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Court Records, Undetected Delinquency and Decision-Making

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COMMENTS AND RESEARCH REPORTS

COURT RECORDS, UNDETECTED DELINQUENCY AND DECISION-MAKING

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There is almost universal dissatisfaction with the accuracy of official records on delinquency.[1] Yet, at present, there are few realistic alternatives. Official records must be used, not only to provide statistical information on deliquent trends, but to act as an information base on the qualitative characteristics (i.e., delinquent types) of offenders. It is this base upon which many important practical and theoretical decisions are presently dependent. A host of provocative problems relative to each of these uses merits serious attention. Two are discussed below.

The first has to do with the currently increasing emphasis on preventing delinquency.[2] If prevention is to be successful, it must forestall delinquent behavior before it becomes a matter of official record. But how much is known about the whole body of delinquent acts which do not become a matter of official concern? How accurately do official statistics reveal the *actual* extent and types of offenses committed? Answers to these questions are needed before revisions in control strategies can proceed rationally toward desired goals.

At present most control decisions are without the benefit of answers to important questions. Most people are left in a quandary as to whether official records understate or overstate the problem. For example, as a result of finding a vast number of undetected violations in their study, Murphy, Shirely and Witmer concluded that "even a moderate increase in the amount of attention paid to [them] by law-enforcement authorities could create a semblance of a 'delinquency wave' without there being the slightest change in adolescent behavior."[3]

Therefore, perhaps even more basic than deciding what should be done, we need more information in deciding whether, to what extent, or along what dimensions anything needs to be done. A greater knowledge of the nature of *undetected offenses* among the adolescent population might be important in determining prevention (and treatment) strategies.

A second problem has to do with the research on delinquency. Few authorities would dispute the value of using legal norms, in contrast to diffuse moral or extralegal concepts, to define a delinquent act. But the extension of this use to practical purposes often results in the development of extreme, either-or dichotomies: delinquent or nondelinquent, institutionalized or noninstitutionalized.

It is an obvious oversimplification to believe in the validity of such dichotomies. Delinquent behavior is not an attribute—something which one

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[1] Discussions and criticisms are legion. A sample might include: Cressey, *The State of Criminal Statistics*, 3 NAT'L PROBATION & PAROLE ASS'N J. 230 (1957); McQueen, *A Comparative Prospective on Juvenile Delinquency*, in A SYMPOSIUM ON DELINQUENCY: PATTERNS, CAUSES AND CURES 1–21 (1960); Sellin, *The Basis of a Crime Index*, 22 J. CRIM. L. & C. 335 (1931); SUTHERLAND, PRINCIPLES OF CRIMINOLOGY 29–30 (1947); TAFT, CRIMINOLOGY 61–65 (1956); and VanVechten, *Differential Criminal Case Mortality in Selected Jurisdictions*, 7 AM. SOC. REV. 833 (1942).

On the other hand, Perlman and Schwartz, noting a high degree of agreement in trends between police and court records on juveniles, feel the two are subject to common determining factors. See Perlman, *The Meaning of Juvenile Delinquency Statistics*, 13 Fed. Prob. 63 (Sept. 1949). See also Perlman, *Reporting Juvenile Delinquency*, 3 NAT'L PROBATION & PAROLE ASS'N J. 242 (1957); and Schwartz, *Statistics of Juvenile Delinquency in the United States*, 261 ANNALS 9 (1949).

[2] A good example is President Kennedy's creation of the President's Committee on Juvenile Delinquency and Youth Crime; see Executive Order 10940, and THE FEDERAL DELINQUENCY PROGRAM OBJECTIVE AND OPERATION UNDER THE PRESIDENT'S COMMITTEE ON JUVENILE DELINQUENCY AND YOUTH CRIME, AND THE JUVENILE DELINQUENCY AND YOUTH OFFENSES CONTROL ACT OF 1961 (1962).

[3] Murphy, Shirley & Witmer, *The Incidence of Hidden Delinquency*, 16 AM. J. ORTHOPSYCHIATRY 696 (1946). See also, PORTERFIELD, YOUTH IN TROUBLE (1946); and a summary of studies in COHEN, DELINQUENT BOYS: THE CULTURE OF THE GANG 36–44 (1955).

either is or is not, such as male or female, plant or animal. It is "a more or less thing,"[4] possibly distributed along one or more continua.

Even so, many sophisticated efforts to develop specific criminal or delinquent typologies based on this premise must still depend on the either-or nature of official records as the major criterion for selecting samples for study.

Once this is done, analyses tend to proceed in one of two directions: (1) either to rely further upon official records for specific information on such things as offense patterns; or (2) to reject as unimportant the official offense pattern in favor of psychological, cultural, or interactional factors.[5] This latter action is usually taken on the premise that the delinquent act is merely a symptom of some more basic cause and that to understand or perhaps remove the cause is what is important. But, in either case, the paradox remains: the court record serves as the basic criterion for sample selection.[6] Any strong bias in it will likely color what is found. Thus, it may be that refined analyses based upon official samples are based also upon a rather questionable foundation.

So long as samples are selected on this basis, there is a possibility that important information is being excluded. What of the possibility, for example, that there are patterns of delinquent activity which are etiologically distinct?[7] What of the possibility that the search for different configurations of variables has been inadequate because of the incompleteness of official records on delinquent activity? Even further, what of the possibility that official records do not even reveal the pattern of offenses which most commonly characterizes an offender?

The fact that many studies have found age and sex to be more highly correlated with delinquency than a host of other supposedly more important etiological variables,[8] suggests the need to explore these questions. The addition of information on the actual, not official, amount and type of delinquency in which an individual has been involved might be an aid in filling many of the gaps which exist. One important gap would have to do with the extent to which, and under what circumstances, the delinquent offense pattern should be treated as an *independent* rather than as a dependent variable. What might be revealed if it were viewed as a variable which helps to explain rather than one which is always explained by other factors?

The Present Research

This research is a modest attempt to provide some information on the questions just raised:

1. What is revealed about the total volume of delinquency when undetected offenses are enumerated? What offenses are most common?

