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### Resurrecting Radical Non-Intervention: Stop the War on Kids

#### Introduction: Getting Tough, Zero Tolerance and Net Widening

It has been 30 years since sociologist Edwin Schur published a book called *Radical Non-Intervention: Rethinking the Delinquency Problem* (Schur, 1973).<sup>[1]</sup> His approach, which was part of the “labeling” tradition in criminology and the sociology of deviance, seemed quite novel back then as he challenged a number of assumptions taken at the time toward the problem of delinquency. I believe that his approach has, ironically, more relevance to what is happening today with the various “get tough” approaches to delinquency, especially “zero tolerance” policies.

In recent years "law and order" politicians have stoked the fears of the public with their rhetoric about the new "menace" of teen "super-predators."<sup>[2]</sup> Despite the fact that serious crime among juveniles has dropped in recent years, many politicians continue the "get tough" talk. "Zero tolerance" is one of the new mantras. Variations of the "zero tolerance" mentality within the schools and elsewhere have not only taken us back more than 100 years as far as juvenile justice policy is concerned, but it has, more importantly, "widened the net" of social control in that more and more minor offenses (or no offenses at all) are now being processed formally by the police and the juvenile court.

Examples abound, including the following: (1) a five year prison sentence handed out to a 17-year-old Texas high school basketball player who "threw an elbow" to the head of an opposing player in a basketball game; (2) two six-year-old children were suspended for three days for playing "cops and robbers" with their fingers (pretending their fingers were guns and going "bang, bang" toward other children); (3) a girl who gave a friend a Nuprin was suspended for "dealing drugs"; (4) some high school baseball players were suspended for possessing "dangerous weapons" on school grounds - a teacher who suspected them of having drugs found none, but instead found some baseball bats in their cars;(5) a 14-year-old boy was charged by school police with a felony for (throwing a deadly missile( which turned out to be a Halloween “trick or treat” of throwing an egg. He was taken away in handcuffs and put in juvenile detention; (6) in Florida, a 6-year-old was charged with trespassing when he took a shortcut through the schoolyard on his way home (how many of us did that as a kid?); (7) in Indianola, Mississippi elementary school children have been arrested for talking during assemblies; (8) in Spokane, Washington, three boys were suspended for bringing 2-inch-long “action figure toy guns” to school; (9) a 13-year-old girl in Massachusetts was expelled for having an empty lipstick tube in her purse – this was considered a “potential weapon”; (10) in Texas a “model student” was expelled when officials found a blunt-tipped bread knife in the back of his pickup,

left there by his grandmother (Shelden, 2000a; Juvenile Law Center, 2004; Los Angeles Times, 2003a).

Among the most recent incidents comes from Toledo, Ohio where school officials have engaged in perhaps the most absurd forms of zero tolerance. According to a New York Times story (Rimer, 2004), on October 17 a 14-year-old girl was handcuffed by the police and hauled off to the local juvenile court. Her “crime” was the clothes she was wearing: a “low-cut midriff top under an unbuttoned sweater,” which was a “clear violation of the dress code.” The school offered to have her wear a bowling shirt, but she refused. Her mother came in and gave her an oversize T-shirt, which the girl also refused to wear, saying that it “was real ugly.” According to the story, the girl is one of the more than two dozen arrested in school this past October for such “crimes” as being “loud and disruptive,” “cursing at school officials,” and “shouting at classmates” and, of course, violating the dress code. Such “crimes” are violations of the city’s “safe school ordinance.” The juvenile court judge in this case remarked that this girl “didn’t come across as a major problem at all. She just wanted to show off a certain image at school. Probably she just copped an attitude. I expect that from a lot of girls” (Rimer, 2004). A new offense should be added to the ever-growing list of “zero tolerance” offenses: “copping an attitude.”

In schools all over the country there has been a swelling of arrests by school police, mostly on minor charges, typically appearing within the “miscellaneous” category, after serious assaults, property crimes and drugs have been totaled in annual reports. One study found that between 1999 and 2001 there was a 300% increase in student arrests in the Miami-Dade public school system (Browne, 2003). Where I live, the school district police have reported increasing arrests for “crimes” placed in this miscellaneous category, going from about 80% of the total to more than 90% in the past ten years. Such draconian measures have been put in place despite the fact that schools are the safest places for children and serious crime on school grounds had been declining long before such policies went into effect (Shelden, 1998).

Schools have often been described as “day prisons” as they often have had that drab look of a prison and plenty of fences all around. These days it has become even worse, as a growing number of reports have noted. One recent report noted that many high school students are complaining that we are “making schools like prisons.” This perceptive account further notes that:

Most U.S. high school students will have to walk by numerous hidden cameras, outdoors and indoors, and go through an institutional-size metal detector manned by guards just to get into school each morning. Once there, students are subject to random searches of their bodies and belongings. Lockers can be searched without warning with or without the student present, and in many places police will use drug-sniffing dogs during raids where they search lockers and even students’ parked cars (Lyderson, 2003).

