", "policeman", and "judge" are examples of such legitimized authority positions. However, power has other bases as well (e.g., friendship, charisma, differential accesses to violence), and all of these (certainly authority and access to violence) may apply in the power relationships between criminal justice agents and other individuals.

Miller's Left is primarily concerned with power; what individuals and groups have it and how much, i.e., its distribution among the members and interest groups of society. Their belief is that it is overly concentrated and inequitable in American society. Miller generalizes his view of the Left position thus:

"This inequity pervades the entire system, but appears in its more pronounced forms in the excessive centralization of governmental functions and consequent powerlessness of the governed, the military-like, hierarchical authority systems found in police and correctional organization, and policies of systematic exclusion from positions of power and privilege for those who lack certain preferred social characteristics."¹¹⁰

The over-criminalization of widely-practiced behaviors and

¹¹⁰ Ibid., p. 145.

the discriminatory practices of the criminal justice system are usually seen by the Left as a result of the more powerful regulating and oppressing the less powerful. Power relationships, in general, are a predominant concern of the Left, and are usually seen as the roots of both the diseases of society (inequitable distribution) and the cures for them (redistribution, "power to the people").

Miller's Right, however, focuses on that particular type of power called "authority". To the Right, the question is not who has power of this type. It is a given fact that some do and some don't, and by virtue of that fact alone, authority should be obeyed and not questioned. Miller summarizes this position:

"Adherence to the legitimate directives of constituted authority is a primary means of achieving the goals of morality, correct individual behavior, security, and other valued life conditions. Authority in the service of social and institutional rules should be exercised fairly but firmly, and failure or refusal to accept or respect legitimate authority should be dealt with decisively and unequivocally."¹¹¹

¹¹¹

Ibid., p. 144.

Respect for and obedience to authority is given the status of a moral absolute among adherents of the Right. One of their most common complaints is the perceived erosion of discipline and respect for authority in the home, school, and in society in general.¹¹² Many forms of social ills (e.g., crime, urban violence in the 60's, recent cheating scandals at military colleges) are seen by the Right as direct manifestations of deteriorating respect for authority.

In addition to these three themes, there are also hints of Herbert Packer's "crime control" versus "due process" model of criminal procedure inherent in the positions of Miller's Right and Left.¹¹³ In brief, the primary concerns of adherents to the "crime control" philosophy center around the protection of society in general through the enforcement of the substantive law. This concern is apparent in Miller's summary of one of the general assumptions of the Right:

"Of paramount importance is the security of the major arenas of one's customary activity--particularly those locations where the conduct of family life occurs. A fundamental personal and family right is safety from crime, violence, and attack, including the right of citizens to take necessary

¹¹² Ibid., p. 143.

¹¹³ Packer, The Limits of Criminal Sanction, 1968. For

measures to secure their own safety, and the right to bear arms, particularly in cases where official agencies may appear ineffective in doing so."¹¹⁴

Again, we have also seen this in Platt's Moralism and Schur's Get Tough ideologies.

The primary focus of Packer's "due process" type is the protection of the individual vis-a-vis the state through the enforcement of procedural laws and safeguards. The Left shows some elements of this philosophy (it was also the basis of Platt's Constitutionalism), although Miller never states it specifically. However, the concern with the inequitable distribution of power and the oppression of the have-nots by the haves would make this a logical extension of the ideology of what Miller describes as that of the Left.

A final dimension which is implied in Miller's descriptions of Left and Right is the thought of society's crime as an "internal" versus an "external" phenomena. One can reason from the assumptions and concerns of the Left that they see crime as a strictly internal product of the society itself. Its causes, idiosyncracies, and manifestations are

a discussion of this model in relation to the administration of criminal justice, see Cole, Politics and the Administration of Justice, 1973, pp. 51-74 (chap. 2).

¹¹⁴ Miller, supra, note 1, p. 144.

solely a function of aspects of the society which surrounds it and within which it is carried out. To some in the Right, however, there is at least the undercurrent of opinion that some crime is fomented by forces external to the society. Miller suggests this in one of his far "Right-5" position statements:

"Crime and violence are a direct product of a massive conspiracy by highly-organized and well-financed radical forces seeking deliberately to overthrow the society...(T)heir vehicle is that sector of the populace sufficiently low in intelligence, moral virtue, self-control, and judgment as to serve readily as their puppets by constantly engaging in those violent and predatory crimes best calculated to destroy the social order. Instigators of the conspiracy are most often members of racial or ethnic groups that owe allegiance to and are supported by hostile foreign powers."¹¹⁵

In short, although those who actually commit crimes may be mentally retarded and morally deficient Americans, according to Miller's Right, the motive force for crime may really be from "outside agitators", or even a "Communist conspiracy".

¹¹⁵ Ibid., p. 155.

The dimensions suggested above are not presented here as empirically-testable scales of thought about these particular issues. They are intended to be additional conceptual frameworks, commonly argued throughout the social science literature, which may help illuminate the underlying assumptions and foci of Miller's Left and Right continuum. He approaches his ideological paradigm from the standpoint of the "locus of responsibility" for crime and modes of dealing with it. The latter he divides into "policies with respect to offenders" and "operating policies with respect to criminal justice agencies". In the Appendix to Miller's article,¹¹⁶ he puts forth position statements on each of these three issues for all ten positions on his continuum (Left-5, -4, -3, -2, -1, Right-1, -2, -3, -4, and -5). The items used here to measure each position on each issue are, for the most part, paraphrased versions of those exact statements. There are, then, a total of 30 statements representing Miller's typology in this research.

The response distributions among this sample of juvenile court judges on Miller's ten positions and three issues appear in Tables 30-32.

On the first issue, the "locus of responsibility" for crime, the most judges agree with positions ranging from

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Ibid., pp. 155-162.

Left-1 to Right-3, with a split response on Left-2, as shown in Table 30. They agree to a great extent that crime is the result of a moral decay in society, in the individual's primary responsibility for his or her own criminality, in the idea of crime-prone sub-populations ("countercultures") within society, and in the importance of the family and religious environments in these respects. Although they also profess agreement that some individuals who commit crimes are "sick people who need help", these judges would probably be classified in contemporary parlance at least as "moderate conservatives".

The distribution percentages for items on the second issue, "methods of dealing with offenders", appear in Table 31. On this issue, high percentages of agreement occurred in the range of Left-3 to Right-2, with a split response on the Left-4 position.¹¹⁷ The themes of these positions are rehabilitation through individualized treatment, diversion from the criminal justice system, and "moral reeducation". The latter seems to dovetail with the judges' agreement that there is a moral breakdown in society and that it results in increased criminality. Individualized treatment goes along with their general belief in individual responsibility for criminal behavior. Since the respondents were juvenile court judges, the

¹¹⁷ This item had the highest non-response rate of all ideology position statements in the research--15, or 6.2%--a figure that is still not excessive.

individualized treatment beliefs would also be expected if one assumes that a subject would respond to these items in light of the philosophy of his or her own branch of the criminal justice system (i.e., parens patriae). Also, the notion of diversion, although quite prevalent in policy statements of adult criminal justice officials, is most often written about and experimented with in juvenile justice.

Responses on the final issue, the "operating policies of criminal justice agencies", are shown in Table 32. High agreement items, as on the immediately previous issue, range between Left-3 and Right-2 positions, but with split responses on both Left-4 and Right-3 items. Themes agreed to by the judges here are similar to those already stated for the previous issue, including moral re-education and diversion ("community corrections"). In addition, the judges seem to feel positively toward more "openness" in the operation of the criminal justice system, but it is difficult to say whether or not that result translates to agreement with open juvenile court hearings. Also, the judges agree with a general upgrading of criminal justice system personnel, and with the idea of "deterrence" as a function of legal specificity and certainty of official reprisal for wrongdoings. By being specific at the disposition phase, the would-be offender may be deterred from committing an offense. For the offender, if rehabilitation is the goal, the objectives of such in each case should

TABLE 30

MILLER: LOCUS OF RESPONSIBILITY FOR CRIME

Type	Responses:		(3) N	(2) D	(1) SD	
	(5) SA	(4) A				
Left - 5 (a)	1%	6%	6%	41%	46%	(240)100%
Left - 4 (b)	(1)	6%	11%	57%	26%	(241)100%
Left - 3 (c)	5%	10%	8%	50%	27%	(242)100%
Left - 2 (d)	4%	31%	16%	42%	8%	(239)101% ^(k)
Left - 1 (e)	13%	66%	11%	9%	2%	(238)101% ^(k)
Right - 1 (f)	24%	61%	7%	7%	(1)	(242) 99% ^(k)
Right - 2 (g)	17%	57%	14%	11%	1%	(239)100%
Right - 3 (h)	8%	50%	19%	21%	2%	(237)100%
Right - 4 (i)	3%	17%	16%	50%	15%	(238)101% ^(k)
Right - 5 (j)	3%	5%	3%	42%	47%	(241)100%

- (a) "Behavior designated as 'crime' is a fundamental product of a fundamentally corrupt and unjust society; true crime is the behavior of the ruling classes who perpetuate, control, and profit from an exploitative and brutalizing system."
- (b) "Those who engage in more common forms of theft and other 'street crimes' are forced into such behavior by the denial of opportunity and justice resulting from a grossly inequitable distribution of wealth, power, and privilege."
- (c) "The root causes of crime--poverty, urban deterioration, blocked educational and job opportunities--are aggravated by criminal justice agencies, who use their power to stigmatize and brutalize those who come under their jurisdiction, thus permitting them few options other than continued criminality."
- (d) "The root causes of crime lie in socio-economic deprivation and the inequitable application of the criminal justice process, with many illegal behaviors actually reflecting physical or emotional disturbance."
- (e) "Although crimes committed out of financial need or frustration with life conditions are understandable, those who continue to commit crimes without such justifications are very often sick people who need help, and at least to that extent they should be held accountable."
- (f) "Habitual law-violation reflects an absence of respect for law and basic moral principles resulting from such things as inadequate religious training, poor home environment, and unsatisfactory role-models."
- (g) "The prevalent permissive tendency to blame 'the system' for crime aggravates criminality by providing the criminal with a rationalization for his lack of responsibility and self-discipline and his poorly-developed moral conscience."
- (h) "The root causes of crime are a massive erosion of the fundamental moral values, which traditionally deterred criminality, and the concomitant rise of 'counter-cultures' among certain crime-prone groups which provide support for law violation."
- (i) "Most serious crime is committed by members of certain ethnic and social class groups who are self-indulgent, defective in

(CONTINUED)

TABLE 30 (Continued)

MILLER: LOCUS OF RESPONSIBILITY FOR CRIME

self-control, limited in their time-horizons, and have under-developed moral consciences, and it is encouraged by the reluctance of authorities to apply the decisive punishment which could curb such crime."

- (j) "Crime is a product of a massive conspiracy by highly-organized radical forces seeking to overthrow the society through an unrelenting attack on fundamental moral values."
- (k) Differences from 100% due to rounding.

TABLE 31

MILLER: METHODS OF DEALING WITH OFFENDERS

Type	Responses:		(3) N	(2) D	(1) SD		
	(5) SA	(4) A					
Left - 5 (a)	(1)	27%	13%	30%	54%	(232)	99% (k)
Left - 4 (b)	11%	37%	12%	36%	5%	(227)	100%
Left - 3 (c)	12%	50%	15%	20%	3%	(237)	100%
Left - 2 (d)	13%	65%	10%	12%	1%	(234)	101% (k)
Left - 1 (e)	38%	57%	4%	1%	(0)	(239)	100%
Right - 1 (f)	35%	57%	4%	3%	1%	(239)	100%
Right - 2 (g)	16%	56%	14%	14%	(0)	(238)	100%
Right - 3 (h)	5%	24%	14%	48%	9%	(234)	100%
Right - 4 (i)	7%	14%	12%	40%	27%	(236)	100%
Right - 5 (j)	3%	10%	10%	43%	35%	(236)	101% (k)

- (a) "Persons acting to hasten the inevitable collapse of a decadent system, such as most of those the ruling classes call 'criminals', should have full freedom and backing to continue such acts."
- (b) "The government must insure that those accused of crimes, incarcerated, or otherwise under legal jurisdiction be granted their full civil rights as citizens (including unconditional freedom at all stages of the criminal justice process) and should make available to them all legal and other resources necessary for their protection from the arbitrary exercise of coercive power."
- (c) "The maximum number of persons should be diverted away from criminal justice agencies and into service programs in the community, the proper arena for helping offenders."
- (d) "Since the behavior of most of those who commit crimes is symptomatic of social or psychological forces over which they have little control, the goal of rehabilitation should be strived for through a comprehensive strategy of services combining individually-oriented clinical services and beneficial social programs, preferably in the community, but within prison walls as well."
- (e) "Dealing with actual or alleged offenders effectively requires gearing individualized treatment to the differential needs of the several types of offenders, the treatment being aimed at enhancing the likelihood of rehabilitation and return of the offender to the community."
- (f) "Except for 'hard core', dangerous offenders (who should be swiftly imprisoned for society's protection), appropriate dispositional measures should be tailored to the different types of law violators."
- (g) "Lawbreakers should be subject to fair but firm penalties primarily for the protection of society, but rehabilitation, in the form of moral re-education, is also an important objective since a criminal reformed in this manner is no longer a threat to society."
- (h) "Strict punishment of offenders who endanger public safety is the optimum way of distributing 'justice' and deterring potential criminals; non-punitive measures (e.g., probation) should

(CONTINUED)

TABLE 31 (Continued)

MILLER: METHODS OF DEALING WITH OFFENDERS

be used only in cases where true rehabilitation seems assured."

- (i) "In addition to capital punishment and life imprisonment (with air-tight guarantees that this sentence be fully served), criminal justice policy-makers should consider highly visible public corporal punishment to deter dangerous and habitual criminals."
- (j) "Habitual criminals, criminal types, and those who incite them should be prevented from further endangering society by the most forceful social retribution possible, including public execution, sterilization, and banishment from society."
- (k) Differences from 100% due to rounding.

TABLE 32

MILLER: OPERATING POLICIES OF CRIMINAL JUSTICE AGENCIES

Type	Responses:		(3) N	(2) D	(1) SD	
	(5) SA	(4) A				
Left - 5(a)	(1)	(0)	2%	24%	74%	(233)100%
Left - 4(b)	6%	28%	20%	39%	8%	(236)101%(k)
Left - 3(c)	7%	52%	20%	19%	1%	(235) 99%(k)
Left - 2(d)	15%	41%	15%	26%	4%	(239)101%(k)
Left - 1(e)	11%	54%	17%	17%	(1)	(236) 99%(k)
Right - 1(f)	7%	54%	17%	19%	3%	(230)100%
Right - 2(g)	20%	54%	12%	12%	1%	(237) 99%(k)
Right - 3(h)	8%	31%	13%	39%	9%	(239)100%
Right - 4(i)	10%	25%	9%	41%	16%	(232)101%(k)
Right - 5(j)	12%	39%	19%	28%	3%	(233)101%(k)

- (a) "The whole apparatus of so-called 'law enforcement' is simply the domestic military apparatus used to inflict harassment, confinement, injury or death on those who protest injustice by challenging the arbitrary regulations devised to protect ruling class interests; the only answer is the total and forceful overthrow of the entire system."
- (b) "Citizens should monitor all operations of police and corrections officials to prevent harassment and brutality by these agencies, thereby giving citizens more control over their own lives and reducing the power available to criminal justice agents."
- (c) "Access to information concerning offenders should be limited and public access to inner operations of criminal justice agencies should be increased, with the major burden of corrections being shifted to the communities to which all offenders must at some point return."
- (d) "The criminal justice system is in dire need of an extensive upgrading of the quality of its personnel at all levels and a standardization of sentencing procedures which are geared to explicit rehabilitation objectives, rather than being left to the often arbitrary whims of particular judges."
- (e) "The best way to promote 'justice' is through a coordinated, efficient, and treatment-and-rehabilitation-oriented criminal justice system, but where legal dispositions are relatively specified, thereby reducing some seemingly arbitrary decision-making."
- (f) "The 'holding' capacity of the criminal justice system, i.e., its capacity to reliably separate from the community those 'hard core' offenders who engage repeatedly in serious crimes, must be enhanced through a 'deterrence' approach which incorporates offense-based legal dispositions, determinate rather than indeterminate sentences, certainty of penalty, increased juridical efficiency, and similar elements."
- (g) "Increases in the numbers and visibility of police will help prevent crime, but programs of moral re-education in the schools and communities are also needed to offset the influence of those in the schools, media, and elsewhere who promote criminality by challenging the established moral values that forestall crime."
- (h) "To deal decisively with crime, the scope of the criminal law must be expanded and the rights of police to enforce the law

(CONTINUED)

TABLE 32 (Continued)

MILLER: OPERATING POLICIES OF CRIMINAL JUSTICE AGENCIES

must be protected from misguided legalistic interference, which often frees on procedural details criminals laboriously apprehended by police."

- (i) "It is imperative that police have full freedom to use all available resources, legal and technical, to fight crime without interference from elements (e.g., prison-reformers, some courts) who mindlessly focus on the welfare of convicted felons and blindly disregard the welfare of law-abiding citizens."
- (j) "In addition to substantial increases in manpower, law enforcement personnel must be provided with the most modern, lethal weaponry and the technological capacity (communications, computerization, electronic surveillance, aerial pursuit capability) to deliver the maximum force possible to fight crime in our streets."
- (k) Differences from 100% due to rounding.

be specified.

Given all of the rather "moderate" responses to the other issues, it is surprising that the Right-5 position scores slightly better than 50% agreement on this issue. The image that this item was intended to convey was one of a police state and "Big Brother". It is possible that it was not interpreted as such by the judges. Perhaps the proper interpretation of this response pattern is that the judges are also concerned with effective law enforcement by the police using modern methods. This difference between the intent of the item and this particular interpretation of the responses may be because this item was the last ideological item on the questionnaire. Since it was a long and involved questionnaire, we may have here a result of a fatigue factor. However, it should also be noted that this item did correlate well with other Right items.

Taken together, the bulk of the agreement with positions on Miller's continuum occurs in the middle range. Left-1, Right-1, and Right-2 items scored high agreement on all three issues. Left-2 scored high on two issues and split on one. Left-3 scored high agreement percentages on two issues, Right-3 on one (plus one split), and Left-4 showed two split response patterns. Right-5 did show the one agreement, despite questions of interpretation. The middle-range preferences are also illustrated in Table 33, which shows the means and

summated score distributions over all three issues for Miller's ten positions. Concerning the far end-points of the continuum (Left-5 and Right-5), the judges seemed slightly more agreeable to the far Right than to the far Left, probably due mostly to that one Right-5 item.

Since Miller's typology is a continuum rather than discrete types, examining each positive intratype correlation for all positions on that continuum would tell us little about the "cohesiveness" of the Left and Right. Instead, we look toward each end of the scale for high positive correlations and for some high negative correlations between opposite ends on the intertype matrices, show in Table 34. The correlation matrix for the first issue shows some internal cohesion on the Left, and the matrices for the other two issues show some for the Right. These are more or less the opposites of the high agreement items among the responding judges, so the positive correlations may be because of large disagreements by the majority of the judges, i.e., the "moderates" disagreeing with both extreme positions. Negative correlations between these are sparse and only barely negative. The correlations for the ungrouped summated scores show a more consistent pattern of high positive correlations at the ends, but again, there are very few moderately high negative correlations between them.

These latter patterns of high positive correlations

TABLE 33
MILLER: SUMMATED SCORES

Type	\bar{X}	<u>Grouped Summated Scores:</u>				
		3-6	7-9	10-12	13-15	
Left - 5	(4.7)	85%	13%	2%	(0)	(229)100%
Left - 4	(8.0)	25%	52%	22%	2%	(223)101%(a)
Left - 3	(9.1)	11%	45%	40%	4%	(234)100%
Left - 2	(10.1)	6%	32%	50%	12%	(231)100%
Left - 1	(11.7)	(0)	6%	67%	28%	(232)101%(a)
Right - 1	(11.6)	(0)	8%	62%	30%	(227)100%
Right - 2	(11.3)	1%	16%	56%	26%	(233) 99%(a)
Right - 3	(9.0)	16%	43%	34%	8%	(230)101%(a)
Right - 4	(7.5)	46%	29%	20%	5%	(225)100%
Right - 5	(7.0)	45%	44%	9%	3%	(230)101%(a)

(a) Differences from 100% due to rounding.

TABLE 34

MILLER: INTERTYPE CORRELATIONS

Issue/Type	Left:				Right:					
	5	4	3	2	1	I	2	3	4	5
<u>Locus of Responsibility for Crime:</u>										
Left - 5	---	(239)	(240)	(238)	(237)	(240)	(239)	(236)	(238)	(239)
Left - 4	.373	---	(241)	(238)	(237)	(241)	(238)	(236)	(237)	(240)
Left - 3	.316	.307	---	(239)	(238)	(242)	(239)	(237)	(238)	(241)
Left - 2	.266	.390	.364	---	(236)	(239)	(237)	(236)	(237)	(238)
Left - 1	-.006	-.043	.017	.138	---	(238)	(236)	(234)	(235)	(237)
Right - 1	.003	-.019	.056	.081	.116	---	(239)	(237)	(238)	(241)
Right - 2	-.068	-.208	-.053	-.103	.081	.104	---	(235)	(237)	(238)
Right - 3	.059	-.103	-.152	-.032	.170	.189	.355	---	(234)	(236)
Right - 4	.132	-.065	-.013	.054	.101	.240	.148	.393	---	(237)
Right - 5	.227	.176	.094	.147	.072	.219	.056	.320	.270	---
<u>Methods of Dealing with Offenders:</u>										
Left - 5	---	(224)	(231)	(230)	(231)	(229)	(231)	(230)	(228)	(230)
Left - 4	.162	---	(226)	(227)	(226)	(224)	(226)	(227)	(223)	(225)
Left - 3	.073	.098	---	(232)	(236)	(234)	(236)	(232)	(233)	(234)
Left - 2	.044	.178	.158	---	(233)	(231)	(233)	(234)	(230)	(231)
Left - 1	-.094	.114	.125	.232	---	(236)	(237)	(233)	(235)	(235)
Right - 1	.056	.080	.070	.116	.189	---	(235)	(231)	(235)	(233)
Right - 2	-.005	.065	-.090	.142	.058	.138	---	(233)	(234)	(234)
Right - 3	.146	.155	-.098	.053	-.036	.102	.335	---	(230)	(231)
Right - 4	.205	-.059	-.160	-.109	-.108	-.023	.199	.295	---	(232)
Right - 5	.139	.111	-.135	-.006	-.076	.077	.248	.377	.511	---

(CONTINUED)

TABLE 34 (Continued)

MILLER: INTERTYPE CORRELATIONS

Issue/Type	Left:					Right:				
	5	4	3	2	1	5	4	3	2	1
<u>Operating Policies of</u>										
<u>Criminal Justice</u>										
<u>Agencies:</u>										
Left - 5	---	(230)	(229)	(232)	(230)	(230)	(231)	(232)	(231)	(232)
Left - 4	.098	---	(232)	(235)	(232)	(227)	(233)	(235)	(229)	(230)
Left - 3	.060	.354	---	(234)	(232)	(227)	(232)	(234)	(228)	(229)
Left - 2	.131	.177	.246	---	(235)	(229)	(236)	(238)	(231)	(232)
Left - 1	-.099	-.034	.186	.287	---	(228)	(233)	(235)	(229)	(230)
Right - 1	-.091	-.036	.039	.038	.290	---	(228)	(229)	(228)	(229)
Right - 2	-.160	-.117	-.074	-.029	.117	.294	---	(236)	(230)	(231)
Right - 3	-.009	-.171	-.074	.118	.149	.250	.375	---	(231)	(232)
Right - 4	-.016	-.133	-.158	.012	.069	.374	.277	.498	---	(231)
Right - 5	-.115	-.051	-.082	-.021	.047	.259	.388	.385	.366	---
<u>SUMMATED SCORE: (a)</u>										
Left - 5	---	(219)	(225)	(227)	(224)	(224)	(226)	(226)	(221)	(226)
Left - 4	.336	---	(219)	(221)	(218)	(219)	(219)	(220)	(219)	(220)
Left - 3	.236	.419	---	(227)	(228)	(223)	(229)	(226)	(221)	(226)
Left - 2	.256	.385	.407	---	(226)	(225)	(227)	(228)	(224)	(229)
Left - 1	-.093	.074	.106	.362	---	(222)	(227)	(225)	(221)	(225)
Right - 1	-.037	.059	.129	.195	.397	---	(223)	(224)	(221)	(224)
Right - 2	-.083	-.044	-.129	.028	.214	.408	---	(226)	(221)	(226)
Right - 3	.126	-.075	-.149	.057	.216	.447	.576	---	(223)	(227)
Right - 4	.214	-.058	-.235	-.033	.113	.373	.424	.631	---	(222)
Right - 5	.113	.004	-.091	-.025	.107	.330	.441	.617	.589	---

(a) Correlations are for ungrouped summated scores.

held when controlling for the various test factors. In some cases, some high negative correlations between Left and Right positions showed up as well. In other words, ideological "lines" began to form among some subgroups of the respondent population. Table 35 shows this ideological split occurring among judges who are not elected to the bench, among part-time judges, and among judges in the Northeast region of the U. S. For the most part, however, any negative correlations between Left and Right either disappear or remain relatively negligible when controlling for the test factors.

Examining the grouped summated-score distributions when controlling for the test factors yielded three noteworthy differentials. First, Table 36 shows that, when controlling for geographic region, the percentage of people scoring ten or more on the far Right (Right-3 and Right-4) is higher in the North Central and Southern regions than in the other two. A similar pattern appears for very high scores (13 or higher) on the Right-3 position. In other words, these regions have the greatest percentages per capita of Right-wing judges. It is also interesting to note that the range of very high scores (13 or greater) is considerably smaller in the West than elsewhere. There are no intense Left-5's, Left-4's, Right-3's, Right-4's, or Right-5's in the sample from that region, and fewer Right-1's (19%) and Right-2's (7%) than in any other region.

Second, the common conception that there are more "liberals" per capita in large cities and more "conservatives" in rural areas is indicated (though not always with statistical significance) in Table 37. Using the Left-3 and Right-3 positions as examples, as one moves down the three test factor categories from large city to small town/rural districts, the percentage of judges scoring higher on the Left decreases and the percentage scoring higher on the Right increases.

Finally, when we look at the selection method of judges, scores on Right-3 and Right-4 vary considerably. Table 38 shows that, when those judges not elected are compared with those elected facing opposition, the latter tend toward significantly higher Right-wing scores. The opposite pattern, however, does not occur on the Left.

One can conclude from these findings that the juvenile court judges in this research are more likely to agree with a fairly wide range of "middle-ground" positions on Miller's political scale. As in the typologies of Platt and Schur, a strong belief in individual responsibility and individualized treatment and rehabilitation was prevalent. Teaching a person morality and responsibility, particularly in the family and church environments, seemed to be regarded positively by these judges. Presumably, then, the role of the juvenile court is to pick up this process where it is felt that

TABLE 35

INTERTYPE CORRELATIONS OF SUMMATED SCORES FOR JUDGES IN
SELECTED TEST FACTOR CATEGORIES

Test Factor Category/Type	Left:					Right:				
	5	4	3	2	1	1	2	3	4	5
1) Judges Not Elected:										
Left - 5	---	(50)	(53)	(52)	(51)	(52)	(52)	(52)	(50)	(53)
Left - 4	.334	---	(51)	(50)	(49)	(50)	(50)	(50)	(50)	(51)
Left - 3	.278	.429	---	(53)	(54)	(52)	(55)	(53)	(51)	(54)
Left - 2	.276	.391	.514	---	(51)	(51)	(52)	(52)	(51)	(53)
Left - 1	-.265	-.105	.071	.296	---	(50)	(52)	(51)	(49)	(52)
Right - 1	-.401	-.206	.046	.146	.566	---	(51)	(51)	(50)	(52)
Right - 2	-.217	-.200	-.111	-.121	.178	.337	---	(52)	(50)	(53)
Right - 3	-.087	-.259	-.294	-.136	.095	.282	.409	---	(50)	(53)
Right - 4	-.040	-.271	-.408	-.208	-.024	.213	.353	.659	---	(51)
Right - 5	-.061	-.100	-.254	-.165	.053	.118	.239	.614	.572	---
2) Part-Time Judges:										
Left - 5	---	(32)	(32)	(32)	(31)	(32)	(32)	(32)	(32)	(31)
Left - 4	.300	---	(33)	(33)	(32)	(32)	(33)	(33)	(33)	(32)
Left - 3	.242	.271	---	(33)	(32)	(32)	(33)	(33)	(33)	(32)
Left - 2	.336	.348	.418	---	(32)	(32)	(33)	(33)	(33)	(32)
Left - 1	-.358	-.041	.021	.377	---	(31)	(32)	(32)	(32)	(31)
Right - 1	-.311	-.239	-.146	.276	.634	---	(32)	(32)	(32)	(31)
Right - 2	-.161	-.302	-.436	-.083	.197	.446	---	(33)	(33)	(32)
Right - 3	-.079	-.399	-.459	-.070	.146	.465	.703	---	(33)	(32)
Right - 4	.056	-.393	-.439	.037	.207	.410	.617	.739	---	(32)
Right - 5	.040	-.153	-.252	.018	.011	.218	.465	.642	.636	---

(CONTINUED)

TABLE 35 (Continued)

INTERTYPE CORRELATIONS OF SUMMATED SCORES FOR JUDGES IN
SELECTED TEST FACTOR CATEGORIES

Test Factor Category/Type	Left: <u>5</u>	4	3	2	1	Right: <u>1</u>	2	3	4	5
3) Judges from Northeast Region:										
Left - 5	---	(33)	(34)	(34)	(34)	(34)	(34)	(33)	(33)	(34)
Left - 4	.581	---	(35)	(35)	(35)	(34)	(34)	(34)	(35)	(35)
Left - 3	.431	.556	---	(36)	(37)	(35)	(35)	(35)	(35)	(36)
Left - 2	.359	.257	.350	---	(36)	(35)	(35)	(35)	(35)	(36)
Left - 1	-.326	-.328	-.015	.310	---	(35)	(35)	(35)	(35)	(36)
Right - 1	-.432	-.299	-.068	.139	.741	---	(34)	(34)	(34)	(35)
Right - 2	-.259	-.245	-.051	-.129	.335	.427	---	(34)	(34)	(35)
Right - 3	-.095	-.274	-.473	.057	.301	.311	.382	---	(34)	(35)
Right - 4	.078	-.368	-.422	-.139	.139	.211	.306	.661	---	(35)
Right - 5	-.035	-.057	-.215	.048	.255	.245	.253	.487	.494	---

(a) Correlations are for ungrouped summated scores.

TABLE 36

PERCENT OF JUDGES SCORING 10+ AND 13+ ON MILLER SUMMATED IDEOLOGY SCORES VS.
GEOGRAPHIC REGION

Geographic Region	Left: <u>5</u>				Right: <u>1</u>					
	4	3	2	1	2	3	4	5		
<u>Score 10 or Greater:</u>										
Northeast	3%	20%	57%	83%	95%	89%	86%	29%	11%	6%
North Central	1%	26%	49%	54%	94%	96%	77%	41%	30%	10%
South	2%	26%	35%	63%	95%	94%	87%	54%	31%	12%
West	(0)	16%	47%	56%	94%	81%	81%	25%	10%	6%
<u>Score 13 or Greater:</u>										
Northeast	3%	3%	9%	22%	22%	40%	31%	3%	3%	6%
North Central	1%	3%	4%	8%	32%	28%	31%	10%	6%	1%
South	2%	1%	3%	11%	26%	33%	27%	11%	8%	4%
West	(0)	(0)	6%	13%	28%	19%	7%	(0)	(0)	(0)

TABLE 37

URBANIZATION VS. LEFT-3 AND RIGHT-3 SUMMATED SCORES

Urbanization ^(a)	<u>Grouped Summated</u> <u>Score:</u>				
	<u>3-6</u>	7-9	10-12	13-15	
	<u>Left - 3: (b)</u>				
Large City	9%	32%	55%	4%	(47)100%
Small City	12%	39%	43%	6%	(51)100%
Small Town/Rural	11%	52%	34%	4%	<u>(136)</u> 101% ^(d)
					(234)
	<u>Right - 3: (c)</u>				
Large City	24%	47%	24%	4%	(45) 99% ^(d)
Small City	14%	55%	27%	4%	(49)100%
Small Town/Rural	13%	37%	40%	10%	<u>(136)</u> 100%
					(230)

(a) Scored in reverse, i.e., groups numbered 1 to 7 from largest to smallest, respectively.

(b) Df=6, chi-sq=8.303, p=.2167, r (ungrouped) = -.151. A similar response pattern appeared for Left-4 (p=.1640) and Left-5 (p=.1540).

(c) Df=6, chi-sq=11.764, p=.0674, r (ungrouped) = .242. A similar response pattern appeared for Right-4 (p=.0719) and Right-5 (p=.2953).

(d) Differences from 100% due to rounding.

TABLE 38
SELECTION METHOD VS. RIGHT-3 AND RIGHT-4 SUMMATED SCORES

Selection Method	<u>Grouped Summated</u> <u>Score:</u>				
	<u>3-6</u>	<u>7-9</u>	<u>10-12</u>	<u>13-15</u>	
	<u>Right - 3: (a)</u>				
Not Elected	13%	53%	26%	8%	(53)100%
Elected Unopposed	28%	43%	23%	7%	(61)101% ^(c)
Elected With Opposition	10%	39%	42%	9%	<u>(111)</u> 100%
					(225)
	<u>Right - 4: (b)</u>				
Not Elected	53%	24%	16%	8%	(51)101% ^(c)
Elected Unopposed	56%	33%	8%	3%	(61)100%
Elected With Opposition	39%	27%	29%	6%	<u>(108)</u> 101% ^(c)
					(220)

(a) Df=6, chi-sq=15.815, p=.0148.

(b) Df=6, chi-sq=13.692, p=.0333.

(c) Differences from 100% due to rounding.

the home has failed, which is a traditional justification for court intervention from Platt's analysis.

Except in certain subgroups, negative correlations between opposite ends of the scale were relatively small and few. The positive correlations on the same side of the continuum were, however, fairly high for the summated scores, more consistently so than for the scores on the individual issues. Although one cannot say that Miller's typology, as stated, constitutes the distinguishable ideological types of Left and Right with varying interval degrees of intensity, it may, along with certain of the other typologies, contain the seeds of something of a more discrete nature.

Ideology: Reevaluation and Synthesis

We have examined four ideological typologies, hopefully, as Platt, Schur, Cardozo, and Miller would have intended them. There is a large potpourri of issues contained in all of the ideological positions on the issues represented by these typologies. Some issues and ideological typologies seem only slightly distinct from some others (e.g., Platt's Moralism and Schur's Get Tough). Others appear diametrically opposed to one another, at least at face valuation (e.g., Platt's Constitutionalism and Schur's Get Tough). What this section of the research intends is to examine the issue positions item-by-item, as if they were not grouped with one or the other of the author's typologies, then regroup the items

into ostensibly opposing viewpoints.

The first step in this process was to list the range of the zero-order correlation coefficients (highest positive and highest negative) of each of the 70 ideological position statements with all other such items. The purpose of this procedure was to eliminate items which correlated poorly or not at all with other ideology items in the survey. It was decided, as a starting point, that an item must correlate a minimum of $+.25$ with at least one other item and $-.15$ with at least one other to be considered further. Since there was no forced choice between one or the other of the original ideological types, negative correlations were not expected to be as high as a rule as positive correlations. This proved, on the whole, to be true.

For example, Item #13 correlated most positively with Item #58 ($.186$) and most negatively with #59 ($-.143$).¹¹⁸ Since this range did not meet our criteria at either end (positive or negative), Item #13 was eliminated from further consideration. This item neither grouped itself with other items (i.e., a high positive correlation) nor was it distinct from others (i.e., high negative correlation).

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In the next several paragraphs, only an item number is given to indicate ideology position statements. This number is actually the "Variable Number" by which the items are listed in the Codebook to this research. See Appendix B, then, for the actual items.

Item #7 correlated most positively with #18 (.440) and most negatively with #56 (-.071). This range did not meet our criteria at the negative end (greater than -.15), and therefore was also eliminated. Although this item did group itself with some other items, it was not in opposition with any other item.

On the other hand, Item #74 correlated most positively with #47 (.473) and most negatively with #17 (-.226). This item, then, met both positive and negative criteria for being kept in the analysis, and so was retained.

In short, this method only retains for further consideration those items which both correspond to and oppose some other items in the survey, a basic need for an ideological typology as we have defined it.

After all of the resulting eliminations, 43 of the original 70 items still remained. Taking each of these items one by one, the other items with which each correlated positively (+.25 or better) and negatively (-.15 or better) were examined. Items showing face-valid similarities in their correlates were grouped together.

For example, consider the following items and their correlates:

<u>Item</u>	<u>Correlates</u>
#47	Positive/ #30, #31, #35, #37, #50, #74, #78 Negative/ #17

#78 Positive/ #37, #47, #50, #77
 Negative/ #17, #29, #41, #65, #67

Items #47 and #78 are not only positively correlated with each other, but also share two additional positive correlates (#37 and #50). Also, they share a common negative correlate (#17) as well. Therefore, these two items would initially be placed into the first group.

Consider, now, the next two items:

<u>Item</u>	<u>Correlates</u>
#67	Positive/ #36, #39, #49, #63, #65, #75, #80, #81, #84 Negative/ #37, #56, #78
#29	Positive/ #8, #36, #63, #80 Negative/ #78

Although Items #29 and #67 are not highly correlated with each other (.199), they share three positive correlates (#36, #63, and #80) and one negative correlate (#78), so these two items would be in the second group. This group would seemingly be an opposite of the first group, since Items #37 and #78 are positive correlates and Items #67, #29, and #65 are negative correlates of the first group.

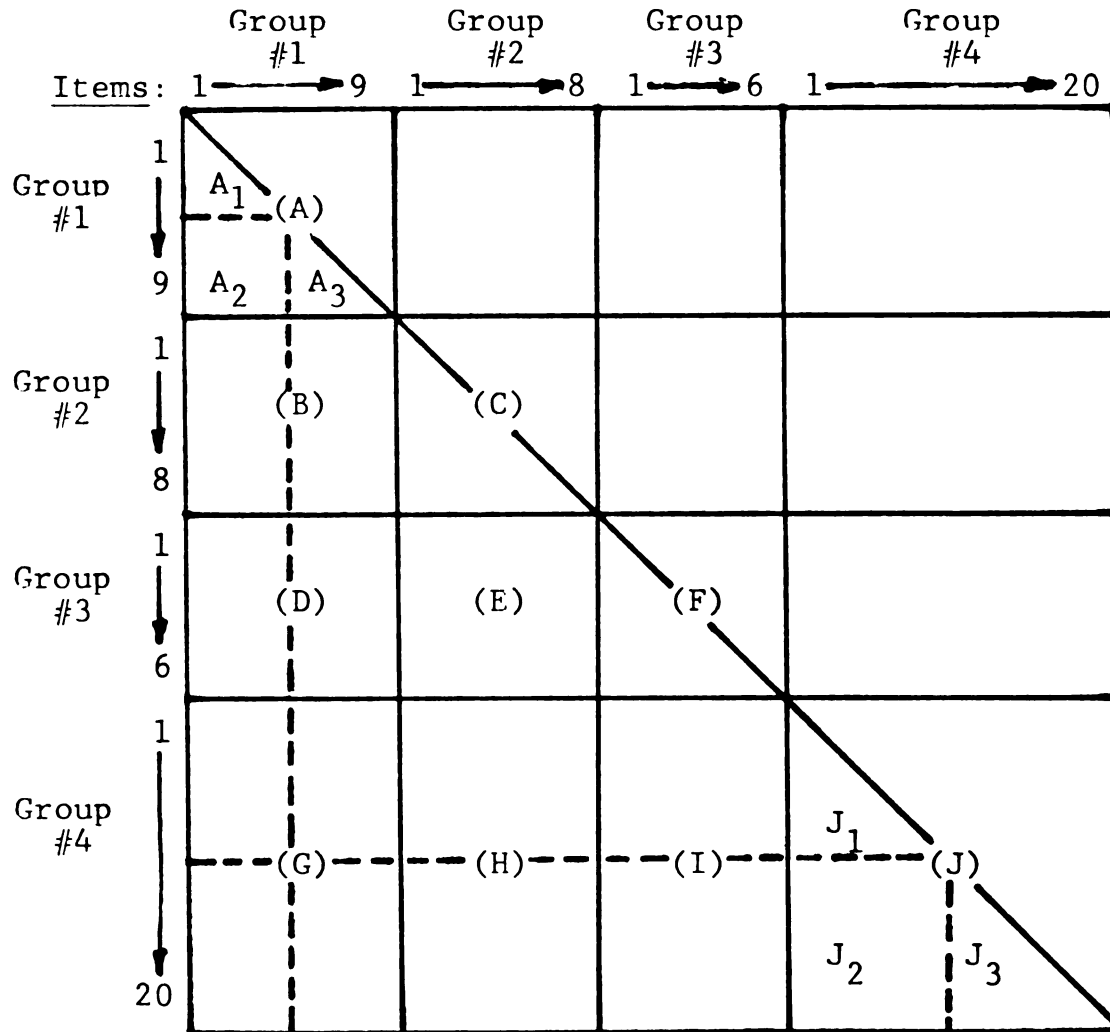
The process went on like this until all 43 items were contained in groups with common positive and negative correlates. This procedure produced only four distinguishable groups with different numbers of items (9, 8, 6, and 20) in each group.

The third step was to draw up the 43-by-43 item correlation matrix showing the intercorrelations of all the individual items by group. Figure B shows the outline of this matrix. This allows one to select the best three or four items in each group, i.e., the items with the highest within-group positive correlations (cells A, C, F, and J in Figure B) and inter-group negative correlations (all other cells in Figure B). In reality, however, many of these latter correlations were at best zero or near-zero, particularly certain items in cells B, E, and I.

While going through this selection process, certain items within cells A and J appeared to "separate out" somewhat from the rest, i.e., they correlated more positively with each other than they did with other items in the cell. In other words, although the items in cells A_2 and J_2 correlated positively with the items in A_1 , A_3 , and J_1 , J_3 , respectively, those in the latter four sub-cells correlated even more positively with each other. As such, we ended up with a total of six groups, with the four "best" items in each group. These are the six "types" of what we will call the "constructed" ideological typology.

The original typologies contained either three or four items per type, depending upon the number of issues measured under them. It was decided, then, to put forth two "versions" of each of the six types in the constructed typology;

FIGURE B
GROUPED-ITEM CORRELATION MATRIX OUTLINE



one in which each type contained the three best items (the "3-variable version") and the other containing all four of the selected items (the "4-variable version").

It remained, however, to find suitable names for these six ideological types. From an examination of the items which made up these groupings and the original source of the items, they were titled Far-Left, Mid-Left, Constitutionalism, Social-Worker, Mid-Right, and Far-Right. The "Far-" categories of the "Right" and "Left" were the groups that were not part of the original four groupings. Their differences from the "Mid-" categories are primarily in degree (something like what Miller called "intensity") and in percentages of agreement on the individual items which constitute it (those in the "Far-" categories being somewhat to considerably less).

As with previously considered typologies, each item constituting the six constructed types were summed for both 3- and 4-variable versions to obtain an ideological "summated score". Three-variable summated scores ranged from 3 to 15, four-variable scores from 4 to 20, and respondents who did not answer all items in the type were eliminated. Tables 39-44 show the items which make up each type, their source and previous table reference, and their response distributions individually and as a 3- and 4-variable summated score. The first three items listed under each type (#1, #2, and #3) are used in the 3-variable version of the constructed ideology.

The last variable (#4) is added to the other three to form the 4-variable version.

Table 39 illustrates the ideological type we have called the Far-Left. It is constructed from all of Miller's Left-5 items, plus one of Schur's Radical Non-Intervention. Crime, to the Far-Left, is a result of a social determinism external to the individual actor., particularly the oppression of the "have-nots" by the "haves" through their agents, the criminal justice system authorities. They believe this to be necessary for ruling elites to maintain their illegitimate power, and that they do this by making and enforcing laws which are intentionally biased against those who do not have such power. Their answer to the "crime problem" is a redefinition of the terms, and ultimately, the revolution of the "have-nots".

As can be seen from the response distribution, and as expected, this type has few adherents among juvenile court judges as a whole. However, since its items "cohere" fairly well, and since, despite large mutual disagreements with both the Far-Left and Far-Right positions by judges in the sample, they do separate the type from other types. It is stated here as a distinct ideology, and it is basically Miller's Left at its most intense.

A less intense form of Miller's Left appears in Table 40, which describes what we have called the Mid-Left. It

TABLE 39
THE "FAR-LEFT"

Item:

- #1 "Behavior designated as 'crime' is an inevitable product of a fundamentally corrupt and unjust society; true crime is the behavior of the ruling classes who perpetuate, control, and profit from an exploitative and brutalizing system."

(Miller, LEFT-5, "Locus of Responsibility for Crime", Table 30)

- #2 "'Juvenile delinquency' primarily reflects differential and discriminatory processing decisions made by agents of the juvenile justice system."

(Schur, RADICAL NON-INTERVENTION, "Basic Assumptions about Causation", Table 14)

- #3 "The whole apparatus of so-called 'law enforcement' is simply the domestic military apparatus used to inflict harassment, confinement, injury, or death on those who protest injustice by challenging the arbitrary regulations devised to protect ruling class interests; the only answer is the total and forceful overthrow of the entire system."

(Miller, LEFT-5, "Operating Policies of Criminal Justice Agencies", Table 32)

- #4 "Persons acting to hasten the inevitable collapse of a decadent system, such as most of those the ruling classes call 'criminals', should have full freedom and backing to continue such acts."

(Miller, LEFT-5, "Methods of Dealing with Offenders", Table 31)

Item	Responses:					
	(5) SA	(4) A	(3) N	(2) D	(1) SD	
#1	1%	6%	6%	41%	46%	(240)100%
#2	(0)	8%	15%	55%	22%	(238)100%
#3	(1)	(0)	2%	24%	74%	(233)100%
#4	(1)	2%	13%	30%	54%	(232) 99%(a)

		<u>Grouped Summated:</u>				
	<u>\bar{X}</u>	<u>Score:</u> <u>3-6</u>	<u>7-9</u>	<u>10-12</u>	<u>13-15</u>	
3-Variable Version	(5.1)	84%	14%	3%	(0)	(230)101%(a)
	<u>\bar{X}</u>	<u>4-8</u>	<u>9-12</u>	<u>13-16</u>	<u>17-20</u>	
4-Variable Version	(6.8)	82%	16%	2%	(0)	(227)100%

(a) Differences from 100% due to rounding.

TABLE 40
THE "MID-LEFT"

Item:

#1 "The root causes of crime--poverty, urban deterioration, blocked educational and job opportunities--are aggravated by criminal justice agencies, who use their power to stigmatize and brutalize those who come under their jurisdiction, thus permitting them few options other than continued criminality."

(Miller, LEFT-3, "Locus of Responsibility for Crime", Table 30)

#2 "Those who engage in more common forms of theft and other 'street crimes' are forced into such behavior by the denial of opportunity and justice resulting from a grossly inequitable distribution of wealth, power, and privilege."

(Miller, LEFT-4, "Locus of Responsibility for Crime", Table 30)

#3 "The maximum number of persons should be diverted away from criminal justice agencies into service programs in the community, the proper arena for helping offenders."

(Miller, LEFT-3, "Methods of Dealing with Offenders", Table 31)

#4 "The key to delinquency prevention is in collective programs designed to engender massive and complete reform of all levels of American society, particularly those programs which involve none-to-minimal intervention of the juvenile justice system into the lives of youths."

(Schur, RADICAL NON-INTERVENTION, "Delinquency Prevention", Table 15)

Item	Responses:					
	(5) SA	(4) A	(3) N	(2) D	(1) SD	
#1	5%	10%	8%	50%	27%	(242)100%
#2	(1)	6%	11%	57%	26%	(241)100%
#3	<u>12%</u>	<u>50%</u>	<u>15%</u>	<u>20%</u>	<u>3%</u>	<u>(237)100%</u>
#4	3%	22%	17%	43%	16%	(241)101%(a)

	<u>X̄</u>	Grouped Summated Score:				
		<u>3-6</u>	<u>7-9</u>	<u>10-12</u>	<u>13-15</u>	
3-Variable Version	(7.6)	29%	52%	17%	3%	(236)101%(a)
	<u>X̄</u>	<u>4-8</u>	<u>9-12</u>	<u>13-16</u>	<u>17-20</u>	
4-Variable Version	(10.2)	27%	53%	18%	2%	(235)100%

(a) Differences from 100% due to rounding.

is made up of Miller's Left-3 and Left-4 positions, as well as one of Schur's Radical Non-Intervention items. The social determinism of the Far-Left is still prevalent, though to a lesser degree. The criminal justice system is seen to have faults which may be criminogenic for individuals who come in contact with it (e.g., "labelling", inequality), but its agents are not seen as "criminals" themselves, nor as the military force for some power elite. Criminals are considered a class of people, some of whom are arrested, tried, etc., but the answer to the "crime problem" does not lie in revolution. There is no mention of doing away with the power structure per se, only the taking of some of the decision-making power and the reform of criminals out of their hands. The formal mechanisms of social control are often not seen as suitable vehicles in solving the problems of increasing law-breaking behavior. One's own community is seen as the best place to reform criminals.

Although this type has more adherents than the Far-Left, it still contains only a minority of the judges in the sample. Many of the higher scores here seem attributable to Item #3, which is basically a statement of the "diversion" philosophy.

