

Buffalo Law Review

Volume 48
Number 3 *Symposium on Urban Girls: legal
issues Facing Adolescents and Teens*

Article 7

10-1-2000

The Institutionalization of Female Delinquency

Katherine Hunt Federle
The Ohio State University College of Law

Follow this and additional works at: <https://digitalcommons.law.buffalo.edu/buffalolawreview>



Part of the [Juvenile Law Commons](#)

Recommended Citation

Katherine H. Federle, *The Institutionalization of Female Delinquency*, 48 Buff. L. Rev. 881 (2000).
Available at: <https://digitalcommons.law.buffalo.edu/buffalolawreview/vol48/iss3/7>

This Symposium Article is brought to you for free and open access by the Law Journals at Digital Commons @ University at Buffalo School of Law. It has been accepted for inclusion in Buffalo Law Review by an authorized editor of Digital Commons @ University at Buffalo School of Law. For more information, please contact lawscholar@buffalo.edu.

The Institutionalization of Female Delinquency

KATHERINE HUNT FEDERLE†

I. INTRODUCTION

In my experience representing juveniles in a variety of legal proceedings in a number of different state jurisdictions, I have been struck by how different each of those juvenile systems has been—both in terms of the kinds of cases handled as well as the practice norms in those courts. One striking yet consistent difference that I have noted over the years has been the way these court systems have handled less serious delinquency cases. My anecdotal experience has suggested that the more serious the juvenile crime problem is—both in real and perceptual terms—the less time the court has to deal with less serious offenders. That is, the courts' energies and resources have been devoted more to those offenses and offenders that pose the greatest threat to the community.

This, of course, makes some intuitive sense. A sort of triage has evolved in the juvenile justice system where the court expends its limited resources dealing with the worst sort of cases first. And if there is time, or money, or both left over, then the system turns to the cases that have been identified as less serious. Moreover, because crime is generally an urban problem, one would expect to see this triage effect most clearly in urban juvenile justice systems. That is, the most serious offenses and offenders remain in

† Copyright, Katherine Hunt Federle. Associate Professor of Law, The Ohio State University College of Law, and Director, Justice for Children Project. An earlier version of this article was presented at the Urban Girls Conference, held in Buffalo, New York, on April 14-15, 2000. My thanks to Professor Susan Mangold for inviting me and to those participants at the Urban Girls Conference for their insightful and helpful comments that have helped shape this article. I also wish to thank Amy Steinkamp, Vanessa Miller-Coterel, and especially Melissa Jamison for their excellent research assistance.

the system while the least serious offenses and offenders are diverted from the system. The data seems to support this hypothesis. The number of cases in juvenile courts increased in recent years and the types of cases the courts handle changed.¹ Thus, it appears that the system engages in the prioritization of cases and offenders to preserve its limited resources.

But I began to wonder what would happen in these juvenile justice systems when juvenile crime started to decline. The fact is that contrary to popular belief, juvenile crime is declining.² Despite these declining juvenile crime rates, the number of cases the juvenile court handles as well as case rates have not dramatically declined; in fact, both the actual number of cases and case rates have increased.³ But the kinds of cases the juvenile courts are handling are different, indicating that less serious offenses are now being processed in greater numbers.⁴

How do we explain, then, increasing case loads when juvenile crime is declining? I think the answer, in part, is the triage effect. The juvenile justice system is still dealing with the "worst" cases, only now there are not as many of them. Moreover, this may mean that other kinds of cases look more serious. It is these cases that now may be retained in the system because some resources have been freed. Of course, the real question is why such triage is necessary when the system is ostensibly less burdened by serious juvenile crime. The answer is two-fold: first, one would need to assume that the juvenile system was adequately resourced to handle even a reduced number of cases. It would seem obvious to even the most casual observer that this is not the case, that like many of our public systems, the juvenile court is inadequately funded and understaffed.

Another explanation for the increase in juvenile cases and case loads stems from the way in which juvenile courts function organizationally.⁵ Within a strand of organization

1. For a discussion of the data, see *infra* notes 46-50, 77-82, 88-104, and accompanying text.

2. See *infra* notes 61-76 and accompanying text.

3. See *infra* notes 77-85 and accompanying text.

4. For a discussion of the kinds of cases being processed by the juvenile courts, see *infra* notes 88-104 and accompanying text.

5. For a more complete discussion of organizational theory, see *infra* notes 155-88 and accompanying text.

theory, organizations are thought to have a will to survive that may transcend or supplant their original goals. In this sense, organizations are self-protective and self-sustaining, and will find ways to maintain a high level of functioning to enhance both stability and legitimacy. In other words, in situations where an institution may suddenly have less to do, it will always find something it must do. It is, therefore, unlikely that the juvenile court system will downsize simply because crime rates are declining. Rather, the system is more likely to respond by filling the void created by the removal of the more serious cases.

For girls, this effect is likely to have serious consequences. Girls, however, generally commit less crime and less serious crime. During a time when serious juvenile crime is increasing, one might expect the triage effect to place a lower priority on these kinds of cases. But when juvenile crime rates are declining, girls' cases suddenly seem more serious. They rise in the triage system and are given higher priority. When this is coupled with the tendency of organizations to be self-protective and self-perpetuating, then it is more likely that we will see girls' cases in the system. In fact, this seems to be what is happening because, contrary to general arrest rate trends, female delinquency arrest rates are, at best, declining less than male delinquency rates and, at worst, are increasing.⁶

What this article contends is that, while by no means a complete explanation for the cause of female delinquency or the increase in the rate of female offending, some part of the arrest and case rate increase for girls in the juvenile justice system may be attributable to organizational behavior. This article begins by analyzing overall juvenile arrest, case, and detention rates and trends for the last twenty years. Female delinquency trends are discussed and compared. The article then turns to a discussion of organizational theory and its applicability to the juvenile court setting. The implications of organizational behavior for girls are then analyzed and the conclusion reached that some of the increase in girls' delinquency arrest and case rates may be attributable to the system's own need to maintain its present level of functioning. Of course, this cannot explain everything about the increase in arrest and

6. For a discussion of female delinquency trends, see *infra* notes 110-37 and accompanying text.

case rates for girls. Moreover, this hypothesis does not explain why girls offend. Whether one considers social ecology,⁷ strain,⁸ differential association,⁹ labeling,¹⁰ or feminist theories¹¹ of female delinquency as an explanation for female offending, there is still room for the argument that organizational practices may affect the frequency and way in which girls are processed within the juvenile justice system.

II. JUVENILE CRIME AND FEMALE DELINQUENCY

A. *Juvenile Crime Trends*

To understand the significance of the increase in female delinquency, it is important to consider initially overall

7. Social ecology is often referred to as the "social disorganization" theory of crime and delinquency. Ecological theorists have shown that crime and delinquency are at the highest levels in areas where numerous other social problems exist. The theory explains this phenomenon as a result of broken communities and local institutions unable to combat the community's weakness. This creates "social disorganization" because there are neither community members nor local institutions to nurture the children and protect them from a subculture of crime. Theorists believe that females are less likely to be drawn into the criminal subculture, even in an area of disorganization, both because their behavior is socialized against such activities and because girls are still closely supervised in such areas. See MEDA CHESNEY-LIND & RANDALL G. SHELDEN, *GIRLS, DELINQUENCY, AND JUVENILE JUSTICE* 62-64 (1992).

8. Strain is created in some individuals because there is a disparity between societal goals and legitimized methods of attaining those goals. Those individuals unable to legitimately attain societal goals will often turn to crime as an alternative means to achieve these goals. Strain theorists have failed to extend their studies to girls, and thus, it is primarily a theory of male delinquency. See *id.* at 64-67 (citing Robert K. Merton, *Social Structure and Anomie*, 3 AM. SOC. REV. 672 (1938)).

9. Differential association theory has one basic postulate: all forms of human behavior, including criminal behavior, are learned through interaction with close friends. As with most theories, a specific study of girls has yet to be conducted. See *id.* at 86.