2. To what degree do violations go undetected? To what extent do they go unacted upon in the courts?[9]

3. Do non-official delinquents—young people that have never been convicted—commit delinquencies equal in number and seriousness to those committed by officially designated offenders?[10]

4. How useful are traditional dichotomies—delinquent or nondelinquent, institutionalized or noninstitutionalized—in distinguishing groups of offenders one from another?

5. How valid are court records as an index of the total volume and types of offenses in which individuals are most commonly involved?

In seeking answers to such questions as these, this research sought: (1) to examine reported lawbreaking across an adolescent continuum extending from those who had never been officially declared delinquent, through those who had appeared in court once, to those who were "persistent" offenders; and (2) to question adolescent respondents across the whole spectrum of legal norms for

[4] Short, *The Sociocultural Context of Delinquency*, 6 Crime & Delinquency 365, 366 (1960).

[5] For excellent summaries and bibliographies on typological developments in criminology, see: Gibbons & Garrity, *Some Suggestions for the Development of Etiological and Treatment Theory in Criminology*, 38 Social Forces 51 (1960); Grant, *Inquiries Concerning Kinds of Treatment for Kinds of Delinquents*, California Board of Corrections Monograph No. 2, at 5 (1961).

[6] For example, such diverse typologies as those produced by Clyde Sullivan, Douglas and Marguerite Grant, in *The Development of Interpersonal Maturity, Applications to Delinquency*, 20 Psychiatry 373 (1957), and Gresham Sykes, in The Society of Captives (1958), must still rely upon official definition for their basic samples of offenders.

[7] This question has been raised in Gibbons & Garrity, *supra* note 5, at 51; Short, *supra* note 4, at 366.

[8] Short, "The Study of Juvenile Delinquency by Reported Behavior—An Experiment in Method and Preliminary Findings" at 12 (unpublished paper read at the annual meeting of the American Sociological Association, 1955).

[9] For studies dealing with the problem of undetected delinquency, see: Murphy, Shirley & Witmer, *supra* note 3; Wallerstein & Wyle, *Our Law-Abiding-Lawbreakers*, 25 Fed. Prob. 110 (April 1947); Wilson, *How To Measure the Extent of Juvenile Delinquency*, 41 J. Crim. L. & C. 435 (1950).

[10] Porterfield's work, *op. cit. supra* note 3, throws some light on this question; however, the evidence is not conclusive.

which they might have been taken to court. In all, they were asked about 22 violations.[11]

The Sample

The sample included only males, ages 15–17 years. It was made up of four subsamples:

1. A subsample of 50 randomly selected high school boys who had never been to court.

2. A subsample of 30 randomly selected boys who had been to court once.[12]

3. A subsample of 50 randomly selected, repeat offenders who were on probation. The respondents in this sample were assigned to a special community treatment program. If the program had not existed, 32 percent of these offenders would have been incarcerated, and 68 percent on regular probation.[13]

4. A subsample of 50 randomly selected, incarcerated offenders. Subsamples 1, 2, and 3 were drawn from the same community population. Subsample 4 was drawn from a statewide population of incarcerated offenders.

It was necessary to keep the number of respondents relatively small because each respondent was questioned at length about the whole spectrum of legal norms for which he might have been taken to court—22 different violations in all. As will be seen, this questioning resulted in the accumulation of a large mass of data which turned out to be expensive and difficult to handle.

Data Collection

All respondents were contacted in person by the authors. The study was explained to them and they were asked to participate. There were no refusals. Data were gathered by means of a detailed interview which was conducted as follows:

First, each of the 22 offenses was described in detail. For example, under the section regarding breaking and entering, it is not enough to ask a boy, "Have you ever broken into a place illegally?" He wants to know what constitutes "a place": a car, a barn in the country, an unlocked garage? All of these had to be defined.

Second, after the act was defined, the respondent was asked if he had ever committed the offense. In judging his response, attention was paid to nonverbal cue—blushes, long pauses, nervousness—as well as to verbal cues. These cues served as guides to further questions, probes and reassurances.

Third, if the respondent admitted having committed the offense, he was asked how many times he had done so. Again, considerable time and effort were spent in obtaining an estimate, the idea being that the greater accuracy could be obtained by this means than by fitting answers to a predetermined code or having him respond to such general categories as "none," "a few times," or "a great many times." In the case of habitual offenders, however, it was necessary on some offenses to have them estimate a range—15–20 times, 200–250 times—rather than a specific number.

Finally, the respondent was asked if he had ever been *caught*, *arrested*, or *to court* for each type of offense. If so, he was asked how many times this had occurred.

Methodological Problems

Beside the methodological problems inherent in any reported data, there are others peculiar to the nature of this type of study.[14] Perhaps the most important has to do with the method of obtaining data. An extended pilot study[15] and pretests, using both interviews and questionnaires, suggested that interviews could provide more complete and reliable data. Two main considerations led to this conclusion.

The first had to do with the lack of literacy skills among persistent delinquents. Two 15-year-olds in this study could neither read nor write; others had

[11] Unfortunately, no data on sex violations can be presented. Two things stood in the way. The first was a general policy of high school administrators against questions on sex. The second had to do with possible negative reactions by parents against questions because of the brutal sex slaying of an 11-year-old girl and several attacks on women which occurred at the very time we began our study. For these reasons we did not attempt to gather these data for fear they might endanger the whole study.

[12] Since this study was part of a larger study comparing persistent delinquents—incarcerated and unincarcerated—with nondelinquent high school students, data were not collected initially from one-time offenders. Consequently, they had to be collected especially for this group. However, time and budgetary considerations required that the sample of one-time offenders be limited to 30.

[13] They are assignees to the Provo Experiment in Delinquency Rehabilitation. All assignees are, by design, persistent offenders. Assignment is made on a random basis and includes both offenders who might otherwise be left on regular probation and offenders who might otherwise be incarcerated in the State Industrial School. See Empey & Rabow, *The Provo Experiment in Delinquency Rehabilitation*, 26 AM. SOC. REV. 693 (1961).

[14] See Short, *supra* note 8; and Short & Nye, *Reported Behavior as a Criterion of Deviant Behavior*, 5 SOCIAL PROBLEMS 210 (Winter 1957–1958).