Table 41 illustrates the third ideological grouping to manifest itself in this manner. It is, more or less, the opposite of the Mid-Left, so it was termed the Mid-Right.

Three of the items which constitute it are Miller's Right-wing items, plus one parens patriae statement from Platt. Crime is seen, at least implicitly, as an individual phenomena. Prevention of crime and protection of citizens by the thorough enforcement of the substantive laws and stern disposition of offenders are the paramount themes of this type, although the outside possibility of rehabilitation is tacitly acknowledged. There is also a hint of "conspiracy" in the arguments set forth here, the "conspirators" being those who argue against "established moral values" in the "schools, media, and elsewhere". If Miller is correct, then obedience to the law, whatever it may be, is presumably one of those values which they see as being challenged.

It may not be immediately apparent why the Platt item corresponds so well with Miller's Right. Platt did claim that parens patriae was basically a conservative philosophy aimed at the maintenance of the power structure status-quo. Given this and other items, one could plausibly infer that the "flexibility and informality" in juvenile court proceedings allows a judge to decide "where true rehabilitation is assured", and as such allow judges the power to protect the citizenry and prevent crime perpetrated by juveniles. If this interpretation is correct, then it is a question of power locus which unites the Platt item with the rest. Conservative judges tend to believe in their own efficacy at doing this, and consequently

in maintaining their power which due process considerations mandated by the Supreme Court have eroded at the adjudicatory phase of the proceedings.

Response distributions on Table 41 show that this ideology has more adherents than the Mid-Left, though still far from a majority. The only item which, by itself, had majority agreement was the first one.

Table 42 shows the items which make up the Far-Right ideological type. Miller's Right-5, Platt's Moralism, and Schur's Get Tough stances constitute this type. As with the differences between Mid-Left and Far-Left, this is a more intense version of the Mid-Right. Protection of society and punishment of offenders are also major themes, but the emphasis appears slightly different. In the Mid-Right positions, protection was somewhat more paramount, while the Far-Right emphasis is more on the punitive, and to the extremes of severity. In short, while the Mid-Right is a more "defensive" approach (protection), the Far-Right takes to the "offensive" (retribution). In addition, this ideology stresses something not evident in the Mid-Right--what has been called the "expressive" function of law and criminal justice. Severe punishment is meant to serve as a deterrent because it "dramatizes" social reaction to what it considers reprehensible behavior, and the deterrent in this case is, then, primarily a function of social ostracism and pressure to conform. By comparison,

TABLE 41
THE "MID-RIGHT"

Item:

- #1 "Increases in the number and visibility of police will help prevent crime, but programs of moral re-education in the schools and communities are also needed to offset the influence of those in the schools, media, and elsewhere who promote criminality by challenging the established moral values that forestall crime."

(Miller, RIGHT-2, "Operating Policies of Criminal Justice Agencies", Table 32)

- #2 "The rigors of 'due process' considerations in the juvenile court hamper the flexibility and informality necessary for the treatment and rehabilitation of youthful offenders."

(Platt, PARENS-PATRIAE, "Flexibility and Informality in the Juvenile Court", Table 5)

- #3 "It is imperative that police have full freedom to use all available resources, legal and technical, to fight crime without interference from elements (e.g., prison-reformers, some courts) who mindlessly focus on the welfare of convicted felons and blindly disregard the welfare of law-abiding citizens."

(Miller, RIGHT-4, "Operating Policies of Criminal Justice Agencies", Table 32)

- #4 "Strict punishment of offenders who endanger public safety is the optimum way of distributing 'justice' and deterring potential criminals; non-punitive measures (e.g., probation) should be used only in cases where true rehabilitation seems assured."

(Miller, RIGHT-3, "Methods of Dealing with Offenders", Table 31)

Item	Responses:					
	(5) SA	(4) A	(3) N	(2) D	(1) SD	
#1	20%	54%	12%	12%	1%	(237) 99% ^(a)
#2	6%	27%	8%	53%	8%	(237) 102% ^(a)
#3	10%	25%	9%	41%	16%	(232) 101% ^(a)
#4	5%	24%	14%	48%	9%	(234) 100%

	Grouped Summated Score:					
	<u>X</u>	<u>3-6</u>	<u>7-9</u>	<u>10-12</u>	<u>13-15</u>	
3-Variable Version	(9.2)	13%	43%	34%	10%	(228) 100%
	Grouped Summated Score:					
	<u>X</u>	<u>4-8</u>	<u>9-12</u>	<u>13-16</u>	<u>17-20</u>	
4-Variable Version	(11.9)	13%	48%	30%	8%	(228) 99% ^(a)

(a) Differences from 100% due to rounding.

TABLE 42
THE "FAR-RIGHT"

Item:

- #1 "Habitual criminals, criminal types, and those who incite them should be prevented from further endangering society by the most forceful social retribution possible, including public execution, sterilization, and banishment from society."

(Miller, RIGHT-5, "Methods of Dealing with Offenders", Table 31)

- #2 "The major concern of the criminal justice system, including the juvenile court, should be to give dramatic expression to the moral revulsion of citizens toward crime through firm punishments."

(Platt, MORALISM, "Major Concern of Juvenile Court", Table 4)

- #3 "In addition to substantial increases in manpower, law enforcement personnel must be provided with the most modern, lethal weaponry and the technological capacity (communications, computerization, electronic surveillance, aerial pursuit capacity) to deliver the maximum force possible to fight crime in our streets."

(Miller, RIGHT-5, "Operating Policies of Criminal Justice Agencies", Table 32)

- #4 "The focus of the juvenile justice system in reducing delinquency should be getting judges who are not afraid to deal out stern punishment to young criminals."

(Schur, GET TOUGH, "Role of Juvenile Justice System", Table 17)

Item	Responses:					
	(5) SA	(4) A	(3) N	(2) D	(1) SD	
#1	3%	10%	10%	43%	35%	(236)101% ^(a)
#2	1%	10%	10%	61%	18%	(233)100%
#3	12%	39%	19%	28%	3%	(233)101% ^(a)
#4	3%	15%	12%	54%	17%	(239)101% ^(a)

	<u>X̄</u>	Grouped Summated Score:				
		3-6	7-9	10-12	13-15	
3-Variable Version	(7.5)	39%	44%	16%	2%	(230)101% ^(a)
	<u>X̄</u>	Grouped Summated Score:				
		4-8	9-12	13-16	17-20	
4-Variable Version	(9.8)	39%	45%	14%	2%	(229)100%

(a) Differences from 100% due to rounding.

punishment to the Mid-Rightists primarily deters a crime as a function of the "pleasure-pain", "approach-avoidance" principle, i.e., the desire of would-be criminals to avoid unpleasant circumstances which could arise from criminal behavior.

The Far-Right ideology apparently has few true adherents, like the Far-Left. The high agreement with Item #3 may account for many of the higher scores. When this item was first examined in discussing Miller (Table 32), its interpretation in light of other responses was difficult to ascertain. It does appear, however, that there are at least some judges who gave it the meaning it was intended to have: an intense Right-wing belief in vastly increased police power.

Table 43 illustrates the fifth ideological grouping, which we have termed Constitutionalism. This is because three of the four items which constitute it are from Platt's type of the same name. The fourth item is from Cardozo's Method of Sociology. It is difficult to compare this with the Left and Right (Far- or Mid-) in that there is no concern here for what crime is or who criminals are, but only with how they are treated by agents of criminal justice. Their concern is not with the substantive law, violations thereof by "criminals", and enforcement by criminal justice authorities, but with procedural, or "adjective", law and how it is violated and/or enforced by those authorities. It resembles certain parts of

the Mid- and Far-Left positions in that a power structure capable of gross unfairness is assumed, but its scope is much narrower and there is no assumption that these powers will be abused. The Constitutionalist believe that concerns about "protection" should be aimed at the protection of the rights of the accused, a proposition more or less implicit in the Mid- and Far-Left positions. However, the Far-Leftists do not believe that the body politic has the means at hand to accomplish this. Therefore, they suggest revolution. However, the Constitutionalist see salvation in an existing document--the Consitution--and in the enforcement of its provisions dealing with the rights of individuals vis-a-vis the state.

As opposed to the previous four types, this one claims a fair majority of adherents among the responding judges.

An even clearer majority is evident in the case of the last type: the Social-Worker ideology. It is made up of items from Miller's low-intensity Left, Schur's Liberal Reform, and Platt's parens patriae positions. This seems to be what Schur called the most common position of contemporary juvenile justice policy-makers: a treatment-and-rehabilitation perspective where causes and cures are found in both the individual and his or her social-structural circumstances. It embodies the rehabilitation ideal historically prevalent in juvenile justice ideology, and reflects the "medical analogue" that delinquency is a kind of "social disease" of individuals

TABLE 43
THE "CONSTITUTIONALISTS"

Item:

- #1 "A juvenile has the right to the same protections under the Constitution as an adult."

(Platt, CONSTITUTIONALISM, "Central Themes", Table 3)

- #2 "The most important thing that judges and legislators should strive for is a legal order which adapts to changing social needs, yet maintains general social values, such as 'liberty' and 'equality'."

(Cardozo, METHOD OF SOCIOLOGY, "Professional Goal Orientations", Table 24)

- #3 "The major concern of all criminal justice agencies, including the juvenile court, should be the protection of the Constitutional rights of the accused."

(Platt, CONSTITUTIONALISM, "Major Concern of the Juvenile Court", Table 4)

- #4 "The moral values of society are best taught to youthful offenders by their seeing respect for their Constitutional rights being practiced in the juvenile justice system."

(Platt, CONSTITUTIONALISM, "Methods of Moral Socialization", Table 6)

Item	Responses:					
	(5) SA	(4) A	(3) N	(2) D	(1) SD	
#1	50%	38%	3%	8%	(0)	(240) 99%(a)
#2	25%	60%	7%	7%	(1)	(236) 99%(a)
#3	8%	36%	16%	37%	3%	(238) 100%
#4	15%	31%	15%	33%	6%	(239) 100%

	\bar{X}	Grouped Summated Score:				
		3-6	7-9	10-12	13-15	
3-Variable Version	(11.4)	2%	11%	56%	31%	(231) 100%
	\bar{X}	4-8	9-12	13-16	17-20	
4-Variable Version	(14.6)	2%	22%	50%	26%	(230) 100%

(a) Differences from 100% due to rounding.

TABLE 44
THE "SOCIAL-WORKERS"

Item:

- #1 "Dealing with actual or alleged offenders effectively requires gearing individualized treatment to the differential needs of the several types of offenders, the treatment being aimed at enhancing the likelihood of rehabilitation and return of the offender to the community."

(Miller, LEFT-1, "Methods of Dealing with Offenders",
Table 31)

- #2 "The focus of the juvenile justice system in reducing delinquency should be the social, economic, and cultural factors that generate delinquent behavior, and in attracting juvenile justice personnel with advanced training and expertise in this area."

(Schur, LIBERAL REFORM, "Role of Juvenile Justice System",
Table 17)

- #3 "Since the behavior of most of those who commit crimes is symptomatic of social or psychological forces over which they have little control, the goal of rehabilitation should be strived for through a comprehensive strategy of services combining individually-oriented clinical services and beneficial social programs, preferably in the community, but within prison walls as well."

(Miller, LEFT-2, "Methods of Dealing with Offenders",
Table 31)

- #4 "The major concern of juvenile justice should be the future of the youthful offender and his rehabilitation, using all social scientific methods available."

(Platt, PARENS-PATRIAE, "Major Concern of Juvenile Court",
Table 4)

Item	Responses:					
	(5) SA	(4) A	(3) N	(2) D	(1) SD	
#1	38%	57%	4%	1%	(0)	(239)100%
#2	21%	65%	8%	7%	(0)	(236)101%(a)
#3	13%	65%	10%	12%	1%	(234)101%(a)
#4	58%	38%	3%	1%	(0)	(238)100%

	Grouped Summated Scores:					
	<u>X</u>	<u>3-6</u>	<u>7-9</u>	<u>10-12</u>	<u>13-15</u>	
3-Variable Version	(12.1)	(0)	6%	53%	41%	(232)100%
	<u>X</u>	<u>4-8</u>	<u>9-12</u>	<u>13-16</u>	<u>17-20</u>	
	(16.7)	(0)	4%	37%	59%	
4-Variable Version	(16.7)	(0)	4%	37%	59%	(230)100%

(a) Differences from 100% due to rounding.

which requires some "prescribed treatment". The items and response distributions of the Social-Worker type appear in Table 44.

The intercorrelations of all 24 selected individual items are shown by their constituent constructed ideological type in Table 45, and the intercorrelations of the summed scores for these six types appear in Table 46. The number of respondents upon which each correlation is based appears, as always, in parentheses in that part of the matrix above the diagonal. The overlaps between different constructed ideological types are still quite evident from the tables. Mid- and Far-Right types intercorrelate with each other to some extent, but not with any of the other groups (Table 46). Mid-Left, Constitutionalism, and Social-Worker types also intercorrelate, as do Mid- and Far-Left.

The overlap between the Mid- and Far- forms of Left and Right is expected, and that between Mid-Left and Constitutionalism is not surprising. These groupings share some common beliefs, as we have stated. The Constitutionalism/Social-Worker intercorrelation is also plausible since the former type makes no statements whatsoever concerning causation or treatment. It is easy to imagine that one who accepts the social-psychological causation, treatment, and prevention notions of the Social-Worker ideology could be likewise concerned with how criminal justice agencies treat their charges

TABLE 45

FINAL CORRELATION MATRIX OF INDIVIDUAL ITEMS COMBINED TO FORM CONSTRUCTED IDEOLOGIES

	Far-Left			Mid-Left			Constitutionalism			Social-Worker			Mid-Right			Far-Right		
	#1	#2	#3	#1	#2	#3	#1	#2	#3	#1	#2	#3	#1	#2	#3	#1	#2	#3
Far-Left																		
#1																		
#2	---			(240)	(239)	(237)	(238)	(234)	(237)	(238)	(235)	(233)	(236)	(237)	(231)	(233)	(236)	(233)
#3	(238)	(232)	(232)	(238)	(237)	(235)	(237)	(236)	(232)	(235)	(233)	(231)	(234)	(235)	(229)	(233)	(236)	(238)
#4	(230)	(230)	(230)	(235)	(237)	(235)	(237)	(236)	(232)	(235)	(233)	(231)	(234)	(235)	(229)	(233)	(236)	(238)
Mid-Left																		
#1	---			---	(241)	(237)	(241)	(240)	(236)	(238)	(239)	(239)	(236)	(234)	(238)	(237)	(237)	(233)
#2	(238)	(232)	(232)	(238)	(237)	(235)	(237)	(236)	(232)	(235)	(233)	(231)	(234)	(235)	(229)	(233)	(236)	(238)
#3	(230)	(230)	(230)	(235)	(237)	(235)	(237)	(236)	(232)	(235)	(233)	(231)	(234)	(235)	(229)	(233)	(236)	(238)
#4	(230)	(230)	(230)	(235)	(237)	(235)	(237)	(236)	(232)	(235)	(233)	(231)	(234)	(235)	(229)	(233)	(236)	(238)
Center																		
#1	---			---	(241)	(237)	(241)	(240)	(236)	(238)	(239)	(239)	(236)	(234)	(238)	(237)	(237)	(233)
#2	(238)	(232)	(232)	(238)	(237)	(235)	(237)	(236)	(232)	(235)	(233)	(231)	(234)	(235)	(229)	(233)	(236)	(238)
#3	(230)	(230)	(230)	(235)	(237)	(235)	(237)	(236)	(232)	(235)	(233)	(231)	(234)	(235)	(229)	(233)	(236)	(238)
#4	(230)	(230)	(230)	(235)	(237)	(235)	(237)	(236)	(232)	(235)	(233)	(231)	(234)	(235)	(229)	(233)	(236)	(238)
Rock																		
#1	---			---	(241)	(237)	(241)	(240)	(236)	(238)	(239)	(239)	(236)	(234)	(238)	(237)	(237)	(233)
#2	(238)	(232)	(232)	(238)	(237)	(235)	(237)	(236)	(232)	(235)	(233)	(231)	(234)	(235)	(229)	(233)	(236)	(238)
#3	(230)	(230)	(230)	(235)	(237)	(235)	(237)	(236)	(232)	(235)	(233)	(231)	(234)	(235)	(229)	(233)	(236)	(238)
#4	(230)	(230)	(230)	(235)	(237)	(235)	(237)	(236)	(232)	(235)	(233)	(231)	(234)	(235)	(229)	(233)	(236)	(238)
Mid-Right																		
#1	---			---	(241)	(237)	(241)	(240)	(236)	(238)	(239)	(239)	(236)	(234)	(238)	(237)	(237)	(233)
#2	(238)	(232)	(232)	(238)	(237)	(235)	(237)	(236)	(232)	(235)	(233)	(231)	(234)	(235)	(229)	(233)	(236)	(238)
#3	(230)	(230)	(230)	(235)	(237)	(235)	(237)	(236)	(232)	(235)	(233)	(231)	(234)	(235)	(229)	(233)	(236)	(238)
#4	(230)	(230)	(230)	(235)	(237)	(235)	(237)	(236)	(232)	(235)	(233)	(231)	(234)	(235)	(229)	(233)	(236)	(238)
Far-Right																		
#1	---			---	(241)	(237)	(241)	(240)	(236)	(238)	(239)	(239)	(236)	(234)	(238)	(237)	(237)	(233)
#2	(238)	(232)	(232)	(238)	(237)	(235)	(237)	(236)	(232)	(235)	(233)	(231)	(234)	(235)	(229)	(233)	(236)	(238)
#3	(230)	(230)	(230)	(235)	(237)	(235)	(237)	(236)	(232)	(235)	(233)	(231)	(234)	(235)	(229)	(233)	(236)	(238)
#4	(230)	(230)	(230)	(235)	(237)	(235)	(237)	(236)	(232)	(235)	(233)	(231)	(234)	(235)	(229)	(233)	(236)	(238)

TABLE 46

INTERCORRELATIONS OF CONSTRUCTED IDEOLOGIES (a)

	Far- Left	Mid- Left	Constitu- tionalism	Social- Worker	Mid- Right	Far- Right
<u>3-Variable Version:</u>						
Far-Left	---	(228)	(222)	(228)	(225)	(227)
Mid-Left	.479	---	(228)	(229)	(226)	(228)
Constitutionalism	.151	.270	---	(224)	(220)	(222)
Social-Worker	.047	.216	.257	---	(226)	(229)
Mid-Right	.055	-.170	-.001	.029	---	(225)
Far-Right	.110	-.134	.068	-.060	.595	---
<u>4-Variable Version:</u>						
Far-Left	---	(225)	(219)	(223)	(222)	(223)
Mid-Left	.474	---	(227)	(226)	(225)	(226)
Constitutionalism	.162	.279	---	(221)	(219)	(220)
Social-Worker	.026	.221	.296	---	(224)	(226)
Mid-Right	.114	-.133	.034	.082	---	(224)
Far-Right	.158	-.089	.098	-.037	.687	---

(a) Correlations are for ungrouped summated scores.

with respect to procedural law.

There does, however, seem to be a fundamental inconsistency between the structurally-based causality of the Mid-Left and the individual-circumstantial causality of the Social-Worker ideology. It has been discussed before under Schur's typology, but it is possible that judges do not make such a fine distinction between social-structural causation (Mid-Left) of "crime" and the influence of structural factors on the behavior of individuals (Social-Worker). This does not mean that the inconsistency does not exist, only that it may not be recognized as such.

Tables 47 and 48 correlate the 3- and 4-variable versions of the constructed ideologies with the original ideological types of the source authors. Platt's parens patriae would seemingly correlate best with the Social-Worker ideology, but it does not, even on the 4-variable version where they share a common item. It's best correlations are with the Mid- and Far-Right, regardless of shared items, and a fact which supports Platt's contention that it is an inherently conservative philosophy. Platt's Moralism also correlates best with the Mid- and Far-Right, which was as expected. Platt's Constitutionalism correlates well with Far- and Mid-Left, Social-Worker, and the constructed Constitutionalism ideologies. These are also not surprising, especially the latter since they are almost identical. The relatively unexpected moderate cor-

relation between the Far-Left and Platt's Moralism can probably be attributed to the generally low scores (i.e., disagreement) on the propositions of both types.

Schur's Get Tough correlates highly with the Mid- and Far-Right, and his Individual Treatment type corresponds moderately well with these plus the Social-Worker type. As with the correspondence between Platt's parens patriae and the Mid- and Far-Right, the correlations between these latter types and Individual Treatment come as some surprise. Again, there seems to be a basic conservatism underlying this philosophy, which is very similar to parens patriae. Schur's Liberal Reform correlates best with the Mid- and Far-Left, Constitutionalism, and Social-Worker constructed ideologies, and Radical Non-Intervention with those, less the Social-Worker type. These are as expected.

Cardozo's Methods of Philosophy, Tradition, and Sociology all correlate moderately well with the Constitutionalism constructed ideology. Other than the fact that the latter shares an item with the Method of Sociology, the thrust of Cardozo's concerns in all of his types was appellate court decision-making and the precedents set by it. Issues of a Constitutional nature abound in these themes, which may have forced a common focus with the issues of concern to the Constitutionalists. They were, in other words, speaking on a common plane. His Method of Philosophy also correlated pos-

TABLE 47

CORRELATIONS OF 3-VARIABLE CONSTRUCTED IDEOLOGY SUMMATED SCORES WITH
PLATT, SCHUR, CARDOZO, AND MILLER SUMMATED SCORES

Source Ideologies	Constructed Ideologies: (a)					
	Far-Left	Mid-Left	Constitutionalism	Social-Worker	Mid-Right	Far-Right
<u>Platt:</u>						
Parens-Patriae	.131	-.004	.092	.171	.666(b)	.391(b)
Moralism	.294	.027	.116(c)	-.133	.398	.555(b)
Constitutionalism	.219	.310	.759	.244	-.010	.049
<u>Schur:</u>						
Get Tough	.176	-.010	.027	-.030	.558	.599
Individual Treatment	.014	-.084	.187	.281(b)	.247	.235
Liberal Reform	.218	.359	.370	.512(b)	.126	.040
Radical Non-Intervention	.488(b)	.409	.342	.169	.078	.185
<u>Cardozo:</u>						
Method of Philosophy	.148	-.003	.262	.126	.419	.371
Method of History	.037	.116	.145	.151	.030	.031
Method of Tradition	-.036	.111	.227(b)	.143	.123	.137
Method of Sociology	.016	.183	.410	.299	-.035	-.137

(CONTINUED)

TABLE 47 (Continued)

CORRELATIONS OF 3-VARIABLE CONSTRUCTED IDEOLOGY SUMMATED SCORES WITH
PLATT, SCHUR, CARDOZO, AND MILLER SUMMATED SCORES

Source Ideologies	Constructed Ideologies: (a)					
	Far- Left	Mid- Left	Constitu- tionalism	Social- Worker	Mid- Right	Far- Right
Miller:						
Left - 5	.828(c)	.361(b)	.047	.011	.087	.103
Left - 4	.453	.531(b)	.391	.185	-.076	.053
Left - 3	.344	.876(c)	.250	.311(b)	-.213	-.160
Left - 2	.311	.422	.378	.512(b)	-.042	-.035
Left - 1	-.080	.024	.261	.511(b)	.153	.075
Right - 1	.000	.064	.158	.312	.438(b)	.336
Right - 2	-.060	-.163	.030	.205	.573(b)	.420
Right - 3	.059	-.164	-.059	.127	.653(b)	.622
Right - 4	.160	-.202	-.018	-.100	.749(b)	.640(c)
Right - 5	.121	-.067	.051	-.002	.588	.866(c)

(a) N's, ranging from 215-233, are not shown for space reasons. Correlations are for ungrouped summated scores.

(b) Ideologies contain one common item.

(c) Ideologies contain two common items.

TABLE 48

CORRELATIONS OF 4-VARIABLE CONSTRUCTED IDEOLOGY SUMMATED SCORES WITH
PLATT, SCHUR, CARDOZO, AND MILLER SUMMATED SCORES

Source Ideologies	Constructed Ideologies: (a)					
	Far-Left	Mid-Left	Constitutionalism	Social-Worker	Mid-Right	Far-Right
<u>Platt:</u>						
Parens-Patriae	.165	.035	.160	.275(b)	.651(b)	.382
Moralism	.335	.029	.194	-.131	.447	.619
Constitutionalism	.215	.328	.867(d)	.269	.005	.055
<u>Schur:</u>						
Get Tough	.218	.024	.123	-.031	.618	.725(b)
Individual Treatment	.001	-.022	.218	.338	.294	.238
Liberal Reform	.209	.381	.402	.496(b)	.139	.062
Radical Non-Intervention	.451(b)	.581(b)	.381	.171	.115	.205
<u>Cardozo:</u>						
Method of Philosophy	.193	.025	.326	.177	.445	.412
Method of History	.019	.140	.174	.166	.046	.033
Method of Tradition	-.070	.142	.266(b)	.162	.147	.137
Method of Sociology	-.011	.208	.408(b)	.326	-.036	-.103

(CONTINUED)

TABLE 48 (Continued)

CORRELATIONS OF 4-VARIABLE CONSTRUCTED IDEOLOGY SUMMATED SCORES WITH
PLATT, SCHUR, CARDOZO, AND MILLER SUMMATED SCORES

Source Ideologies	Constructed Ideologies: (a)					
	Far- Left	Mid- Left	Constitu- tionalism	Social- Worker	Mid- Right	Far- Right
Miller:						
Left - 5	.936(d)	.395	.111	.010	.103	.135
Left - 4	.430	.541(b)	.429	.210	-.046	.042
Left - 3	.308	.840(c)	.217	.294	-.182	-.151
Left - 2	.307	.441	.388	.507(b)	-.025	-.003
Left - 1	-.090	.034	.280	.513(b)	.160	.096
Right - 1	.010	.084	.136	.328	.485	.345
Right - 2	-.050	-.145	.059	.212	.588(b)	.421
Right - 3	.118	-.145	-.001	.156	.780(b)	.655
Right - 4	.215	-.157	.057	-.094	.757(b)	.698
Right - 5	.140	-.014	.085	.017	.633	.817(c)

(a) N's, ranging from 215-232, are not shown for space reasons. Correlations are for ungrouped summated scores.

(b) Ideologies contain one common item.

(c) Ideologies contain two common items.

(d) Ideologies contain three common items.

itively with the Far- and Mid-Right. Cardozo himself considered this Method somewhat archaic (even in 1921) in relation to what he considered decision-making patterns of the twentieth century, so its relationship to the conservative viewpoint is not unexpected. His Method of Sociology also correlated well with the Social-Worker type which, given their common utilitarian, rehabilitation-and-treatment, problem-solving focus, could also have been predicted.

Lastly, concerning the interrelationship between Miller's political continuum and the discrete constructed types, there are no surprises. The Far- and Mid-Left correlated well with Miller's Left-2 through Left-5, Constitutionalism with Left-1 through Left-4, Social-Worker with Left-3 through Right-2, and the Far- and Mid-Right with Right-1 through Right-5. One may consider this latter indistinguishability between the varying degrees of Right-wing intensity as unusual. More so than on the Left, Right-wing ideological intensity seems to vanish when related to discrete measure of the Right, and one cannot tell the "conservatives" from the "reactionaries".

As with previously discussed typologies, grouped summated scores for each constructed type were cross-tabulated with the test factors. Four such factors produced significant chi-square statistics. Table 49 illustrates net dispositional alternatives in relation to Far-Left, Constitutionalism, and

Far-Right scores. Judges within the mid-range (5-7) of dispositional alternatives tended to lower Far-Left and Constitutionalism scores. Judges having 8 or more alternatives at their disposal tended toward slightly higher Constitutionalism scores. Most interesting, though, was the finding that those with the least alternatives available (4 or less) tended toward higher Far-Left and Far-Right scores. It is possible that they are more generally agreeable. (Note, however, that all five of the highest Far-Right scores occurred among judges in the 5-7 alternatives category.)

Table 50 shows urbanization versus Mid- and Far-Right scores. The pattern is the same in all sub-tables. Small town/rural juvenile court judges tend toward higher Mid- and Far-Right scores than the other two urbanization categories. Judges in large cities are the next highest, and those in small cities have the lowest scores on these types.

Two other test factors--geographic region and selection method--showed statistical significance with Mid-Left and Mid-Right scores, respectively. Judges in the Northeast and West tended toward slightly higher Mid-Left scores than those in the North Central and Southern states. Judges elected with opposition showed the highest Mid-Right scores, followed by those not elected, then those elected unopposed. This latter finding is similar to one shown in the discussion of Miller's political typology. The probable interpretation

NET DISPOSITIONAL ALTERNATIVES VS. VARIOUS SUMMATED CONSTRUCTED IDEOLOGY SCORES

(a) Df = 4, chi-sq = 18.874, p = .0008.
 (c) Df = 6, chi-sq = 11.781, p = .0670.
 (e) Df = 6, chi-sq = 13.714, p = .0330.
 (f) Differences from 100% due to rounding.

TABLE 50

URBANIZATION VS. MID- AND FAR-RIGHT SUMMATED CONSTRUCTED IDEOLOGY SCORES

Urbanization	Grouped Summated Score 3-Variable Version:				Grouped Summated Score 4-Variable Version:					
	3-6	7-9	10-12	13-15	4-8	9-12	13-16	17-20		
	<u>Mid-Right: (a)</u>				<u>Mid-Right: (b)</u>					
Large City	18%	47%	36%	(0)	(45)101%(d)	20%	49%	31%	(0)	(45)100%
Small City	22%	42%	26%	10%	(50)100%	18%	58%	14%	10%	(50)100%
Small Town/Rural	8%	43%	36%	14%	(133)101%(d)	9%	44%	36%	11%	(133)100%
					(228)					(228)
	<u>Far-Right:</u>				<u>Far-Right: (c)</u>					
Large City	NOT				39%	54%	7%	(0)	(46)100%	
Small City	STATISTICALLY				49%	43%	6%	2%	(49)100%	
Small Town/Rural	SIGNIFICANT				35%	43%	19%	3%	(134)100%	
									(229)	

(a) Df = 6, chi-sq = 14.515, p = .0244.

(b) Df = 6, chi-sq = 16.184, p = .0128.

(c) Df = 6, chi-sq = 11.130, p = .0844.

(d) Differences from 100% due to rounding.

TABLE 51

SELECTED SUMMATED CONSTRUCTED IDEOLOGY SCORES VS. VARIOUS TEST FACTORS

Test Factor	Grouped Summated Score 3-Variable Version:					Grouped Summated Score 4-Variable Version:				
	3-6	7-9	10-12	13-15		4-8	9-12	13-16	17-20	
	<u>Mid-Left: (a)</u>					<u>Mid-Left: (b)</u>				
1) <u>Geographic Region:</u>										
Northeast	14%	54%	27%	5%	(37)100%	8%	58%	31%	3%	(36)100%
North Central	33%	48%	18%	3%	(80)102%(d)	31%	48%	19%	3%	(80)101%(d)
South	38%	53%	8%	2%	(87)101%(d)	34%	53%	10%	2%	(87) 99%(d)
West	16%	59%	25%	(0)	(32)100%	16%	59%	25%	(0)	(32)100%
					(236)					(235)
2) <u>Selection Method:</u>										
Not Elected	<u>Mid-Right:</u>					<u>Mid-Right: (c)</u>				
Elected Unopposed	NOT					12%	50%	31%	8%	(52)101%(d)
Elected With Opposition	STATISTICALLY					17%	62%	17%	5%	(60)101%(d)
	SIGNIFICANT					13%	40%	37%	11%	(111)101%(d)
										(223)

(a) Df = 9, chi-sq = 17.637, p = .0396.

(b) Df = 9, chi-sq = 17.048, p = .0480.

(c) Df = 6, chi-sq = 11.593, p = .0717.

(d) Differences from 100% due to rounding.

of this is than an electorate, given a choice, will elect a "hard-liner" conservative. These findings are shown in Table 51.

The "Ideologues"

The analysis thus far has taken various ideological types, stated in terms of various positions taken by "adherents", and examined how these types are or are not distinct from one another for the sample as a whole and mitigated by test factors. The next question becomes the extent to which these types distinguish individual judges from each other. The six constructed ideologies may show themselves to be relatively distinct sets of positions, but the degree of agreement or disagreement with these positions indicates that there may be considerable overlapping between adherents to certain positions. For example, the high degree of agreement with Constitutionalist and Social-Worker ideologies indicates that there must be some judges who agree with both. As such, these types, though conceptually distinct, would probably not separate individual judges into competing ideological groups. The Left and Right types, however, show some promise in this regard.

To analyze this more closely, a heirarchical "cluster" analysis was performed on the data.¹¹⁹ This procedure begins

¹¹⁹ Johnson, "Heirarchical Clustering Schemes", 1967.

by forming one cluster for each observation (judge) in the analysis, using the scores on the six constructed ideological types as a basis for "clustering" them. The two closest clusters are then combined into one cluster, then the two closest of the new set of clusters are combined, and so on until one has the desired number of clusters. This desired number of clusters is found by starting with a two-cluster analysis, then a three-cluster, then four, and so on until the mean ideological scores of each cluster display some distinguishability of the ideological adherence pattern of the responding judges.

As a hypothetical example, say one computed a two-cluster analysis on this data using the summated scores of the 3-variable version of the six constructed ideologies as a basis for clustering. The mean summated scores for the 242-judge sample as a whole were as follows:

<u>Constructed Type</u>	<u>3-Variable Version Mean</u>
Far-Left	5.1
Mid-Left	7.6
Constitutionalism	11.4
Social-Worker	12.1
Mid-Right	9.2
Far-Right	7.5 (Range: 3-15)

Say, then, that the cluster analysis produced two clusters (i.e., groups of judges) with the following means on each of the types:

<u>Cluster</u>	<u>Far-Left</u>	<u>Mid-Left</u>	<u>Con-st'm</u>	<u>Soc. Work.</u>	<u>Mid-Right</u>	<u>Far-Right</u>
#1	<u>8.3</u>	<u>10.7</u>	11.3	12.4	<u>6.1</u>	<u>5.2</u>
#2	<u>4.2</u>	<u>5.0</u>	11.5	12.0	<u>11.7</u>	<u>9.8</u>

In Cluster #1, the means on Far-Left (8.3) and Mid-Left (10.7) are well above the overall sample means for these same types (5.1 and 7.6, respectively). Concomitantly, the Cluster #1 means on Mid-Right (6.1) and Far-Right (5.2) are well below the sample means for these types (9.2 and 7.5, respectively). The means in Cluster #2 show the exact reverse. Cluster #1 would then be a group of judges adhering basically to "Left-wing" principles, and Cluster #2 a group of basically "Right-wing" ideologues.

The net effect of this procedure is to divide the entire sample into several subsamples of judges with distinguishable ideological response patterns. In actuality, the two-cluster analysis of this data (as well as three-, four-, and five-cluster analyses) produced no such "neat" groupings. It took a six-cluster analysis to show a pattern to the data. The arithmetic mean for each of the 3- and 4-variable version constructed ideologies within all six clusters appears in Table 52.

By comparing the means for each ideological type of each cluster with the means for the entire sample, one can see the general ideological thrust of the clusters, i.e., the ideo-

TABLE 52

SIX-CLUSTER MEANS FOR CONSTRUCTED IDEOLOGY SUMMATED SCORES

Cluster	(N)	Far- Left	Mid- Left	Constitu- tionalism	Social- Worker	Mid- Right	Far- Right
3-Variable Version: (Range of Scores = 3 - 15)							
#1	(83)	4.7	7.2	10.4	12.4	9.8	7.3
#2	(14)	4.5	5.3	11.3	11.6	13.0	11.0
#3	(32)	7.6	9.3	12.5	12.1	10.4	8.5
#4	(33)	4.2	5.8	11.8	11.4	8.2	6.8
#5	(48)	5.1	9.3	12.1	12.5	7.2	6.5
#6	(1)	12.0	14.0	15.0	15.0	3.0	3.0
OVERALL SAMPLE:	(211)	5.1	7.6	11.4	12.1	9.2	7.5
4-Variable Version: (Range of Scores = 4 - 20)							
#1	(47)	6.0	8.6	11.9	16.6	10.9	8.0
#2	(70)	6.7	11.1	15.7	16.4	9.6	8.0
#3	(67)	6.8	10.2	15.1	17.5	14.3	11.7
#4	(9)	7.0	8.3	12.3	14.1	15.8	14.6
#5	(11)	10.9	13.3	16.9	16.4	13.8	13.5
#6	(1)	15.0	19.0	20.0	20.0	4.0	4.0
OVERALL SAMPLE:	(205)	6.8	10.2	14.6	16.7	11.9	9.8

logies on which the judges in each cluster scored high. On the 3-variable versions, Cluster #1 is higher on Social-Worker and Mid-Right types; Cluster #2 is higher than the overall mean on Mid- and Far-Right types; Cluster #3 on five of the six types; Cluster #4 on only one of the six (Constitutionalism); Cluster #5 on Mid-Left, Constitutionalism, and Social-Worker types; and Cluster #6 (one judge) on the latter three plus Far-Left.

Looking at this part of the table, one could initially regroup these clusters into four categories: Left, Right, "Agreeables", and "Disagreeables". We could accomplish this by combining Clusters #5 and #6 (Left), and Clusters #1 and #2 (Right). We would classify Cluster #3 as "Agreeables", since their means are higher than that of the entire sample on five of the six constructed ideologies. We could then treat Cluster #4 as generally "Disagreeable", since the only type on which they score higher than the sample mean is Constitutionalism, a type which three other diverse clusters also score high.

On the same table, for the 4-variable versions, Cluster #1 is high on none of the types; Cluster #2 on Mid-Left and Constitutionalism; Cluster #3 on Constitutionalism, Social-Worker, Mid-Right, and Far-Right; Cluster #4 on Far-Left and Mid- and Far-Right; Cluster #5 is high on five of the six; and Cluster #6 (again, the same one judge) is high on Far- and

Mid-Left, Constitutionalism, and Social-Worker types. By the same method of regrouping, Clusters #2 and #6 would become the Left, Clusters #3 and #4 the Right, Cluster #5 the "Agreeables", and Cluster #1 the "Disagreeables".

However, the inconsistencies of these groupings are evident. The high Constitutionalism score of the "Disagreeables" on the 3-variable versions, and the high Far-Left score in Cluster #4 on the 4-variable versions (which would be combined to form the Right) do stand out. Also, it may be that the distinction between "Agreeables" and "Disagreeables" may help illuminate some things, but the overall value of maintaining this distinction for the moment is dubious. The fact that these groups "clustered" using the method described does not mean that each individual judge in the clusters scored higher or lower than the sample mean on all constructed types. In fact, almost all respondents digressed from the pattern at least once. Combining these two groups under one heading, Non-Ideological, would seemingly be a more useful characterization, assuming that the analysis thus far is correct in that the Left and Right are true ideological types which distinguish groups of judges. Table 53 illustrates the means for this combined clustering scheme.

It should be kept in mind that the Left and Right are basically the same as those described on Miller's ideological continuum. Constitutionalism and Social-Worker types

TABLE 53

FINAL COMBINED CLUSTERS FOR CONSTRUCTED IDEOLOGY SUMMATED SCORES

Cluster	(N)	Far- Left	Mid- Left	Constitu- tionalism	Social- Worker	Mid- Right	Far- Right
<u>3-Variable Version: (Range of Scores = 3 - 15)</u>							
Left	(49)	5.2	9.3	12.2	12.6	7.1	6.4
Right	(97)	4.7	6.9	10.6	12.3	10.3	7.9
Non-Ideological	(65)	5.8	7.5	12.2	11.7	9.2	7.7
OVERALL SAMPLE:	(211)	5.1	7.6	11.4	12.1	9.2	7.5
<u>4-Variable Version: (Range of Scores = 4 - 20)</u>							
Left	(71)	6.8	11.3	15.8	16.5	9.5	7.9
Right	(76)	6.8	10.0	14.8	17.1	14.5	12.1
Non-Ideological	(58)	7.0	9.4	12.8	16.5	11.4	9.1
OVERALL SAMPLE:	(205)	6.8	10.2	14.6	16.7	11.9	9.8

tended to blend in with judges who were both Right or Left. The "Agreeables" and "Disagreeables" were individuals who were neither Left nor Right in their response patterns. Combined and labelled "Non-Ideological", it should be remembered that these judges are truly "non-ideological" only in that they are neither Right nor Left, but something else. The further specification of this category (as well as the Left and Right) is a topic of Chapter Six.

This regrouping is primarily a method of cutting down the number of categories to be considered by grouping and renaming similar clusters. As a whole, however, it is believed that these three cluster groupings do reflect the general response patterns of the responding judges.

As with the grouped summated scores for ideological types, comparisons by cross-tabulation were made between the three clustered groupings and the test factors. Five factors proved statistically significant; one with the 4-variable version ideological clusters (urbanization) and four with the 3-variable version clusters (selection method, net dispositional alternatives, geographic region, and time spent on juvenile matters).

Table 54 shows the cross-tabulations of both 3- and 4-variable ideological clusters and their significant test factors. It shows a higher percentage of large-city judges in the Left cluster than in other clusters. This percentage

decreases as one goes from large city through small city to small town/rural judges, and is accompanied by a concomitant increase in judges in the Right cluster. Also, there are less judges who are elected with opposition in the Left cluster than in others, and more who are in the Non-Ideological cluster. This is another indication that conservative judges tend to get elected, and alternatively, they may be "diplomats" and "politicians" (i.e., Non-Ideological) as well.

The sub-table crossing net dispositional alternatives and the clusters illuminates some of the strange cross-tabulations this test factor has produced elsewhere. For instance, we noted in Table 49 that those in the lowest category (4 or less alternatives) tended to have higher scores on both Far-Left and Far-Right types, and in Table 21 the same for both Get Tough and Radical Non-Intervention. It turns out, then, that those judges with four or less dispositional alternatives available to them are simple more "non-ideological". More specifically, breaking up the Non-Ideological category into "Agreeables" and "Disagreeables" again, it turns out that the 4-or-less alternative group is highly "Agreeable", i.e., their means on both Left and Right ideological types are higher than that of the sample as a whole. It may be that these judges are also "agreeable" with county and state officials when they turn down requests for additional group homes and the like, which could explain why they are in this lowest category in

TABLE 54

FINAL COMBINED CLUSTERS FOR CONSTRUCTED IDEOLOGIES
VS. SIGNIFICANT TEST FACTORS

Test Factor	Left	Right	Non-Ideological	
<u>4-Variable Version:</u>				
1) <u>Urbanization:</u> (a)				
Large City	56%	28%	16%	(43) 100%
Small City	37%	33%	30%	(43) 100%
Small Town/Rural	26%	42%	32%	(119) 100%
				(205)
<u>3-Variable Version:</u>				
2) <u>Selection Method:</u> (b)				
Not Elected	28%	50%	22%	(50) 100%
Elected Unopposed	32%	39%	29%	(56) 100%
Elected w/Opposition	16%	48%	37%	(101) 101% (f)
				(207)
3) <u>Net Dispositional</u> (c) <u>Alternatives:</u>				
4 or Less	11%	29%	61%	(28) 101% (f)
5 - 7	24%	54%	21%	(123) 99% (f)
8 or More	27%	37%	37%	(60) 101% (f)
				(211)
4) <u>Geographic Region:</u> (d)				
Northeast	33%	45%	21%	(33) 99% (f)
North Central	23%	40%	37%	(75) 100%
South	11%	55%	34%	(74) 100%
West	45%	38%	17%	(29) 100%
				(211)

(CONTINUED)

TABLE 54 (Continued)

FINAL COMBINED CLUSTERS FOR CONSTRUCTED IDEOLOGIES
VS. SIGNIFICANT TEST FACTORS

Test Factor	Left	Right	Non-Ideo- logical	
<u>3-Variable Version:</u>				
5) <u>Time Spent on</u> <u>Juvenile Matters:</u> (e)				
25% or Less	18%	47%	34%	(131) 99% ^(f)
Half or More	23%	51%	26%	(53) 100%
All/Virtually All	50%	23%	27%	(22) 100%
				<u>(206)</u>

(a) Df = 4, chi-sq = 12.987, p = .0113.

(b) Df = 4, chi-sq = 8.015, p = .0910.

(c) Df = 4, chi-sq = 19.704, p = .0006.

(d) Df = 6, chi-sq = 18.593, p = .0049.

(e) Df = 4, chi-sq = 12.122, p = .0165.

(f) Differences from 100% due to rounding.

the first place.

Additionally, judges in the South had proportionally more people in the Right cluster, and Western judges had more in the Left.¹²⁰ Also, judges spending all or virtually all of their judicial time on juvenile matters tended toward the Left cluster and, likewise, less toward the Right.¹²¹

In this chapter, we have discussed criminal justice ideology from the standpoints of a variety of authors, positions, and methodologies. Each work and method sheds some light on the nature of ideology among a sample of juvenile court judges across the nation. There are now several general conclusions which can be stated concerning ideology.

First, none of the ideological typologies directly stated by the initial authors, save possibly Miller's, produced distinct opposing viewpoints among the responding judges. Each, however, contributed some items to the final constructed typology.

Second, even though there appears to be six more or

¹²⁰ This pattern was roughly similar in the 4-variable version clustering, except in degree. The distribution among judges in the North Central states looked more like the South (i.e., more Right) and the Northeastern judges more like the West (i.e., more Left). However, the value of "p" was only .3584.

¹²¹ The response pattern in the 4-variable version of the clustering was the same, but the value of "p" was only .2467.

less distinct ideologies operating among the judges, when individual judges are "clustered" as to these beliefs, three ideological groupings occur--Left ("liberal"), Right ("conservative"), and a "non-ideological" group that was neither Left nor Right.

Third, given this basic trichotomy, several statements can be made in regard to them and the test factors:

(1) Large-city judges tend to be the more "liberal" and small town/rural judges the more "conservative" of the sample. In general, "conservatives" were more numerous in the sample as a whole because it was heavily made up of small town/rural judges (58%);

(2) Judges from the West and, to a lesser extent, the Northeast tend to be more "liberal", and those from the South and, to a lesser extent, the North Central states more "conservative";

(3) Judges who were elected to the bench over opposition tended to be more "conservative" or more "non-ideological" than judges attaining the bench by other methods. These are probably the ideologies which one may have to adopt to be elected, given the publicity given to crime;

(4) Judges who spend all or virtually all of their judicial time on juvenile court matters tend to be more "liberal" than those who spend less of their time on such cases;

(5) Judges with few dispositional alternatives avail-

able to them tend to be more "non-ideological" (specifically, "agreeable") than those judges with more alternatives available.

Before an in-depth description of these ideological groups begin, there is at least one more step to be taken in clarifying the decision-making model shown in Figure A at the beginning of Chapter Two. We must connect ideology with the decisions made (i.e., consequential policy) by the juvenile court judges in the sample. This is the subject of the following chapter.

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AXES, RUBBER HATCHETS, AND DRIFTERS:

IDEOLOGY AND THE JUVENILE COURT

Volume II

By

Laurence Lewis

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CHAPTER FIVE

IDEOLOGY AND DISPOSITIONAL DECISION-MAKING

To say that there are distinct ideological configurations prevalent among juvenile court judges would be only partially descriptive of decision-making aspects approached in this research. The model proffered in Chapter Two (Figure A) postulated that "ideology" predisposes one toward certain general behavioral preferences in oneself and others, which lead one to adhere to particular stated positions on the issues of one's concern. Although it is true that direct preferences are also empirically measurable,¹ focussing on positions on particular issues narrows the universe of preferences to a manageable and relevant scope. By "relevant", it is meant that a juvenile court judge must to some extent be concerned with issues relating to his or her profession.

Although one's occupation may directly influence the "issues of one's concern", all elements of this model--ideology, preferences, positions on issues--are at every step in-

¹ For example, Flacks did this to some extent while studying what he called "political values" among student activists. See Flacks, "The Liberated Generation", 1967. Studies of "values" in general, where subjects are asked to rate or rank various pre-chosen values, have generated much of this type of research. Measuring behavioral preferences is also a common way of gauging occupational interests and, in standardized form, is used by many high school and university placement centers and counselling bureaus.

fluenced by the social and cultural options and imperatives one is presented with during his or her life cycle. However, relating these elements to each other says nothing directly of the consequential policy of the juvenile court in the United States, and in what way ideology affects it.

It is at this point, between "proposed action" and "manifest behavior", that the situational contingencies come into play. These are specific elements of social and cultural options and imperatives from the external environment of the court which are presumed to affect decision-making in specific instances. Three of these have already been discussed--position of authority, institutional constraints, and range of choice. Assumptions were made concerning the first two: (a) that a juvenile court judge occupies a position of authority in terms of his potential effect on the consequential policy of the juvenile court as a whole, and (b) that few institutional constraints exist for these judges at the dispositional phase of the court process. The third is a direct situational constraint on decision-making: the range of dispositional alternatives available to the judge in any given case. This latter is a designated test factor, and can thus be controlled for in any instance.

There is also a fourth aspect of the situation which must be treated or controlled. This we have called the decisional situation. It is the specific case with which the judge

is confronted, or in more general terms, the "object" of the decision to be made.