10. Instead of studying why a criminal act is committed, labeling theorists analyze why society has labeled that act as criminal and how such a label affects people's behavior. Labeling theorists have applied these principles to women, focusing on society's use of deviant labeling to keep women powerless. See *id.* at 69-70.

11. Feminist theorists consider the issue of gender both in individual rates of offending as well as in criminological institutions. From this perspective, gender is pervasive and affects our view of criminality as well as individuals within that society. See *id.* at 70-75.

juvenile crime trends for the last two decades. Although public perceptions about juvenile crime suggest an upward and increasingly dangerous trend, the data indicate a more fluid and changing pattern. For example, after a downward trend in the early 1980s, juvenile arrest rates for all offenses rose fairly steadily through 1994. The rate for all juvenile arrests decreased from 7414 arrests for every 100,000 persons between the ages of ten and seventeen¹² in 1980¹³ to 6751 arrests in 1983.¹⁴ Between 1984 and 1991, rates rose from 6766 arrests in 1984 to 8382 arrests in 1991, before declining to 8239 arrests in 1992.¹⁵ Rates of arrest for all offenses then rose again in 1993 and 1994 to 9275 arrests for every 100,000 juveniles.¹⁶

Between 1980 and 1983, arrests of juveniles for violent crime¹⁷ also decreased. In 1980, there were 334.1 arrests for every 100,000 persons between the ages of ten and seventeen;¹⁸ by 1983, that number had declined to 296 arrests for every 100,000 juveniles.¹⁹ In 1984, the violent crime arrest rate did not increase significantly,²⁰ but it signaled an upward turn in juvenile violent arrest rates that continued into the next decade. By 1994, the arrest rate for violent crime had risen to 526.7 arrests for every

12. See OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION, U.S. DEPT OF JUSTICE, OJJDP STATISTICAL BRIEFING BOOK, available at <http://www.ojjdp.ncjrs.org/ojstatbb/qa255.html> (Apr. 11, 2000) [hereinafter STATISTICAL BRIEFING BOOK] (providing rates based on "arrests of persons ages ten to seventeen per 100,000 persons ages ten to seventeen in the resident population"). The *OJJDP Statistical Briefing Book* is an on-line resource charting the trend of juvenile arrest rates, with a unique Uniform Resource Locator for specific offenses and offense categories. At each Uniform Resource Locator, linked Adobe Acrobat and Microsoft Excel files contain the data of the annual arrest rates that are represented in the charts. The *OJJDP Statistical Briefing Book* is referenced based on the information provided in both the charts and the linked files.

13. *Id.*

14. *Id.*

15. *Id.*

16. *Id.*

17. STATISTICAL BRIEFING BOOK, *supra* note 12, at <http://www.ojjdp.ncjrs.org/ojstatbb/qa256.html> (measuring violent crime based on the Violent Crime Index offenses of murder and non-negligent manslaughter, forcible rape, robbery, and aggravated assault).

18. *Id.* (listing juvenile arrest rate data for Violent Crime Index offenses for 1980 to 1998).

19. *Id.*

20. *Id.*

100,000 juveniles,²¹ an increase of approximately 58% from the 1980 arrest rate.

The arrest rates for the individual Index offenses—murder, forcible rape, robbery, and aggravated assault²²—also reveal the complexity of juvenile arrest rates. For example, the arrest rates for aggravated assault declined from 144.3 arrests for every 100,000 juveniles in 1980 to 132.8 arrests in 1983.²³ In 1984, arrest rates for this offense began to rise, peaking in 1994 with a rate of 293.9 arrests for every 100,000 juveniles.²⁴ Robbery arrest rates, in contrast, declined from a rate of 167.5 in 1980 to 117.5 in 1988.²⁵ Between 1989 and 1994, the arrest rate for robbery increased from 139.6 per 100,000 juveniles to a high of 199.2 per 100,000 youths,²⁶ an increase of 43%.

The arrest rates for forcible rape and murder, while considerably lower than for robbery and aggravated assault, also illustrate the upward trend in arrest rates for this time period. For example, arrest rates for forcible rape grew from 15.9 arrests for every 100,000 juveniles in 1980 to 21.2 arrests in 1986.²⁷ After a slight decline over the next two years, arrests for this offense began rising again in 1990 to peak in 1991 at twenty-three arrests per 100,000 juveniles.²⁸ Murder arrest rates, on the other hand, fluctuated between 1980 and 1984, increasing to seven arrests per 100,000 juveniles in 1981 and decreasing to a low of 5.4 in 1984.²⁹ Then, arrest rates began a dramatic increase, rising from 5.7 arrests per 100,000 juveniles in 1985 to a high of 14.4 arrests for murder in 1993.³⁰

Arrest rates for property offenses also illustrate the fluidity of the data. The arrest rate for all Property Crime Index offenses³¹ show that between 1980 and 1984, arrests

21. *Id.*

22. Murder and non-negligent manslaughter, forcible rape, robbery, and aggravated assault are the four offenses that constitute the Violent Crime Index. *Id.*

23. *Id.* (providing juvenile arrest rate data for each of the Violent Crime Index offenses from 1980 to 1998).

24. *Id.*

25. *Id.*

26. *Id.*

27. *Id.*

28. *Id.*

29. *Id.*

30. *Id.*

31. *See* STATISTICAL BRIEFING BOOK, *supra* note 12, at

declined from 2562 per 100,000 juveniles in 1980 to 2221 in 1984.³² The arrest rate then rose to peak at 2612 arrests for every 100,000 juveniles in 1991,³³ an increase of 18% since 1984. Between 1991 and 1994, the arrest rate for all Property Crime Index offenses fluctuated, falling to 2431 arrests in 1993, only to rise again to 2546 in 1994.³⁴ Thus, by 1994, the arrest rate for the Property Crime Index had fallen below its 1980 level.

For the individual offenses which comprise the Property Crime Index—burglary, larceny-theft, motor vehicle theft, and arson³⁵—the data is more complex. Motor vehicle theft arrest rates declined from 222 arrests per 100,000 juveniles in 1980 to 146 arrests in 1983.³⁶ Then, in 1984, arrest rates for this offense rose steadily from a rate of 156 arrests per 100,000 juveniles to peak in 1990 and 1991 at a rate of 347 arrests.³⁷ The arrest rate for arson, however, fluctuated between 1980 and 1989, from a low of twenty-one in 1983 to a high of twenty-five in 1980 and 1981.³⁸ The arrest rate then rose in 1990 to twenty-six, finally peaking in 1994, at a rate of thirty-four arrests for every 100,000 juveniles.³⁹

Arrest rates for larceny-theft and burglary also show wide variance. For larceny-theft, arrest rates declined from 1521 arrests per 100,000 juveniles in 1980 to 1456 arrests in 1983.⁴⁰ Between 1984 and 1994, the rate has fluctuated, peaking at a rate of 1722 arrests in 1991 and 1720 arrests in 1994.⁴¹ Burglary arrest rates, like those for almost every other Property and Violent Crime Index offense,⁴² declined

<http://www.ojjdp.ncjrs.org/ojstatbb/qa261.html> (including burglary, larceny-theft, motor vehicle theft, and arson as the Property Crime Index offenses).

32. *Id.* (providing juvenile arrest rate data for all Property Crime Index offenses from 1980 to 1998).

33. *Id.*

34. *Id.*

35. *Id.* (including burglary, larceny-theft, motor vehicle theft, and arson as the individual offenses comprising the Property Crime Index).

