

ORGANIZING DISSONANCE: WHAT IRONIES OF RESTORATIVE JUSTICE PRACTICE
CAN TEACH US ABOUT POSTBUREAUCRATIC HYBRIDIZATION

by

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Abstract

As the restorative justice (RJ) movement has gained momentum nationally, calls for “institutionalization” of RJ have materialized in the form of legislation and funding to increase the use and availability of this participatory, affective, particular/stakeholder-driven approach to conflict-management and criminal justice. Implementation of RJ within or alongside existing safety and justice bureaucracies is a site of collision between divergent and seemingly adversarial organizational forms. This thesis examines how rank-and-file police officers responded to the tensions of RJ implementation, and reveals two ironic outcomes of their referral practices: One irony epitomizes the lamentable bureaucratic tendencies toward alienation, rigidity, and hierarchy and highlights the need for particular and participatory control, while the other affirms the desirability of bureaucratic aims such as fostering procedural and situation-blind justice and minimizing opportunities for bias and discrimination through central/universal control. Applying Ashcraft’s (2000, 2006) notion of *organized dissonance*, I propose that successful RJ institutionalization requires simultaneous achievement of contradictory aims, and present the research site as a case where hybridization of opposing logics is needed but is not adequately realized. By analyzing organizational communication differences between more and less successful cases of post/bureaucratic hybridization, I identify challenges to and possibilities for the intentional cultivation of organized dissonance. I conclude by considering implications for the prospect of a restorative turn in judicial practice.

In loving memory of Anne Rogers, 1949–2015

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Chapter 1

Introduction

The idea that painful consequences imposed by a legitimate authority can restore social balance by redistributing shame and dignity among victims and offenders dates back to antiquity and remains a cornerstone of Western penology (Hamblet, 2010). Yet, a crisis in criminal justice administration brought on, in large part, by astronomical growth¹ in prison population over the past 50 years alongside declining public will and resources to fund a vast carceral state has generated calls for reform (or revolution) rooted in diverse interests and notions of “the good.” Critiques stemming from budgetary concerns, private interests in criminal justice (i.e., the “prison industrial complex”), and “judicial concerns” related to prison conditions and overcrowding (see President’s Commission on Privitization, 1988) have broken the boughs of the risk-control imperative that previously sheltered criminal justice policy from cost-benefit analysis (see Weisberg & Petersilia, 2010). Meanwhile, moral and ideological critiques emphasizing civil and human rights and social justice (see e.g., Alexander, 2013; Clear, 2007; Hamblet, 2010) have challenged the legitimacy (if not actually the stability) of the carceral state and the retributive ideology that justifies it.

In the context of this crisis discourse that generally takes for granted a need for (perhaps drastic) reform, *restorative justice* (RJ)—a normative theory of justice that replaces “wrongdoing, guilt, and punishment” with “harm, obligation and repair” and increases

¹ In the 38 years between 1972 and 2010 prison population increased by 705 percent, compared to a 105 percent increase over the previous 47 years between 1925 and 1972 (Henrichson & Delaney, 2012). This growth rate is not accounted for by overall population growth; the U.S. population increased by 167 percent between 1925 and 1972, and 47 percent between 1972 and 2010 (U.S. Census Bureau, 2011). In 2003, the U.S. Department of Justice reported that if the growth trend between 1972 and 2001 were to persist, 6.6 percent of U.S. residents born in 2001—including 1 in 3 black men—would be imprisoned at some point in their lives. State spending on corrections is now over \$51 billion; 88 percent of this money goes to prisons and 12 percent goes to community corrections (Bonczar, 2003).

stakeholder voice in the criminal justice process—has gained attention and momentum. While it has been defined in many ways, broadly speaking, RJ

promises to ‘hold offenders accountable’ for crime in ways that are constructive, but not punitive or harsh; it promises to include the voice and experience of crime victims; it promises to be dialogic and participatory, with an emphasis on communication between offenders, victims and their supporters, and with less attention to legal relevances or the voices of legal actors. (Daly, 2004, p. 500)

The preponderance and diversity of projects claiming the name “restorative justice” have led many to describe it as a “global social movement” (Braithwaite, 1996; Pratt, 2006). Daly’s (2004) characterization of RJ as a “*global justice metaphor* for a kinder, gentler, more reasonable, hopeful and negotiated justice: a ‘good’ justice” (p. 500) suitably captures the term’s prolific, promiscuous, and contested meaning.

Following a basic model created by Zehr (2002), who is widely regarded in practitioner communities as “the grandfather of RJ,” trainers and practitioners generally define restorative ideals by contrasting them to retributive ideals, often with the effect of constructing the two as mutually exclusive, rival approaches. Zehr suggested that, while both approaches share in the basic notion that crime upsets a balance such that the victim is owed something, they differ in their determination of what is needed to right that balance. Retributive theory “believes that pain will vindicate,” while restorative theory “argues that what truly vindicates is acknowledgement of victims’ harms and needs, combined with an active effort to encourage offenders to take responsibility, make right the wrongs, and address the causes of their behavior” (Zehr, 2002, p. 59). In practice, RJ typically involves an encounter between victim and offender, and is enacted in various processes, such as victim-offender dialogues, family group conferences, sentencing

circles, circles of support and accountability, and even conciliatory interventions in situations of mass violence. Regardless of what shape its processes take, RJ is fundamentally a dialogical approach to justice.

Proponents position RJ in various ways: as a more ethical and enlightened alternative to the old, backwards, retributive ways; as a “tool” or resource for reducing recidivism and accomplishing other instrumental aims; as a way of diverting would-be convicts away from the criminal justice system and saving money; and often as all three at once. Thus, RJ has many meanings, and its role vis à vis “the traditional system” (e.g., whether it is a replacement, a reform, an alternative track, a program or tool, etc.) is contested. Despite its ambiguity, or perhaps because of it, RJ is being institutionalized, meaning, practitioners, scholars, and the general public are figuring out whether and how it is to become part of the normal way of doing criminal justice. In several states, support for RJ has materialized in the form of legislation and resource allocation. As state funding and legislative mandates fall into local laps, the exigency of debates about RJ institutionalization increases and moves from the hypothetical realm to everyday practice.

The “Vista Restorative Justice” (VRJ) program that is the focus of this study is an alternative-to-sentencing program housed in a nonprofit organization, and has historically operated at the margins of criminal justice system² (as is often the case with RJ). VRJ has primarily practiced a model of RJ known as *community group conferencing*; its process requires

² I use the term (*criminal*) *justice system* to refer to the safety and justice organizing that happens in the public sector in the United States. This organizing is directed by state and federal legislatures, and is imbued with state power via the threat of legitimate violence (e.g., surveillance, incarceration, execution). Of course, the boundaries around the “system” are all but clearly drawn; governmental organizations contract with organizations in the private and independent sectors, and so extend state power and the threat of legitimate violence into those areas, for example, in the case of private probation vendors and treatment providers. The enforcement of obedience to a private probation officer, however, ultimately comes from the courts, and the ultimate recourse for noncompliance with private probation is referral back to the state. Thus, despite ambiguity around the edges, federal and state judiciaries clearly comprise the heart of the criminal justice system.

that a group of stakeholders arrive at a consensus decision about what an offender is to do to fulfill the obligations s/he has incurred by committing a crime. According to VRJ promotional materials, all participants have an equal voice in the process, meaning, they are all invited to share their ideas and opinion freely and respectfully and a contract cannot be finalized unless and until all participants agree that it is satisfactory. Clearly, such a process represents a drastic departure from courtroom sentencing procedures. Yet, programs like VRJ increasingly are being implemented alongside traditional retributive and rehabilitative practices in the bureaucracies of the criminal justice system.

Various forms of discordancy and contradiction trouble efforts to institutionalize RJ. In addition to the basic tension between retributive and restorative ideals, RJ institutionalization is a site of collision between various conceptual opposites: rigid bureaucratic structure and flexible, participatory process; justice-as-outcome (i.e., as something that is “gotten” or “served”) and justice-as-talk (i.e., as something created through understanding and agreement); fairness as uniform adherence to a “just” procedure and fairness as “voice” and inclusivity; a judicial process disciplined by “the bureaucratic canons of rationality and hierarchy” (to borrow a phrase from Ashcraft, 2001, p. 1301) and a judicial process designed to elicit personal sharing and address emotional needs. Therefore, much debate (see, e.g., Aertsen, 2006; Merry, 1988) surrounds the question of whether RJ’s increasing dependence on the criminal justice system for funding, referrals, and staff means that RJ will necessarily be co-opted and corrupted by forms presumed hostile to it (i.e., retributive and exclusionary legality).

Proponents of RJ both celebrate legislative victories as a crucial step toward increasing RJ’s use and legitimacy, and worry about the dirtying of restorative ideals and the prospect that a messy, disappointing, and political implementation process will stretch the concept beyond

recognition, or worse, will make RJ an instrument of retributive legality. That line of critique is well developed in literature on socialist legality and *community justice*, which broadly refers to face-to-face, personalized, and participatory justice practices. Most scholars agree (for an exception see McCold, 2004) that RJ is a kind of community justice.

Community justice stems from movement throughout the 1970s to popularize and decentralize justice so as “to bring participation, access, and humanity to a system of criminal justice which was seen as increasingly abstract, formal, and rational” (Henry, 1984). Critics on the political right (e.g., Kamenka & Tay, 1975) dismissed community justice as a “humanizing cosmetic” (p. 142) that threatened the values of objectivity and neutrality without addressing the real “crisis in legal ideology:” creeping bureaucratization and tendencies toward centralization that accompanied corporate capitalism. Critics on the political left (e.g., Abel, 1982; Brady, 1981; Santos, 1982) argued that community justice did not challenge the dominant legality but rather pacified groups critical of the state while extending and legitimizing the existing capitalist order. Presumably, then, to truly challenge capitalist penalty, RJ would need to retain a substantial degree of autonomy from the state.

Fears of co-optation of RJ by the dominant legal order figure prominently into institutionalization discourse. For example, to prevent people from “calling something RJ when it isn’t actually RJ,” one RJ professional suggested (in an informal interview with me) that “fidelity of practice [to RJ ideals]” ought to be enforced by making state funding to RJ pilot programs conditional on adherence to formal “fidelity” rules. Ironically, it seems in this case that bureaucratization, formalization, and state authority are seen as both the cause of, and remedy for, the corruption of an ideal. The worry that, through institutionalization, RJ might gain the world and lose its soul resonates with what Burke (1937/1984) called *bureaucratization*

of the imaginative. Burke used that term to “name the vexing things that happen when men [sic] try to translate some pure aim or vision in terms of its corresponding material embodiment, thus necessarily involving elements alien to the original, ‘spiritual’ (‘imaginative’) motive” (introduction, n.p.). Keeping the “spiritual motive” of RJ alive in practice is a priority and a felt difficulty for the actors championing its expansion. The root of this concern can be understood by considering an analogy to Boltanski and Chiapello’s (2005) vision of “the spirit of capitalism” as a collection of justifications that have evolved in response to capitalism’s critiques. The notion that “critique is the motor of capitalism” may be usefully extended to facilitate reflection on a possible dialectic between retributive penology and restorative critiques, which ultimately helps retributive justice to reposition itself in response to RJ-based critiques without actually being destabilized. That could happen, for example, if restorative language were to be coopted and used to re-package and re-brand retributive practices. If RJ institutionalization ends up amounting to a de-clawing of a powerful critique (which would strengthen its ideological counterpart), then perhaps Burke will be vindicated in his conviction that “successful” institutionalization of an idea becomes a “process of dying” (p. 310) as the idea loses fidelity to its conceptual roots.