The Case Summaries

At juvenile court hearings, a judge is presented with myriad information concerning the offending juvenile. In some states, there is first a preliminary hearing, where the judge, the youth, his parents, and an intake worker discuss the youth's problem behavior in a more or less informal manner. In most states, however, when a petition is filed against a youth, the primary contact the judge has with him is at the adjudicatory hearing, where these same actors (and sometimes a lawyer) examine the evidence of the petition and determine whether or not the youth should be adjudicated "delinquent" and placed under the jurisdiction of the court. If he or she is adjudicated, a dispositional hearing follows, at which time the judge decides the proper course of corrective action to be followed in the case. At all stages of this process, facts are not only presented concerning the offense, but concerning the offender as well. Previous studies showing a judge's strong reliance on the "social histories" of the youth² indicate that the latter is at least as important as the former. It is this type of information on offense and offender that we

² See, e.g., Cicourel, The Social Organization of Juvenile Justice, 1968.

have tried to duplicate--in manageable proportions--in the "case summaries" used in this research.

These fictional descriptions of possible juvenile court cases were discussed in Chapter Three. Each one contains combinations of different variables, embedded in a concise, readable summary. An example of such a summary is the following case of a youth named Mary D.:

"MARY D., female, black, age 14, was picked up by the police when she was discovered walking unsteadily along a residential street yelling obscenities at the top of her lungs. Upon questioning, police noticed the smell of liquor on her breath, administered a breathalyzer test, and arrested her for disturbing the peace and disorderly conduct while under the influence of alcohol. When she was cognizant enough to realize that she had been arrested, she let loose with a barrage of verbal abuse at the arresting officers, then refused to say another word. Mary's parents were very cooperative, however, giving police the name of the youth whose party Mary had attended, and seemed deeply concerned about her behavior. A check with Central Records shows that Mary has been arrested twice for truancy and curfew violation. Police recom-

mend filing a formal petition.

According to the social service investigator, Mary's father is a seasonally-employed day-laborer, currently out of work, and her mother is a housewife. Mary, her parents, and 6 other children live in an old frame house (in dire need of repair) in a seedy, run-down section of town. Mary claimed that the police were "harassing" her because of her previous arrests, denied being drunk, and told the investigator to "cram" his interview sheet. Her parents were seemingly remorseful for Mary's behavior. During the interview, for instance, Mary's parents reprimanded her constantly and tried to impress upon her how her record could ruin her life. Mary's response was a blithe shrug. A check with Mary's school counselor shows her to be of average intelligence, putting out little or no effort and getting poor grades. Social service investigator recommends handling unofficially without filing a formal petition."³

Many American writers have given us some insights,

³ This example was actually Case #12 on the questionnaire. However, because of certain typing and formatting errors, it had to be eliminated from the final analysis. It should be noted that the free use of adjectives and informal phraseology are very often the fact in actual documents sub-

as well as some hard data, on the selection criteria of agents of the criminal justice system.⁴ In the encounter between the arresting officer and the individual, for example, it is the officer who must initially, to use Cicourel's term, "negotiate the meaning"⁵ of the interaction and decide whether or not to use his authority and arrest the youth. Similar "negotiations" take place at later stages of the juvenile justice process as well.

Briefly, the literature suggests at least 13 criteria by which criminal justice system personnel "select" those upon whom they will exercise their authority, and to what extent. It is believed, then, that the variables embodied in the example case summary of "Mary D." represent a fair cross-section of those which may be taken into account to a greater or lesser extent by juvenile court judges prior to making a dispositional decision.

First is sex. In the example of "Mary D.", she is

mitted to juvenile court hearings, especially in the "social histories".

⁴ For both general and specific attribute discussions covering a span of years, see, e.g., Goldman, The Differential Selection of Juvenile Offenders for Court Appearance, 1963; Piliavin & Briar, "Police Encounters With Juveniles", 1964; Skolnick, Justice Without Trial, 1966; Eisner, The Delinquency Label, 1969; Chiricos & Waldo, "Sentence Length and Defendant Attributes", n.d.; Chiricos, et al, "Inequality in the Imposition of a Criminal Label", 1972; Chiricos, et al, "Race, Crime, and Sentence Length", n.d.; Thornberry, "Race, Socioeconomic Status and Sentencing in the Juvenile Justice System", 1973.

⁵ Cicourel, supra, note 2.

female. In the 11 summaries actually used on the questionnaire, 6 are boys and 5 are girls.⁶

Second is race, either white or black. "Mary D." is black. In the other summaries, there are 6 white youths and 5 black youths, mixed as to sex.

With sex and race, there is no need to have this characteristic actually stated on a social history or arrest report. The judge can see them for himself. They were included in the case summaries for just that reason--it is information that a judge normally possesses before making a decision on the disposition of the offender.

Third is age. This was controlled by making the youths either 14 or 17 years old, i.e., young or borderline adult. "Mary D." is young. Five of the 11 youths in the summaries are 14 years old and 6 are 17 years of age.

These three variables might be termed "characteristics of the individual". In the case summaries, no group offenses were included, i.e., there was only one individual involved in the offense. In addition, there were five variables concerning the offense and the individual's "criminal history" which

⁶ Interestingly, Chesney-Lind has suggested that the popular notion that women are treated more leniently than men by the criminal justice system may be mistaken. Although authorities may sometimes embellish their decisions in chivalrous and paternalistic terms, her data from Hawaii indicates that judges are more likely to institutionalize female delinquents than males--and for less serious offenses. See Chesney-Lind, "Judicial Enforcement of the Female Sex Role", 1973.

were deemed of possible relevance.

First is the type of offense. Specifically, the offenses in the case summaries were either juvenile (or "status"--truancy and/or curfew violation), misdemeanor (littering, creating a public nuisance, disturbing the peace, disorderly conduct, and/or simple assault), or felony offenses (attempted arson, grand larceny, or aggravated assault/assault and battery). "Mary D." was a misdemeanant offender.

With regard to juvenile offenses and age, only the younger youths were picked up for truancy, since it is normally not an offense after age 16. The two offenses representing this category were chosen because they signify specific acts which are illegal for juveniles, as opposed to vague categories of misbehavior like "incorrigibility" or "PINS". Also, curfew violation and truancy are more likely to require initial action by juvenile authorities than are petitions for "PINS" and the like (which are more likely to be filed initially by the parents themselves).

In the 11 summaries, there were 4 accused felons, 3 misdemeanants, and 4 juvenile offenders represented. These categories were not mixed in any case, i.e., there were no youths charged with, say, both a felony and a misdemeanor. Also, there was little doubt as to the youth's guilt, since most were "caught in the act" or confessed.

The second offense variable is really an extension

of the first--whether or not the offense was assaultive. Offenses involving actual or possible bodily injury to another person were considered as an additional criteria for the relevance of the offense as a decision-making criterion of the judges. A youth who has committed such an offense may be considered more "dangerous to society" than one who has committed some other type of offense. "Mary D.'s" offenses were not assaultive (disturbing the peace, disorderly conduct), but 4 of the 11 youths in the summaries were charged with such offenses (two each for misdemeanors and felonies).

The next two variables could possibly be called the nature of past offenses, or "criminal history"--previous contact with police and previous institutionalization. A fictitious centralized criminal justice records data bank, called "Central Records", was created in the summaries. Here, juvenile justice authorities could check on all previous arrests and dispositions of offenders. Previous contact with the police was categorized as either "repeated" (many previous juvenile and misdemeanor offenses), "twice" (only for juvenile offenses--like "Mary D."), or "none" (a first-offender). In the 11 summaries, there were 4 in the first category, 3 in the second, and 4 in the third. Previous institutionalization was either "yes" or "no", and only two of the juveniles in the summaries (both "repeated" offenders) had spent some time in a juvenile correctional institution. "Mary D." had not, partic-

ularly since she had only been previously arrested for status offenses.

The last of this type of variable is not really an "offense" variable. It is what we have called a "police recommendation" concerning how the case should be handled by the court. It should be noted that in no state of which we are aware are police officers consulted officially concerning the disposition of offenders (adult or juvenile). However, arresting officers are usually present at juvenile hearings and are often in close contact with court intake workers and other social service investigators. Police opinions about the youth are, in short, often no secret to the judge. Like sex and race, it is sometimes an unstated piece of information available to him, particularly if the youth has had many contacts with officers (official or unofficial). The extent to which a judge considers the opinions of the police is, of course, dependent upon the particular social and professional relationship between them.⁷ For this reason, a police "recommendation" was included--either for "official" (filing a petition) or "unofficial" (no petition) processing.

⁷ This may be particularly true in rural areas, which are so predominant in this research. In rural counties in many states, the judge and the sheriff or police chief may even be related. Chances for a judge to hear police opinions out of court are also possible in urban areas, where there are often specialized police "juvenile officers" who are regularly in court, and often known socially to the juvenile court judge.

In the case of "Mary D.", the police "recommend" filing a petition, while in the case summaries actually used, 5 youths received the same "recommendation" and 6 received a "recommendation" that no petition be filed.

The content of the social service investigator's direct contribution to the report includes manipulations of several other variables.

First is family socioeconomic status. This is presented as particular combinations of several other variables: number of parents in the household, parents' occupations (or generally, source of financial support), number of siblings, and housing and neighborhood conditions. These combinations might be generally categorized as "underprivileged" or "lower-class", "middle-class", and "well-to-do" or "upper-class". For example, missing and/or unemployed parents, large families supported by public welfare, and run-down housing in a slum neighborhood would be indicative of the first category, as in "Mary D.'s" case. For the other two categories, phrases like "middle-class" or "well-to-do" were actually used in the summary, normally describing the housing and neighborhood of the youth's residence. In the final summaries, 4 youths were from "lower-class" families, 5 from "middle-class" families, and 2 from "upper-class" home environments.

Another variable commented upon by the social service investigator was the child's school record. This was stated

in terms of intelligence, effort, and grades, and is categorized simply as "good" or "poor". "Mary D.", for instance, was of "average" intelligence, but did not try and got bad grades, so her overall rating on this variable would have to be "poor". In the summaries, 6 youths had "good" school records and 5 had "poor" ones.

Often, a judge will decide for or against placing a youth in a juvenile correctional facility depending upon how he or she is doing in traditional societal institutions like the school. Other than with the family, the youth of 14 or 17 spends most of his or her time in school. Effort and accomplishment in school is often thought of as an indication of the chances a youth has of proceeding into adulthood without relying on criminal methods of goal attainment, i.e., of "growing up".

A third variable is the social service investigator's recommendation. Unlike police officers, these investigators or intake officers normally do make recommendations concerning disposition to the judge, based on the "social history" they have compiled. The categories of this recommendation have been dichotomized here into "official" or "unofficial" handling of the case, which are the same categories used earlier for police "recommendation". In the summaries, the social service investigator recommended "unofficial" handling in 5 cases and "official" handling in 6 cases. In the case of "Mary D.", it

was the former.

Two additional variables suggested by the literature were used in the summaries. Both concern "demeanor", a combination of remorse for illegal behavior and deference shown toward legally constituted authority figures. The "wise-guy" attitude on the part of an offender may well influence how a judge decides in the case.

In juvenile cases, there is, in addition to the youth's demeanor, consideration given to his or her parents' demeanor as well. Observation of the "demeanor" of both may also give indications to the judge of the role and emotional relationship between parent and child, and more directly, the former's control and influence over the youth's behavior. Using, in rough terms, a dichotomy of "remorseful/regretful" versus "unconcerned/defiant/disrespectful" as two general categories of both variables, they were often mixed (i.e., wise-guy parents and remorseful youths, and vice versa). Individually, though, 6 of the youths in the summaries were "respectful" and 5 "disrespectful", and in the parents' case, 5 were "respectful" and 6 "disrespectful". In the example of "Mary D.", her parents were "respectful" and she "disrespectful".

Before presenting each of the 11 case summaries used in this research, it is necessary first to describe how a judge's "proposed action" is measured. In the decision-making

model of Figure A in Chapter 2, this represents a step in the process between "positions on issues" and "manifest behavior". For the purposes of this chapter, decision-making (and eventually, "dispositional severity") is proposed action, i.e., it remains at the verbal level of analysis. Manifest behavior is discussed to the extent possible in Chapter Six.

Proposed Action

In this research, "proposed action" refers to how a judge would dispose of a case if it were completely up to him, i.e., as if there were no institutional constraints upon his decision-making. Theoretically, then, it constitutes a kind of symbolic-interactionist "plan of action" and can seemingly be related directly to ideology.

In Chapter Two, we discussed the alternatives that were given to each judge in the survey following each case summary. Briefly, they were:

- 1 = NOT FILING A PETITION; HANDLING UNOFFICIALLY
- 2 = FILING A PETITION; IF ADJUDICATED, CERTAINLY NOT FAVOR INSTITUTIONALIZATION
- 3 = FILING A PETITION; IF ADJUDICATED, PROBABLY NOT FAVOR INSTITUTIONALIZATION
- 4 = FILING A PETITION; IF ADJUDICATED, PROBABLY FAVOR INSTITUTIONALIZATION
- 5 = FILING A PETITION; IF ADJUDICATED, CERTAINLY FAVOR INSTITUTIONALIZATION
- 6 = TRANSFER (WAIVER) OF JURISDICTION TO ADULT CRIMINAL COURT

These choices represent a scale of seriousness, or dispositional severity, from least ("unofficial" handling) to most serious (waiver). The degrees in between least and most serious are indicated by the degree to which the judge favors incarceration in a juvenile correctional institution ("certainly not", "probably not", "probably", "certainly"). The alternatives are scored from one to six (from least to most serious), and represent three of the four dispositional alternatives available to virtually all juvenile court judges in the U. S. (i.e., all but outright dismissal of the case).

One can criticize this approach in that proposed action, like manifest behavior, would automatically be influenced by situational factors other than the particular case at hand (e.g., institutional constraints, dispositional alternatives available), and that separating out their effects on decision-making would be difficult at this stage, if not impossible. The link between ideology and proposed action would then be confounded by these factors. However, planning to carry out an action is not the same as doing it, so to this purpose, the following statement was written at the beginning of the questionnaire: "Please choose the handling/dispositional alternative you would favor in each case if it had come before you, regardless of the restraints placed upon your your decision by your state juvenile code." This, combined with giving each judge the same cases and using net disposit-

ional alternatives as a test factor, established some control over situational factors on proposed action.

There were 11 case summaries upon which each judge in the sample made one of the six dispositional decisions. Tables 55-65, on the following pages, introduce the reader to each youth and his or her case summary, and present the means ("mean severity score") and distributions of the judicial responses.

Table 66 presents the case summaries in rank order of the mean severity scores for the sample judges. It should be noted that these means were relatively low, all but one below four on a scale of six.⁸ Judging from the rank order of the summaries, a face examination of this table might show that different values of sex, race, age, assaultive-vs.-non-assaultive offense, police "recommendation", and parents' demeanor are scattered and seemingly unrelated to mean severity of disposition. It might also show that type of offense, previous institutionalization, past contact with law enforcement authorities, youth's demeanor, and school record do relate to mean severity score. However, it should be emphasized that these 13 variables embedded in each case summary are not

8

Wheeler and his colleagues compared the propensity to favor juvenile institutionalization ("severity") among juvenile court judges, probation officers, police juvenile officers, and police chiefs, finding that judges ranked lower on general severity than the others. See Wheeler, et al, "Agents of Delinquency Control", 1968, pp.45ff. However, his samples were very small (less than 25 for each type of authority).

TABLE 55

CASE SUMMARY #1 -- ROBERT L.

ROBERT L., male, white, age 14, was caught setting fire to an empty warehouse, and was arrested for felonious attempted arson. Upon questioning, Robert claimed that the owner of the property had kicked him and a few of his friends out of the warehouse a few days earlier, where they had been "horsing around", and that this made him angry. However, Robert looked visibly shaken by the arrest, made not attempt to argue with police, and eventually broke down and cried, saying, "I'm sorry! God, I'm sorry!" None of the said friends were involved in the fire-setting incident. Robert's parents were altogether a different matter. They arrived at the station with their lawyer and demanded Robert's immediate release. His father told officers that he was "an important man in this town" and that if Robert wasn't released, he would have "a lot of cops out pounding beats in the 'Valley'" (a high-crime slum area). During this outburst, Robert implored his parents to stop, adding, "It was my own fault! It was wrong!" A Central Records check shows that this is Robert's first contact with the police. Police recommend filing a formal petition.

According to the social service investigator, Robert's father is a wealthy local bank president and his mother, a former debutante, is very active in local affairs. They and their three children (including Robert) live in a large, expensive home in a well-to-do neighborhood. Robert seemed genuinely sorry for his act, but his parents were just as abrasive toward the investigator as they were at the police station. A check with Robert's school counselor reveals that he has average intelligence, but puts out little or no effort and gets poor grades. Social service investigator recommends filing a formal petition.

Responses: (\bar{X} = 2.16)

1. NOT FILING PETITION; HANDLING UNOFFICIALLY	13%
2. FILING PETITION; CERTAINLY NOT FAVOR INSTITUTION . . .	61%
3. FILING PETITION; PROBABLY NOT FAVOR INSTITUTION . . .	25%
4. FILING PETITION; PROBABLY FAVOR INSTITUTION	(1)
5. FILING PETITION; CERTAINLY FAVOR INSTITUTION	(1)
6. TRANSFER JURISDICTION TO ADULT COURT	(1)

99%(a)
(240)

(a) Difference from 100% due to rounding.

TABLE 56

CASE SUMMARY #2 -- BARBARA D.

BARBARA D., female, white, age 17, was arrested after she beat up an elementary school pupil, and was brought in for a misdemeanor--simple assault. Upon questioning, Barbara stated that she did it because the younger child, a 6th-grade boy, had threatened her younger sister (a 5th-grader). As questioning proceeded, Barbara seemed to grow more and more regretful for her actions and ashamed of herself for "fighting with little kids". When it was pointed out that a police record could damage her future, she started to cry. Her mother, however, was just the opposite. She sat with a sullen look on her face throughout the questioning, was uncooperative when asked to help with Barbara, and seemed indifferent to the fact that her daughter was in trouble. A check with Central Records showed that this is Barbara's first contact with police. Police recommend handling unofficially without filing a petition.

According to the social service investigator, Barbara's father is missing from the home and paying no support, and her mother is not working. Barbara, her mother, and her 7 sisters and brothers live on public welfare. Their house appears old, dirty, and dilapidated, as do most of the houses in their neighborhood. Barbara seemed genuinely remorseful for her actions, stating, "I know I shouldn't have done it," "It was wrong," and "A dumb thing like I pulled could really mess up my life," whereas her mother was very defensive, questioning both the integrity of the police and the investigator's right to "interfere in our private lives." A check with Barbara's school authorities reveals that she is of above average intelligence, studies hard, and gets good grades. Social service investigator recommends handling unofficially without filing a formal petition.

Responses: (\bar{X} = 1.19)

1. NOT FILING PETITION; HANDLING UNOFFICIALLY	85%
2. FILING PETITION; CERTAINLY NOT FAVOR INSTITUTION . . .	13%
3. FILING PETITION; PROBABLY NOT FAVOR INSTITUTION . . .	2%
4. FILING PETITION; PROBABLY FAVOR INSTITUTION	(1)
5. FILING PETITION; CERTAINLY FAVOR INSTITUTION	(0)
6. TRANSFER JURISDICTION TO ADULT COURT	(0)
	100%
	(241)

TABLE 57

CASE SUMMARY #3 -- PAUL S.

PAUL S., male, white, age 14, was arrested for truancy when he was found wandering around downtown at 10:30 a.m., and could not explain why he was not in school. Upon questioning, Paul seemed worried about the effect this arrest would have on his life, since he has been arrested before. He stated that it was a "dumb move", provoked by another student whom he said he was afraid would beat him up if he showed up in school today. His parents were cooperative with arresting officers, and assured them they would do their best to keep Paul out of trouble. A check with Central Records shows that Paul has had repeated contacts with law enforcement authorities for a variety of juvenile and a few misdemeanor offenses, although he has never been incarcerated in a juvenile correctional institution. Police recommend handling unofficially without filing a delinquency petition.

According to the social service investigator, Paul's father is a moderately successful insurance agent and his mother is a housewife. Paul, his parents, and his brother live in a well-kept, comfortable home in a middle-class neighborhood. Both Paul and his parents seemed very concerned about the effect of this arrest on Paul's chances of "making it in school and everywhere else." Paul appeared to be on the verge of tears throughout the interview. His parents claim that they have spent more time lately with Paul and asked about the possibility of professional help to assist them in helping him "get over this hump in his life." A check with Paul's school counselor shows that he has above average intelligence, studies hard, and does well gradewise. Social service investigator recommends filing a formal petition.

Responses: (\bar{X} = 1.63)

1. NOT FILING PETITION; HANDLING UNOFFICIALLY	51%
2. FILING PETITION; CERTAINLY NOT FAVOR INSTITUTION . . .	37%
3. FILING PETITION; PROBABLY NOT FAVOR INSTITUTION . . .	11%
4. FILING PETITION; PROBABLY FAVOR INSTITUTION	2%
5. FILING PETITION; CERTAINLY FAVOR INSTITUTION	(0)
6. TRANSFER JURISDICTION TO ADULT COURT	(0)
	101%(a)
	(242)

(a) Difference from 100% due to rounding.

TABLE 58

CASE SUMMARY #4 -- JOSEPH M.

JOSEPH M., male, black, age 17, was arrested while in the act of repeatedly striking a grocery store owner with a heavy glass jar, and brought in for aggravated assault. Joseph claimed that the store owner tried to overcharge him for some candy and soda pop. At the police station, every attempt to question Joseph resulted in his launching a verbal tirade at the interrogation officer. He was extremely defiant, and always referred to the police as "pigs". His older sister (with whom he lives) had to be coaxed on the phone for almost an hour before she would even come to the station. When she finally did arrive, she did not seem to care what happened to Joseph, because if he was sent away, it "was one less mouth to feed." A Central Records check shows that Joseph has had repeated contacts with law enforcement authorities for many juvenile and a few misdemeanor offenses, and recently spent several months at a state juvenile correctional facility. Police recommend filing a formal petition.

According to the social service investigator, Joseph's parents are separated and their current whereabouts unknown. Joseph and 5 other siblings live with a divorced older sister and her 2 children, all of whom are supported entirely on public welfare. The house they live in is dilapidated and dirty, in an old, run-down area of town. An attempt to interview Joseph at his sister's house proved fruitless. He responded with similar verbal abuse toward the investigator as he did toward the police. An interview with his older sister was almost as worthless. It was carried on while standing at the door of their house and lasted for a total of 5 minutes, at which time she closed the door on the investigator in mid-sentence, saying that he was "too damn nosy". A check with Joseph's school principal shows that he is of below average intelligence, puts out little or no effort, and gets poor and failing grades. Social service investigator recommends filing a formal delinquency petition.

Responses: (\bar{X} = 4.27)

1. NOT FILING PETITION; HANDLING UNOFFICIALLY	(0)
2. FILING PETITION; CERTAINLY NOT FAVOR INSTITUTION . . .	3%
3. FILING PETITION; PROBABLY NOT FAVOR INSTITUTION . . .	16%
4. FILING PETITION; PROBABLY FAVOR INSTITUTION	49%
5. FILING PETITION; CERTAINLY FAVOR INSTITUTION	18%
6. TRANSFER JURISDICTION TO ADULT COURT	15%
	101%(a)
	(240)

(a) Difference from 100% due to rounding.

TABLE 59

CASE SUMMARY #5 -- LINDA S.

LINDA S., female, black, age 17, was stopped by police coming out of an all-night movie theater at 3 a.m., and when she showed officers identification revealing her age, she was arrested for curfew violation. Linda seemed remorseful about it both for the consequences of the possible police record it might give her and because she had forsaken her parents' trust. Her parents were very cooperative with the police, stating that "this has never happened before" and that they intended to do everything possible to keep it from happening again. A check with Central Records shows that this is Linda's first contact with police. Police recommend handling unofficially without filing a petition.

According to the social service investigator, Linda's father is employed as a bookkeeper for a construction company, and her mother works 3 days a week as a cashier in a local restaurant. Linda, her parents, and her brother live in a middle-class tract home that is neat, clean, and comfortable. All three of them were very cooperative during the investigator's interview. The parents seemed truly concerned about Linda's night-time wandering and had imposed on her a 10 p.m. curfew of their own as a result. Linda stated that she had been sticking to her parent-imposed curfew and found that she felt better in the morning and that "nothing happens after 10 anyway." A check with Linda's school authorities shows her to be of average intelligence, diligent in her school work, and to be achieving good grades. Social service investigator recommends handling unofficially without filing a formal petition.

Responses: (\bar{X} = 1.00)

1. NOT FILING PETITION; HANDLING UNOFFICIALLY	100%
2. FILING PETITION; CERTAINLY NOT FAVOR INSTITUTION	(0)
3. FILING PETITION; PROBABLY NOT FAVOR INSTITUTION	(0)
4. FILING PETITION; PROBABLY FAVOR INSTITUTION	(0)
5. FILING PETITION; CERTAINLY FAVOR INSTITUTION	(0)
6. TRANSFER JURISDICTION TO ADULT COURT	(0)
	100%
	(242)

TABLE 60

CASE SUMMARY #6 -- JULIA M.

JULIA M., female, white, age 14, was picked up by police when they caught her in the act of taking valuable radios and stereo equipment (approximate value--\$600) from an unlocked delivery van parked behind a retail stereo store and belonging to a radio equipment wholesaler. She was arrested for grand larceny. Throughout interrogation, she seemed passive and unconcerned about her arrest, even when told that she had committed a felony and could end up at the Girl's Training School upstate. Occasionally, she could be heard muttering "Pigs!" under her breath. Her parents were very cooperative with police and constantly tried to get Julia to "open up" about her problems (with little success). A check with Central Records shows that Julia has had repeated contacts with law enforcement authorities for a variety of juvenile and a few misdemeanor offenses, although she has never spent any time in a state juvenile correctional institution. Police recommend filing a formal delinquency petition.

According to the social service investigator, Julia's father owns a filling station and her mother is a housewife, who occasionally helps out with bookkeeping at the station. Mr. and Mrs. M., Julia, and her sister live in a comfortable home in a quiet, middle-income residential neighborhood. Julia sat through the entire interview with a sullen glare aimed at the investigator, interjecting only snide comments such as, "What the hell do you care?", and "Crap!" Her parents reprimanded her each time she interjected such comments and threatened to ground her for 6 months if she didn't "show some respect for people". They seemed very concerned about Julia's welfare, claiming that it was hard to raise a teenage girl these days and realizing they had been unsuccessful in doing so. They asked if our office could arrange some professional help for Julia, preferably someone with teenage children of their own. A check with Julia's school authorities shows that she is of below average intelligence, tries very little and gets poor grades. Social service investigator recommends handling unofficially without filing a formal petition.

Responses: (\bar{X} = 3.15)

- | | |
|---|-----|
| 1. NOT FILING PETITION; HANDLING UNOFFICIALLY | 4% |
| 2. FILING PETITION; CERTAINLY NOT FAVOR INSTITUTION . . . | 18% |
| 3. FILING PETITION; PROBABLY NOT FAVOR INSTITUTION . . . | 43% |

(CONTINUED)

TABLE 60 (Continued)
CASE SUMMARY #6 -- JULIA M.

4. FILING PETITION; PROBABLY FAVOR INSTITUTION	31%
5. FILING PETITION; CERTAINLY FAVOR INSTITUTION	5%
6. TRANSFER JURISDICTION TO ADULT COURT	<u>(0)</u>
	101% ^(a)
	(239)

(a) Difference from 100% due to rounding.

TABLE 61

CASE SUMMARY #7 -- GEORGE R.

GEORGE R., male, black, age 14, was stopped by police while seen dumping a garbage can full of trash into a busy downtown thoroughfare, and was arrested for littering and creating a public nuisance (there was some broken glass among the trash). Upon questioning, George denied throwing the trash into the street, challenged the officers to prove it, demanded an attorney, then refused to answer any questions. George's parents, equally hostile, stated that their son "knew his rights" and that "there's no stinking cops in the world who could railroad our boy into admitting anything." A check with Central Records shows that George has been arrested twice before for curfew violation. Police recommend handling unofficially without filing a petition.

According to the social service investigator, both George's father and mother are unemployed and the family subsists on public welfare. The R.'s (George, his parents, and his 5 brothers and sisters) live in a house that can be described at best as old, smelly, dirty, and unkempt, matching perfectly the neighborhood in which it is located. Both George and his parents displayed a defiant demeanor toward the investigator. All through the interview they were belligerent, seemingly taking turns at throwing verbal abuse at him. Their attitude can be summed up by George's statement to the investigator as he left the house: a simple "Screw you!" A check with George's school officials reveals him to be of average intelligence, a good worker, and getting good grades. Social service investigator recommends filing a delinquency petition.

Responses: (\bar{X} = 2.58)

1. NOT FILING PETITION; HANDLING UNOFFICIALLY	13%
2. FILING PETITION; CERTAINLY NOT FAVOR INSTITUTION . . .	35%
3. FILING PETITION; PROBABLY NOT FAVOR INSTITUTION . . .	34%
4. FILING PETITION; PROBABLY FAVOR INSTITUTION	16%
5. FILING PETITION; CERTAINLY FAVOR INSTITUTION	2%
6. TRANSFER JURISDICTION TO ADULT COURT	(0)
	100%
	(241)

TABLE 62

CASE NUMBER #8 -- SALLY N.

SALLY N., female, black, age 17, was picked up on a complaint from the parents of another girl saying that Sally had hit her several times with a pop bottle, causing several deep cuts which required many stitches. Sally was arrested for aggravated assault. The fight was apparently over which of them was "going steady" with a particular young man. At the police station, Sally cried uncontrollably for 15 minutes, sobbing "I'm sorry! Please! I'm sorry!" She seemed truly regretful for her act, scared to death about being arrested (especially for a felony), and said she'd never "lose my temper like that" again. Sally's parents, however, were surprisingly unmoved by Sally's behavior, and were "insulted" that the police would arrest their daughter again (even after she admitted to them that she did it). A Central Records check shows that Sally has been arrested twice before for truancy. Police recommend filing a formal petition.

According to the social service investigator, Sally's father is employed as a buyer for a local department store chain, and her mother is a housewife. Sally, her parents, and one other child live in a comfortable middle-class tract home. Sally talked freely during the investigator's interview. She seemed very remorseful for causing such a serious problem, ashamed of herself for hurting the other girl so badly, and even offered to get a part-time job to help the girl's family pay the medical expenses. "I'd been doing so well, staying out of trouble--I don't want to blow it now," she said. Her parents, however, remained sullen and abrasive. They expressed their anger quite vociferously at this "intrusion into our private lives." A check with Sally's school counselor shows her to be a girl of below average intelligence, who puts out little or no effort, and who gets very poor grades. Social service investigator recommends handling unofficially without filing of a formal petition.

Responses: (\bar{X} = 2.20)

1. NOT FILING PETITION; HANDLING UNOFFICIALLY	18%
2. FILING PETITION; CERTAINLY NOT FAVOR INSTITUTION . . .	49%
3. FILING PETITION; PROBABLY NOT FAVOR INSTITUTION . . .	28%
4. FILING PETITION; PROBABLY FAVOR INSTITUTION	3%
5. FILING PETITION; CERTAINLY FAVOR INSTITUTION	(1)
6. TRANSFER JURISDICTION TO ADULT COURT	(1)
	98% (a)
	(239)

(a) Difference from 100% due to rounding.

TABLE 63

CASE SUMMARY #9 -- LISA C.

LISA C., female, white, age 14, was picked up by police coming out of a grocery store downtown at 10 a.m., and since she could not explain why she was not in school, she was arrested for truancy. Upon questioning, Lisa started to cry, claiming that she only cut school as a "lark", and that this was the first and last time she would ever do it because it would shame her parents. Her parents were very surprised when told about Lisa's arrest and they came to the station immediately. They said that they couldn't understand what made her skip school, "she loves school so much." They also said that this was the "first time anything like this has happened." They were very cooperative. A Central Records check shows that this is Lisa's first contact with police. Police recommend handling unofficially without filing a formal petition.

According to the social service investigator, Lisa's father is a prominent local physician, and her mother is a housewife who is very active in civic and charity affairs. Lisa, her parents, and her brother live in a large house in an exclusive neighborhood. Lisa seemed to regret being truant, saying that it would never happen again, and holding back tears all the while. Her parents, who were very cooperative, had "grounded" Lisa for 2 weeks, and said that she cried and apologized most of the evening following her arrest. A check with Lisa's school authorities reveals her to be of above average intelligence, very studious, and achieving good grades. Social service investigator recommends handling unofficially without filing a formal petition.

Responses: (\bar{X} = 1.02)

1. NOT FILING PETITION; HANDLING UNOFFICIALLY	99%
2. FILING PETITION; CERTAINLY NOT FAVOR INSTITUTION . . .	1%
3. FILING PETITION; PROBABLY NOT FAVOR INSTITUTION . . .	(1)
4. FILING PETITION; PROBABLY FAVOR INSTITUTION	(0)
5. FILING PETITION; CERTAINLY FAVOR INSTITUTION	(0)
6. TRANSFER JURISDICTION TO ADULT COURT	(0)

100%
(242)

TABLE 64

CASE SUMMARY #10 -- FREDERICK B.

FREDERICK B., male, black, age 17, was stopped by police walking along a downtown street at 2:30 a.m., and was arrested for curfew violation. At the police station, Frederick stated that they "had no right" to arrest him, that he hadn't done anything wrong ("It's the law that's wrong!", he said), and was generally belligerent toward arresting officers. His parents, equally hostile, demanded to see the watch commander about "police harassment" of their son. When asked why Frederick was allowed out so late in violation of curfew laws, their reply was, "He's a 'night person'." A check with Central Records shows that Frederick has been arrested twice before for this offense. Police recommend handling unofficially without filing a formal petition.

According to the social service investigator, Frederick's father is a bank teller and his mother works part-time as an "Avon lady". The family (Mr. and Mrs. B., Frederick, and his brother) lives in a modest, well-kept house in a quiet, middle-class area of town. The investigator found both Frederick and his parents sullen and uncommunicative. At one point, Frederick became defiant by replying to one question ("Why were you out so late?") with a sharp, "None of your damn business!" His father followed that with, "Damn right, boy!", and his mother nodded agreement while glaring at the investigator. When the investigator left the house, the door was slammed loudly behind him. A check with Frederick's school counselor shows that he is of above average intelligence, works hard and gets good grades. Social service investigator recommends filing a delinquency petition.

Responses: (\bar{X} = 1.86)

1. NOT FILING PETITION; HANDLING UNOFFICIALLY	41%
2. FILING PETITION; CERTAINLY NOT FAVOR INSTITUTION . . .	40%
3. FILING PETITION; PROBABLY NOT FAVOR INSTITUTION . . .	14%
4. FILING PETITION; PROBABLY FAVOR INSTITUTION	5%
5. FILING PETITION; CERTAINLY FAVOR INSTITUTION	1%
6. TRANSFER JURISDICTION TO ADULT COURT	(0)
	101%(a)
	(242)

(a) Difference from 100% due to rounding.

TABLE 65

CASE SUMMARY #11 -- JOHN F.

JOHN F., male, white, age 17, was picked up by police for beating up another boy younger than himself, and arrested for simple assault when the younger boy's parents complained. John claimed he did it because the younger boy (age 14) had "finked" on him in school for some misbehavior of John's. When brought into the station, John sneered at the arresting officers and asked, "Is this where the torture takes place?" He then turned to no one in particular in the room and cracked, "Hey, all you cops! Who's got the rubber hoses and bamboo splinters?! Now hear this! Now hear this! 'El Piggo' here will now whup my ass!" In contrast to this behavior, John's parents were concerned for their son and well-mannered toward police. They seemed genuinely bewildered and disturbed by John's behavior, now and in the past, saying that they "must have failed somewhere." Behind a veil of tears, they begged officers to help them "straighten out" their son. A check with Central Records shows that John has had repeated contacts with the police for a variety of juvenile and a few misdemeanor offenses, and has recently spent several months in a state juvenile correctional institution. Police recommend filing a formal delinquency petition.

According to the social service investigator, John's father and mother are both part-time short order cooks in a local diner. John, his parents, and 5 brothers and sisters live in a small, dilapidated house in an old, decaying neighborhood. John's wise-cracking and general defiance was well in evidence to the investigator, despite his parents' attempts to make him be quiet. John showed no regret whatsoever for his actions and, in fact, seemed quite proud of them. His parents were very disturbed with him and, as with the police, pleaded with the investigator for help in raising their son "to be a good man." A check with John's school shows him to be of average intelligence, but that he studies little or none at all and gets poor grades. Social service investigator recommends filing a petition.

Responses: (\bar{X} = 3.60)

- | | |
|---|-----|
| 1. NOT FILING PETITION; HANDLING UNOFFICIALLY | 1% |
| 2. FILING PETITION; CERTAINLY NOT FAVOR INSTITUTION . . . | 15% |
| 3. FILING PETITION; PROBABLY NOT FAVOR INSTITUTION . . . | 26% |

(CONTINUED)

TABLE 65 (Continued)
CASE SUMMARY #11 -- JOHN F.

4. FILING PETITION; PROBABLY FAVOR INSTITUTION	45%(b)
5. FILING PETITION: CERTAINLY FAVOR INSTITUTION	8%(b)
6. TRANSFER JURISDICTION TO ADULT COURT	<u>6%</u>
	101%(a)
	(237)

(a) Difference from 100% due to rounding.

(b) It should be noted that several of the judges responding in favor of institutionalization stated in the margin that they particularly favored a mental institution in this case, or a correctional institution will considerably emphasis on psychiatric care.

TABLE 66

MEAN SEVERITY AND CHARACTERISTICS OF ELEVEN CASE SUMMARIES

<u>Dispositional Severity</u>		<u>Individual Characteristics</u>		<u>Offense and Criminal History</u>			<u>Social History</u>		<u>"Demeanor"</u>						
Case Summary	Mean Severity	N	Sex	Race	Age	Off- ense	Asslt- ive?	Con- tact	Prev. Inst.	Police Rec.	Fam- ily SES	Schl ord	Serv. Inv. Rec.	Youth Demnr	Parent Demnr
#4--Joseph M.	4.27	(240)	M	Bl	17	Fel	Yes	Rept	Yes	Pet.	Low	Pr	Pet	Dis	Dis
#11--John F.	3.60	(237)	M	Wh	17	Misd	Yes	Rept	Yes	Pet	Low	Pr	Pet	Dis	Res
#6--Julia M.	3.15	(239)	F	Wh	14	Fel	No	Rept	No	Pet	Mid	Pr	NoP.	Dis	Res
#7--George R.	2.58	(241)	M	Bl	14	Misd	No	Two	No	NoP.	Low	Gd	Pet	Dis	Dis
#8--Sally N.	2.20	(239)	F	Bl	17	Fel	Yes	Two	No	Pet	Mid	Pr	NoP.	Res	Dis
#1--Robert L.	2.16	(240)	M	Wh	14	Fel	No	1st	No	Pet	Upr	Pr	Pet	Res	Dis
#10--Frederick B.	1.86	(242)	M	Bl	17	Juv	No	Two	No	NoP.	Mid	Gd	Pet	Dis	Dis
#3--Paul S.	1.63	(242)	M	Wh	14	Juv	No	Rept	No	NoP.	Mid	Gd	Pet	Res	Res
#2--Barbara D.	1.19	(241)	F	Wh	17	Misd	Yes	1st	No	NoP.	Low	Gd	NoP.	Res	Dis
#9--Lisa C.	1.02	(242)	F	Wh	14	Juv	No	1st	No	NoP.	Upr	Gd	NoP.	Res	Res
#5--Linda S.	1.00	(242)	F	Bl	17	Juv	No	1st	No	NoP.	Mid	Gd	NoP.	Res	Res

truly systematic manipulations, despite the probability that one could make a good case for these relationships from the literature.⁹ These relationships here are, to a great extent, forced. One cannot plausibly single out any one variable and relate it directly to mean severity.

The primary reason for these summaries was control of the "decisional situation", and not conclusions concerning case factors relating to dispositional severity. Any such conclusions drawn are weak at best. The most important thing to remember here is that these summaries were designed to allow some control over this situational contingency--the case--by giving each judge in the sample the same set of "cases" to decide upon. The inclusion of these particular 13 variables is important to this research to the extent they represent those which previous research has found relevant, which are always or often available to the judge from reports presented at juvenile court hearings or through his own eyes and ears, and as such are part of the information set upon which dispositional decision-making could be based.

The eleven dispositional severity scores of each judge

⁹ It is almost as difficult to separate out individual variables of the defendants even with a large N. It is often assumed that if N is large enough, then all relevant variables can be considered to have been systematically randomized. However, once one considers more than a few such variables (which is desirable), it becomes geometrically more difficult, if not impossible, to tell whether or not the variation is systematic. Normally, the author doesn't bother, leaving only the assurance that one has a large N.

were summated to obtain a total score. These summated scores were then grouped such that four interval categories of equal range resulted, as with the grouped summated ideology scores. The boundaries of these four groups were scores ranging from 11-24, 25-38, 39-52, and 53-66. Since there were no summated scores greater than 38, the last two categories were null. Therefore, the 11-24 category was designated Low severity, and the 25-38 range High severity. The distribution of the actual summated severity scores for both Low and High categories appears in Table 67. It can be seen that the dividing line between these two categories turns out to be both the mean and median of the sample distribution. Throughout the remainder of this chapter, the term "dispositional severity" will refer either to the summated total score of each judge or its dichotomized version (Low or High), depending upon the nature of the particular analysis under consideration.

It will be remembered from Chapter Four that several test factors related significantly to ideology: geographic region, jurisdictional type, selection method, time spent on juvenile matters, and net number of dispositional alternatives available. Four of these (all but selection method) also relate significantly to dispositional severity. Table 68 shows the relationship between these four test factors and dispositional severity. Northeasterners tend to have the lowest severity scores, while Southerners have the highest. Urban-

TABLE 67

DISTRIBUTION OF SUMMATED DISPOSITIONAL SEVERITY SCORES^(a)

"LOW" SEVERITY		"HIGH" SEVERITY	
Score	N	Score	N
16.....	3	25.....	25
17.....	2	26.....	22
18.....	7	27.....	16
19.....	11	28.....	13
20.....	19	29.....	18
21.....	18	30.....	9
22.....	20	31.....	4
23.....	18	32.....	4
24.....	15	33.....	2
		34.....	3
		35.....	3
		36.....	1
		38.....	1
N = 113		N = 121	
% of Total = 48.3%		% of Total = 51.7%	

(a) N = 234, \bar{X} = 24.7, Median = 25.

TABLE 68

SELECTED TEST FACTORS VS. SUMMATED DISPOSITIONAL
SEVERITY SCORE

Test Factor	Dispositional Severity		
	LOW	HIGH	
1) <u>Geographic Region:</u> (a)			
Northeast	63%	37%	(35)
North Central	51%	49%	(84)
South	38%	62%	(84)
West	52%	48%	<u>(31)</u>
			(234)
2) <u>Urbanization:</u> (b)			
Large City	67%	33%	(45)
Small City	58%	42%	(33)
Small Town/Rural	38%	62%	<u>(136)</u>
			(234)
3) <u>Time Spent on Juvenile Matters:</u> (c)			
25% or Less	44%	56%	(142)
Half or More	54%	46%	(61)
All or Virtually All	67%	33%	<u>(24)</u>
			(227)
4) <u>Net Dispositional Alternatives:</u> (d)			
4 or Less	45%	55%	(33)
5 - 7	41%	59%	(139)
8 or More	66%	34%	<u>(62)</u>
			(234)

(a) Df = 3, chi-sq = 6.891, p = .0755.

(b) Df = 2, chi-sq = 13.800, p = .0010, r (ungrouped) = .270.
Correlation is positive because urbanization categories were
number from 1 to 7, from largest to smallest.

(c) Df = 2, chi-sq = 5.251, p = .0724, r (ungrouped) = -.208.

(d) Df = 2, chi-sq = 10.960, p = .0042, r (ungrouped) = -.183.

ization and time spent on juvenile matters are both inversely related to dispositional severity. The greater the population of the area, or the greater the percentage of time a judge spends on juvenile cases, the lower is the severity score. Judges with the largest number of available dispositional alternatives (8 or more) also tend toward lower severity scores.

There are no real surprises here. Urbanization has brought with it the social ills of increased "street crimes" and juvenile delinquency, and the consequent realization by officials that there is not enough room in juvenile correctional institutions to house the number of offenders who come before the court. This has led to various experiments in corrections and "diversion", historically beginning in the industrial urban areas of the Northeast. This has meant more dispositional alternatives available to a judge other than incarceration (although the relationship between net dispositional alternatives and severity holds for rural and small city areas as well). Southern officials have been slower to adopt such innovations, and are more often from rural areas, but even in areas where few such alternatives exist, a judge who spends most of his time deciding juvenile cases is likely to know those that are available, and probably will use them.

Additionally, the juvenile court policy with respect to jury trials within a given state related significantly to

dispositional severity. The first cross-tabulation in Table 69 shows that judges in the 10 states where offenders have a statutory right to a jury trial in juvenile court adjudicatory hearings tend toward lower severity scores than judges from states where a jury trial is prohibited.¹⁰ The most plausible explanation of this is that judges, wishing to avoid the complications of a jury trial for a youth facing institutionalization, will be more amenable to alternative, less serious forms of correctional treatment.

Selection method was the only variable significantly related to ideology that did not show a strong relationship to dispositional severity. The second cross-tabulation in Table 69 does show that those judges elected with opposition tend to be slightly more severe as a whole than the other two categories of judges, but the chi-square value of the cross-tabulation did not even reach .25.

Given the somewhat similar relationships with the test factors exhibited by both ideology and dispositional severity, one would expect an observable relation between the latter two as well. This is the type of relationship which was hypothesized at the outset of this research, and will be

¹⁰ Since the column sums for Low and High severity are nearly equal (see Table 67), the effect of the two High scores in the "Statutorily Possible" category on the total chi-square value may be great. However, the magnitude of the difference between "Statutory Right" and "Statutorily Prohibited" categories cannot be ignored.

TABLE 69

JURY TRIAL POLICY AND SELECTION METHOD VS. SUMMATED
DISPOSITIONAL SEVERITY SCORE

Test Factor	Dispositional Severity		
	LOW	HIGH	
1) <u>Jury Trial Policy:</u> (a)			
Statutory Right	63%	37%	(43)
Statutorily Possible	(0)	(2)	(2)
Statutorily Prohibited	46%	54%	(189)
			(234)
2) <u>Selection Method:</u> (b)			
Not Elected	53%	47%	(57)
Elected Unopposed	56%	44%	(61)
Elected With Opposition	44%	56%	(112)
			(230)

(a) Df = 2, chi-sq = 6.077, p = .0479.

(b) Df = 2, chi-sq = 2.642, p = .2668.

the subject of the remainder of this chapter.

Ideology and Dispositional Severity

It will be remembered that the "constructed" ideologies, and subsequently the categories of "Left", "Right" and "Non-Ideological", were developed from the four typologies initially tested. Although most judges in the sample scored high on the Social-Worker (rehabilitation through individually- and socially-oriented official treatment programs) and Constitutionalist (protection of the Constitutional rights of the juvenile offender) constructed types, there were divisions along other lines which separated judges ideologically.

Judges adhering to the Left ideology were, in addition, more favorable to "diversion" and "community treatment" modes where, recognizing the stigmatizing effect of official processing on juveniles, the burden of rehabilitation would fall on individuals and agencies outside of the court or juvenile corrections. In short, they are more likely to separate juveniles from the mainstream of formal criminal justice processing.

By contrast, judges adhering to the Right ideology were more likely to be concerned with crime collectively as a social "menace" rather than criminals individually as having a social "disease". They are, for the most part, punishment-rather than treatment-oriented and are concerned with the enforcement of the substantive law. In short, they generally

believe that crime is crime, regardless of the age of the perpetrator, but that juveniles may deserve another chance under the right conditions and with the right supervision. Prevention is considered more important than rehabilitation and is seen as best achieved through the "deterrence" effect of fair but firm punishment.

It would be expected from this that the severity scores of the Left judges would, as a rule, be lower than those of the Right judges. In other words, there would be a greater percentage of Left judges in the Low severity category and a concomitantly higher percentage of Right judges in the High severity category. Table 70 shows that this is in fact the case for the sample as a whole, and for both groups based on 3- and 4-variable versions of the constructed ideological types. The chi-square values of these tables are statistically significant at very low probabilities of chance variation (.0007 and .0001, respectively).

Tables 71 and 72 (for 3- and 4-variable versions, respectively) show that this relationship holds as well for 8 of the 11 case summaries individually. Only in the three cases with the lowest mean severity scores (Barbara D., Lisa C., and Linda S.) did the relationship fail to hold true. In all other cases, however, the percent distribution of severity scores for judges on the Right were generally higher than for those judges on the Left.

TABLE 70

IDEOLOGICAL GROUPS VS. DISPOSITIONAL SEVERITY

Ideological Group	Dispositional Severity		
	LOW	HIGH	
1) For 3-Variable Version of ^(a) Constructed Ideologies:			
LEFT	66%	34%	(47)
RIGHT	34%	66%	(94)
NON-IDEOLOGICAL	55%	45%	<u>(64)</u>
			(205)
2) For 4-Variable Version of ^(b) Constructed Ideologies:			
LEFT	75%	25%	(68)
RIGHT	28%	72%	(74)
NON-IDEOLOGICAL	42%	58%	<u>(57)</u>
			(199)

(a) Df = 2, chi-sq = 14.557, p = .0007.

(b) Df = 2, chi-sq = 32.052, p = .0001.