36. *Id.*

37. *Id.*

38. *Id.*

39. *Id.*

40. *Id.*

41. *Id.*

42. The exception is the forcible rape arrest rate, which increased every year from a low of 15.9 in 1980 to a high of 17.4 in 1983. Although the arrest rate for murder increased in 1981 to seven from a rate of 6.4 in 1980, it then followed the more general trend and declined to 6.6 arrests in 1982 and 5.4 arrests in 1983. See STATISTICAL BRIEFING BOOK, *supra* note 12, at <http://ojjdp.ncjrs.org/>

between 1980 and 1983.⁴³ But unlike the other Index offense arrest rates, the burglary arrest rate has generally declined since 1980. Although the arrest rate increased in 1985 to 593 arrests from 568 arrests in 1984, and in 1991 to 515 arrests from 513 in 1990 and 499 arrests the year before,⁴⁴ the rate has never again reached its peak, attained in 1980, of 794 arrests for every 100,000 juveniles.⁴⁵

The increase in juvenile crime evident in rising arrest rates also was mirrored in the case and detention rates in juvenile courts. In 1985, juvenile courts handled 1,103,900 delinquency cases; by 1994, that number had risen to 1,555,200, an increase of 41%.⁴⁶ Approximately 130,600 of the cases in juvenile courts in 1994 involved Violent Crime Index offenses, an increase of 98% from 1985.⁴⁷ Juvenile courts also handled 566,700 Property Crime Index offenses in 1994, a 17% increase from 1985 caseloads.⁴⁸ Of the individual Index offenses, criminal homicide⁴⁹ and aggravated assault cases in juvenile courts showed the most dramatic increases, rising 144% and 134% respectively between 1985 and 1994.⁵⁰

Case rates, too, showed significant increases in this same time period. In 1994, juvenile courts processed 56.1 delinquency cases for every 1000 children⁵¹ who were at least ten years of age at the time of referral and subject to juvenile court jurisdiction.⁵² This signifies an increase of 33% from the 1985 delinquency case rate of forty-two cases per 1000 youth.⁵³ Person offense case rates, which include

ojstatbb/qa256.html.

43. See STATISTICAL BRIEFING BOOK, *supra* note 12, at <http://www.ojjdp.ncjrs.org/ojstatbb/qa261.html>.

44. *Id.*

45. *Id.*

46. See JEFFREY A. BUTTS ET AL., U.S. DEP'T OF JUSTICE, PUB. NO. NCJ 163709, JUVENILE COURT STATISTICS 1994 6 tbl.3 (1996).

47. *Id.* at 5 tbl.1.

48. *Id.*

49. This term includes any killing in which the perpetrator is not legally justified or excused. The term, which includes negligent and vehicular manslaughter, is broader than the Violent Crime Index category used in FBI's Uniform Crime Reports, which is limited to murder and non-negligent manslaughter. *See id.* at 58.

50. *Id.* at 5 tbl.1.

51. *Id.* at 6 tbl.3.

52. *Id.* at 6 & n.2 (explaining that case rates are based on those who are under the jurisdiction of the juvenile court and are ten years of age and older).

53. *Id.* at 6 tbl.3.

Violent Crime Index offenses as well as other non-Index offenses, rose from 6.6 per 1000 youth in 1985 to 12.1 in 1994.⁵⁴ Property offenses, which include other offenses in addition to the Property Crime Index offenses, also rose by 16% between 1985 and 1994, to twenty-nine cases for every 1000 minors at risk.⁵⁵

The number of juvenile delinquency cases involving detention also grew. Between 1985 and 1994, the number of cases involving detention increased by 43%, rising from 224,500 to 321,200.⁵⁶ Of the cases detained in 1994, 42% involved property offenses, down from 50% in 1985, while 25% of the detained cases in 1994 were person offenses, an increase from 19% in 1985.⁵⁷ The number of detained cases involving person offenses increased from 42,900 in 1985 to 81,800 in 1994, an increase of 90%.⁵⁸ The number of property offense cases involving detention grew from 113,000 in 1985 to 141,300 in 1990, but then declined to 134,200 in 1994, an overall increase of just 19%.⁵⁹ The probability of detention for all delinquency cases also changed very little, increasing from 20% in 1985 to 23% in 1990, but then declining to 21% in 1994.⁶⁰

In light of the seemingly endless upswing in juvenile crime, the clear and substantial decline in juvenile crime that began in 1994 is all the more astonishing. In 1994, there were 9275 arrests for every 100,000 juveniles in the United States; by 1998, the number had declined to 8570.⁶¹ Although the number of juvenile arrests rose by 1% between 1994 and 1998, there nevertheless were substantial decreases in the number of arrests for Index offenses.⁶² Arrests for Index offenses declined by 18% between 1994 and 1998, with an estimated 708,300 juveniles arrested for Index offenses in 1998.⁶³ For Violent

54. *Id.*

55. *See id.* at 6 tbl.3 & n.1.

56. *Id.* at 7 tbl.6.

57. *Id.* at 8 tbl.7.

58. *Id.* at 7 tbl.6.

59. *Id.*

60. *Id.* at 7 tbl.5.

61. STATISTICAL BRIEFING BOOK, *supra* note 12, at <http://www.ojdp.ncjrs.org/ojstatbb/qa255.html>.

62. *See* Howard N. Snyder, *Juvenile Arrests 1998*, in U.S. DEPT OF JUSTICE, JUVENILE JUSTICE BULLETIN 3 tbl. (PUB. NO. NCJ 179064 Dec. 1999) [hereinafter *Juvenile Arrests 1998*].

63. *Id.*

Crime Index offenses, arrests declined by 19% between 1994 and 1998, while those for Property Crime Index offenses decreased by 17% in the same time period.⁶⁴

Similarly, the juvenile arrest rate for Violent Index offenses declined by 30%.⁶⁵ In 1994, there were 526.7 arrests for every 100,000 persons between the ages of ten and seventeen; by 1998, the arrest rate had dropped to 369.7, the lowest rate since 1989.⁶⁶ Arrest rates for the individual Index offenses show similar decreases. For example, the forcible rape arrest rate decreased from 20.3 arrests for every 100,000 juveniles in 1994 to 17.3 arrests in 1998.⁶⁷ Aggravated assault arrest rates also dropped from 293.9 arrests to 236.6 arrests in the same time period.⁶⁸ Overall, arrests for forcible rape declined by 9% while arrests for aggravated assault dropped by 13%.⁶⁹

The most dramatic decline in arrests and arrest rates occurred for murder and robbery. In 1994, the arrest rate for robbery was 199.2; by 1998, the rate had declined to 109 arrests for every 100,000 juveniles.⁷⁰ For murder, the 1994 arrest rate of 13.2 had dropped to 6.9 in 1998, the lowest murder arrest rate since 1987.⁷¹ Between 1994 and 1998, the total number of juvenile arrests for robbery decreased by 29%; for murder, arrests declined by an astonishing 48%.

Arrests and arrest rates for Property Index offenses reveal similar downward trends. Arrests for larceny-theft declined by 14% between 1994 and 1998, while arrests for burglary dropped 17% in this same time period.⁷² Arson arrests declined by 24% while motor vehicle theft arrests decreased by an astounding 40%.⁷³ Arrest rates for burglary fell to 375 arrests per 100,000 juveniles, and for larceny-theft to 1380 arrests per 100,000 juveniles, the lowest levels in eighteen years.⁷⁴ Arson arrest rates dropped from a high

64. *Id.*

65. STATISTICAL BRIEFING BOOK, *supra* note 12, at <http://www.ojjdp.ncjrs.org/ojstatbb/qa256.html>.

66. *See id.*

67. *Id.* at <http://www.ojjdp.ncjrs.org/ojstatbb/qa258.html>.

68. *Id.* at <http://www.ojjdp.ncjrs.org/ojstatbb/qa260.html>.

69. *Juvenile Arrests 1998*, *supra* note 62, at 3 tbl.

70. STATISTICAL BRIEFING BOOK, *supra* note 12, at <http://www.ojjdp.ncjrs.org/ojstatbb/qa259.html>.

71. *Id.* at <http://www.ojjdp.ncjrs.org/ojstatbb/qa257.html>.

72. *Juvenile Arrests 1998*, *supra* note 62, at 3 tbl.