[15] Erickson, "An Experiment To Determine the Plausibility of Developing an Empirical Means of Differentiating Between Delinquents and Nondelinquents Without Consideration to Involvement in Legal Process," (unpublished Masters Thesis, Brigham Young University, 1960).

great trouble with simple instructions and questions. In our opinion, therefore, an interview was the only alternative for the delinquent subsamples.

Second, in addition to the need for comparable data, our pilot studies indicated that high school samples had trouble understanding specific questions and supplying the data wanted. Therefore, the value of using an interview for this group, as for delinquents, seemed to outweigh the virtues of an anonymous questionnaire.

We did not find the confrontation of an interview to be generally harmful. By using only three skilled interviewers, it became possible to anticipate recurring difficulties and to deal more effectively with them. These interviewers encountered two types of problems.

The first was the resistance on the part of high school students to revealing offenses. Patience, skepticism regarding replies, probes, and reassurances seemed to encourage candor. The second was a memory problem. Habitual offenders were not so reluctant to admit offenses, but they had often committed them so frequently that they could make an easy estimate neither as to number nor the age at which they began. Probes and extended discussions helped considerably here in settling upon a reasonable estimate.

One possible problem regarding the validity of these data has to do with the perceptions of respondents regarding the "social desirability" of answering questions according to social expectation. What is each respondent's reference group? How does he perceive the interviewer? Are his responses biased by special perceptions of each?

For example, if, among delinquents, it is desirable to exhibit extensive delinquent behavior, then, at least up to a certain point, the less delinquent an individual is, the more likely he may be to inflate his own actual violations. The converse might also be true for the conventional boy. Actually, as will be seen later, our findings tended to question the premise that social expectation influences boys' answers (or at least they failed to establish its validity). Nondelinquents reported so much delinquent behavior that it became difficult to assess the extent to which official delinquents, by contrast, might have inflated their own illegal behavior.

By way of determining validity, the names of all respondents were run through court records. None of those who had been to court failed to say so in the interview, nor did anyone fail to describe the offense(s) for which he was charged.

Few responses were so distorted as to be questionable. For example, no one maintained complete detachment from lawbreaking; no one admitted having committed all offenses. These findings tended to parallel the experience of Short and Nye in this regard.[16]

FINDINGS

1. *What is revealed about the total volume of delinquency when undetected offenses are enumerated? What offenses are most common?*

The number of violations which respondents admitted having committed was tremendous. So great was the volume that it posed some difficulty for display and analysis. A comprehensive table, Table I, was prepared for use throughout the paper. The reader's patience is requested in referring to it.

The first two columns of Table I deal with the total volume of reported delinquency. These columns rank types of offenses in terms of the total frequency with which they were reported by all four samples. The frequencies reported for one-time offenders (N = 30) has been inflated by two-fifths in order to make them comparable to the other subsamples (N = 50). This inflation is also reflected in the *totals column* of Table I for the entire sample.[17] (Many other refinements and differences among subsamples in this comprehensive table will be discussed later.)

Three types of offenses were most common: theft (24,199)—especially of articles worth less than $2 (15,175)—, traffic (23,946), and the purchase and drinking of alcohol (21,698).

Grouped somewhat below these three were open defiance of authority—parents and others—(14,639); violations of property, including breaking and entering (12,278); retreatist activities such as running away (9,953); offenses against person (9,026); and finally such offenses as gambling (6,571). In the case of smoking, the total number of respondents who smoke habitually, rather than the estimated number of times all have smoked, was obtained. Of the 200, 86 reported smoking habitually.

2. *To what degree do violations go undetected? To*

[16] Short & Nye, *supra* note 14, at 211.

[17] It is impossible to assess any increase in error which might have resulted from this inflation. If there is bias in the sample of 30, it will have been magnified. See HANSEN, HURWITZ & MADOW, SAMPLE SURVEY METHOD AND THEORY (1953). Insofar as sample size, *per se*, is concerned, error would not have been significantly decreased had this sample of 30 been increased to 50. Both (N = 30) and (N = 50) are very small proportions of the total population of one-time offenders.

