relatively stable over the years or whether they have changed radically from time to time. Does, as Story once thought, the loyalty we would expect Justices to feel to the Court cause them to draw lines between permissible and impermissible limits in number and tone of dissenting opinions? How far can a Justice go his own individualistic way without incurring sanctions from his brethren? What sanctions do the Justices have to use against a lone wolf and under what kinds of circumstances are these sanctions likely to be effective?

It would seem no less true of collegial courts than of legislatures that they are social systems as well as formal, legal institutions. Knowing the canons of conduct judges expect to be observed in their relations with one another is as vital to a full understanding of the judicial branch of government as knowing the folkways of the Senate would be to an understanding of the legislative branch.

From my own experience I know that all too often the gist of a reviewer’s criticism is that the author wrote the book he wanted rather than the book the reviewer wanted him to write. Nevertheless, it seems to me that the only justification, aside from antiquarian interest, for a full length study of a man like Daniel is the light that it throws on the important figures, institutions, and processes with which he was in close contact. This volume offers such light in a very sparse and indirect manner. It is a far better life history than Daniel deserved, but it is not a book that demonstrates Frank’s usually perceptive grasp of what is significant about the Court and its work.

WALTER F. MURPHY*

* Associate Professor of Politics, Princeton University.


The current genetic, constitutional, psychological and socio-cultural explanations of juvenile delinquency are incorrect, according to sociologist David Matza. Instead, he believes, the delinquent is a drifter, made so in part by the self-same legal institutions which we have established to help him.

Dr. Matza is Assistant Professor of Sociology at the University of California and a Research Associate in the Berkeley Center for the Study of Law and Society. In this erudite essay, which has an excellent
bibliography attached, he carefully examines the classical picture of the delinquent as seen by each school of thought. He is particularly critical of the "positivist" school of criminology and its erroneous focus, as he sees it, on individual motivation. He suggests that these various theories have serious theoretical shortcomings—they tend to predict more delinquency than actually occurs; they allow the juvenile no possibility of free will or freedom of choice; they do not explain adequately the clinical observation that 60-85 per cent of all delinquents outgrow their delinquency after age 20; they all see the delinquent as different from the normal juvenile, and do not explain his periods of conformity.

In contrast, Dr. Matza views the average delinquent as being quite different from the stereotype ordinarily painted by criminologists. He believes that delinquents are not markedly different from non-delinquents, and that they are partially free to choose alternatives as they vacillate in a drifting manner between conventional and criminal actions.

The juvenile becomes a drifter, according to Dr. Matza, as a result of a deep feeling of injustice engendered by the way he is treated by our juvenile authorities and institutions. Our legal approach to the juvenile apparently serves to neutralize episodically his moral restraints and his commitment to law and order. The resulting feeling of irresponsibility causes him deliberately to break society's rules, aware that he is so doing and aware of the nature of his deed.

Dr. Matza tilts his lance at an interesting assortment of juvenile legal practices, all of which he blames for helping set the juvenile adrift. He feels that the current areas of confusion between psychiatry and the law provide what he calls "subterranean support" for the juvenile's delinquencies. In addition he suggests that current juvenile court philosophy with its "supporting" attitudes and attempts to "understand" the "individual child," the procedural "laxity" of the court, its child welfare ideology, the court's great reliance on professional and psychiatric judgment, its social work "bureaucracy," and the pressure exerted on the judge by his social work "underlings" for "mercy" for the child—all really reinforce and confirm the juvenile's feelings of irresponsibility, feed his sense of injustice, and so ultimately contribute to his becoming delinquent.

This is further aided, continues Dr. Matza, by the juvenile court failure to produce proof of guilt, by the dependence on confession, by the occasional inconsistencies in the administration of justice, by the great power and discretion possessed by the juvenile court and by the diffuse principles that may guide its decisions. In addition, the concept of "individualized" treatment and justice, the delinquent's inability to understand most of the words used in court, the delinquent's view of the
court's workings as being full of hypocrisy, of rank favoritism and of whimsical inconsistencies, and his view of officials as morally, technically and personally incompetent—all contribute to the juvenile's sense of injustice and his resulting loss of moral restraints.

Dr. Matza apparently has had extensive experience with slum-produced delinquents. He succeeds in presenting a vivid description of how they consciously think and feel. However, he also is a sociological concept-dropper of the old school. As a result, as a psychoanalyst who is not unduly versed in sociological shorthand, I frequently had the feeling that I was eavesdropping on a private family argument between the author and other sociologists, with the combatants—although using English words—actually communicating with each other in a secret code known only to themselves.