73. *Id.*

74. STATISTICAL BRIEFING BOOK, *supra* note 12, at <http://www.ojjdp.ncjrs.org/>

of thirty-four arrests in 1994 to twenty-six arrests for every 100,000 juveniles in 1998,⁷⁵ a decline of 24%, while the motor vehicle theft arrest rate of 179 in 1998 is the lowest rate since 1985.⁷⁶

Interestingly, the number of cases processed by the juvenile courts has not decreased but increased. In 1994, juvenile courts handled 1,555,200 cases;⁷⁷ by 1995, the number of cases processed had risen 7% to 1,714,300.⁷⁸ Although juvenile crime was declining, juvenile courts handled 1,757,600 cases in 1996, an increase of 3% over the preceding year.⁷⁹ In 1997, juvenile courts processed 1,755,100 cases, signifying no statistical change from 1996.⁸⁰ In that same year, the number of cases involving Violent Crime Index offenses decreased dramatically (for example, criminal homicide had declined by 17% from 1996)⁸¹ as did the number of cases involving burglary, larceny-theft, and motor vehicle theft.⁸²

Nor do case and detention rates reflect the substantial drops in serious juvenile offending evident in recent years. In 1994, the case rate for delinquency offenses was 56.1 cases for every 1000 youths subject to juvenile court jurisdiction.⁸³ In 1995, the case rate rose to 60.7 cases;⁸⁴ by 1996, the case rate was 61.8 cases for every 1000 youths at risk.⁸⁵ In the same period, detention rates have remained fairly stable. Although detention rates declined from 21% in 1994 to 19% in 1995,⁸⁶ the rates for 1996 and 1997 have not varied considerably despite significant decreases in juvenile

ojstatbb/qa262.html; *id.* at <http://www.ojjdp.ncjrs.org/ojstatbb/qa263.html>.

75. *Id.* at <http://www.ojjdp.ncjrs.org/ojstatbb/qa265.html>.

76. *Id.* at <http://www.ojjdp.ncjrs.org/ojstatbb/qa264.html>.

77. See BUTTS ET AL., *supra* note 46, at 5 tbl.1.

78. Melissa Sickmund, *Offenders in Juvenile Court 1995*, in U.S. DEP'T OF JUSTICE, JUVENILE JUSTICE BULLETIN 2 tbl.1 (PUB. NO. NCJ 167885 Dec. 1997).

79. Anne L. Stahl, *Offenders in Juvenile Court 1996*, in U.S. DEP'T OF JUSTICE, JUVENILE JUSTICE BULLETIN 2 tbl.1 (PUB. NO. NCJ 175719 July 1999) [hereinafter *Offenders 1996*].

80. Anne L. Stahl, *Delinquency Cases in Juvenile Courts 1997*, in U.S. DEP'T OF JUSTICE, OJJDP FACT SHEET 1 tbl. (PUB. NO. FS-200004 Mar. 2000) [hereinafter *Delinquency*].

81. *Id.*

82. *Id.*

83. BUTTS ET AL., *supra* note 46, at 6 tbl.3.

84. Sickmund, *supra* note 78, at 3 tbl.2.

85. *Offenders 1996*, *supra* note 79, at 3 tbl.2.

86. BUTTS ET AL., *supra* note 46, at 7 tbl.5; Sickmund, *supra* note 78, at 1.

crime.⁸⁷

Part of the explanation may lie in the kinds of cases the juvenile courts are now processing. For example, the number of homicide cases decreased by 12% from 1995 to 1996⁸⁸ and by 17% from 1996 to 1997.⁸⁹ Robbery cases also declined by 5% between 1995 and 1996⁹⁰ and 11% from 1996 to 1997.⁹¹ Similarly, aggravated assault cases in juvenile courts dropped by 3% in 1996⁹² and an additional 18% in 1997.⁹³ The number of cases involving burglary, larceny-theft, and motor vehicle theft decreased in 1997⁹⁴ after rising slightly in 1996 from the previous year's levels.⁹⁵ Juvenile court cases involving other kinds of offenses, however, have increased. Simple assault cases in juvenile courts increased from 177,700 in 1994⁹⁶ to 248,800 in 1997, an increase of 124% since 1988.⁹⁷ Disorderly conduct cases also grew from 80,700 in 1994⁹⁸ to 85,100 in 1995, an increase of 9%.⁹⁹ The number of these cases handled in juvenile courts increased an additional 7% in 1996¹⁰⁰ and 3% in 1997.¹⁰¹ During this same time period, obstruction of justice cases also rose by 8% in 1995,¹⁰² 15% in 1996,¹⁰³ and 4% in 1997.¹⁰⁴

Arrest rates for these offenses reveal a similar upward trend. For example, the arrest rate for simple assaults has increased fairly steadily from 1982, after slight declines in 1995 and 1997, from 301.3 in 1982 to 771.3 in 1998.¹⁰⁵

87. *Compare Offenders 1996*, *supra* note 79, at 1, with *Delinquency*, *supra* note 80, at 2.

88. *Offenders 1996*, *supra* note 79, at 2 tbl.1.

89. *Delinquency*, *supra* note 80, at 1 tbl.

90. *Offenders 1996*, *supra* note 79, at 2 tbl.1.

91. *Delinquency*, *supra* note 80, at 1 tbl.

92. *Offenders 1996*, *supra* note 79, at 2 tbl.1.

93. *Delinquency*, *supra* note 80, at 1 tbl.

94. *See id.*

95. *See Offenders 1996*, *supra* note 79, at 2 tbl.1.

96. BUTTS ET AL., *supra* note 46, at 5 tbl.1.

97. *Delinquency*, *supra* note 80, at 1 tbl.

98. BUTTS ET AL., *supra* note 46, at 5 tbl.1.

99. Sickmund, *supra* note 78, at 2 tbl.1.

100. *Offenders 1996*, *supra* note 79, at 2 tbl.1.

101. *Delinquency*, *supra* note 80, at 1 tbl.

102. Sickmund, *supra* note 78, at 2 tbl.1.

103. *Offenders 1996*, *supra* note 79, at 2 tbl.1.

104. *Delinquency*, *supra* note 80, at 1 tbl.

105. STATISTICAL BRIEFING BOOK, *supra* note 12, at <http://www.ojdp.ncjrs.org/ojstatbb/qa266.html> (providing juvenile arrest rate

Disorderly conduct arrest rates have fluctuated since 1980, but grew substantially between 1995 and 1996 when the arrest rate climbed from 578.8 to 727.2.¹⁰⁶ Although the rate has since declined, it still remains substantially higher than at any time since 1980.¹⁰⁷ Curfew arrest rates fluctuated between 1980 and 1992; they then began a dramatic upswing from 309.1 arrests in 1992 to 650.5 in 1996.¹⁰⁸ In 1997, the rate declined only to rise again in 1998.¹⁰⁹

B. *Female Delinquency*

The shift in the kinds of cases the juvenile courts are handling and the maintenance of high case loads has had significant consequences for girls. Although juvenile crime trends indicate considerable fluidity in arrest, case, and detention rates over the last twenty years, female delinquency rates have shown a surprisingly consistent and upward trend. For example, girls' arrest rates for violent crime grew steadily from sixty-seven arrests for every 100,000 persons between the ages of ten and seventeen in 1984, to 153 per 100,000 juveniles in 1995.¹¹⁰ From 1995 to 1998, girls' arrest rates for violent crime did decrease, mirroring the larger trend in overall declining juvenile arrest rates for violent crimes, but the rate of decline was considerably less for girls than for boys.¹¹¹ Thus, while the male arrest rate for violent crime in 1998 was 598, up only slightly from the 1981 rate of 565, the female arrest rate was 129 in 1998, a rate considerably higher than the sixty-nine arrests per 100,000 juveniles posted in 1981.¹¹²

The female arrest rate for Property Crime Index offenses increased between 1981 and 1998 by 22%, although the arrest rate for boys in this same time period actually

data for simple assaults and other non-index offenses).

106. *Id.* at <http://www.ojjdp.ncjrs.org/ojstatbb/qa273.html> (providing juvenile arrest rate data for disorderly conduct and other non-index offenses).

107. *Id.*

108. *Id.* at <http://www.ojjdp.ncjrs.org/ojstatbb/qa274.html> (providing juvenile arrest rate data for curfew violations and other non-Index offenses).

109. *Id.*

110. *Id.* at <http://www.ojjdp.ncjrs.org/ojstatbb/qa253.html> (comparing the trend of Violent Crime Index arrest rates of females versus males from 1981 to 1998).