TABLE I

EXTENT OF VIOLATIONS AND PER CENT UNDETECTED AND UNACTED UPON

OFFENSE	RANK	ENTIRE ADOLESCENT SAMPLE[1]			SUBSAMPLES											
					NON-DELINQUENTS[2]			ONE-TIME OFFENDERS[3]			DELINQUENTS COMMUNITY[4]			DELINQUENTS INCARCERATED[5]		
		Total Offenses	% Undetected	% Unacted Upon	Total Offenses	% Undetected	% Unacted Upon	Total Offenses	% Undetected	% Unacted Upon	Total Offenses	% Undetected	% Unacted Upon	Total Offenses	% Undetected	% Unacted Upon
TRAFFIC OFFENSES	1															
Driving Without License		11,796	98.9	99.7	1,845	99.6	100.0	512	98.7	98.7	2,386	98.0	99.1	7,053	99.1	99.9
Traffic Viol. (not lic.)		12,150	98.2	99.3	2,040	98.3	99.9	2,142	98.4	98.7	3,068	96.8	98.4	4,900	99.0	98.8
TOTAL		23,946	98.6	99.5	3,885	98.9	100.0	2,654	98.4	98.6	5,454	97.3	98.7	11,953	99.0	99.8
THEFT	2															
Articles less than $2		15,175	97.1	99.8	966	91.7	100.0	1,738	96.5	99.6	7,886	98.6	99.8	4,585	95.6	99.8
Articles worth $2 to $50		7,396	97.1	99.1	60	83.3	100.0	80	93.8	95.8	4,671	98.5	99.2	2,585	94.8	99.1
Articles more than $50		294	71.0	92.8	1	100.0	100.0	2	100.0	100.0	90	66.7	91.1	201	72.6	93.5
Auto Theft		822	88.9	95.5	4	100.0	100.0	0	0.0	0.0	169	84.6	93.5	649	90.0	96.0
Forgery		512	93.4	97.5	0	0.0	0.0	0	0.0	0.0	60	70.0	90.0	452	96.5	98.5
TOTAL		24,199	96.3	99.3	1,031	91.3	100.0	1,820	96.3	99.4	12,876	98.0	99.4	8,472	94.5	99.0
ALCOHOL AND NARCOTICS	3															
Buying Beer or Liquor		8,890	99.6	99.9	18	100.0	100.0	57	94.1	100.0	1,453	99.6	100.0	7,362	99.6	99.9
Drinking Beer or Liquor		12,808	98.8	99.8	219	100.0	100.0	270	100.0	100.0	4,173	99.0	99.7	8,146	98.6	99.8
Selling Narcotics		1	100.0	100.0	0	0.0	0.0	0	0.0	0.0	0	0.0	0.0	1	100.0	100.0
Using Narcotics		74	100.0	100.0	0	0.0	0.0	0	0.0	0.0	3	100.0	100.0	71	100.0	100.0
TOTAL		21,773	99.1	99.9	237	100.0	100.0	327	99.0	100.0	5,629	99.1	99.8	15,580	99.1	99.9
OPEN DEFIANCE OF AUTHORITY	4															
Defying Parents		8,142	99.7	99.9	138	100.0*	100.0	128	100.0*	100.0	4,804	99.7*	99.9	3,072	99.8*	99.9
Defying Others		6,497	99.4	99.7	124	100.0*	100.0	170	100.0*	100.0	1,478	99.3*	99.3	4,725	99.5*	99.9
TOTAL		14,639	99.5	99.9	262	100.0*	100.0	298	100.0*	100.0	6,282	99.6*	99.8	7,797	99.6*	99.9
PROPERTY VIOLATIONS	5															
Breaking and Entering		1,622	85.6	94.4	67	94.0	100.0	102	98.4	100.0	527	84.4	93.5	926	84.9	94.2
Destroying Property		10,645	98.5	99.7	477	97.1	100.0	800	98.5	99.7	4,927	98.7	99.6	4,441	98.7	99.4
Setting Fires (Arson)		11	40.0	90.0	2	0.0	0.0	2	0.0	100.0	0	0.0	0.0	7	100.0	100.0
TOTAL		12,278	96.8	99.0	546	96.7	100.0	904	96.5	99.6	5,454	97.3	99.0	5,374	96.4	98.5

RETREATIST ACTIVITIES	6														
Running Away from Home		578	86.8	94.7	19	100.0	100.0	19	100.0	100.0	103	75.0	87.4	437	89.0	96.1
Skipping School		9,375	93.9	99.8	377	94.7	100.0	698	93.1	100.0	3,478	93.2	99.8	4,822	94.4	99.8
TOTAL		9,953	93.5	99.5	396	94.9	100.0	717	93.2	100.0	3,581	92.6	99.5	5,259	94.0	99.5
OFFENSES AGAINST PERSON	7														
Armed Robbery		46	80.4	91.3	0	0.0	0.0	0	0.0	0.0	22	68.2	90.9	24	91.7	91.7
Fighting, Assault		8,980	99.7	99.9	354	100.0*	100.0	103	100.0*	100.0	2,207	99.9*	99.8	6,316	99.6*	99.9
TOTAL		9,026	99.6	99.9	354	100.0*	100.0	103	100.0*	100.0	2,229	99.6*	99.7	6,340	99.5*	99.9
OTHERS	8														
Gambling		6,571	99.9	99.8	1,185	100.0	100.0	2,400	100.0	100.0	1,186	99.3	99.5	2,800	99.9	100.0
Smoking (habitually)		86	87.1	91.8	1	...*	100.0	3	50.0	100.0	39	...*	94.9	43	...*	88.4

1. Number of Respondents = 180, except on Arson (N = 136) and Gambling (N = 171).
2. N = 50.
3. Actual N = 30. However, figures in this column have been inflated as though N = 50. This was done to make frequencies comparable with other subsamples.
4. N = 50, except on Arson (N = 15) and Gambling (N = 41).
5. N = 50, except on Arson (N = 41).

* Because of their nature, these offenses almost never remain undetected by someone in authority. Thus, these figures refer to per cent *unarrested*, rather than *undetected*.

what extent do they go unacted upon in the courts?

The reader is again referred to Table I where, along with the volume of delinquent violations, the percentage of each of those violations which went (1) *undetected* and (2) *unacted upon* in court is presented.

With regard to detection, respondents were asked after each reported violation to tell whether they had been *caught by anyone*: parents, police, or others. With regard to court action, they were asked to report *any* appearance, *formal or informal*, before *any* officer of the court: judge, referee, or probation officer. (It was this question which served as an outside check on reliability. As noted above, respondents were generally very accurate.)

More than nine times out of ten—almost ten times out of ten—most offenses go *undetected* and *unacted upon*. This is especially true with respect to so-called minor violations: traffic offenses, theft of articles worth less than $50, buying and drinking liquor, destroying property, skipping school, and so on.

As might be expected, the picture changes with respect to more serious violations—theft of articles worth more than $50, auto theft, breaking and entering, forgery, and so on. Fewer of these offenses went undetected and unacted upon. Yet, even in these cases, eight out of ten reported that their violations went undetected and nine out of ten did not result in court action.

3. *Do nonofficial delinquents—young people who have never been convicted—commit delinquencies equal in number and seriousness to those committed by officially designated offenders?*

The answer to this question illustrates the extreme importance of distinguishing between the *frequency* with which a given norm or set of norms is violated by two different samples and the proportion of respondents in each sample who report having violated them. The distinction helps to avoid the pitfall of concluding that, because large *proportions* of two different samples—i.e., students and institutionalized delinquents—have committed various offenses, the samples are equally delinquent in terms of total volume. Because of early studies, this impression regarding the total volume of delinquency in different samples has become almost traditional, even though it was not embraced by the authors of these studies.[18] The fact is that the *frequency*, as well as the types of offenses, with which individuals violated certain statutes turns out to be vitally important.

By way of example, consider Table II. It presents the *proportions* of respondents in the four different samples who reported committing various offenses. On some offenses—theft of articles worth less than $2, traffic violations, and destroying property—there is little to choose among the four samples. Most young people in each sample reported having committed them.

