

SEVERITY OF FORMAL SANCTIONS AS A REPRESSIVE RESPONSE TO DEVIANT BEHAVIOR*

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In a critique of our paper, "Severity of Formal Sanctions as a Deterrent to Deviant Behavior" (*Law and Society Review*, 1970: 21-40), Professor Paul E. Meehl has questioned our interpretation of the data particularly in Table 3 of the original paper. On the basis of that evidence, we concluded that severity of formal sanctions show no *direct* deterrent effect on the deviant behavior under consideration, but do appear to have an *indirect* deterrent effect through their impact on the normative climate of the campus (p. 37). In challenging this interpretation of the data, Professor Meehl expressed concern that non social science readers of the *Review* might be misled by our use of "causal language" in the interpretation of these tabulations from cross sectional data.

In this extension of our earlier analysis, we attempt to explicate some of the difficulties in interpreting findings from cross sectional research and how these difficulties can be dealt with. Specifically, we show how cross sectional data can serve not only to test the predictions of a causal model, but also to evaluate its causal assumptions. This involves 1) briefly reviewing and restating the findings of our earlier analysis to indicate what is clear and what is ambiguous about them, and 2) extending our earlier analysis of these data to test alternative causal modes of the relationships among the variables we con-

*EDITOR'S NOTE: *This paper was originally written in response to criticism raised by Professor Paul E. Meehl in a communication to the Review. Professor Meehl questioned the interpretation of the findings presented by Salem and Bowers (1970) and voiced concern that non social science readers of the Review might be misled by the "causal language" used in their analysis of cross sectional data. In this paper Professors Bowers and Salem address themselves to the point raised by Meehl and extend the analysis of their earlier paper. Professor Meehl has since asked that his commentary be withdrawn.*

sidered. Our analysis here will be informed by research on the effects of the criminal sanction in the case of homicide (Bowers, 1971), which has led us to conclusions similar to those reached in the extension of our earlier work.

Direct Versus Indirect Deterrence Models

Let us begin with a brief restatement of the argument we set forth in our earlier paper. We started with two very simple models of deterrence. Following Bentham's rationalistic-utilitarian perspective, we posited that formal sanctions will have a *direct* deterrent effect on deviant behavior. When more severe sanctions are imposed for a given form of deviant behavior, members of that community will be less likely to engage in such conduct, apart from change which may also occur in their normative sentiments toward that behavior. This simple model with a direct (negative) causal link from formal sanctions to direct behavior is pictured in Figure 1, Part A; we shall refer to it as the "Direct Deterrence Model."

Secondly, following Durkheim's functionalist perspective, we posited an alternative model in which formal sanctions have no direct effect on deviant behavior—only an *indirect* effect through their impact on the normative climate of the community. In other words, the normative climate is viewed as the causal link between formal sanctions and deviant behavior; it is the intervening mechanism through which formal sanctions are presumed to have a deterrent effect. This set of relationships is represented in Figure 1, Part B; we shall refer to it as the "Indirect Deterrence Model."

It should be explicitly understood at this point that both the Direct Deterrence Model and the Indirect Deterrence Model assign causal priority to formal sanctions and assume no prior cause of both sanctions and deviance that would render spurious the relationship between them. These two models cannot both be correct. It is possible, of course, for formal sanctions to have both direct and indirect effects on deviant behavior, but the Indirect Deterrence Model indicates that there will be *only* indirect effects, whereas the Direct Deterrence Model indicates only that there will be *some* direct effects.

We set out to evaluate these two models in our original paper with the following results: 1) There is a negative (zero order) correlation between severity of formal sanctions and misconduct (Table 1). 2) There is a positive correlation between severity of formal sanctions and the climate of disapproval,

except for cheating (Table 2). 3) There is a strong negative correlation between the climate of disapproval at the college and the rate of deviant behavior. (This point is made in Bowers, 1968, Table 4, p. 376, as referenced in our paper.) However, 4) there is virtually no (first order partial) correlation between formal sanctions and deviant behavior once the normative climate is introduced as a "test factor," (Table 3) for most offenses as predicted by the Indirect Deterrence Model and contrary to the prediction of the Direct Deterrence Model.