111. *Id.*

112. *Id.*

decreased by 29%.¹¹³ Although the female arrest rate for Property Crime Index offenses decreased from 933 in 1981 to 911 in 1983, the arrest rate fluctuated between 1984 and 1988, to begin rising again in 1989.¹¹⁴ The female arrest rate for Property Crime Index offenses peaked in 1996 at a rate of 1325 arrests for every 100,000 juvenile.¹¹⁵ Although the rate has since declined to 1136 arrests per 100,000 juveniles in 1998, that rate is still higher than the 1981 rate of 933.¹¹⁶ While boys' arrests still constitute the majority of all arrests for Property Crime Index offenses, the male arrest rate for Property Crime Index offenses has shown a more marked decline and was actually lower in 1998 than it was in 1981.¹¹⁷

Female arrests also increased more than male arrests in most of the non-Index offense categories.¹¹⁸ From 1989 to 1993, a period of increased juvenile crime, female arrests for all non-Index offenses increased by 22% while male arrests rose by only 16%.¹¹⁹ Within specific offense categories, girls' arrests far outpaced those of boys. For example, boys' arrests for simple assault rose by a substantial 38%, but girls' arrests for the same offense increased by an astonishing 64%.¹²⁰ Disorderly conduct arrests also rose for both boys and girls in this same time period but was substantially higher for girls (41% compared

113. *Id.* at <http://www.ojdp.ncjrs.org/ojstatbb/qa254.html> (comparing Property Crime Index offense arrest rate trends of females versus males from 1981 to 1998).

114. *Id.*

115. *Id.*

116. *See id.*

117. *See id.*

118. Non-Index offenses are those offenses not included in the FBI Crime Index, including both the Violent Crime Index and the Property Crime Index. Of the non-Index offenses, the increase in female arrests was higher for simple assault (64% versus 38%), forgery and counterfeiting (14% increase versus 1% decline for males), stolen property offenses (22% increase versus 3% decline for males), vandalism (33% versus 23%), weapons offenses (100% versus 64%), sex offenses (51% versus 20%), disorderly conduct (41% versus 23%), vagrancy (59% versus 37%), curfew and loitering law violations (48% versus 29%), and running away (16% versus 10%). *See* EILEEN POE-YAMAGATA & JEFFREY A. BUTTS, U.S. DEPT OF JUSTICE, PUB. NO. NCJ 160941, FEMALE OFFENDERS IN THE JUVENILE JUSTICE SYSTEM 2-3 (1996) (summarizing statistics on female delinquency and noting trends from 1989 to 1993).

119. *Id.* at 3 tbl.1.

120. *Id.*

to 23% for boys).¹²¹ Vagrancy and curfew arrests for girls also grew substantially (59% and 48% respectively), although boys' arrests for these same offenses did not rise as much.¹²²

Curiously, arrests of girls between 1994 and 1998 indicate a trend counter to the decline in overall juvenile arrests for the same time period. Girls' arrests in most offense categories either increased or did not decrease as much as those for boys.¹²³ For example, while arrests of girls for burglary and larceny declined by 3% and 5% respectively, for boys the decline was considerably greater—18% and 17% respectively.¹²⁴ Simple assault arrests for girls in this same time period increased by an astonishing 29% while arrests for boys for this offense grew only 4%.¹²⁵ Moreover, girls' arrests for aggravated assault increased by 7% while boys' arrests for the same offense actually declined by 18%.¹²⁶ Disorderly conduct arrests of girls also grew by 31% during this same time.¹²⁷

121. *Id.*

122. *Id.*

123. *Juvenile Arrests 1998*, *supra* note 62, at 4.

124. *Id.*

125. *Id.*

126. *Id.*

127. Disorderly Conduct Arrests, by Year:

	Number of Juvenile Disorderly Conduct Arrests	Percent Female	Number of Female Arrests for Disorderly Conduct
1994 ^a	170,500	23%	39,215
1995 ^b	173,900	25%	43,475
1996 ^c	215,000	24%	51,600
1997 ^d	215,100	26%	55,926
1998 ^e	183,700	28%	51,436

The "Number of Female Arrests for Disorderly Conduct" was calculated by multiplying the "Total Number of Juvenile Arrests for Disorderly Conduct" by the "Percentage of Juvenile Arrests that were Female," taken from the designated source for each year. ^a HOWARD N. SNYDER ET AL., U.S. DEP'T OF JUSTICE, PUB. NO. NCJ 159107, JUVENILE OFFENDERS AND VICTIMS: 1996 UPDATE ON VIOLENCE 10 tbl. (Feb. 1996) [hereinafter JUVENILE OFFENDERS AND VICTIMS 1996]. ^b Howard N. Snyder, *Juvenile Arrests 1995*, in U.S. DEP'T OF JUSTICE,

The number of female arrests as a percentage of all juvenile arrests also has been increasing even though juvenile crime has been declining. In 1980, females constituted 21% of all juvenile arrests;¹²⁸ that number increased steadily to reach 26% in 1995¹²⁹ and 27% in 1998.¹³⁰ Similarly, the proportion of female arrests for Index offenses has increased. The proportion of girls' arrests for Violent Crime Index offenses rose from 10% in 1980 to 15% in 1995, and climbed again to 17% in 1998.¹³¹ Female arrests for Property Crime Index offenses increased substantially from 19% in 1980 to 26% in 1995, to peak at 28% in 1998.¹³² For two specific Index offenses—aggravated assault and larceny-theft—the female proportion of arrests showed similar gains, with aggravated assault increasing from 15% in 1980 to 22% in 1998, and larceny-theft rising from 26% in 1980 to an astonishing 35% in 1998.¹³³

The proportion of female arrests for non-Index offenses also grew. Despite declining juvenile crime rates, the proportion of female arrests for all non-Index offenses increased an additional three percentage points between 1990 and 1998,¹³⁴ after rising only two percentage points in the preceding ten year period.¹³⁵ Female arrests as a proportion of all juvenile arrests also increased within individual offense categories. In 1980, girls comprised 18% of all arrests for disorderly conduct; by 1995, that figure

JUVENILE JUSTICE BULLETIN 2 tbl. (PUB. NO. NCJ 163813 Feb. 1997) [hereinafter *Juvenile Arrests 1995*]. ° Howard N. Snyder, *Juvenile Arrests 1996*, in U.S. DEPT OF JUSTICE, JUVENILE JUSTICE BULLETIN 2 tbl. (PUB. NO. NCJ 167578 Nov. 1997) [hereinafter *Juvenile Arrests 1996*]. ^d Howard N. Snyder, *Juvenile Arrests 1997*, in U.S. DEPT OF JUSTICE, JUVENILE JUSTICE BULLETIN 3 tbl. (PUB. NO. NCJ 173938 Dec. 1998) [hereinafter *Juvenile Arrests 1997*]. ° See *Juvenile Arrests 1998*, *supra* note 62, at 3 tbl.

128. Joanne Belknap & Kristi Holsinger, *An Overview of Delinquent Girls: How Theory and Practice Have Failed and the Need for Innovative Changes*, in FEMALE OFFENDERS 31, 45 tbl.2-2 (Ruth T. Zaplin ed., 1998).

129. *Id.*

130. *Juvenile Arrests 1998*, *supra* note 62, at 3 tbl.