The concern for preserving the “spiritual motive” of RJ while enacting it in the messy world of criminal justice organizing implies a presumption of moral purity of RJ’s “spirit.” This presumption, and the enthusiasm and fanfare it engenders, have led some critics to see RJ as “the latest example of evangelical criminology” (Pratt, 2006, p. 45). Pratt (2006) expressed concern that “the fervor with which [RJ] is pursued gives it a taken-for-granted status that can blind its followers to its implications” (p. 45), and pointed out that the borstal movement of the interwar period in Britain and the “child savers” in the late 19th century in the US were similarly touted as

bastions of hope and morality, “shining out against the darkness of the unreformed areas of criminal justice” (p. 47). And both movements expanded the practice of detaining young offenders in institutions, often “preventatively.”

Thus, debate that frames institutionalization as cooptation and/or that positions RJ as a panacea leaves participants spinning their wheels in the muds of pessimism and evangelism. By articulating a world of trade-offs wherein RJ is either marginal or corrupt, this debate misses the richness and complexity of what Ashcraft (2001) called “organized dissonance.” This thesis explores the richness of dissonant institutionalization as a site where concepts that seem incompatible in the abstract are kludged together in communicative practice. Through this lens, institutionalization appears not as a “process of dying,” or (less melodramatically) as a necessarily restricting process because it occurs “under the roof of existing judicial or social structures” (Aertsen, 2006) but rather as a dynamic process with (re)constructive and indeterminate potential.

To develop a richer understanding of how divergent principles and organizational forms play out in practice, I explore how rank-and-file officers in the “Vista” Police Department (VPD) experience and manage tensions related to their work with the Vista Restorative Justice (VRJ) program, which the department administers in partnership with a nonprofit organization. Adapting techniques of grounded practical theory (GPT; Craig & Tracy, 1995), I consider how officers’ felt difficulties, strategies for managing those difficulties, and philosophies-in-use impact upon the larger sociomaterial composition of RJ. By reconstructing referral practices, I discover two key ironies that make RJ practice counterproductive to the goals that are said to have inspired implementation in the first place. The first irony occurs when, finding themselves confronted with a pragmatic paradox (see Tracy, 2004a), rank-and-file officers seek out small-

time offenders who otherwise would receive a warning, if any sanction at all, and refer them to VRJ to meet a perceived referral requirement. As a result, the VRJ program, which is intended to divert would-be defendants away from the penal system, to some extent acts as a net-widening mechanism that fills the RJ caseload without trimming down court dockets. The second irony potentially occurs when officers support RJ, but use it basically as a workaround to the criminal justice system, that loosens the straightjacket of bureaucratic structure and expands street cops' discretion. Problematically, situated ideals regarding who is and is not deserving of the privilege of RJ guide referral decisions, making it possible for bias to creep in and systematically privilege already privileged groups. It is important to note that the perspectives and practices I focus on in this paper are, with one exception, not universal. To the contrary, the interview data evince diverse RJ-related attitudes, problem experiences, and practices among street cops. For this study, I draw from significant and fully saturated themes in the data, but focus my attention on the problem areas as I endeavor to trace the roots and branches that produce these counterproductive outcomes.

Drawing on insights from organizational communication literature on tension, contradiction, and paradox, I suggest that a “cautious pairing with the ‘enemy’” (i.e. the bureaucratic structures of the primarily retributive criminal justice system) and “rejection of a hero versus villain account of alternative versus bureaucratic forms” (Ashcraft, 2001, p. 1316) might better support the dual goals of institutionalization and maintenance of fidelity to RJ's conceptual roots as compared to the “dual track” model currently in use. Thus, RJ proponents may find developing RJ as a form of *organized dissonance*—that is, a unique kind of hybrid characterized by “a strategic union between forms presumed hostile” (Ashcraft & Trethewey, 2004)—to be a promising approach to institutionalization. Overall, organized dissonance

provides a promising theoretical lens that can help scholars and practitioners steer past the Scylla and Charybdis of RJ discourse: evangelism and pessimism.

This essay proceeds in Chapter 2 with a review of relevant literature and an articulation of the research questions that guided this study. Chapter 3 explains the research site and methods used to collect and analyze data; the results of that investigation are presented in Chapter 4. In Chapter 5, I interpret the results within a tension-centered theoretical frame and suggest that conceptualizing RJ as a form of organized dissonance is a promising move with normative implications for how to cultivate both the study and practice RJ institutionalization. I conclude with reflections on how this study weighs upon the literature on dialectics of justice and organizing.

Chapter 2

Literature Review

There is no doubt that “the momentum of restorative justice in the past twenty years has been breathtaking” (Zehr & Mika, 2003, p. 135). Equally breathtaking is the amount of scholarly attention and debate RJ has generated. In a review essay titled “Pile it on,” Daly (2004) asserted that “no other justice practice has commanded so much scholarly attention in such a short period of time,” and wondered not only what conditions have facilitated RJ’s momentum, but also why “so many people feel compelled to say something about it” (p. 500). RJ is dynamic, ambiguous, and multiple; as such, it is the focus of diverse lines of scholarly inquiry. Major streams of RJ literature include, without limitation: boundary work defining and contesting RJ as a set of philosophical principles and interpersonal or organizational practices; empirical work testing the efficacy of RJ practices for accomplishing strategic ends (e.g., reducing recidivism) and seeking to develop RJ as an “evidence based practice;” psychological research investigating affective outcomes associated with RJ and other judicial practices; applied studies of group dynamics, facilitation, and RJ models/process design; critical and cultural studies of power, privilege and difference in RJ; basic and applied studies of organizational aspects of RJ administration; historical studies of community justice, authority, and the state; and inquiry into prospects for institutionalization. This list is by no means exhaustive but offers a glimpse at the breadth and diversity of the RJ literature.

Remarkably, the vast and unabating literature on RJ—a movement that views justice as a communicative accomplishment—contains few contributions from communication scholars. When communication scholars have attended to the topic, they have overwhelmingly focused on interpersonal or small group interaction in RJ processes and/or victim–offender encounters, such

as the apology ritual (Bolivar, Aertsen, & Vanfraechem, 2013), the role of oral language competence (Snow & Sanger, 2011), and conference facilitation (Bledsoe, 2009). Meanwhile, organizing practices that make such encounters available within and beyond the criminal justice system have been largely ignored (for an exception, see Goering's [2006] network analysis of victim-offender mediation organizations). Organizational communication, with its distinctive emphasis on “how communication generates defining realities of organizational life, such as culture, power, networks, and the structure–agency relation” (Ashcraft, Kuhn, & Cooren, 2009, p. 1), stands to make a unique contribution to this literature. Likewise, RJ institutionalization is a rich resource for exploring theoretical perspectives on dialectics of human organizing, such as materiality–discursivity and structure–action.

The chapter proceeds as follows. First, I survey several legal-sociological and criminological perspectives on community justice practices as I explore the evolution of scholarly thought on RJ institutionalization. Second, I summarize Berger and Luckmann's (1966) conceptualization of institutionalization, which serves as the theoretical basis for my use of that term. I reflect on the various dialectic tensions that feature prominently in the literature, and are variously portrayed as dualisms, dichotomies, or dualities. Third, I consider the utility and normative implications of theoretical positions that emphasize indeterminacy as compared to those founded upon comparison and contrast of conceptual opposites, bringing communication literature on paradox, tension, and contradiction to bear on that discussion. I conclude by synthesizing key insights of these various streams of literature to contextualize my research questions and develop a theoretical framework for this study.

Perspectives on RJ Institutionalization

A respectable body of sociology and criminology research illuminates RJ institutionalization through case studies and theoretical and historical reflection. Not surprisingly, there is no clear consensus as to what institutionalization actually means, and discussion of “problems of institutionalization” often proceeds on the basis of an implicit and ambiguous definition of that term. For example, the premier edited collection on institutionalizing RJ (Aertsen, Daems, & Robert, 2006) broadly describes its focus as being “on how RJ finds its way into contemporary societies and their respective criminal justice systems” (p. xiv). In the epilogue, Aertsen, Daems, and Robert (2006) provided a rich discussion of the semantics of RJ and the practical and theoretical consequences of “conceptual diffusion,” but did not discuss the various meanings of “institutionalization.” In this section, I take up that task as I review major theoretical perspectives that have shaped the evolution of the literature on institutionalization of alternative and community justice practices.

Visions of State and Society in Institutionalization Literature

RJ scholars have looked for evidence of institutionalization in various “places,” for example, in sites of centralized political authority (e.g., state and federal governments), in official laws and policies, in (more or less autonomous) local programs and practices, and in patterns of interaction and “culture.” Scholars of RJ institutionalization and community justice vary in the extent to which they regard these categories as distinct, bounded, relevant, and “real;” in the emphasis they place on each relative to the others; and in how they envision the relationship among them. In other words, institutionalization literature is, at base, a site of work on ontologies of social order, theories of social (structural or institutional) change, and dialectics of structure and action, durability and flux, materiality and discursivity. The relationship

between formal and informal modes of social control has been particularly significant in the evolution of community justice literature.

A distinction between formal justice-according-to-law and informal justice-without-law has long characterized scholarly discourse on legal history (see, e.g., Abel, 1978; Barkun, 1968; Weber, 1976; Pound, 1922) and is foundational to early (i.e., late 1970s and early 1980s) perspectives on community justice, which considered RJ institutionalization to be part of a gradual trend toward “informalism” in U.S. American justice (Aertsen, 2006; Baskin, 1988; Pavlich, 1996). For early advocates of informalism, the rise of state-sponsored community justice represented a triumph of active, empowered individuals and communities over state authority (e.g., Adler, Lovaas, & Milner, 1988; Shonholtz, 1993), paternalism (e.g., Bush & Folger, 1994; Shonholtz, 1984), coercion, and exclusion (e.g., Shonholtz, 1988, 1989; Wright & Galaway, 1989). Critics, on the other hand, argued (as previously mentioned) that community justice actually expands and intensifies state power by increasing points of access into private lives (Abel, 1982; Baskin, 1988; Cohen, 1985; Tomasic, 1982), and that it does so in a particularly insidious way, because it occurs through what “appears to be a process of retraction” (Santos, 1982, p. 262). Overall, early inquiry into RJ institutionalization emerged in the context of a debate in sociolegal literature over whether informalism was indicative of a deinstitutionalization of formal justice and a relaxation of state control, or, conversely, whether it would engender an “institutionalization of private life,” and thereby expand state control (Baskin, 1988), or both.

Scholars on both sides of the control–release debate that dominated the institutionalization literature in the late 1970s and early 1980s embraced the doctrine of “legal pluralism” (Merry, 1988), which, contra “legal centrism,” rejects the notion that the official legal

system is “universal, uniform, exclusive, and actually in control” (Aertsen, 2006, p. 84). Early versions of legal pluralism (e.g., Galanter, 1981) imagined that social order was constituted by two distinct but constantly interacting normative orders: an official, formal system consisting of the state and its agents, and an informal, private realm consisting of “semi-autonomous social fields” (Moore, 1973). Although early legal pluralists considered these discrete categories of social life to be intertwined and mutually influential, they did not view them as causally interdependent.

According to Aertsen (2006), the utility of early legal pluralism for understanding RJ institutionalization is quite limited because empirical observation, by and large, does not support the characterization of RJ as a semi-autonomous field (see also Faget, 1995, 2006). In other words, the salience of the question whether RJ expands or reduces state control relies on a faulty assumption that RJ is (or at some point was) a self-regulating, relatively permanent normative order with the capacity to enforce its own rules, and with constant interaction with the formal system. Further challenging the presumption of semi-autonomy, Aertsen pointed out that “many [RJ] programs are developed against the background of, and are continually referring to, formal criminal law,” thus, “one could question the extent to which they really leave behind the paradigm of legal centrism” (p. 85). Overall, the vision of RJ institutionalization as process whereby RJ begins outside of, and then becomes increasingly integrated into, or controlled by, the official legal system relies on the tenuous assumption that RJ began as a distinct, semiautonomous “field” of practice.