For cheating, we went on to discover that direct deterrent effects were limited to a distinct minority of the schools—those operating under the very special conditions of an academic honor system. For most colleges (those without the honor system) the relationship between formal sanctions and cheating behavior tends to disappear within categories of the normative context, as measured by the climate of personal disapproval (Table 4) and particularly as measured by the climate of perceived peer disapproval (Table 6). Thus, had we excluded honor system schools from the analysis of cheating behavior, our findings would have been essentially similar to those for the other four forms of deviant behavior we examined.

We can now be specific about what is and what is not ambiguous in these findings: 1) There is no ambiguity about what happens to the direct deterrent effects of formal sanctions. Even substantial zero order correlations between sanctions and deviance, as in the case of the two drinking items, become negligible when we control for the normative climate of the college. In other words, among schools alike in normative context there is no association between the formal sanctions imposed for a specific form of deviance and the rates of that form of misconduct. This is strong evidence against the operation of the Direct Deterrence Model in these data.

2) While it is clear that the Direct Deterrence Model is untenable in these data, it is not equally certain that the Indirect Deterrence Model is the appropriate interpretation of the relationships among these variables. The appropriateness of the Indirect Deterrence Model depends on the assumption that formal sanctions are, in fact, causally prior to the normative climate—that the sanctioning policies and practices of the institution tend to shape the normative sentiments of the student body, either through their impact on the kinds of students the school attracts or through normative changes they produce in students over the course of the college experience. Otherwise,

what appear to be indirect effects of formal sanctions may actually be *spurious* effects.

Indirect Versus Spurious Deterrence Models

We concluded our earlier analysis with a short section on selective recruitment as a mechanism through which formal sanctions might influence the normative climate: Using students' reports of their high school drinking and cheating behavior we found virtually no relationship between the sanctioning practices of the school and the pre-college dispositions of the students it attracts (Table 7 of the original paper) and concluded that the relationship between formal sanctioning policies and the normative climates where it exists, "therefore appears to be a function of normative changes which take place after students reach college . . ." (p. 34).

This conclusion is an inference based on the results of our Table 7 and our assumption about the causal ordering between formal sanctions and normative climate; it is not the result of a test of our causal assumption. The data in Table 1 below (together with the results of our original Table 7) provide such an empirical test. With the wisdom of hindsight, it is now obvious to us that these data should have appeared as the final table in our original paper.

TABLE 1

PERCENT STRONGLY DISAPPROVING OF GETTING DRUNK
BY YEAR IN SCHOOL AT COLLEGES CLASSIFIED BY
NORMATIVE CLIMATE IN SANCTIONS IMPOSED
FOR DRUNK AND DISORDERLY CONDUCT

*Sanctions Imposed for Drunk
and Disorderly Conduct*

<i>Percent on Campus Strongly Disapproving</i>	<i>Dismissal</i>		<i>Suspension</i>		<i>Restriction of Privileges</i>	
	<i>%</i>	<i>(n)</i>	<i>%</i>	<i>(n)</i>	<i>%</i>	<i>(n)</i>
0 - 19%						
Lowerclassmen	—	(0)	15	(204)	14	(200)
Upperclassmen	—	(0)	13	(225)	13	(198)
20 - 39%						
Lowerclassmen	32	(50)	41	(200)	35	(246)
Upperclassmen	30	(53)	26	(174)	25	(183)
40 - 59%						
Lowerclassmen	55	(150)	54	(525)	52	(261)
Upperclassmen	52	(167)	49	(402)	52	(236)
60 - 79%						
Lowerclassmen	73	(178)	70	(329)	60	(83)
Upperclassmen	70	(132)	69	(197)	67	(48)
80 - 100%						
Lowerclassmen	90	(68)	88	(108)	85	(86)
Upperclassmen	95	(41)	87	(77)	92	(51)