A law suit filed in June, 2001 by the ACLU addressed some of these concerns at Locke High School in Los Angeles. Among the complaints were unreasonable searches, where students were frisked and spread-eagled and had their personal belongings examined in front of their peers. One of the plaintiffs in the case said: “The searches are embarrassing. They’re treating us like

we're criminals. It's turning school into a prison." A former student told a reporter that "There are 27 cameras on the second floor alone and they are going to put up more cameras to supposedly make it a safer place, when really you feel more like a criminal." (Lydersen, 2003). At Oswego High School in up-state New York, one such search was done without warning when several police squads with their drug-sniffing dogs searched students' lockers upon the request of the principal. They found a small amount of pot and a marijuana pipe in one student's pocket (Lydersen, 2003).

Perhaps the most infamous case occurred in a small town called Goose Creek, South Carolina. Videotape from surveillance cameras shows dozens of students, some of them handcuffed, sitting on a hallway floor against the walls as police officers watch them with guns drawn and police dogs sniff backpacks and bags strewn across the hall. A report in the Los Angeles Times noted that parents were outraged over the incident, saying that the police went overboard (Los Angeles Times, 2003b). No drugs were found. The author saw portions of the videotape and it looked like the Gestapo with about 10 or 12 armed police roaming the halls yelling and making the students lie down on the floor.

Hundreds more such examples could be presented. Here's my point. In recent years the juvenile justice system has been accused of being too lenient (actually adults often get treated more lightly for comparable crimes) and so a "get tough" movement has taken over. One result is that minor indiscretions that once were handled informally or even ignored are now being formally processed, thus clogging the system so much that it barely has time to deal with the really serious crimes and truly problematic youth. Upon the passage of various "get tough" laws, officials look in vain to find the "super-predators" and, finding few, end up targeting minor offenders. I call it the "trickle-down" effect.

Contrary to the media and most politicians, the most serious juvenile offenders - the so-called "chronic violent predator" or "super-predator" - are rare. All across the nation, we search in vain for these kinds of youths and discover that they usually constitute less than 3% of all juvenile offenders (but they dominate the headlines, making us think they are the norm; but, after all, "if it bleeds, it leads"). Sometimes we are told that a certain percentage of youths referred to juvenile court are charged with "crimes against the person" or "violent crimes" when in fact the majority of these crimes are rather minor in nature - a fist fight between teenagers, a fight between children and their parents, between siblings, a mere threat, etc. In short, the kinds of personal confrontations that people of my generation used to get involved in all the time when we were young - and no police showed up, no referrals were made to court. What happened? The community itself handled it - the schools, neighbors, community groups, and even the kids themselves. Even the police - like those where I grew up - handled these infractions through a stern lecture and a warning (chances are they knew you and/or your parents).

But nowadays we are driven by media images of the young "predator" or the rare killers on school campuses or the so-called "gang-bangers," and reacting as if this represents the typical youthful offender. I call this "exception-based policies." Conservatives, and to a large extent liberals, have responded to "worse-case scenarios" by instituting policies as if the exceptional cases are the norm. The rare case where a youth brings a gun on school grounds, the rare serious violent crime on school grounds, etc. determines public policies.

We are obsessed about identifying the next "super-predator," preferably at the earliest age possible. This means we crack down on minor offenses - or no offenses at all, as in cases where we target so-called "high risk" children. There is an erroneous assumption that minor offenses will inevitably lead to bigger crimes later in life and that there is an easy way to identify future criminals, which is not true.

Part of the problem is that America really loves its wars, as we always seem to want to solve a problem by declaring a "war" on it. Once we have declared a war this immediately sets up an "us versus them" situation and a sort of "siege" mentality - as in the erroneous, but ever-popular belief that criminals/gangs/drug dealers are "taking over." In this case, we have, in effect, a "war on children." And as in any other war, there tends to be an attitude that we may have innocent casualties or, continuing the war metaphor, there will be "collateral damage," meaning that losses must be anticipated for the "greater good" of "winning the war" (suggesting that it is too bad that some innocent children get victimized or that minor offenses get criminalized). It is time we made some drastic changes in the way we handle crime and delinquency in this society. We don't need to "get tough" with these kids; we just need to "get smart" by changing our attitude toward minor juvenile transgressions. More importantly, however, we adults need to look in the mirror and realize that we are part of the problem; guess what age group commits the most crime and the most horrible of crimes? And guess what age group uses the most drugs, drinks the most alcohol and abuses (and even kills) the most kids? It is adults. But we avoid our own problems by scapegoating kids (Males, 1996).

We need another approach to this problem and we don't have to look very far to find a model to guide us, for it appeared 30 years ago in Schur's excellent book. The aim in this paper is to first provide a brief summary of Schur's book and proceed to outline a policy that can take advantage of his insights 30 years ago.

### **The Labeling Perspective: An Overview**

Schur's work was one of many during the 1960s and 1970s that symbolized the "labeling" perspective. The labeling perspective does not address in any direct way the causes of criminal/deviant behavior but rather focuses on three interrelated processes: (1) how and why certain behaviors are defined as criminal or deviant, (2) the response to crime or deviance on the part of authorities (e.g., the official processing of cases from arrest through sentencing), and (3) the effects of such definitions and official reactions on the person or persons so labeled (e.g., how official responses to groups of youths may cause them to come closer together and begin to call themselves a gang).<sup>131</sup> The key to this perspective is reflected in a statement by Becker more than 40 years ago, who wrote, "Social groups create deviance by making the rules whose infraction constitutes deviance, and by applying those rules to particular people and labeling them as outsiders" (Becker, 1963: 8-9).