Naturally, the problematic nature of presupposing the existence of a semiautonomous community practice and counterpoising it to a rigid legal apparatus did not go unnoticed by poststructuralists. Faget (1995), for example, illustrated the flimsiness of the boundary between

social and legal modes of practice by comparing the “community life” and “legal life” of mediation, and revealing the former to be much more organized and the latter more flexible than might be expected. Faget (1992) used the metaphor of a penal rhizome to “illustrate the evolution of a penal field less and less autonomous, crossed with economic and social logics which transform its modes of action” (Faget, 2006, p. 154). Faget (2006) rejected the notion that institutionalization is “a process of normalization of social practices in which we try to submit them to a regularizing social control” on grounds that such a definition “does not take into consideration zones of play and uncertainty that exist in all social practices” (p. 154). To address that problem, Faget made a modest, but important, revision to the institutionalization-as-normalization view: Rather than happening when a stable, mostly-formed mode of practice is throttled by political will into the legal system, institutionalization happens when new modes of practice are conceived and undergo incipient development in the independent sector, and become increasingly dependent on formal public-sector resources, which shape the way they mature into more fully legalized and professionalized practices. This understanding of institutionalization allows analysts to see interplay, rather than just competition, between RJ and the criminal justice system. It also raises questions reminiscent of those at the center of early debates about informalism: Will mediation (to use Faget’s example) be “reinterpreted by legal logic,” thus becoming “like a false nose stuck onto the face of legal institutions or does it actually result in the production of a new model of justice?” (Faget, 2006, p. 162).

Later versions of legal pluralism reframed that question by further rejecting the implied “dichotomy between state control and voluntary action by unfettered individuals” (Olson & Dzur, 2012, p. 141), and replacing it with an emphasis on “interlegality,” or, the interdependence of informal modes of social control and the official legal system (Merry, 1988). Baskin (1988),

for example, envisioned a mutually constitutive relationship between community justice and existing administrative structures, wherein “community mediation” emerged in a changing regulatory context, which was reconfiguring the state–society relationship, which in turn was shaping community mediation.

Other critics of the early informalism literature drew on the work of Michel Foucault to develop more integrated visions of social control (e.g., Fitzpatrick, 1988; Marshall, 1988; Pavlich, 1996). Fitzpatrick (1988), for example, argued that the identity of law relies on the informal domain, and vice versa. Fitzpatrick’s concept is highly relevant to RJ, which overwhelming has been defined in contrast to retributive justice—even when a dichotomous conceptualization is replaced with a spectral model (e.g., Zehr, 2002) or otherwise eschewed (e.g., Daly, 2002)—and has generally been constructed *against* the criminal justice system. Following Fitzpatrick’s logic, one would conclude also that RJ (conceived as a kind of normative order) supports state law by providing a basis for differentiation. In Fitzpatrick’s (1984) words, “Law...assumes some separate, some autonomous identity in positive constitutive relations with other social forms...Law would not be what it is if related social forms were not what they are (and vice versa)” (p. 123). Viewing law and other normative orders as coconstitutive has important implications for theorizing sociolegal change; as Fitzpatrick explained, “law is the unsettled resultant of relations with a plurality of social forms and in this law’s identity is constantly and inherently subject to challenge and change” (p. 138), and the same is true of informal normative orders.

Considering how Fitzpatrick’s dialectical approach might apply to RJ institutionalization, Aertsen (2006) concluded that RJ practice could “manifest itself as a counter-power in justice, on the condition that the restorative justice forum can be organized in such a way that it can

generate actual, independent resistance” (p. 87). Aertsen’s (hypothetical) application leaves one to wonder: What *is* “the restorative justice forum,” “where” would one look for it, and what are its boundaries? How, exactly, would it need to be organized to generate independent resistance, and can it be adequately distinguished from the thing it is resisting? These questions indicate a problem with Fitzpatrick’s units of social analysis (i.e., “a social form,” “a normative order”), and point to a broader need to reflect on the implications of scholars’ choices of where to draw lines when abstracting parts (i.e., units of social analysis) from a whole (i.e., “society” or “social control”).

Henry (1985) addressed that need by pointing to the centrality of human interaction in constituting and sustaining an “identity” or “autonomy” of law, and noting that Fitzpatrick’s (1984) analysis “never penetrates to the level of the individual and so ignores all relations of human agency” (p. 315). Thus, according to Henry, Fitzpatrick’s theory obscures the way in which “social action and the social structure, social action and the law, and social action and particular normative orders all exist in mutually constitutive relations” (p. 316). As a consequence of ignoring the structure–action dialectic, scholars are liable to “take for granted the forms institutions take and to overlook the implications of the fact that institutions are social constructions” (Henry, 1985, p. 316).

In response to Fitzpatrick’s (1984) oversight, Henry (1985) used Giddens’s (1976, 1979) structuration theory to develop a more comprehensive theory of integral plurality. Structuration theory posits a mutually dependent relationship between structure and action, such that neither can be understood without reference to the other: Human agents act within structures that are (re)produced by their actions. Following from the assumption that structure shapes action and action shapes structure, Giddens (1979) insisted that “institutions do not just work behind the

backs of the social actors who produce and reproduce them,” and that “all social actors, no matter how lowly have some degree of penetration of the social forms which oppress them” (p. 72). Incorporating structuration assumptions into Fitzpatrick’s theory led Henry to recognize a dialectical relationship not only between formal law and informal justice practices but also between informal normative orders and the structures of capitalist legality in which they are embedded, on the one hand, and agentive action, on the other.

Broadly, Henry’s (1983, 1985) approach sets aside the distinction between legal order and other forms of social control (a distinction he regarded as artificial) and imagines justice as a continuum rather than a set of distinct, ideal-typical practices. Breaking with earlier approaches to legal pluralism that viewed informal justice *either* as an enabling condition for formal law *or* as an autonomous counter-power, Henry (1983) viewed the informal as “an integral part of the totality of law and not an alternative to it” (p. 46). By implication, “the informal is not the object of future developments in law, but the subject of the continuous ‘creation’ of law” (Aertsen, 2006, p. 87). The non-alternative status of informal justice is made apparent in Henry’s accounts of conflict-handling and disciplinary practices in private- and independent-sector organizations (which he calls “private justice”). For example, Henry (1983, 1985) presented interview data collected with members of socialist cooperatives to show how members simultaneously legitimated, benefitted from, critiqued, and resisted capitalist legal order in their everyday organizing practices. Henry (1984) also drew on that data to “demonstrate that informal collective justice is no less subject to a range of inherent contradictions than is the official criminal justice system” (p. 159), and advanced a conceptual framework based on a Giddensian understanding of the relationship between action and structure. By “distinguishing horizontally between different institutions of social control and vertically between different depths of

formality” (p. 158), his framework invites analysts to recognize that formal and informal forms of social control characterize both state and non-state justice organizations. Thus, Henry’s approach broke with the prevailing tenancy to equate formal justice with state forms of social control, and informal justice with non-state forms.

Henry’s work has important theoretical and methodological implications for the study of RJ institutionalization. First, the rich insights Henry gleaned from his empirical work on conflict-handling practices in non-state organizations reveal the epistemic value of studying institutionalization as *practice*. A methodological approach that focuses on the everyday experiences of participants is further justified by structuration theory, which remedies the “overly mechanistic and deterministic” (Henry, 1985, p. 308) assumptions of structural analyses (e.g., Abel, 1982; Santos, 1982, 1987) that ignored human agency and interaction.

Second, Henry’s work facilitates reflection on a problematic vestige of structural-analytic approaches to the study of informalism that persists to some extent in contemporary RJ institutionalization literature: a tendency to ascribe to institutions an ontological existence that is more or less indifferent to human action. Although this tendency toward reification is most readily apparent in scholarship that evaluates informalism from a “macro” perspective (e.g., Abel, 1982; Brady, 1981; Kamenka & Tay, 1975), it is also sometimes implicit in postmodern analyses. For example, consider Faget’s (2006) distinction between *autonomous institutionalization*, which occurs as practices become more orderly and “develop stable modes of action,” and *dependent institutionalization* that occurs when “institutions themselves create programmes for mediation” (p. 155). On my reading, these terms basically describe bottom-up versus top-down trajectories, and seem to presume a relatively stable boundary between “institutions”—in this case understood as state criminal justice organizations—and the social

action that (re)enacts them. Such a presumption becomes tenuous in light of consideration that institutions *are* stable modes of action. Consequently, the autonomous–dependent distinction is likely to yield analyses that draw a boundary around “institutions” and view institutionalization as something that can initiate either inside (dependent) or outside (autonomous) of that container. Such a presumption sits uneasily alongside Faget’s (previously referenced) characterization of postmodern penalty.

Additionally, Henry’s (1985) revision of integral plurality casts new light on Faget’s (2006) question about whether mediation might become “like a false nose stuck onto the face of legal institutions” (p. 162); in this light, the false nose metaphor is revealed to presume a relatively stable identity or essence of law. That is, if legal institutions can wear a false nose so as to conceal, without meaningfully transforming, an authentic face, then, presumably, they possess a “character” or “identity” that exists beyond (or beneath) performativity. Thus, Henry’s move perturbs—if not upends—the ontological assumptions (i.e., that legal organizations embody a certain essence of formality) that subtended early legal pluralist debates and continue to undergird questions regarding whether RJ can retain its integrity in the hands of legal professionals.

Overall, perspectives that reify discursive constructs problematically neglect action and practice and ascribe an unwarranted rigidity to social order. To discuss institutionalization without reifying institutions as determinate ontological entities, it is helpful to think of structure and action as a duality rather than a dualism (see Ashcraft et al., 2009). The move from *-ism* to *-ity* signals a shift from viewing the constituent concepts as competing, incompatible, and/or mutually exclusive to seeing them as contradictory but also mutually enabling (Farjoun, 2010).

Berger and Luckmann's (1966) work on institutionalization provides a useful theoretical frame for such a discussion.

Conceptualizing Institutionalization

Berger and Luckman (1966) maintained that social order—"both in its genesis (social order is the result of past human activity) and its existence at any instant in time (social order exists only and insofar as human activity continues to produce it)"—is a product of the human need to create a stable environment for our conduct (p. 50). Working from that premise, they characterized institutionalization as a process wherein social activity becomes habitualized through a dialectic process of externalization, objectivation, and internalization. Their theory of institutionalization is meant to explain "the emergence, maintenance and transmission of social order" (p. 50). The process begins with experimental action undertaken to address some need. When an initial action appears to successfully solve a problem, it will be repeated; if repeated frequently, it "becomes cast as a pattern, which can then be reproduced with an economy of effort and which, *ipso facto*, is apprehended by its performer *as* that pattern" (Berger & Luckmann, 1966, p. 71); this is how habitualization starts. All actions are undertaken in a social context, and habitualized patterns become institutionalized as they are coordinated within interaction:

Institutionalization occurs whenever there is a reciprocal typification of habitualized actions by types of actors. [...] The typifications of habitualized actions that constitute institutions are always shared ones. They are available to all members of the particular social group in question, and the institution itself typifies individual actors as well as individual actions. The institution posits that actions of type X will be performed by actors of type X. (Berger & Luckmann, 1966, p. 72)

Through this process, individuals' actions acquire shared meaning and "types of action" become available to everyone: Thus, the social action undergoes *objectivation*. As new generations are socialized, objectivated practices are justified through "various legitimating formulas," (Berger & Luckmann, 1966, p. 79) which ascribe new meanings to the actions and lead them to take on a normative character.