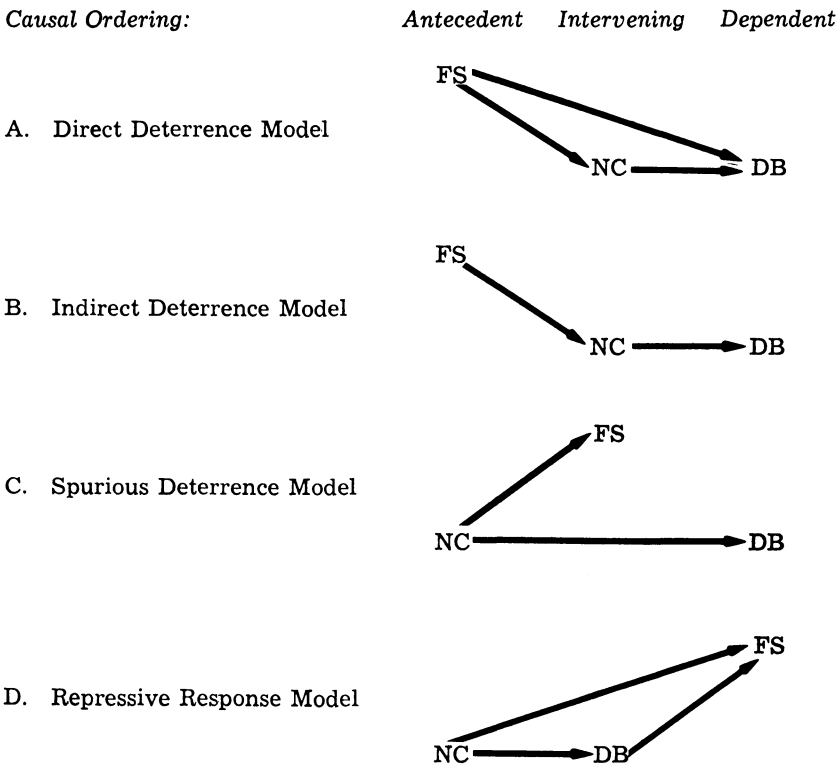
Contrary to our earlier inferences, the data show a tendency for schools with severe sanctioning practices to maintain or increase the disapproval of their students with exposure to

college. In fact, of the four cases in which the disapproval of upperclassmen is equal to or greater than that of the lowerclassmen, three occur among schools with lenient sanctions for drunk and disorderly conduct. In effect, there is no more evidence of a *conversion effect* in this table than there was evidence of a *pre-selection effect* in Table 7 of the original paper.

At this juncture we are once again in a position to say what is and what is not ambiguous in these data: 1) It now appears that the Indirect Deterrence Model is untenable. In the case of getting drunk where the available data make it possible to test the predictions and assumptions of the model, the relationships among formal sanctions, the normative climate, and deviant behavior do conform to its predictions; *but* the causal ordering among the variables, specifically the presumed causal precedence of formal sanctions, fails to meet the empirical

FIGURE 1

FOUR CAUSAL MODELS OF THE RELATIONSHIPS AMONG FORMAL SANCTIONS (FS), THE NORMATIVE CLIMATE (NC), AND DEVIANT BEHAVIOR (DB)

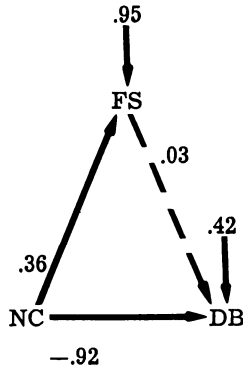


test. Neither pre-selection nor conversion—the mechanisms through which formal sanctions might be expected to influence the normative climate—can be shown to operate. The implication is that the effects of formal sanctions on deviant behavior are neither direct nor indirect; they are spurious.

2) While it is clear that the Indirect Deterrence Model is not supported in these data, it is not yet certain what form of the Spurious Deterrence Model best fits the data. We shall consider two alternatives: a) the Retributive Justice Model, and b) the Repressive Response Model. These two models are represented in Figure 1, Parts C and D, respectively.