One key aspect of the labeling perspective is that the juvenile and criminal justice system itself (including the legislation that creates laws and hence defines crime and criminals) helps to perpetuate crime and deviance. Definitions of "delinquency" and "crime" stem from differences in power and status in the larger society, and those without power are the most likely to have their behaviors labeled as "delinquency"; delinquency may be generated, and especially

perpetuated, through negative labeling by significant others and by the judicial system; one may associate with others similarly labeled, such as gangs. One of the most significant perspectives on crime and criminal behavior to emerge from the labeling tradition was Richard Quinney's theory of the "social reality of crime." Among other things, Quinney argued that "criminal definitions describe behaviors that conflict with the interests of the segments of society that have the power to shape public policy" and that such definitions "are applied by the segments of society that have the power to shape the enforcement and administration of criminal law." Moreover, "behavior patterns are structured in segmentally organized society in relation to criminal definitions, and within this context persons engage in actions that have relative probabilities of being defined as criminal" (Quinney, 1970:15-25).

One of the key concepts for Quinney is *power*, which is an elementary force in our society. Power, says Quinney, "is the ability of persons and groups to determine the conduct of other persons and groups. It is utilized not for its own sake, but is the vehicle for the enforcement of scarce values in society, whether the values are material, moral, or otherwise." Power is important if we are to understand public policy. Public policy, including crime-control policies, is shaped by groups with special interests. In a class society, some groups have more power than others and therefore are able to have their interests represented in policy decisions, often at the expense of less powerful groups. Thus, for example, white upper-class males have more power and their interests are more likely to be represented than those of working- or lower-class minorities and women. Another way of putting it would be to say that *the imposition of a deviant (or delinquent) label is an exercise in power*. Thus, those with the most power and resources at their disposal are able to resist being so labeled.

Two types of offenses perhaps best illustrate this problem: status offenses and drugs. In each case, the laws are directed against powerless groups: juveniles and lower class racial minorities. Historical studies have documented the biases built into the very definitions of both of these types of offenses.<sup>[4]</sup> For juveniles, however, the very existence of "status offenses" demonstrates the power adult world has over kids. Offenses like "incorrigible," "unmanageable" and "beyond control" are so vague as to defy precise definitions. Similarly, running away from home is often responded to differently depending upon gender. For instance, girls, who are about as equally as likely as boys to run away, but far more likely to be arrested, sent to juvenile court, detained and even institutionalized (Chesney-Lind and Shelden, 2004).

In *Radical Non-Intervention*, Schur takes a key feature of the labeling perspective, namely that it allows us to question traditional responses to delinquency, and proceeds to outline a totally different, radical approach. The radical non-intervention approach begins with the premise that we should "leave kids alone wherever possible" (Schur, 1973: 155). Schur's book is divided into three major sections, each corresponding to three typologies used to address the problem: (1) treating the individual, (2) reforming society and, (3) radical non-intervention. Each of these will be briefly reviewed.

### **Treating the Individual**

One of the most popular explanations of delinquency is that it is a "symptom" of some "underlying problem" within the individual delinquent. While the "child savers" who helped

create the first juvenile court in Chicago in 1899 could be described as “social reformers” the basic approach has always been to focus on the individual delinquent, with perhaps some lip service given to the social causes of crime and delinquency. As Schur notes, there is an “*assumption of basic differentness*” in that delinquent behavior is “attributed primarily to the special characteristics of individual delinquents.” Therefore, the appropriate treatment response is “we have delinquency because we have delinquents; we must do something *to* or *for* them if we are to rid ourselves of the problem” (Schur, 1973: 29). The favored method of treatment is the clinical model which seeks to first identify youths who are “pre-delinquent” (or the modern equivalent, “at risk”) and subject them to some form of intervention but at the same time intervene clinically after these individuals have been formally defined as “delinquents” by the juvenile justice system. One of the main criticisms of this approach is that such predictions always tend to *over-predict* and therefore you have a lot of “false positives” (where you predict that someone will become a delinquent and they do not). Schur cites the famous Glueck studies which spurned the Cambridge-Somerville Youth Study where less than one-third of those identified as “pre-delinquent” actually got into trouble and most of these, then and now, commit minor offenses and do not continue into a life of serious crime.

Some of the techniques used by those adhering to this approach have had some extremely negative results, such as various “behavior modification” procedures, especially through the use of drugs. Such techniques have had a very sinister history, beginning with the “eugenics” movement during the late 19th and early 20th centuries. This movement occurred in the context of widespread fear and nativism. The aim of this movement was to eliminate, or at least physically remove, so-called “bad seeds” from an otherwise healthy American soil. This was based upon the theory of *eugenics* which holds that certain problem behaviors are inherited and can be reduced and perhaps eliminated altogether by preventing the carriers of so-called “bad seeds” from reproducing. This theory was based in part on the idea that there are certain groups - especially racial groups - who are inherently “defective” (it was during this same period of time that the term “defective delinquent” was popular), somewhat less than human and naturally inferior.<sup>[5]</sup>