The proportions of all 180 boys who reported committing various offenses were as follows: petty theft (93%), gambling (85%), driving without a license (84%), skipping school (83%), destroying property (80%), other traffic offenses (77%), drinking (74%), fighting (70%), defying others (64%), and thefts of from $2 to $50 (59%).

However, it would be premature and superficial to conclude that, because large *proportions* of the entire sample have committed these offenses, the subsamples are equally delinquent. On only two offenses—gambling and traffic—did the proportions of nondelinquents exceed those of the delinquent subsamples. (However, the proportions for the nondelinquents and one-time offenders were very much the same.)

Furthermore, a re-examination of Table I reveals that the *frequency* with which official offenders violate the law is in excess of the *frequency* with which non-official offenders violate it. (Again, however, non-official and one-time offenders differ very little. More will be said on them later.) The chief distinctions were between non- and one-time offenders, on the one hand, and the two subsamples of persistent offenders on the other.

If non- and one-time offenders are combined—because of their similarity—the cumulative violations of persistent offenders exceed their violations by thousands: thefts, excluding forgery (20,836 vs. 2,851); violations of property (10,828 vs. 1,450); violations of person (8,569 vs. 457); and violations involving the purchase and drinking of alcohol (21,134 vs. 564).

In addition, as shown in Table II, far smaller proportions of non- and one-time offenders committed offenses of a "serious" nature than did persistent offenders: theft of articles worth more than $50 (2% vs. 50%), auto theft (2% vs. 52%), forgery (0% vs. 25%), and armed robbery (0% vs. 9%).

The significance of these data, then, seems to be that one should guard against the use of *proportions* of total populations as a measure of delinquent involvement without also taking into account the

[18] See PORTERFIELD, *op. cit. supra* note 3.

TABLE II

PROPORTION OF RESPONDENTS COMMITTING OFFENSES

Offense	Rank	Per Cent of Total[1]	Subsamples			
			Non-Delinquents[2]	One-Time Offenders[3]	Delinquents Community[4]	Delinquents Incarcerated[5]
THEFT	1					
Less than $2		93	92	98	96	86
Worth $2 to $50		59	22	36	78	90
More than $50		26	2	2	46	54
Auto Theft		29	2	2	54	60
Forgery		13	0	0	16	34
OTHERS	2					
Gambling		85	90	100	56	72
Smoking (habitually)		42	2	4	76	86
TRAFFIC OFFENSES	3					
Driving Without License		84	72	78	94	92
Traffic Viol. (not lic.)		77	84	84	72	66
RETREATIST ACTIVITIES	4					
Running Away from Home		38	22	24	46	60
Skipping School		83	66	68	96	100
PROPERTY VIOLATIONS	5					
Breaking and Entering		59	32	46	74	84
Destroying Property		80	66	84	86	84
Setting Fires (Arson)		6	2	2	0	8
ALCOHOL AND NARCOTICS	6					
Buying Beer or Liquor		29	4	8	46	58
Drinking Beer or Liquor		74	52	66	84	94
Selling Narcotics		0.5	0	0	0	2
Using Narcotics		4	0	0	2	12
OFFENSES AGAINST PERSON	7					
Armed Robbery		5	0	0	4	14
Fighting, Assault		70	52	60	82	86
OPEN DEFIANCE OF AUTHORITY	8					
Defying Parents		53	40	44	64	64
Defying Others		64	52	54	72	78

[1] Number of Respondents = 200, except on Arson (N = 156) and Gambling (N = 191).
[2] N = 50.
[3] N = 30.
[4] N = 50, except on Arson (N = 15) and Gambling (N = 41).
[5] N = 50, except on Arson (N = 41).

frequency with which these proportions commit violations. Although in two cases proportionately fewer of the delinquent samples had committed certain violations, those who had committed them did so with much greater *frequency* than official nondelinquent samples.

4. *How useful are traditional dichotomies—delinquent or nondelinquent, institutionalized or noninstitutionalized—in distinguishing groups of offenders one from another?*

A series of tests was run, beginning on the nondelinquent end of the continuum, to discover where, if any, there were discriminating dichotomies on the volume of delinquent offenses, either between

delinquent and nondelinquent subsamples or between institutionalized and noninstituitonalized offenders.

Chi Square was used as a test of significance. This test examines the possibility that any difference between groups could have occurred by chance. If differences are so great as to suggest that factors other than chance are responsible, it then suggests the confidence one might have in making that assumption.

To lend further refinement, a measure of association (T) was used to indicate the degree of relationship, when any difference was significant,[19] between official status and total volume of delinquency. For example, if Chi Square indicated that a deliquent and nondeliquent sample differed significantly on a given offense, the measure of association (T) suggests the power of that offense to distinguish between these two samples.

An effort was made to increase the validity of all comparisons by diminishing the impact of the large number of offenses committed by a few individuals. Thus, instead of making a gross comparison between two samples on the total number of times an offense was committed, respondents in each sample were ordered according to the number of times they reported committing an offense (i.e., 1–3 times, 4–6 times, etc.). Comparisons were then made between the number of respondents from each sample found in each category.

The wisdom of doing this can be illustrated by examining Table I. Persistent delinquents in the community reported having committed more petty theft than institutionalized offenders, while the reverse is true for auto theft. But these differences were largely due to the excessive activities of a few individuals. By taking them into account, the tests could more accurately reflect real, overall differences. If we had not accounted for them, excessively large differences between samples might have been suggested when, in fact, they did not exist.

Official Nondelinquents vs. Official One-time Offenders. The first comparison was between the subsamples of 50 high school boys who had *no* court record and the 30 one-time offenders.[20] In this particular comparison, only one significant difference past the .05 level of confidence was found; the offense was *destruction of property.* Official offenders were more likely to have been involved.

Comparisons on such offenses as stealing articles worth more than $50, auto theft, armed robbery, forgery, etc., were meaningless because they were seldom, if ever, reported by either group. This in itself tells us much about the similarity of these two groups.