To further complicate the matter, Dr. Matza writes in a most flowery manner. It was hard to avoid the feeling that I was wading through acres of beautiful but tenaciously clinging verbiage, with the siren attraction of the individual words interfering with attempts to follow the main ideas. However, if I really understand Dr. Matza's principal thesis correctly, then I must take issue with many of his major notions.

Although Dr. Matza shows an unusual understanding of psychoanalytic theory, he apparently is unaware of some of its formulations in recent years. He may be surprised to know that many analysts agree with him completely on the question of the delinquent having a measure of "free will." Current psychoanalytic theory makes much of the individual's ability to perform independent judgments and to exercise freedom of choice without interference from childhood-derived inner mental conflicts. As Dr. Matza puts it, "Man's actions are variably free."

I also agree with his notion that our current legal practices may be contributing, unwittingly, to the problem of juvenile delinquency. However, I disagree completely with his view that our method of administering juvenile justice is a basic cause of juvenile delinquency. As I see it, our failure to provide adequate resources for preventing, spotting, diagnosing, treating and rehabilitating the delinquent is contributing to the increase in juvenile delinquency but not to its cause.

I must say that Dr. Matza's main thesis has a most familiar ring to the psychoanalyst who, long since, has grown accustomed to having his patients ultimately blame the psychoanalyst for all the patient's problems. Dr. Matza advances the corresponding idea that the very institutions that are designed to help the delinquent actually are helping to make him delinquent. To me, this is a sheer uncritical acceptance both of the delinquent's own rationalizations about his troubles and of his attempts to shift the responsibility for them onto the outside adult
world. Dr. Matza seems to have taken them at face value, dressed them up in fancy sociological garb and advanced them as the newest thing in etiologies. Juvenile delinquency existed before the invention of the juvenile court and the creation of the psychiatrist, the social worker, and the probation and parole officer. Who made the juvenile drift then?

Although Dr. Matza pays lip service to the concept of a multiple complex interlocking etiology for delinquency, his approach suggests that he still has fallen into the trap of viewing delinquents as a homogeneous group rather than appreciating the uniqueness of each delinquent. Every individual has a personality that, like his fingerprints, is completely unique to himself and is totally different from that of any other individual. Delinquents certainly have one thing in common, their symptom of anti-social behavior. But this is only a surface symptom. As far as causes are concerned, there are as many different causes for delinquency as there are, for example, for headaches or for indigestion.

Dr. Matza is too readily satisfied with neat labels, surface behavior and superficial explanations. Giving something a name does not mean that we necessarily understand it any better. To the casual observer, the average adolescent may appear as someone full of delinquent impulses that are being held in by surface controls, with the delinquent impulses being released whenever the controls are weakened. Unfortunately for Dr. Matza's thesis, this mechanistic view simply is not true. For most delinquents, the anti-social act is not a breakthrough of inner violent impulses. Instead it represents one of many possible methods available to adolescents of dealing with a variety of inner conflicts stirred up by some current stress. Other juveniles, exposed to identical stress situations, will handle the inner conflicts that are triggered in a completely different manner, e.g., through physical symptoms or by becoming a Beatles' fan. And still others will not be vulnerable to that particular stress and will show no unusual reaction.

The frequent spontaneous disappearance of delinquent behavior after the age of twenty is again a complex and highly individual matter. For some it represents improved personality functioning, now that the young adult no longer has to cope with inner biochemical pubertal pressures. For others it reflects the young adult's ability to respond to the challenges and opportunities of greater independence. For still others it merely means a change in symptoms, with the anti-social tendencies being hidden under a neurotic facade. He is no longer delinquent; now he has become a suffering neurotic. However, his delinquent soul is readily apparent to his children who may use it as their model.

Finally, I might point out that the psychoanalyst is even more horrified than Dr. Matza by the legal misuse of analytic understanding. The
analyst's wish and ability to explain why, on the basis of his preceding traumatic life experiences, an individual commits a specific offense should be a matter that is entirely unrelated to the legal issue of a person's responsibility for the control of his behavior. To assume that the ability to explain a criminal act in effect explains away the act is a misconception of the role of the analyst. The Illinois statute states in part that "a person is not criminally responsible for [his] conduct if at the time of such conduct, as a result of mental disease..., he lacks substantial capacity... to conform his conduct to the requirements of law." If honestly applied, this statute would result in very few criminals, if any, ever being convicted.

Ner Littner, M.D.*


* Medical Director of Child Therapy Program, Chicago Institute for Psychoanalysis; Chairman of Advisory Committee on Child Psychiatry Services, Illinois Department of Mental Health.