While Schur was warning us about the possible negative effects of behavior modification, mentioning specifically the use of drugs, he could never have predicted what would transpire within the next 30 years. One of the most recent ventures into this area has been found in the work of Dr. Gail Wasserman, a professor of Child Psychiatry at Columbia University, who is in charge of one of the most recent in a long line of attempts to get to the so-called “root causes” of violent crime. What are these “root causes”? They are supposedly found in the genes of certain kinds of children. What kinds of children? Let Dr. Wasserman tell you: “It is proper to focus on blacks and other minorities as they are over represented in the courts and not well studied.” So she and her colleagues decided to “study” these “predisposed to violence” youth - all males, all minorities, ages 6 to 10 - by giving them doses of a dangerous drug called fenfluramine, the main ingredient in the diet drug “fen phen.” These children, who had no criminal record, but were considered to be at “high risk” (code word for poor urban minorities) for future violence, were given a dose of this drug in order to examine the effects of “environmental stressors” on levels of serotonin in these boys. Fenfluramine, by the way, was eventually withdrawn just a few months later after this “research” was completed (late 1997) because, among other things, it

causes potentially fatal heart valve impairments in many patients, plus brain cell death in others (Breggin and Breggin, 1998; Cohen, 2000).

In 1989, the Department of Health and Human Services and the Public Health Service issued a report calling for strategies of intervention in “minority homicide and violence.” Ironically the report cited as causes of violence factors like poverty, unemployment, homelessness, the availability of guns and the glorification of violence within American culture. Yet its recommendation for prevention would focus on identifying *individuals* and *modifying* their behavior - mostly, as it turned out, with medication. The report flatly stated that: “Targeting individuals with a predisposition to, but no history of, violence would be considered primary as in programs to screen for violent behavior.” This would require “tools to facilitate screening out high-risk individuals for early intervention.” Such screening would target hospital emergency rooms, health centers, jails and schools “at the lowest levels” where “acting out” behavior can be identified and dealt with. Perhaps more importantly, the program would conduct research “on the biomedical, molecular, and genetic underpinnings of interpersonal violence, suicidal behavior, and related mental and behavioral disorders.”

More alarmingly is the fact that infants would be a central focus, with many studies starting at birth. After all, so the logic goes, there must be biological factors present at that age that would predict later violent behavior! It does not take much of an imagination to deduce whose children would be the target of such “interventions.” In fact, subsequent developments of these various violence initiatives often specifically stated that the children of the poor and racial minorities would be the target, as suggested by the above quote from Gail Wasserman. Or take the “findings” of a paper delivered at a 1989 conference of the American Association for the Advancement of Science claiming that there is research showing that whites and Asians are superior to African-Americans who, the paper claims, are “smaller brained, slower to mature, less sexually restrained and more aggressive.” This is not the 19th century, nor even the 1930s and 1940s, when such racist beliefs were generally accepted. It's the 21st century where we are supposedly more "enlightened."

The Department of Justice soon got into the action with its “Program on Human Development and Criminal Behavior.” Illustrating the "scientific" basis of this program and the role of academics in legitimating such movements, it should be noted that both the director and co-director of this project were, respectively, Felton Earls, Professor of Child Psychiatry at Harvard Medical School and Albert J. Reiss, Professor of Sociology at Yale’s Institute for Social and Police Studies. (The search for the “genetic” source of criminal behavior has always been led by noted academics. The early eugenics movement was at least indirectly supported by academic criminologists, sociologists and anthropologists from Harvard University, among others. Such support is crucial for the continuation of such programs.) This program would screen and identify children as “potential offenders” that are “in need of preventive treatment or control.” Specifically, the research would target nine groups starting in infancy and then at ages 3, 6, 9, 12, 15, 18, 21, and 24. The key question to be answered would be, according to the directors of the research: “What biological, biomedical, and psychological characteristics, some of them present from the beginning of life, put children at risk for delinquency and criminal behavior?”

Led by psychiatrists and funded by some of the largest pharmaceutical companies (such as Lilly, the maker of Prozac, Pfizer, Upjohn, Hoffman-La Roche, Abbott Laboratories and many more), there is now underway a program of “research” called the Violence Initiative Project, with additional funding provided by the National Institute of Mental Health. The “crime control industry” has now expanded to include what may be called the “drug control industry” as all sorts of alleged “problem behaviors” exhibited by children are viewed as biological in nature, and in some cases genetic. As Breggin and Breggin write: “Children’s disorders and disruptive or violent behavior in particular remain growth markets. Powerful vested interests, including giant pharmaceutical firms, stand to profit mightily from proposed applications of biological research. Biomedical researchers and their labs and institutes will not readily fold or refrain and retool for wholly different kinds of research” (Breggin and Breggin, 1998: 40).

I am certain Schur would agree that these approaches to delinquency should be rejected outright, as they violate some of the most elementary principles of social justice and individual liberty. But the approaches persist mainly because it is the *adults* who have the most *power* over children who are in charge.

Schur continues his analysis of individual approaches by focusing on such techniques as counseling, probation services and various kinds of “community treatment.” His review of the literature on these approaches found little to be enthusiastic about 30 years ago; more recent updates continue to find few success stories. For the most part, typical probation and parole approaches continue the individualized techniques and in fact often do little more than surveillance, symbolized perfectly by a sign Jerome Miller saw on the office wall of a California probation officer, which read “trail ‘em, surveil ‘em, nail ‘em and jail ‘em” (Miller, 1996: 131).

Institutional treatment has also come under constant criticism, for many of the same reasons, namely that the method continues to focus on the individual delinquent. Schur’s analysis 30 years ago, when he noted the inevitable conflict between treatment and custody, with the latter almost invariably winning. More recent reviews of institutional treatment are no more promising (Dryfoos, 1990; Bortner and Williams, 1997).

