Labeling Theory and the Effects of Sanctioning on Delinquent Peer Association: A New Approach to Sentencing Juveniles

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ABSTRACT

This is a review of contemporary theory and studies published in various scholarly journals regarding the labeling effect of criminal justice system involvement at a young age on offenders. Drawing on studies that have taken place over the past several decades in order to increase the generalizability of the conclusions, this paper discusses the relationship between formal sanctioning and delinquent peer association among offenders. Results from the studies lend support to the tenets of labeling theory. They also suggest that the relative rate of increased recidivism among offenders is positively correlated with an operationalized measure of their “stakes in conformity” (e.g. marriage, employment, civic involvement, etc.). This literature review highlights the need for a reassessment of current sentencing policy for juveniles, as their life-course orientation is particularly vulnerable to negative influences. More generally, this review brings together theory and data to call for a rejection of sentencing policies which claim to “get tough on crime.”

INTRODUCTION

Labeling theory posits that individual deviants who are identified and sanctioned may interpret their “offender” stigma as a master status, thus altering their social identity, and consequently, their behavior. Offenders may also encounter social obstacles that effectively bar them from the benefits of conventional society as a result of serious stigma. Difficulty obtaining meaningful work, earning a high school diploma or post-secondary degree, or building a strong, participatory civic life because of a criminal record severely limits the professional networks open to labeled offenders. Informal sanctions may reinforce the label, weaken the social support of family and friends, and create community expectations of deviant behavior from the individual. Because of this, the offender may withdraw his or her stakes in conformity, reject the institutions that they feel rejected them, and seek out deviant peers who may be seemingly less judgmental and willing to provide a system of social support. Subculture formation that approves of or condones deviance may be conducive to further criminal behavior on the part of the individual offender, as well as on a societal scale (Braithwaite 1989).
These influences may affect juveniles and delinquent youth particularly strongly. Because the transition from youth to adulthood is largely a process of increasing one’s investment in conformity and developing one’s social identity, an interruption as stigmatizing and socially crippling as serious involvement in the criminal justice system early in life may have serious long-term implications. Does justice system involvement at a young age increase the likelihood of an individual becoming a career offender? Does it independently increase the likelihood that he or she will recidivate? How does labeling affect a juvenile’s selection of his or her peer group? These questions may directly follow an examination of current juvenile crime policy, one that is increasingly directed towards “cracking down on crime” or “making examples” out of individual offenders with the expectation of a general deterrent effect (Myers 2003).

LABELING THEORY

In its most superficial form, labeling theory merely suggests that individuals may feel obligated to act out roles dictated by their new status as criminals. Since peer delinquency and other controls do not fully account for delinquent behavior, it is possible that an altered self-concept independently affects recidivism (Bernburg, Krohn, and Rivera 2006). Indeed, the relationship between self-identification as deviant and actual deviant behavior cannot be overlooked. However, it is possible that the relationship between identity and behavior is mediated by social influences (Chiricos, Barrick and Bales 2007; Mouttapa et al. 2010).

In a study examining the behaviors and attitudes of 91 incarcerated youth from four different youth detention camps in southern California, Mouttapa et al. (2010) linked serious alcohol abuse with a shared social identity with the “gang member” image. Participants were asked in a self-report survey about their behaviors prior to their detention, as well as their experiences leading up to and during detention with feelings of anger. They were also asked to select from a list of 16 different social “identities” the one that they felt best represented their peer group. The list was compiled by the researchers and detention camp staff. This list included, but was not limited to identities such as, “skaters”, “stoners”, “jocks”, “taggers”, “heavy metalers”, “loners”, and “actors”. What the researchers in this study found was that of the majority of participants who identified themselves as “gang members”, 63% had consumed alcohol heavily in the 30 days prior to their incarceration, as opposed to 30% among those who did not self-identify as gang members (Mouttapa et al. 2010). The results remained statistically significant after controlling for self-reported levels of anger. Although this study does not account for the possibility that offenders’ self-concept may be the result of their incarceration, it does take some steps towards clarifying the relationships among an individual’s identity, peer group and behavior. This may be especially detrimental to the life-course orientation of juveniles with a developing self-concept.

It also follows that those offenders who undergo the greatest change in status may also exhibit the greatest change in behavior. Chiricos et al. (2007) observed this in a study involving 71,548 men and 24,371 women convicted of a felony in Florida between 2000 and 2002.
Florida law at the time granted judicial discretion over the decision to withhold the legal “felon” status for those convicted of a felony. Having the status withheld means that the individual does not legally need to report the conviction on applications for employment, retains his or her eligibility for government programs including federal student financial aid, and does not have his or her voting rights curtailed or revoked. This, in theory, preserves some measure of the convict’s stakes in conformity and incentives to avoid further deviant behavior. The researchers found that among offenders convicted of a felony, women, whites, those with greater educational attainment and those without a prior record were among those most likely to be affected by felony status compared to those who had the status withheld, measured in terms of increased recidivism. Contrary to some initial expectations that these groups should be the most able to insulate themselves from the effects of criminal labeling, these data point to the opposite conclusion that, simply put, those who have more to lose from a criminal conviction lose more.