TABLE 71

IDEOLOGICAL GROUP VS. DISPOSITIONAL SEVERITY
BY INDIVIDUAL CASE SUMMARIES
(3-VARIABLE VERSION OF CONSTRUCTED IDEOLOGIES)

Case Summary (a)	Ideo- logical Group	Dispositional Severity						
		Unoff 1	2	3	4	5	Waiver 6	
#4--Joseph M.	LEFT	(0)	(0)	18%	55%	20%	6%	(49) 99% ^(b)
	RIGHT	(0)	1%	13%	46%	20%	20%	(95) 100% ^(b)
	NON-IDEO.	(0)	6%	18%	46%	17%	12%	(65) 99% ^(b) (209)
#11--John F.	LEFT	(0)	25%	23%	44%	2%	6%	(48) 100%
	RIGHT	(0)	13%	26%	43%	13%	5%	(95) 100%
	NON-IDEO.	3%	14%	25%	42%	8%	9%	(65) 101% ^(b) (208)
#6--Julia M.	LEFT	6%	23%	42%	23%	6%	(0)	(48) 100% ^(b)
	RIGHT	2%	13%	41%	41%	4%	(0)	(96) 101% ^(b)
	NON-IDEO.	5%	17%	50%	23%	5%	(0)	(64) 100% (208)
#7--George R.	LEFT	18%	49%	24%	6%	2%	(0)	(49) 99% ^(b)
	RIGHT	9%	26%	41%	22%	2%	(0)	(97) 100% ^(b)
	NON-IDEO.	19%	38%	33%	9%	2%	(0)	(64) 101% ^(b) (210)
#8--Sally N.	LEFT	19%	54%	27%	(0)	(0)	(0)	(48) 100%
	RIGHT	18%	49%	28%	3%	1%	(0)	(95) 99% ^(b)
	NON-IDEO.	20%	46%	28%	5%	(0)	2%	(65) 101% ^(b) (208)
#1--Robert L.	LEFT	13%	77%	10%	(0)	(0)	(0)	(48) 100%
	RIGHT	13%	58%	28%	(0)	1%	(0)	(96) 100%
	NON-IDEO.	17%	52%	28%	2%	(0)	2%	(65) 101% ^(b) (209)
#10--Frederick B.	LEFT	69%	22%	6%	2%	(0)	(0)	(49) 99% ^(b)
	RIGHT	25%	53%	15%	5%	2%	(0)	(97) 100%
	NON-IDEO.	45%	34%	17%	5%	(0)	(0)	(65) 101% ^(b) (211)
#3--Paul S.	LEFT	59%	29%	8%	4%	(0)	(0)	(49) 100%
	RIGHT	44%	42%	12%	1%	(0)	(0)	(97) 99% ^(b)
	NON-IDEO.	49%	40%	9%	1%	(0)	(0)	(65) 99% ^(b) (211)
#2--Barbara D.	LEFT	88%	10%	2%	(0)	(0)	(0)	(49) 100%
	RIGHT	82%	16%	2%	(0)	(0)	(0)	(96) 100%
	NON-IDEO.	88%	12%	(0)	(0)	(0)	(0)	(65) 100% (210)
#9--Lisa C.	LEFT	100%	(0)	(0)	(0)	(0)	(0)	(49) 100%
	RIGHT	98%	2%	(0)	(0)	(0)	(0)	(97) 100%
	NON-IDEO.	100%	(0)	(0)	(0)	(0)	(0)	(65) 100% (211)
#5--Linda S.	LEFT	100%	(0)	(0)	(0)	(0)	(0)	(49) 100%
	RIGHT	100%	(0)	(0)	(0)	(0)	(0)	(97) 100%
	NON-IDEO.	100%	(0)	(0)	(0)	(0)	(0)	(65) 100% (211)

(a) Case summaries are listed in order of mean severity score, from highest to lowest, as in Table 66.

(b) Differences from 100% due to rounding.

TABLE 72

IDEOLOGICAL GROUP VS. DISPOSITIONAL SEVERITY
BY INDIVIDUAL CASE SUMMARIES
(4-VARIABLE VERSION OF CONSTRUCTED IDEOLOGIES)

Case Summary (a)	Ideo- logical Group	Dispositional Severity						Waiver	
		Unoff	1	2	3	4	5		
#4--Joseph M.	LEFT	(0)	3%	24%	49%	20%	4%	(70)	100%
	RIGHT	(0)	4%	5%	54%	18%	18%	(76)	99% ^(b)
	NON-IDEO.	(0)	(0)	19%	42%	18%	21%	(57)	100%
								(203)	
#11--John F.	LEFT	1%	20%	33%	42%	(0)	3%	(69)	99% ^(b)
	RIGHT	(0)	14%	20%	42%	14%	9%	(76)	99% ^(b)
	NON-IDEO.	2%	14%	23%	44%	11%	7%	(57)	101% ^(b)
								(202)	
#6--Julia M.	LEFT	4%	23%	52%	17%	3%	(0)	(69)	99% ^(b)
	RIGHT	4%	13%	38%	41%	4%	(0)	(76)	100%
	NON-IDEO.	4%	14%	42%	33%	7%	(0)	(57)	100%
								(202)	
#7--George R.	LEFT	24%	46%	26%	3%	1%	(0)	(70)	100%
	RIGHT	8%	32%	39%	20%	1%	(0)	(76)	100%
	NON-IDEO.	12%	26%	40%	19%	3%	(0)	(58)	100%
								(204)	
#8--Sally N.	LEFT	22%	57%	22%	(0)	(0)	(0)	(69)	101% ^(b)
	RIGHT	17%	46%	29%	5%	1%	1%	(76)	99% ^(b)
	NON-IDEO.	19%	44%	33%	4%	(0)	(0)	(57)	100%
								(202)	
#1--Robert L.	LEFT	15%	66%	18%	(0)	(0)	(0)	(71)	99% ^(b)
	RIGHT	14%	59%	24%	(0)	1%	1%	(74)	99% ^(b)
	NON-IDEO.	14%	53%	31%	2%	(0)	(0)	(58)	100%
								(203)	
#10--Frederick B.	LEFT	61%	30%	8%	1%	(0)	(0)	(71)	100%
	RIGHT	25%	46%	20%	8%	1%	(0)	(76)	100%
	NON-IDEO.	41%	45%	9%	3%	2%	(0)	(58)	100%
								(205)	
#3--Paul S.	LEFT	54%	37%	8%	1%	(0)	(0)	(71)	100%
	RIGHT	36%	47%	16%	1%	(0)	(0)	(76)	100%
	NON-IDEO.	64%	26%	7%	3%	(0)	(0)	(58)	100%
								(205)	
#2--Barbara D.	LEFT	90%	10%	(0)	(0)	(0)	(0)	(71)	100%
	RIGHT	82%	16%	3%	(0)	(0)	(0)	(76)	101% ^(b)
	NON-IDEO.	84%	14%	2%	(0)	(0)	(0)	(57)	100%
								(204)	
#9--Lisa C.	LEFT	100%	(0)	(0)	(0)	(0)	(0)	(71)	100%
	RIGHT	97%	3%	(0)	(0)	(0)	(0)	(76)	100%
	NON-IDEO.	100%	(0)	(0)	(0)	(0)	(0)	(58)	100%
								(205)	
#5--Linda S.	LEFT	100%	(0)	(0)	(0)	(0)	(0)	(71)	100%
	RIGHT	100%	(0)	(0)	(0)	(0)	(0)	(76)	100%
	NON-IDEO.	100%	(0)	(0)	(0)	(0)	(0)	(58)	100%
								(205)	

(a) Case summaries are listed in order of mean severity score, from highest to lowest, as in Table 66.

(b) Differences from 100% due to rounding.

TABLE 73

CORRELATIONS OF CONSTRUCTED IDEOLOGY SUMMATED SCORE WITH
DISPOSITIONAL SEVERITY SUMMATED SCORE

Constructed Ideologies	Dispositional Severity	N
1) <u>3-Variable Version:</u>		
Far-Left	-.224	(223)
Mid-Left	-.336	(229)
Constitutionalism	-.187	(224)
Social-Worker	-.165	(225)
Mid-Right	.243	(222)
Far-Right	.280	(223)
2) <u>4-Variable Version:</u>		
Far-Left	-.168	(220)
Mid-Left	-.335	(228)
Constitutionalism	-.175	(223)
Social-Worker	-.177	(223)
Mid-Right	.271	(222)
Far-Right	.333	(222)

The correlations in Table 73 illustrate that the six constructed ideologies which constitute "Left", "Right", and "Non-Ideological" groups also show a marked relationship to dispositional severity.

Since there were a total of six test factors which related significantly to ideology and/or severity, the three-way cross-tabulations of ideology vs. summated severity score, controlling for classes of these test factor conditions, are presented in Tables 74-79. Breaking down this data into three-way tables often reduced the N's in certain categories to a point where conclusions could be stated only with great caution. However, each table does shed some light on the particulars of the relationship between ideological group and dispositional severity. It will be remembered from Table 70 that the Left ideological group associated with Low severity (66% and 75%, for groups based on 3- and 4-variable versions of the constructed ideologies, respectively), that the Right group associated with High severity (66% and 72%, respectively), and that the Non-Ideological associated with Low severity for the 3-variable version (55%) and with High severity for the 4-variable version (58%).

Table 74 shows the relationship between ideological group and dispositional severity for each of the four geographic regions. The relation between Left and severity holds for all categories except the Western region. The Right shows higher

severity scores in all categories, but to a lesser extent in the West and Northeast. The Non-Ideologicals show an erratic pattern of responses over the four regions. They look most like the Left in the North Central region, like the Right in the South and West, and somewhere between the two in the Northeast.

Table 75 illustrates the ideological group vs. severity relationship for different urbanization categories. The original relationship of the Left to severity holds for all sizes of jurisdiction. The Right to severity relationship is by far the strongest in the small town/rural jurisdictions, and is much less pronounced in the small and large cities. The strength of the original relationship shown in Table 70 may then be a reflection of the rural bias of the sample. The directions of the relationships, however, are the same, regardless of urbanization. The distribution of the Non-Ideologicals resembles the Right in the small cities and small town/rural areas, whereas they resemble more the Left in the large cities.

Table 76 shows the associations between ideological group and severity for the three categories of time spent on juvenile matters. Again, the Left-severity relationship holds well for all categories of the test factor, as does the Right for the first two categories. It reverses for the "all or virtually all" category, but there are only 5 persons in the

TABLE 74

IDEOLOGICAL GROUP VS. DISPOSITIONAL SEVERITY
BY GEOGRAPHIC REGION

Geographic Region	Ideological Group (3-Var. Vers.)	Dispositional Severity		
		LOW	HIGH	
1) <u>Northeast:</u>	LEFT	73%	27%	(11)
	RIGHT	46%	54%	(13)
	NON-IDEOLOGICAL	57%	43%	(7)
				(31)
2) <u>North Central:</u>	LEFT	71%	29%	(17)
	RIGHT	23%	77%	(30)
	NON-IDEOLOGICAL	75%	25%	(28)
				(75)
3) <u>South:</u>	LEFT	71%	29%	(7)
	RIGHT	35%	65%	(40)
	NON-IDEOLOGICAL	33%	67%	(24)
				(71)
4) <u>West:</u>	LEFT	50%	50%	(12)
	RIGHT	45%	55%	(11)
	NON-IDEOLOGICAL	40%	60%	(5)
				(28)

TABLE 75

IDEOLOGICAL GROUP VS. DISPOSITIONAL SEVERITY
BY URBANIZATION

Geographic Region	Ideological Group (4-Var. Vers.)	Dispositional Severity		
		LOW	HIGH	
1) <u>Large City:</u>	LEFT	73%	27%	(22)
	RIGHT	45%	55%	(11)
	NON-IDEOLOGICAL	71%	29%	<u>(7)</u>
				(40)
2) <u>Small City:</u>	LEFT	81%	19%	(16)
	RIGHT	43%	57%	(14)
	NON-IDEOLOGICAL	46%	54%	<u>(13)</u>
				(43)
3) <u>Small Town/ Rural:</u>	LEFT	73%	27%	(30)
	RIGHT	20%	80%	(49)
	NON-IDEOLOGICAL	35%	65%	<u>(37)</u>
				(116)

TABLE 76

IDEOLOGICAL GROUP VS. DISPOSITIONAL SEVERITY
BY TIME SPENT ON JUVENILE MATTERS

Time Spent on Juvenile Matters	Ideological Group (3-Var. Vers.)	Dispositional Severity		
		LOW	HIGH	
1) <u>25% or Less:</u>	LEFT	65%	35%	(23)
	RIGHT	32%	67%	(60)
	NON-IDEOLOGICAL	43%	57%	<u>(44)</u>
				(127)
2) <u>Half or More:</u>	LEFT	58%	42%	(12)
	RIGHT	35%	65%	(26)
	NON-IDEOLOGICAL	93%	7%	<u>(14)</u>
				(52)
3) <u>All or Virtually All:</u>	LEFT	70%	30%	(10)
	RIGHT	80%	20%	(5)
	NON-IDEOLOGICAL	50%	50%	<u>(6)</u>
				(21)

cell. The Non-Ideologicals associate slightly with High severity among judges who spend 25% or less of their time on juvenile cases, but this reverses strongly among judges who spend more than half (though not all) of their time on these cases.

In Table 77, the ideological group vs. severity relationships are shown for categories of net dispositional alternatives. The relationships of Left and Right with severity hold for the two lowest categories of the test factor. The Non-Ideologicals in these categories reverse (from High to Low) as the number of alternatives increase. The relationship, however, does not hold for judges with 8 or more alternatives available to them. All ideological categories associate more with Low severity for these judges. This finding lends some credence to the proposition that the number of alternatives, i.e., the range of choice in one's perceptual field, is a primary situational contingency of dispositional decision-making. The greater the choice of alternatives one has or that one is used to, the more likely one is to use them, regardless of ideological beliefs.

Although it did not relate directly to dispositional severity, but only to ideology, the effect of the selection-method test factor on the ideological group vs. severity relationship is shown in Table 78. It can be seen that the relationship holds to a greater or lesser extent for both categories

of elected judges (with the Non-Ideologicals falling somewhere between the Left and Right), the strength of the relationship being greater among judges elected with opposition. Those judges not elected to the bench tend to split between High and Low severity scores, regardless of ideological group.

By contrast, the test factor of jury trial policy related only to dispositional severity and not to ideology. However, for completeness, Table 79 presents the relationship between ideological group (based on both 3- and 4-variable versions of the constructed ideologies) and dispositional severity for the two major categories of jury trial policy. The Left-severity relationship holds for both versions and for both categories of the test factor. The Right-severity relationship also holds in general direction, but is much stronger among judges in states where jury trials are prohibited in juvenile court. The scores of the Non-Ideologicals resemble the 3-variable Left and 4-variable Right among judges in states where a jury trial in juvenile court is a statutory right, and are between the Left and Right for both versions among judges in states where it is prohibited.

In all, one would have to say that the relationship between ideological group and dispositional decision-making severity is generally consistent, with some few exceptions. The relationship between the Left group and their dispositional severity scores is more consistent than that of the Right group.

TABLE 77

IDEOLOGICAL GROUP VS. DISPOSITIONAL SEVERITY
BY NET DISPOSITIONAL ALTERNATIVES

Net Dispositional Alternatives	Ideological Group (3-Var. Vers.)	Dispositional Severity		
		LOW	HIGH	
1) <u>4 or Less:</u>	LEFT	67%	33%	(3)
	RIGHT	43%	57%	(7)
	NON-IDEOLOGICAL	35%	65%	<u>(17)</u>
				(27)
2) <u>5 - 7:</u>	LEFT	71%	29%	(28)
	RIGHT	25%	75%	(67)
	NON-IDEOLOGICAL	52%	48%	<u>(25)</u>
				(120)
3) <u>8 or More:</u>	LEFT	56%	44%	(16)
	RIGHT	60%	40%	(20)
	NON-IDEOLOGICAL	73%	27%	<u>(22)</u>
				(58)

TABLE 78

IDEOLOGICAL GROUP VS. DISPOSITIONAL SEVERITY
BY SELECTION METHOD

Selection Method	Ideological Group (3-Var. Vers.)	Dispositional Severity		
		LOW	HIGH	
1) <u>Not Elected:</u>	LEFT	57%	43%	(14)
	RIGHT	50%	50%	(24)
	NON-IDEOLOGICAL	45%	55%	<u>(11)</u>
				(49)
2) <u>Elected Unopposed:</u>	LEFT	72%	28%	(18)
	RIGHT	43%	57%	(21)
	NON-IDEOLOGICAL	53%	47%	<u>(15)</u>
				(54)
3) <u>Elected with Opposition:</u>	LEFT	67%	33%	(15)
	RIGHT	23%	77%	(47)
	NON-IDEOLOGICAL	59%	41%	<u>(37)</u>
				(99)

TABLE 79

IDEOLOGICAL GROUP VS. DISPOSITIONAL SEVERITY
BY JURY TRIAL POLICY

Jury Trial Policy(a)	Ideological Group	Dispositional Severity		
		LOW	HIGH	
1) <u>Statutory</u> <u>Right:</u>	<u>3-Variable Version:</u>			
	LEFT	80%	20%	(10)
	RIGHT	44%	56%	(16)
	NON-IDEOLOGICAL	73%	27%	<u>(11)</u>
				(37)
	<u>4-Variable Version:</u>			
	LEFT	86%	14%	(14)
	RIGHT	50%	50%	(10)
	NON-IDEOLOGICAL	50%	50%	<u>(12)</u>
				(36)
3) <u>Statutorily</u> <u>Prohibited:</u>	<u>3-Variable Version:</u>			
	LEFT	62%	38%	(37)
	RIGHT	33%	67%	(76)
	NON-IDEOLOGICAL	51%	49%	<u>(53)</u>
				(166)
	<u>4-Variable Version:</u>			
	LEFT	72%	28%	(54)
	RIGHT	25%	75%	(63)
	NON-IDEOLOGICAL	41%	59%	<u>(44)</u>
				(161)

(a) Category #2 of Jury Trial Policy, "Statutorily Possible", was excluded from this table because it contained only two respondents.

The primary exceptions for both groups are among judges with 8 or more dispositional alternatives available and among judges who are not elected to the bench, where ideology appears to have little to do with their decision-making severity.

The relationship of the Right group and their severity scores tends to vary in degree between various categories of test factors, but the direction of the relationships remains fairly consistent. The data on the Non-Ideologicals seems erratic, and at this point, no discernible pattern emerges.

Ideological Predictors of Dispositional Severity

Up to now, we have experimented with various groupings of ideological beliefs and groupings of judges according to those beliefs, and in this chapter in terms of stated dispositional severity for a group of "case summaries". The next step in this analysis is to return to the original test factors (Chapter Three, Table 2) and the ungrouped, individual ideological position statements to which the judges in the sample directly responded. Through a series of multivariate linear and "stepwise" linear regressions, we will attempt to identify the best individual item predictors of summated dispositional severity score.¹¹

¹¹ For a description of these standard regression procedures, see Anderson, Introduction to Multivariate Statistical Analysis, 1952; Williams, Regression Analysis, 1959; Draper & Smith, Applied Regression Analysis, 1966; Morrison, Multivariate Statistical Methods, 1967; Van de Geer, Introduction to Multivariate Analysis for the Social Sciences, 1971.

The first step in this analysis was to ascertain the approximate "maximum explainable variation" (M.E.V.) in the dependent variable--summated dispositional severity score. This is the total variation explained by the 11 test factors and 70 ideology items together, and it is measured by the "coefficient of determination" (R^2) statistic. This statistic is simply the ratio of the variance explained by the independent variables to the total variance in the dependent variable. The word "approximate" should be emphasized. When all variables (test factors and ideology items) are run together on the dependent variable in a regression analysis, the equation only considers those observations with no missing data--153 such observations (judges) for the ideology items and 226 for the test factors. The elimination of insignificant items and test factors and the re-running of the regression analysis will normally increase the number of observations being considered and lower the explainable variation figure. As such, this M.E.V. represents a figure which is actually above the achievable explained variation in runs with less variables and greater numbers of respondents considered. Put simply, the more observations introduced and considered in an analysis, the greater will be the total variation in the dependent variable, which is the denominator of the R^2 statistic.

Table 80 shows that all test factors, run exclus-

ively, have an R^2 of .219; for all ideology items, this statistic equals .662; and when all 81 of these items are run together, it is .778. This means that the M.E.V. in dispositional severity score using only these ideology items and test factors is 77.8%. It is only 21.9% for the test factors alone, and 66.2% for the ideology items alone. In addition to differences in the numbers of observations and variance in the dependent variable stated in the previous paragraph, the variance explained by any subset of these variables must be less than these figures, by definition.

However, it is probable that there is one such subset of these items, comprised of both test factors and ideology items, which explains a major part of this total variance of the dependent variable. We look first to the various subsets which represent the typologies discussed in Chapter Four. The number of variables, the number of respondents (N) answering the items, R^2 , and the percent of the M.E.V. are presented for these typologies in Table 81. It can be seen that, of all these typologies, Walter Miller's political groupings (i.e., summated scores for each of this ten "types") are the best explanators of dispositional severity. The summated scores themselves explain 30.8% ($R^2=.308$) of the total variance in the dependent variable, which amounts to 46.5% of the M.E.V. of the ideology items ($R^2=.662$). Adding to these the 11 test factors, 46.4% ($R^2=.464$) of the total variance, or 59.6% of

TABLE 80

"MAXIMUM EXPLAINABLE VARIATION" IN SUMMATED
DISPOSITIONAL SEVERITY SCORE

Variables	Total No. of Var.	N	R ²
All Test Factors ^(a)	11	226	.219
All Ideology Items	70	153	.662
All Ideology Items + Test Factors	81	148	.778

(a) Geographic region, selection method, full- vs. part-time judgeship, jury trial policy, juvenile court status, and juvenile court judge requirement variables are treated as "dummy" variables. All the rest are continuous.

TABLE 81

COEFFICIENTS OF DETERMINATION FOR VARIOUS SUMMATED IDEOLOGY
AND TEST FACTOR GROUPINGS ON SUMMATED DISPOSITIONAL
SEVERITY SCORE

Variables(a)	Total No. of Var.	N	R ²	% of M.E.V. (b)
Platt Summated Types	3	208	.115	17.4%
Platt Types + Test Factors	14	202	.305	39.2%
Schur Summated Types	4	205	.186	28.1%
Schur Types + Test Factors	15	199	.323	41.5%
Cardozo Summated Types	4	203	.082	12.4%
Cardozo Types + Test Factors	15	196	.265	34.1%
Miller Summated Types	10	189	.308	46.5%
Miller Types + Test Factors	21	182	.464	59.6%
<hr/>				
3-Variable Summated Constructed Types	6	205	.229	34.6%
3-Variable Constructed Types + Test Factors	17	199	.392	50.4%
4-Variable Summated Constructed Types	6	199	.262	39.6%
4-Variable Constructed Types + Test Factors	17	193	.419	53.9%
<hr/>				
Ideological Group (3-Var. Const. Ideol.)	1	205	.064	9.7%
Ideological Group + Test Factors	12	199	.249	32.0%
Ideological Group (4-Var. Const. Ideol.)	1	199	.128	19.3%
Ideological Group + Test Factors	12	193	.286	36.8%

(a) Geographic region, selection method, full- vs. part-time judgeship, jury trial policy, juvenile court status, juvenile court judge requirements, and ideological group are treated as "dummy" variables. All others are continuous.

(b) M.E.V. = "Maximum Explainable Variation" (.662)

the M.E.V. for both ideology items and test factors ($R^2=.778$) is accounted for.

These figures, of course, represent only approximations of the explained variance, since the N's for each run are considerably different. They are also confounded by the fact that R^2 is directly proportional to the number of variables used in any subset. Miller's typology represents ten different scores, which is more than any of the others. The next highest R^2 statistic is for the six 4-variable versions of the constructed ideological types ("Far-Left", "Mid-Left", etc.), followed by the six 3-variable version constructed types, then Schur's typology containing four variables, and so on. Except for Cardozo's typology, then, the number of variables used in the subsets correlates perfectly with the R^2 for that subset. It is possible, however, that the figures on Miller and the constructed ideologies may also indicate that there is an underlying set of political beliefs which at least correlate with the ideological foundations of judicial decision-making.

To identify the best individual items in terms of their explanatory power on the dependent variable, a series of "stepwise" regressions were carried out for different statistical significance levels. In this technique, variables are added to the linear model one by one. The F-statistic of explained variation for each variable must first meet the

statistical significance criterion stated. After any variable meeting this criteria is added, all of the variables thus far included in the model are re-examined. Any variable not now producing a partial F-statistic significant at the required level is then deleted from the model. This process is repeated after each new significant variable is added and continues until no more variables meet the significance criterion.¹² What remains is a linear model consisting of only those significant variables, i.e., those variables which explain the greatest part of the variation in dispositional severity.

Table 82 summarizes these analyses for the ideology items. It will be remembered that all 70 ideology items produced an R^2 of .662. In other words, they accounted for 66.2% of the variation in dispositional severity, the M.E.V. due to ideology in this research. The first "stepwise" regression, in Analysis #1, ran all 70 variables at $p=.50$. This eliminated 34 of these variables, leaving 36 which by themselves explained 64.9% of the variance in the dependent variable, or 98.0% of the M.E.V. of the ideology items. The next two regressions were run at $p=.10$ and $p=.05$, and the same 9 variables remained after both regressions. This means that these 9 items are considerably better explanators of dispositional severity

¹² There are several "stepwise" methods in common use. See, e.g., Draper & Smith, supra, note 11.

than all the rest, accounting for 52.1% of the total variation in the dependent variable, or 78.7% of the M.E.V. due to ideology items. In addition, the partial F-statistic of 7 of those variables were statistically significant even down to $p=.01$.

Running all ideology variables together reduces the N to 153, since the procedure must eliminate all observations with missing values in any of the items. Therefore, in Analysis #2, the 15 variables with the best explanatory value (i.e., the most significant F-statistics--including the 9 at $p=.05$) were entered alone into a standard linear regression model. This served to increase the number of respondents considered to over 200. All 15 variables produced an R^2 of .375, and the final 9 variables from Analysis #1 produced .356. In other words, the addition of the six next-best variables only added about 2% explanatory power to the equation, and need not be considered further.

Since the N was increased greatly, one further analysis was required. The 9 variables resulting from Analysis #1 were run "stepwise" by themselves on dispositional severity at $p=.10$ (Analysis #3). One of them was eliminated, and the remaining 8 were rerun again. All 8 remained afterwards (at $p=.10$ and $N=212$), which accounted for 35.1% of the total variation in the dependent variable, or 53.0% of the M.E.V. for the ideology items.

TABLE 82

SUMMARY OF REGRESSION ANALYSES OF IDEOLOGY ITEMS ON
DISPOSITIONAL SEVERITY

Regression Analyses	Total No. of Var.	N	R ²	% of M.E.V. (a)
<u>Analysis #1:</u>				
(A) All Ideology Items (b)	70	153	.662	100.0%
(B) All Ideology Items (p=.50)	36	153	.649	98.0%
(C) All Ideology Items (p=.10)	9	153	.521	78.7%
(D) All Ideology Items (p=.05)	9	153	.521	78.7%
(E) All Ideology Items (p=.01)	7	153	.488	73.7%
<u>Analysis #2:</u>				
(A) 15 "Best" Ideology Items (b)	15	205	.375	56.6%
(B) 9 "Best" Ideology Items (b)	9	210	.356	53.7%
<u>Analysis #3:</u>				
(A) 9 "Best" Ideology Items (p=.10)	8	210	.354	53.4%
(B) 8 "Best" Ideology Items (p=.10)	8	212	.351	53.0%

(a) M.E.V. = "Maximum Explainable Variation" (.662)

(b) Standard linear regression analysis. All others were "stepwise" regressions at the significance level indicated.

In short, these three series of regression analyses reduced the number of considered ideology items from 70 to 8, a considerably more manageable quantity, which by themselves explained a majority of the M.E.V. associated with all of the ideology items.

It remains, then, to select the test factors which add most to the explanation of dispositional severity. These test factors are specific social, environmental, and situational circumstances which contribute to this type of dispositional decision-making. Table 80 showed that all 11 test factors together explained 21.9% ($R^2=.219$) of the variation in the dependent variable, when run alone. Since the "stepwise" routine used in previous analyses does not allow for "dummy" test-factor variables, a standard linear regression routine was run first for the 4 test factors showing a significant relationship earlier to both dispositional severity and ideology. These were geographic region, urbanization, time spent on juvenile matters, and net dispositional alternatives. Together, they explained 13.7% of the total variance in the dependent variable, or 62.6% of the M.E.V. for the test factors ($R^2=.219$). Adding "jury trial policy" to the model, which related strongly only to dispositional severity, an additional 5.8% of the total variation, or up to 89.0% of the M.E.V., was accounted for. Since "selection method" did relate to ideology (though not to severity), it was also added to the model.

These six final test factors explained a total of 20.0% of the total variation in severity (at N=230), which is 91.3% of the total M.E.V. of the test factors. These analyses are summarized in Table 83.

We have thus reduced 81 variables to a significant and feasible 14, which taken together appear to be the "best" predictors of summated dispositional severity score. These final predictors were run in a series of standard linear regressions--first the test factors, then the test factors plus each ideology item one by one successively, in order of their entry into the final "stepwise" model in Table 82. The result is illustrated in Table 84, which identifies each item and its source (author, ideological type, and issue), the cumulative R^2 after the entry of each additional variable, the direction (positive or negative) of the b-value in the final "stepwise" model in Table 82, and the cumulative percent of the M.E.V. accounted for by all variables ($R^2=.778$). It can be seen from this table that the ideology items are not necessarily in the order of their explanatory power when combined with the test factors. However, they are collectively the best predictor items of summated dispositional severity score, some relating to a higher score (where the b-value is positive) and others to a lower score (where the b-value is negative). In all, 44.3% of the total variation in the dependent variable, or 56.9% of the M.E.V., is accounted for by these "best" 14

TABLE 83

SUMMARY OF REGRESSION ANALYSES OF TEST FACTORS ON
DISPOSITIONAL SEVERITY

Test Factors	Total No. of Var.	N	R ²	% of M.E.V. (a)
(A) Geographic Region ^(b)				
+ Urbanization				
+ Time Spent on Juv. Matters				
+ Net Dispositional Altern.	4	234	.137	62.6%
(B) Geographic Region ^(b)				
+ Urbanization				
+ Time Spent on Juv. Matters				
+ Net Dispositional Altern.				
+ Jury Trial Policy ^(b)	5	234	.195	89.0%
(C) Geographic Region ^(b)				
+ Urbanization				
+ Time Spent on Juv. Matters				
+ Net Dispositional Altern.				
+ Jury Trial Policy ^(b)				
+ Selection Method ^(b)	6	230	.200	91.3%
(D) All 11 Test Factors	11	226	.219	100.0%

(a) M.E.V. = "Maximum Explainable Variation" (.219)

(b) These variables were run as "dummy" variables in the standard linear regression model. All others are continuous.

TABLE 84

"BEST" PREDICTORS OF DISPOSITIONAL SEVERITY SUMMATED SCORE (a)

Variables	Total No. of Var.	N	R ²	b-value (+ or -)	% of M.E.V. (c)
TEST FACTORS:					
(d) Geographic Region					
Urbanization					
Time Spent on Juvenile Matters					
(d) Net Dispositional Alternatives					
(d) Jury Trial Policy					
(d) Selection Method	6	230	.200	***	25.7%
IDEOLOGY ITEMS:					
#1) "Habitual criminals, criminal types, and those who incite them should be prevented from further endangering society by the most forceful social retribution possible, including public execution, sterilization, and banishment from society."	7	224	.224	+	28.8%
(Miller, RIGHT-5, "Methods of Dealing with Offenders"/FAR-RIGHT Constructed Ideology)					
#2) "The focus of the juvenile justice system in reducing delinquency should be getting judges who are not afraid to deal out stern punishments to young criminals."	8	223	.253	+	32.5%
(Schur, GET TOUGH, "Role of Juvenile Justice"/FAR-RIGHT Constructed Ideology)					
#3) "Citizens should monitor all operations of police and corrections officials to prevent harassment and brutality by these agencies, thereby giving citizens more control over their own lives and reducing the power available to criminal justice agents."	9	220	.302	-	38.8%
(Miller, LEFT-4, "Operating Policies of Criminal Justice Agencies")					

(CONTINUED)

TABLE 84 (Continued)

"BEST" PREDICTORS OF DISPOSITIONAL SEVERITY SUMMATED SCORE^(a)

Variables	Total No. of Var.	N	R ²	b-value(b) (+ or -)	% of M.E.V. (c)
#4) "The key to delinquency prevention is in increased funding of existing community-oriented programs which are aimed at such things as unemployment and poverty." (Schur, LIBERAL REFORM, "Delinquency Prevention")	10	219	.319	-	41.0%
#5) "The whole apparatus of so-called 'law-enforcement' is simply the domestic military apparatus used to inflict harassment, confinement, injury or death on those who protest injustice by challenging the arbitrary regulations devised to protect ruling class interests; the only answer is the total and forceful overthrow of the entire system." (Miller, LEFT-5, "Operating Policies of Criminal Justice Agencies"/ FAR-LEFT Constructed Ideology)	11	214	.397	-	51.0%
#6) "The key to delinquency prevention is the early identification and intensive treatment of potential delinquents." (Schur, INDIVIDUAL TREATMENT, "Delinquency Prevention")	12	214	.406	-	52.2%
#7) "The flexibility and informality of <u>parens patriae</u> engenders disrespect for law and negates society's right to see offenders punished." (Platt, MORALISM, "Flexibility and Informality in Juvenile Court")	13	210	.415	+	53.3%
#8) "'Juvenile delinquency' primarily reflects differential and discriminatory processing decisions made by agents of the juvenile justice system." (Schur, RADICAL NON-INTERVENTION, "Basic Assumptions about Causation"/FAR-LEFT Constructed Ideology)	14	208	.443	-	56.9%

(CONTINUED)

TABLE 84 (Continued)
"BEST" PREDICTORS OF DISPOSITIONAL SEVERITY SUMMATED SCORE (a)

- (a) Successive multivariate linear regression models, starting with the six test factors and adding one ideology variable at a time. Because of changes in "N" resulting from each successive regression, the portions of cumulative R-square added after each addition are not in order of magnitude.
- (b) From the final "stepwise" regression analysis in Table 82, Analysis #3(B).
- (c) M.E.V. = "Maximum Explainable Variation" (.778).
- (d) Geographic region, jury trial policy, and selection method were entered into the regression model as "dummy" variables. All other test factors and all ideology items were continuous variables.

predictor variables.

The final step in this analysis is to return again to our three ideological cluster groupings--Left, Right, and Non-Ideological--and cross-tabulate them with the eight "best" predictor ideology items in Table 84. The statistically significant cross-tabulations are shown for clusters based on 3- and 4-variable versions of the constructed ideologies in Tables 85 and 86, respectively.

Although there is a majority disagreement with both, Predictor Items #1 and #2, which associate positively (i.e., positive b-value in Table 84) with dispositional severity, associate, if not positively then less negatively, with the Right cluster group than with the Left. This is true for both 3- and 4- variable groupings. This would be expected, since both items went to make up the "Far-Right" constructed ideology, upon which many of the Right group scored fairly high. The distribution of the Non-Ideologicals on these items seems to more closely resemble that of the Right group in all cases, though to a lesser extent for the 4-variable version.

Predictor Item #7, which also associates positively with dispositional severity, relates significantly only to the 4-variable version (Table 86) of the groups. Although this item also shows less negative responses among judges in the Right cluster, the bulk of this is because of a considerable number of "neutral" responses from those judges.

Predictor Item #3, which relates negatively with dispositional severity, was statistically significant only in cross-tabulation with the 3-variable groupings. As would be expected, though, scores on this item associate positively with the Left cluster group and negatively with the Right, with Non-Ideologicals falling between the two.

Predictor Item #4, with a negative association with dispositional severity, related significantly to both the 3- and 4-variable versions of cluster groupings. However, the distributions of responses for each version was different. For the 3-variable version (Table 85), there was a definite positive association with both the Left and Non-Ideological groups, with a concomitant negative association with the Right cluster. This would not be contrary to expectations, but when the item was cross-tabulated with the 4-variable clusters, its relation to the Left and Right was almost equally positive. The negative association was emphatically with the Non-Ideologicals.

Predictor Item #8, which also related negatively to severity, was significantly related only to the 3-variable version of the cluster groups. Here, we again have a large majority of judges in disagreement with the item, and the most negative association is, as expected, with the Right group. However, its least negative relationship is with the Non-Ideologicals, and not with the Left as would be predicted.

TABLE 85

SIGNIFICANT IDEOLOGY ITEM^(a) RESPONSES VS.
IDEOLOGICAL GROUP
(3-VARIABLE VERSION OF CONSTRUCTED IDEOLOGIES)

Ideological Group	Responses:					
	(5) SA	(4) A	(3) N	(2) D	(1) SD	
<u>Significant Item #1</u> ^(b)						
LEFT	(0)	2%	6%	35%	57%	(49) 100%
RIGHT	5%	12%	14%	41%	27%	(97) 99% ^(g)
NON-IDEOLOGICAL	(0)	14%	8%	49%	29%	<u>(65)</u> 100%
(211)						
<u>Significant Item #2</u> ^(c)						
LEFT	2%	2%	6%	57%	33%	(49) 100%
RIGHT	3%	20%	11%	57%	8%	(96) 99% ^(g)
NON-IDEOLOGICAL	3%	14%	15%	49%	18%	<u>(65)</u> 99% ^(g)
(210)						
<u>Significant Item #3</u> ^(d)						
LEFT	10%	37%	24%	27%	2%	(49) 100%
RIGHT	2%	23%	16%	45%	14%	(95) 100%
NON-IDEOLOGICAL	8%	23%	23%	41%	5%	<u>(64)</u> 100%
(208)						
<u>Significant Item #4</u> ^(e)						
LEFT	4%	54%	21%	21%	(0)	(48) 100%
RIGHT	4%	30%	24%	42%	(0)	(97) 100%
NON-IDEOLOGICAL	3%	51%	20%	26%	(0)	<u>(65)</u> 100%
(210)						
<u>Significant Item #8</u> ^(f)						
LEFT	(0)	10%	18%	55%	16%	(49) 99% ^(g)
RIGHT	(0)	3%	6%	66%	25%	(97) 100%
NON-IDEOLOGICAL	(0)	15%	23%	42%	20%	<u>(65)</u> 100%
(211)						

(CONTINUED)

TABLE 85 (Continued)
SIGNIFICANT IDEOLOGY ITEM^(a) RESPONSES VS.
IDEOLOGICAL GROUP
(3-VARIABLE VERSION OF CONSTRUCTED IDEOLOGIES)

- (a) See Table 84 for actual items.
- (b) Df = 8, chi-sq = 23.972, p = .0023.
- (c) Df = 8, chi-sq = 21.463, p = .0060.
- (d) Df = 8, chi-sq = 18.255, p = .0194.
- (e) Df = 6, chi-sq = 12.372, p = .0542.
- (f) Df = 6, chi-sq = 21.009, p = .0018.
- (g) Differences from 100% due to rounding.

TABLE 86

SIGNIFICANT IDEOLOGY ITEM^(a) RESPONSES VS.
IDEOLOGICAL GROUP
(4-VARIABLE VERSION OF CONSTRUCTED IDEOLOGIES)

Ideological Group	Responses:						
	(5) SA	(4) A	(3) N	(2) D	(1) SD		
<u>Significant Item #1</u> ^(b)							
LEFT	(0)	(0)	3%	45%	52%	(71)	100%
RIGHT	7%	22%	22%	30%	18%	(76)	99% (f)
NON-IDEOLOGICAL	(0)	5%	5%	55%	34%	(58)	99% (f)
							(205)
<u>Significant Item #2</u> ^(c)							
LEFT	(0)	(0)	7%	63%	30%	(71)	100%
RIGHT	5%	30%	21%	36%	8%	(76)	100%
NON-IDEOLOGICAL	3%	10%	5%	67%	14%	(58)	99% (f)
							(205)
<u>Significant Item #4</u> ^(d)							
LEFT	4%	53%	17%	26%	(0)	(70)	100%
RIGHT	7%	45%	22%	26%	(0)	(76)	100%
NON-IDEOLOGICAL	(0)	28%	26%	47%	(0)	(58)	101% (f)
							(204)
<u>Significant Item #7</u> ^(e)							
LEFT	3%	6%	9%	69%	14%	(70)	101% (f)
RIGHT	3%	12%	19%	53%	13%	(75)	100%
NON-IDEOLOGICAL	(0)	14%	4%	68%	14%	(57)	100%
							(202)

(a) See Table 84 for actual items.

(b) Df = 8, chi-sq = 61.477, p = .0001.

(CONTINUED)

TABLE 86 (Continued)
SIGNIFICANT IDEOLOGY ITEM^(a) RESPONSES VS.
IDEOLOGICAL GROUP
(4-VARIABLE VERSION OF CONSTRUCTED IDEOLOGIES)

- (c) Df = 8, chi-sq = 55.685, p = .0001.
- (d) Df = 6, chi-sq = 15.186, p = .0189.
- (e) Df = 8, chi-sq = 13.080, p = .1091.
- (f) Differences from 100% due to rounding.

To summarize this chapter, one can say that there are some basic political and moral beliefs which underlie the general behavioral preferences of the judges in the sample. The data suggest that these beliefs have commonalities with popular conceptions of the political "Left" and "Right" in the U. S., as indicated by the constructed ideologies, the groupings of the judges based upon them, and the moderate to strong relationships between these, Miller's ideological typology, and stated dispositional severity.

Steps in the decision-making process are also influenced by several social, cultural, and/or historical factors, both internal and external to the courts, as indicated by the significant relationships of certain test factors to ideology and severity. These factors either accentuated or mitigated the relationship between ideology and severity, but the direction of the relationships (i.e., "Left" to Low severity and "Right" to High severity) remained fairly consistent. Only a high number of dispositional alternatives and the fact that a judge was not elected to his position eradicated the basic relationships.

Also, agreement or disagreement with certain particular ideological statements proved to be considerably better prediction devices of dispositional severity than most others. One would expect that, since the "Left" and "Right" cluster groups related strongly negative and positive, respectively,

with dispositional severity, likewise would these "best" predictor items, depending upon their individual relationship to severity. However, these items did not always vary as expected with the "Left" and "Right" cluster groupings.

The items in Table 84 are of note in themselves, but examining those predictors leads one to make an additional comment. Researchers should not necessarily shy away from using "extremist" items in these types of investigations. One often assumes that a subject population like judges will automatically express strong disagreement with such positions. If one uses a 5-point Likert-type scale, as was used here, one may distinguish degrees of disagreement. The true ideology of one type or another will probably strongly disagree with extreme positions that oppose his or her own opinions. However, if a more "moderate" person feels even a grain of sympathy with the extreme position of his own side of a spectrum, he is likely to disagree still, but not as fervently. Given the vast majority of disagreement or strong disagreement with some of the items among the predictors in Table 84, this seems a plausible explanation of their being "best" predictors at all.

Chapters Four and Five have presented the concept of ideology among juvenile court judges from differing points of view and attempted to relate it to their prospective decisions in "cases" which they are presented. It is now time to refine

this hodge-podge of statistical experimentation into a more systematic discussion of conclusions, speculations, and characterizations; to look, to the extent possible, at "manifest behavior" (i.e., the actual decision-making in juvenile courts in the United States); and to summarize the many things left undone.

CHAPTER SIX

AXES, RUBBER HATCHETS, AND DRIFTERS

When one looks back at the empirical experimentation of the preceding chapters, the varied methods of ideological classification and inconsistencies in certain results may make the reader feel a kind of "statistical ataxia"--an inability to coordinate the numbers into an intelligible unity which relates to the hypotheses being tested. Inconsistencies in responses to ostensibly similar items and the probability of varied interpretations of those items; differing results when ideology was examined as a system of ideas (the original and "constructed" ideologies) and as a cognitive binding force of collections of judges (the ideological groups, or "clusters"); and the sometimes vague effects of controlled conditions (the test factors) on relationships between variables--all of these things contribute to this state of mind. It appears, in short, as if we were on a "fishing expedition".

At times, in fact, we were. The contention here is that this fact in and of itself is not a negative connotation under the circumstances. We did not know whether or not an ideological configuration among juvenile court judges existed, not to mention its shape and character. Assuming that one did exist, we did not know its elements in relation to par-

ticular social and criminal justice issues, nor the magnitude and scope of its effects (if any) on dispositional decision-making. We did, however, have two relatively simple hypotheses (that ideological divisions exist and could be characterized, and that personal ideology does affect decision-making) and at least four diverse works which were relevant to the hypotheses (Platt, Schur, Cardozo, and Miller). In short, there was a pole, a line, and a lake in which to cast, even if we did not know whether or not we could catch a fish (not to mention identify the species).

When we discussed Anthony Platt's historical examination of the conflicts surrounding the initial juvenile court movement, we were looking at a legal system which had for many years been dominated by two conflicting ideological perspectives concerning the function of law. In many ways, this traditional dichotomy, which Platt labelled "Moralism" vs. "Constitutionalism", resembles Packer's model of the criminal law processes--Crime Control (viz. "Moralism") vs. Due Process (viz. "Constitutionalism").¹ Embedded in this ideological dichotomy are certain concepts about the state, the law and legal order, its enforcement mechanisms, and human nature as well.

One of the presumptions of the Crime Control model

¹ Packer, The Limits of Criminal Sanction, 1968.

is that there is some number of individuals who will be guilty of committing crimes and that it is the job of criminal justice agencies to control these people. It is an ideology which puts foremost the "internal protection" function of American legal, political institutions. Society, its culture and "morality", and the state which represents them are subject to the threat of individuals who seek to undermine them. Enforcement of the substantive law for the protection of the social order and those who adhere to its perceived directions ("law-abiding citizens") is the paramount concern of the Crime Control ideology.

The assumption of the Due Process ideology is that everyone is innocent to begin with and that there is a rational procedure through which one must show otherwise. The individual is subject to the threat of the state seeking to control or withdraw his or her freedom. Enforcement of the procedural laws for the protection of the rights of the individual (particularly the accused) is the prime concern of Packer's Due Process ideological mode.

There are definite similarities between the Crime Control and Due Process ideologies and some of the criminal justice ideological typologies developed in previous chapters of this research, as well as between these two poles of Packer's model. They are polar elements of the adversary criminal procedure principles which serve as the philosophical

foundation of American jurisprudence--an assumed conflict between the interests of the state and those of the individual, a threat presented by one entity towards the other. In the case of the Crime Control pole, the threat is from a class of "criminals" toward the general population. The state is seen as representing the interests of the latter against the "social menace" of the former through the enforcement of the substantive law. On the Due Process side, the threat comes from the state itself, which is seen as threatening the general population by "selecting" criminals to prosecute from their ranks. The enforcement of the procedural law is seen as a "monitoring" mechanism of this selection process.

In his critique of Packer's model, Griffiths describes it as:

"...a stylized war...between two contending forces whose interests are implacably hostile: the Individual...and the State. His two models are nothing more than alternative derivations from that conception of profound and irreconcilable disharmony of interest."²

Griffiths believes that the only possible variable in this model is the "balance of advantage" of one side or another,

² Griffiths, "Ideology in Criminal Procedure", 1970, p. 367.

and that this is inadequate because it actually describes only one alternative.³

With this in mind, Griffiths postulates his "third model" of criminal procedure--what he calls the Family Model. One basic assumption of this ideology is:

"...the simple opposite of Packer's ideological starting point. He assumes disharmony, fundamentally irreconcilable interests, a state of war. We can start from an assumption of reconcilable--even mutually supportable--interests, a state of love."⁴

Griffiths proposes this Family Model as a polar opposite of the conflict perspective (both Crime Control and Due Process), viewing the state interests and individual interests as essentially the same. In this way, he sees this second alternative as the state and the individual as "parent" and "child", respectively:

"Although punishments are expected to and do come out of the family's adjudication process, it is not a bitter 'struggle to the finish'. A parent and child have far more to do with each

³ Ibid., p. 371.

⁴ Ibid., p. 371.

other than obedience, deterrence, and punishment, and any process between them will reflect the full range of their relationship and the concerns growing out of it. Everyone expects and believes that whatever is done, it will be consistent with what the parent recognizes as the basic well-being of his child."⁵

It is this concept of the Family Model which is analagous to the parens patriae ideology of the juvenile court, although Griffiths is posing it as an alternative to the whole of criminal law.

Griffiths feels that the juvenile court movement was "the closest thing to a Family Model idea that we have ever had in this country."⁶ He believes, however, that the movement has failed because of the incompatibility between such an ideal and the long tradition of adversary principles in criminal and procedural law, and people's unwillingness to consider an alternative:

"...(T)he idea of the juvenile court demanded a Family Model spirit of genuine love and continuity of concern among officials and the general public. That spirit never came.

⁵ Ibid., p. 373 (footnotes deleted).

⁶ Ibid., p. 399.

'Eradication of delinquency' remained the only essential goal. A rhetorical abstraction of love was superimposed on a reality of indifference, hostility, and ostracism."⁷

In short, Griffiths' typology resembles the conflicts described by Platt during the movement for a "juvenile court" in the late 1800's, and may in some ways explain why adherents to seemingly "opposite" ideologies (Crime Control and Due Process, or Moralism and Constitutionalism) reacted to it with fervent antagonism, i.e., they both saw parens patriae as a "common enemy".

The conceptual validity of the argument that the Family Model is something other than Crime Control will be approached later in this section. For now, the data relating to Platt's typology (and by extension, to the ideas of Packer and Griffiths) showed no support for the contention that these types of categories reflect cogent opposing ideologies (i.e., in the vernacular, that the issues subsumed under each represent real "bones of contention") among contemporary juvenile court judges. Indicative of this lack of support were the moderate-to-low intratype correlations (Table 8), as well as some moderate-to-high intertype correlations for each issue, and even more so for the summated

⁷ Ibid., p. 400.

types (Table 9). Judges also expressed considerable adherence (96%) to the "rehabilitative ideal" of the parens patriae ideology (Table 4), but at the same time a vast majority (88%) expressed a belief in the Constitutional guarantees of the rights of juveniles (Table 3). This is true despite a mixed reaction to the relationship between "due process" and teaching social morality (Table 6).