Legitimation is accomplished in everyday talk, and is perceivable in (at least) four types of discursive practice. First, legitimation practices are evident in the way people talk about everyday life using language deemed appropriate. Second, they take shape as "rudimentary theoretical propositions," moral maxims, and statements about what one "ought" or "ought not" to do. Third, specialized fields of knowledge and explicit theories legitimate institutions. Finally, *symbolic universes* develop as cognitive, affective, and performative experiences are integrated into a somewhat coherent, recognizable field of meaning. Symbolic universes "are bodies of theoretical tradition that integrate different provinces of meaning and encompass an institutional order in a symbolic totality" (Berger & Luckmann, 1966, p. 113). The final stage in the institutionalization process is *internalization*, which occurs when an objective event can be immediately recognized and understood as expressing a particular kind of meaning that is applicable to the perceiver. This final stage makes clear that institutions constitute social order and instantiate social control by defining "normal" and "acceptable" patterns of conduct.

The institutions Berger and Luckmann (1966) discussed are the building blocks of social normativity, for example, "marriage" and family." "The criminal justice system" does not quite fit in that same conceptual category, thus Blad (2006) used the term *secondary institutions* to refer to the additional, remedial control mechanisms a society uses to address breaches of socially acceptable conduct, as defined by *primary institutions*. RJ practices, as "patterns of

interaction, potentially routines...to be applied when things go wrong in everyday social interaction” (Blad, 2006, p. 97) are, potentially, secondary institutions. Secondary and primary institutions are deeply intertwined. Crime represents a violation of primary institutions; as Blad pointed out, a rape violates institutionally defined expectations for sexual conduct, and a theft violates the institution of property ownership; this is common knowledge and is not contested by RJ advocates. Secondary institutions explain why most people who have been “socialized in contemporary modern societies...would also agree that the appropriate reaction to crime would be to prosecute, try and convict offenders in the ways indicated in our criminal procedural law books” (Blad, 2006, p. 97).

Thus, Blad illustrated that, although they “are often formally organized and gain a certain autonomy that can sometimes lead to estrangement,” the secondary institutions of the criminal justice system are “located in a shared social system of expectancy and interaction patterns” (Blad, 2006, p. 97) and not simply in judicial organizations. RJ institutionalization, then, is not merely a question of policy and organizational change—although both are significant aspects of it—rather, it is a process whereby RJ practices become habitualized, objectified, and internalized through legitimation practices, such that they come to be seen as a normal, natural way of handling crime and conflict. Reflecting on the persistence of “our fundamental human need to institutionalize” in a context of increasing social disintegration, Blad positioned RJ as a promising ideal-type for postmodern (secondary) institutions: “By shaping the form of participation in a different (inclusive) way, restorative justice offers a fundamental (and necessary) alternative to existing exclusionary ways of formal social control that are to a certain degree undermining the integrative capacity of (primary) institutions” (p. 98). Optimistic about RJ’s potential to include people in “rebuilding new forms of cohesion and integration,” Blad

posed the question, “Is it in the criminal justice system or in other social systems that we can most effectively build up the foundations for maximizing the (secondary) institution of restorative justice?”

Blad’s question is central to RJ advocacy discourse, and differs from early informalist inquiry in subtle but important ways; that is, it does not imply that the criminal justice system is a structure governed by a kind of mechanistic causality, and it does not presume the dividing line between formal and informal justice to necessarily be collinear with the boundary between state and non-state organization. Nonetheless, it does gesture toward top-down versus bottom-up approaches to the study of institutionalization (see, e.g., Boutellier, 2006), and highlights the difficulty of studying a scene characterized by presumptions that social order is structured by determinate, rational institutions without adopting those assumptions and losing sight of indeterminacy and flux. The upshot of analyses that contrast RJ’s public and private lives is that they are resonant with empirical observations and actual practice. Structures of formal legality are talked about as real because they are experienced as such.

Certainly, formal–informal is not the only binary in RJ discourse that has been critiqued as problematic and/or artificial. Several scholars (e.g., Barton, 2000; Daly, 2002; Miller & Blackler, 2000) have convincingly argued that restorative and retributive justice are not opposites and that constructing them as such is unjustified on empirical and normative grounds. Daly (2002), for example, noted that justice practices (including RJ processes) tend to incorporate retributive, reparative, and rehabilitative aims, but that RJ advocates “sell” their product by branding it as the *good* alternative to the *bad*, retributive justice, and “seem to assume that an ideal justice system should be of one type only, that it should be pure and not contaminated by or mixed with others” (Daly, 2002, p. 198). Daly further argued that

oppositional restorative–retributive framing caricatures criminal justice practice, both present and historical, and proposed instead that “apparently contradictory principles of retribution and reparation should be viewed as dependent on one another” (p. 198).

This review has documented a trajectory in the institutionalization literature from the structural analyses of early informalism to poststructuralist visions of legal plurality to Henry’s (1985) structurational version of integral plurality, which directed attention to human (inter)action. This evolution is reflective of broader, cross-disciplinary trends toward postmodern and poststructural sensibilities, and is also characterized by increasing recognition of the indeterminacy, fluidity, mutual dependence, and coconstitution of seemingly incompatible principles and categories of social practice. Overall, this turn opens up new possibilities for understanding criminal justice practices by engendering scholarship that is more resonant with (dissonant) experience and thus more empirically grounded, and that is less complacent with mainstream discourse and dominant assumptions about social structure, which often lead to trade-off thinking. Thus, questioning and critiquing distinctions such as formal–informal, control–release, and restorative–retributive is clearly an important and fruitful endeavor.

However, binary constructs should not be critiqued or dismissed merely on grounds that they oversimplify or are artificial; such constructs are useful precisely because they reduce complexity. To do so is to criticize a heuristic on grounds that it is a heuristic. A worthwhile critique of a binary is one that clearly explains how the construct dangerously neglects, obscures, or distorts *important and relevant* complexity, as is exemplified by Daly’s (2002) critique of the restorative–retributive dichotomy. As I have shown, dualistic thinking can lead to undesirable outcomes, such as evangelism and pessimism (note that these are not opposites, they both stem from all-or-nothing thinking). At the same time, erasure or hasty efforts to transcend

dichotomies has its own dangers, such as obscuring the ways in which dialectic tensions propel practice, shape human experience, and provide a basis for meaning-making. I risk stating the obvious here for the purpose of clarifying my intention to explore complexity without ignoring or discounting the manifest “realness” and heuristic value of the dualities that characterize the discourses (and experiences) of communities of practice. To engage the many dialectic tensions that riddle RJ institutionalization without dismissing, denying, reifying, or claiming to “transcend” them, I look to tension-centered perspectives in organizational communication literature for guidance.

Organizational Communication Perspectives on Tension, Contradiction, and Paradox

A well-developed trend in organizational communication scholarship toward a focus on the binds, tensions, and contradictions that pervade organizational life challenges conventional assumptions of organization theory, namely, that organizations are rational entities comprised of rational actors, that action is oriented unidirectionally toward superordinate goals, and that those goals can be achieved through ordered and clear communication (Trethewey & Ashcraft, 2004). This literature is informed by interpersonal communication scholarship on flux and tension in personal relationship development. In particular, dialectical theory (Baxter, 1988, 1990; Werner & Baxter, 1994) provides a framework for understanding people’s reactions to contradiction that has been extended from dyadic to organizational contexts (see, e.g., Stohl & Cheney, 2001; Tracy, 2004). Dialectical theory posits that simultaneous but contradictory needs such as togetherness–autonomy, expression–protection, and novelty–predictability are a basic characteristics of intimate relationships and are not inherently harmful, however, the various strategies couples use to manage them correlate with varying levels of relationship satisfaction (Baxter, 1988). Family systems theory suggests that contradictions can be quite detrimental to

close relationships when interpreted as “pragmatic paradoxes,” which do not just present two mutually exclusive alternatives but set up impossible mandates that “bankrupt choice itself” (Watzlawick, Beavin, & Jackson, 1967, p. 217). For example, the admonition, “be your own person and don’t just do what I say!” is paradoxical because “to obey is to disobey and to disobey is to obey” (Tracy, 2004, p. 123). Paradoxical messages can become double binds when they occur in intense relationships, and when the message recipient is “prevented from stepping outside the frame set by this message” by metacommunicating or physically leaving (Watzlawick et al., 1967, p. 112). People trapped in double binds are likely to seek relief from the untenable situation in problematic ways, for example, by shutting off their independent thinking, isolating themselves (often by alienating others), or engaging in paranoid and obsessive sensemaking behaviors (Watzlawick et al., 1967). In sum, the interpersonal communication theories reviewed here suggest that contradictions are to be expected and that normative outcomes (whether desirable or problematic) stem from how contradictions are framed and managed.

More recent literature show these assumptions to be relevant also to contradiction-management behaviors in organizational settings. Tracy (2004) for example, showed how problematic (see also Pratt & Doucet, 2000) and productive (see also Stohl & Cheney, 2001) contradiction-management strategies used by employees of a correctional facility related to how they framed dilemmas (e.g., whether as tensions or double binds). The inevitability and management of organizational dialectics has been explored in many grounded analyses (e.g., Ashcraft, 2000, 2001, 2006; Canary, 2010; Carlone, 2008; Harter, 2004; Martin, 2004; Meyerson, 1991; Ristock, 1990; Seccombe-Eastland, 1988; Stohl, 1995; Tracy, 2004; Trethewey, 1999; Wendt, 1998), which have yielded rich and diverse perspectives on organizational tension, contradiction, and paradox.

Smith and Lewis (2011) defined paradox broadly as “contradictory yet interrelated elements that exist simultaneously and persist over time” and that “seem logical individually but inconsistent or absurd when juxtaposed” (p. 382). Smith and Lewis contrasted “the paradox perspective” (p. 382), which studies how “organizations can attend to competing demands simultaneously” (p. 381), to contingency theory (Lawrence & Lorsch, 1967; Woodward, 1965), which posits that organizations are most successful when they choose between competing alternatives by considering how internal organizational elements interact with contextual factors. These two perspectives are representative of a broader division in organizational theory regarding how organizations ought to attend to tensions. Prescriptions fall into two general categories: acceptance and resolution (Smith & Lewis, 2011). Contingency theory endorses the latter, while more recent communication literature advocates the former.

As research on tension, contradiction, and paradox has merged with postmodern sensibilities that view fluidity and fragmentation as conditions to be engaged rather than corrected, scholars have increasingly abandoned the pursuit of resolution in favor of developing perspectives on “coping” (Tracy, 2004), and “living with” (Ashcraft & Trethewey, 2004; Trethewey & Ashcraft, 2004) tension. This development does not imply that tensions are unproblematic but rather that scholarly and managerial calls to resolve or eliminate contradiction and irrationality (e.g., Lado, Boyd, Wright, & Kroll, 2006) are futile. Furthermore, in the absence of productive recommendations for living with tension, organization members may settle for the next closest substitutes to elimination: ignoring, withdrawing, or oversimplifying (Tracy, 2004).