131. See Belknap & Holsinger, *supra* note 128, at 45 tbl.2-2; *Juvenile Arrests 1998*, *supra* note 62, at 3 tbl.

132. See Belknap & Holsinger, *supra* note 128, at 45 tbl.2-2; *Juvenile Arrests 1998*, *supra* note 62, at 3 tbl.

133. See Belknap & Holsinger, *supra* note 128, at 45 tbl.2-2; *Juvenile Arrests 1998*, *supra* note 62, at 3 tbl.

134. See Belknap & Holsinger, *supra* note 128, at 45 tbl.2-2; *Juvenile Arrests 1998*, *supra* note 62, at 3 tbl.

135. See Belknap & Holsinger, *supra* note 128, at 45 tbl.2-2.

had risen to 25% to peak in 1998, at 28%, a full ten percentage points higher than in 1980.¹³⁶ Similarly, 21% of all simple assault arrests in 1980 involved girls; by 1995, that percentage had risen to 28% and continued to rise over the next three years to reach a new high of 31% in 1998.¹³⁷

The number of female delinquency cases handled by the juvenile courts also has risen steadily, and by greater margins. Between 1985 and 1994, the total number of delinquency cases involving girls increased by 54%, although the number of male delinquency cases in this same period rose by only 38%.¹³⁸ Person offense cases involving girls increased by an astounding 124% during this time, while the number of these cases involving boys increased by only 85%.¹³⁹ Girls' property offense cases also grew by a substantial 40%, compared to only 18% for boys.¹⁴⁰ Public order offense cases also increased for both boys and girls, although the case load increased more for boys than for girls (52% versus 45%).¹⁴¹

The number of female delinquency cases handled by the juvenile courts has continued to escalate. Between 1987 and 1996, female delinquency cases increased by 76%, compared to 42% for male delinquency cases.¹⁴² Girls' delinquency cases in juvenile court grew 83% between 1988 and 1997, although boys' delinquency cases only increased by 39% in this same time period.¹⁴³ Person, property, and public order cases involving girls also increased by substantially wider margins between 1987 and 1996: 152% for person cases, 52% for property cases, and 72% for public order cases.¹⁴⁴ Since 1994, the total number of cases involving girls has grown by 27%, with certain categories of girls' delinquency cases having posted larger gains.¹⁴⁵

136. See *id.*; *Juvenile Arrests 1998*, *supra* note 62, at 3 tbl.

137. See Belknap & Holsinger, *supra* note 128, at 45 tbl.2-2; *Juvenile Arrests 1998*, *supra* note 62, at 3 tbl.

138. See *id.*

139. See *id.*

140. *Id.*

141. *Id.*

142. *Offenders 1996*, *supra* note 79, at 4 tbl.4.

143. *Delinquency*, *supra* note 80, at 1.

144. *Offenders 1996*, *supra* note 79, at 4 tbl.4.

145. Number of Female Delinquency Cases, by Year and Offense:

	1994 ^a	1995 ^b	1996 ^c	1997 ^d

Case rates, that is the number of cases for every 1000 youths at risk, also grew substantially for girls. In 1985, there were 16.4 cases for every 1000 girls at risk; by 1996, that number had grown to 28.8 cases per 1000.¹⁴⁶ Between 1985 and 1996, the total case rate for girls increased by 75%, although the boys' rate grew by only 40%.¹⁴⁷ Female

Person Offenses	77,800	91,900	95,700	102,800
Property Offenses	168,300	195,400	203,300	201,100
Drug Offenses	16,400	22,200	25,200	27,200
Public Order Offenses	62,200	66,300	74,400	81,100
Total, All Offenses	324,600	375,800	398,600	412,100

^a BUTTS ET AL., *supra* note 46, at 22 tbl.32 ^b Sickmund, *supra* note 78, at 4 tbl.4
^c *Offenders 1996*, *supra* note 79, at 4 tbl.4 ^d *Delinquency*, *supra* note 80, at 1.
 These figures indicate an approximate increase of 27% in the number of total female arrests, and even higher approximate increases for public order offense arrests (30%) and person offense arrests (32%).

146. See BUTTS ET AL., *supra* note 46, at 22 tbl.32; *Offenders 1996*, *supra* note 79, at 4 tbl.4.

147. Delinquency Case Rates, by Offense Category, Year, and Sex (showing a 76% increase in the arrest rate of females, compared to a 42% increase for males):

	Females					Males				
	'85 ^a	'90 ^a	'94 ^a	'95 ^b	'96 ^c	'85 ^a	'90 ^a	'94 ^a	'95 ^b	'96 ^c
Person Offenses	2.7	3.9	5.8	6.7	6.9	10.4	14.8	18.2	19.7	19.5
Property Offenses	9.4	11.3	12.5	14.2	14.7	40.0	46.5	44.7	46.7	45.9
Drug Offenses	1.0	0.8	1.2	1.6	1.8	4.5	4.7	7.3	9.5	10.3
Public Order Offenses	3.4	3.6	4.6	4.8	5.4	11.4	14.3	16.4	16.6	17.2
Total, All Offenses	16.4	19.6	24.0	27.3	28.8	66.4	80.3	86.5	92.4	92.9

case rates for person, property, and public order offenses also increased by often substantially wider margins than did the male rates.¹⁴⁸ For example, the female case rate for property offenses rose 56%, although the male case rate increased by only 15%, while the female case rate for person offenses grew an astonishing 155%, compared to the male rate of 87%.¹⁴⁹

The way female delinquency cases are processed by juvenile courts also has begun to change. Between 1987 and 1996, juvenile courts formally processed 126% more female delinquency cases, compared to 70% more delinquency cases involving males.¹⁵⁰ Formal case processing of girls' cases involving person, property, and public order offenses also grew at a greater rate than for boys' cases; for example, the rate of formal processing for female person offenses was double that of cases involving males.¹⁵¹ Although the percentage of female cases involving detention has declined since 1985,¹⁵² the number of cases resulting in detention has

^a BUTTS ET AL., *supra* note 46, at 22 tbl.32. ^b Sickmund, *supra* note 78, at 4 tbl.4.

^c *Offenders 1996*, *supra* note 79, at 4 tbl.4.

148. Based on the figures in the table, *supra* note 147, the period of 1985 to 1996 saw the female arrest rate increase by 156% for person offenses, 56% for property offenses, and 59% for public order offenses. These increases are significantly higher than those for males, which were 87.5%, 15%, and 51%, respectively.

149. *See id.*

150. *See* HOWARD N. SNYDER & MELISSA SICKMUND, U.S. DEP'T OF JUSTICE, PUB. NO. NCJ 178257, JUVENILE OFFENDERS AND VICTIMS: 1999 NATIONAL REPORT 157 (1999) (analyzing the trends of juveniles and crime, both as offenders and victims).

151. The increase in formal processing for girls increased by 126% for all offenses, 209% for person offenses, 93% for property offenses, 161% for drug offenses, and 120% for public order offenses during the period of 1987 to 1996. Although males did have a greater increase for drug offenses (186%), the increase was less than that for females for all offenses (70%), person offenses (105%), property offenses (36%), and public order offenses (100%). *Id.* at 157.

152. Percentage of Female Delinquency Cases Detained, by Year and Offense:

	1985 ^a	1990 ^a	1994 ^a	1995 ^b	1996 ^c
Person Offenses	18%	19%	18%	17%	19%
Property Offenses	13	14	12	10	9

increased. From 1987 to 1996, the number of girls' cases involving detention increased by 57%, although the number of cases involving detention for boys grew by only 35%.¹⁵³ Nevertheless, males still account for 83% of all detained cases.¹⁵⁴

This increase in female arrest and case rates, and the juvenile court's response to this growth in female delinquency might indicate the need for a reexamination of theories about female delinquency and state efforts to curb juvenile crime. This approach to the growth in female delinquency, while undoubtedly valid, may ultimately prove too narrow because it fails to account for the organizational behavior of the juvenile justice system. A deeper analysis of the problem of female offending also should include a closer examination of the organizational behavior of the juvenile courts and the implications of institutionalization. In the next section, this article discusses organizational theory and suggests that, in part, this increase in female delinquency may be a function of institutionalized behaviors.

III. THE JUVENILE COURT AS AN INSTITUTION

A. Organizational Theory

Max Weber was among the first to articulate a theory about how organizations function, and his theory of bureaucracy¹⁵⁵ provided an early foundation for modern

Drug Offenses	19	28	20	18	15
Public Order Offenses	28	26	22	18	19
Total, All Offenses	18	18	16	14	14

^a BUTTS ET AL., *supra* note 46, at 22 tbl.33. ^b Sickmund, *supra* note 78, at 6 tbl.8.

^c *Offenders 1996*, *supra* note 79, at 6 tbl.8.