FIGURE 2

PATH DIAGRAM ACCORDING TO THE ASSUMPTIONS OF THE SPURIOUS DETERRENCE MODEL



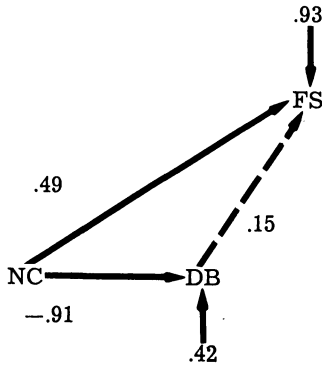
NC = Normative climate of the school as reflected by the proportion of students at the school who “strongly disapprove” of “getting drunk”

FS = Formal sanctions usually imposed for “drunk and disorderly conduct” according to the reports of deans of students and student body presidents

DB = Deviant behavior in terms of the proportion of students who report “getting drunk” at each school

FIGURE 3

PATH DIAGRAM ACCORDING TO THE ASSUMPTIONS OF THE REPRESSIVE RESPONSE MODEL^a

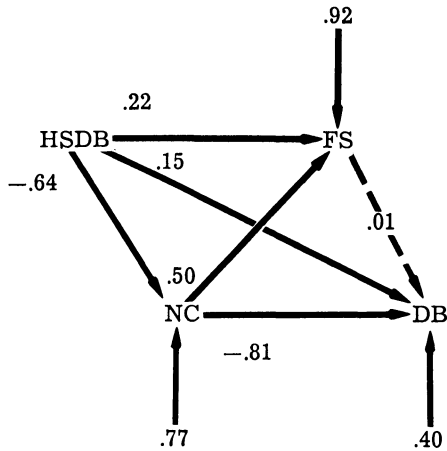


NC = Normative climate
 FS = Formal sanctions
 DB = Deviant behavior

^a The variables are identified in more detail in Figure 2.

FIGURE 4

PATH DIAGRAM ACCORDING TO THE ASSUMPTIONS OF THE MODIFIED REPRESSIVE RESPONSE MODEL^a



NC = Normative climate
 FS = Formal sanctions
 DB = Deviant behavior
 HSDB = High school drinking behavior

^a The variables are identified in Figure 2 with the exception of (HSDB) which stands for "high school drinking behavior," the proportion of students at each college who report using both beer and liquor in high school.

In the Retributive Justice Model formal sanctions are seen as having no direct effect on deviant behavior; they serve exclusively as an instrument of retribution. Offenders receive punishment appropriate to the seriousness of their crime in terms of community sentiments. In a context where getting drunk is strongly disapproved and hence is a relatively serious violation of community standards, it will be severely punished. In the case of offenses related to drinking, we know from previous research (Bowers, 1964: 19, Table 2.4) that disciplinary administration for this offense involves student participation more often than in other areas (such as cheating, theft, sex offenses, etc.), thus providing a mechanism through which the basic normative sentiments held by students may come to bear in disciplinary decisions. Of course, the kinds of sanctions deemed appropriate for various forms of misconduct will also be affected by factors such as the precedent established in previous cases and whether the institution chooses to stand *in loco parentis*.

The Repressive Response Model, on the other hand, views formal sanctions as a consequence of, or response to, deviant behavior. When the incidence of such behavior increases, formal sanctions will become more severe; when it drops off, they will become more lenient. The model implies that those who impose the sanctions believe in their deterrent effects, or are subject to pressures from those who do. The Repressive Response Model does not deny that formal sanctions will also be affected by the normative climate as specified in the Retributive Justice Model; it simply adds the prediction that formal sanctions will be independently and positively related to the level of deviant behavior in the social context.

Retributive Justice Versus Repressive Response Models

To evaluate these two alternative models, we shall here employ the method of path analysis, in place of the complex cross tabulation analysis used earlier. This involves the use of diagrams with arrows and standardized partial regression coefficients to represent the direction and the strength of causal links between variables in a causal model. Correlation between variables assumed to have a causal ordering are decomposed into direct, indirect, and spurious effects. A direct causal effect is represented by a (single headed) arrow from one variable to another. An indirect causal effect is represented by a sequence of two or more arrows leading from one variable to another through one or more intervening variables. The strength of an

indirect effect is the product of the path coefficients in the causal chain. The total causal effect is the sum of one variable's direct and indirect effects on another. The total spurious effect is the difference between the total causal effect and the correlations between the two variables. Path models also include arrows emanating from outside the model leading to the final and intermediate dependent variables. These indicate the amount of variance not explained by the variables within the system. (For further details and examples of the use of path analysis in sociology, see Duncan, 1966; Land, 1969.)