Scholarship that disclaims resolution as a goal but recommends or describes ways of meeting competing demands simultaneously might reasonably lead one to wonder whether

“coping” is all that different from “resolving” or “eliminating.” Consider, for example, Tracy’s (2004) suggestion that metacommunicating about organizational tensions can help workers avoid double-bind framing and therefore develop more productive coping strategies (e.g., by contemplating “both–and” responses). If, as Smith and Lewis (2011) implied, tensions, by their very nature, are experienced as problematic, then would reducing the extent to which they are experienced as a problem not resolve or eliminate the tension? The key to understanding why this is not the case is to realize that *coping*, for example, through metadiscourse, *normalizes* the experience of struggle that comes along with tension; it does not eliminate that sense of struggle. Thus, research that begins with the assumption that tensions are a natural fact of organizational life rather than a pathology to be corrected is not at all defeatist or pessimistic about possibilities for intervention; to the contrary, it is a promising step toward praxical scholarship that is “responsive to actual practice” (Tretheway & Ashcraft, 2004, p. 171). Tensional perspectives developed by Stohl and Cheney (2001) and Ashcraft (2001, 2006) are particularly useful for understanding institutionalization because they highlight the significance of the structure–action relation as they explore workers’ engagement with paradox.

Paradoxes of Structure and Form

Stohl and Cheney (2001), in their analysis of paradoxes of participation in the workplace, distinguished between tension, contradiction, and paradox. *Tension*, they explained, refers to “the clash of ideas or principles or actions and to the discomfort that may arise as a result. For example, ‘How can I be a good worker and a good father at the same time?’” (p. 354). *Contradiction* refers to a situation in which “one idea, principle, or action is in direct opposition to another,” and *paradox* refers to “pragmatic or interaction-based situations in which, in the pursuit of one goal, the pursuit of another competing goal enters the situation (often without

intention) so as to undermine the first pursuit” (p. 354). Of particular interest to organizational scholars are *pragmatic* paradoxes, which, unlike logical paradoxes, are “time- and context-dependent” and “must be understood in terms of practical interaction. They cannot be appreciated fully outside the social situations in which they occur and within which the attendant pressures are felt by participants” (p. 354).

Of particular interest for the present study is Stohl and Cheney’s (2001) *formalization paradox*, which occurs when structures (i.e., rules, regulations, policies that act as “a substitute for communication” [McPhee, 1985, pp. 160–161]) take on a life of their own, and replace or displace the goals that inspired their emergence in the first place. Formalization is especially seductive to organizations that are trying to establish legitimacy, and it becomes paradoxical when the structures put in place to support a process undermine successful performance of that process. Such self-defeat is liable to occur when structures become “institutionalized, calcified, stale, or revered as ends in themselves (Newman, 1980)” (p. 361). The formalization paradox is resonant with Burke’s (1937/1984) bureaucratization of the imaginative and RJ proponents’ worries that institutionalization inevitably leads to cooptation and corruption. Stohl and Cheney’s version is perhaps more productive, however, because it incorporates structural insights and thus gives structure a less mechanistic treatment. Specifically, by framing the problem as stemming from people revering structures as “ends in themselves,” Stohl and Cheney highlight the action that (re)produces structure. In other words, it is not the structures “themselves” (if that phrase has meaning) that get in the way of progress toward goals but rather the way people talk about (i.e., discursively re/construct) and regard the scripts, procedures, policies, laws, rules, etc. that give form to organizational life. Ashcraft’s perspective on contradiction is similarly attentive to the structure–action relation.

Ashcraft (2001) coined the term *organized dissonance* to name the unique kind of hybrid she observed in a women's domestic violence advocacy organization in which bureaucratic form collided with feminist practice. In contrast to perspectives that picture hybrids as sites of reconciliation between contradictory forms in the service a single goal (e.g., Borys & Jemison, 1989), organized dissonance “employs incompatible forms to meet conflicting objectives and demands” and “allows one to engage contradiction as *deliberate* dialectical tension” (Ashcraft, 2001, p. 1316, emphasis original). Organized dissonance provides a useful frame for understanding the conflicting sets of goals that complicate RJ institutionalization. Additionally, organized dissonance foregrounds the importance of the interaction between structure and practice, conceiving of form as “an ongoing accomplishment constructed as formal arrangements are enacted and acted upon in practice” (Ashcraft, 2001, p. 1317). Emphasizing the value of studying practice, Ashcraft (2001) explained, “similar structures play out differently, practice can undermine structure; and structural tensions take shape and get managed in practice” (p. 1317). Henry's (1983, 1984, 1985) studies of private justice provide an example of how the same theoretical assumptions, and a focus on practice and interaction, provided novel insights into questions of institutionalization.

Several implications can be gleaned from the tensional literature reviewed here for the study of institutionalization. First, the formalization paradox (Stohl & Cheney, 2001) challenges the notion that a pattern of action can become “institutionalized” insofar as that term suggests a finished accomplishment and a fixed state of affairs. Furthermore, formalization of a given practice (e.g., in legal doctrine) guarantees neither endurance nor fidelity to the goals and values that inspired it. Overall, institutionalization is better understood as an ongoing process;

durability is achieved in inter/action, in part through discursive acts of legitimation (as it is theorized by Berger & Luckmann, 1966).

Summary and Purpose of the Study

This chapter has reviewed scholarship on three key topics: the relationship between community justice practices and formal legal organization, institutionalization, and tension-centered perspectives on organizational communication. The first section documented a gradual trend in scholarly thought toward conceiving of community justice and formal legality as integral, mutually dependent aspects of the organization of social control, rather than as (semi)autonomous, competing normative orders. Although formal and informal justice practices may challenge, contradict, and compete with each other in terms of principles, values, and logics, they are shown in post-Foucaultian scholarship to (a) be mutually constitutive at a conceptual level and (b) collapse into one another in practice. These insights suggest that structural analysis alone provides very limited insight into the organization of social control and justify a methodological emphasis on practice.

The indeterminacy of formal and informal modes of social control is seen most clearly in Henry's (1984, 1985) studies of private justice and in case studies (e.g., Aertsen, 2006; Blad, 2006; Faget, 2006) showing that RJ and other alternative dispute resolution practices have developed in modern societies on the basis of formal law. Henry's (1985) use of structuration theory (Giddens, 1976) added a new dimension to previous integral pluralist views (i.e., Fitzpatrick, 1984) of legality; this move facilitated a break with structuralism because it went beyond simply incorporating the structure–action dialectic into the question of formality (i.e., so as to frame the problem as a formal/structure–informal/action dialectic). By demonstrating that “informal collective justice is no less subject to a range of inherent contradictions than is the

official criminal justice system” (p. 158), Henry (1985) problematized the equation of state organization with formality and structure, and split state–nonstate and formal–informal onto different conceptual axes (i.e., with state–nonstate on the horizontal axis and formal–informal on the vertical axis).

Thus, attention to the structure–action dialectic fractures the state/formal–nonstate/informal dualism. However, despite widespread acknowledgement of indeterminacy and explicit rejection of “naïve dualism” in more recent scholarship (e.g., Aertsen, 2006; Cunneen, 1999; Daly, 2002; Faget, 2006; Olson & Dzur, 2012; Pavlich, 1996; Pratt, 2006), tiered visions of social order continue to undergird contemporary discussions of institutionalization. One challenge of poststructuralist analysis is that rejection of dualism and acknowledgement of indeterminacy can leave the analyst unsure of how to deal with duality and structure (and thus liable to ignore or deny these). By examining institutionalization through a tensional/dialectical lens, I hope to shed light on durability and flux in safety and justice organizing while avoiding the structuralist pitfall of reification and the poststructuralist pitfall of regarding discursive constructs as “artificial” and thus neglecting to see their “real” consequences. Berger and Luckmann’s (1966) theory facilitates this analytic goal by providing a sophisticated frame for understanding institutionalization as an ongoing communicative accomplishment. In particular, their concept of a “symbolic universe” is useful for considering how meaning attaches to RJ through practice, and the meaning attached to RJ informs practice, such that there is no site of RJ practice, and no talk about RJ, that is entirely inconsequential to the historical development of Western penalty. As Daly (2002) noted, the criminal justice system has undergone significant change and evolution over the past five decades, incorporating various balances of retribution, rehabilitation, and restoration at various times. Through the lens

of Berger and Luckmann's theory, the symbolic universe of justice has been (re)constituted by these various logics (i.e., justifications, philosophies) as the corresponding practices have undergone the process of institutionalization. The constitution of the symbolic universe of justice is contested, as seen in debates, for example, about the virtues and efficacy of restorative and retributive approaches. Additionally, restorative practice can be justified in many ways, and how it is legitimated is important; for example, when promoted by appeal to instrumental rationality, RJ practice can be legitimated according to the logic of capitalist legality, which may weaken its status as a critique while increasing the likelihood of its funding and adoption by policy makers. In practice, discursive acts of legitimation simultaneously subordinate RJ to instrumental rationality, making it a tool that supports the risk-control imperative that has come to characterize criminal justice administration (Pratt, 2006), and tout its ethics and transformative capacity. Thus, new practices are legitimized by appeal to multiple logics simultaneously, so dissonance should be expected, and, I will argue, accepted.

To contextualize and develop a dissonant, dialectical approach, this chapter bridged legal (integral) plurality literature with tensional perspectives in organizational communication. Parallel developments were seen in Ashcraft's (2006) study of feminist-bureaucratic control and Henry's (1984) work on contradictions of collective justice in socialist cooperatives. Although framed differently, both studies described how organization members pursuing alternatives to dominant capitalist and patriarchal forms "merged opposing forms of control to manage...tensions endemic to postbureaucratic organizing" such as "homogeneity–heterogeneity, ... moral–instrumental aims, and ... formalized/universal–unobtrusive/particular control" (Ashcraft, 2006, p. 55). Both studies challenged the usual assumption that their

respective fields of practice (i.e., feminist organizing and community justice) are distinct alternatives that operate in the margins of a system they might aspire to replace.

Building from the insights of Ashcraft and Henry, the present study seeks to illuminate the dissonance and hybridity that characterize both capitalist legality and community justice. Viewing police referral practices as a site of work on narratives of justice and a pressure point where penal law and policy come in contact with restorative strivings, this study examines referral practices as a site of struggle where the durability and legitimacy of existing justice practices are both challenged and reinforced. I draw on tensional perspectives to interpret officers' experiences, and study the problems, techniques, and philosophies that constitute their referral practices to investigate the questions: *How do rank-and-file officers experience and manage tensions of RJ administration?* and, *How do police referral practices (re)constitute the symbolic universe of justice?* The following chapter introduces the site of the study and the methods used to investigate these questions.

Chapter 3

Methods

The data reported here were collected with VPD, a law enforcement organization that works in partnership with the “Community Justice Consortium” (CJC), a nonprofit organization, to administer VRJ, an alternative-to-sentencing program. The nonprofit organization is well-established within its local community and has contributed to the development of RJ theory and practices through the dissemination of program-development and implementation guidelines; its success depends on VPD, which is the source of 97 percent of its referrals. Discretion about where a case will be referred (whether to RJ or to the courts) rests primarily with rank-and-file officers, who make the determination in the course of their initial contact and investigation. CJC has developed a strong relationship with the command staff at VPD, who are now very supportive of the VRJ program, but still faces the ongoing, self-identified challenge fostering buy-in among the rank-and-file.

Proponents of RJ institutionalization recently achieved a major victory when the state legislature passed a law that creates a fund to support RJ pilot programs across the state, establishes a statewide coordinating committee to oversee the implementation of such programs, and makes RJ an option for nearly all juvenile offenders. As municipal and county governments across the state implement these pilot programs, they will likely look to the long-running CJC as an exemplar. Thus, the local practice of RJ administration at VPD and CJC has consequences for the development of RJ throughout the state and beyond.