153. SNYDER & SICKMUND, *supra* note 150, at 153.

154. *Id.*

155. See MAX WEBER: THE THEORY OF SOCIAL & ECONOMIC ORGANIZATION (A. M. Henderson & Talcott Parsons trans., Talcott Parsons ed., 1947). This volume

organizational theory. Although bureaucracy often has a pejorative meaning today, Weber argued that the bureaucracy is an efficient organizational form.¹⁵⁶ Individuals within the organization act in accordance with a rational system of precisely defined rules that are administered impersonally and uniformly; consequently, official activity is isolated from the vagaries of subjectivity, favoritism, and emotionalism.¹⁵⁷ In its ideal form,¹⁵⁸ a bureaucracy is a highly efficient tool which functions quickly and economically because its individual units are united yet constrained by the organization's rules and regulations.¹⁵⁹ Although Weber likened the effects of bureaucratic organization on human beings to an "iron cage,"¹⁶⁰ he nevertheless argued that greater bureaucratization was inevitable because of its technical superiority and greater efficiency.¹⁶¹

A number of theories, schools, and approaches about organizations have grown from Weber's insights. Although a comprehensive review of the literature on organizational theory is beyond the scope of this article, it nevertheless is possible to articulate some broad generalizations about the field of organizations. Organizational theory articulates a set of principles, concepts, and hypotheses about how and why organizations function as well as normative constructs about organizational characteristics. While various reviews describe the field in different ways, it is possible to consider organizational theory both in terms of the perspective on action adopted as well as the level of analysis at which a particular activity is analyzed.¹⁶² In other words, organizational theory may be divided into schools or

presents an English translation of Part I of Weber's *Wirtschaft and Gesellschaft*. An introduction by the translator provides a synopsis of the core conceptualizations.

156. *Id.* at 58.

157. *See id.* at 329-36.

158. *See id.* at 109-12 (discussing the concept of the pure, or ideal form of bureaucracy).

159. *See id.* at 337-41.

160. *See* MAX WEBER, *THE PROTESTANT ETHIC AND THE SPIRIT OF CAPITALISM* 181 (Talcott Parsons trans., 1958). In this translation of Weber's leading work, the "iron cage" concept is introduced.

161. *See* WEBER, *supra* note 155, at 337-41.

162. *See* JEFFREY PFEFFER, *ORGANIZATIONS AND ORGANIZATION THEORY* 3 (1982) (providing an overview of the theory, tracing its development, and critiquing the theory).

approaches which focus along one axis on the unit of analysis; this typically involves either a macrolevel approach looking at the total organization as a whole or a microlevel of individuals or subunits within the organization.¹⁶³ On a second dimension, three perspectives characterize action taken on either the macrolevel or microlevel as purposive, externally constrained, or nonrational.¹⁶⁴

Institutionalism or institutionalization theory takes a macrolevel approach in considering the process by which organizational activity becomes institutionalized and, ultimately, persistent and perpetual.¹⁶⁵ Institutionalists contend that institutionalization permits an organization to achieve a form of permanence it might not otherwise have because as an institution, it had achieved a status that would insulate the organization from the vagaries of competition among other organizations or even for scarce resources.¹⁶⁶ From this perspective, institutionalization maximizes the organization's chances for survival in a highly competitive world because of the societal value placed on an organization identified as "an institution."¹⁶⁷ The organization qua institution's struggle for permanence is reflected in its activities, which now seek to maximize the institution's chances for survival rather than promoting the organization's original goals.¹⁶⁸

Neoinstitutionalists¹⁶⁹ take this insight further by

163. While macrolevel analysis studies units, populations, and networks within and between organizations, microlevel analysis focuses on the individuals and substructures within an organization. *Id.* at 12.

164. Those who view action as purposive believe that there is a choice behind every action, and that the choice is based on preexisting preferences and goals. *See id.* at 5-8. When action is externally constrained, action is based on external forces rather than on the actors' individual choices. *See id.* at 8-9. No single idea represents the theory of action as nonrational. Some view the process of organizing as controlling action, while others emphasize the structure of organizations. However, all such theorists focus on the principle that the controlling factors are random. *See id.* at 9-10.

165. *See id.* at 239 (citing PHILIP SELZNICK, *LEADERSHIP IN ADMINISTRATION* (1957)).

166. *See id.*

167. *See id.*

168. *See id.* (citing CHARLES PERROW, *COMPLEX ORGANIZATIONS: A CRITICAL ESSAY* (1972)).

169. For a more complete discussion of neoinstitutionalism, see *THE NEW INSTITUTIONALISM IN ORGANIZATIONAL ANALYSIS* (Walter W. Powell & Paul J. DiMaggio eds., 1991) [hereinafter *THE NEW INSTITUTIONALISM*].

contending that the organizational hallmark of Weberian efficiency is subordinated to institutional rules. These rules provide for the persistence and perpetuation of certain organizational activities simply because "that is how things are done;" rule conformity is thus paramount within the institution, although it constrains innovation and a subsequent ability to change.¹⁷⁰ This also may conflict sharply with efficiency criteria because the need for self-maintenance overrides other organizational goals.¹⁷¹ The structure of formal rules further enhances institutional survival by providing a framework for legitimating the organization's activities. That is, by showing that it is acting in accordance with its rules, the organization may justify its activities to others; this, in turn, enhances support for the institution and promotes its survival.¹⁷²

The need for legitimation explains in significant part the stability of organizational forms and policies. Neoinstitutionalists contend that institutionalized rules elaborate acceptable central social or cultural myths.¹⁷³ Organizations whose formal structures reflect these myths through the adoption of institutionalized rules thus enhance their legitimacy and maximize their resources and chances for survival.¹⁷⁴ New organizations or organizations which innovate in important structural ways thus risk delegitimation if they do not replicate existing institutionalized, that is legitimated, forms.¹⁷⁵

Moreover, the homogeneity of organizational forms may be accelerated by constraining forces that enhance the replication of existing institutional forms. For example, the legal environment may coercively restrain organizational activity by forcing organizations to obey certain policies.¹⁷⁶

170. See PFEFFER, *supra* note 162, at 240 (citing John W. Meyer & Brian Rowan, *Institutionalized Organizations: Formal Structure as Myth and Ceremony*, 83 AM. J. SOC. 340, 346 (1977)).

171. See Walter W. Powell, *Expanding the Scope of Institutional Analysis*, in THE NEW INSTITUTIONALISM, *supra* note 169, at 183.

172. John W. Meyer & Brian Rowan, *Institutionalized Organizations: Formal Structure as Myth and Ceremony*, in THE NEW INSTITUTIONALISM, *supra* note 169, at 41, 50.

173. See *id.* at 41.

174. *Id.* at 53.

175. See *id.*

176. See Paul J. DiMaggio & Walter W. Powell, *The Iron Cage Revisited: Institutional Isomorphism and Collective Rationality in Organizational Fields*, in THE NEW INSTITUTIONALISM, *supra* note 169, at 63. This constraining process,

Similarly, cultural expectations may create informal pressures that limit organizational innovation.¹⁷⁷ When goal ambiguity is high or there is considerable symbolic uncertainty, the organization may model itself on other organizations that it perceives are legitimate and successful.¹⁷⁸ Professionalization also may promote replication of existing institutional forms by suggesting standards for certain activity that falls within their expertise.¹⁷⁹

The insights of organizational theory have been applied to a number of different organizations, including those of the criminal justice system. The seminal work in the area, Abraham Blumberg's *Criminal Justice*, portrayed the criminal court as a bureaucratic organization more concerned with production and efficiency than due process.¹⁸⁰ From this perspective, the criminal court reshapes and alters the rules of due process to suit its own institutional needs for efficiency.¹⁸¹ Moreover, the court socializes its members toward compliance with these institutional goals¹⁸² thereby furthering institutional authority and stability.¹⁸³ That stability is critical for the organization's survival because it maximizes institutional legitimacy.¹⁸⁴

Others have rejected Blumberg's characterization of the criminal court as a bureaucracy, although not the validity or usefulness of organizational theory in that context. Eisenstein and Jacob argue that courtroom work is a group activity in which common goals hold the group together.¹⁸⁵

known as isomorphism, forces one unit in a population to resemble other units that face the same set of environmental conditions. *Id.* at 66. Coercive institutional isomorphism involves the formal and informal pressures exerted on organizations, both by other organizations upon which they are dependent, and by cultural expectations in the society within which the organizations function. *Id.* at 67.