The lack of perceived conflict between Constitutionalists ("Due Process" model) and parens patriae ("Family Model") beliefs was further illustrated by the relative lack of alarm expressed by the judges concerning the effects of recent Supreme Court "due process" decisions (Gault, etc.) on the juvenile court's rehabilitative mission (Table 13), and the high agreement with and intercorrelation between both the Social Worker and Constitutionalist "constructed" ideologies (Tables 43, 44, and 46), which parallel Platt's parens patriae and Constitutionalism, respectively.

Platt's Moralism bears considerable similarity to an extreme form of Packer's Crime Control ideas. The majority disagreement with the Moralism positions on all issues indicates few adherents to the position, at least in its most intense form.

We next looked at Edwin Schur's typology, based loosely on various schools of thought within the academic disciplines of the social sciences, along with a generalized

category which assumed a lack of adherence to the tenets of these disciplines. The data supported Schur's contention that dominant beliefs in juvenile justice center around some combination of Individual Treatment and Liberal Reform types, i.e., the concern with both individual personality idiosyncracies and the socio-cultural world affecting them and within which individual behavior occurs. Moderate-to-high levels of agreement among the responding judges on the various issues which constitute these types, at least as opposed to the Get Tough and Radical Non-Intervention types, attest to Schur's belief (Tables 14-18). In addition, high agreement later on with the "constructed" Social Worker type, which is very close to such a combination of individual causation with a "sociocultural focus", is also indicative (Table 44).

The seeming contradiction between Individual Treatment and Liberal Reform modes of thought, i.e., looking to change individuals when the environment is at least partly at fault, was pointed out in the discussion of Schur's typology. Holding a belief in social causation and the treating of individuals for delinquent behavior was also the subject of Ryan's blunt critique of policies and practices of various state and private institutions, including the criminal justice system. He called it "victim-blaming" and aimed his criticisms at the good-intentioned "liberals" he saw as holding these ideologies and acting upon them. Ryan

states the contradiction between theory and policy thus:

"The new ideology attributes defect and inadequacy to the malignant nature of poverty, injustice, slum life, and racial difficulties. The stigma that makes the victim and accounts for his victimization is an acquired stigma, a stigma of social, rather than genetic, origin. But the stigma, the defect, the fatal difference--though derived in the past from environmental forces--is still located within the victim, inside his skin. With such an elegant formulation, the humanitarian can have it both ways. He can, all at the same time, concentrate his charitable interest on the defects of the victim, condemn the vague social and environmental stresses that produced the defect (some time ago), and ignore the continuing effect of victimizing social forces (right now). It is a brilliant ideology for justifying a perverse form of social action designed to change, not society, as one might expect, but rather society's victim."⁸

In short, the people whom Ryan defined as "liberals", or

⁸ Ryan, Blaming the Victim, 1971, p. 7.

"humanitarians", see general social causes for juvenile delinquency, yet maintain a belief in and, more importantly, a practice of treating the individual youth for his or her "delinquent behavior". In Ryan's words:

"To blather on and on about the slum as a 'breeding place of crime', about 'lower class culture as a generating milieu of gang delinquency'--presumably liberal explanations of the prevalence of crime among the poor--is to engage (surely, almost consciously) in ideological warfare against the poor in the interest of maintaining the status quo."⁹

Schur also levels such criticisms at this theoretical and practical contradiction, which serves as a partial lead-in to his discussion of Radical Non-Intervention. This ideology is based upon a "situational" approach to the occurrence of delinquent behavior (e.g., Matza's theory of "drift") and the postulates of "labelling" theory as the "cause" of delinquency. This is presented as an ideological type which shows little concern with individual behavior, none at all toward "treatment" of individual problems, and entirely toward social causation.

⁹ Ibid., pp. 208-209.

The data, however, show little orientation toward this type among juvenile court judges (Tables 14-18).

One might assume that those who do agree with the dogmas of Radical Non-Intervention would be disinclined to support such Individual Treatment notions as the treatment of "pre-delinquents". Table 87, however, shows that judges agree with this notion regardless of their beliefs in partial or total social causation (i.e., Liberal Reform and Radical Non-Intervention). Although it may not be recognized as a contradiction among judges, there does seem to be some support in this data for the critiques of Schur and Ryan.

There is majority disagreement with all positions of Schur's Get Tough ideology, with the exception of a mixed response on the role of parental punishment (Table 15). It would seem that the judges may agree to some extent that some youths would not be in court at all had parents "laid down the law" with them and enforced it at home, but also that strict punitive measures for wrongdoing may not be the correct response of the court as a method of rehabilitation. The Get Tough type is, in many ways, similar to Platt's Moralism, at least in its manifest effects.

Cardozo's typology was not specifically issue-oriented, but an attempt to measure beliefs about the general nature of law and legal philosophy. This does not mean, however, that the Methods of Philosophy, History, Tradition,

TABLE 87
CAUSATION VS. DELINQUENCY PREVENTION
("VICTIM-BLAMING")

	Method of Delinquency Prevention ^(a)			
	INDIVIDUAL TREATMENT			
Causation Assumptions	Disagree (SD,D)	Neutral (N)	Agree (SA,A)	
<u>LIBERAL REFORM</u> ^(b)				
Disagree (SD,D)	10%	11%	79%	(71)100%
Neutral (N)	8%	12%	80%	(51)100%
Agree (SA, A)	4%	10%	86%	<u>(116)</u> 100%
				(238)
<u>RADICAL NON-INTERVENTION</u> ^(c)				
Disagree (SD,D)	7%	11%	83%	(183)101% ^(d)
Neutral (N)	6%	11%	83%	(35)100%
Agree (SA,A)	15%	5%	80%	<u>(20)</u> 100%
				(238)

(a) "The key to delinquency prevention is in the early identification and intensive treatment of potential delinquents."

(b) "Juvenile delinquency is primarily a symptom of pathological social and economic conditions within society to which certain youths have been exposed and to which they are reacting."

(c) "'Juvenile delinquency' primarily reflects differential and discriminatory processing decisions made by agents of the juvenile justice system."

(d) Differences from 100% due to rounding.

and Sociology do not relate to specific issues in criminal justice. For instance, the Method of Tradition shares much in common with Platt's Moralism in that both see the substantive laws as the institutionalized moral standards of conduct of a people. Also, the "rehabilitative ideal" so adhered to by the sample judges seems to complement well with the utilitarian ideas of the Method of Sociology. It was felt that the key to an overall typing of ideological positions might be found at Cardozo's higher level of analysis. Cardozo's "Methods" provided an example of this in the realm of the judiciary in its decision-making capacity, and as such seemed suited to a study of judges.

However, the data indicated that the judges in the sample were able to agree in the majority with most indicators of all four Methods. They agreed that precedent is important to judicial decision-making, regardless of how it is applied (Table 22), and that laws can result from a variety of socio-historical forces (Table 23). The only item which showed some response variation was in the appropriate professional goal orientations of lawmakers and judges, where most favored striving for an adaptable, yet value-centered legal system as opposed to one based on "logic" or historical consistency (Table 24). Even then, there was a mixed response concerning whether or not it should directly reflect prevailing community morals, and in any case, the

Methods did not differentiate into competing, consistent ideological patterns (Table 27). Only one, the Method of Philosophy, showed some internal consistency (Table 26).

In the last of our initial typologies, the political continuum of Miller, a relatively consistent pattern started to emerge. While the responses of the majority of the judges tended to cluster in the middle of the Left-to-Right spectrum on individual issues (Tables 30-32), the intertype correlation matrix showed some consistency and moderate differentiation at the end-points of the scale (Table 34). The matrix of summated scores in this table showed the expected high correlations between adjacent intervals on the 10-point continuum, ranging from .336 (Left-5 vs. Left-4) to .631 (Right-3 vs. Right-4). It also showed a pattern of relatively high intercorrelations between Right-1 and Right-5 (ranging from .330 to .631) and between Left-3 and Left-5 (.236 to .419). While one moderately positive correlation occurred between two end-point positions (.214, Left-5 vs. Right-4), this was probably due to high overall disagreement with both positions.

The various points on the Right end of the scale were basically indistinguishable from one another statistically, but were at least somewhat differentiated from those on the moderate Left. Elements of Platt's Moralism, Schur's Get Tough, and Cardozo's Method of Philosophy (e.g., the

"social revenge" motive for law enforcement, the belief in strict punishment and individual responsibility for crime, a kind of rigidity in viewing the law and criminal justice) appear among Miller's Rightists, which may serve to explain some of the moderate internal consistencies noted among these types. Although there was little grouping of responses and consistency of correlation in the moderate Left categories, there was some on the far Left. In short, although Miller's continuum did not by itself show distinctly competing ideological types among juvenile court judges, it seemed that at least the seeds of an internally consistent typology were sewn. His Right was promising in this regard, but its antithesis (presumably some kind of "Left") was more nebulous and obscure.

It was stated near the beginning of Chapter Four of this research that a discrete version of Miller's continuum might be more appropriate than its interval form. Given the "lumping" together of the intervals along Miller's Right, it seemed at this point that this was true. However, it was decided to go further--to separate all individual position statements from their source typologies and let them stand on their own merits. We would let the responses to each item "create" a viable typology. By the procedure described at some length in Chapter Four, two six-part "constructed" typologies, one with three items per type and the

other with four, were developed. These were the types called Far-Left, Mid-Left, Social-Worker, Constitutionalism, Mid-Right, and Far-Right.

There was a high amount of agreement by most judges with both the Social Worker and Constitutionalism types (Tables 43 and 44). Although individual item intercorrelations between these two types were not exceptionally high (Table 45), the summated scores showed moderately high intercorrelations with Mid-Left and Far-Left types. The Mid- and Far-Right summated scores, however, did not correlate highly with any of the other four "constructed" types, but only with each other (Table 46). In addition, the summated Mid- and Far-Left, Constitutionalism, and Social Worker "constructed" types shared at least moderately positive correlations with Platt's Constitutionalism, Schur's Liberal Reform and (except for Social Worker) Radical Non-Intervention, and Miller's moderate Left intervals. The Mid- and Far-Right, however, related well with Platt's Moralism and sometimes with parens patriae, Schur's Get Tough, Cardozo's Method of Philosophy, and virtually all of Miller's Right intervals (Tables 47 and 48).

On the surface, then, it seemed a fairly discrete Right-vs.-"Left" typology was developing. It was decided to try another approach to formulating these types--the "clustering" of total judicial responses by making each judge a

unit of measurement. Using the three- and four-variable versions of the six-part "constructed" typology, a simple form of hierarchical cluster analysis was performed on the data, and through a series of cluster regroupings (described in Chapter Four), three relatively definitive groups emerged. The groups were called the Left, Right, and what was loosely termed "Non-Ideologicals", i.e., not Left or Right. These groups were clustered based upon the responding judges' mean scores on the summated "constructed" ideologies.

Noting the similarities between Miller's "popular political" Left and Right and those like-named "constructed" clusters, there is a seemingly obvious explanation for this similarity. By way of illustration, it is said by some that concepts such as "equality before the law" and "blind justice" may be improbable in the actual practice of American criminal justice. Other institutions in this society (economic, educational) eschew, not equality, but a form of Homans' "distributive justice" (i.e., rewards should be proportional to inputs, or "you get out of it what you put into it")¹⁰ and the analagous Protestant Ethic and Horatio Alger syndromes (i.e., hard work yields society's rewards). The notion of true "equality" regardless of effort or input may seem, at least subconsciously, an esoteric idea to men

¹⁰ Homans, Social Behavior, 1961, pp. 72-78.

and women raised in the United States. One of the most pointed-out examples of the failure of "blind justice" doctrine is the fact that a wealthy person with material resources is more likely to have his case dismissed or, if not, to get his charges reduced or be put on probation than is a poor person for the same crime. What we may be seeing here is simply "distributive justice" and the Protestant Ethic in operation, i.e., one gets benefits from the criminal justice system in proportion to the resources one has available (e.g., money for counsel) with which to obtain these benefits.

The point is that the consequential policy of criminal justice cannot help but be affected by the institutional and consequential policies of the other major institutions in the same society. For an analagous reason, then, it would be natural to expect that the dominant ideology in the criminal justice system would reflect that of most major societal institutions, particularly the one in which it is a part--the political institution. The American political institution and many of the affairs conducted within it (e.g., election campaigns and "party politics", establishment of priorities in domestic and foreign policies) are popularly characterized by a Western ideological schism referred to as "liberal" vs. "conservative". Individuals growing up in the United States relate to these types regularly for the duration of their lives, and judges, as Cardozo has pointed out, are no

less susceptible to these socio-cultural notions than are any other citizens.¹¹

It is the Left (or "liberal"), Right (or "conservative"), and "Non-Ideological" groups which will constitute the types to be summarized in this chapter. This research has not dealt with comparative ideology at all. It is my observation that most Americans consider themselves "New Testament pragmatists", i.e., what is right is what is useful so long as nobody who doesn't deserve it or can't afford it is seriously hurt--Machiavelli tempered to varying degrees by the Golden Rule and Ten Commandments. Notwithstanding the probability that most Americans do not recognize it as such, this framework of thought and action is an "ideology" in and of itself (as compared to, say, certain "primitive" philosophies of pure fatalism). It is believed that such pragmatic thought applies to Leftists, Rightists, and Non-Ideologicals equally well.

However, within these bounds, the first hypothesis of this research stated that there are "ideologies" (i.e., cognitive systems of beliefs, attitudes, and the like) among American juvenile court judges which are sufficiently cogent internally and distinguishable comparatively to allow their empirical examination as conceptual unities. The second

¹¹ Cardozo, The Nature of the Judicial Process, 1921, p. 12.

hypothesis stated that these different ideologies produce measurable variation in the dispositional decision-making of the judges--what was collectively called the "consequential policy" of the juvenile court. These relationships may be affected by certain social, cultural, and environmental conditions (which we measured as "test factors") from within and outside the court structure.

"Axes" (Right) and "Rubber Hatchets" (Left)

The metaphor used to signify the ideological Right--Axes--is relatively easy to imagine, but that used for the Left--Rubber Hatchets--may not be so clear. Both metaphors are based on the ideologies in relation to their dispositional preferences and severity. The data in this research (Table 70) indicates that the Right "cluster" of judges associated significantly with the higher range of severity scores on the eleven case summaries presented, i.e., they were more likely to favor the institutionalization of the youths in the summaries. By contrast, the Left "cluster" of judges associated highly with lower severity scores, i.e., they were less likely to favor institutionalization in lieu of other, more "informal" methods of disposition. Judges in the Right group were, in short, more likely to come down harder on the youths in the case summaries than the judges in the Left group; therefore, the conjured image of the falling Axe.

The Axe metaphor was actually derived as a contrast to that of the Rubber Hatchet. This latter image was a result of the philosophy of "diversion", which in many ways characterizes the Left ideology. Directly, it came from an anecdote in Goldman's description of the varied ways in which Pittsburgh, Pennsylvania police officers "diverted" youths on their own volition:

"A most ingenious solution to what would probably have become a court case eventually was hit upon by a veteran policeman. A dull boy who was wont to chop buildings, fences, posts, etc., with a steel hatchet was given a rubber hatchet by the policeman to use instead. The boy then could continue his hacking without annoying either the citizens or the police."¹²

Common descriptions of official "diversion" programs (e.g., group homes or halfway-houses that require work and mandatory T-group sessions, certain recreation, forestry, and survival-training programs) have much in common with the "rubber hatchet". These methods and others are, in essence, designed to channel youthful aggression into constructive,

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Goldman, Differential Selection of Juvenile Offenders for Court Appearance, 1963, p. 116.

or at least neutral or harmless, paths.¹³

One can best examine the characteristics of the Axes and Rubber Hatchets in terms of the items which constitute the Mid-Right and Mid-Left "constructed" ideologies, respectively. There was greater overall agreement with these items (Tables 40 and 41) and greater differentiation of clusters based on the mean summated scores on these ideologies when compared to those of the Far-Right and Far-Left (Table 53). The differentiation based on the latter two ideologies were not nearly as consistent between three- and four-variable versions of clusters, nor were the differences from overall sample means as large. The general disagreement with the items of the Far-Right and Far-Left (Tables 39 and 42) also indicates that, for instance, Right-cluster judges merely tended to disagree with Far-Right statements to a lesser degree (i.e., "disagree", or maybe "neutral") than did Left- or Non-Ideological-cluster judges (i.e., "strongly disagree").

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Some evaluative research on the large number of "diversion" alternatives of the California Youth Authority has begun, at this writing, under the guidance of Malcolm Klein at the University of Southern California. Parenthetically, it may be that Rubber-Hatchetism has broader applications in such fields as mental health and social welfare strategies, and in the field of education. Compulsory education could be viewed as a channeling of youthful energies into a constructive (or to critics, a "neutral") enterprise for the purpose of heading off a glut on a once teenager-filled manual labor market. Cynics might also view layers of bureaucracy and "red tape" as "harmless" channels through which citizen complaints are buffered from policy-makers.

As a reminder, the items constituting the Mid-Left and Mid-Right ideologies (Tables 40 and 41) are repeated in Table 88. Many of the contrasting characteristics of these two ideological types were discussed at the time they originally appeared in Chapter Four. These contrasts are variously summarized or elaborated upon in the next paragraphs.

The concern of the Axes (Mid-Right) with "moral re-education" and the like indicates that they see crime as the result of a breakdown in the moral socialization of certain youths. It is not, then, a matter of individual causation, but social causation within the frame of reference of one's primary group structures, or "significant others". The Axes' expectation is that there will exist in the greater society individuals and groups who will "challenge established moral values", but that this would not create criminality if such traditional social institutions as a whole (e.g., "the school and communities", and presumably the family) would carry out their institutional functions properly, i.e., socialization. Criminals are social mutations who must be singled out, identified (i.e., "labelled"), and punished as a deterrent to that individual and others disposed to behave in a like manner. In short, a youth engages in delinquency because of poor primary group socialization toward "established" moral imperatives. Once

"MID-LEFT" AND "MID-RIGHT" ITEMSMID-LEFT (Rubber Hatchets)

1. "The root causes of crime--poverty, urban deterioration, blocked educational and job opportunities--are aggravated by criminal justice agencies, who use their power to stigmatize and brutalize those who come under their jurisdiction, thus permitting few options other than continued criminality."
2. "Those who engage in more common forms of theft and other 'street crimes' are forced into such behavior by the denial of opportunity and justice resulting from a grossly inequitable distribution of wealth, power, and privilege."
3. "The maximum number of persons should be diverted away from criminal justice agencies into service programs in the community, the proper arena for helping offenders."
4. "The key to delinquency prevention is in collective programs designed to engender massive and complete reform of all levels of American society, particularly those programs which involve none-to-minimal intervention of the juvenile justice system into the lives of youths."

MID-RIGHT (Axes)

1. "Increases in the number and visibility of police will help prevent crime, but programs of moral re-education in the schools and communities are also needed to offset the influence of those in the schools, media, and elsewhere who promote criminality by challenging the established moral values that forestall crime."
2. "The rigors of 'due process' considerations in the juvenile court hamper the flexibility and informality necessary for the treatment and rehabilitation of offenders."
3. "It is imperative that police have full freedom to use all available resources, legal and technical, to fight crime without interference from elements (e.g., prison reformers, some courts) who mindlessly focus on the welfare of convicted felons and blindly disregard the welfare of law-abiding citizens."

(CONTINUED)

TABLE 88 (Continued)
"MID-LEFT" AND "MID-RIGHT" ITEMS

4. "Strict punishment of offenders who endanger public safety is the optimum way of distributing 'justice' and deterring potential criminals; non-punitive measures (e.g., probation) should be used only in cases where true rehabilitation seems assured."
-

the behavior is exhibited and the youth apprehended, the task of the criminal justice system is to punish him for it so that neither he nor others repeat the same behavior. The court cannot patch up society, regardless of its ills, and should not try to, but it may be able to deter others from anti-social behavior. It is a paradigm of limited social causation with individual responsibility for one's own behavior, with official court reaction limited to the latter.

Even though the Axes expect some deviance and "immorality" in society, their view of Utopia appears to be a relatively rigid, static kind of society where members conform to laws which necessarily reflect shared community moral standards. Crime is seen as a menace to an ideal of stability and orderliness which underlies this ideology. However, this does not really differentiate the Axes from the Rubber Hatchets. The Utopian view of the latter seems quite similar, though possibly to a lesser degree. There is nothing in Rubber Hatchetism to indicate that they positively value deviant behavior. They are not revolutionaries who see "criminals" as political dissenters toward an unjust system. Nor are they "social liberals" who view law-breaking individuals as social "innovators", i.e., as role-models for the modification of moral behavioral boundaries.

The difference between the Axes and Rubber Hatchets comes from a differing perception of the locus of inevit-

ability, i.e., the location and nature of the "givens", at least from the court's standpoint. The Rubber Hatchets justify the existence of crime as an inevitable result of aberrations in the social structure itself ("poverty", "urban deterioration", "inequitable distribution of wealth", etc.), the quality of primary group socialization to the contrary. Rubber Hatchets might agree that exceptional family and primary group environments may overcome the criminogenic effects of social inequality in individual cases, but they would maintain that crime as a social phenomenon (a "social fact", to use Durkheim's phrase) is a disease of society itself. The proper response to crime by the court is treatment, correction, and rehabilitation. To the Rubber Hatchets, the Axe notions of deterrence and prevention through the punishment of individuals would seem at best a futile waste of effort. Only the "massive and complete reform" of the inequalities which exist in society itself can "prevent" or "deter" crime.

In short, whereas Axes see social inequalities as inevitable, at least from the court's standpoint, the Rubber Hatchets see crime as inevitable, given those inequalities, though the latter may be changeable by court action. When one changes the somewhat neutral term "inevitable" to a true positive evaluation, the previous lines could apply to the Far-Right and Far-Left "constructed" ideologies as well.

The Far-Right shows signs of particularistic, ethnocentric, in-group-vs.-out-group thinking ("habitual criminals", "criminal types") which may relate to a positive attitude toward at least certain inequities in society (Table 42). The Far-Left sees most "criminals" positively as political revolutionaries "hastening the collapse of a decadent system" (Table 39).

The difference between the concepts of power and authority serves also to illustrate the differences between Axes and Rubber Hatchets. Authority, i.e., power based solely on the occupation of a social-structural position, is an important concept to the Axes. A high value is placed on obedience to law, and those occupying the social authority positions which enforce it, for its own sake. More importantly, however, is that this research measured the ideologies of just those types of authorities. These juvenile court judges, the Axes, seem to view themselves not as reformers or social workers, but as judges whose function is strictly that of the rest of the criminal justice system, i.e., the internal protection of society. They work for those who fear criminality by "fighting crime" and by punishing those they view as "endangering public safety".

In this regard, these judges seem to believe in their own efficacy in this function. That they might actually be able to recognize "where true rehabilitation seems assured"

is one indication of this. That they should have a "flexible and informal" structure within which to make these decisions is another. In short, they respond negatively to challenges to their authority from "interfering" people in society, as well as to the "due process" encroachments of the Supreme Court, in their handling of youths who come before them.

This thought leads to an additional point. To the extent that Platt's description of parens patriae (or Griffiths' of the Family Model) and the two reactions to the juvenile court movement in the late 1800's is accurate, what has become of the distinctions between his parens patriae and Moralism ideologies? According to the indications in this research, they seem to have blended together in the ideology of the Axes. This is illustrated by the fact that a parens patriae item, the one arguing for a "flexible and informal" court structure, is included under the Axe category, whereas the category as a whole approaches the Moralist type of Platt.

As mentioned before, it is difficult to ascertain the essential difference between Griffiths' Family Model and Packer's Crime Control mode, once the phrase "treatment and rehabilitation" is substituted for "punishment" in the latter. The Family Model is seemingly no more than a less punitive, more paternalistic form of Crime Control; therefore, one could

expect the conjunction of these types, once their similarities are realized by their respective adherents. This is similarly true for parens patriae and Moralism, and the essential theoretical conservatism of the former, alluded to by Platt, is evident.

Additionally, Moralism implies obedience to law and authority as an ideal. The legitimation of the authority of the criminal justice system comes from the Moralist belief that the laws being enforced are near-verbatim statements of the moral will of the people. Therefore, a juvenile court judge who occupies such a power position in the system may not only personally share this belief, but is in fact one of those very authorities. One may say, then, that what these Axe judges may actually believe in is system-maintenance, i.e., the keeping of the status quo of which they are a part, which results in a commonality of pragmatic conservatism. In short, they occupy authority positions, they know what they are doing, and therefore their authority should be respected and maintained.

The concept of power in general, as opposed to only one form of it, seems more a concern to the Rubber Hatchets. They see the denials of certain opportunities to some people in society, caused by the "inequitable distribution of wealth, power, and privelege" in society, as "forcing" individuals into criminal behavior patterns. They do not

believe in the efficacy of the criminal justice system in "protecting" society by deterring criminality, and thus they challenge their power and authority to punish, and even to attempt rehabilitation. They believe that these attempts often "stigmatize and brutalize" these individuals, and thus they would relieve the criminal justice system of some of that function. They favor the "none-to-minimal intervention" of the authorities into the lives of youths and greater emphasis on diversionary "service programs in the community".

This discussion brings up an interesting point. The paradigm of the Axes and Rubber Hatchets is not truly analagous to Packer's Crime-Control-vs.-Due-Process ideology or to Platt's Moralism-vs.-Constitutionalism reactions. It is true that the Axes fit to a great extent into the Crime Control and Moralism types in that their emphasis is on the enforcement of the substantive law. However, the relationship between Rubber Hatchets and the Due Process and Constitutionalism positions in terms of the latter two emphases on adjective, procedural law is secondary at best, a point to which we will return. Where the "challenge" of the Rubber Hatchets to the Axes exists is more in the area of what we have called legitimative law, i.e., their legitimate authority to carry out certain correctional functions. The basis of this challenge is primarily pragmatic (as opposed to legal-philosophical, as in the Crime-Control-vs.-Due-Process debate)

in that criminal justice authorities can hope neither to correct nor prevent crime, and that they end up only aggravating it.

Another somewhat parenthetical point is the seeming reversal in the "progressive" vs. "reactionary" dichotomy under which the ideologies of the Axes and Rubber Hatchets are often viewed, at least in the sense of third-party sanctioning. It was stated in the beginning of this research that the history of human interaction and group social development has been one of increasing dispersion of social responsibilities to different and more varied institutional groups. In this light, we stated that one way to distinguish a "law" from all other normative standards was third-party enforcement (in addition to such things as specificity, uniformity, etc.). It would seem, then, that it is the Axes who are the "progressives" (i.e., they flow with the pattern of history), since they want to maintain, and in some ways increase, the power of the third-party sanctioning agencies. By contrast, it is the Rubber Hatchets who are the "reactionaries" in that they would like to see much of this sanctioning power returned to the more intimate settings of the community and family, as it was in earlier times.

Referring back to the original four typologies of Platt, Schur, Cardozo, and Miller, one can explain some of the moderate-to-high intercorrelations between them and the

Axes and Rubber Hatchets (i.e., the "constructed" Mid-Right and Mid-Left, respectively). The conceptual ideal of law as orderliness and near-syllogistic rigidity apparent among Axes relates to the similar view of law in Cardozo's Method of Philosophy ($r_3 = .419$; $r_4 = .445$).¹⁴ The Axes belief in the punitive deterrence of crime gives them a high commonality with Schur's Get Tough notions ($r_3 = .558$; $r_4 = .618$), and their belief that court attention should be directed toward the individual criminal and not society may account for the moderate positive intercorrelation with Schur's Individual Treatment type ($r_3 = .247$; $r_4 = .294$).¹⁵ An underlying assumption of the Axes is the view that laws are transcribed community moral imperatives, an assumption also common to Platt's Moralism ($r_3 = .398$; $r_4 = .447$) and Miller's Right (r_3 ranges from .438--Right-1--to .653--Right-3--for correlations between types without common items; r_4 similarly ranges from .485--Right-1--to .633--Right-5).

¹⁴ The symbol " r_3 " refers to the correlation between the stated original ideological type of either Platt, Schur, Cardozo, or Miller, and the 3-variable version of the applicable "constructed" type (Mid-Right or Mid-Left) in Table 47. The symbol " r_4 " refers to the same intercorrelation with the 4-variable version of that "constructed" type in Table 48.

¹⁵ One might also expect a strong intercorrelation with Platt's parens patriae type for the same reason. In fact, such exists ($r_3 = .666$; $r_4 = .651$), but they also share a common item which we must assume accounts for the magnitude of the correlation, prohibiting us from drawing any such conclusion.

What is somewhat surprising here is the relatively minimal positive correlation between the Axes and Cardozo's Method of Tradition, a basis of the latter also encompassing law as formal moral standards. However, in this case, $r_3 = .123$ and $r_4 = .147$, considerably lower than would be expected. This may be due to the relative breadth and occasional vagueness of the items used for Cardozo's typology when compared to those in Platt's Moralism and Miller's Right.

In the case of the Rubber Hatchets, common themes of social causation for and solutions to criminality (e.g., "diversion") could explain the relatively high positive correlations between their beliefs and Schur's Liberal Reform ($r_3 = .359$; $r_4 = .381$) and Miller's early Left ($r_3 = .422$; $r_4 = .441$ --both with Left-2). Also, the belief in the aggravating influence of stigmatization and labelling by criminal justice agencies gives the Rubber Hatchets at least some surface commonality with Miller's far Left ($r_3 = .361$; $r_4 = .395$ --both with Left-5; Left-3 and Left-4 share common items with the "constructed" Mid-Left of the Rubber Hatchets) and Schur's Radical Non-Intervention ($r_3 = .409$; r_4 shares a common item with Mid-Left).

Again, it may be that the relative lack of clarity in items drawn up to represent Cardozo's work may have an effect here. It would seem that his Method of Sociology and

its utilitarian approach to the law and its effects would coincide somewhat with the Rubber Hatchets' pragmatic "challenge" to the Axes on the issue of enforcement authority. However, intercorrelations between them ($r_3 = .183$; $r_4 = .208$) are unexpectedly moderate.

It was stated earlier in this section that the relationship between Rubber Hatchetism and Platt's Constitutionalism, or Packer's Due Process model, was secondary. The intercorrelations between the Rubber Hatchets' Mid-Left and Platt's Constitutionalism are still moderately high ($r_3 = .310$; $r_4 = .328$). Although the specific items of the Rubber Hatchets never really mention the "due process" issue, one can see a possible relationship when one considers the issue of official stigmatization of accused individuals. This belief seems compatible with an underlying assumption of Constitutionalism, i.e., that the state itself can be a negative influence on individuals whom it confronts through its criminal justice system, be it for reasons of individual rights (Constitutionalism) or aggravation of crime (Rubber Hatchetism). They may have some common pragmatic sympathies in that they both want to curb the power of the state over certain individuals, although for different reasons.

In summary, it can be said that, for a large portion of the juvenile court judge population, the first hypothesis cannot be rejected. Popular notions of the political "Left"

and "Right" form the basis of the conceptual unities of many, if not the majority, of juvenile court judges' ideologies. Among those judges holding these ideologies (Axes and Rubber Hatchets), there is a strong differentiation in dispositional decision-making. We cannot say in truth what percentage of juvenile court judges in the United States are "ideological" as such because of the strong rural bias of the sample. It is true that urban judges are twice as likely to be Rubber Hatchets as Axes, but also may very well be "Non-Ideologicals" (Table 54).

There are, then, judges who base their dispositional decision-making, consciously or unconsciously, on a recognizable ideological framework, but this explanation for such behavioral preferences is by no means all-inclusive. Among the eight items which accounted for most of the variation in dispositional severity, four were among those which constituted the six "constructed" ideological types, but none were of the Mid-Right or Mid-Left (Table 84). Table 89 does show that these "best predictor" items correlate for the most part in the expected direction with the position statements of the Mid-Right and Mid-Left. However, this is not true totally, and in some cases where it is true, the magnitude of the correlation is not large. There is also a question of spuriousness, since the "expected direction" was defined for both by their relationship to dispositional

TABLE 89

"MID-RIGHT" AND "MID-LEFT" VS. "BEST" PREDICTORS

"Best" Predictor Items:								
Ideology/ Item No.	#1 (+)	#2 (+)	#7 (+)	#3 (-)	#4 (-)	#5 (-)	#6 (-)	#8 (-)
Mid-Right (+)								
#1	.259	.250	.277	-.117	.086	-.160	.232 ^(b)	.044
#2	.314	.213	.142	-.103	-.026	.030	.047	.038
#3	.420	.460	.219	-.133	-.109	-.106	.075	.076
#4	.377	.496	.121	-.013	-.052	-.011	.160 ^(b)	.106 ^(b)
Mid-Left (-)								
#1	-.047	-.015	.041	.276	.155	.223	-.036 ^(b)	.353
#2	-.128	-.062	.109 ^(b)	.262	.268	.319	.038 ^(b)	.300
#3	-.135	-.158	-.005	.132	.169	.074 ^(b)	.098 ^(b)	.169
#4	.035	.066	.060	.245	.186	.197	.088 ^(b)	.251

(a) "+" and "-" in heading categories indicate the relationship between the item or ideology with dispositional severity score.

(b) Indicates that the correlations is not in the expected direction.

severity.

The most convincing argument that these ideological groups are not omnipotent in their explanation of juvenile court consequential policy, i.e., that other phenomena also govern decision-making among judges, is the existence of such a large residual "cluster" category--the Non-Ideologicals.

"Drifters" (Non-Ideological)

In the "clustering" of judges along ideological lines, it was found that there is a significantly large group of judges who are "non-ideological", i.e., in the sense that they are neither Axes nor Rubber Hatchets. They sometimes agree with items of both types, and sometimes with neither. The relationship of their "ideology" to dispositional severity is highly inconsistent in that it was different for clusterings based on 3- and 4-variable versions of "constructed" ideologies (Table 70). In the former case, the Non-Ideologicals associated slightly with lower severity scores (55% to 45%), and in the latter instance with higher scores (58% to 42%). Clearly, then, it can be said that these individuals are not acting in accordance with a political ideological configuration that can be measured by the position statements presented here, especially if the simple addition of six items (one to each "constructed" type) reverses its relationship to severity. On what basis, then, are

these judges deciding cases?

It is possible that these individuals are simply conformists to a group norm in their judicial milieu. There is at least one bit of evidence for this. The intermediate category of urbanization--the small city judges--were about even in their association with the Rubber Hatchets and Axes, so it cannot be said that a "group norm" exists among this group (Table 54). However, the large city sample of judges associated more with the Rubber Hatchets than the Axes (56% to 28%), and the small town/rural judges more with the Axes than the Rubber Hatchets (42% to 26%), so one could conceivably define a norm in these jurisdictions. Since the Rubber Hatchets associated with lower severity scores and the Axes with higher scores (Table 70), one would expect that if the Non-Ideologicals (16% of the large city sample and 32% of the small town/rural judges) are conforming to such a group norm, they would associate more with low severity in large cities and high severity in small town/rural areas. Although sample sizes are small, there is the indication that this is in fact the case (Table 75).

Since there is little indication of anything else about the Non-Ideologicals, some speculation is in order. Looking at the "conformist" argument in the broader context of the model in Figure A, these individuals could be said to be responding to some aspect of their external social and

cultural milieu. It seems more likely that these individuals are responding to one or more of the specific "situational contingencies" of the case or the court. The number of alternatives available to the judge did have some measurable effects in this research, but they were much broader than among only Non-Ideologicals. As such, this contingency will be discussed in the next section on test factor effects. Looking at the Non-Ideologicals alone, however, attention is directed to the "decisional situation", i.e., the facts of the case itself.

While discussing the theory behind Edwin Schur's Radical Non-Intervention "patterned reaction", the view expressed concerning the nature of delinquent behavior was one of "drift". David Matza's theory of a youth "drifting" in and out of delinquent and conventional behavior patterns, responding in turn to different stimuli in his or her perceptual field, can be seen as a kind of decision-making model. Barring ignorance of social and legal norms, the youth at some point must make a conscious decision, based on a conscious or subconscious weighing of alternative courses of action at a given moment, to act in a certain manner. In fact, the moment itself at which one decides to act, and the progress of the balancing of alternative responses at that moment, may be viewed as the "causal" factor of any action (delinquent or conventional) using the situational "drift"

approach.

It is in an analagous manner that the decision-making of Non-Ideological judges is viewed here, i.e., as variously "drifting" from severe to lenient dispositions, depending upon the situational characteristics of the judge's primary focus at the time the decision is made, particularly the aspects of the case at hand. Consequently, these judges are labelled Drifters.

Put in simple terms, it is possible that these judges favor slack with some kids at some times, and a swift kick with other kids at other times. It is a difficult thing to pinpoint which kid and which time is which among any reasonably large sample of judges. As pointed out in the discussion of the case summaries, there are a myriad of possible considerations, or combinations of them, which could be determinants of dispositional decision-making. The main point here is that if there is a seeming absence of strong ideological beliefs which could, by themselves, predispose an individual toward certain decision-making actions, it appears reasonable to assume that either the measure of "ideology" is insufficient to describe it or that situational causation, like that described by Matza for delinquents, is operating. Since it is believed that the original four authors of the initial typologies supplied a fairly comprehensive sample of position statements, covering a broad range of

possibly cogent ideologies, the latter explanation is favored here.

That particular aspects of any given case are determinant factors in dispositional decision-making in that case seems self-evident. Other research has demonstrated this many times (although rarely, if ever, considering the ideology of the sentencing judge along with them), and thirteen such relevant characteristics were used in the development of the case summaries. This research showed that the dispositional severity of the Axes (Right) was higher than that of the Rubber Hatchets (Left) for all case summaries but those having the highest and lowest overall mean severity scores (Tables 71 and 72). cursory examination of the percentages in the same tables also shows, however, that the relative ranking of the case summaries by mean severity score by all three ideological types were very similar. In other words, all groups--Axes, Rubber Hatchets, and Drifters--seemed to be more severe with "Joseph M." than with "George R.", with "George R." than with "Frederick B.", with "Frederick B." than with "Lisa C.", and so on. The indication here is that concern with particular aspects of the cases, regardless of which aspects, transcends the ideological boundaries.

Differing ideological beliefs such as those held by Axes and Rubber Hatchets ostensibly predispose adherent judges

to focus on certain case particulars, but these are considered in light of underlying concerns of the ideology. For instance, Axes would look at certain case characteristics (e.g., previous arrest record) and might accept or reject dispositional alternatives based on, say, perceived risk to community safety exemplified by those characteristics. Rubber Hatchets might weigh alternative dispositions based on, say, the likelihood of rehabilitative success as perceived through the same or different aspects of the case (e.g., school record).

The speculation here is that Drifters focus on particular case characteristics without conscious or sub-conscious regard for the assumptions of a fairly well-defined ideology, but more on the events and emotions of the moment. They will focus at some times on the nature of the current offense or past record, at other times on school record or demeanor or family characteristics. On some days they will be more concerned with risk, on other days with probability of rehabilitation, and on yet others, will consciously try to balance these concerns. They will respond to case characteristics based on the social pressures the judge feels to be lenient or severe with certain types of people and crimes, on mass media publicity given to a recent heinous offense, on idiosyncratic emotional responses toward particular types of offenses and offenders, on whether or not the

judge slept the previous night or had a fight with his wife over breakfast, or on one of a thousand other contingencies of social life. In the same way the "drifting" youth responds variously to sometimes hidden pressures of daily living with "conventional" or "delinquent" behavior (or any other categorization of action which interests the researcher), the judge responds, by virtue of his occupational authority position, to cases within his purview in the varied ways open to him.¹⁶

Test Factors

Ideology and dispositional severity, as well as the relationship between them, were checked for variation among several controlled social conditions, termed "test factors" after Kendall and Lazarsfeld.¹⁷ At the risk of eradicating

¹⁶ What this view denies is the universality of cognitive consistency, or strain toward dissonance reduction. To individuals who make their living trying to develop relatively universal theoretical constructs to explain human behavior (e.g., Festinger, Schur, and even Cardozo), it may appear important that all individuals reconcile their beliefs with their actions in some manner (e.g., "projection", rationalization). However, this researcher feels that most people in society can live comfortably (though sometimes neurotically) with all sorts of inconsistencies and dissonance and never feel the need, consciously or subconsciously, for this reconciliation. Bem has expressed similar sentiments in Beliefs, Attitudes, and Human Affairs, 1970.

¹⁷ Kendall & Lazarsfeld, "Problems in Survey Analysis", 1950.

insomnia among the readership, this was done at each step of the process, as mandated by the model in Figure A. Environmental, sociolcultural conditions within which the juvenile court must function are seen as affecting both ideology and dispositional decision-making, as well as all intermediate steps of the decision-making process. Although it is not a topic in this research (and no arrows are drawn in the model), one can also assume that the collective decision-making of the juvenile court judges (the "consequential policy") in turn affects aspects of the sociocultural environment as well, i.e., there is an implied "feedback loop" on the right side of Figure A as well as on the left.

By the end of Chapter Three, we had narrowed down the demographic and structural variables to eleven test factors (Table 2). Four of them (geographic region, urbanization, time spent on juvenile matters, net dispositional alternatives) were found to have statistically significant effects on both the final ideological typology and dispositional severity (Tables 54 and 68). One test factor (selection method) was found to relate only to ideology (Table 54) and one more (jury trial policy) only to dispositional severity (Table 69). The remaining five factors (status of juvenile court, judge requirements, age group, full- vs. part-time judgeships, year juvenile jurisdiction began) had no significant effects on either of these, although some did

exhibit occasional effects upon various intermediate ideological types of Platt, Schur, Cardozo, and Miller. We will, however, confine our discussion to the six factors which showed some statistically significant relationship with the Axes, Rubber Hatchets, and Drifters typology.

The significance of the relationship between ideology and selection method is not the strongest one ($p = .09$), but there are two noteworthy patterns. Although the modal category for all selection methods is the Axes (which corresponds to that of the entire sample), this is much less so for judges elected unopposed (Table 54). These judges have a relatively high percentage of Rubber Hatchets and Drifters among them as well. More interestingly, though, is that those judges elected after facing opposition have the highest percentage of Drifters and lowest percentage of Rubber Hatchets among them. While one cannot assess from this data the simple "power of incumbency" among judges elected with opposition, nor the inefficacy of the "No" vote in a "Shall we retain..." election, they do suggest that the populace, if given a choice, will elect either the non-committal, "diplomatic" candidate or the conservative Axe. This contention is further supported by the fact that no significant relationship was exhibited directly between selection method and dispositional severity, and even if it had, it could easily have been deemed spurious since selection precedes

the oath of office.

The next test factor considered is the net number of different types of alternatives the judge perceives as "available" to him or her at the dispositional phase of the juvenile proceedings. Among judges with "4 or Less" alternatives available, the majority (61%) are Drifters, and this alone accounts for the bulk of the statistical significance between this factor and ideology. The majority of those at the "5 - 7" alternatives level are Axes, which is expected since both are modal categories of net dispositional alternatives and ideology, respectively. Those in the "8 or More" category are more or less split in their ideological adherence patterns (Table 54). To confuse matters, those judges in the "8 or More" category associate most strongly with Low dispositional severity, while judges in the other two categories associate in almost equal proportions with High severity (Table 68). Whatever the relationship here, it is not linear.

In the three-way analysis (Table 77), the basic relationships between ideology and severity hold for the first two categories of net dispositional alternatives, although a low N in the "4 or Less" category would qualify that conclusion. Among judges stating "8 or More" different alternatives available, however, these relationships are eradicated, and all associate with Low severity. This find-

ing lends some support to our initial assumption that a multiplicity of choices will lead to a greater use of those choices. This assumption holds true regardless of ideological bent and the dispositional preferences espoused by them, at least among those judges with the widest variety of choices.

Another test factor displaying some statistical significance was level of urbanization--large city, small city, and small town/rural. The majority of the entire sample was in the latter category, a fact which could bias all results. However, there were enough in the other two categories to allow some guarded comparisons.

The proportion of Rubber Hatchets among the judges varied directly, and the proportion of Axes and Drifters varied inversely, with level of urbanization (Table 54). As would be predicted, then, urbanization related directly to the Low dispositional severity category and inversely to that of High severity (Table 68). The expected positive relationship between Axes and High severity also held for all urbanization categories, but less so for the small city and large city samples (Table 75). In short, the more urban Axes tended toward lesser severity scores as a whole than did their small town/rural counterparts.

This latter finding may lend some small credence to the notion of a "group norm" operating among some judges. It

would seem that urban judges would be likely to face a larger variety of individuals and case types than would the more rural judges, and might be more open to new alternatives in decision-making behavior. There is also a strong relationship to Low severity among the urban Drifters, although there are few of them. On the rural side of the argument, the idea of a "group norm" is enhanced by the fact that, in the small town/rural jurisdictions in which the greatest number of judges associate with the Axes and High severity, the Drifters also associate with High severity scores. It is possible, then, that one of the pressures to which a Drifter judge may be responding is social consensus concerning sentencing severity.

However, conclusions concerning the effects of this test factor alone may be discouraged in the urban case by a confounding factor. In addition to the large rural bias of the sample (and the corresponding relatively low N's in the small and large city categories), the large city judges also noted larger numbers of available dispositional alternatives, as illustrated in Table 90. The resources required for a greater number of dispositional alternatives (trained personnel, funds) would seemingly be more prevalent in the urban areas than in jurisdictions of lesser population.

Regarding the statistically significant effects of geographic region on the relationship between ideology and

dispositional severity, all regions but the West show a greater percentage of Axes than Rubber Hatchets, with a relatively large percentage of Drifters in the South and North Central areas (Table 54). The North Central and Western regions are split on dispositional severity, while the Northeast and South associate strongly with Low and High severity, respectively (Table 68). The three-way cross-tabulation (Table 74) shows the expected relationship between Axes and severity in the North Central and Southern regions, and to a much lesser extent in the Northeast and West. The expected relationship between the Rubber Hatchets and severity holds for all but the West.

These expected Axe-High severity and Rubber Hatchet-Low severity relationships, then, hold for the two regions that make up over 70% of the sample--the North Central and the South. Differences in dispositional severity by region alone are accounted for by differences between the relatively high percentage of Drifters in each group. Those in the North Central region closely resemble the Rubber Hatchets in terms of their dispositional severity scores, while those in the South are more like the Axes (Table 68). If our speculation on the nature of the Drifters and their decision-making is correct, these similarities can probably be attributed primarily to chance, and would be expected to vary greatly among different samples. However, the conformity-to-

TABLE 90
URBANIZATION AND GEOGRAPHIC REGION
VS. NET DISPOSITIONAL ALTERNATIVES

Test Factor	Net Dispositional Alternatives			
	4 or Less	5 - 7	8 or More	
<u>Urbanization:</u> (a)				
Large City	13%	46%	41%	(48)100%
Small City	15%	60%	25%	(53)100%
Small Town/Rural	15%	62%	23%	<u>(141)</u> 100%
				(242)
<u>Geographic Region:</u> (b)				
Northeast	14%	59%	27%	(37)100%
North Central	7%	63%	30%	(84)100%
South	24%	59%	17%	(88)100%
West	9%	45%	45%	<u>(33)</u> 99% (c)
				(242)

(a) Df = 4, chi-sq = 6.807, $.20 < p < .10$ (over half of the total chi-square value--3.918--due to 41% in Large City vs. 8 or More cell).

(b) Df = 6, chi-sq = 18.142, $.01 < p < .001$.

(c) Differences from 100% due to rounding.

TABLE 91
GEOGRAPHIC REGION AND TIME SPENT ON JUVENILE
MATTERS VS. URBANIZATION

Test Factor	Urbanization			Small Town/ Rural
	Large City	Small City		
<u>Geographic Region:</u> (a)				
Northeast	46%	19%	35%	(37) 100%
North Central	19%	23%	58%	(84) 100%
South	11%	24%	65%	(88) 100%
West	15%	18%	67%	<u>(33)</u> 100%
				(242)
<u>Time Spent on Juvenile Matters:</u> (b)				
25% or Less	12%	16%	72%	(147) 100%
Half or More	24%	32%	44%	(62) 100%
All/Virtually All	60%	24%	16%	<u>(25)</u> 100%
				(234)

(a) Df = 6, chi-sq = 21.263, $.01 < p < .001$ (over half of the total chi-square value--12.718--due to 46% in Northeast vs. Large City cell).

(b) Df = 4, chi-sq = 44.477, $p < .001$ (largest proportion of the total chi-square value--19.883--due to 60% in All/Virtually All vs. Large City cell).

group-norms argument may apply somewhat in the South because the Rubber Hatchets account for less than one-in-ten of the sample judges in that region, whereas the Axes account for almost four-in-seven (Table 74).

The relatively large numbers of dispositional alternatives available to judges in the North Central region and the smaller numbers available to those in the South could also account for at least part of the differences between the two regions (Table 90). Even allowing for ideological effects, this could at least explain some of the variation in the severity scores of the Drifters in these regions.

The large plurality of the judges in the Northeastern region are Axes (Table 54), but that region as a whole associates with Low severity almost two-to-one (Table 68). These results stem from the relatively large (46%) association of the Axes in this region with Low severity (Table 74). However, forthright conclusions concerning judges in the Northeast are hampered by two considerations. First, compared with the North Central and South, there were relatively few judges sampled. Second, and probably most important, the sample in the Northeast region is 46% large-city urban, as opposed to 11%-19% in the other three regions. This latter is shown in Table 91.