Professor Matza is a sociologist and has written in that field. It follows that Delinquency and Drift is a book of sociology, or more particularly perhaps criminology, and will be identified as such in that discipline. On these grounds lawyers are permitted to ignore it and many of them doubtless will do so.

To ignore this short book would be a mistake, however, for it is also a modest but unmistakably valuable work of jurisprudence. The book is about the legal world of the juvenile delinquent. I mean just that. The book is not about the legal world that society imposes on the adolescent, nor is it about the mores of delinquency, nor is it about the causes of delinquency, though Professor Matza perforce makes extensive references to these and other facets of delinquency. Professor Matza's principal undertaking is to show how the delinquent perceives the legal order of adult society, both in its substantive and its procedural aspects, and thereby to say something about the morality and the efficacy of the legal order itself.

There are three principal points to his discussion. First, the juvenile delinquent has no settled attitude toward the legitimate social order. His view is rather a changeable amalgam of adherence, defiance, indifference and misapprehension. This attitude Professor Matza calls "drift," which is his unfortunately new but fortunately simpler and I think more suggestive term for the older sociological concept of anomie. Second, the delinquent's concept of the law parallels the authentic version but is at a number of key points a distortion of it. Thus, the delinquent understands
that it is wrong to steal, in his terms as well as society's, but he also has or may assume the view that there is a wider scope for excuse and justification than the law allows. No doubt these views are often expressed retrospectively of the crime, as invented rationalization. But this does not detract from the fact that the delinquent's attitude toward stealing is essentially similar to that of legitimate society. Indeed, the similarity makes it all the more necessary and appropriate that the law's concepts of crime be carefully iterated. Any lawyer who remembers encountering Regina v. Dudley & Stephens\(^1\) or Morisette v. United States\(^2\) knows that this is both important and difficult. That the delinquent does not have a proper grasp of the limits of excuse and justification is therefore not mysterious, nor should it lead to the conclusion that he has no respect whatever for conventional legal standards.

Professor Matza's third main point is that the system of justice presently brought to bear on the delinquent, the law and practice of the juvenile court, represents a pervasive confusion of principle. The confusion is that which Professor Francis Allen has elucidated in his essay, Legal Values and the Rehabilitative Ideal:\(^3\) is the chief significance to be attributed to a criminal act the fact that it likely evidences a personality in need of (and susceptible to) rehabilitation, or that it represents a violation of the law which should therefore occasion blame and perhaps punishment? This confusion of principle begets in the juvenile court a confusion of purpose and practice which Professor Matza mercilessly expounds. His disquisition culminates in a Swiftian description that is a delight.\(^4\)

The confusion of purpose and of practice is evident to the delinquent. His most charitable interpretation of the system and its participants is that they are weak; his more likely interpretation is that they are hypocritical.\(^5\) Neither interpretation leads him to stop drifting. Rather the shifting winds of adult rhetoric may blow him on a still more erratic course. For the delinquent, the official institutions of society appear to be proceeding without principle, or worse yet with principles whose con-

1 \([1884]\) 14 Q.B.D. 273.
2 342 U.S. 246 (1951).
4 See especially pp. 119-31.
5 The point is well summed up by a delinquent, reported originally in FREEMAN, OUT OF THE BURNING: THE STORY OF A BOY GANG LEADER 11 (1960) and quoted by Matza at pp. 135-36: "In the children's court, I had found, there were two kinds of judges: bleeding hearts and swords of the Lord. Bleeding hearts called me son and wept over me; swords of the Lord shouted I ought to be locked up in a zoo. But I thought there was no real difference between the two. If there was room for you in the slammers, either kind sent you up."
flict has been left unresolved; the legal order to which he is supposed to accommodate himself is aimless, unpredictable and incomprehensible. Who is to say that the delinquent is erroneous in reaching this conclusion? And if he is not, Professor Matza has written a work of jurisprudence, a thoughtful critique of a legal subsystem that suffers an impoverishment of responsible principle.

I have only two criticisms of Professor Matza's book that are worth mentioning. The first is that the beginning part is somewhat ponderous. This I think is chiefly attributable to the author's attempt to make the customary obeisance to received sociological theory and authority. The omission of this professional amenity would have improved the work, as it would many others. The second point is that it is Judge, or Justice, Cardozo, not Cardoza. The misspelling is surprising because Professor Matza is generally sure-handed in his use of legal references and legal concepts.

GEOFFREY C. HAZARD, JR.*

* Administrator, American Bar Foundation, and Professor of Law, The University of Chicago.