This dichotomy, then—official nondelinquent vs. one-time offenders—did not prove to be discriminating.

Official One-time vs. Persistent Offenders. The second comparison was between one-time offenders and the subsample of 50 boys who were non-incarcerated persistent offenders. Differences between these two on most offenses were marked.

Persistent offenders were significantly—that is, 99 times out of 100—more inclined than one-time offenders, as a group, to have stolen expensive and inexpensive items, skipped school, defied parents, bought and drunk liquor, smoked regularly, stolen autos, fought, and driven without a license. There was also a significant difference past the .05 level with regard to forgery.

They did not differ significantly from one-time offenders on such things as running away from home, breaking and entering, destroying property, or committing most types of traffic violations. They could not be compared on such offenses as armed robbery, arson, or selling and using narcotics because of the small number of violations by both groups, but especially by one-time offenders.

This dichotomy, then—*one-time* vs. *persistent* offenders in the community—was generally discriminating.

Institutionalized vs. Noninstitutionalized Offenders. The final comparisons had to do with the institutionalized vs. noninstitutionalized dichotomy. First, the sample of institutionalized offenders (Subsample 4) was compared with those noninstitutionalized offenders who had been to court *once* (Subsample 2). As might be expected, differences were significant on virtually all offenses. The samples seemed to represent two different populations because of the much heavier involvement of the institutionalized offenders (Subsample 4) in delinquency.

[19] HAGOOD & Price, STATISTICS FOR SOCIOLOGISTS 370–71 (1952).

[20] This and other comparisons have the serious weakness of dealing with only a limited number of boys. But, at the same time, two things must be recalled: (1) that such comparisons involve an enumeration of violations which, in most cases, was very large; and (2) that it was necessary to limit the number of respondents because of the time and money involved in gathering and analyzing data on such a large number of violations.

Second, institutionalized offenders (Subsample 4) were compared with the subsample of persistent offenders who had not been institutionalized (Subsample 3). The two did not differ significantly.

Persistent institutionalized offenders as a group reported having committed more traffic offenses, forgeries, auto thefts, offenses involving alcohol, and fights than persistent noninstitutionalized offenders. The latter, meanwhile, reported considerably more petty thefts, thefts of items worth up to $50, defying parents, and destruction of property. But these differences were due largely to a few extreme individuals. Consequently, as explained earlier, when tests of significance took this fact into account, the modal behavior of boys in the two samples tended to be very much the same.

Consequently, the only significant difference between these two subsamples was on habitual smoking; more boys in the reformatory smoked regularly. Otherwise, the two samples might be taken as representative of the same population insofar as the modal volume and nature of their offenses were concerned.

The significance of this finding is diluted somewhat by the fact that only two-thirds of the noninstitutionalized group (Subsample 3) would have been on probation (and free in the community) had they not been attending a special rehabilitative program. Nevertheless, the findings strongly support the idea that a dichotomy which distinguishes, without qualification, between *institutionalized* and *noninstitutionalized* offenders may not be valid. *Persistency* rather than institutionalization seems to be the more important variable in distinguishing groups. In this study, for example, the clearest distinction among official offenders was between *one-time* offenders, on one hand, and persistent offenders—whether institutionalized or noninstitutionalized—on the other.

This finding suggests that where persistent offenders are involved, the decision to incarcerate one group and to leave the other in the community may be highly subjective. Factors other than the extent and seriousness of these offenses seem to determine whether they are incarcerated or not.

Because of the significance of this finding, both samples of persistent offenders were combined and compared with the two subsamples on the nondelinquent end of the continuum (Subsamples 1 and 2, the official nondelinquents and one-time offenders) which likewise had been found not to differ. By combining samples in this way, comparisons could be made more reliable because of larger numbers with which to work. The results are displayed in Table III.

Differences were strong and striking. On virtually all offenses, the chances were less than one in a thousand that they could have occurred by chance (see Table III). Furthermore, all relationships were positive as indicated by the measures of association (T). This means that persistent offenders report having committed more of virtually

TABLE III

COMPARISON OF OFFICIAL NON- AND ONE-TIME OFFENDERS WITH PERSISTENT OFFENDERS

Offense	Probability that Differences Could be Due to Chance	Degree of Association Between Volume and Official Classification
THEFT		
Articles less than $2	.001	.28
Articles worth $2 to $50	.001	.46
Articles more than $50	.001	.45
Auto Theft	.001	.45
Forgery	.001	.31
PROPERTY VIOLATIONS		
Breaking and Entering	.001	.34
Destroying Property	.001	.24
Setting Fires (Arson)	*	
OFFENSES AGAINST PERSON		
Armed Robbery	*	
Fighting, Assault	.001	.41
OPEN DEFIANCE OF AUTHORITY		
Defying Parents	.001	.27
Defying Others	.001	.34
RETREATIST ACTIVITIES		
Running Away from Home	.001	.32
Skipping School	.001	.50
TRAFFIC OFFENSES		
Driving Without License	.001	.36
Traffic Viol. (not lic.)	.05	.17
ALCOHOL AND NARCOTICS		
Buying Beer or Liquor	.001	.40
Drinking Beer or Liquor	.001	.42
Selling Narcotics	*	
Using Narcotics	*	
OTHERS		
Gambling	.001	.29
Smoking (habitually)	.001	.78

* Offense not committed enough times to test differences.

every offense. Those offenses which best distinguished them from official non- or one-time offenders were smoking regularly (T = .78), skipping school (T = .50), theft of articles worth $2 to $50 (T = .46), theft of articles worth more than $50 (T = .45), auto theft (T = .45), and drinking alcohol (T = .42).

This finding re-emphasizes the idea that the old dichotomies may be misleading. Persistency is the most distinguishing variable.

To what extent this finding may be generalized is hard to say. Many of the most significant differences—smoking regularly, all kinds of theft, drinking, fighting, and skipping school—are associated with behavior often thought to be more characteristic of the lower than the middle class. Other offense patterns may have been characteristic of their setting in a Mormon subculture. However, such offenses as auto theft, forgery, breaking and entering, or stealing items worth more than $50 were also highly discriminating between these two samples and are likely to draw strong official reaction anywhere.