Judges in the Western region seem to split on ideology (Table 54), with little relationship at all indicated be-

tween ideology and severity here (Table 74). The West had the highest percentage (45%) of judges stating "8 or More" dispositional alternatives available (Table 90), a contingency which would be expected to depress severity scores among judges in the region. This does not seem to be the case since, like ideology, the region factor is split between High and Low severity (Table 68). The greatest problem with the Western region, however, is that it has the lowest N of all the regions in the sample, making general conclusions about these differences difficult at best.

Another test factor--the proportion of a judge's time spent on juvenile matters--is normally a function of statutory requirements, at least whether or not a judge handles juvenile cases exclusively. Judges spending "All or Virtually All" of their time on juvenile matters have a larger proportion of Rubber Hatchets among them (Table 54), and a stronger association with Low severity (Table 68) than those judges in the other two categories, although judges spending "Half or More" of their judicial time on juvenile cases show majority association with Low severity as well. The basic relationships between ideology and severity hold for all levels of this test factor except "All or Virtually All", where the Axes associate with Low severity like the Rubber Hatchets (Table 76).

The very small sample size in the "All or Virtually

level of the test factor hampers any real conclusions here, particularly since most of the statistically significant findings concern this category. In addition, there is a strong interrelationship between time spent on juvenile matters and urbanization (Table 91). Judges whose jurisdiction is exclusively over juveniles are more likely to be found in the large cities.

The remaining test factor is also a statutory consideration--jury trial policy. A structural milieu (i.e., a state juvenile code) which allows trial by jury in the juvenile court tends to have a depressing effect on dispositional severity scores (Table 69). Axes and Rubber Hatchets in states allowing such trials tend to be less severe than their counterparts in states where jury trials are prohibited. This occurs probably because a youth facing incarceration is more likely to request a jury trial (or rather, his lawyer is) if it is possible. Jury trials tend to be time-consuming and require considerable work on the part of the judge, so judges in states allowing them may be more likely to avoid them in favor of less severe, "diversionary" dispositions. It should be noted, however, that Axes and Rubber Hatchets still associate more with High and Low severity, respectively, so the basic relationships remain notwithstanding jury trial policy.

Translating statistical significance into theoretical

significance, one can attribute judicial ideology to some extent on how he or she got there. A judge elected by the general populace is not likely to be a Rubber Hatchet. Beyond that, the other social-structural factors have their effects once a judge is on the bench.

To summarize, if the state allows jury trials in juvenile court, judges of all ideologies are likely to be less severe in their dispositional decision-making preferences than are their counterparts in non-jury-trial states. Within each type of state, however, Axes are more likely to be more severe than Rubber Hatchets. If an Axe-sympathizing judge presides over a large urban jurisdiction, he is likely to be less severe than his less urban or rural counterpart. A Rubber Hatchet is still likely to be less severe than an Axe, regardless of urbanization. If a judge has many (8 or more) dispositional alternatives to choose from, he is likely to be less severe than a judge with fewer choices, regardless of ideology. Other factors tested show considerable interrelationship with these, so no conclusions can be drawn concerning them.

Stating these conclusions from the end points, the least severe judge is most likely to be a Rubber Hatchet in a state allowing jury trials in juvenile court who has a multitude of different dispositional alternatives available to him. Having this many alternatives, he most probably will be

in an urban jurisdiction, though this is not a necessary condition for Rubber Hatchets. The most severe judge will most likely be a rural Axe in a state prohibiting jury trials in juvenile court who has few dispositional options open to him.

In short, selection method is an intervening condition between the ideological individual and his or her attainment of an authority position in the juvenile justice system, while jury trial policy, urbanization, and net dispositional alternatives have the same relationship between judicial ideology (i.e., once the individual attains the authority position) and dispositional severity. While urbanization and net dispositional alternatives may be considered "social-environmental conditions" (particularly since they interrelate fairly strongly), selection method and jury trial policy may be more appropriately called "institutional conditions", or institutional policy constraints, since both are situational contingencies which have their roots in the statutory legal-criminal justice institutions of the state.

Returning to the model in Figure A, then, it appears that the "situational contingencies" may not only affect manifest action, but do affect proposed action as well, so the model would have to be adjusted for this. The "authority position" of the judge is taken as evident, although the ideology of the person occupying it has been found to depend

to some extent on the judicial selection method in that state. The "decisional situation" (the case) was held constant in this research, although ideologically different judges focus on different aspects of that situation. To a certain extent, Axe or Rubber Hatchet ideology would mandate particular foci, but the particular case concerns of the Drifters are varied and cannot be pinned down in this survey. At least one "institutional constraint" (jury trial policy) does intervene in the effect of personal ideology on proposed action, as does net alternatives available and urbanization.

Manifest Behavior

What one says one would do in any given case is important in terms of its relationship to an established ideological pattern in that it sheds additional light on certain predispositions inherent in the ideology. More important to the consequential policy of the juvenile court, however, is what one actually does--i.e., manifest behavior. The applicable measures of this behavior are found in the officially generated statistics of the various states included in the survey. These data are very often presented by county or other jurisdiction, which would allow the tracing of actual dispositions of cases to the particular judge in the survey. An analysis of these data was intended for this research as a study of the manifest dispositional behavior patterns of

judges with different ideological beliefs.

Almost predictably, this turned out to be a pipe dream. Juvenile court statistics, like many other types of "official" data which cross political boundaries (states, or even counties within states), are notoriously unreliable, inaccurate, incomplete, not comparable, or simply gathered for political or budgetary purposes.¹⁸ Upon examination for comparability of the disposition statistics received from 40 states (including the District of Columbia) included in this research, many had to be excluded at the beginning. This was true primarily because these states used other than standard definitions of "official" and "unofficial" dispositions; because they presented in their reports only summary data for the entire state and none by jurisdiction; and/or because figures were collected for the fiscal rather than the calendar year.

In the remaining 24 states,¹⁹ three measures of

¹⁸ Probably the single most criticized set of official statistics on these kinds of grounds are those in the F.B.I.'s Crime in the United States--Uniform Crime Reports, published once each year. See, e.g., Schrag, Crime and Justice: American Style, 1971, pp. 115-116, for a good bibliography of these. For general overviews, see Schur, Our Criminal Society, 1969, pp. 23-26; Morris & Hawkins, The Honest Politician's Guide to Crime Control, 1970, pp. 30-38; Bloch & Geis, Man, Crime, and Society, 1970, pp. 111-136 (Chap. 5); and Sellin & Wolfgang, The Measurement of Delinquency, 1964, pp. 71-86 (Chap. 6).

¹⁹ The official data utilized include published

dispositional severity were developed from these data. First was Rate of Official Handling (ROH), the ratio of those youths upon whom a petition was filed to the total number of youths coming before the court (officially by petition and unofficially without). Because many jurisdictions neither keep records of nor report cases which are informally adjusted, some areas had to be eliminated from consideration concerning this measure. Second was Rate of Institutionalization (RI), the ratio of youths placed in juvenile correctional facilities to all youths disposed of officially by the court. Third was Rate of Waiver (RW), the ratio of youths waivered to adult criminal court to all youths officially adjudicated. There were considerable missing data for these measures as well.

Some correlation was expected between what a person

reports from the Alabama Department of Pensions and Security, California Department of Justice, Kansas Department of Social and Rehabilitation Services, Maryland Department of Health and Mental Hygiene, Mississippi Department of Public Welfare, Nebraska Commission on Law Enforcement and Criminal Justice, New York Office of Court Administration, North Dakota Social Service Board, and Pennsylvania Department of Justice. Also utilized were mimeographed reports from the District of Columbia Superior Court, Florida Division of Youth Services, Georgia Department of Human Resources, Hawaii Administrative Office of the Courts, Iowa Department of Social Services, South Carolina Office of Criminal Justice Programs, Tennessee Department of Corrections, Washington Association of Directors of Juvenile Court Services, and West Virginia Department of Welfare. Additionally, the National Institute for Juvenile Justice and Delinquency Prevention publication, Juvenile Court Statistics--1974, was used for certain jurisdictions in Connecticut, Louisiana, Missouri, Ohio, Oregon, and Virginia.

says and does, particularly among judges, though these correlations did not necessarily have to be strong. The inter-correlations of these three measures and the summated dispositional severity scores for those judges' districts still included appear in Table 92. This table shows relatively weak correlations between these measures of dispositional severity. This could be because of intervening affects of certain "situational contingencies", but it seemed more likely because of unreliable official data. Most detrimental to the research, however, were the enormous decreases in sample size shown above the diagonal in the matrix.

Additionally, these data were not perfectly comparable because they included multi-judge jurisdictions. Although most of these actually had only two judges, none of them separated the dispositions by "division" (i.e., by judge), so the only data possibly traceable to the individual were in single-judge (i.e., small town/rural) districts. Urban areas were, therefore, automatically excluded. On the face of it, though, previous findings showed that this only made a difference for Drifters, since Rubber Hatchets and Axes in rural areas associated as predicted with Low and High severity, respectively (Table 75).

Any hope for salvaging this part of the research was erased when, by eliminating multi-judge jurisdictions, the sample size of the total traceable districts dropped to 35.

TABLE 92
CORRELATIONS BETWEEN SUMMATED SEVERITY SCORE
AND OFFICIAL DATA SEVERITY MEASURES

	Summated Severity Score	ROH	RI	RW
Summated Severity Score	---	(72)	(33)	(20)
ROH	.206	---	(14)	(9)
RI	.053	-.018 ^(a)	---	(19)
RW	.167	-.568 ^(a)	.642	---

(a) These negative correlations are expected since the numerator of "Rate of Official Handling" (ROH) is the denominator of both "Rate of Institutionalization" (RI) and "Rate of Waiver" (RW).

Further discouragement resulted upon elimination of districts because of a lack of data concerning one of the three official data severity measures, leaving a yet smaller sample size of 27 for ROH, 7 for RI, and 5 for RW.

In short, obtaining a body of comparable, researchable data from these official disposition statistics proved to be an exercise in futility. This is grossly unfortunate for this research, since no direct conclusions concerning the consequential policy of the juvenile court can result from it. One could make a general argument about the connection between proposed and manifest behavior, i.e., that given the relatively few constraints upon the dispositional power of judges, some relationship should exist. However, this is little more than a statement of the hypothesis, and here we are simply stuck for conclusions at the level of proposed action.

Concluding Remarks

About all that can be said about the data has been said, usually more than once. What remains are a few closing thoughts which have occurred and recurred to the author while carrying out this research.

The rural bias and sample sizes here have been noted over and over again throughout this work. It is possible that this could have been corrected for statistically such that the urban sample was extended to approximate its popu-

lation proportion. It was decided to avoid artificially inducing an increase in N, called the "Let's Pretendency" by Sigelman.²⁰ The statistics might have looked nicer, but any confidence in the results would have been compromised because the urban sample was not evenly distributed geographically.

No attempt was made to decide whether or not the addition of the fourth position statement to the 3-variable "constructed" ideologies enhanced or diluted the response patterns of the ideological types. Since so many of these variables were highly intercorrelated, the addition of the extra item probably neither accomplished nor harmed anything. However, one does like to see more than a few indicators of an entire belief system.

Researchers should not necessarily shy away from using "radical" opinion statements for fear that respondents will consider them ludicrous and reply accordingly. Sometimes, sparks of agreement with at least some part of the statements will cause subjects to disagree with less intensity with an item

²⁰ Sigelman, "How to Succeed in Political Science by Being Very Trying", 1977. The "Let's Pretendency" includes such devices as the Multiplicative N-Extender (rationalizing independence of observations when they are obviously not independent), the Double-Barreled Data Enhancer (making bad data appear good through statistical manipulation), and the Levitating Measure Raiser (making interval assumptions about nominal or ordinal data). Others mentioned but not detailed were the Spontaneous Phylogeny Recapitulator, Oracular Fact Generator, Unfamiliar Factor Formulator, Recursive Route Restrictor, Deviant Data Bender, Rapid-Fire Irrelevance Eradicator, and Self-Rising Sow's Ear Silkfier. One can easily see from this descriptive fragment that this work is a must for methodologists!

than would someone who totally disagrees with it.

There is a plethora of sociologically uncited legal scholars who have discussed and characterized prosaically the tenets and manifestations of various legal ideological paradigms. Sociologists, being steeped in scientific tradition, have often found their theories unsystematic and, therefore, difficult to operationalize for empirical testing, as was shown in this author's attempt to empiricize the ideas of Cardozo. This is possibly because his is one of the more difficult works, consisting of a series of transcribed lectures which overlapped over several days, and containing concepts which the speaker himself did not systematize. The fact remains, however, that the writings in the law reviews and bar journals are a valuable resource to students of criminology and criminal justice.

As for "frontiers for further research", this data is quite varied in the issues raised, making it possible to explore certain very particular research questions. From the standpoint of ideology, this author would want a greater exploration of the Drifters. It seems difficult to believe that these individuals are like feathers in a hurricane, blowing this way and that with the gusts of the moment. It is possible that another approach to ideology (e.g., a Marxian class-based study of judges) may be necessary to capture the essence of their "ideology". This study, however, found them elusive to categorization.

Another possibility might be to try this research on

a particular, comparable group of judges where data on actual dispositions of cases are relatively explicit (e.g., urban judges in, say, California). This type of study may get at some limited conclusions concerning the relationship between ideology, proposed action, and manifest behavior (i.e., consequential policy). In Chapter Three, this author denigrated this idea, but upon reflection, it may be the only way.

In closing, there is a social-psychological truism which states that "reality" is a perception and not a "fact", and that no person can wholly experience another person's perceptions as a result. The eyes with which we see the reality toward which we behave have perceptions to guide their focus. Our ideologies, the total of our perceptions of what is and what should be, are governing cognitive gyroscopes which select our "reality" from the physical environment and predispose us to favor certain classes of actions over others. That another person's perceptions can be totally understood (i.e., "experienced") is fantasy. However, at a lower level, if given shape and substance in the physical environment (e.g., positions on issues concerning the illegal behavior of others), the perceptions of others can be plausibly inferred.

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A P P E N D I X A

ADDITIONAL METHODOLOGY DISCUSSION

APPENDIX A
ADDITIONAL METHODOLOGY DISCUSSION

Evaluation of Initial Questionnaire Items

Of the 56 persons who were asked to evaluate the initial questionnaire items, 17 (30.4%) responded with many constructive criticisms and observations. These were taken into account in the construction of the final questionnaire. Most often mentioned as a discouragement to response was the length of the instrument--a full 14 pages! Consider a sample of the evaluators' comments:

"Judges receive many requests to answer questionnaires and response is discouraged by their length and detail. Yours is one of the longest and most detailed of any I have seen."

--Hon. H. Emerson Kokjer
Retired Juvenile Court Judge
Wahoo, Nebraska
(letter dated April 17, 1975)

"It is very long and many of the questions must be read more than once as they are so complicated. There are so many demands upon a judge's time that most will be tempted to ignore the questionnaire."

--Hon. James L. Macken
Juvenile Court Judge
Gering, Nebraska
(letter dated April 23, 1975)

"I got tired at Part II and quit. I'm afraid
your other judges will, too."

--Hon. Maurice B. Cohill
District Judge
Pittsburgh, Pennsylvania
(no date; comments annotated
on questionnaire)

"...judges uniformly are extremely busy people.
Their day is filled with requirements to review
extensively and closely large numbers of docu-
ments, including briefs, opinions, texts, social
summaries, police reports, forms, etc., etc. It
is very difficult to sit down at the end of such
a day and tackle a lengthy questionnaire."

--Mr. Edward V. Healy
Executive Director
National Council of Juvenile
Court Judges
Reno, Nevada
(letter dated April 30, 1975)

Mr. Healy also recommended, among other things,
against the use of the term "ideology" in any questionnaire
headings, reasoning that it may connote too many unintended
meanings to different people. As a result, the term "positions"
was used in the final questionnaire.

In the final questionnaire, much of the detail and
complexity of some of the items (that which basically resulted
from my own verbosity) was eliminated, yet the length remained.
Some of the ideological position statements concerned several
interrelated issues and still required some length.

Another problem mentioned often by the evaluators was the use of the Likert scale of responses. For example:

"Speedy selection of one among a limited number of formalized multiple choices does not promise reliability. A more meaningful result might be obtained by the addition of space for comment... It would seem the objection to length and detail might be intensified by my suggestion, but perhaps not if a person could simply state his belief instead of trying to fit it into one of the multiple choices, none of which might satisfy him."

--Hon. H. Emerson Kokjer
Retired Juvenile Court Judge
Wahoo, Nebraska
(letter dated April 17, 1975)

The primary reason for using the Likert scale was to allow some quantification of the responses. Judge Kokjer's objection to "multiple choice" is a common one, and may be valid in many kinds of research. However, to quantify four typologies over several issues, the job of coding "open" responses would have been mammoth and subject to considerable guesswork in categorizing the responses. As it turned out, however, many of the respondents did comment freely in the margins of the questionnaire, and often on the back of the pages at some length.

Concerning the "case summaries", the comments men-

tioned a few other bits of information which might be useful to a judge in deciding a case. Some considerable modification was done on those summaries which appeared in the original questionnaire. However, I believe that one judge summed up the futility of continuing to add more to them:

"...I felt that the case summaries were adequate. In every question of this nature, there are missing facts which one would like to have supplied. However, I do not feel that this criticism could be rectified even if the case summaries were several pages in length."

--Hon. Richard D. Loffswold
Probate Judge
Girard, Kansas
(letter dated March 28, 1975)

Much of the remainder of the critical comments concerned specific items or general structure, most of which were rectified on the final questionnaire. For example, in the original questionnaire, all of the ideology items came first, followed by all 12 original case summaries. Circuit Judge Donald L. Kalberer of St. Helens, Oregon, seeing some novelty to the case-summary methodology, suggested that the questionnaire begin with them to "obtain the interest of the judge who is to fill out the questionnaire" (letter dated April 2, 1975). His suggestion was adopted and elaborated upon, i.e., the case summaries and ideology items were

staggered to break any monotony caused by the length of the questionnaire, with four of the case-summary items at the beginning.

Sampling Modifications

In 37 of the 51 states (i.e., including the District of Columbia), the one-in-five direct sampling method seemed adequate. As the sampling proceeded, however, it became obvious that the other 13 states were either overrepresented or underrepresented in the NCJCJ Directory in relation to their comparative populations. Many less populated states have an extremely large number of counties, and if the County Judge has the juvenile jurisdiction in the state, as is often the case, it makes for an excessive number of judge listings. National generalization would be inhibited by an additional "rural bias" because of the resultant over-sampling of these small states. Other states, similarly, have a large number of part-time "referees" listed as well as judges, which also would increase the number of judges listed for the state, and result in over-sampling. The reverse of these are true in yet other states, making them under-sampled and underrepresented using the one-in-five method.

As a result, all states were ranked by both state population and by number of juvenile court judges listed in the NCJCJ Directory, and the numeric difference between these two ranks calculated. If this difference was between 14 and

20, a one-in-four or one-in-six sample was selected for those underrepresented and overrepresented states, respectively. A one-in-three or one-in-seven sample was taken if this difference fell between 21 and 28 for overrepresented and underrepresented states, respectively. Two rank differences were greater than 28 (both overrepresented), so a one-in-eight sample resulted in those states.

Texas, Pennsylvania, and Massachusetts were overrepresented despite the fact that they are among the more populous states. A one-in-eight, one-in-seven, and one-in-six sample was selected for those three states, respectively.

Some states seemed to remain overrepresented and underrepresented even after these alterations in the one-in-five sampling procedure, although not to the same degree. The additional "rural bias" was thereby decreased to that degree. Since a "random sample" is a methodological fallacy in real research (i.e., there are only "randomized" procedures for obtaining any sample), it is assumed at this point that the best possible sample was selected under the circumstances.

Increasing the Response Rate

The Dillman study compared response rates from five separate mail-questionnaire projects that concerned attitudes on allocating public funds and views about living in various size communities. All of these projects sampled "households" of the general public and the actual questionnaire

varied in length from 8 to 12 pages, from 85 to 165 items. Any variable that might affect response rate (other than length) was manipulated to increase it. The authors list several things to be done in this regard:

"Manipulations applied to the questionnaire included photoreduction and multilithing into booklet form for a less formidable appearance, adding an eye-catching cover page, and using straightforward, unambiguous questions carefully ordered and presented in a visually attractive manner. The questionnaire is sent by first class mail using regular letterhead envelopes. The cover letter and subsequent communications emphasize the social usefulness of the study and the individual importance of each respondent to the study's success...The respondent's importance is also emphasized by full use of personalization procedures. After the first mailing an intensive followup is used. The original mailing is followed by a postcard one week later, a letter with replacement questionnaire at the end of the third week, and a final letter with replacement questionnaire, sent by certified mail after seven weeks."¹

¹ Dillman, et al, "Increasing Mail Questionnaire Response", 1974.

This research differs in many ways from those cited by Dillman. The questionnaire here numbered 14 pages with 131 items, which is comparable to some of those he cites. However, the items themselves were of varying specificity, and the survey was conducted on a specialized population group known for non-response to questionnaires.

The questionnaire for this study was typed in pica-size type on large paper, then photoreduced to 8½ x 11 inch size. Although many of the items were detailed, it seemed that most were as unambiguous as was possible.

The mailing procedure matched those recommended by Dillman, with two exceptions. First, different amounts of time were allotted between mailings. Instead of one-, two-, and four-week intervals between mailings, two-, three-, and three-week spaces were used, generally allowing more time to busy judges and hopefully decreasing the possible "badgering" effect shorter intervals might produce. The cutoff date after the fourth mailing was extended a full month, making the total data collection time nearly three months (May 30-August 29, 1975).

Second, the fourth mailing was sent first class like the others, rather than by certified mail. A person could just as easily refuse to answer a certified letter as a first class one, making the added expense of certification seemingly unjustified.

Letterhead paper (for cover letters) and envelopes

were used in all mailings, and stamped return envelopes were included each time. Expense and time considerations, however, did not allow multilithing and the design of a catchy cover page. All questionnaires and cover letters were Xeroxed, but the letter was signed by me personally, and all envelopes were addressed to the judge by name.

Response Distribution

Table A gives the response and non-response particulars in this study. The percent of usable returns (coded "A" in the table) decreases in magnitude within each mailing phase, suggesting some point at which additional mailings become nonfunctional and unfeasible.

Many judges (18.4% of the sample) who did not fill out the questionnaire did, however, correspond with me, most of the time giving their reasons for not completing it (coded "B"). The major reason for non-response among this group (62 times) was that they were no longer juvenile court judges, or judges at all, a function of the out-of-date Directory. The second most often stated reason (32 times) was simply a lack of time because of a busy court calendar. Several judges (11) selected in the original sample were deceased by 1975, and a few others (3) were in the hospital or otherwise incapacitated at the time of the survey. One judge stated that participation in research projects was "against court policy". Some (10) simply returned blank questionnaires, giving no

TABLE A
RESPONSE RATE BY PHASE AND TYPE OF RETURN

Phase (a)	Type of Return (b)	% of Total Sampled	Cumulative % of Total Sampled
I	A	13.5%	13.5%
	B	7.1%	7.1%
	C	2.3%	2.3%
	D	0.8%	0.8%
	TOTAL	23.7%	23.7%
II	A	9.6%	23.1%
	B	3.9%	11.0%
	C	0.5%	2.8%
	D	0.7%	1.4%
	TOTAL	14.7%	38.3%
III	A	8.2%	31.3%
	B	4.5%	15.5%
	C	0.0%	2.8%
	D	1.2%	2.6%
	TOTAL	13.9%	52.2%
IV	A	6.2%	37.5%
	B	2.9%	18.4%
	C	0.0%	2.8%
	D	1.2%	3.4%
	TOTAL	9.9%	62.1%
UNRETURNED			37.9%

(a) Phases: I = May 30 - June 13, 1975
 II = June 16 - July 3, 1975
 III = July 7 - July 25, 1975
 IV = July 28 - August 29, 1975

(b) Return Codes: A = Returned -- completed and usable
 B = Returned -- incomplete
 C = Returned -- "undeliverable"
 D = Returned -- unusable

reason for non-response, and 13 judges gave other reasons, among them that the questionnaire was still confusing and unclear. (These totals add up to 133 because some judges gave more than one reason.)

Some of the latter judges wrote long letters detailing their reasons for not filling out the questionnaire. I am particularly indebted to Superior Court Judge William L. Blanckenburg of Napa, California for an extremely detailed and well-thought-out letter. My only wish was that I had selected his name for evaluation of the original questionnaire.

In addition, 2.8% of the questionnaires were returned by the post office as "undeliverable" (coded "C"), and 3.4% were returned but were unusable, primarily because they were either only sketchily completed or they were completed by a law clerk or some person other than the judge (coded "D"). The largest non-response category (37.9% of the sample) were judges from whom nothing was received, even after four attempts.

Table B illustrates a state-by-state comparison of the number of judges listed in the NCJCJ Directory, the numbers sampled, the numbers of usable responses, and the response rates (percent of number of usable responses to number sampled). Thirteen states had response rates of 50% or better, but in 9 of these states (Alaska, Arizona, Connecticut, Delaware, District of Columbia, Hawaii, Maine, Montana, and Vermont), less than 6 judges were sampled. The remaining four 50%+ response rates for states (Alabama, Illinois, Kansas, and Nebraska)

TABLE B
RESPONSE RATE BY STATE

State	Number of Judges in Directory	Number of Judges Sampled	Number of Usable Resp- onses	Response Rate
Alabama	69	14	8	57.1%
Alaska	16	3	2	66.7%
Arizona	19	4	2	50.0%
Arkansas	78	15	7	46.7%
California	70	23	9	39.1%
Colorado	32	7	3	42.9%
Connecticut	6	2	1	50.0%
Delaware	10	2	2	100.0%
District of Columbia	3	1	1	100.0%
Florida	58	15	5	33.3%
Georgia	82	16	4	25.0%
Hawaii	6	2	1	50.0%
Idaho	44	8	2	25.0%
Illinois	51	17	9	52.9%
Indiana	103	20	7	35.0%
Iowa	92	19	9	47.4%
Kansas	108	18	12	66.7%
Kentucky	125	21	5	23.8%
Louisiana	117	19	7	36.8%
Maine	19	3	2	66.7%
Maryland	62	13	3	23.1%
Massachusetts	167	28	9	32.1%
Michigan	100	20	9	45.0%
Minnesota	96	19	9	47.4%
Mississippi	47	10	4	40.0%
Missouri	103	20	7	35.0%
Montana	23	5	4	80.0%
Nebraska	114	14	7	50.0%
Nevada	25	5	1	20.0%
New Hampshire	105	13	5	38.5%
New Jersey	61	15	6	40.0%
New Mexico	26	5	0	0.0%
New York	125	25	8	32.0%
North Carolina	108	22	10	45.5%
North Dakota	19	4	1	25.0%
Ohio	101	20	9	45.0%
Oklahoma	72	14	5	35.7%
Oregon	55	11	5	45.5%
Pennsylvania	200	29	5	17.2%

(CONTINUED)

TABLE B (Continued)
RESPONSE RATE BY STATE

State	Number of Judges in Directory	Number of Judges Sampled	Number of Usable Resp- onses	Response Rate
Rhode Island	7	2	0	0.0%
South Carolina	46	9	3	33.3%
South Dakota	19	4	0	0.0%
Tennessee	109	21	10	47.6%
Texas	273	35	5	14.3%
Utah	8	2	0	0.0%
Vermont	10	2	1	50.0%
Virginia	87	17	6	35.3%
Washington	45	9	3	33.3%
West Virginia	34	7	3	42.9%
Wisconsin	72	14	5	35.7%
Wyoming	12	3	1	33.3%
TOTAL	3439	646	242	37.5%

were based on 14 or more judges sampled. At the other end of the spectrum, all judges (13) sampled in 4 states (New Mexico, Rhode Island, South Dakota, and Utah) chose not to participate in this survey.

The sample distributions for the 4- and 9-category versions of geographic location appear in Tables C and D. Columns #1 - #4, respectively, present the distributions of the population, the percentage of the judges listed in the NCJCJ Directory, the percentage of judges sampled, and the percentage of judges responding within each category of geographic region. Column #5 is the response rate, i.e., the number of responding judges as a percentage of those sampled ($\#4/\#3$) for each region. The purpose of these figures is to ascertain the sources of underrepresentation and overrepresentation in the Directory, the sampling procedure, and the returns.

Looking at Table C, there are relatively minor differences (plus or minus 5%-7%) between the percentages in columns #1 and #4, indicating that the respondents' percentages between the four regions are satisfactorily representative of the populations of those regions. The largest percentage difference within any region is 8.2% (South, columns #1 and #2), and even this slight overrepresentation in the Directory is compensated for in the sample and the respondents (down to a difference of 4.5%, columns #1 vs. #2 and #3). The highest response rate was in the North Central states (44.7%),

TABLE C
RESPONSE RATE BY GEOGRAPHIC REGION

Region	(1) % of Popul- ation	(2) % of Judges in NCJCJ Directory	(3) % of Judges Sampled	(4) % of Usable Responses	(5) Response Rate
Northeast	23.3%	20.4%	18.4%	15.3%	31.1%
North Central	27.1%	28.4%	29.3%	34.7%	44.7%
South	31.9%	40.1%	38.9%	36.4%	35.1%
West	17.7%	11.1%	13.5%	13.6%	37.9%
	100.0% (212,300,000)	100.0% (3439)	100.1%(a) (646)	100.0% (242)	

(a) Percentages different from 100.0% due to rounding.

TABLE D
RESPONSE RATE BY GEOGRAPHIC SUB-REGION

Region	(1) % of Popul- ation	(2) % of Judges in NCJCJ Directory	(3) % of Judges Sampled	(4) % of Usable Responses	(5) Response Rate
<u>NORTHEAST:</u>					
New England	5.7%	9.1%	7.7%	7.4%	36.0%
Middle Atlantic	17.6%	11.2%	10.7%	7.9%	27.5%
<u>NORTH CENTRAL:</u>					
East North Central	19.3%	12.4%	14.1%	16.1%	43.3%
West North Central	7.8%	16.0%	15.2%	18.6%	45.9%
<u>SOUTH:</u>					
South Atlantic	15.8%	14.2%	15.8%	15.3%	36.3%
East South Central	6.3%	10.2%	10.2%	11.2%	40.9%
West South Central	9.8%	15.7%	12.8%	9.9%	28.9%
<u>WEST:</u>					
Mountain	4.5%	5.5%	6.0%	5.4%	33.3%
Pacific	13.2%	5.6%	7.4%	8.3%	41.7%
	100.0% (212,300,000)	99.9%(a) (3439)	99.9%(a) (646)	100.1%(a) (242)	

(a) Percentages different from 100.0% due to rounding.

followed by the West, South, and Northeast.

In Table D, where the larger regions are broken down into sub-regions, we can see near or greater than 10% differences between columns #1 and #4 in the Middle Atlantic and West North Central states. This indicates that these areas are underrepresented and overrepresented, respectively. For use as a test factor, however, only the four major regions will be considered. This will insure some fair sample size within the regions.

The sample distributions for the seven divisions of urbanization (RMA's) appear in Table E. This table points out a definite bias to the survey. Despite precautions taken with the sampling method, over half of the sample is rural, and this figure approaches 60% when looking at the actual respondents. In addition, response rates increase as RMA gets smaller.

Table F compares my sample to that in Smith's "profile". Although these measures of urbanization are not directly comparable (Smith uses actual jurisdictional population), a rough comparison is still possible. It can be seen that, although his rural bias is not as great (46.5%), it is still quite prevalent.

Table G compares a dichotomized version of the RMA distribution in this sample to the SMSA/Non-SMSA dichotomy of the Census Bureau population figures (July 1, 1974 estimate). The percentages in each category differ by more than 30%.

TABLE E
RESPONSE RATE BY URBANIZATION

Urbanization (RMA)	% of Judges Sampled	% of Usable Responses	Response Rate
5,000,000 or More	6.8%	5.0%	27.3%
1,000,000 - 4,999,999	12.8%	9.5%	27.7%
500,000 - 999,999	5.3%	5.4%	38.2%
100,000 - 499,999	14.1%	14.9%	39.6%
50,000 - 99,999	5.4%	5.0%	34.3%
49,999 or Less	1.9%	2.1%	41.7%
Non-RMA (Rural)	53.7%	58.3%	40.6%
	100.0% (646)	100.2% ^(a) (242)	

(a) Percentages different from 100.0% due to rounding.

TABLE F
RESPONSE RATE BY URBANIZATION -- COMPARISON TO SMITH

<u>Classification</u>	<u>% of Usable Responses</u>
<u>LEWIS:</u>	
RMA -- 1,000,000 or More	14.5%
RMA -- 500,000 - 999,999	5.4%
RMA -- 100,000 - 499,999	14.9%
RMA -- 50,000 - 99,999	5.0%
RMA -- 49,999 or Less <u>or</u> Non-RMA	60.4%
	<hr/> 100.2% ^(a) (242)
<u>SMITH:</u>	
More than 1,000,000	6.3%
500,001 - 1,000,000	5.6%
100,001 - 500,000	22.8%
50,001 - 100,000	18.9%
50,000 or Less	46.5%
	<hr/> 100.1% ^(a)

(a) Percentages different from 100.0% due to rounding.

TABLE G
 RESPONSE RATE BY URBANIZATION -- COMPARISON TO SMSA'S

Classif- ication	LEWIS		Classif- ication	CENSUS BUREAU	
	% of Judges Sampled	% of Usable Responses		% of Popul- ation	
RMA	46.3%	41.7%	SMSA	72.9%	
Non-RMA	53.7%	58.3%	Non-SMSA	27.1%	
	100.0% (646)	100.0% (242)		100.0% (212,300,000)	

From these data, it can be concluded that no matter how well my data corresponds to Smith's, both are subject to overemphasis on rural jurisdictions, and that this must be considered when drawing conclusions about consequential policy from research results obtained here. Most surveys probably concern urban judges, who are then overburdened with questionnaires. Rural judges may not be asked their opinions as often, and thus may be more willing to respond.

The distribution of respondents by personal demographics (sex, race, and age), along with Smith's distribution from his "profile", appear in Table H.

Concerning sex and race, the obvious conclusion is that the respondent population is virtually all white males. Except that this concurs with Smith's profile as far as sex goes, there is no summary data to indicate how well this represents the total population of juvenile court judges, though I suspect it is probably fair. The age group distribution of this survey appears to be, on the average, slightly older than Smith's respondents, but the difference in the dates of the two surveys could account for this, and we still could be measuring roughly the same population.

As a test factor, though, only age groups require continued consideration, since sample sizes among Blacks and women would seemingly be too low to draw any conclusions upon.

Results concerning full- vs. part-time judgeships and time spent on juvenile matters are tabulated for the responding

TABLE H
RESPONSE RATE BY PERSONAL DEMOGRAPHICS

Test Factors	LEWIS % of Usable Responses	SMITH (a) % of Usable Responses
<u>SEX:</u>		
Male	95.8%	96.2%
Female	4.2%	3.8%
	<hr/>	<hr/>
	100.0% (240)	100.0% (1223)
<u>RACE:</u>		
White	97.5%	Not Measured
Black	1.7%	
Asian	0.4%	
Other	0.4%	
	<hr/>	
	100.0% (240)	
<u>AGE GROUP:</u>		
Less than 36	5.4%	7.1%
36 - 40	7.5%	7.8%
41 - 45	8.3%	11.0%
46 - 50	12.9%	18.6%
51 - 55	22.9%	16.2%
56 - 60	16.7%	15.2%
61 - 65	14.2%	14.0%
66 - 70	7.9%	7.5%
70 or More	4.2%	2.6%
	<hr/>	<hr/>
	100.0% (240)	100.0% (1208)

(a) Percentages for the "Age Group" factor were recalculated for comparability with my own. Smith originally used those not responding to the age item (15 persons) as another category, while they were not included in my own percentages.

judges in Tables I and J. Although most juvenile court judges are full-time judges (the figure being comparable to that measured by Smith), 60% or more of all juvenile court judges, full- or part-time, spend one-fourth or less of their judicial time on juvenile matters. These variables are cross-tabulated in Table K, which shows that this latter percentage holds regardless of whether one is a full- or part-time judge (63.6% vs. 59.4%).

Tables L and M show the distribution among the respondents for selection method and the year juvenile jurisdiction began. Over three-fourths of the juvenile court judges in the sample are elected, and almost two-thirds of those faced opposition in their most recent campaign. Three-fourths of the judges were handling juvenile matters prior to the Winship ruling of the Supreme Court, almost half before Gault, and one-third prior to Kent.

The number of states within each category of the three NAJC variables used here (jury trial policy, status of the juvenile court within the state, and attorney-requirements for juvenile court judges) and the resulting distribution of the respondents is illustrated in Table N. It can be seen that there is generally a rough correspondence between the percentage of respondents in a category and the percentage of states in that category (based on 51 states, i.e., including the District of Columbia). However, this does not insure such correspondence with the percentage of the total population

TABLE I
RESPONSE RATE BY FULL- VS. PART-TIME JUDGESHIP

Full- vs. Part-Time Judgeship	LEWIS % of Usable Responses	SMITH % of Usable Responses
Full-Time Judge	86.1%	89.9%
Part-Time Judge	13.9%	10.1%
	100.0% (238)	100.0% (1223)

TABLE J
RESPONSE RATE BY TIME SPENT ON JUVENILE MATTERS

Time Spent on Juvenile Matters	% of Usable Responses
Less than 25%	31.2%
25%	31.6%
50%	18.4%
75%	8.1%
100%	10.7%
	100.0% (234)

TABLE K
RESPONSE RATES FOR TIME SPENT ON JUVENILE MATTERS
BY FULL- VS. PART-TIME JUDGESHIPS

Time Spent on Juvenile Matters	<u>Full- vs. Part-Time Judgeship:</u>		
	Full-Time	Part-Time	
Less Than 25%	31.8%	28.1%	(73)
25%	31.8%	31.3%	(74)
50%	16.4%	28.1%	(42)
75%	8.5%	6.3%	(19)
100%	11.4%	6.3%	(25)
	<hr/> 99.9%(a) (201)	<hr/> 100.1%(a) (32)	(233)

(a) Percentages different from 100.0% due to rounding.

TABLE L
RESPONSE RATE BY SELECTION METHOD

Selection Method	% of Usable Responses
1) ELECTED TO THE BENCH?	
Yes	75.9%
No	24.1%
	<hr/> 100.0% (241)
2) IF "YES", RUN UNOPPOSED?	
Yes	35.4%
No	64.6%
	<hr/> 100.0% (178)(a)

(a) Five judges who answered "yes" to the first item did not answer the second.

TABLE M
RESPONSE RATE BY YEAR JUVENILE JURISDICTION BEGAN

Year Juvenile Jurisdiction Began	% of Usable Responses	Cumulative % of Usable Responses
1964 (<u>Kent</u>) or Earlier	33.1%	33.1%
1965	8.8%	41.8%
1966	2.1%	43.9%
1967 (<u>Gault</u>)	5.4%	49.4%
1968	7.5%	56.9%
1969	5.9%	62.8%
1970	6.3%	69.0%
1971 (<u>Winship</u>)	7.1%	76.2%
1972	6.3%	82.4%
1973	6.7%	89.1%
1974	5.9%	95.0%
1975	5.0%	100.0%
	100.1%(a) (239)	

(a) Percentages different from 100.0% due to rounding.

TABLE N
N.A.J.C. TEST FACTOR ITEMS

N.A.J.C. Test Factor Item	Number of States (%)	% of Usable Responses
1) JURY TRIAL POLICY		
State Statutory Right in Juvenile Court	10 (19.6%)	18.2%
At Discretion of Juvenile Court Judge	1 (2.0%)	0.8%
Statutory Right to be Tried as an Adult	3 (5.9%)	8.3%
No Right to Jury Trial in Juvenile Court or to Adult Trial	37 (72.5%)	72.7%
	<hr/> 51(100.0%)	<hr/> 100.0% (242)
2) STATUS OF JUVENILE COURT		
Equal to State's Highest Trial Court	30 (58.8%)	52.1%
Below State's Highest Trial Court	15 (29.4%)	35.9%
Intrastate Variation	5 (9.8%)	11.2%
No Provision in Code Relating to Appeals Structure	1 (2.0%)	0.8%
	<hr/> 51(100.0%)	<hr/> 100.0% (242)

(CONTINUED)

TABLE N (Continued)
N.A.J.C. TEST FACTOR ITEMS

N.A.J.C. Test Factor Item	Number of States (%)	% of Usable Responses
3) JUVENILE COURT JUDGE REQUIREMENTS		
Must Be an Attorney	41 (80.4%)	70.7%
Must Be Either an Attorney or Have Previous Judicial Experience	5 (9.8%)	15.7%
No Objective Minimal Qualifications for Juvenile Court Judges	5 (9.8%)	13.6%
	51 (100.0%)	100.0% (242)

represented by those states.

The final variable used here is the extent of dispositional alternatives available (or perceived as available) to the respondents. Three items were asked concerning not only the number and types of dispositional alternatives present within the court's purview, but the judge's perception of the number and types of those alternatives which, although present, are very often unusable. The third item was a "net availability" of alternatives, obtained by subtracting the alternatives unusable from those present.

Column #1 of Table 0 gives the percentage of the respondents who cited each dispositional alternative listed on the questionnaire as "present" in their jurisdiction. This was a question of their knowledge of the physical presence of these alternatives. Column #2 list the "net availability" of each of these types of alternatives, i.e., subtracting out from the figures in column #1 those cited as "often unusable".

Two alternatives, adult penal institutions and forestry and other camps, owe their generally low net availability percentages to their actual scarcity as an alternative. In the first case, many states have outlawed the placing of juveniles in adult prisons. The second scarcity--camps--is probably because of either a lack of faith in their usefulness as a rehabilitative tool or a lack of initiative on the part of cognizant officials in setting them up.

Two other alternatives, however, show another charac-

TABLE O

DISPOSITIONAL ALTERNATIVE AVAILABILITY -- BY TYPE

Type of(a) Dispositional Alternative	(1) Indicated as "Available"	(2) Net Availability
Adult Penal Institution	31.6%	30.3%
Juvenile Correctional Institution	94.0%	84.6%
Juvenile Probation	97.4%	94.4%
"Unofficial Probation"	85.9%	84.6%
Foster Homes	94.0%	62.4%
Restitution Programs and/or Fines	80.3%	76.9%
Group Homes	70.9%	47.0%
Forestry and Other Camps	43.2%	36.3%
Juvenile Psychiatric and/or Other Medical Facilities	88.5%	72.2%

(a) N = 234 for all types.

teristic of dispositional alternatives. Despite the fact that foster homes and group homes are present in most jurisdictions measured in this survey (94.0% and 70.9%, respectively), their net availability drops considerably from this percentage (62.4% and 47.0%, respectively), indicating that there are not enough willing foster parents or group conselors with access to a domicile.

Another way of measuring dispositional alternatives is the number of different types available to the respondents, which was actually done here and used as the test factor. Table P, column #1, illustrates the cumulative percentage of the number of different alternatives checked off by the respondents. As can be seen, over half of the respondents claim the presence of eight or more different alternatives within their purview.

However, when the number of alternatives listed as "often unusable" is subtracted from these to obtain a net availability (column #2), this percentage drops to slightly over one-fourth. Examining the table as a whole, and realizing that most of the alternatives are present, the drops recorded in Table P can ostensibly be attributed for the most part to the lack in quantity of foster homes and group home facilities in many of the jurisdictions listed in Table O.

It appears true, as Levin and Sarri of the NAJC Project have indicated, that a variety of placement alternatives exist for the judges in the sample, but that a sufficient

TABLE P
DISPOSITIONAL ALTERNATIVE AVAILABILITY -- BY NUMBER(a)

Number of Dispositional Alternatives	(1) Indicated as "Available"	(2) Net Availability
NINE or More	26.0%	13.6%
EIGHT	50.4%	26.9%
SEVEN	71.9%	48.8%
SIX	90.9%	70.2%
FIVE	95.0%	85.5%
FOUR	96.7%	93.8%
THREE	97.1%	95.5%
TWO	98.3%	97.9%
ONE	98.8%	98.3%
ZERO	100.0% (242)	100.0% (242)

(a) All percentages are cumulative.

quantity of some of these does not. There are problems when actual placement is attempted, particularly with the popular foster and group home treatment environments. There simply are not enough to go around. Juvenile court judges do have some options available to them, which satisfies the third criterion for the operation of individual selectivity in dispositional placements. However, the extent of those options as proffered by the NAJC study is open to some question.

I believe, however, that the "net availability" variable used here takes this into account, and as such, is a relatively fair representation of dispositional alternatives available to judges, at least operationally.

A P P E N D I X B

CODEBOOK

DESCRIPTION OF DATA SET

TOTAL OBSERVATIONS: 242
TOTAL VARIABLES: 247, + 18 (or 27) ID variables
DATA RECORDS PER OBSERVATION: 9

The data set is written as "list-directed" (unformatted) data, to be read by FORTRAN source programs from input file "a" with the following DIMENSION and INPUT statements:

DIMENSION I(247),A(6),ID(18)

Note: Array "A" is for real variables #149-#154. All other variables are integer mode (no decimal points) and are read into array "I". (Therefore, I(149)-I(154) are always zero.) Array "ID" is for identifiers, which are seldom used in any computations, but must be stored if the data set is to be modified, rewritten, or output on punch cards.

```
READ(a,*)ID(1),ID(2),(I(JA),JA=1,36),ID(3),ID(4),(I(JB),JB=37,
72),ID(5),ID(6),(I(JC),JC=73,106),ID(7),ID(8),(I(JD),JD=107,
142),ID(9),ID(10),(I(JE),JE=143,148),(A(JF),JF=1,6),(I(JG),
JG=155,159),ID(11),ID(12),(I(JH),JH=160,185),ID(13),ID(14),
(I(JI),JI=186,218),ID(15),ID(16),(I(JJ),JJ=219,245),ID(17),
ID(18),(I(JK),JK=246,247)
```

An alternative read-in statement would make arrays "I", "A", and "ID" two-dimensional, the second dimension being of magnitude 242 (i.e., the number of observations).

Additionally, the printed city and state in which the court is located is written after an end-of-record mark (/) for each observation. To obtain this, the array "ID" must be redimensioned "ID(27)" and a separate formatted READ statement must follow the input of Variable "I(245)". This would be as follows:

```
READ(a,*)ID(1),ID(2),(I(JA),JA=1,36),....etc.
      .      .      .      .      .      .
      .      .      .      .      .      .
....ID(15),ID(16),(I(JJ),JJ=219,245)
READ(a,b)ID(17),ID(18),(I(JK),JK=246,247),(ID(JL),JL=19,27)
b FORMAT(I5,I2,I6,I3,3X,4A4,1X,5A4)
```

Variables "ID(19)" to "ID(22)" is the city name and "ID(23)" to "ID(27)" is the name of the state.

ABBREVIATIONS USED

- 1) ID An identifier--either a respondent number or a record number (read into array "ID")
- 2) NAJC Data obtained from the National Assessment of of Juvenile Corrections project. Reference is Mark M. Levin and Rosemary C. Sarri, Juvenile Delinquency: A Comparative Analysis of Legal Codes in the United States (Ann Arbor, MI; National Assessment of Juvenile Corrections; 1974).
- 3) RMA Ranally Metro Area--a classification system of urban-suburban areas. Reference is 1975 Commercial Atlas and Marketing Guide (106th Edition) (Chicago, IL; Rand McNally; 1975; pp. 51ff).
- 4) SMSA Standard Metropolitan Statistical Area--a U. S. Census Bureau classification of urban-suburban areas.
- 5) UCR Data obtained from Uniform Crime Reports--1974 (Washington, DC; Federal Bureau of Investigation; 1975).
- 6) TWO LETTER POSTAL ABBREVIATIONS are used throughout and are listed in Variable #2.

VARIABLES LIST

Note: Variable numbers refer to subscripts in array "I", unless otherwise noted.

<u>Var</u> <u>No.</u>	<u>Item</u>	<u>Record 1</u>
ID	Respondent Code Number	
ID	Record Number	
1	Phase Received	
	1. I -- May 30 - June 13, 1975	
	2. II -- June 16 - July 3, 1975	
	3. III -- July 7 - July 25, 1975	
	4. IV -- July 28 - August 29, 1975	
2	State Code	
	1. Alabama (AL)	27. Montana (MT)
	2. Alaska (AK)	28. Nebraska (NE)
	3. Arizona (AZ)	29. Nevada (NV)
	4. Arkansas (AR)	30. New Hampshire (NH)
	5. California (CA)	31. New Jersey (NJ)
	6. Colorado (CO)	32. New Mexico (NM)
	7. Connecticut (CT)	33. New York (NY)
	8. Delaware (DE)	34. North Carolina (NC)
	9. District of Columbia (DC)	35. North Dakota (ND)
	10. Florida (FL)	36. Ohio (OH)
	11. Georgia (GA)	37. Oklahoma (OK)
	12. Hawaii (HI)	38. Oregon (OR)
	13. Idaho (ID)	39. Pennsylvania (PA)
	14. Illinois (IL)	40. Rhode Island (RI)
	15. Indiana (IN)	41. South Carolina (SC)
	16. Iowa (IA)	42. South Dakota (SD)
	17. Kansas (KS)	43. Tennessee (TN)
	18. Kentucky (KY)	44. Texas (TX)
	19. Louisiana (LA)	45. Utah (UT)
	20. Maine (ME)	46. Vermont (VT)
	21. Maryland (MD)	47. Virginia (VA)
	22. Massachusetts (MA)	48. Washington (WA)
	23. Michigan (MI)	49. West Virginia (WV)
	24. Minnesota (MN)	50. Wisconsin (WI)
	25. Mississippi (MS)	51. Wyoming (WY)
	26. Missouri (MO)	

Variables #3 - #6 are scored as follows:

0. No Response/Not Codable
1. Favor NOT FILING petition; handling UNOFFICIALLY
2. Favor FILING petition; if adjudicated, CERTAINLY NOT FAVOR institutionalization
3. Favor FILING petition; if adjudicated, PROBABLY NOT FAVOR institutionalization
4. Favor FILING petition; if adjudicated, PROBABLY FAVOR institutionalization
5. Favor FILING petition; if adjudicated, CERTAINLY FAVOR institutionalization
6. Favor TRANSFER OF JURISDICTION to adult court

Var
No.