## **Reforming Society**

Traditional sociological theories stress the importance of the surrounding social structure and culture as the most important causes of crime and delinquency. These theories shift the focus away from *individual* characteristics to *social* characteristics that cause people to become delinquents. However, as Schur pointed out, with these theories “delinquents” are still to be distinguished from “non-delinquents,” the only change being that under sociological theories it is the *social conditions* that differentiate them rather than *personal attributes*. Therefore, the goal should be to change the surrounding social conditions rather than changing individuals.

While he reviews most of the standard sociological theories (e.g., strain, cultural deviance, etc.), Schur challenges the assumption that delinquency is strictly a lower class phenomenon, noting that self-report studies demonstrate that virtually every juvenile commits some form of delinquent act. Over the years, many have taken these research findings and concluded that class and race don’t matter when it comes to causes of delinquency. So, for instance, we seen



Hirschi's "control theory" stipulates that it is the lack of *bonding* that causes delinquency, regardless of race or class (Hirschi, 1969). There is now a great body of research demonstrating that social inequality and racism are indeed major causes of crime and delinquency. However, as Schur and many others have pointed out, these are causes of *certain kinds* of criminal behavior, but certainly not all criminal behavior. When we consider the fact that white collar and corporate crime costs society between \$500 billion and \$1 trillion per year, the relatively petty crimes of the lower class pale in comparison.<sup>[6]</sup> Nevertheless, the criminal and juvenile justice system focus almost exclusively on the behaviors of the lower and working classes.<sup>[7]</sup>

Yet 'reforming society' has hardly been done, for few programs have been established that challenge the basic foundations of our class society. Most of the efforts that can be described as addressing the social causes of crime have consistently tried to change either individuals or groups. Schur cites the "detached worker" programs that have attempted to reduce gang activities. These and similar programs have not been very successful (Shelden et al., 2004; Klein, 1995). Indeed, after 30 or more years of "street work" with gangs we have more gangs than ever before (although official estimates are usually exaggerated) and the major sources of gangs (especially social inequality) have worsened.<sup>[8]</sup>

One of the few attempts to seriously address social inequality was the "War on Poverty" begun in the 1960s. One part of this program was the Mobilization for Youth program in New York City. However, neither of these programs lasted very long, as money that would have gone toward them was quickly siphoned off in order to continue the Vietnam War. It is ironic that within one of the most often cited publications on crime and justice, the President's Commission on Law Enforcement and Administration of Justice, we find these lines: "The underlying problems are ones that the criminal justice system can do little about...Unless society does take concerted action to change the general conditions and attitudes that are associated with crime, no improvement in law enforcement and administration of justice, the subjects this Commission was specifically asked to study, will be of much avail" (President's Commission, 1967: 1, quoted in Schur, 1973: 105). Is it ironic that most who read this and other reports from the Commission apparently ignored this simple truism and instead focused on making the existing system of justice more "efficient" or, more correctly, more efficient at processing mostly lower class and minority offenders.<sup>[9]</sup>

More than 30 years have passed since the President's Commission wrote those words. Since this time, the crime rate is not much different, but expenditures on the criminal justice system have soared by more than 1,500 percent, the overall incarceration rate has increased by about 500 percent, and the overall "clearance rate" of "crimes known to the police" has remained virtually unchanged! (Shelden and Brown, 2003: Ch. 1-2). As an old saying goes, it is time to "think out of the box." And this "box" is our present criminal and juvenile justice system. It is also time to reconsider what Schur said 30 years ago about "radical nonintervention" as a unique approach.

### **Thinking Out of the Box: Reconsidering Radical Non-Intervention**

Schur noted the general disenchantment with delinquency policies as they had generally failed (with some notable exceptions) to reduce delinquency. In a statement that is just as

relevant today as ever he observed: “A traditional response to this situation has been to assume that the system merely needs improvement. Hence the calls for more and better facilities, increasingly experimental studies and elaborate ‘cost-benefit’ and ‘systems’ analyses” (Schur, 1973:117). Whether or not the system has been noticeably “improved” it is certainly much larger and it is making more arrests than ever before, mostly stemming from the “war on drugs.” On any given day, more than 6 million are somewhere within the criminal justice system, with perhaps another million or so somewhere within the juvenile justice system. At the same time, the fear of crime among American citizens appears to be much higher than ever (Shelden and Brown, 2003). Obviously something different is needed and part of this something may be found in Schur’s proposal.

In the final chapter of his book, Schur outlined in broad form, five general proposals. These are as follows (Schur, 1973:166-170):

1. *“There is a need for a thorough reassessment of the dominant ways of thinking about youth ‘problems’.”* Schur maintained that many, if not most, behaviors youth engage in (including many labeled as “delinquent”) are “part and parcel of our social and cultural system” and that “misconduct” among youth is inevitable within any form of social order. We pay a huge price, he charged, for criminalizing much of this behavior.