Data Collection

I collected data through respondent interviews (see Lindlof & Taylor, 2002) with 11 VPD officers. Interviews averaged 45 minutes in length and yielded 148 single-spaced, typewritten

pages of transcription. Of the officers interviewed, 8 were rank-and-file, 3 were sergeants, 2 were female, 2 worked in the gang unit, and 3 were CJC liaison officers (meaning they participate in RJ conferences when referring officers are unable or do not want to do so). Length of employment at VPD ranged from 2 to 30 years, and self-reports of number of RJ conferences attended ranged from “a couple” to “too many count.” I followed a schedule of open-ended questions designed to probe issues of organizational ideology, occupational identity, organizational structure, power and control, RJ referral practices, and collaboration with other organizations.

Interview data were supplemented with ethnographic field notes collected during approximately 12 hours of participant observation of CJC meetings and events. Observation of both private, informal meetings of CJC staff, and a formal “peer-to-peer debrief” event that included CJC staff and volunteers, and a VPD sergeant allowed for comparison of “front stage” and “back stage” organizational contexts, as well as formal and informal talk about the CJC/VPD partnership from both CJC and VPD staff members.

This research was granted “exempt” status by the institutional review board, and I took steps to protect the research participants by obtaining informed consent at the beginning of each interview and anonymizing all data. Additionally, I have changed or removed idiosyncratic expressions, speech patterns and other information that might be used to identify participants. All names used here are pseudonyms, and genders have been randomly assigned.

Data Analysis

Following the insights of scholars such as Ashcraft (2006), Berger and Luckmann (1966), and Henry (1983), I stake my methodological approach on the assumptions that RJ institutionalization is accomplished in everyday interactions, and thus can be better understood

by studying how practitioners contend with the tensions and contradictory mandates of RJ implementation. Special attention should be paid to how practitioners account for their actions, what “truths” they take for granted, what knowledge of larger social units they presuppose, and what “figures” (see Cooren, Fairhurst, & Huët, 2012) they invoke as constraints on and justifications for their actions.

To facilitate that reflection, I structured my analytic process according (loosely) to the three-layered approach of GPT (Craig & Tracy, 1995). With the goal of cultivating communicative practice through critical reflection, GPT guides researchers in reconstructing practice across three theoretical levels. At the *problem* level, the researcher focuses on the dilemmas participants experience, paying special attention to experiences of tension; at the *technical* level, s/he details the strategies participants use to manage tensions and address problems; and at the *philosophical* level, s/he examines normative ideals that provide a rationale for participants’ strategic actions, and endeavors to articulate implicit, “situated ideals” that guide participants’ decision-making, critique, and praise, but are not named as explicit philosophical positions.

I proceeded with my analysis first by identifying grounded themes in participants’ discourses about the law enforcement profession, the administration of justice, and individual and organizational RJ practices, and then by categorizing those themes according to the three levels of analysis. Following this initial reorganization, I returned to the interview transcripts and re-read them, this time coding for problems, techniques, and ideals operating from various vantage points in the VPD/CJC collaboration (i.e., CJC staff, VPD management staff, and VPD rank-and-file). Having developed a detailed map of the diverse and numerous dilemmas, strategies, and philosophies-in-use at the site, I reflected on the normative implications of the

emergent reconstruction, using the goals of the state RJ coordinating council and principles of RJ theory (as summarized by Zehr, 2002) as my evaluative criteria. In line the coordinating committee's goals, I considered how RJ administration practices might be cultivated so as to better support the overall aims of aligning safety and justice organizing with the restorative ideals of repair and reintegration, and increasing the legitimacy, availability, and viability of the communication practices that constitute RJ (e.g., conferences or "circles"). With those goals in mind, I narrowed my focus to a troubling aspect of the local RJ practice, namely, the tendency of VRJ to unnecessarily extend judicial intervention rather than diverting would-be defendants from the criminal justice system, and the prospect that RJ could exacerbate social inequities by positioning RJ as a privilege that is more accessible to some groups than others. I then worked backwards to identify the dilemmas, strategies, and ideals that constitute that problem domain, focusing on the perspectives of rank-and-file cops, who act as the gatekeepers of the RJ program. Contributing factors include: rank-and-file experiences of managerial control and the bureaucratic structure of the safety and justice system, officers' arrest and referral practices, and officers' explanations of RJ's purpose and limitations as well as metadiscourse about VRJ-related communication across title-levels of the organization.

Chapter 4

Results

I found that experiences of tension, paradox, and contradiction are ubiquitous in the professional lives of rank-and-file officers at VPD, who are positioned at the confluence of multiple contradictory messages, demands, and expectations. As a result, street cops face unique sensemaking challenges and problems requiring strategic action. I begin by presenting the problem experiences, strategies, and situated ideals for those officers who viewed management's promotion of VRJ as a problem, and then present the problems and situated ideals that made RJ an appealing strategy for other officers.

“You don’t have to, but you have to:” Dilemmas of power and control

The discourse of officers who viewed VRJ as a problem foregrounded the hierarchical power structure of the organization, and often referenced tension or a “complete friction” between management and the rank-and-file cops (which is well documented in law enforcement literature, see, e.g., Reuss-Ianni, 1983). Interorganizational friction was apparent in rank-and-file officers' responses to open-ended interview questions about how RJ works at VPD, which evinced widespread concern, and in many cases, resentment, about managerial “pressure” to make RJ referrals was a top concern for rank-and-file officers, some of whom used such violent metaphors as “force-feeding” and “cramming it down my throat” to describe the command staff's promotion of RJ. Officer Downton, for example, explained, “part of the problem with CJC is not CJC themselves, it's the downward push from our command to use it.” Similarly, even the most RJ-skeptical officer interviewed could not identify a single thing CJC could improve upon or do differently to address his concerns because, he explained, the problems with

RJ were not CJC's fault and were not within the organization's control; rather, for him, the "problem" lied in being "pushed so hard" to "get numbers."

Overall, references to managerial pressure (e.g., being "pushed," "forced," "force-fed," "pressured," etc.) appear more than 70 times in the interview transcripts, and in all cases except one, the pressure was cited as either problematic or the biggest problem with RJ. The problem with pressure was often stated as a dictum of natural law, for example, "As soon as you start force feeding it, then you're gonna get pushback from the officers. Saying, ok, you want referrals, here you go. Here's your referral, good luck. You know? And it undermines the entire program." Another officer echoed that sentiment:

I guarantee you, if you have 'We're gonna do this cause we have to do it, and you need to have 5 a month, and if you don't, I'm gonna write you up, and you can go find something else to do' then forget it, you might as well just say, hey we're not doing it.

No officer dismissed the RJ program as worthless or suggested that it should not be in place at all; rather, the problem resided in the perceived mandate. Much ambiguity existed, however, around the difference between mandating and "encouraging" use of RJ.

Discussion of VRJ referral practices included universal denunciation of quotas and acknowledgment that no official quota was in place, accompanied by much talk about RJ referral requirements and the imperative of "getting your numbers." The confusion stemmed from managerial communication that both created a "quota effect" and disclaimed the use of quotas. As Officer Downton explained:

It's not mandated, but at the end of the year, you better have one or two, or it's not gonna look good on your review. [...] It's almost like it's a quota, but it's not. "You don't have to, but you have to" kind of approach here. And so, um, it's difficult to do that. [...] But

I don't think that's coming from CJC, it's coming from our command staff, the chief maybe, I dunno who it comes from. But. You don't have to, but you have to. [...] Really? Just tell me I have to do it. It's like I'm getting voluntold to do something. Not volunteered, not told, but, you've gotta do it.

The simultaneous presence and denial of meaning had the effect of stopping conversations about the perceived requirement before they could start, leaving rank-and-file officers to make sense of the paradoxical message on their own. Officer Downton recalled the following interaction:

A few years ago, came November, I was told by my boss, who was told by his boss, come talk to me. Um. You don't have any CJC referrals? It's November. That's right I don't, I haven't had any that fit that. Well, you have to. So it's mandated now? I'm not trying to argue with you, but you're telling me it's required? No, it's not required, but you need to get some.

The contradiction of being "voluntold" irked Officer Downton on principle and also created a practical dilemma requiring strategic action. Officer Downtown gleaned from his supervisor's remark that he needed to refer cases to the VRJ program or else risk an unsatisfactory performance review, but, he explained, "for whatever reason, my calls don't tend to afford the opportunity to use CJC, based on criminal history, local history, the situation at hand."

Elaborating, he explained that, "for whatever reason," he tends to receive serious, complicated, and intense calls rather than ones involving juvenile, first-time offenders. Another officer described the same dilemma, and hinted at a strategy for resolving it: "it's just the luck-of-the-draw whether the call you go on has one [case that can be referred to RJ], but if you have to get a number, then you start looking."

Although rank-and-file officers' experiences are the focus of this study, it bears noting that the contradictory mandate, "you don't have to, but you have to" points to a deeper paradox of participation (Stohl & Cheney, 2001). The VRJ program places referral discretion in the hands of arresting officers, yet experience has shown that officers do not make use of the RJ option without some "encouragement;" thus the program's success requires some combination of top-down control and rank-and-file discretionary participation. Hence, management faces the vexing task of compelling participation without mandating referrals (i.e., getting officers to exercise their discretion by making the choices management wants them to make).

Rank-and-file characterizations of, and reactions to, managerial pressure evince inter-rank antagonism, and also suggest a perceived threat to cherished aspects of identity such as dignity, autonomy, and discretion. Thus, VRJ—or, rather, the promotion thereof—presented a challenge to officers' ideal images of themselves and their role in the organization, and generated a need to reassert or reengage those threatened aspects of identity. One officer suggested, "I think we would have just as many, if not more, referrals if we weren't pressured so hard to do it. 'Cause it's like an 'us against them' kinda thing." His statement suggests that inter-rank antagonism is the source of VRJ rejection more so than disagreement with the program's aims and practices. Descriptions of the sometimes adversarial relationship between management cops and street cops provided important context for understanding and interpreting officers' actions, which revealed a preference for dealing with the consequences of managerial decisions on their own or with their peers rather than addressing their concerns to management.

Overall, some officers experienced management's communication about RJ as problematic in principle because, as the "voluntold" comment implies, the pretense of rank-and-file discretion felt more insulting than would a simple mandate, and they experienced it as

problematic in practice because it required that they accomplish something outside of their control (which I will call the *luck-of-the-draw* dilemma). For those officers, the problem of managerial pressure eclipsed more complex questions about RJ (e.g., What are the potential risks and benefits of using RJ in the cases I handle? What are the limitations of RJ?). Perhaps a more pressing set of problems for these officers might be articulated as “how can I reassert/reengage the threatened aspects of my identity (i.e., autonomy, dignity, discretion) in the face of managerial control?” and “how can I get my referrals as easily as possible, and ‘get everyone off my back?’” Below I discuss the techniques officers developed in response to those questions.

“Looking for anyone that qualifies:” Responses to the Luck-of-the-Draw dilemma

Tracy (2004) observed that workers who experience organizational tensions as simple contradictions or pragmatic paradoxes respond in more problematic ways than do those who frame tensions as a dialectic. Indeed, one of the most troubling ironies of RJ practice came about when officers dealt with the tension of the RJ (non)mandate by framing it as a simple contradiction and “selecting one pole as dominant” (Tracy, 2004, p. 136). Specifically, officers erred on the side of caution by selecting the “you need to get some [referrals]” pole, which led them to the dilemma of needing referrals but not choosing service calls. *Selecting* is a rational response to tension in an organization that limits opportunities for dissent, questioning, and metadiscourse across levels of power difference, and the “it’s not required” half of the message delivered by Downton’s supervisor ended the discussion rather than acknowledging tension, inviting dialogue, or clarifying the nuances of the challenge management sought to address.