Item

- 3 Case #1. ROBERT L., male, white, age 14, was caught setting fire to an empty warehouse, and was arrested for felonious attempted arson. Upon questioning, Robert claimed that the owner of the property had kicked him and a few of his friends out of the warehouse a few days earlier, where they had been "horsing around", and that this made him angry. However, Robert looked visibly shaken by the arrest, made no attempt to argue with police, and eventually broke down and cried, saying, "I'm sorry! God, I'm sorry!" None of the said friends were involved in the fire-setting incident. Robert's parents were altogether a different matter. They arrived at the station with their lawyer and demanded Robert's immediate release. His father told officers that he was "an important man in this town" and that if Robert wasn't released, he would have "a lot of cops out pounding beats in the 'Valley'" (a high-crime slum area). During this outburst, Robert implored his parents to stop, adding, "It was my own fault! It was wrong!" A Central Records check shows that this is Robert's first contact with the police. Police recommend filing a formal petition.

According to the social service investigator, Robert's father is a wealthy local bank president and his mother, a former debutante, is very active in local affairs. They and their 3 children (including Robert) live in a large, expensive home in a well-to-do neighborhood. Robert seemed genuinely sorry for his act, but his parents were just as abrasive toward the investigator as they were at the police station. A check with Robert's school counselor reveals that he has average intelligence, but puts out little or no effort and gets poor grades. Social service investigator recommends filing a formal petition.

- 4 Case #2. BARBARA D., female, white, age 17, was arrested after she beat up an elementary school pupil, and was

Var
No.

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brought in for a misdemeanor--simple assault. Upon questioning, Barbara stated that she did it because the younger child, a 6th grade boy, had threatened her younger sister (a 5th grader). As questioning proceeded, Barbara seemed to grow more and more regretful for her actions and ashamed of herself for "fighting with little kids". When it was pointed out that a police record could damage her future, she started to cry. Her mother, however, was just the opposite. She sat with a sullen look on her face throughout the questioning, was uncooperative when asked to help with Barbara, and seemed indifferent to the fact that her daughter was in trouble. A check of Central Records showed that this is Barbara's first contact with police. Police recommend handling unofficially without filing a petition.

According to the social service investigator, Barbara's father is missing from the home and paying no support, and her mother is not working. Barbara, her mother, and her 7 sisters and brothers live on public welfare. Their house appears old, dirty, and dilapidated, as do most of the houses in their neighborhood. Barbara seemed genuinely remorseful for her actions, stating, "I know I shouldn't have done it," "It was wrong," and "A dumb thing like I pulled could really mess up my life," whereas her mother was very defensive, questioning both the integrity of the police and the investigator's right to "interfere in our private lives." A check with Barbara's school authorities reveals that she is of above average intelligence, studies hard, and gets good grades. Social service investigator recommends handling unofficially without filing a formal petition.

- 5 Case #3. PAUL S., male, white, age 14, was arrested for truancy when he was found wandering around downtown at 10:30 a.m., and could not explain why he was not in school. Upon questioning, Paul seemed worried about the effect this arrest would have on his life, since he has been arrested before. He stated that it was a "dumb move", provoked by another student whom he said he was afraid would beat him up if he showed up in school today. His parents were cooperative with arresting officers, and assured them they would do their best to keep Paul out of trouble. A check with Central Records shows that Paul has had repeated contacts with law enforcement authorities for a variety of juvenile and a few misdemeanor offenses, although he has never been incarcerated in a juvenile correctional institution. Police recommend handling unofficially without filing a delinquency petition.

According to the social service investigator, Paul's father is a moderately successful insurance agent and his

Var
No.

Item

mother is a housewife. Paul, his parents, and his brother live in a well-kept, comfortable home in a middle-class neighborhood. Both Paul and his parents seemed very concerned about the effect of this arrest on Paul's chances of "making it in school and everywhere else." Paul appeared to be on the verge of tears throughout the interview. His parents claim that they have spent more time lately with Paul and asked about the possibility of professional help to assist them in helping him "get over this hump in his life." A check with Paul's school counselor shows that he has above average intelligence, studies hard, and does well gradewise. Social service investigator recommends filing a formal petition.

- 6 Case #4. JOSEPH M., male, black, age 17, was arrested while in the act of repeatedly striking a grocery store owner with a heavy glass jar, and brought in for aggravated assault. Joseph claimed that the store owner tried to overcharge him for some candy and soda pop. At the police station, every attempt to question Joseph resulted in his launching a verbal tirade at the interrogation officer. He was extremely defiant, and always referred to the police as "pigs". His older sister (with whom he lives) had to be coaxed on the phone for almost an hour before she would even come to the station. When she finally did arrive, she did not seem to care what happened to Joseph, because if he was sent away, it "was one less mouth to feed". A Central Records check shows that Joseph has had repeated contacts with law enforcement authorities for many juvenile and a few misdemeanor offenses, and recently spent several months at a state juvenile correctional facility. Police recommend filing a formal petition.

According to the social service investigator, Joseph's parents are separated and their current whereabouts unknown. Joseph and 5 other siblings live with a divorced older sister and her 2 children, all of whom are supported entirely by public welfare. The house they live in is dilapidated and dirty, in an old, run-down area of town. An attempt to interview Joseph at his sister's house proved fruitless. He responded with similar verbal abuse toward the investigator as he did toward the police. An interview with his older sister was almost as worthless. It was carried on while standing at the door of their house and lasted for a total of 5 minutes, at which time she closed the door on the investigator in mid-sentence, saying that he was "too damn nosy". A check with Joseph's school principal shows that he is of below average intelligence, puts out little or no effort, and gets poor and failing

Var No.	Item
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grades. Social service investigator recommends filing a formal delinquency petition.

Variables #7 - #24 are scored as follows:

0. No Response/Not Codable
1. SD -- Strongly Disagree
2. D -- Generally Disagree
3. N -- Undecided/Neutral
4. A -- Generally Agree
5. SA -- Strongly Agree

Var No.	Item
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- 7 Laws are, by necessity, fixed entities based on the principles of logic.
- 8 The moral values of society are best taught to a youthful offender by a combination of education, guidance, showing of concern by adults, and restraints on his or her activities.
- 9 Punishment for an act constitutes only a statement of public disapproval for that act; the fact that the actor is a juvenile should be irrelevant to legal disposition for the act.
- 10 The most important thing judges and legislators should strive for are definitions in law which reflect their historical origins, meaning, and development.
- 11 In using judicial precedent as a criterion of decision-making in specific cases, a judge should pay particular attention to constructing an orderly progression of cases based on the elements of logic.
- 12 Juveniles are immature and therefore incapable of making effective decisions regarding their own welfare and future.
- 13 Few laws are so well established that they may not be called upon any day to justify their existence as "tools" to be adapted to the fulfillment of changing social needs.
- 14 The moral values of society are best taught to youthful offenders by their seeing respect for their Constitutional rights being practiced in the juvenile justice system.

<u>Var No.</u>	<u>Item</u>
15	The most important thing that the judges and legislators should strive for is a legal order that is in harmony with the standards of conduct and morality of the community in which they practice.
16	In using judicial precedent as a criterion of decision-making in specific cases, a judge should pay particular attention to what precedent-setting decisions in the past <u>would have been</u> had they faced contemporary social conditions.
17	Laws are, by necessity, the formalized standards of conduct of the community that must obey them.
18	The most important thing that judges and legislators should strive for is a tight and orderly body of rules based on logic.
19	In using judicial precedent as a criterion of decision-making in specific cases, a judge should pay particular attention to the historical events surrounding the origins and development of the precedent and construct his opinions and decisions in concurrence with its historical meanings and intentions.
20	The moral values of society are <u>best</u> taught to youthful offenders through firm punishment for their wrongdoing.
21	A juvenile has the right to the same protections under the Constitution as an adult.
22	The most important thing that judges and legislators should strive for is a legal order which adapts to changing social needs, yet maintains general social values, such as "liberty" and "equality".
23	In using judicial precedent as a criterion of decision-making in specific cases, a judge should pay particular attention to the traditional and contemporary customs and standards of conduct of the community being served, constructing his opinions and decisions in concurrence with them.
24	Laws are, by necessity, evolutionary growths which historical events have fostered and shaped.

Variables #25 - #28 are scored the same as Variables #3 - #6 (see pg. B-4).

Var
No.

Item

- 25 Case #5. LINDA S., female, black, age 17, was stopped by police coming out of an all-night movie theater at 3 a.m., and when she showed officer identification revealing her age, she was arrested for curfew violation. Linda seemed very remorseful about it both for the consequences of the possible police record it might give her and because she had forsaken her parents' trust. Her parents were very cooperative with the police, stating that "this has never happened before" and that they intended to do everything possible to keep it from happening again. A check of Central Records shows that this is Linda's first contact with the police. Police recommend handling unofficially without filing a petition.
- According to the social service investigator, Linda's father is employed as a bookkeeper for a construction company, and her mother works 3 days a week as a cashier in a local restaurant. Linda, her parents, and her brother live in a middle-class tract home that is neat, clean, and comfortable. All three of them were very cooperative during the investigator's interview. The parents seemed truly concerned about Linda's night-time wandering and had imposed on her a 10 p.m. curfew of their own as a result. Linda stated that she had been sticking to her parent-imposed curfew and found that she felt better in the morning and that "nothing happens after 10 anyway." A check with Linda's school authorities shows her to be of average intelligence, diligent in her school work, and achieving good grades. Social service investigator recommends handling unofficially without filing a formal petition.
- 26 Case #6. JULIA M., female, white, age 14, was picked up by police when they caught her in the act of taking valuable radios and stereo equipment (approximate value--\$600) from an unlocked delivery van parked behind a retail store and belonging to a radio equipment wholesaler. She was arrested for grand larceny. Throughout interrogation, she seemed passive and unconcerned about her arrest, even when told that she had committed a felony and could end up at the Girls' Training School upstate. Occasionally, she could be heard muttering "Pigs!" under her breath. Her parents were very cooperative with police and constantly tried to get Julia to "open up" about her problems (with little success). A check with Central Records shows that Julia has had repeated contacts with law enforcement authorities for a variety of juvenile and a few misdemeanor offenses, although she has never spent any time in a state juvenile correctional institution. Police recommend filing a formal delinquency petition.

According to the social service investigator, Julia's

Var
No.

Item

father owns a filling station and her mother is a housewife, who occasionally helps out with bookkeeping at the station. Mr. and Mrs. M., Julia, and her sister live in a comfortable home in a quiet, middle-income residential neighborhood. Julia sat through the entire interview with a sullen glare aimed at the investigator, interjecting only snide comments such as, "What the hell do you care?", and "Crap!". Her parents reprimanded her each time she interjected such comments and threatened to ground her for 6 months if she didn't "show some respect for people." They seemed very concerned about Julia's welfare, claiming that it was hard to raise a teenage girl these days and realizing that they had been unsuccessful in doing so. They asked if our office could arrange some professional help for Julia, preferably someone with teenage children of their own. A check with Julia's school authorities shows that she is of below average intelligence, tries very little and gets poor grades. Social service investigator recommends handling unofficially without filing a formal petition.

- 27 Case #7. GEORGE R., male, black, age 14, was stopped by police while seen dumping a garbage can full of trash into a busy downtown thoroughfare, and was arrested for littering and creating a public nuisance (there was some broken glass among the trash). Upon questioning, George denied throwing the trash into the street, challenged the officers to prove it, demanded an attorney, then refused to answer any questions. George's parents, equally hostile, stated that their son "knew his rights" and that "there's no stinking cops in the world who could railroad our boy into admitting anything." A check with Central Records shows that George has been arrested twice before for curfew violation. Police recommend handling unofficially without filing a petition.

According to the social service investigator, both George's father and mother are unemployed and the family subsists on public welfare. The R.'s (George, his parents, and his 5 brothers and sisters) live in a house that can be described at best as old, smelly, dirty, and unkempt, matching perfectly the neighborhood in which it is located. Both George and his parents displayed a defiant demeanor toward the investigator. All through the interview they were belligerent, seemingly taking turns at throwing verbal abuse at him. Their attitude can be summed up by George's statement to the investigator as he left the house: a simple "Screw you!". A check with George's school officials reveals him to be of average intelligence, a good worker, and getting good grades. Social service investigator recommends filing a delinquency petition.

Var
No.

Item

- 28 Case #8. SALLY N., female, black, age 17, was picked up on a complaint from the parents of another girl saying that Sally had hit her several times with a pop bottle, causing several deep cuts which required many stitches. Sally was arrested for aggravated assault. The fight was apparently over which of them was "going steady" with a particular young man. At the police station, Sally cried uncontrollably for 15 minutes, sobbing "I'm sorry! Please! I'm sorry!" She seemed truly regretful for her act, scared to death about her being arrested (especially for a felony), and said she'd never "lose my temper like that" again. Sally's parents, however, were surprisingly unmoved by Sally's behavior, and were "insulted" that the police would arrest their daughter again (even after she admitted to them that she did it). A Central Records check shows that Sally has been arrested twice before for truancy. Police recommend filing a formal petition.
- According to the social service investigator, Sally's father is employed as a buyer for a local department store chain, and her mother is a housewife. Sally, her parents, and one other child live in a comfortable middle-class tract home. Sally talked freely during the investigator's interview. She seemed very remorseful for causing such a serious problem, ashamed of herself for hurting the other girl so badly, and even offered to get a part-time job to help the girl's family pay the medical expenses. "I'd been doing so well, staying out of trouble-- I don't want to blow it now," she said. Her parents, however, remained sullen and abrasive. They expressed their anger quite vociferously at this "intrusion into their private lives". A check with Sally's school counselor shows her to be a girl of below average intelligence, who puts out little or no effort, and who gets very poor grades. Social service investigator recommends handling unofficially without filing of a formal petition.

Variables #29 - #50 are scored the same as Variables #7 - #24
(see pg. B-7)

Var
No.

Item

- 29 Habitual law-violation reflects an absence of respect for law and basic moral principles from such things as inadequate religious training, poor home environment, and unsatisfactory role-models.

<u>Var No.</u>	<u>Item</u>
30	The key to delinquency prevention is in collective programs designed to engender <u>massive and complete</u> reform of all levels of American society, <u>particularly those</u> programs which involve none-to-minimal intervention of the juvenile justice system into the lives of youths.
31	The root causes of crime--poverty, urban deterioration, blocked educational and job opportunities--are aggravated by criminal justice agencies, who use their power to stigmatize and brutalize those who come under their jurisdiction, thus permitting them few options other than continued criminality.
32	Most research on juvenile delinquency amounts to making excuses for young criminals.
33	Crime is a product of a massive conspiracy by highly-organized radical forces seeking to overthrow the society through an unrelenting attack on fundamental moral values.
34	Juvenile delinquency is primarily a symptom of certain personality defects of individual youths.
35	The root causes of crime lie in socio-economic deprivation and the inequitable application of the criminal justice process, with many illegal behaviors actually reflecting physical or emotional disturbance.
36	The key to delinquency prevention is in parents who are not afraid to paddle their children when they misbehave.

Record 2

<u>Var No.</u>	<u>Item</u>
ID	Respondent Code Number
ID	Record Number
37	Those who engage in more common forms of theft and other "street crimes" are forced into such behavior by the denial of opportunity and justice resulting from a grossly inequitable distribution of wealth, power, and privilege.
38	The major focus of research on juvenile delinquency should be the distribution of delinquency among different communities and various levels of the socio-economic class structure.
39	The root causes of crime are a massive erosion of the fundamental moral values, which traditionally deterred criminality, and the concomitant rise of "countercultures"

<u>Var No.</u>	<u>Item</u>
	among certain crime-prone groups which provide support for law violation.
40	"Juvenile delinquency" is primarily the result of a few "bad apples" who enjoy making life miserable for others.
41	The prevalent permissive tendency to blame "the system" for crime aggravates criminality by providing the criminal with a rationalization for his lack of responsibility and self-discipline and his poorly-developed moral conscience.
42	The key to delinquency prevention is in increased funding of existing community-oriented programs which are aimed at such things as unemployment and poverty.
43	The major focus of research on juvenile delinquency should be on the interaction between the processes of the juvenile justice system and the youths who come in contact with them.
44	Although crimes committed out of financial need or frustration with life conditions are understandable, those who <u>continue</u> to commit crimes <u>without</u> such justifications are <u>very often</u> sick people who <u>need</u> help, and at least to that extent they should be held accountable.
45	Juvenile delinquency is primarily a symptom of pathological social and economic conditions within society to which certain youths have been exposed and to which they are reacting.
46	The key to delinquency prevention is the early identification and intensive treatment of potential delinquents.
47	Behavior designated as "crime" is an inevitable by-product of a fundamentally corrupt and unjust society; true crime is the behavior of the ruling classes who perpetuate, control, and profit from an exploitative and brutalizing system.
48	The major focus of research on juvenile delinquency should be the biological, psychological, and social-psychological histories of individual delinquents.
49	Most serious crime is committed by members of certain ethnic and social class groups who are self-indulgent, defective in self-control, limited in their time-horizons, and have undeveloped moral consciences, and it is encouraged by the reluctance of authorities to apply the decisive punishment which could curb such crime.

Var	
<u>No.</u>	<u>Item</u>

50 "Juvenile delinquency" primarily reflects differential and discriminatory processing decisions made by agents of the juvenile justice system.

Variables #51 - #54 are scored the same as Variables #3 - #6
(see pg. B-4)

Var	
<u>No.</u>	<u>Item</u>

51 Case #9. LISA C., female, white, age 14, was picked up by police coming out of a grocery store downtown at 10 a.m., and since she could not explain why she was not in school, she was arrested for truancy. Upon questioning, Lisa started to cry, claiming that she only cut school as a "lark", and that this was the first and last time she would ever do it because it would shame her parents. Her parents were very surprised when told about Lisa's arrest and they came to the station immediately. They said that they couldn't understand what made her skip school, "she loves school so much." They also said that this was the "first time anything like this has happened." They were very cooperative. A Central Records check shows that this is Lisa's first contact with police. Police recommend handling unofficially without filing a formal petition.

According to the social service investigator, Lisa's father is a prominent local physician, and her mother is a housewife who is very active in civic and charity affairs. Lisa, her parents, and her brother live in a large house in an exclusive neighborhood. Lisa seemed to regret being truant, saying that it would never happen again, and holding back tears all the while. Her parents, who were very cooperative, had "grounded" Lisa for 2 weeks, and said that she cried and apologized most of the evening following her arrest. A check with Lisa's school authorities reveals her to be of above average intelligence, very studious, and achieving good grades. Social service investigator recommends handling unofficially without filing a formal petition.

52 Case #10. FREDERICK B., male, black, age 17, was stopped by police walking along a downtown street at 2:30 a.m., and was arrested for curfew violation. At the police station, Frederick stated that they "had no right" to arrest him, that he hadn't done anything wrong ("It's the law that's wrong!", he said), and was generally belligerent toward arresting officers. His parents, equally hostile, demanded to see the watch commander about "police harassment" of

Var
No.

Item

their son. When asked why Frederick was allowed out so late in violation of curfew laws, their reply was, "He's a 'night-person'." A check with Central Records shows that Frederick has been arrested twice before for this offense. Police recommend handling unofficially without filing a formal petition.

According to the social service investigator, Frederick's father is a bank teller and his mother works part-time as an "Avon lady". The family (Mr. and Mrs. B., Frederick, and his brother) lives in a modest, well-kept house in a quiet, middle class area of town. The investigator found both Frederick and his parents sullen and uncommunicative. At one point, Frederick became defiant by replying to one question ("Why were you out so late?") with a sharp, "None of your damn business!" His father followed with, "Damn right, boy!", and his mother nodded agreement while glaring at the investigator. When the investigator left the house, the door was slammed loudly behind him. A check with Frederick's school counselor shows that he is of above average intelligence, works hard and gets good grades. Social service investigator recommends filing a delinquency petition.

- 53 Case #11. JOHN F., male, white, age 17, was picked up by police for beating up another boy younger than himself, and arrested for simple assault when the younger boy's parents complained. John claimed he did it because the younger boy (age 14) had "finked" on him in school for some misbehavior of John's. When brought into the station, John sneered at the arresting officers and asked, "Is this where the torture takes place?" He then turned to no one in particular in the room and cracked, "Hey, all you cops! Who's got the rubber hoses and bamboo splinters?! Now hear this! 'El piggo' here will now whup my ass!" In contrast to this behavior, John's parents were concerned for their son and were well-mannered toward police. They seemed genuinely bewildered and disturbed by John's behavior, now and in the past, saying that they "must have failed somewhere." Behind a veil of tears, they begged officers to help them "straighten out" their son. A check with Central Records shows that John has had repeated contacts with the police for a variety of juvenile and a few misdemeanor offenses, and has recently spent several months in a state juvenile correctional institution. Police recommend filing a formal delinquency petition.

According to the social service investigator, John's father and mother are both part-time short-order cooks in a local diner. John, his parents, and 5 brothers and sisters live in a small, dilapidated house in an old, decaying neighborhood. John's wise-cracking and general defiance was well in evidence to the investigator, despite his parents'

Var
No.

Item

attempts to make him be quiet. John showed no regret whatsoever for his actions and, in fact, seemed quite proud of them. His parents were very disturbed with him and, as with police, pleaded with the investigator for help in raising their son "to be a good man". A check with John's school shows him to be of average intelligence, but that he studies little or none and gets poor grades. Social service investigator recommends filing a petition.

54

Case #12. MARY D., female, black, age 14, was picked up by the police when she was discovered walking unsteadily along a residential street yelling obscenities at the top of her lungs. Upon questioning on the street, police noticed the smell of liquor on her breath, administered a breathalyzer test, and arrested her for misdemeanor disturbing the peace and disorderly conduct while under the influence of alcohol. When she was cognizant enough to realize that she had been arrested, she let loose with a barrage of verbal abuse at the arresting officers, then refused to say another word. Mary's parents were very cooperative, however, giving police the name of the youth whose party Mary had attended, and seemed deeply concerned about her behavior. A check with Central Records shows that Mary has been arrested twice for truancy and curfew violation. Police recommend filing a formal petition.

According to the social service investigator, Mary's father is a seasonally-employed day-laborer, currently out of work, and her mother is a housewife. Mary, her parents, and 6 other children live in an old frame house (in dire need of repair) in a seedy, run-down section of town. Mary claimed that the police were "harassing" her because of her previous arrests, denied being drunk, and told the investigator to "cram" his interview sheet. Her parents were seemingly remorseful for Mary's behavior. During the interview, for instance, Mary's parents reprimanded her constantly and tried to impress upon her how her record could ruin her life. Mary's response was a blithe shrug. A check with Mary's school counselor shows her to be of average intelligence, putting out little or no effort and getting poor grades. Social service investigator recommends handling unofficially without filing of a petition.

Variables #55 - #84 are scored the same as Variables #7 - #24
(see pg. B-7)

Var
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55 Except for "hard core", dangerous offenders (who should be

Var
No.

Item

swiftly imprisoned for society's protection), appropriate dispositional measures should be tailored to the different types of law violators.

- 56 The flexibility and informality of parens patriae does not alter the reality that much of the treatment and rehabilitation practiced in juvenile justice was really coercion and punishment without benefit of due process.
- 57 Citizens should monitor all operations of police and corrections officials to prevent harassment and brutality by these agencies, thereby giving citizens more control over their own lives and reducing the power available to criminal justice agents.
- 58 The major concern of juvenile justice should be the future of the youthful offender and his rehabilitation, using all the social scientific methods available.
- 59 In addition to capital punishment and life imprisonment (with air-tight guarantees that this sentence be fully served), criminal justice policy-makers should consider highly visible public corporal punishment to deter dangerous and habitual criminals.
- 60 The criminal justice system is in dire need of an extensive upgrading of the quality of its personnel at all levels and a standardization of sentencing procedures which are geared to explicit rehabilitation objectives, rather than being left to the often arbitrary whims of particular judges.
- 61 The focus of the juvenile justice system in reducing delinquency should be getting judges who are not afraid to deal out stern punishment to young criminals.
- 62 The maximum number of persons should be diverted away from criminal justice agencies and into service programs in the community, the proper arena for helping offenders.
- 63 To deal decisively with crime, the scope of the criminal law must be expanded and the rights of police to enforce the law must be protected from misguided legalistic interference, which often frees on procedural details criminals laboriously apprehended by police.
- 64 Dealing with actual or alleged offenders effectively requires gearing individualized treatment to the differential needs of the several types of offenders, the treatment being aimed at enhancing the likelihood of rehabilitation and return of

Var
No.

Item

- the offender to the community.
- 65 Increases in the numbers and visibility of police will help prevent crime, but programs of moral re-education in the schools and communities are also needed to offset the influence of those in the schools, media, and elsewhere who promote criminality by challenging the established moral values that forestall crime.
- 66 The focus of the juvenile justice system in reducing delinquency should be in narrowing the jurisdiction of juvenile justice through formalization of juvenile codes and juvenile court procedures in accordance with the Constitution.
- 67 Lawbreakers should be subject to fair but firm penalties primarily for the protection of society, but rehabilitation, in the form of moral re-education, is also an important objective since a criminal reformed in this manner is no longer a threat to society.
- 68 The rigors of "due process" considerations in the juvenile court hamper the flexibility and informality necessary for the treatment and rehabilitation of youthful offenders.
- 69 Access to information concerning offenders should be limited and public access to inner operations of criminal justice agencies should be increased, with the major burden of corrections being shifted to the communities to which all offenders must at some point return.
- 70 The major concern of all criminal justice agencies, including the juvenile court, should be the protection of the Constitutional rights of the accused.
- 71 Habitual criminals, criminal types, and those who incite them should be prevented from further endangering society by the most forceful social retribution possible, including public execution, sterilization, and banishment from society.
- 72 The best way to promote "justice" is through a co-ordinated, efficient, and treatment-and-rehabilitation-oriented criminal justice system, but where legal dispositions are relatively specified, thereby reducing some seemingly arbitrary decision-making.

Record 3

Var
No.

Item

ID Respondent Code Number

<u>Var No.</u>	<u>Item</u>
ID	Record Number
73	The focus of the juvenile justice system in reducing delinquency should be the social, economic, and cultural factors that generate delinquent behavior, and in attracting juvenile justice personnel with advanced training and expertise in this area.
74	Persons acting to hasten the inevitable collapse of a decadent system, such as most of those the ruling classes call "criminals", should have full freedom and backing to continue such acts.
75	It is imperative that police have full freedom to use all available resources, legal and technical, to fight crime without interference from elements (e.g., prison-reformers, some courts) who mindlessly focus on the welfare of convicted felons and blindly disregard the welfare of law-abiding citizens.
76	Since the behavior of most of those who commit crimes is symptomatic of social or psychological forces over which they have little control, the goal of rehabilitation should be strived for through a comprehensive strategy of services combining individually-oriented clinical services and beneficial social programs, preferably in the community, but within prison walls as well.
77	The flexibility and informality of <u>parens patriae</u> engenders disrespect for law and negates society's right to see offenders punished.
78	The whole apparatus of so-called "law-enforcement" is simply the domestic military apparatus used to inflict harassment, confinement, injury or death on those who protest injustice by challenging the arbitrary regulations devised to protect ruling class interests; the only answer is the total and forceful overthrow of the entire system.
79	The <u>major</u> concern of the criminal justice system, including the <u>juvenile</u> court, should be to give dramatic expression to the moral revulsion of citizens toward crime through firm punishments.
80	Strict punishment of offenders who endanger public safety is the optimum way of distributing "justice" and deterring potential criminals; non-punitive measures (e.g., probation) should be used only in cases where true rehabilitation seems assured.

<u>Var No.</u>	<u>Item</u>
81	The "holding" capacity of the criminal justice system, i.e., its capacity to reliably separate from the community those "hard core" offenders who engage repeatedly in serious crimes, must be enhanced through a "deterrence" approach which incorporates offense-based legal dispositions, determinate rather than indeterminate sentences, certainty of penalty, increased juridical efficiency, and similar elements.
82	The focus of the juvenile justice system in reducing delinquency should be the personal needs of the youth and the treatment of his individual problems.
83	The government must insure that those accused of crimes, incarcerated, or otherwise under legal jurisdiction be granted their full civil rights as citizens (including unconditional freedom at all stages of the criminal justice process) and should make available to them all legal and other resources necessary for their protection from the arbitrary exercise of coercive power.
84	In addition to substantial increases in manpower, law enforcement personnel must be provided with the most modern, lethal weaponry and the technological capacity (communications, computerization, electronic surveillance, aerial pursuit capability) to deliver the maximum force possible to fight crime in our streets.

<u>Var No.</u>	<u>Item</u>
85	Are you a full-time or part-time <u>judge</u> ? <ul style="list-style-type: none"> 0. No Response/Not Codable 1. Part-Time 2. Full-Time
86	Approximately what portion of your time <u>as a judge</u> do you spend on juvenile matters? <ul style="list-style-type: none"> 0. No Response/Not Codable 1. Less than 25% 2. 25% 3. 50% 4. 75% 5. 100%

Var
No.

Item

87 In which of the following years did you begin juvenile jurisdiction?

- | | |
|-----------------------------|--------------------|
| 00. No Response/Not Codable | 07. 1969 |
| 01. 1975 | 08. 1968 |
| 02. 1974 | 09. 1967 |
| 03. 1973 | 10. 1966 |
| 04. 1972 | 11. 1965 |
| 05. 1971 | 12. 1964 or Before |
| 06. 1970 | |

88 Were you elected to your position on the bench?

- 0. No Response/Not Codable
- 1. Yes
- 2. No

89 If "YES", did you run unopposed?

- 0. No Response/Not Codable
- 1. Yes
- 2. No

90 Sex

- 0. No Response/Not Codable
- 1. Male
- 2. Female

91 Age Group

- | | |
|----------------------------|------------|
| 0. No Response/Not Codable | 5. 51-55 |
| 1. Under 36 | 6. 56-60 |
| 2. 36-40 | 7. 61-65 |
| 3. 41-45 | 8. 66-70 |
| 4. 46-50 | 9. Over 70 |

92 Race/Ethnicity

- | | |
|----------------------------|---------------------------|
| 0. No Response/Not Codable | 5. Polynesian |
| 1. Caucasian | 6. Spanish Surname |
| 2. Black | 7. American Indian/Eskimo |
| 3. Asian | 8. Other |
| 4. Filipino | |

For Variables #93 - #102, subjects were asked to check all of the educational achievements which applied to them from a list given, and to write in their major curriculum of study where applicable.

<u>Var</u> <u>No.</u>	<u>Item</u>
93	High School Education
	0. No Response/Not Codable
	1. High School Graduate
94	Undergraduate College Education
	0. No Response/Not Codable
	1. Some College
	2. Bachelors Degree
95	Undergraduate Major
	0. No Response/Not Codable
	1. Religion
	2. English
	3. Literature
	4. Social Science
	5. Education
	6. History
	7. Pre-Law, Law (B.A.)
	8. Political Science
	9. Economics
	10. Philosophy
	11. Mathematics
	12. Business, Commerce
	13. Sociology
	14. Psychology
	15. Geography
	16. Government
	17. Spanish
	18. Social Studies
	19. Engineering
	20. Arts and Sciences
	21. Journalism
	22. Pre-Medical
	23. Juvenile Justice (M.A.)
	24. Meteorology
	25. Judicial Education (M.A.)
	26. Speech
	27. Management
	28. Chemical Engineering
	29. Management and Labor Relations
	30. Accounting
	31. Languages
	32. Civil Engineering
	33. Medicine (Grad.)
	34. Chemistry
	35. Zoology
	36. Italian
	37. Industrial Engineering
	38. Drama
96	Graduate Education -- Master's Level
	0. No Response/No Graduate School (other than law school)
	1. Some Graduate School Beyond Bachelor's Degree (other than law school)
	2. Master's Degree
97	Graduate Major -- Master's Level
	(Coded the same as <u>Variable 95</u>)

<u>Var No.</u>	<u>Item</u>
98	Graduate Education -- Doctorate Level <ul style="list-style-type: none"> 0. No Response/No Graduate School Beyond Master's Degree (other than law school) 1. Some Graduate School Beyond Master's Degree (other than law school) 2. Doctorate Degree
99	Graduate Major -- Doctorate Level (Coded same as <u>Variable 95</u>)
100	Graduate Education -- Post-Doctoral Level <ul style="list-style-type: none"> 0. No Response/No Post-Doctoral Work (other than law school) 1. Some Post-Doctoral Work
101	Law School <ul style="list-style-type: none"> 0. No Response/No Law School 1. Some Law School 2. Law Degree
102	State Bar Admission <ul style="list-style-type: none"> 0. No Response/Not Admitted to State Bar 1. Admitted to State Bar

For Variables #103 - #120, subjects were asked to check all of the types of juvenile dispositional alternatives available to them at the dispositional phase of the proceedings, from a list of nine (9) and given six (6) blank spaces in which to add others not on the list.

<u>Var No.</u>	<u>Item</u>
103	Total Number of Alternatives Checked <ul style="list-style-type: none"> 0. None 1. 1 2. 2 3. 3 4. 4 5. 5 6. 6 7. 7 8. 8 9. 9 or More

<u>Var</u> <u>No.</u>	<u>Item</u>
104	Number of Alternatives Cited as Often Unusable (see <u>Variables #121 - #133</u>)

0.	None	5.	5
1.	1	6.	6
2.	2	7.	7
3.	3	8.	8
4.	4	9.	9 or More

105	Net Number of Dispositional Alternatives Available (<u>Variable #104</u> subtracted from <u>Variable #103</u>)
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0.	None	5.	5
1.	1	6.	6
2.	2	7.	7
3.	3	8.	8
4.	4	9.	9 or More

Variables #106 - #120 are scored as follows:

- 0. No Response/Dispositional Alternative Not Available
- 1. Dispositional Alternative is Available

<u>Var</u> <u>No.</u>	<u>Item</u>
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106	Adult Penal Institution
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RECORD 4

<u>Var</u> <u>No.</u>	<u>Item</u>
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ID	Respondent Code Number
ID	Record Number
107	Juvenile Correctional Institution (Training or Industrial School, etc.)
108	Juvenile Probation
109	"Unofficial Probation"
110	Foster Homes
111	Restitution Programs and/or Fines
112	Group Homes
113	Forestry and Other Camps

<u>Var No.</u>	<u>Item</u>
114	Juvenile Psychiatric and/or Other Medical Facilities
115	One Additional Alternative Mentioned
116	Two Additional Alternatives Mentioned
117	Three Additional Alternatives Mentioned
118	Four Additional Alternatives Mentioned
119	Five Additional Alternatives Mentioned
120	Six or More Additional Alternatives Mentioned

For Variables #121 - #133, subjects were asked which of the placement alternatives checked or stated in Variables #106 - #120 as "available" seemed to them to be full or otherwise unusable a considerable amount of the time. These items were scored as follows:

- 0. No Response/Dispositional Alternative Normally Usable
- 1. Dispositional Alternative Often Unusable

<u>Var No.</u>	<u>Item</u>
121	Adult Penal Institution
122	Juvenile Correctional Institution (Training or Industrial School, etc.)
123	Juvenile Probation
124	"Unofficial Probation"
125	Foster Homes
126	Restitution Programs and/or Fines
127	Group Homes
128	Forestry and Other Camps
129	Juvenile Psychiatric and/or Other Medical Facilities
130	One of the Additional Alternatives Mentioned
131	Two of the Additional Alternatives Mentioned

Var
No.

Item

- 132 Three of the Additional Alternatives Mentioned
- 133 Four or More of the Additional Alternatives Mentioned

Var
No.

Item

- 134 Geographic Location of Jurisdiction (Four Divisions)
1. Northeast (CT, ME, MA, NH, RI, VT, NJ, NY, PA)
 2. North Central (IL, IN, MI, OH, WI, IA, KS, MN, MO, NE, ND, SD)
 3. South (DC, DE, FL, GA, MD, NC, SC, VA, WV, AL, KY, MS, TN, AR, LA, OK, TX)
 4. West (AZ, CO, ID, MT, NV, NM, UT, WY, AK, CA, HI, OR, WA)
- 135 Geographic Location of Jurisdiction (Nine Divisions)
1. New England (CT, ME, MA, NH, RI, VT)
 2. Middle Atlantic (NJ, NY, PA)
 3. East North Central (IL, IN, MI, OH, WI)
 4. West North Central (IA, KS, MN, MO, NE, ND, SD)
 5. South Atlantic (DC, DE, FL, GA, MD, NC, SC, VA, WV)
 6. East South Central (AL, KY, MS, TN)
 7. West South Central (AR, LA, OK, TX)
 8. Mountain (AZ, CO, ID, MT, NV, NM, UT, WY)
 9. Pacific (AK, CA, HI, OR, WA)
- 136 Jurisdictional Type (based on population and location of city in which court is located--RMA)
1. RMA = 5,000,000 or More Population
 2. RMA = 1,000,000 - 4,999,999 Population
 3. RMA = 500,000 - 999,999 Population
 4. RMA = 100,000 - 499,999 Population
 5. RMA = 50,000 - 99,999 Population
 6. RMA = 49,999 or Less Population
 7. Small Town/Rural (Non-RMA)
- 137 State Code
- (Coded the same as Variable #2)

<u>Var</u> <u>No.</u>	<u>Item</u>	
138	Maximum Age for Original Jurisdiction (NAJC)	
	1. 15	(3 states)
	2. 16	(11 states)
	3. 17	(33 states)
	4. 15, but higher for status offenses	(3 states)
	5. 16, but higher for status offenses	(1 state)
139	Minimum Age at Which a Child can be Tried in Adult Court (NAJC)	
	1. No minimum age	(13 states)
	2. 13	(2 states)
	3. 14	(7 states)
	4. 15	(12 states)
	5. 16	(14 states)
	6. 14, except for murder (no minimum)	(1 state)
	7. 15, except for murder (no minimum)	(1 state)
	8. 16, except for murder, rape, armed robbery, kidnapping (15)	(1 state)
140	Code Provision for "Informal Probation" (i.e., probation without adjudication, also called "Unofficial Probation") (NAJC)	
	1. Yes	(34 states)
	2. No/No Provision	(17 states)
141	Juvenile Court Jury Trial Policy (NAJC)	
	1. State Statutory Right in Juvenile Court	(10 states)
	2. At Discretion of Juvenile Court Judge	(1 state)
	3. Statutory Right to be Tried as an Adult (with some restrictions)	(3 states)
	4. No Right to Jury Trial in Juvenile Court or to Transfer	(37 states)
142	Code Provision for Restitution Programs and/or Fines (NAJC)	
	1. Yes	(22 states)
	2. No/No Provision	(29 states)

RECORD 5

<u>Var</u> <u>No.</u>	<u>Item</u>
ID	Respondent Code Number
ID	Record Number

<u>Var No.</u>	<u>Item</u>	
143	Code Provision for Forestry and Other Camps (NAJC)	
	1. Yes	(26 states)
	2. No/No Provision	(25 states)
144	Code Provision Allowing Juveniles in Adult Penal Institutions (NAJC)	
	1. Yes	(22 states)
	2. No/No Provision	(29 states)
145	Status of the Juvenile Court (based on Appeals Structure) (NAJC)	
	1. Equal to State's Highest Trial Court Statewide	(30 states)
	2. Below State's Highest Trial Court Statewide	(15 states)
	3. Intrastate Variation	(5 states)
	4. No Provision in Code Relating to Appeals	(1 state)
146	Code Provision for Full-Time Juvenile Court Judges (NAJC)	
	1. Required in All Counties	(5 states)
	2. Required Only in Counties of 50,000+ Population	(4 states)
	3. Required Only in Counties of 100,000+ Population	(10 states)
	4. Required Only in Counties of 250,000+ Population	(4 states)
	5. Required Only in Counties of 500,000+ Population	(5 states)
	6. Not Required	(23 states)
147	Code Provision for Election of Juvenile Court Judges (NAJC)	
	1. Election of Judges Required	(38 states)
	2. Election of Judges Not Required	(13 states)
148	Requirements for Juvenile Court Judges (NAJC)	
	1. Must Be an Attorney	(41 states)
	2. Must Either Be an Attorney or Had Previous Judicial Experience	(5 states)
	3. No Objective Minimal Qualifications for Juvenile Court Judges	(5 states)

Variables #149 - #154 are numeric decimal numbers.

<u>Var</u> <u>No.</u>	<u>Item</u>
149	Crime Rate per 100,000 Population, by State (UCR) (RANGE: 1471.5 (WV) - 6842.0 (DC))
150	Change in Crime Rate per 100,000 Population fro 1972, by State (UCR) (RANGE: -154.7 (DC) - +782.0 (NV))
151	Violent Crime Rate per 100,000 Population, by State (UCR) (RANGE: 60.8 (NH) - 1558.4 (DC))
152	Change in Violent Crime Rate per 100,000 Population, by State (UCR) (RANGE: -118.1 (DC) - +142.5 (NV))
153	Property Crime Rate per 100,000 Population, by State (UCR) (RANGE: 1347.8 (WV) - 6224.0 (AZ))
154	Change in Property Crime Rate per 100,000 Population, by State (UCR) (RANGE: -133.3 (CA) - +739.6 (AZ))

Variables #155 - #180 are numeric integers, except as coded.

<u>Var</u> <u>No.</u>	<u>Item</u>
155	Population of State (/1000) (Census Bureau 1973 Estimate) (RANGE: 330 (AK) - 20601 (CA))
156	Percent of State Population Living in SMSA's (Census Bureau 1973 Estimate) (RANGE: 0 (AK,VT,WY) - 99 (DC))
157	Percent of State Population Living in "Other Cities" (Census Bureau 1973 Estimate) (RANGE: 0 (DC) - 58(WY))
158	Percent of State Population Living in Rural Areas (Census Bureau 1973 Estimate) (RANGE: 0 (DC,RI) - 61 (AK))

Var No.	Item
159	Anthony Platt <u>PARENS-PATRIAE</u> Summated Ideology Score (Sum of Var #8 + #12 + #58 + #68) 0 = No score--at least one item not answered (RANGE: 4 - 20)

RECORD 6

Var No.	Item
ID	Respondent Code Number
ID	Record Number
160	Anthony Platt <u>MORALISM</u> Summated Ideology Score (Sum of Var #9 + #20 + #77 + #79) 0 = No score--at least one item not answered (RANGE: 4 - 20)
161	Anthony Platt <u>CONSTITUTIONALISM</u> Summated Ideology Score (Sum of Var #14 + #21 + #56 + #70) 0 = No score--at least one item not answered (RANGE: 4 - 20)
162	Edwin Schur <u>GET-TOUGH</u> Summated Ideology Score (Sum of Var #32 + #36 + #40 + #61) 0 = No score--at least one item not answered (RANGE: 4 - 20)
163	Edwin Schur <u>INDIVIDUAL TREATMENT</u> Summated Ideology Score (Sum of Var #34 + #46 + #48 + #82) 0 = No score--at least one item not answered (RANGE: 4 - 20)
164	Edwin Schur <u>LIBERAL REFORM</u> Summated Ideology Score (Sum of Var #38 + #42 + #45 + #73) 0 = No score--at least one item not answered (RANGE: 4 - 20)
165	Edwin Schur <u>RADICAL NON-INTERVENTION</u> Summated Ideology Score (Sum of Var #30 + #43 + #50 + #66) 0 = No score--at least one item not answered (RANGE: 4 - 20)

Var No.	Item
166	Walter Miller LEFT-5 Summated Ideology Score (Sum of Var $\#47 + \#74 + \#78$) 0 = No score--at least one item not answered (RANGE: 3 - 15)
167	Walter Miller LEFT-4 Summated Ideology Score (Sum of Var $\#37 + \#57 + \#83$) 0 = No score--at least one item not answered (RANGE: 3 - 15)
168	Walter Miller LEFT-3 Summated Ideology Score (Sum of Var $\#31 + \#62 + \#69$) 0 = No score--at least one item not answered (RANGE: 3 - 15)
169	Walter Miller LEFT-2 Summated Ideology Score (Sum of Var $\#35 + \#60 + \#76$) 0 = No score--at least one item not answered (RANGE: 3 - 15)
170	Walter Miller LEFT-1 Summated Ideology Score (Sum of Var $\#44 + \#64 + \#72$) 0 = No score--at least one item not answered (RANGE: 3 - 15)
171	Walter Miller RIGHT-1 Summated Ideology Score (Sum of Var $\#29 + \#55 + \#81$) 0 = No score--at least one item not answered (RANGE: 3 - 15)
172	Walter Miller RIGHT-2 Summated Ideology Score (Sum of Var $\#41 + \#65 + \#67$) 0 = No score--at least one item not answered (RANGE: 3 - 15)
173	Walter Miller RIGHT-3 Summated Ideology Score (Sum of Var $\#39 + \#63 + \#80$) 0 = No score--at least one item not answered (RANGE: 3 - 15)

- | <u>Var</u>
<u>No.</u> | <u>Item</u> |
|--------------------------|---|
| 174 | Walter Miller RIGHT-4 Summated Ideology Score
(Sum of Var #49 + #59 + #75)

0 = No score--at least one item not answered
(RANGE: 3 - 15) |
| 175 | Walter Miller RIGHT-5 Summated Ideology Score
(Sum of Var #33 + #71 + #84)

0 = No score--at least one item not answered
(RANGE: 3 - 15) |
| 176 | Benjamin Cardozo METHOD OF PHILOSOPHY (LOGIC) Summated
Ideology Score (Sum of Var #7 + #11 + #18)

0 = No score--at least one item not answered
(RANGE: 3 - 15) |
| 177 | Benjamin Cardozo METHOD OF HISTORY (EVOLUTION) Summated
Ideology Score (Sum of Var #10 + #19 + #24)

0 = No score--at least one item not answered
(RANGE: 3 - 15) |
| 178 | Benjamin Cardozo METHOD OF TRADITION (CUSTOM) Summated
Ideology Score (Sum of Var #15 + #17 + #23)

0 = No score--at least one item not answered
(RANGE: 3 - 15) |
| 179 | Benjamin Cardozo METHOD OF SOCIOLOGY Summated Ideology
Score (Sum of Var #13 + #16 + #22)

0 = No score--at least one item not answered
(RANGE: 3 - 15) |
| 180 | Summated DISPOSITIONAL SEVERITY (CASE SUMMARIES) Score
(Sum of Var #3 + #4 + #5 + #6 + #25 + #26 + #27 + #28 +
#51 + #52 + #53)

0 = No score--at least one item not answered
(RANGE: 11 - 66) |

Variables #181 - #189 are grouped scores for previous variables. The particular variable which has been grouped in each case appears in parentheses following the variable name, and the particular scores from the original variable which were grouped appear in parentheses following the applicable score of the grouped variable.

