

If children offend(?)¹

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Introduction

In Sweden, policies regarding children in conflict with the law can be described as ambiguous, claiming the best interest of the child but also a public interest and effective administration. By national framework laws, policy makers delegates to the local public institutions to develop strategies and collaboration with other institutions in accordance to possibilities available and to local demands (Clevesköld, Thunved and Thunved, 2015). Thus, street-level agents – represented by local social workers and police officials among others – in their everyday work ought to collaborate, and so negotiate interpreting diverse policies (Lipsky, 2010). Yet, by their judgements, they contribute to the construction of the problem as represented (Bacchi, 2009). So, how do they manage this task? Well, the answer is problematic for at least three reasons. First, there is no national recording on children below the age of criminal responsibility who have offended the criminal law. Second, there are no other national or other comprehensive data covering the decisions made within the local public institutions of the police and social service, being set up to handle these cases. Thirdly, as the policy claim both collaboration and local autonomy, we may expect significant variances in how different agents interpret their tasks (Brå, 2014; Estrada and Flyghed, 2013). The latter problem is referred to in the title “If children offend(?)”. Hence, the idea is to invoke a question in the reader, not only regarding *what* happens *when*, but also *whether* children do offend given the constitution of law declaring them as not criminally responsible. While some may consider the answer as given, others may not be apparent of the question or consider it as legitim. Regardless, their given take I suggest, will be coupled with assumptions and ambiguous statements, not seldom characterized by a taken-for-grantedness. As ideal types we can classify two different perspectives with diverse answers. First, ‘yes of course children offend however they are not responsible for the crimes they commit’, and second, ‘of course they do not because children are not criminally responsible’. Grounded in a constructivist perspective on criminology and how social problems are created in policies and by actions, I argue that *how* workers at the frontline of public institutions respond have real consequences for their judgements and the decisions they make (Christie, 2004; Loseke, 2003). Also, I argue that their interpretations are not only affected by governmental policies but also by organizational structures, their profession, the given situation, interactions with citizens/the client and personal experiences (Lipsky, 2010).

Purpose and research questions

Accordingly, the purpose of this project is to explicate how the local social service and police organization manage delivering public service in cases where a child is in conflict with the law. As key components of research are; diverse space for discretion; multiple and/ or conflicting objectives; and, the role of the actor's discretion in relation to management and organization (with collaboration as an example). The key questions are:

¹ For notification; this paper is an early draft to parts of my PhD thesis. Given this I will focus on the context of the underlying problem, while also positioning the project due to its proposed contributions and last to present the research design.

How does street-level workers/ organizations structure policy possibilities as they shape its production on the ground?

How does diverse forms of street-level organizations function, given their working conditions?

How does street-level workers adapt the organization/ collaborations?

How does street-level organizations shape how citizens interact with the state through definitions of the problem?

Background

The governmental responsibility in securing children welfare has a long history in Sweden, dating back to the birth of the Swedish welfare society in the 1940's (SOU 1944). Grounded in the concept of "the child's best interest", also child delinquency has mainly been identified as a social problem among policymakers and politicians (Olsson, 1994). Accordingly, the Swedish Penal Code from 1964, defines children below fifth teen years of age as not criminally responsible, with the stated purpose of keeping youths (up to 21 years of age) outside of the courtroom-system. The legislation has traditionally placed the responsibility on the local social service in handling young offenders, however with different levels of police assistance depending on the age of the offender. Thus, the ruling governmental opinion has historically built on the belief in rehabilitation and education (Clevesköld, Thunved and Thunved, 2015; Olsson, 1994).

Meanwhile, opponents – represented by journalists, civilians and at times minority political parties – have continually raised their voices questioning the concept of protecting and rehabilitating minors upon which the juvenile system in most democracies have historically been based. What may be the beginning of a change however, is that lately, a more sceptical rhetoric has appeared more prevalent also in the political discourse, and with policy makers claiming abolition of reduced sentences for young offenders (between 18-21 years) and increased involvement from the institutions of criminal justice also for those below fifth teen (SOU 2008; SOU 2018).

The underlying problem

Viewing public administration as the agent part of a democratic welfare system, issues concerning children in conflict with the law occupies a contested terrain where institutions of social care and criminal justice meet. From a standpoint of children as immature and in need of support the overall responsibility is placed on the local social service. Yet still, when a crime is committed the democratic system is usually also held accountable to act in the name of justice, regardless the age of the offender. Given the unavoidable conflict between retributivism and support, new policies may hold strategic significance in shaping and reshaping the boundaries between social sector and criminal justice. Yet, despite the indicative turn among policy makers towards retributivism, previous research reveals that written policy is not automatically implemented into practice but is mediated through local organizations and public workers on the frontline of public administration (Lipsky, 2010; Brodtkin, 2013). Therefore, within this project governmental policies and political discourses are put in the background, while the organizations and actors given the task to deliver policies and visions – in this case the local social service and police organization – are placed in the foreground. This raises question on how social workers and police officials adapt to working conditions, and whether the same shift that is visible in political reforms and public debates – staring a tendency where children delinquency is pushed over the boundaries of social service

towards that of criminal justice – is visible also in the delivering of public administration, given the space of discretion to mediate or modify the construction of the problem policies.