2. *“Some of the most valuable policies for dealing with delinquency are not necessarily those designated as delinquency policies.”* Schur quotes a passage from the report of the American Friends Service Committee that “the construction of a just system of criminal justice in an unjust society is a contradiction in terms.” Checking my own copy of this report (which we would do well to re-read), the first part of this sentence says “To the extent, then, that equal justice is correlated with equality of status, influence, and economic power...” Clearly this committee (John Irwin was one of the members) saw the need to go beyond the usual focus on isolation and punishment of individual offenders and seriously challenge the inequality of the larger society.<sup>[10]</sup>

3. *“We must take young people more seriously if we are to eradicate injustice to juveniles.”* Schur notes that so many young people lack a sound attachment to conventional society, to borrow one of Hirschi’s “social bonds.” Thus, while we address some of the inequalities noted in the second point above, it would behoove us to try and make the existing system more just in the sense that it respects young people. The lack of respect that Schur noted seems to be even greater today, as we continue the conflicting feelings of fear and admiration toward young people. Indeed, today we see the Bush proposal of “leave no child behind” while at the same time increasing the punishments for relatively minor offenses under such policies as “zero tolerance.” Also, we often embrace “diversity” yet at the same time punish differences, such as the heavy penalties levied for mere possession of marijuana and the continued targeting of racial minorities in the “war on drugs.”

4. *“The juvenile justice system should concern itself less with the problems of so-called ‘delinquents’, and more with dispensing justice.”* Schur was talking specifically about narrowing the jurisdiction of the juvenile court, specifically over “status offenses.” Little did Schur realize the extent to which “net widening” would occur in the intervening years. While technically, some “status offenders” have been “diverted” from the juvenile justice, many are

returned under new “delinquency” charges stemming from “bootstrapping” whereby a second status offense is labeled “violation of a court order” (e.g., probation violation) or even “contempt of court.” This has been especially the case for girls (Chesney-Lind and Shelden, 2004).

5. *“As juvenile justice moves in new directions, a variety of approaches will continue to be useful.”* Schur specifically suggests such approaches as prevention programs that have a “collective or community focus,” plus programs that are voluntary and non-institutional in nature and programs that use “indigenous personnel,” to name just a few. One of those new approaches has been the Detention Diversion Advocacy Project (DDAP) which began in San Francisco in the late 1980s and has spread to other parts of the country. The first evaluation found very positive results from the program (see discussion below) (Shelden, 1998).

### **An Assessment of Schur’s Ideas**

As already indicated, much of what Schur articulated 30 years ago remains relevant in today’s society, as does the labeling approach itself. While people may disagree on some of his points, the central thrust remains true as ever, namely that the juvenile justice system extends far too broadly into the lives of children and adolescents. Mike Males has made this point perhaps more forcefully than most others when he accuses criminologists and public policy makers of blaming kids for most ills of society while ignoring the damage done by adults (Males, 1996, 1999). In a more recent study, Males compared the rhetoric of both law enforcement officials and criminologists such as James Q. Wilson. He points out that in Los Angeles during the 1990s two-thirds of the murder suspects were under 25, but in 2002 less than half were; likewise in the city of Oakland. He chastises both James Q. Wilson and James Alan Fox for erroneously claiming that more young people equal more crime. As Males correctly points out, in the years and in the states where there were a higher percentage of young males in the population, there were fewer violent crimes. Both James Alan Fox and John DiIulio had predicted back in 1995 that we were headed for a rise in the teenage population that would result in a spike in the number of “adolescent superpredators.” Contrary to such dire predictions, there were 60,000 fewer juvenile arrests for violent index crimes in 2001 than in 1994 (Males, 2002). Perhaps we would be more correct to stress the importance of greater intervention by the adult courts into the lives of “adult superpredators” instead of extending the reach of the juvenile court.

The overreach of the juvenile justice system is perhaps best demonstrated in referral statistics published by OJJDP. The most recent Juvenile Court Statistics notes that between 1989 and 1998 the two offense categories that showed the largest percentage gains were drug law violations (up 148%) and “simple assaults” (up 128%), with “obstruction of justice” rising by 102% and (disorderly conduct) going up by 100% (Office of Juvenile Justice and Delinquency Prevention, 2003: 7.) Black youths consistently have higher rates of referrals to court for drug offenses, a pattern that reflects trends in the adult system (Ibid.)<sup>[11]</sup> The proportion of referrals to the juvenile court that are relatively petty acts is staggering. Why criminalize “normal” adolescent behavior like disturbing the peace and some minor fighting? (One may reasonably ask, “Whose peace is being disturbed?”)

As already noted, one of the questions the labeling perspective poses is, why are certain acts labeled “criminal” or “delinquent” while others are not? Another pertinent question this

approach asks is, how do we account for differential rates of arrest, referral to court, detention, adjudication and commitment based upon race and class? These are not merely academic questions, for the lives of real people are being impacted by recent “get tough” policies. We continue to criminalize normal adolescent behavior or behavior that should be dealt with informally, outside of the formal juvenile justice system. Status offenses immediately come to mind, of course, such as truancy and “incorrigibility.” Criminalizing truancy has always puzzled me. Why take formal police action because a kid is not going to school? Certainly, kids should stay in school, for an education is a prerequisite for a decent life. Why use the immense power of the state to make kids stay in school? Likewise, kids should obey the reasonable demands of their parents, but they also should be left along to figure things out for themselves and there is no need to get the state involved in private family matters, unless some direct physical or other obvious harms are being committed. How many times have we heard stories or read research reports on runaways who have experienced incredible abuse or discovered that many kids referred to juvenile court as “incorrigible” have been abused? (Chesney-Lind and Shelden, 2004).