After describing the interaction with his supervisor, Officer Downton went on to explain the bind he was in and describe what he saw as his only option for resolving it:

So, what does that force me to do? I can't wait for calls for service, it's not a magic ball, ok, my CJC's coming, in a call. So I was working nights at the time, and after park's curfew, I started driving through all the parks, and try to find someone in there that I could refer to CJC. [...] It's, kinda, if you ask me, it jams somebody up that doesn't really, that, hey, get out of the park, it's closed, you would've never seen 'em again. Instead now they've gotta go through this whole thing, believing that if they don't agree to it, that I'm gonna write 'em a ticket. I don't like being forced to do that. It doesn't feel good to me and I don't like doing that to citizens, somebody that I would otherwise deal with completely different being forced to do this, that's how I feel. So, I ended up getting 3 or 4 by the end of the year, but that was because of the downward pressure. And I would say, 3 of the 4 didn't succeed.

Officer Edstrom reported doing the same thing:

I had a group of 18 year olds...they were in the park after hours. You know like, five people...they were getting ready to go to college so it's like 12:30, the park's been closed for half an hour, but here's five people I can put in the community justice program, whereas [laughs] what, they're, they weren't, they were sittin' in the park, lost track of time, half an hour late, somebody, a neighbor in the area called on 'em, they really just needed a warning. Hey, be conscious of what time it is, you're in the park, the park's closed. And go home. In the back of my mind, it's like, ooh, this is five people; I can say, I sent five through for the year, gets everybody off my back. [...] And now they're in there. Money. Time. Inconvenient. [...] They didn't really need it. They weren't, I mean, none of them had criminal histories. But for me, then at the end of the year, I had met my goal.

Moreover, Officer Edstrom was clear in explaining that “we” respond to managerial pressure by referring offenders who otherwise would receive a warning, not those who otherwise would receive a ticket or summons:

In order to make the numbers, we have to put people in it, so I feel better, pushing someone, saying ‘eeeh, I could give you a warning but I’m gonna put you in there’...more so than um, taking a kid, and cuttin’ him a break and puttin’ him in it.

He went on to explain that CJC’s recidivism rates are so low (they boast a 10 percent rate, compared to the 69 percent national rate) because “we put people in there that, they weren’t gonna reoffend, but they’re in there because we’re kinda pushed to put ‘em in there.” Although only two officers self-reported making superfluous arrests, second-hand accounts suggested that the strategy was widespread and that referral numbers followed a reliable trend of dropping down then spiking up as “everyone starts lookin’ for anyone that qualifies” following a “reminder” from the command staff.

Another technique for managing the luck-of-the-draw problem was sharing multi-offender “CJC-type” cases with other rank-and-file officers. Officer Edstrom explained, “If there’s two kids you’re gonna put through CJC, I’ll do one, you do one, that way, we can both say we got one for the year, and then, whew.” Both strategies address a simpler problem than the one the command staff and RJ advocates in general would ideally like officers to grapple with—that is, how to maximize use of the program to divert offenders away from the criminal justice system and maximize the benefits of RJ for stakeholders and the community—and both are examples of a paradox management strategy Stohl and Cheney (2001) labeled “neglect or determined ignorance” (p. 395). Workers enact this strategy by “muddling through” rather than

taking a paradoxical dilemma seriously; they may nod complacently when management announces new policies, all the while “imagining themselves getting back to their jobs with the least disruption in work routines possible” (p. 395). Muddling through typically entails ignoring or repressing one’s sense of responsibility for organizational practices and outcomes, and justifying one’s “determined ignorance” by viewing oneself as a powerless, and therefore blameless, pawn in the hands of management. Officer Downton’s reflection on his strategy of looking for curfew violators vividly illustrates this point: “I don’t like being forced to do that. It doesn’t feel good to me and I don’t like doing that to citizens, somebody that I would otherwise deal with completely different, being forced to do this.” Officer Edstrom similarly remarked, “Unfortunately, because we’ve pushed it so hard with the department, I refer cases that can be referred even though... probably half of them, if we weren’t pushed to do it, I would give them a warning and send them home.” Interestingly, muddling through is a strategy for coping with feelings of powerlessness and inefficacy (i.e., to affect change) in the organization, and powerlessness is a discursive resource for justifying muddling through. I turn my attention now to other situated and espoused ideals that guided referral practices. Muddling through typically entails denying responsibility for outcomes and viewing oneself as a pawn in the hands of management. One skeptic’s statement vividly illustrates this phenomenon: “I don’t like being forced to do that. It doesn’t feel good to me and I don’t like doing that to citizens, somebody that I would otherwise deal with completely different, being forced to do this.” Overall, the officers who used these problematic coping strategies also expressed feelings of inefficacy and powerlessness to do otherwise.

Finally, an at least equally problematic response took shape when, rather than muddling through, officers who were resentful of managerial control rebelled while maintaining the

appearance of compliance. There were a couple second-person (and perhaps apocryphal) reports of street cops referring cases they thought were bound to fail, either as an I-told-you-so gesture intended to prove that RJ would not work, or as a way to reclaim a sense of personal power by lashing out at management from within the safe parameters of plausible deniability. Thus, sabotage—whether fabled or real—was discussed as a strategy for maintaining a sense of dignity and autonomy in light of a perceived threat to those cherished aspects of identity.

In sum, for some rank-and-file officers, the inherent tensions of VRJ implementation, such as the paradoxical necessity of control (i.e., the need to compel voluntary participation) created a significant communication challenge for management cops, which, at a lower point in the command chain, gave rise to communication that was perceived as “voluntelling.” At the level of the rank-and-file, that deeper dilemma vexing VRJ implementation was reduced to a question of how to maintain satisfactory job performance in the eyes of one’s superiors by meeting a requirement that was declared and denied in the same utterance.

The harder you push, the more push-back you’ll get: Philosophies of power and control

Craig and Tracy’s (1995) concept of *situated* ideals serves as an analytic tool that distinguishes GPT from philosophical speculation by highlighting “a practical function of philosophical ideals: to provide a reasoned basis for resolving pragmatic dilemmas or trading off competing goals in one way rather than another” (p. 259). In addition to identifying situated ideals, I endeavor to illuminate the relationship between problem experiences and espoused ideals, which are obscured when participants come to regard widely-held assumptions as natural facts. In the case of VRJ, situated and espoused RJ referral ideals (i.e., the attributes of cases deemed “RJ-appropriate” and/or “perfect for RJ”), as well as beliefs about power and control in the organization, guided each officer’s referral decisions and also informed the extent to which

s/he experienced departmental pressure to use VRJ as problematic. In the following sections, I discuss how officers' philosophies of power and control and their ideals regarding "RJ-appropriateness" shaped their perception of dilemmas, and directed how they acted within those dilemmas.

Officers' conceptualizations and ideals related to power difference and control in the police organization informed their actions and their perceived options within the problem domain. Scholars of policing (e.g., Paoline, 2003; Punch, 2000; Reuss-Ianni, 1983) have observed sharp and often adversarial divisions between management and rank-and-file officers, and VPD street cops' discourse about management similarly evinces experiences of inter-rank friction. Reuss-Ianni (1983) observed that inter-rank antagonism intensified after sweeping reforms of the 1980s aimed at curbing police misconduct replaced rank-and-file autonomy with formal rules and stronger managerial control. In turn, rank-and-file officers, who resented the devaluation of their practical wisdom or "street smarts," developed a subculture of secrecy, solidarity, and self-management, governed by an unwritten set of maxims known as the "cop's code," which sanctioned, through social criticism, such transgressions as over-achieving, tattling, involving management in intra-rank conflicts, and increasing one's productivity (thereby increasing workload expectations for one's peers). At VPD, strategies such as sharing multi-offender CJC-appropriate cases and making superfluous arrests suggest a preference for intra-rank coping over inter-rank involvement. Recall that the officers who reported making superfluous arrests described their actions as an unfortunate, yet inevitable, result managerial pressure; notably, addressing the luck-of-the-draw problem with management apparently did not strike them as an option. In the exchange he described with his boss, Officer Downton qualified his question about whether RJ referrals were required with "I'm not trying to argue with you,"

which is indicative of an organizational culture characterized by high power difference, few opportunities for metadiscourse, and norms against questioning managerial decisions.

That metacommunication with management about the RJ (non)mandate and the “luck-of-the-draw” dilemma did not occur as a viable option to some street cops, who, instead, felt they had “no choice” but to employ unfavorable strategies, suggests a deficit in feelings of *efficacy* on the part of those officers. Employees who possess a sense of efficacy feel empowered—that is, able to make a difference in shaping organizational realities (see Conger & Kanungo, 1988). The officers who reported making superfluous arrests also discursively diminished their own agency by consistently using “they” language (e.g., “they really push it,” “I don’t know if they push it so hard because the offenders pay to go through the program,” “when they started using liaisons, it helped”) rather than “we” language (“we need to...”) when talking about the administration of VRJ. Overall, the officers who used the most problematic coping strategies also expressed feelings of inefficacy and powerlessness to do otherwise.

Viewing oneself as powerless or unable to affect administrative change, and framing open questioning or dissent pejoratively as “arguing” or “talking back” are cultural phenomena consistent with paramilitary, bureaucratic forms. However, most street cops denounced command-and-obey-style managerialism. Officer Martinez explained that misunderstanding and “complete friction between my level and the administration” occurs because “guys think, these guys [management] are so far removed from the street, they don’t understand anymore.” Descriptions of the sometimes adversarial relationship between management cops and street cops provided important context for understanding and interpreting officers’ actions, which, in most cases, revealed a preference for “dealing with” the consequences of managerial decisions on their own or with their peers rather than addressing their concerns to management. The risks

associated with dissent, ownership, genuine participation seem to have inspired an implicit directive that could be articulated as, “keep your head down and get your referrals in however you can.”

“I refer people that can be referred:” Situated and espoused referral ideals

Situated Referral Criteria

Officers’ accounts of their use of VRJ revealed an unspoken set of referral criteria that includes: ease of getting the case into the VRJ program, likelihood that the offender will complete the program, the officer’s assessment of what the offender “deserves” or “needs.” The following interview excerpts exemplify these three criteria: “I refer cases that *can* be referred;” “ooh, that’s five people I can refer;” “I don’t refer cases that I don’t think will work, or where the offender needs more supervision or more, shall we say, punishment;” “good kids that aren’t in a lot of trouble normally [are ideal for RJ].” In contrast to CJC’s primary espoused referral criterion—the possibility of repairing harm to the victim, the community, and the offender in a given case—the first two situated criteria facilitate the goal of meeting performance benchmarks by getting one’s referrals in as quickly and easily as possible, reflecting a preference for muddling through or intra-rank coping over expressing dissent and/or engaging in inter-rank communication. The first two criteria also have the ironic effect of reserving the RJ option for offenders who already possess the resources they need to succeed in the program (e.g., supportive parents, higher socioeconomic status, a track record of mostly staying out of trouble), such that those who need VRJ’s resources the least are the most likely to receive them. The third situated criterion is more consistent with CJC’s espoused criterion, in that it potentially includes an assessment of the offender’s willingness to accept responsibility and repair the harm s/he caused. It goes beyond that espoused principle, however, in assuming that the character(istics)

of offenders are relevant to whether they “deserve” RJ, and that the officer is in a position to assess what kind of person the offender is (whether a “good kid” who “made a mistake” or a “bad guy” who committed a “crime”).