We shall confine our analysis to the data on getting drunk where we have information on the corresponding high school behavior of students that will once again help us to clarify causal priority among variables. Let us begin by recasting the data on getting drunk from our original Table 3 in terms of path analysis under the assumptions of the Retributive Justice Model. (Our measures of the normative climate and deviant behavior are used in continuous form; the measure of formal sanction is an ordinal variable coded: restriction of privileges = 1, suspension = 2, and dismissal = 3. Our earlier analysis of these data in tabular form demonstrated that the relationships among these three variables are essentially linear.)

There is no direct deterrent effect of formal sanctions for drunk and disorderly behavior. Virtually all of the zero order association between formal sanctions and deviant behavior ($r = -.30$) is owing to their common link with the normative climate ($.36 \times -.92 = -.33$). Adding the small positive direct effect gives precisely the zero order correlation between formal sanctions and deviant behavior ($-.33 + .03 = -.30$). (Small or statistically insignificant path coefficients and their respective arrows are ordinarily omitted from path diagrams; we have chosen here to retain such coefficients indicating that they are statistically insignificant, $t < .05$, by the use of a broken arrow.)

Thus, the data fit the Retributive Justice Model, as of course they should, since its predictions are the same as those of the Indirect Deterrence Model. (Reversing the causal position of the normative climate and formal sanctions does not alter the coefficients of effect. In either case, the path coefficient is equal to the zero order correlation.)

Do these data also fit the Repressive Response Model? The fact that the path from formal sanctions to deviant behavior is positive in sign means that the partial correlation between

these two variables is positive and, more particularly, that the path from deviant behavior to formal sanctions (reversing the causal position of these two variables) will also be positive and conceivably more sizable. Figure 3, depicting the Repressive Response Model, shows that this is indeed the case.

There is now an appreciable positive path (.15) from deviant behavior to formal sanctions. Yet it fails to reach statistical significance because of the very strong negative correlation between the normative climate and deviant behavior — a case of multicollinearity.

At this point, then, the balance of evidence falls on the side of the Retributive Justice Model as opposed to the Repressive Response Model. Although there is a clear suggestion of a positive causal link from deviant behavior to formal sanctions in Figure 3, we have thus far failed to establish that such a link exists at a sufficient confidence level.

A closer look at our measure of deviant behavior may suggest why the path from deviant behavior to formal sanctions in Figure 3 is not stronger. The percent getting drunk in college is a *cumulative* measure covering each student's entire college experience. As such, it incorporates ten class-years of behavior. That is, it reflects behavior from 1959 to 1963 for seniors, from 1960 to 1963 for juniors, from 1961 to 1963 for sophomores, and during the 1962-1963 academic year for respondents who were freshmen when the data was collected. The measure is obviously weighted most heavily with recent behavior.

Now as we indicated in our previous paper (p. 24), severity of sanctions imposed for drunk and disorderly conduct was reported by college deans and student body presidents for the 1961-1962 academic year. Thus, our measure of deviant behavior covers conduct that occurred before, during, and after the imposition of these sanctions — importantly, more of it occurred after (four class years) than during (three class years) or before (three class years) the imposition of sanctions. It will, therefore, be more sensitive as an effect than as a cause of formal sanctions.

What we need is a measure of deviance that gives more weight to the period prior to the imposition of formal sanctions, if we are to assess formal sanctions as a response to deviant behavior. High school drinking behavior, as an indicator of the extent to which students are inclined to engage in such conduct *when they enter college*, may better serve our purposes. We might conceive of this measure as covering four class years —

the freshmen year for each of the four classes enrolled in 1962-1963. Thus it reflects behavior prior to the imposition of sanctions for students who were juniors and seniors at that time, during the imposition of sanctions for sophomores, and after the imposition of sanctions for freshmen. In other words, it is more heavily weighted with likely problem behavior prior to (two class years) than during (one class year) or after (one class year) the imposition of sanctions.