The implication of these findings for both practice and research seems to be that the unqualified use of traditional dichotomies—i.e., delinquent vs. nondeliquent or institutionalized vs. noninstitutionalized—may be unreliable. A further examination of undetected offenses on other populations, to test the validity of these dichotomies, might be an important prerequisite to their future use as an important source of data.

5. *How valid are court records as an index of the total volume and types of offenses which are committed?*

Court Records as an Index of Volume. Evidence presented earlier indicated that the great majority of all delinquent offenses remain undetected and unacted upon. It might be concluded, therefore, that official records do not accurately reflect the total volume of delinquency. However, this might not be true.

It may be that official records are useful in reflecting volume by (1) distinguishing between those who have been heavily delinquent from those who have not; and/or (2) reflecting a tiny but consistently accurate portion of all offenses.

One method of treating these possibilities is to calculate the correlation between the actual number of court appearances for a given population and the number of violations it reports having committed. This calculation was made.

A coefficient of correlation was calculated for all 180 respondents. To do this and still maintain specificity, court appearances were broken into 9 categories—never been to court, been to court one time, two times, three times . . . nine or more times. The total number of reported violations was broken into 11 categories—never, 1–50, 51–100, 101–150 . . . 501 or more. The degree of association between these two variables was then calculated.

A correlation of .51 was obtained. This coefficient is statistically significant, indicating the existence of a relationship between appearing in court and the total number of violations one has committed; that is, the greater the number of reported violations, the greater likelihood that an individual will have appeared in court.

On one hand, this coefficient leaves much to be desired in terms of accurate predictability. A coefficient of .51 means that 26 percent of the variation in the number of court appearances among the 180 respondents could be associated with variations in the number of delinquent offenses they reported having committed.

When only 26 percent of the variation in violation rates, using specific categories, is explained in terms of court appearances, the ability of these appearances to supply a good index of the actual number of violations may be highly questionable.

To further illustrate this point we found a correlation of .56 between dropping out of school and the number of reported violations. This suggested that whether or not individuals had dropped out of school was as accurate or possibly more accurate a predictor of reported violations than court records. (For those respondents incarcerated in the Utah State Industrial School, this meant dropping out of school prior to incarceration, not because of incarceration.)

One would not expect official delinquency rates to be an exact match of the volume of delinquency. Seriousness is also very important. Society demands that stronger measures be taken for serious violations.

In order to examine its significance, correlation coefficients were run between court appearance and a series of single violations, extending all the way from misdemeanors to felonies. The results are displayed in Table IV.

As might be expected, reported felonies correlated more highly with court appearances than did reported misdemeanors. However, taken singly, the correlation between any one of the felonies

TABLE IV

CORRELATION COEFFICIENT BETWEEN COURT APPEARANCES AND REPORTED NUMBER OF VIOLATIONS

OFFENSE	CORRELATION	PERCENTAGE OF VARIATION EXPLAINED
Misdemeanors		
A. Taken Singly		
Skipping School	.17	.03
Theft (less than $2)	.19	.04
Theft ($2 to $50)	.20	.04
Traffic Violations (all types)	.18	.03
B. Combined	.15	.02
*Felonies**		
A. Taken Singly		
Theft (more than $50)	.25	.06
Auto Theft	.43	.18
Breaking and Entering	.40	.15
Forgery	.05	.003
B. Combined	.29	.08

* Armed robbery, arson and the selling and use of narcotics were not included because the number reporting such violations was small.

(theft of articles worth more than $50, auto theft, breaking and entering, and forgery)[21] was not so high as that between the total *volume* of violations and court appearance.

Furthermore, even though the total number of reported violations for the four felonies, when they were combined and then correlated with court appearance, produced a higher coefficient (.29) than did the combined misdemeanors (.15), this correlation (.29) was considerably lower than the correlation (.51) between the total volume of offenses and court appearance.

This finding raises questions regarding the traditional assumption that the court record is a better index of serious violations than it is of the total number of offenses an individual has committed. One might speculate, however, that the finding is due to the inaccuracy of reported data. But if one were to discard these reported data as inaccurate, he would have to ignore the fact that, except for seriousness, these findings met other assumptions rather consistently regarding distinctions between persistent and nonpersistent offenders, as to both frequency and seriousness. And they also seemed capable of making more precise distinctions in the direction of theoretical expectations among various dichotomies than court records.

Thus, these findings also raise important questions regarding the accuracy of official records as an index of volume and seriousness. But it is difficult either to assess the amount of combined error inherent in these court and reported data or to generalize from this to other police and court jurisdictions.

Court Records and Types of Offenses. One of the major problems raised in the introduction had reference to the adequacy of official records for the purpose of conducting typological research. There are at least two different levels of complication.

The first has to do with the validity of the official dichotomies—delinquent or nondelinquent, institutionalized or noninstitutionalized—which are used as the major criteria for distinguishing groups and setting up research samples. The foregoing analysis has already suggested some possible difficulties. It suggests that important qualifications may be needed.

The second level of complication comes in specific attempts to establish delinquent typologies based not only upon basic dichotomies but upon the offense patterns which are revealed by court records. To be accurate, these records would have to reflect reliably an individual's major offense pattern, with respect to both number and seriousness. Some test of their ability to do so was made.

The first part of the analysis was concerned with volume. It sought to determine how well the court record reflected, without special regard to seriousness, the offense which each respondent reported having committed *most often*. The court record proved to be a fair index for offenders who had been to court only once. Sixteen of 30, half of them, had appeared in court for the types of offenses they reported having committed most often.

But this was not the case for the more persistent offenders. The more delinquent they tended to be, the less predictive the court record was of their most commonly reported violations. For example, only 26 of the 100 official, persistent delinquents had appeared in court more often for their major areas of offense than for other offenses. Nineteen of the 100 had *never* appeared in court for their reported major areas of offense. Thus, if these reported data are valid, the court record for this latter group would not give any clues as to the

[21] Armed robbery, arson, and the selling and use of narcotics were not included in this analysis because the number reporting such violations was small.

types of offenses they reported having committed most frequently.