177. *See id.*

178. This is referred to as mimetic institutional isomorphism. *Id.* at 69-70.

179. Normative isomorphism is the name attached to such professionalization. *Id.* at 70.

180. *See* Abraham S. Blumberg, *Criminal Justice* 5-6 (1967).

181. *See id.*

182. *See id.* at 70.

183. *See id.* at 73 (outlining blind obedience, manipulation, authority by complicity, and panopticon effect as reasons why individuals in organizations comply).

184. *See id.* at 73-74.

185. *See* JAMES EISENSTEIN & HERBERT JACOB, *FELONY JUSTICE; AN*

Some of these goals—doing justice and maintaining group cohesion, for example—may not be mutually supportive while other goals, like those focused on organizational maintenance by reducing uncertainty, may be unspoken because they have not been publicly legitimated.¹⁸⁶ Stability of the workgroup thus promotes the goals of group cohesion and the reduction of uncertainty by establishing a workable system for the efficient and certain disposition of cases.¹⁸⁷ But the organizational need to reduce uncertainty, by reducing the number of trials and encouraging plea bargaining, for example, may conflict with the mandate to serve justice.¹⁸⁸

Institutionalization theory also may offer additional insights into the workings of the criminal justice system. The persistent stability of sanctioning regimes despite their general ineffectiveness suggests a degree of legitimacy that neoinstitutionalists attribute to professionalization.¹⁸⁹ From this perspective, professionalization serves to insulate the organization from lay criticism because it provides normative standards by which the organization may operate,¹⁹⁰ but it also promotes an isomorphism¹⁹¹ that enhances legitimacy and institutional stability.¹⁹² On the microlevel, institutionalization theory also may suggest why federal sentencing reform efforts have proved so unsuccessful in reducing disproportionate and discriminatory sentences.¹⁹³ By curtailing judicial discretion, reformers have created opportunities for judicial resentment over the loss of discretion; that resentment has shifted judicial attention and energy away from a more critical examination of how the guidelines work on a case-by-case basis.¹⁹⁴

ORGANIZATIONAL ANALYSIS OF CRIMINAL COURTS 24-25 (1977).

186. *See id.* at 28.

187. *See id.* at 27-28.

188. *See id.* at 309.

189. *See* John R. Sutton, *Rethinking Social Control*, 21 *LAW & SOC. INQUIRY* 943, 950 (1996) (reviewing *THE NEW INSTITUTIONALISM*, *supra* note 169).

190. *See id.* at 950.

191. For a more complete discussion of isomorphism, see *supra* notes 176-79 and accompanying text.

192. *See* Sutton, *supra* note 189, at 958.

193. *See* Doris Marie Provine, *Too Many Black Men: The Sentencing Judge's Dilemma*, 23 *LAW & SOC. INQUIRY* 823 (1998).

194. *See id.* at 844.

B. *The Institutionalization of Female Delinquency*

From an institutional theorist's perspective, the high level of functioning maintained by the juvenile court is illustrative of institutional survival, stability, and legitimacy. In the search for stability and permanence, the juvenile court has recharacterized itself as an institution by adopting rules that reflect certain cultural myths. These myths are both widely accepted and yet seemingly contradictory, reflecting a larger societal ambiguity about juvenile crime and young offenders. On the one hand, there is a continuing perception that juvenile crime is a serious problem and that juvenile offenders must be punished for their acts. On the other, there appears to be widespread support for a system which provides the possibility of rehabilitation and treatment.¹⁹⁵ These myths insulate the juvenile court from instability because they seem to suggest that any kind of juvenile offense or offender is a serious problem. Furthermore, the juvenile court's institutionalization of rules which elaborate these myths provide both internal as well as external validation of the organization. This, in turn, enhances both stability and legitimacy.

Internal validation is particularly critical at a time of declining juvenile crime. The expertise of those within the juvenile court system would seem at odds with the perception that all juvenile crime is serious. But rule conformity, a hallmark of institutionalization, constrains innovation while limiting individual initiative. Individuals within the institution thus engage in certain activities because that is how things are done. By acting in accordance with its own rules, the organization justifies its activities not only to its own members but to others outside the institution. This again enhances legitimacy and promotes stability.

The opportunity for increased organizational efficiency presented by declining juvenile crime rates is subordinated to the institutional need for self-maintenance. The dramatic drops in serious juvenile crime have not been reflected in

195. See Ira M. Schwartz et al., *Public Attitudes Toward Juvenile Crime and Juvenile Justice: Implications for Public Policy*, 13 *HAMLIN J. PUB. L. & POL'Y* 241 (1992) (discussing study showing the significant amount of public support for a treatment-oriented juvenile court).

arrest rates, case rates, and case loads.¹⁹⁶ That is, juvenile courts have maintained high case rates and case loads, although the kinds of cases handled by the courts have changed.¹⁹⁷ Detention rates also have remained remarkably stable although serious juvenile crime has declined significantly.¹⁹⁸ The fact that there have not been dramatic declines in juvenile court case loads suggests that organizational goals of self-maintenance and self-preservation override efficiency considerations.

The institutionalization of the juvenile court has had a deleterious effect on girls. The juvenile court's need for self-maintenance and self-preservation require the court to process high numbers of juvenile cases and juvenile offenders. Because serious juvenile crime, committed overwhelmingly by boys, has been declining, less serious offenses and offenders have attracted institutional attention. It is these sorts of cases that the juvenile court is now processing in larger numbers because of the void created by overall declining juvenile crime rates. This has had a disproportionate impact on girls, who generally commit less serious offenses and present less serious offending profiles.

The court's organizational behavior is borne out by the data. Female arrest rates have either increased or not decreased as much as boys' arrest rates, suggesting that organizational behavior may be operative.¹⁹⁹ Moreover, the kinds of offenses for which girls are arrested—property offenses, particularly larceny-theft, aggravated and simple assaults, disorderly conduct and curfew offenses—are not the most serious. Nor is the system diverting these girls from the juvenile courts; formal processing of cases involving girls not only increased but it grew at a rate double that for boys. Female delinquency case loads and

196. For a comparison of the decrease in juvenile crime and the arrest rates, case rates, and case loads, see *supra* notes 61-85 and accompanying text.

197. For a discussion of the court case loads and rates, along with the types of cases being processed by the juvenile courts, see *supra* notes 77-85, 88-104, and accompanying text.

198. For a discussion of detention rates, see *supra* notes 86-87 and accompanying text.

199. For a more complete discussion of the organizational behavior of police, see Robert E. Worden, *The Causes of Police Brutality: Theory and Evidence on Police Use of Force*, in *POLICE VIOLENCE* 23, 28-32 (William A. Geller & Hans Toch eds., 1996).

case rates have continued to increase by substantially wider margins than for boys and the number of cases involving detention also has risen substantially.

Organizational practices which emphasize self-preservation and survival, rule conformity, stability, and legitimacy are unlikely to respond creatively to change. In the case of the juvenile court, institutional pressures to maintain resources and promote the court itself, make it extremely unlikely that the court will handle fewer juvenile cases. Rule conformity, with its external legitimating force and its internally generated code of behavior, precludes any deeper or innovative response to declining juvenile crime rates. Finally, the need for stability undermines the organizational goal of greater efficiency, so the organization resists change. In this sense, the juvenile court has institutionalized female delinquency.

IV. CONCLUSION

Any explanation for the recent increase in female delinquency must account for the institutionalization of the juvenile court. Without a more complete understanding of how juvenile court systems respond to fluctuations in crime and arrests trends, the consequences of the organizational behavior of those systems are likely to be mistaken for a significant shift in the nature of juvenile offending. This suggests, of course, that additional research is warranted into the organizational behavior of the juvenile courts. But it also illustrates the need to reconsider our approaches to female offending. Although we should continue to search for explanations about the causes of female delinquency, we should not ignore the larger realities of how society and its institutions respond to girls and girls' behavior.