- | <u>Var</u>
<u>No.</u> | <u>Item</u> |
|--------------------------|---|
| 181 | Jurisdictional Type (Var. #136) <ol style="list-style-type: none"> 1. Large City (1 - 3) 2. Small City (4 - 6) 3. Small Town/Rural (7) |
| 182 | Age Group (Var. #91) <ol style="list-style-type: none"> 0. No Response/Not Codable (0) 1. 45 or Under (1 - 3) 2. 46 - 60 (4 - 6) 3. 61 or Over (7 - 9) |
| 183 | Selection Method (Vars. #88 and #89) <ol style="list-style-type: none"> 0. No Response/Not Codable (#88=0; #89=0) 1. Not Elected (#88=2; #89=0) 2. Elected Unopposed (#88=1; #89=1) 3. Elected with Opposition (#88=1; #89=2) |
| 184 | Year Juvenile Jurisdiction Began (Var. #87) <ol style="list-style-type: none"> 0. No Response/Not Codable (0) 1. After <u>Gault</u> Decision (1 - 8) 2. Before <u>Gault</u> Decision (9 - 12) |
| 185 | Time Spent on Juvenile Matters (Var. #86) <ol style="list-style-type: none"> 0. No Response/Not Codable (0) 1. 25% or Less (1 - 2) 2. Half or More (3 - 4) 3. All or Virtually All (5) |

RECORD 7

- | <u>Var</u>
<u>No.</u> | <u>Item</u> |
|--------------------------|--|
| ID | Respondent Code Number |
| ID | Record Number |
| 186 | Jury Trial Policy (Var. #141) <ol style="list-style-type: none"> 1. Statutory Right in Juvenile Court (1) 2. Statutorily Possible in Juvenile Court (2) 3. Statutorily Prohibited in Juvenile Court (3 - 4) |

<u>Var No.</u>	<u>Item</u>
187	Status of Juvenile Court (Var. #145) <ul style="list-style-type: none"> 1. Equal to Trial Court (1) 2. Below Trial Court (2) 3. Mixed or Other (3 - 4)
188	Juvenile Court Judge Requirements (Var. #148) <ul style="list-style-type: none"> 1. Attorney Required (1) 2. Attorney Not Required (2 - 3)
189	Net Dispositional Alternatives (Var. #105) <ul style="list-style-type: none"> 1. 4 or Less (1 - 4) 2. 5 - 7 (5 - 7) 3. 8 or More (8 - 9)

Variables #190 - #196 are grouped scores for the summated ideology scores of Anthony Platt and Edwin Schur (Var. #159 - #165, respectively). They are grouped and re-scored as follows:

- 0. No score--at least one item not answered
- 1. 4 - 8
- 2. 9 - 12
- 3. 13 - 16
- 4. 17 - 20

<u>Var No.</u>	<u>Item</u>
190	Anthony Platt <u>PARENS PATRIAE</u> Summated Ideology Score
191	Anthony Platt <u>MORALISM</u> Summated Ideology Score
192	Anthony Platt <u>CONSTITUTIONALISM</u> Summated Ideology Score
193	Edwin Schur <u>GET TOUGH</u> Summated Ideology Score
194	Edwin Schur <u>INDIVIDUAL TREATMENT</u> Summated Ideology Score
195	Edwin Schur <u>LIBERAL REFORM</u> Summated Ideology Score
196	Edwin Schur <u>RADICAL NON-INTERVENTION</u> Summated Ideology Score

Variables #197 - #210 are grouped scores for the summated ideology scores of Walter Miller and Benjamin Cardozo (Var. #166 - #179, respectively). They are grouped and re-scored as follows:

- 0. No score--at least one item not answered
- 1. 3 - 6
- 2. 7 - 9
- 3. 10 - 12
- 4. 13 - 15

<u>Var</u> <u>No.</u>	<u>Item</u>
197	Walter Miller <u>LEFT-5</u> Summated Ideology Score
198	Walter Miller <u>LEFT-4</u> Summated Ideology Score
199	Walter Miller <u>LEFT-3</u> Summated Ideology Score
200	Walter Miller <u>LEFT-2</u> Summated Ideology Score
201	Walter Miller <u>LEFT-1</u> Summated Ideology Score
202	Walter Miller <u>RIGHT-1</u> Summated Ideology Score
203	Walter Miller <u>RIGHT-2</u> Summated Ideology Score
204	Walter Miller <u>RIGHT-3</u> Summated Ideology Score
205	Walter Miller <u>RIGHT-4</u> Summated Ideology Score
206	Walter Miller <u>RIGHT-5</u> Summated Ideology Score
207	Benjamin Cardozo <u>METHOD OF PHILOSOPHY (LOGIC)</u> Summated Ideology Score
208	Benjamin Cardozo <u>METHOD OF HISTORY (EVOLUTION)</u> Summated Ideology Score
209	Benjamin Cardozo <u>METHOD OF TRADITION (CUSTOM)</u> Summated Ideology Score
210	Benjamin Cardozo <u>METHOD OF SOCIOLOGY</u> Summated Ideology Score

<u>Var</u> <u>No.</u>	<u>Item</u>
211	Grouped <u>DISPOSITIONAL SEVERITY (CASE SUMMARIES)</u> Summated Score (Var. #180)

- 0. No score--at least one item not answered
- 1. 11 - 24
- 2. 25 - 38
- 3. 39 - 52
- 4. 53 - 66

Variables #212 - #223 are summated scores for the ideologies "constructed" from individual position variables. The individual variables which constitute the scores are stated beneath each item name. All are numeric integers, except as follows:

0 = No score--at least one item not answered

<u>Var No.</u>	<u>Item</u>
212	3-Variable FAR-LEFT Summated Ideology Score (Sum of Var #47 + #50 + #78) (RANGE: 3 - 15)
213	3-Variable MID-LEFT Summated Ideology Score (Sum of Var #31 + #37 + #62) (RANGE: 3 - 15)
214	3-Variable CONSTITUTIONALISM Summated Ideology Score (Sum of Var #21 + #22 + #70) (RANGE: 3 - 15)
215	3-Variable SOCIAL-WORKER Summated Ideology Score (Sum of Var #64 + #73 + #76) (RANGE: 3 - 15)
216	3-Variable MID-RIGHT Summated Ideology Score (Sum of Var #65 + #68 + #75) (RANGE: 3 - 15)
217	3-Variable FAR-RIGHT Summated Ideology Score (Sum of Var #71 + #79 + #84) (RANGE: 3 - 15)
218	4-Variable FAR-LEFT Summated Ideology Score (Sum of Var #47 + #50 + #78 + #74) (RANGE: 4 - 20)

RECORD 8

<u>Var No.</u>	<u>Item</u>
ID	Respondent Code Number
ID	Record Number

<u>Var No.</u>	<u>Item</u>
219	4-Variable MID-LEFT Summated Ideology Score (Sum of Var #31 + #37 + #62 + #30) (RANGE: 4 - 20)
220	4-Variable CONSTITUTIONALISM Summated Ideology Score (Sum of Var #21 + #22 + #70 + #14) (RANGE: 4 - 20)
221	4-Variable SOCIAL-WORKER Summated Ideology Score (Sum of Var #64 + #73 + #76 + #58) (RANGE: 4 - 20)
222	4-Variable MID-RIGHT Summated Ideology Score (Sum of Var #65 + #68 + #75 + #80) (RANGE: 4 - 20)
223	4-Variable FAR-RIGHT Summated Ideology Score (Sum of Var #71 + #79 + #84 + #61) (RANGE: 4 - 20)

Variables #224 - #229 are grouped scores for the summated 3-variable "constructed" ideology scores (Var. #212 - #217, respectively). They are grouped and re-scored as follows:

0. No score--at least one item not answered
1. 3 - 6
2. 7 - 9
3. 10 - 12
4. 13 - 16

<u>Var No.</u>	<u>Item</u>
224	3-Variable FAR-LEFT Summated Ideology Score
225	3-Variable MID-LEFT Summated Ideology Score
226	3-Variable CONSTITUTIONALISM Summated Ideology Score
227	3-Variable SOCIAL-WORKER Summated Ideology Score
228	3-Variable MID-RIGHT Summated Ideology Score
229	3-Variable FAR-RIGHT Summated Ideology Score

Variables #230 - #235 are grouped scores for the summated 4-variable "constructed" ideology scores (Var. #218 - #223, respectively). They are grouped and re-scored as follows:

- 0. No score--at least one item not answered
- 1. 4 - 8
- 2. 9 - 12
- 3. 13 - 16
- 4. 17 - 20

<u>Var</u> <u>No.</u>	<u>Item</u>
230	4-Variable FAR-LEFT Summated Ideology Score
231	4-Variable MID-LEFT Summated Ideology Score
232	4-Variable CONSTITUTIONALISM Summated Ideology Score
233	4-Variable SOCIAL-WORKER Summated Ideology Score
234	4-Variable MID-RIGHT Summated Ideology Score
235	4-Variable FAR-RIGHT Summated Ideology Score

Variables #236 - #241 identify the raw and grouped "cluster" groupings of the respondents on 3- and 4-variable "constructed" ideologies. Additionally, the following code is used:

- 0. Clustering not possible because of missing data in one or more of the items

<u>Var</u> <u>No.</u>	<u>Item</u>
236	Raw "Cluster" Grouping on 3-Variable "Constructed" Ideologies (No. of Clusters = 6)
237	Raw "Cluster" Grouping on 4-Variable "Constructed" Ideologies (No. of Clusters = 6)
238	Preliminary Combined "Cluster" Grouping on 3-Variable "Constructed" Ideologies
	<ul style="list-style-type: none"> 1. Left (Clusters #5 and #6, Var. #236) 2. Right (Clusters #1 and #2, Var. #236) 3. Agreeable (Cluster #3, Var. #236) 4. Disagreeable (Cluster #4, Var. #236)

<u>Var No.</u>	<u>Item</u>
239	Preliminary Combined "Cluster" Grouping on 4-Variable "Constructed" Ideologies <ol style="list-style-type: none"> 1. Left (Clusters #2 and #6, Var. #237) 2. Right (Clusters #3 and #4, Var. #237) 3. Agreeable (Cluster #5, Var. #237) 4. Disagreeable (Cluster #1, Var. #237)
240	Final Combined "Cluster" Grouping on 3-Variable "Constructed" Ideologies <ol style="list-style-type: none"> 1. Left (Clusters #5 and #6, Var. #236) 2. Right (Clusters #1 and #2, Var. #236) 3. Non-Ideological (Clusters #3 and #4, Var. #236)
241	Final Combined "Cluster" Grouping on 4-Variable "Constructed" Ideologies <ol style="list-style-type: none"> 1. Left (Clusters #2 and #6, Var. #237) 2. Right (Clusters #3 and #4, Var. #237) 3. Non-Ideological (Clusters #1 and #5, Var. #237)

Variables #242 - #247 are data obtained from "official" sources concerning the jurisdiction of the respondents, and are numeric except for #242 and as coded.

<u>Var No.</u>	<u>Item</u>
242	Reporting Period of Source Data <ol style="list-style-type: none"> 0. No data 1. Calendar Year, 1973 2. Calendar Year, 1974 3. Fiscal Year, 1973-74 4. Partial Year, 1974 (3 to 6 months)
243	Number of Unofficially Disposed Cases <p>99999 = No data</p>
244	Number of Officially Disposed Cases <p>99999 = No data</p>
245	Number of Officially Disposed Cases Where Defendant was Placed in State Juvenile Correctional Institution <p>99999 = No data</p>

RECORD 9

<u>Var</u> <u>No.</u>	<u>Item</u>
ID	Respondent Code Number
ID	Record Number
246	Number of Officially Disposed Cases Waived to Criminal Court
	99999 = No data
247	Number of Juvenile Court Judges in Jurisdiction
	99 = No data

NOTE: The printed name of the city and state in which the court is located is available as additional "ID" variables. To obtain this information, Array "ID" must be redimensioned and the last data record in each observation (#9) must be read in according to a predetermined format statement. This is explained on pg. B-1 at the beginning of this codebook.

<u>Var</u> <u>No.</u>	<u>Item</u>
ID	Location of Court (City Name--first 4 characters)
ID	Location of Court (City Name--second 4 characters)
ID	Location of Court (City Name--third 4 characters)
ID	Location of Court (City Name--fourth 4 characters)
ID	Location of Court (State Name--first 4 characters)
ID	Location of Court (State Name--second 4 characters)
ID	Location of Court (State Name--third 4 characters)
ID	Location of Court (State Name--fourth 4 characters)
ID	Location of Court (State Name--fifth 4 characters)

A P P E N D I X C

THE QUESTIONNAIRE

NATIONAL SURVEY OF THE JUVENILE COURT

PART I

THE FIRST PART OF THIS QUESTIONNAIRE CONSISTS OF TWO TYPES OF ITEMS--"CASE SUMMARIES" AND "POSITIONS."

Case Summaries. Given your experience with youths in the juvenile justice system, twelve (12) summaries of possible cases requiring handling/dispositional decisions are presented to you in this section. These summaries are fictitious, but portray abbreviated police officer and "social service investigator" (i.e., intake officer, probation officer, social worker, etc.) reports to the juvenile court. They ostensibly reflect the great complexities and anomalies of many of the cases with which the court must often deal. Please choose the handling/dispositional alternative you would favor in each case if it had come before you, regardless of the restraints placed upon your decision by your state juvenile code.

Please read each case summary. After reading each case, please indicate (with an "X" in the blank space) whether you would favor:

- (1) NOT FILING PETITION; HANDLING UNOFFICIALLY = I would favor handling the case through social service agencies, "informal probation," family counselling, returning to custody of parents, or other appropriate "unofficial" channel, as opposed to filing a formal petition to the court for a delinquency adjudicatory hearing.
- (2) FILING PETITION; IF ADJUDICATED, CERTAINLY NOT FAVOR INSTITUTION = I would favor handling the case by filing a petition for a delinquency adjudicatory hearing, but if adjudicated delinquent as a result, I would certainly not favor placing this youth in a state juvenile correctional institution.
- (3) FILING PETITION; IF ADJUDICATED, PROBABLY NOT FAVOR INSTITUTION = I would favor handling the case by filing a petition for an adjudicatory hearing, but if adjudicated delinquent, I would probably not favor institutionalizing this youth.
- (4) FILING PETITION; IF ADJUDICATED, PROBABLY FAVOR INSTITUTION = I would favor handling the case by filing a petition for an adjudicatory hearing, and if adjudicated delinquent, I would probably favor institutionalizing this youth.
- (5) FILING PETITION; IF ADJUDICATED, CERTAINLY FAVOR INSTITUTION = I would favor handling the case by filing a formal petition for an adjudicatory hearing, and if adjudicated delinquent, I would certainly favor institutionalizing this youth.
- (6) TRANSFER JURISDICTION TO ADULT COURT = I would favor transferring jurisdiction in this case to adult court for criminal prosecution.

Please answer each summary with only one choice of handling/dispositional alternative.

Positions. These are statements which represent a wide variety of positions on criminal justice and related issues. Following each statement are spaces between parentheses labelled (SA), (A), (N), (D), and (SD), each designed to represent your relative agreement or disagreement with the statement:

- (SA) = I strongly agree with this statement.
 (A) = I generally agree with this statement.
 (N) = I am undecided or neutral concerning this statement.
 (D) = I generally disagree with this statement.
 (SD) = I strongly disagree with this statement.

Please read each statement, then place an "X" over the labelled space which corresponds with the best expression of your own feelings about the statement. Please answer all items, regardless of seeming repetition.

To decrease monotony, all items are staggered according to the following categories:

- A. Case Summaries (1-4)
- B. Positions--General Issues
- C. Case Summaries (5-8)
- D. Positions--Causation and Prevention
- E. Case Summaries (9-12)
- F. Positions--The Criminal Justice System

Please feel free to add comments anywhere on the questionnaire.

PART 1

SECTION A--CASE SUMMARIES

Case 1. ROBERT L., male, white, age 14, was caught setting fire to an empty warehouse, and was arrested for felonious attempted arson. Upon questioning, Robert claimed that the owner of the property had kicked him and a few of his friends out of the warehouse a few days earlier, where they had been "horsing around," and that this made him angry. However, Robert looked visibly shaken by the arrest, made no attempt to argue with policy, and eventually broke down and cried, saying, "I'm sorry! God, I'm sorry!" None of the said friends were involved in the fire-setting incident. Robert's parents were altogether a different matter. They arrived at the station with their lawyer and demanded Robert's immediate release. His father told officers that he was "an important man in this town" and that if Robert wasn't released, he would have "a lot of cops out pounding beats in the 'Valley'" (a high-crime slum area). During this outburst, Robert implored his parents to stop, adding, "It was my own fault! It was wrong!" A Central Records check shows that this is Robert's first contact with the police. Police recommend filing a formal petition.

According to the social service investigator, Robert's father is a wealthy local bank president and his mother, a former debutante, is very active in local affairs. They and their 3 children (including Robert) live in a large, expensive home in a well-to-do neighborhood. Robert seemed genuinely sorry for his act, but his parents were just as abrasive toward the investigator as they were at the police station. A check with Robert's school counselor reveals that he has average intelligence, but puts out little or no effort and gets poor grades. Social service investigator recommends filing a formal petition.

- (1) NOT FILING PETITION; HANDLING UNOFFICIALLY
- (2) FILING PETITION; IF ADJUDICATED, CERTAINLY NOT FAVOR INSTITUTION
- (3) FILING PETITION; IF ADJUDICATED, PROBABLY NOT FAVOR INSTITUTION
- (4) FILING PETITION; IF ADJUDICATED, PROBABLY FAVOR INSTITUTION
- (5) FILING PETITION; IF ADJUDICATED, CERTAINLY FAVOR INSTITUTION
- (6) TRANSFER JURISDICTION TO ADULT COURT

Case 2. BARBARA D., female, white, age 17, was arrested after she beat up an elementary school pupil, and was brought in for a misdemeanor--simple assault. Upon questioning, Barbara stated that she did it because the younger child, a 6th-grade boy, had threatened her younger sister (a 5th-grader). As questioning proceeded, Barbara seemed to grow more and more regretful for her actions and ashamed of herself for "fighting with little kids." When it was pointed out that a police record could damage her future, she started to cry. Her mother, however, was just the opposite. She sat with a sullen look on her face throughout the questioning, was uncooperative when asked to help with Barbara, and seemed indifferent to the fact that her daughter was in trouble. A check of Central Records showed that this is Barbara's first contact with police. Police recommend handling unofficially without filing a petition.

According to the social service investigator, Barbara's father is missing from the home and paying no support, and her mother is not working. Barbara, her mother, and her 7 sisters and brothers live on public welfare. Their house appears old, dirty, and dilapidated, as do most of the houses in their neighborhood. Barbara seemed genuinely remorseful for her actions, stating, "I know I shouldn't have done it," "It was wrong," and "A dumb thing like I pulled could really mess up my life," whereas her mother was very defensive, questioning both the integrity of the police and the investigator's right to "interfere in our private lives." A check with Barbara's school authorities reveals that she is of above average intelligence, studies hard, and gets good grades. Social service investigator recommends handling unofficially without filing a formal petition.

- _____ (1) NOT FILING PETITION; HANDLING UNOFFICIALLY
- _____ (2) FILING PETITION; IF ADJUDICATED, CERTAINLY NOT FAVOR INSTITUTION
- _____ (3) FILING PETITION; IF ADJUDICATED, PROBABLY NOT FAVOR INSTITUTION
- _____ (4) FILING PETITION; IF ADJUDICATED, PROBABLY FAVOR INSTITUTION
- _____ (5) FILING PETITION; IF ADJUDICATED, CERTAINLY FAVOR INSTITUTION
- _____ (6) TRANSFER JURISDICTION TO ADULT COURT

Case 3. PAUL S., male, white, age 14, was arrested for truancy when he was found wandering around downtown at 10:30 a.m., and could not explain why he was not in school. Upon questioning, Paul seemed worried about the effect this arrest would have on his life, since he has been arrested before. He stated that it was a "dumb move," provoked by another student whom he said he was afraid would beat him up if he showed up in school today. His parents were cooperative with arresting officers, and assured them they would do their best to keep Paul out of trouble. A check with Central Records shows that Paul has had repeated contacts with law enforcement authorities for a variety of juvenile and a few misdemeanor offenses, although he has never been incarcerated in a juvenile correctional institution. Police recommend handling unofficially without filing a delinquency petition.

According to the social service investigator, Paul's father is a moderately successful insurance agent and his mother is a housewife. Paul, his parents, and his brother live in a well-kept, comfortable home in a middle-class neighborhood. Both Paul and his parents seemed very concerned about the effect of this arrest on Paul's chances of "making it in school and everywhere else." Paul appeared to be on the verge of tears throughout the interview. His parents claim that they have spent more time lately with Paul and asked about the possibility of professional help to assist them in helping him "get over this hump in his life." A check with Paul's school counselor shows that he has above average intelligence, studies hard, and does well gradewise. Social service investigator recommends filing a formal petition.

- _____ (1) NOT FILING PETITION; HANDLING UNOFFICIALLY
- _____ (2) FILING PETITION; IF ADJUDICATED, CERTAINLY NOT FAVOR INSTITUTION
- _____ (3) FILING PETITION; IF ADJUDICATED, PROBABLY NOT FAVOR INSTITUTION
- _____ (4) FILING PETITION; IF ADJUDICATED, PROBABLY FAVOR INSTITUTION
- _____ (5) FILING PETITION; IF ADJUDICATED, CERTAINLY FAVOR INSTITUTION
- _____ (6) TRANSFER JURISDICTION TO ADULT COURT

Case 4. JOSEPH M., male, black, age 17, was arrested while in the act of repeatedly striking a grocery store owner with a heavy glass jar, and brought in for aggravated assault. Joseph claimed that the store owner tried to overcharge him for some candy and soda pop. At the police station, every attempt to question Joseph resulted in his launching a verbal tirade at the interrogation officer. He was extremely defiant, and always referred to the police as "pigs." His older sister (with whom he lives) had to be coaxed on the phone for almost an hour before she would even come to the station. When she finally did arrive, she did not seem to care what happened to Joseph, because if he was sent away, it "was one less mouth to feed." A Central Records check shows that Joseph has had repeated contacts with law enforcement authorities for many juvenile and a few misdemeanor offenses, and recently spent several months at a state juvenile correctional facility. Police recommend filing a formal petition.

According to the social service investigator, Joseph's parents are separated and their current whereabouts unknown. Joseph and 5 other siblings live with a divorced older sister and her 2 children, all of whom are supported entirely by public welfare. The house they live in is dilapidated and dirty, in an old, run-down area of town. An attempt to interview Joseph at his sister's house proved fruitless. He responded with similar verbal abuse toward the investigator as he did toward the police. An interview with his older sister was almost as worthless. It was carried on while standing at the door of their house and lasted for a total of 5 minutes, at which time she closed the door on the investi-

gator in mid-sentence, saying that he was "too damn nosy." A check with Joseph's school principal shows that he is of below average intelligence, puts out little or no effort, and gets poor and failing grades. Social service investigator recommends filing a formal delinquency petition.

- _____ (1) NOT FILING PETITION; HANDLING UNOFFICIALLY
- _____ (2) FILING PETITION; IF ADJUDICATED, CERTAINLY NOT FAVOR INSTITUTION
- _____ (3) FILING PETITION; IF ADJUDICATED, PROBABLY NOT FAVOR INSTITUTION
- _____ (4) FILING PETITION; IF ADJUDICATED, PROBABLY FAVOR INSTITUTION
- _____ (5) FILING PETITION; IF ADJUDICATED, CERTAINLY FAVOR INSTITUTION
- _____ (6) TRANSFER JURISDICTION TO ADULT COURT

SECTION B--POSITIONS: GENERAL ISSUES

1. Laws are, by necessity, fixed entities based on the principles of logic..(SA) (A) (H) (D) (SD)
2. The moral values of society are best taught to a youthful offender by a combination of education, guidance, showing of concern by adults, and restraints on his or her activities.....(SA) (A) (H) (D) (SD)
3. Punishment for an act constitutes only a statement of public disapproval for that act; the fact that the actor is a juvenile should be irrelevant to legal disposition for the act.....(SA) (A) (H) (D) (SD)
4. The most important thing that judges and legislators should strive for are definitions in law which reflect their historical origins, meanings, and development.....(SA) (A) (H) (D) (SD)
5. In using judicial precedent as a criterion of decision-making in specific cases, a judge should pay particular attention to constructing an orderly progression of cases based on the elements of logic.....(SA) (A) (H) (D) (SD)
6. Juveniles are immature and therefore incapable of making effective decisions regarding their own welfare and future.....(SA) (A) (H) (D) (SD)
7. Few laws are so well established that they may not be called upon any day to justify their existence as "tools" to be adapted to the fulfillment of changing social needs.....(SA) (A) (H) (D) (SD)
8. The moral values of society are best taught to youthful offenders by their seeing respect for their constitutional rights being practiced in the juvenile justice system.....(SA) (A) (H) (D) (SD)
9. The most important thing that the judges and legislators should strive for is a legal order that is in harmony with the standards of conduct and morality of the community in which they practice.....(SA) (A) (H) (D) (SD)
10. In using judicial precedent as a criterion of decision-making in specific cases, a judge should pay particular attention to what precedent-setting decisions in the past would have been had they faced contemporary social conditions.....(SA) (A) (H) (D) (SD)
11. Laws are, by necessity, the formalized standards of conduct of the community that must obey them.....(SA) (A) (H) (D) (SD)
12. The most important thing that judges and legislators should strive for is a tight and orderly body of legal rules based on logic.....(SA) (A) (H) (D) (SD)
13. In using judicial precedent as a criterion of decision-making in specific cases, a judge should pay particular attention to the historical events surrounding the origins and development of the precedent and construct his opinions and decisions in concurrence with its historical meanings and intentions.....(SA) (A) (H) (D) (SD)
14. The moral values of society are best taught to youthful offenders through firm punishment for their wrongdoing.....(SA) (A) (H) (D) (SD)
15. A juvenile has the right to the same protections under the Constitution as an adult.....(SA) (A) (H) (D) (SD)

16. The most important thing that judges and legislators should strive for is a legal order which adapts to changing social needs, yet maintains general social values, such as "liberty" and "equality".....(SA) (A) (H) (D) (SD)
17. In using judicial precedent as a criterion of decision-making in specific cases, a judge should pay particular attention to the traditional and contemporary customs and standards of conduct of the community being served, constructing his opinions and decisions in concurrence with them.....(SA) (A) (H) (D) (SD)
18. Laws are, by necessity, evolutionary growths which historical events have fostered and shaped.....(SA) (A) (H) (D) (SD)

SECTION C--CASE SUMMARIES

Case 5. LINDA S., female, black, age 17, was stopped by police coming out of an all-night movie theater at 3 a.m., and when she showed officers identification revealing her age, she was arrested for curfew violation. Linda seemed very remorseful about it both for the consequences of the possible police record it might give her and because she had forsaken her parents' trust. Her parents were very cooperative with the police, stating that "this has never happened before" and that they intended to do everything possible to keep it from happening again. A check of Central Records shows that this is Linda's first contact with police. Police recommend handling unofficially without filing a petition.

According to the social service investigator, Linda's father is employed as a bookkeeper for a construction company, and her mother works 3 days a week as a cashier in a local restaurant. Linda, her parents, and her brother live in a middle-class tract home that is neat, clean, and comfortable. All three of them were very cooperative during the investigator's interview. The parents seemed truly concerned about Linda's night-time wandering and had imposed on her a 10 p.m. curfew of their own as a result. Linda stated that she had been sticking to her parent-imposed curfew and found that she felt better in the morning and that "nothing happens after 10 anyway." A check with Linda's school authorities shows her to be of average intelligence, diligent in her school work, and to be achieving good grades. Social service investigator recommends handling unofficially without filing a formal petition.

- ____ (1) NOT FILING PETITION; HANDLING UNOFFICIALLY
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- ____ (4) FILING PETITION; IF ADJUDICATED, PROBABLY FAVOR INSTITUTION
- ____ (5) FILING PETITION; IF ADJUDICATED, CERTAINLY FAVOR INSTITUTION
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Case 6. JULIA M., female, white, age 14, was picked up by police when they caught her in the act of taking valuable radios and stereo equipment (approximate value--\$600) from an unlocked delivery van parked behind a retail stereo store and belonging to a radio equipment wholesaler. She was arrested for grand larceny. Throughout interrogation, she seemed passive and unconcerned about her arrest, even when told that she had committed a felony and could end up at the Girls' Training School upstate. Occasionally, she could be heard muttering "Pigs!" under her breath. Her parents were very cooperative with police and constantly tried to get Julia to "open up" about her problems (with little success). A check with Central Records shows that Julia has had repeated contacts with law enforcement authorities for a variety of juvenile and a few misdemeanor offenses, although she has never spent any time in a state juvenile correctional institution. Police recommend filing a formal delinquency petition.

According to the social service investigator, Julia's father owns a filling station and her mother is a housewife, who occasionally helps out with bookkeeping at the station. Mr. and Mrs. M.,

Julia, and her sister live in a comfortable home in a quiet, middle-income residential neighborhood. Julia sat through the entire interview with a sullen glare aimed at the investigator, interjecting only snide comments such as, "What the hell do you care?", and "Crap!" Her parents reprimanded her each time she interjected such comments and threatened to ground her for 6 months if she didn't "show some respect for people." They seemed very concerned about Julia's welfare, claiming that it was hard to raise a teenage girl these days and realizing they had been unsuccessful in doing so. They asked if our office could arrange some professional help for Julia, preferably someone with teenage children of their own. A check with Julia's school authorities shows that she is of below average intelligence, tries very little and gets poor grades. Social service investigator recommends handling unofficially without filing a formal petition.

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Case 7. GEORGE R., male, black, age 14, was stopped by police while seen dumping a garbage can full of trash into a busy downtown thoroughfare, and was arrested for littering and creating a public nuisance (there was some broken glass among the trash). Upon questioning, George denied throwing the trash into the street, challenged the officers to prove it, demanded an attorney, then refused to answer any questions. George's parents, equally hostile, stated that their son "knew his rights" and that "there's no stinking cops in the world who could railroad our boy into admitting anything." A check with Central Records shows that George has been arrested twice before for curfew violation. Police recommend handling unofficially without filing a petition.

According to the social service investigator, both George's father and mother are unemployed and the family subsists on public welfare. The R's (George, his parents, and his 5 brothers and sisters) live in a house that can be described at best as old, smelly, dirty, and unkempt, matching perfectly the neighborhood in which it is located. Both George and his parents displayed a defiant demeanor toward the investigator. All through the interview they were belligerent, seemingly taking turns at throwing verbal abuse at him. Their attitude can be summed up by George's statement to the investigator as he left the house: a simple "Screw you!" A check with George's school officials reveals him to be of average intelligence, a good worker, and getting good grades. Social service investigator recommends filing a delinquency petition.

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Case 8. SALLY N., female, black, age 17, was picked up on a complaint from the parents of another girl saying that Sally had hit her several times with a pop bottle, causing several deep cuts which required many stitches. Sally was arrested for aggravated assault. The fight was apparently over which of them was "going steady" with a particular young man. At the police station, Sally cried uncontrollably for 15 minutes, sobbing "I'm sorry! Please! I'm sorry!" She seemed truly regretful for her act, scared to death about her being arrested (especially for a felony), and said she'd never "lose my temper like that" again. Sally's parents, however, were surprisingly unmoved by Sally's behavior, and were "insulted" that the police would arrest their daughter again (even after she

admitted to them that she did it). A Central Records check shows that Sally has been arrested twice before for truancy. Police recommend filing a formal petition.

According to the social service investigator, Sally's father is employed as a buyer for a local department store chain, and her mother is a housewife. Sally, her parents, and one other child live in a comfortable middle-class tract home. Sally talked freely during the investigator's interview. She seemed very remorseful for causing such a serious problem, ashamed of herself for hurting the other girl so badly, and even offered to get a part-time job to help the girl's family pay the medical expenses. "I'd been doing so well, staying out of trouble--I don't want to blow it now," she said. Her parents, however, remained sullen and abrasive. They expressed their anger quite vociferously at this "intrusion into our private lives." A check with Sally's school counselor shows her to be a girl of below average intelligence, who puts out little or no effort, and who gets very poor grades. Social service investigator recommends handling unofficially without filing of a formal petition.

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SECTION D--POSITIONS: CAUSATION AND PREVENTION

19. Habitual law-violation reflects an absence of respect for law and basic moral principles resulting from such things as inadequate religious training, poor home and neighborhood environment, and unsatisfactory role-models.....(SA) (A) (N) (D) (SD)
20. The key to delinquency prevention is in collective programs designed to engender massive and complete reform of all levels of American society, particularly those programs which involve none-to-minimal intervention of the juvenile justice system into the lives of youths.....(SA) (A) (N) (D) (SD)
21. The root causes of crime--poverty, urban deterioration, blocked educational and job opportunities--are aggravated by criminal justice agencies, who use their power to stigmatize and brutalize those who come under their jurisdiction, thus permitting them few options other than continued criminality.....(SA) (A) (N) (D) (SD)
22. Most research on juvenile delinquency amounts to making excuses for young criminals.....(SA) (A) (N) (D) (SD)
23. Crime is a product of a massive conspiracy by highly-organized radical forces seeking to overthrow the society through an unrelenting attack on fundamental moral values.....(SA) (A) (N) (D) (SD)
24. Juvenile delinquency is primarily a symptom of certain personality defects of individual youths.....(SA) (A) (N) (D) (SD)
25. The root causes of crime lie in socio-economic deprivation and the inequitable application of the criminal justice process, with many illegal behaviors actually reflecting physical or emotional disturbance.....(SA) (A) (N) (D) (SD)
26. The key to delinquency prevention is in parents who are not afraid to paddle their children when they misbehave.....(SA) (A) (N) (D) (SD)
27. Those who engage in more common forms of theft and other "street crimes" are forced into such behavior by the denial of opportunity and justice resulting from a grossly inequitable distribution of wealth, power, and privilege.....(SA) (A) (N) (D) (SD)
28. The major focus of research on juvenile delinquency should be the distribution of delinquency among different communities and various levels of the socio-economic class structure.....(SA) (A) (N) (D) (SD)

29. The root causes of crime are a massive erosion of the fundamental moral values, which traditionally deterred criminality, and the concomitant rise of "countercultures" among certain crime-prone groups which provide support for law violation.....(SA) (A) (N) (D) (SD)
30. "Juvenile delinquency" is primarily the result of a few "bad apples" who enjoy making life miserable for others.....(SA) (A) (N) (D) (SD)
31. The prevalent permissive tendency to blame "the system" for crime aggravates criminality by providing the criminal with a rationalization for his lack of responsibility and self-discipline and his poorly-developed moral conscience.....(SA) (A) (N) (D) (SD)
32. The key to delinquency prevention is in increased funding of existing community-oriented programs which are aimed at such things as unemployment and poverty.....(SA) (A) (N) (D) (SD)
33. The major focus of research on juvenile delinquency should be on the interaction between the processes of the juvenile justice system and the youths who come in contact with them.....(SA) (A) (N) (D) (SD)
34. Although crimes committed out of financial need or frustration with life conditions are understandable, those who continue to commit crimes without such justifications are very often sick people who need help, and at least to that extent they should be held accountable.....(SA) (A) (N) (D) (SD)
35. Juvenile delinquency is primarily a symptom of pathological social and economic conditions within society to which certain youths have been exposed and to which they are reacting.....(SA) (A) (N) (D) (SD)
36. The key to delinquency prevention is the early identification and intensive treatment of potential delinquents.....(SA) (A) (N) (D) (SD)
37. Behavior designated as "crime" is an inevitable product of a fundamentally corrupt and unjust society; true crime is the behavior of the ruling classes who perpetuate, control, and profit from an exploitative and brutalizing system.....(SA) (A) (N) (D) (SD)
38. The major focus of research on juvenile delinquency should be the biological, psychological, and social-psychological histories of individual delinquents.....(SA) (A) (N) (D) (SD)
39. Most serious crime is committed by members of certain ethnic and social class groups who are self-indulgent, defective in self-control, limited in their time-horizons, and have undeveloped moral consciences, and it is encouraged by the reluctance of authorities to apply the decisive punishment which could curb such crime.....(SA) (A) (N) (D) (SD)
40. "Juvenile delinquency" primarily reflects differential and discriminatory processing decisions made by agents of the juvenile justice system.....(SA) (A) (N) (D) (SD)

SECTION E--CASE SUMMARIES

Case 9. LISA C., female, white, age 14, was picked up by police coming out of a grocery store downtown at 10 a.m., and since she could not explain why she was not in school, she was arrested for truancy. Upon questioning, Lisa started to cry, claiming that she only cut school as a "lark," and that this was the first and last time she would ever do it because it would shame her parents. Her parents were very surprised when told about Lisa's arrest and they came to the station immediately. They said that they couldn't understand what made her skip school, "she loves school so much." They also said that this was the "first time anything like this has happened." They were very cooperative. A Central Records check shows that this is Lisa's first contact with police. Police recommend handling unofficially without filing a formal petition.

According to the social service investigator, Lisa's father is a prominent local physician, and her mother is a housewife who is very active in civic and charity affairs. Lisa, her parents, and her brother live in a large house in an exclusive neighborhood. Lisa seemed to regret being truant, saying that it would never happen again, and holding back tears all the while. Her parents, who were very cooperative, had "grounded" Lisa for 2 weeks, and said that she cried and apologized most

of the evening following her arrest. A check with Lisa's school authorities reveals her to be of above average intelligence, very studious, and achieving good grades. Social service investigator recommends handling unofficially without filing a formal petition.

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Case 10. FREDERICK B., male, black, age 17, was stopped by police walking along a downtown street at 2:30 a.m., and was arrested for curfew violation. At the police station, Frederick stated that they "had no right" to arrest him, that he hadn't done anything wrong ("It's the law that's wrong!", he said), and was generally belligerent toward arresting officers. His parents, equally hostile, demanded to see the watch commander about "police harassment" of their son. When asked why Frederick was allowed out so late in violation of curfew laws, their reply was, "He's a 'night person.'" A check with Central Records shows that Frederick has been arrested twice before for this offense. Police recommend handling unofficially without filing a formal petition.

According to the social service investigator, Frederick's father is a bank teller and his mother works part-time as an "Avon lady." The family (Mr. and Mrs. B., Frederick, and his brother) lives in a modest, well-kept house in a quiet, middle-class area of town. The investigator found both Frederick and his parents sullen and uncommunicative. At one point, Frederick became defiant by replying to one question ("Why were you out so late?") with a sharp, "None of your damn business!" His father followed that with, "Damn right, boy!", and his mother nodded agreement while glaring at the investigator. When the investigator left the house, the door was slammed loudly behind him. A check with Frederick's school counselor shows that he is of above average intelligence, works hard and gets good grades. Social service investigator recommends filing a delinquency petition.

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Case 11. JOHN F., male, white, age 17, was picked up by police for beating up another boy younger than himself, and arrested for simple assault when the younger boy's parents complained. John claimed he did it because the younger boy (age 14) had "finked" on him in school for some misbehavior of John's. When brought into the station, John sneered at the arresting officers and asked, "Is this where the torture takes place?" He then turned to no one in particular in the room and cracked, "Hey, all you cops! Who's got the rubber hoses and bamboo splinters?! Now hear this! Now hear this! 'El piggo' here will now whup my ass!" In contrast to this behavior, John's parents were concerned for their son and well-mannered toward police. They seemed genuinely bewildered and disturbed by John's behavior, now and in the past, saying that they "must have failed somewhere." Behind a veil of tears, they begged officers to help them "straighten out" their son. A check with Central Records shows that John has had repeated contacts with the police for a variety of juvenile and a few misdemeanor offenses, and has recently spent several months in a state juvenile correctional institution. Police recommend filing a formal delinquency petition.

According to the social service investigator, John's father and mother are both part-time short order cooks in a local diner. John, his parents, and 5 brothers and sisters live in a small, dilapi-

dated house in an old, decaying neighborhood. John's wise-cracking and general defiance was well in evidence to the investigator, despite his parent's attempts to make him be quiet. John showed no regret whatsoever for his actions and, in fact, seemed quite proud of them. His parents were very disturbed with him and, as with the police, pleaded with the investigator for help in raising their son "to be a good man." A check with John's school shows him to be of average intelligence, but that he studies little or none at all and gets poor grades. Social service investigator recommends filing a petition.

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Case 12, MARY D., female, black, age 14, was picked up by the police when she was discovered walking unsteadily along a residential street yelling obscenities at the top of her lungs. Upon questioning on the street, police noticed the smell of liquor on her breath, administered a breathalyzer test, and arrested her for misdemeanor disturbing the peace and disorderly conduct while under the influence of alcohol. When she was cognizant enough to realize that she had been arrested, she let loose with a barrage of verbal abuse at the arresting officers; then refused to say another word. Mary's parents were very cooperative, however, giving police the name of the youth whose party Mary had attended, and seemed deeply concerned about her behavior. A check with Central Records shows that Mary has been arrested twice for truancy and curfew violation. Police recommend filing a formal petition.

According to the social service investigator, Mary's father is a seasonally-employed day-laborer, currently out of work, and her mother is a housewife. Mary, her parents, and 6 other children live in an old frame house (in dire need of repair) in a seedy, run-down section of town. Mary claimed that the police were "harassing" her, because of her previous arrests, denied being drunk, and told the investigator to "cram" his interview sheet. Her parents were seemingly remorseful for Mary's behavior. During the interview, for instance, Mary's parents reprimanded her constantly and tried to impress upon her how her record could ruin her life. Mary's response was a blithe shrug. A check with Mary's school counselor shows her to be of average intelligence, putting out little or no effort and getting poor grades. Social service investigator recommends handling unofficially without filing of a petition.

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SECTION F--POSITIONS: THE CRIMINAL JUSTICE SYSTEM

41. Except for "hard-core," dangerous offenders (who should be swiftly imprisoned for society's protection), appropriate dispositional measures should be tailored to the different types of law violators.....(SA) (A) (N) (D) (SD)

42. The flexibility and informality of parens patriae does not alter the reality that much of the treatment and rehabilitation practiced in juvenile justice was really coercion and punishment without the benefit of due process.....(SA) (A) (N) (D) (SD)
43. Citizens should monitor all operations of police and corrections officials to prevent harassment and brutality by these agencies, thereby giving citizens more control over their own lives and reducing the power available to criminal justice agents.....(SA) (A) (N) (D) (SD)
44. The major concern of juvenile justice should be the future of the youthful offender and his rehabilitation, using all the social scientific methods available.....(SA) (A) (N) (D) (SD)
45. In addition to capital punishment and life imprisonment (with air-tight guarantees that this sentence be fully served), criminal justice policy-makers should consider highly visible public corporal punishment to deter dangerous and habitual criminals.....(SA) (A) (N) (D) (SD)
46. The criminal justice system is in dire need of an extensive upgrading of the quality of its personnel at all levels and a standardization of sentencing procedures which are geared to explicit rehabilitation objectives, rather than being left to the often arbitrary whims of particular judges.....(SA) (A) (N) (D) (SD)
47. The focus of the juvenile justice system in reducing delinquency should be getting judges who are not afraid to deal out stern punishments to young criminals.....(SA) (A) (N) (D) (SD)
48. The maximum number of persons should be diverted away from criminal justice agencies and into service programs in the community, the proper arena for helping offenders.....(SA) (A) (N) (D) (SD)
49. To deal decisively with crime, the scope of the criminal law must be expanded and the rights of police to enforce the law must be protected from misguided legalistic interference, which often frees on procedural details criminals laboriously apprehended by police.....(SA) (A) (N) (D) (SD)
50. Dealing with actual or alleged offenders effectively requires gearing individualized treatment to the differential needs of the several types of offenders, the treatment being aimed at enhancing the likelihood of rehabilitation and return of the offender to the community.....(SA) (A) (N) (D) (SD)
51. Increases in the numbers and visibility of police will help prevent crime, but programs of moral re-education in the schools and communities are also needed to offset the influence of those in the schools, media, and elsewhere who promote criminality by challenging the established moral values that forestall crime.....(SA) (A) (N) (D) (SD)
52. The focus of the juvenile justice system in reducing delinquency should be in narrowing the jurisdiction of juvenile justice through formalization of juvenile codes and juvenile court procedures in accordance with the constitution.....(SA) (A) (N) (D) (SD)
53. Lawbreakers should be subject to fair but firm penalties primarily for the protection of society, but rehabilitation, in the form of moral re-education, is also an important objective since a criminal reformed in this manner is no longer a threat to society.....(SA) (A) (N) (D) (SD)
54. The rigors of "due process" considerations in the juvenile court hamper the flexibility and informality necessary for the treatment and rehabilitation of youthful offenders.....(SA) (A) (N) (D) (SD)
55. Access to information concerning offenders should be limited and public access to inner operations of criminal justice agencies should be increased, with the major burden of corrections being shifted to the communities to which all offenders must at some point return.....(SA) (A) (N) (D) (SD)
56. The major concern of all criminal justice agencies, including the juvenile court, should be the protection of the Constitutional rights of the accused.....(SA) (A) (N) (D) (SD)
57. Habitual criminals, criminal types, and those who incite them should be prevented from further endangering society by the most forceful social retribution possible, including public execution, sterilization, and banishment from the society.....(SA) (A) (N) (D) (SD)

58. The best way to promote "justice" is through a co-ordinated, efficient, and treatment-and-rehabilitation-oriented criminal justice system, but where legal dispositions are relatively specified, thereby reducing some seemingly arbitrary decision-making.....(SA) (A) (N) (D) (SD)
59. The focus of the juvenile justice system in reducing delinquency should be the social, economic, and cultural factors that generate delinquent behavior, and in attracting juvenile justice personnel with advanced training and expertise in this area.....(SA) (A) (N) (D) (SD)
60. Persons acting to hasten the inevitable collapse of a decadent system, such as most of those the ruling classes call "criminals," should have full freedom and backing to continue such acts.....(SA) (A) (N) (D) (SD)
61. It is imperative that police have full freedom to use all available resources, legal and technical, to fight crime without interference from elements (e.g., prison-reformers, some courts) who mindlessly focus on the welfare of convicted felons and blindly disregard the welfare of law-abiding citizens.....(SA) (A) (N) (D) (SD)
62. Since the behavior of most of those who commit crimes is symptomatic of social or psychological forces over which they have little control, the goal of rehabilitation should be strived for through a comprehensive strategy of services combining individually-oriented clinical services and beneficial social programs, preferably in the community, but within prison walls as well.....(SA) (A) (N) (D) (SD)
63. The flexibility and informality of parens patriae engender disrespect for law and negates society's right to see offenders punished.....(SA) (A) (N) (D) (SD)
64. The whole apparatus of so-called "law-enforcement" is simply the domestic military apparatus used to inflict harassment, confinement, injury or death on those who protest injustice by challenging the arbitrary regulations devised to protect ruling class interests; the only answer is the total and forceful overthrow of the entire system.....(SA) (A) (N) (D) (SD)
65. The major concern of the criminal justice system, including the juvenile court, should be to give dramatic expression to the moral revulsion of citizens toward crime through firm punishment.....(SA) (A) (N) (D) (SD)
66. Strict punishment of offenders who endanger public safety is the optimum way of distributing "justice" and deterring potential criminals; non-punitive measures (e.g., probation) should be used only in cases where true rehabilitation seems assured.....(SA) (A) (N) (D) (SD)
67. The "holding" capacity of the criminal justice system, i.e., its capacity to reliably separate from the community those "hard core" offenders who engage repeatedly in serious crimes, must be enhanced through a "deterrence" approach which incorporates offense-based legal dispositions, determinate rather than indeterminate sentences, certainty of penalty, increased juridical efficiency, and similar elements.....(SA) (A) (N) (D) (SD)
68. The focus of the juvenile justice system in reducing delinquency should be the personal needs of the youth and the treatment of his individual problems.....(SA) (A) (N) (D) (SD)
69. The government must insure that those accused of crimes, incarcerated, or otherwise under legal jurisdiction be granted their full civil rights as citizens (including unconditional freedom at all stages of the criminal justice process) and should make available to them all legal and other resources necessary for their protection from the arbitrary exercise of coercive power.....(SA) (A) (N) (D) (SD)
70. In addition to substantial increases in manpower, law enforcement personnel must be provided with the most modern, lethal weaponry and the technological capacity (communications, computerization, electronic surveillance, aerial pursuit capability) to deliver the maximum force possible to fight crime in our streets.....(SA) (A) (N) (D) (SD)

PART II--GENERAL INFORMATION

THE PURPOSE OF THIS SECTION IS TO ALLOW COMPARABILITY OF THIS STUDY TO OTHERS OF THE JUVENILE JUSTICE SYSTEM; E.G., KENNETH CRUCE SMITH'S "PROFILE" OF JUVENILE COURT JUDGES IN A RECENT ISSUE OF JUVENILE JUSTICE.

1. Are you a full-time or part-time judge? FULL-TIME _____ PART-TIME _____
2. Approximately what portion of your time as a judge do you spend on juvenile matters?
100% _____ 75% _____ 50% _____ 25% _____ Less than 25% _____
3. In which of the following years did you begin juvenile jurisdiction?
Before 1964 _____ 1965 _____ 1966 _____ 1967 _____ 1968 _____ 1969 _____
1970 _____ 1971 _____ 1972 _____ 1973 _____ 1974 _____ 1975 _____
4. Were you elected to your position on the bench?
YES _____ NO _____
If "YES", did you run unopposed?
YES _____ NO _____
5. Sex: MALE _____ FEMALE _____
6. Age Group: UNDER 36 _____ 36-40 _____ 41-45 _____ 46-50 _____ 51-55 _____
56-60 _____ 61-65 _____ 66-70 _____ OVER 70 _____
7. Race/Ethnicity: CAUCASIAN _____ BLACK _____ ASIAN _____ FILIPINO _____
POLYNESIAN _____ SPANISH SURNAME _____ AMERICAN INDIAN/ESKIMO _____ OTHER _____
8. Please check all of the educational achievements below which apply to you and write in your major curriculum of study where applicable:
HIGH SCHOOL GRADUATE _____
SOME COLLEGE _____ MAJOR? _____
BACHELORS DEGREE _____
SOME GRADUATE SCHOOL BEYOND BACHELORS DEGREE
(other than Law school) _____ MAJOR? _____
MASTERS DEGREE _____
SOME GRADUATE SCHOOL BEYOND MASTERS DEGREE
(other than Law school) _____ MAJOR? _____
DOCTORATE DEGREE _____
POST-DOCTORAL WORK (other than Law school) _____
SOME LAW SCHOOL _____
LAW DEGREE _____
ADMITTED TO YOUR STATE BAR _____

9. Please check all of the following types of juvenile dispositional alternatives available to you at the dispositional phase:

- ☐ (1) ADULT PENAL INSTITUTION
- ☐ (2) JUVENILE CORRECTIONAL INSTITUTION (Training or Industrial Schools, etc.)
- ☐ (3) JUVENILE PROBATION
- ☐ (4) "UNOFFICIAL PROBATION"
- ☐ (5) FOSTER HOMES
- ☐ (6) RESTITUTION PROGRAMS &/OR FINES
- ☐ (7) GROUP HOMES
- ☐ (8) FORESTRY & OTHER CAMPS
- ☐ (9) JUVENILE PSYCHIATRIC &/OR OTHER MEDICAL FACILITIES
- OTHER: (Specify)
- (10) _____
- (11) _____
- (12) _____
- (13) _____
- (14) _____
- (15) _____

Of those placement alternatives you have listed above as "available," which of them seen to you to be full or otherwise unusable most often when you attempt to use them? (Give the numbers from above.)

THANK YOU VERY KINDLY FOR YOUR PARTICIPATION