By introducing high school drinking behavior into the model as an antecedent variable, *we will have a more sensitive test of formal sanctions as a response to prior deviant behavior*; and furthermore, by treating college drinking behavior as the ultimate dependent variable in the model, *we will have a more sensitive test of deterrent effects occurring subsequent to the imposition of formal sanctions*. As the final dependent variable in the model, it will be corrected for the largely presanctioning measure of deviance and, therefore, it will be more purely a measure of postsanctioning deviance. The four variable model is presented in Figure 4.

We now have convincing evidence for the proposition that formal sanctions are to a significant degree a response to deviant behavior; there is a significant positive path (.22) from high school drinking behavior to formal sanctions. This may at first seem inconsistent with our previous finding (Table 7 of the original paper) that there was little or no association between formal sanctions and high school drinking behavior ($r = -.10$ with data in continuous form). Note, however, that high school drinking behavior has a strong negative indirect effect on formal sanctions through the normative climate ($-.64 \times .50 = -.32$). This means that students who have engaged in drinking behavior in high school are more apt to attend colleges with relatively weak climates of disapproval and, in turn, that schools with weak normative climates are more likely to have lenient sanctioning practices. Only after we correct for differences in normative climates among schools, as we do in Figure 4, does the substantial positive link between high school drinking behavior and formal sanctions emerge ($-.10 + .32 = .22$). In other words, the greater the proportion of high school drinkers at a school with a given normative climate, the more likely that school is to impose severe sanctions for drunk and disorderly conduct.

Notably, there is no evidence of deterrence even after we remove the effects of deviant behavior occurring prior to the

imposition of sanctions as a possibly confounding factor. That is, the direct link between formal sanctions and getting drunk in college remains ever so slightly positive even when we correct for high school drinking behavior. Thus, a more sensitive test of possible deterrent effects still provides no hint that such effects are operative.

Our analysis reveals that the severity of formal sanctions for drunk and disorderly conduct is a function of 1) the disapproval of such behavior among the members of the college community, and 2) the prevalence or likely occurrence of such conduct prior to the imposition of these sanctions. This means that if two schools are alike in their normative climates but different in the levels of violation they encounter, the one with higher levels of misconduct is apt to respond with more severe punishment — as if, thereby, to “repress” the subsequent occurrence of such conduct. Our data give no indication, however, that such deterrent effects will actually occur.

The Repressive Response Model in Perspective

The distinctive feature of the Repressive Response Model is that it operates *as if* formal sanctions had a deterrent effect. Indeed, a repressive response or “crackdown” is precisely what we would expect in the face of rising deviance if severe sanctions are *perceived* as an effective instrument for reducing the incidence of such conduct. There is evidence that this same pattern of relationships between offense rates and sanctioning practices holds in the case of homicide (Bowers, 1971). We shall therefore briefly consider some of the factors which may account for the operation of this pattern. The following three may be primary sources of support for the Repressive Response Model.

1) *The deterrence perspective finds ideological roots in western culture.* At a diffuse level, the rationalistic instrumental orientation of our culture pictures man as a “rational animal” who is constantly weighing alternatives and calculating utilities to arrive at decisions about behavior, including deviant behavior. It follows that to control deviance we must make it more costly; this is what the imposition of severe sanctions is supposed to achieve. At a more specific level, the culture supplies a host of heroes who symbolize the effective working of deterrence. Thus, the “lawman” in the movies or on television, whether he be sheriff, marshal, ranger, trooper, detective, or cop on the beat, is typically in the business of demonstrating that “crime does not pay.”

2) *The belief in deterrence rests on the fallacy of generalization from personal experience with informal sanctions.* We have all seen punishment work over and over again in our everyday lives. As children we were punished for wrongdoing and learned, in some measure, to abstain from it; as parents we punish our children for the same thing with the same results. Virtually everyone has experienced the shame and pain of being punished, has confessed his errors, and has altered his behavior. What most people fail to realize, however, is that the situation in which punishment is experienced as effective usually involves respect for the sanctioning authority and close social ties or loyalty to the group he represents. These conditions are notably absent in the formal sanctioning situation. The criminal offender, in particular, has typically learned to despise the sanctioning authority and to view the group that authority represents as alien and oppressive.