Myers (2003) found in his study of violent youths in Pennsylvania that offenders who were judicially waived to adult criminal court exhibited higher rates of recidivism. The study was of 494 youths convicted of a violent crime, 79 of which were waived to adult court. Statistical controls were in place for prior record, age, whether or not a weapon was used to commit the crime, location, parents’ marital status and school enrollment. While the group waived was roughly 50% more likely to be rearrested for a violent felony in the follow-up period according to Pennsylvania arrest records, statistical controls cannot completely account for the risk of selection bias. The waived offenders on average did have more extensive prior records that the youths retained in juvenile court, as well as a higher average age at the time of arrest, even though, surprisingly, they were less likely to use a weapon in committing the crime. However, the study revealed an interesting correlation that accords with the implications of the study by Chiricos et al. (2007). Offenders who had obtained a diploma or GED before their initial arrest, or were enrolled in school at the time of their arrest, were significantly more likely to reoffend compared to those who had dropped out of school. Myers (2003) offers the explanation that perhaps those who had completed their education might have lost employment as a result of their arrest. Additionally, those enrolled in school might have elected not to return following their arrest and encountered difficulty obtaining employment.

DELINQUENT PEER ASSOCIATION

Serious criminal sanctioning may produce social obstacles that discourage investment in conventional society. Rejection from conventional groups may come in the form of difficulty obtaining employment, barriers against qualifying for student loans, and informal exclusion from conventional social networks. Punishment that generally excludes the offender from the majority—physically or socially—such as incarceration, increases the risk of offenders’ alienation from society and consequent “rejection of their rejecters” (Braithwaite 1989; Okimoto and Wenzel 2009). Incarceration may also fail to adequately prepare released offenders to reintegrate themselves into conventional society due to ineffective treatment or underdeveloped reintegration programs (Halsey 2006; Heide et al. 2001). A sufficient mass of
offenders in society allows for the formation of deviant subcultures (Braithwaite 1989). This kind of association with deviant peers after a term of incarceration may create environments conducive to recidivism by providing appropriate opportunities, values and definitions.

In their 2006 study, Bernburg et al. examine the ensuing criminal embeddedness following juvenile justice system intervention. Using panel data of 870 adolescents in the 7th and 8th grade, researchers coded participants’ individual delinquency as well as the delinquency of their peers. The study sought to establish a connection between formal justice system intervention and subsequent delinquency. Data was collected three times at six-month intervals in face-to-face interviews conducted in private. After controlling for other variables such as race, gender, initial levels of delinquency, family impoverishment and substance abuse, they found that “juvenile justice intervention is significantly associated with serious delinquency in a subsequent period” (Bernberg et al. 2006: 82). Also, because of the longitudinal nature of the study, some evidence was gathered on the temporal ordering of variable influence. According to the results, association with deviant peers significantly mediated the relationship between formal justice system intervention and later delinquency. The authors write:

*Deviant groups represent a source of social support in which deviant activities are accepted. Moreover, deviant groups often provide social shelter from those who react negatively toward the deviant status. The labeled person is thus increasingly likely to become involved in social groups that consist of social deviants and unconventional others* (Bernberg et al. 2006: 68).

**CONCLUSION**

This concept of causality between formal criminal labeling and later deviance is especially relevant to the juvenile justice discussion. Movement towards the sentencing of juveniles in adult courts in the spirit of “getting tough on crime,” or “holding kids accountable”, may exacerbate the problem of recidivism among individual offenders (Myers 2003). Strong, automatic labeling that results in social rejection is an extreme response on the part of policymakers (Okimoto and Wenzel 2008; Scheff 2010), and one that is largely unsupported as an effective method of crime control (Myers 2003). As mentioned before, adolescents who are developing their identities may be particularly affected by a strong stigmatization; and because they are just beginning to develop their stakes in conformity, the presentation of serious social obstacles such as difficulty finding employment, ineligibility for student loans and exclusion from conventional social networks may affect their life-course orientation.

Rather than discourage participation in conventional activities by labeling and isolating offenders, juvenile crime policy should be remedial and foster reintegration following shame (Braithwaite 1989; Okimoto and Wenzel 2008). This may happen through academic mentoring, career advising, or providing alternative activities. Again, if the evidence suggests that a deviant
self-concept and weakened stakes in conformity contribute to further delinquent behavior, juvenile criminal policy should be structured to attenuate the influence of these variables.

REFERENCES