### **A Model Program: Detention Diversion Advocacy Project**

Consistent with the ideas discussed here is a program with a great deal of promise. The Detention Diversion Advocacy Project (DDAP) was begun in 1993 by the Center on Juvenile and Criminal Justice (CJJC) in San Francisco, California. The program's major goal is to reduce the number of youth in court-ordered detention and provide them with culturally relevant community-based services and supervision. Youths selected are those that are likely to be detained pending their adjudication. DDAP provides an intensive level of community-based monitoring and advocacy that is not presently available. It is based in part upon the concept of “disposition case advocacy.”

Disposition case advocacy has been defined as “the efforts of lay persons or nonlegal experts acting on behalf of youthful offenders at disposition hearings” (Macallair, 1994:84). It is based in part on the more general concept of “case management,” which has been defined as a “client-level strategy for promoting the coordination of human services, opportunities, or benefits.” Case management seeks to achieve two major outcomes: (1) “the integration of services across a cluster of organizations( and (2) continuity of care” (Moxley, 1989:11).The main focus of case management is to develop a network of human services that integrates the development of client skills and the involvement of different social networks and multiple service providers (Moxley, 1989:21).

Among the goals the program is designed to accomplish include the following: (1) providing multilevel interventions to divert youth from secure detention facilities, (2) to demonstrate that community-based interventions are an effective alternative to secure custody and that the needs of both the youths and the community can be met at a cost savings to the public, and (3) to reduce disproportionate minority incarceration.<sup>[12]</sup>

The DDAP program involves two primary components:

*Detention Advocacy.* This component involves identifying youth likely to be detained pending their adjudication. Once a potential client is identified, DDAP case managers present a release plan to the judge. The plan includes a list of appropriate community services that will be accessed on the youth's behalf. Additionally, the plan includes specified objectives as a means to evaluate the youth's progress while in the program. Emphasis is placed on maintaining the youth at home, and if the home is not a viable option, the project staff will identify and secure a suitable alternative. If the plan is deemed acceptable by a judge, the youth is released to DDAP's supervision.

*Case Management.* The case management model provides frequent and consistent support and supervision to youth and their families. The purpose of case management is to link youths to community-based services and closely monitor their progress. Case management services are "field oriented," requiring the case manager to have daily contact with the youth, his or her family, and significant others. Contact includes a minimum of three in-person meetings a week. Additional services are provided to the youth's family members, particularly parents and guardians, in areas such as securing employment, day care, drug treatment services, and income support.

Clients are identified primarily through referrals from the public defender's office, the probation department, community agencies, and parents. Admission to DDAP is restricted to youths currently held, or likely to be held, in secure detention. The youths selected are those theoretically deemed to be "high risk" in terms of their chance of engaging in subsequent criminal activity. The selection is based on a risk assessment instrument developed by the National Council on Crime and Delinquency. The target population consists of those whose risk assessment scores indicate that they would ordinarily be detained. This is what Miller has termed the "deep-end" approach (Miller, 1998). This is very important, for by focusing on detained youth the project ensures that it remains a true diversion alternative rather than "net widening." Youths are screened by DDAP staff to determine whether they are likely to be detained and whether they present an acceptable risk to the community.

Client screening involves gathering background information from probation reports, psychological evaluations, police reports, school reports, and other pertinent documents. Interviews are conducted with youths, family members, and adult professionals to determine the types of services required. Once a potential client is evaluated, DDAP staff present a comprehensive community service plan at the detention hearing and requests that the judge release the youth to DDAP custody.

Because the project deals only with youths who are awaiting adjudication or final disposition, their appropriateness for the project is based on whether they can reside in the community under supervision without unreasonable risk and their likelihood of attending their court hearings. This is similar in principle of what often occurs in the adult system when someone is released on bail pending their court hearings (e.g., arraignments, trial).

The primary goal of the project is to design and implement individualized community service plans that address a wide range of personal and social needs. Services that address specific linguistic or medical needs are located by case managers. Along with the youth's participation,

the quality and level of services are monitored by DDAP staff. It should be noted that the purpose of multiple collaboratives is to ensure that the project is able to represent and address the needs of the various communities within San Francisco in the most culturally appropriate manner. Since youth services in San Francisco have been historically fragmented by ethnicity, race, and community, a more unified approach is being tried with DDAP in that it has become a neutral site within the city and staffed by representatives from CJCJ and several other community-based service agencies (e.g., Horizon's Unlimited, Potrero Hill Neighborhood House, and Vietnamese Youth Development Center).

More specific goals include (1) ensuring that a high proportion of the program clients are not rearrested while participating in the program, (2) achieving a high court reappearance rate, (3) reducing the population of the Youth Guidance Center, and (4) reducing the proportion of minority youths in detention. Currently, the Youth Guidance Center is the only place of detention in the city. It has a capacity of 137, but the daily population typically ranges from 140 to 150. The average length of stay is around 11 to 12 days.

The evaluation consisted of comparing a group of youths referred to DDAP with a similarly matched control group that remained within the juvenile justice system (for a complete overview of the evaluation, see Shelden, 1999). The results showed that after a three-year follow-up, the recidivism rate for the DDAP group was 34 percent, compared to a 60 percent rate for the control group. Detailed comparisons holding several variables constant (e.g., prior record, race, age, gender, and so on) and examining several different measures of recidivism (e.g., subsequent commitments, referrals for violent offenses) showed that the DDAP youths still had a significantly lower recidivism rate.