3) *Those who impose the sanctions have a vested interest in believing and claiming that they work.* Since the imposition of sanctions is highly visible and their deterrent effects largely invisible, the imposition of sanctions will tend to displace effective deterrence as the primary operating goal of the social system. The imposition of sanctions becomes the criterion of performance, a sign that authorities are concerned and working to control deviance. Authorities will also find that formal sanctions are handier and cheaper than other measures for getting at the root causes of deviance, at least in the short run. Even if experience leads them to question the deterrent power of formal sanctions, the fact that the community believes in deterrence (as a result of factors 1 and 2 above) means that authorities will be under pressure to "crack down" on offenders when the rate of violations appears to be getting out of hand. It should be added that the job of imposing formal sanctions to control deviant behavior will tend to attract people committed to the idea of deterrence, not those likely to question it. Moreover, once in office they are apt to be resistant to the idea that deterrence is a myth since it would mean the end of their jobs.

There are undoubtedly other facts which also tend to support the deterrence perspective. Thus, as participants in the mainstream of society, most people have no contact with individuals who are living and working outside of conventional boundaries. They do not see how potential offenders evade and neutralize the threat of formal sanctions. Or again, the

deterrence perspective may gain support from the motive for retribution. Although retribution has fallen into disrepute as a justification for punishment, it can still be realized under the rubric of deterrence.

Conclusion

The empirical evidence points to formal sanctions as a consequence of the normative climate and the level of deviant behavior at a college rather than a determinant of both, as we had previously assumed. Specifically, we found no indication that formal sanctions are operating through mechanisms such as preselection (Table 7 of our original paper) or normative conversion (Table 1 above) to shape the normative climate of the school. Furthermore, the slight positive relationship between formal sanctions and deviant behavior, holding normative climate constant (Figure 2), makes no sense from the point of view of deterrence. Instead, it suggests that formal sanctions are a response, albeit an ineffective one, to the level of deviant behavior that prevails at the school (Figure 3). This interpretation is substantiated with evidence of a significant positive effect when the indicator used reflects deviant behavior largely prior to the imposition of formal sanctions (Figure 4). Thus, the model of causal relationships that fits these data best takes formal sanctions as causally dependent on both the normative climate and the level of deviant behavior at the school — what we have termed the “Repressive Response Model.”

This extension of our analysis is not, of course, free of methodological problems. For instance, we cannot be positively sure that some unknown nuisance or suppressor variable is not at work to conceal a true deterrent effect. Nor can we be sure that there are no errors in the measurement or interpretation of the variables included in our models. Furthermore, we have no way of knowing from this analysis how broadly the Repressive Response Model may hold, or even whether it holds for the other forms of deviance we examined in our earlier paper.

Nevertheless, these data raise serious questions about the general applicability of the conventional deterrent perspective. Our earlier paper challenged the existence of *direct* deterrent effects for all the offenses on which we had data and this extension of it challenges the existence of *indirect* deterrent effects for one of the offenses which permits further analysis. Moreover, these findings are consistent with the bulk of accumulated evidence on the deterrent effects of the death penalty (Schues-

slers, 1952; Sellin, 1967) and variations in length of imprisonment (Tittle, 1969; Chiricos and Waldo, 1970) for various forms of criminal behavior which is overwhelmingly negative.

In effect, the institutionalized deterrence perspective may be predicated on notions of crime causation and crime control on a par with 18th century medical ideas about the etiology and control of disease. The fact that "fireside induction" (Meel, 1970) has prevailed as a source of support for this perspective affords little consolation to those of us who seriously question its validity, at least as currently applied in our criminal justice system.

Hopefully, the analysis presented here, especially the various causal models of the relationship between formal sanctions, deviant behavior, and the normative climate of the community, will stimulate new insights and further research on the connection between crime and punishment in society. Our finding that the Repressive Response Model provides the most accurate picture of the relationships among the variables is of course limited to these data. If this model is found to hold for various forms of criminal behavior, however, we may infer that the commitment to general deterrence which is built into the criminal sanction is actually diverting attention and resources from more effective and humane methods for controlling crime. To borrow a phrase, the institutionalized deterrence perspective may be serving as the "opiate" of the criminal justice system.

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