Theoretical approach

Given the purpose, I turn to theories emphasizing a bottom-up perspective of public administration rather than a top-down. In alignment with the tradition of Street-level bureaucracy that emanates from the work of Lipsky (2010), I argue that a street-level perspective may be useful due to the combination of framework laws and contradictory, vague and ambiguous legislation; a considerable space for discretion, emphasizing local solutions and collaborations; obvious conflicts between the objectives of police work, being mainly retributive and focusing on the act, and social work being mainly progressive while focusing on the individual; and, a lack of resources being the normal condition for both the social service and the police.

Yet I intend to also involve a theoretical perspective on how the problem – here referred to as children below the age of criminal responsibility who are in conflict with the law – are constructed by the given discourse and actions of public organizations and actors, set up to handle it. Therefore, I will also turn to criminology by including constructivistic perspectives, following the work of Becker (1966), Black (1997), Blumer (1969) and Christie (2004) among others. For instance, Becker (1966) claims that deviance is not a quality of an act but a definition. Accordingly, a central assumption is that the understanding of children in conflict with the law, as a problem, is constructed – either as social, as criminal or else – and that so are the reactions of public authorities. Moreover, labelling theorists argues that the acts of public workers may not only affect the life chances of individuals directly, through formal sanctions or benefits, but also indirectly by affecting their self-evaluation. These thoughts relate to Lipsky's (2010) work, and leads to an assumption that, *how* street-level organizations interact with citizens matter, as it may eventually lead to self-fulfilling prophecies. And that is regardless whether the workers are aware of their position of *power* or not. On the other hand, expectations and accountability of public agents can be understood as bounded to the given construction of a social problems and how it is discursively defined, with some social phenomena being harder to narrow down into the institutionalized concept of a given problem, than are others (Black, 1997; Loseke, 2003).

Method

I intend to conduct an ethnographic study, including a three-years stay on the field. The empirical material that I intend to use will follow by prolonged observations, in-dept interviews, storytelling and reading of archival documents. In this section I will present each method but begin with a short presentation of the participants and the local setting.

Participants: The participants consist of public employees working in the local area, including; social-workers; coordinators (social-workers); social-workers located at the police; police officials; investigators (police); and, inquire leaders (police).

The local setting: The local setting of my empirical “case” is a part of Sweden's second largest town Gothenburg, which has become officially known as a *particularly socially disadvantaged area* (NOA, 2017). This becomes an interesting point as previous research has shown that the use of discretion tends to affect citizens differently, both in terms of quality due to local variance in service distribution, but also in relation to the quantity with some citizens being more dependent or more visible than others. Residents in socially deprived areas may by their living conditions, including low socioeconomic status, unemployment, immigrant background, and/or lack of education among other things, generally be more dependent on the public service provided by diverse actors within different institutions, thus being “caught in a net of street-level bureaucrats with conflicting orientations toward her, all

acting in what they call her “interest” and “the public interest”” (Lipsky, 2010:6).

Observations²: During observations I will focus on relations and interactions between street-level workers representing different parts of the same public institution or different public institutions, by observing the way they talk and the way they act. The main spot will be during meetings and in certain forums, both regular and unannounced.

Interviews: Two forms of interviews will be used, in-depth interviews with key-questions and storytelling, in order to complement each other and to avoid methodological fallacies. Both forms’ will be held individually.

Thus storytelling will be used as a complement to ordinary questions, as it provides the IP with an opportunity to visualize actions and decisions, and to speak more freely about activities at work. Thus, instead of explicitly asking for rules and procedures, the use of narratives turn focus on the story as based on individual experiences, of which there are no given answers. Each IP will be asked to bring three narratives; the latest experience; the most memorable experience; and, the most general experience of work-related interactions/relations with children in conflict with the law.

Archival documents: The documents include reported offences (police), reports of worry (social service), prior assessments (police and social service) and investigations (police and social service).

Also, to better understand the situation and its history I have studied extensive materials consisting of official reports and policies, legislations, preparatory work, organizational guidelines and local agreements.

Analytical approach

The analytical ambition is to attain outcomes that will not only contribute to science and academic progress, but that will also be understandable and useful for practitioners and policy makers, which require theories to be fitting the studied realities and to be modified as new data become manifest (Charmaz and Bryant, 2010). The main attention will be on the discourse of participants, and through the analysis I intend to use their information to compare with other data, in order to discover patterns and variations during the study process. Note that by referring the term *discourse* I assume that actors do not only speak through words but also through their actions (Charmaz and Bryant, 2010). I also intend to contextualize actions and unveiling what is taken-for-granted, to understand why individuals act as they do, given their interactions and relations in everyday work, but also concerns as professionals and representors of public institutions (Brodin, 2013).

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²Against what I perceive as a much vulnerable situation, I have decided to avoid observations of interactions between the social-workers/ police and the child. The decision is mainly ethical, but I also believe that by using other complementary methods, I can still reach understanding and the material that is necessary to answer my research questions.

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