DDAP has been expanded to additional sites, such as Washington, DC and Philadelphia. Preliminary reports suggest continuing success, as measured by lower recidivism rates (Feldman and Kubrin, 2002). Presently the concept has been further expanded to include a focus on juvenile offenders who have been committed to institutional settings in California. In other words, these are youths who are headed for such institutions as the California Youth Authority. The program, called New Options, operates on the same principle as DDAP, namely, going into the "deep end" of the juvenile justice system. This program has only been in operation for about one year, yet some preliminary figures suggest the same kind of success as DDAP (Center on Juvenile and Criminal Justice, nd). One example illustrates this program. It involved a 16-year-old male with a long history of involvement in the juvenile justice system, including five failed out-of-home placements within the past four years. Instead of being sent to the CYA, he was placed in a private school called the Challenge to Learn Academy. Here, in addition to receiving an excellent education, he receives individual therapy, substance abuse and anger management counseling. The cost comes to about \$2,300 a month (paid for by grants from several local foundations). As of January, 2004, more than 50 youths have been placed in such alternatives during the past year.<sup>[13]</sup>

This is just one of many similar programs that owe their intellectual debt to not only Schur's work, but the labeling perspective itself. Such programs are derived by challenging taken-for-granted notions about those youth who are found in the "deep end" of the juvenile justice system and given a chance to succeed in friendlier environments.



## Some Concluding Thoughts

Sociologist Henry Giroux (2001) recently observed that there has been growing support in this country for the abandonment of young people, especially minorities, “to the dictates of a repressive penal state that increasingly addresses social problems through the police, courts, and prison system.” This has been accomplished while the state has been increasingly reduced to providing police functions, at the expense of the role of serving as the “guardian of public interests.” The policies of social investment, continues Giroux, “have given way to an emphasis on repression, surveillance, and control.” One result is what he calls the “criminalization of social policy” or, perhaps more correctly, “domestic warfare.”

A specific instance of this can be seen in New York City where, says Giroux, Rudi Giuliani essentially assigned the role of discipline within the schools to the police department. In effect, the school principal has assumed the role of “warden” while many schools have added a new function: a “feeder system for the penal system” (Giroux, quoting Jesse Jackson).

The war on terror and the war on Iraq, along with the expansion of American military might all over the globe, which is little more than another form of empire building and imperialism (Johnson, 2004), is being matched by a growing crime control industry on the home front. Zero tolerance can be seen, therefore, as part of something much larger. My fear is that instituting anything remotely like radical nonintervention will be an uphill battle, given the current political climate. A “hands-off” policy toward youth does not fit in well these days, given the almost paranoid need to identify “troublemakers,” “superpredators,” and potential “terrorists.”

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## Notes

- [1] See also his other noteworthy work on the labeling perspective (Schur, 1971).
- [2] An excellent treatment of the subject of “superpredators” is provided in Elikann (1999). A good illustration of this conservative view is provided in Bennett et al. (1996).
- [3] This is outlined in more detail in Schur (1971).
- [4] Documentation that race and class bias exist with regard to drug laws and status offenders is provided in my book (Shelden, 2001); for juvenile court laws and their bias see Platt (1969); for the race bias in drug laws see Helmer (1975).
- [5] The information about the eugenics movement and subsequent discussions is based in part on Shelden (2000b). Another good source for this topic is Rafter (1988).
- [6] Costs of white collar and corporate crime are provided in Shelden and Brown (2003, Ch. 2).
- [7] Ibid. This is also documented in studies too numerous to cite here. An example is provided in Chambliss (1999) and especially in Reiman (2004).
- [8] For documentation of recent increases in inequality see Shelden et al. (2004, Ch. 7) and Phillips (2002).
- [9] A good critique of the Crime Commission and of criminal justice policy in general is found in Quinney (2002).
- [10] This quote is found in American Friends Service Committee (1971: 16).
- [11] Numerous studies have documented the racist nature of the drug war. See Tonry (1995) and Miller (1996).
- [12] The ability of case advocacy and case management to promote detention alternatives was demonstrated by the National Center on Institutions and Alternatives (NCIA). Under contract with New York City’s Spofford Detention Center, NCIA significantly augmented the efforts of that city’s Department of Juvenile Justice to reduce the number of youth in detention and expand the range of alternative options (Krisberg and Austin, 1993:178(181). A similar case management system has been in use in Florida through the Associated Marine Institutes (ibid). The Key Program, Inc., also uses the case management approach where in this instance the youth are closely supervised, meaning that they are monitored on a 24-hour basis and must conform to some very strict rules concerning work, school, counseling, victim restitution, and so on (ibid.). Additional evidence in support of the use of case advocacy comes from a study by the Rand Corporation (Greenwood and Turner, 1991). This study compared two groups of randomly selected youths, a control group that was recommended by their probation officers for incarceration, and an experimental group that received disposition reports by case advocates. Of those who received case advocacy disposition reports, 72 percent were diverted from institutional care, compared to 49 percent of the control group. The Rand study also found tremendous resistance from juvenile justice officials, especially probation officers, to alternative dispositions, especially those coming from case advocates. It appeared that the probation staff resented the intrusion into what had heretofore been considered their own “turf” (Greenwood and Turner, 1991:92).