In between these two extremes were 55 other boys, all of whom had been to court for their major patterns of offense, but they had also been there equally as often for other offenses. Consequently, even for them court records would fail to provide a clear picture of the most commonly reported offense patterns.

With regard to seriousness, the foregoing analysis has already suggested that court records may be a relatively poor index of the total number of *serious* violations. But what of individual offenders rather than their total offenses? How well does the court record eventually select boys who report having committed *serious* violations?

Answers to such questions are important. Although an offender may have a long record of petty violations, his commission of a serious offense, such as breaking and entering, will more likely type him as a burglar than a petty thief.

In order to examine this dimension, a crude "seriousness" classification was established. Five judges and five chief probation officers from Utah's six juvenile judicial districts[22] were asked to rank 25 offenses according to seriousness. The first ten of these offenses were then selected to serve as the *serious* criterion. They were:

1. Rape[23]
2. Selling narcotics
3. Arson
4. Using narcotics
5. Armed robbery
6. Breaking and entering
7. Forgery
8. Auto theft
9. Homosexuality[23]
10. Theft of items worth more than $50

Two specific questions were examined: (1) How accurate is the court record in reflecting the most *serious* offense each respondent has committed (in terms of the hierarchy of eight serious violations)? (2) How accurate is the court record in reflecting each offender's most frequently committed *serious* violation?

For a relatively large group, the court record could supply no information regarding these questions. This group was comprised primarily of the official nondelinquents and one-time offenders. Twenty-three of the 50 nondelinquents (46%) and 14 of the 30 one-time offenders (47%) had committed one or more of the serious violations, but none had ever been to court for any of them. (The close similarity between the nondelinquents and one-time offenders in this study is again illustrated.)

By contrast, a much higher proportion of the two most delinquent samples had not only committed serious offenses—i.e., 88 of 100—but had also been to court for committing them—i.e., 77 of the 88 (or 88%).

Upon reading such information one might conclude that official records are likely biased against persistent offenders. It should be recalled from Table I, however, that respondents in the two most delinquent samples reported having committed many more serious offenses than the less delinquent subsamples. Court records, therefore, may simply reflect the greater probability of being caught because of excessive violations.

For this group of 77 persistent offenders who had been to court, the court record was accurate for 65 percent of them in reflecting the most serious offense they had committed. It said nothing of the remaining 35 percent. If, therefore, the premise is accepted that an offender would likely be typed on the basis of his most serious known offense, the court record would be accurate approximately two-thirds of the time for this select group. This is encouraging in some ways because it is persistent offenders with whom officials and researchers have been most concerned.

On the other hand, the large proportion of juveniles whose serious offenses remained undetected might easily have been typed in the same way had they been apprehended. Yet, without official action, many of them apparently make a reasonable, conventional adjustment.

A second qualification has to do with the ability of the court record to reflect not only an individual's most *serious* violation, but the type(s) of *serious* violation(s) he commits most frequently. Another premise might be that an individual should be typed on the basis of frequency of seriousness rather than extremity of seriousness. For example, it may be preferable to type an individual as an auto thief for having been to court three times for auto theft than to type him as an armed robber for having been to court once for armed robbery.

[22] Utah has one of the two State Juvenile Court Systems in the United States. Connecticut has the other. Judges are appointed for six-year terms; they must be members of the bar. Chief probation officers are selected on the basis of a state merit system examination and training and experience in correctional work.

[23] It will be recalled that data on rape and homosexuality are not presented in this paper. Therefore, the seriousness classification includes the eight remaining offenses.

The court records were somewhat less accurate in this regard. About half (39) of the 77 persistent offenders who had appeared in court for serious violations had appeared there more often for the types of *serious* violations they reported committing most often than for any other *serious* violation. However, the picture for this group of 39 was muddied somewhat because 52 percent of them had appeared in court just as often, or more often, for other offenses not considered serious.

For the other half of the 77 offenders who had not been to court more often for their most common serious violation, 20 (26%) had *never* been to court for their most common *serious* offense. And 18 (23%) had been to court just as often for other *serious* offenses. In these cases, the court record would not be an accurate means for typing an individual according to *serious* offense.

Conclusion

In conclusion, official records seemed more accurate in reflecting an individual's single most *serious* violation than the pattern of offenses, either *serious* or *nonserious*, which he most commonly commits.

On the surface, these findings may seem more encouraging from the treatment and control, than the research, standpoints. That is, court records, when compared with reported behavior, did distinguish persistent offenders (with whom officials are most concerned) from one-time offenders or nondelinquents, in terms of both number and seriousness of violation. Furthermore, they seemed quite efficient in indicating the most *serious* violations which persistent offenders had committed.

However, a great deal of refined information regarding types of offenders is needed if treatment and control strategies are to be effective. And, even though such information may be most needed for the persistent offender, it cannot be supplied, even for him, until more is known about two things: (1) about any differences or similarities between him and those juveniles who, if they were apprehended, might be typed the same way; and (2) about the offense patterns of him and others who, though they are apprehended, often remain largely unincorporated into the official record. Varying degrees of such information are needed no matter what theoretical orientation one takes towards developing typologies for treatment and control purposes.

Obviously, the findings which led to these conclusions must be qualified because of the data from which they were derived and the methodological problems inherent in obtaining them. Yet, even if they are only partially correct, they indicate one possible reason why we have encountered so much difficulty in pinpointing important etiological and treatment variables.

If different patterns of delinquency have important significance for the administration of justice, for prevention and treatment strategies, and for research purposes, data which could be used to supplement official records seem needed. At least it would seem important to explore the possibility that reported data on undetected offenses might be helpful in understanding delinquency.

The methods for obtaining such data need not be greatly different from those which are used in a variety of other areas, clinical and scientific. Possible legal and constitutional questions would have to be explored. Yet, we are not without precedent in the clinical field where the communication of important information is privileged.

Furthermore, reported data might also open avenues to more detailed examination of the circumstances surrounding the commission of delinquent acts: Who is present? How are the acts carried out? What social and psychological variables seem to be operating? And then attempts might be made to relate such questions to court, control, and research strategies.