Espoused referral criteria

When determining whether a case met the three situated referral criteria, officers relied heavily on the following set of espoused criteria: the severity of the offense, the offender’s age, and the offender’s criminal history. Meanwhile, CJC and RJ advocates in general maintain that RJ can work for *almost* any type of crime (domestic violence being the usual exception), and work hard to counter the notion that RJ is a “weak” form of justice. CJC has been insistent that responsibility-taking on the part of the offender is the primary determinate of RJ candidacy. Nonetheless, all officers reported referring primarily juvenile offenders for petty offenses, and many explained that those were the only VRJ-appropriate cases. Regardless of whether they were making descriptive (i.e., this is what we have done or currently do) or normative (i.e., this is how it should be) claims, which was not always clear, all officers regarded those cases as the most likely to succeed, meaning that conference participants would be able to come to an agreement and the offender would successfully complete his or her contract, such that the case would not need to be “referred back” to the courts. Additionally, by referring “good kids,” officers reduced the risk of CJC referring the case back on the front end due to the offender denying responsibility or being deemed “inappropriate” in the initial meeting with program volunteers.

Officer Edstrom pointed to an additional rationale for referring only the lowest-risk cases: caution. She explained, “We don’t ever sort of push them backwards and make it easier on them just to get—[pause], I mean, I guess that’s one of the big things. We tend to push people more

towards it than backwards into it.” Here, she seems to have stopped herself before saying “just to get a referral,” implying an ethical boundary she was not willing to cross just to get a referral. Her explanation that she “feels better” unnecessarily escalating a case of an offender who “wasn’t going to reoffend anyway” implies that RJ is a less severe, less safe, and less legitimate approach. She was not willing to take that risk on offenders who “need a ticket.” Thus, she expressed a situated ideal that favors erring on the side of caution, and positions the criminal justice system as the safer, more cautious approach. In contrast, most other officers stated that they supported RJ because it was an alternative to the criminal justice system, which, they implied, is flawed and often fails to “hold people accountable.”

Additionally, CJC may refer a case back to the courts if their staff deem the offender inappropriate, for example, because s/he denies culpability for the offense. Officers who stated that RJ potentially could work for a wide variety of cases talked about being willing to “try” RJ in atypical (i.e., felony, repeat offenders) cases, but largely regarded those as at-risk of failing. When a case fails or is referred back, two officers explained, they are “back to square one,” and have to fill out all the original paperwork for the summons or ticket, which creates a workload disincentive for higher-risk RJ referrals. The notion that age, criminal history, and type of offense are predictors of RJ success assumed the status of natural law in officers’ discourse. When asked why those types of cases were more likely to succeed, one officer shook her head and said, “because [other types of cases] would just waste everyone’s time.” Most accounts of why repeat offenders were not appropriate for RJ relied on a *mens rea*—that is, “guilty mind”—conceptualization of criminality which pictures the offender’s character as the driving force behind criminal behavior. Officers sometimes described repeat offenders as “hardened criminals” or “career criminals,” or “kids from criminal families,” who could not be helped by

RJ, “needed” to go to the criminal justice system, did not deserve “a break,” “already had a chance,” and/or “were just going to reoffend anyway.” On a less philosophical level, many officers cited technical limitations of RJ—such as the need for more intensive supervision of offenders or collections investigators for large restitution debts, which, CJC reportedly does not have the capacity to provide—as a rationale for restricting the population of cases to lower-level offenders.

A few other officers, when asked why RJ is only for juvenile, first-time, petty offenders, cited concerns about recidivism and CJC’s technical limitations. For example, two stated that they would not refer a case involving large restitution obligations because “CJC can’t handle that.” Although CJC does process restitution payments when conference participants write them into reparative contracts, one officer pointed out that VRJ nonetheless lacks the capacity to process large payments because the organization is unable to collect (e.g., by garnishing wages), and may leave victims waiting for payment for an unacceptably long time. Similarly, some noted that more serious offenders need more serious supervision (e.g., drug monitoring), and CJC provides little or no offender supervision beyond evaluating contract completion and referring back failed cases. Although addressing “root causes” of criminal behavior is central to RJ theory and a key aim of RJ practice, CJC currently lacks the technical capacity to address the more intense criminogenic needs of medium- and high-risk offenders. Thus, it is likely that a concern for public safety inspired the assertions made by many officers that some offenders “need a ticket” or “need jail.”

Officer Edstrom came close to articulating the ease of referral criterion when he said, “I refer cases that can be referred, even though I would say, probably half of them, if we weren’t pushed to do it, I would give them a warning and send them home.” When discussing the

problem of luck-of-the-draw, he went on to explain, “We don’t ever sort of push them backwards and make it easier on them just to get—[pause], I mean, I guess that’s one of the big things. We tend to push people more towards it than backwards into it.” Here, Officer Edstrom seemed to stop himself before saying “just to get a referral,” implying an ethical boundary he was not willing to cross just to get a referral. His explanation that he “feels better” unnecessarily escalating a case of an offender who “wasn’t going to reoffend anyway” implies that RJ is a less severe, less safe, riskier, and less legitimate approach. He was not willing to take that risk on offenders who “need a ticket.” Thus, he expressed a situated ideal that favors erring on the side of caution, and positions the criminal justice system as the safer, more cautious approach. In contrast, most other officers stated that they supported RJ because it was an alternative to the criminal justice system, which, they implied, is flawed and often fails to “hold people accountable.” In the eyes of management, the purpose of RJ is to divert offenders who would otherwise reoffend or receive a ticket.

Although VRJ’s technical limitations could be studied at the problem level of analysis, I discuss them at the philosophical level because officers discursively framed these limitations not as felt difficulties but rather as taken-for-granted facts that justified their referral practices. Because officers prevented technical limitations from becoming practical problems by not referring higher-level cases, the low supervisory capacities of CJC remains a hypothetical/theoretical problem that narrows the perceived realm of possibility for RJ. Regardless of what was behind each officer’s belief that RJ is (exclusively) for juvenile, first time, petty offenders—whether deeper philosophies of criminality, concerns about avoiding failure and refer-backs, awareness of RJ’s technical limitations, or taken-for-granted organizational ideals—a narrow conception of what constitutes an “RJ-appropriate” case that

created the luck-of-the-draw dilemma, and made superfluous arrests appear necessary to some officers. If, for example, Officer Downton had shared in the belief that RJ can work for a wide range of cases, he may not have seen driving around the park looking for referrals as his only option and instead may have considered referring a more serious case.

To summarize, organizational culture and officers' personal beliefs and values related to power and control in the department, as well as their views the purpose and limitations of RJ, contributed to the development of situated ideals and situated referral criteria (that differed from espoused referral criteria); these ideals and cultural phenomena help make sense of officers' problem experiences and strategic actions. First, a preference for inter-rank coping over dissent or addressing problems with management operated as a situated ideal within the street cop subculture. A paramilitary cultural that valorizes loyalty, honor, and commitment and discourages dissent, questioning, and metadiscourse by framing them as "arguing," disobedience, or lack of commitment, combined with inter-rank antagonism and feelings of resentment about loss of autonomy and discretion, likely contributed to the notion that muddling through, and/or helping oneself and one's peers to meet the minimal requirements was preferable to "arguing" or metacommunicating with management. Accordingly, ease of referral, likelihood of completion, and ease of getting an offender accepted to the VRJ program served as situated criteria that guided some officers' referral practices. Finally, the luck-of-the-draw dilemma and the practice of seeking out small-time offenders to meet a perceived referral requirement only make sense in light of the universal belief that RJ either only works, or works most reliably, with juvenile, first-time offenders who have committed low-level crimes like shoplifting. This verbalized set referral criteria may be rooted in *mens rea* (guilty mind) notions of criminality, organizational norms, technical limitations of RJ, or prioritizing ease and expediency over RJ principles.

Reconstructing referral practices at the philosophical level of analysis has shed light on both why the contradictory message from management became a pragmatic paradox for some street cops, and why problematic ways of muddling through appeared as the *only* viable options to some officers. Overall, this GPT analysis of RJ referral practices begins to reveal the complexity of the organizational context and the interaction of beliefs, needs, dilemmas, experiences, ideals, and preferences that culminate in symptoms such as superfluous arrests, which undermine the health and integrity of the larger practice and mission of RJ. I turn my attention now to the officers who viewed RJ as a tool they could use to address problems with the criminal justice system and the rigidity of the safety and justice bureaucracies; this analysis shows how the referral practices of officers who “bought in” to the VRJ program also led to an ironic outcome.

“I just arrested this guy yesterday!” Problems with the criminal justice system

Rank-and-file officers universally denounced the idea of an RJ referral quota, and, to varying degrees, resented the imposition (real or perceived) of a managerial mandate related to RJ. Yet, the VRJ program considerably expands street cops’ discretion by giving them a key role in determining the judicial fate of offenders. For officers who subscribe to a narrower and more traditional view of their occupational role as being strictly limited to law enforcement and not the administration of justice, participation in the VRJ program may occur as a burden rather than an empowering form of discretion. Most officers, however, described RJ as a (more or less) valuable tool. Why do some officers find RJ useful and empowering while others find it burdensome? When I originally entered the scene, I expected to find RJ-championing officers ventriloquized by CJC and the rhetorics of community policing and restorative ideology (e.g., speaking of crime in terms of *harm, repair, relationships, responsibility, obligation*, etc.), and RJ-skeptical officers ventriloquized by macrodiscourses of retribution (e.g., speaking of

punishment, desert, guilt, consequences, and the law). To the contrary, I found that some of the most enthusiastic RJ supporters used retributive vocabulary and were circumspect, at best, about the ethos of community policing. What RJ supporters shared in common, more so than an ideological discourse, was a skepticism about the criminal justice system and an anecdote or two illustrating its failures and shortcomings. Thus, rather than being driven by espoused ideals of justice, police support for RJ appeared primarily to be grounded in each officer's unique experience of practical problems, and how s/he made sense of those problems.

Officers who described the structural constraints of the judicial system as problematic frequently identified RJ's primary strength as being that, "it's *not* the criminal justice system." These officers described RJ as "an alternative" and as "one tool" they had at their command; the VRJ option, it seems, provides some relief for those charged with fighting crime while uncomfortably restricted by the tight pants of bureaucracy. Thus, for those frustrated by problems related to bureaucratic structure, VRJ served as a resource for strategic action.

When accounting for their support of RJ, several of the veteran street cops described going through a similar learning process, wherein, in Officer Martinez's words, cops transition from holding an "idealistic" attitude where they think, "my job is to go out there and get the bad guys and lock them away and keep our victims safe" to a more "realistic" understanding of the limited capacity of the jails and criminal justice system. The following story illustrates this point:

Before I became a police officer, you'd think, ok someone gets arrested for a crime, they're gonna do their time, and then you realize pretty quickly that that's not the case. For most cases, I should say, I mean, if it's a serious enough crime, even if it's their first offense, they're gonna, you know, suffer the consequences, but I always kinda thought,

yeah, you got arrested, you're going to jail, and then realized pretty quick that's not the case, and then you start seeing that revolving door, and it's like, wait a minute, I just arrested this guy yesterday. And now I'm here again on another call, another conflict, I'm gonna arrest them again and you know they're getting out before you're even done with the paperwork. So you can see that it's not working to the efficiency that I guess, from a citizen standpoint that, before I became a police officer, that I would expect it to work, or thought it did...so it's kind of eye opening, definitely changed my view on it, and then you know with the plea deals that are made, and if we're gonna operate, if prosecutors didn't have the ability to make the plea agreements, our court system would be so bogged down that it would be inefficient. But you know, you got someone on 4 or 5 felonies, and you looked at, they plead guilty to a minor offense that had nothing to do with the case, uh, you know, from an officer standpoint you're like, wow I just spent all that time in that investigation, and then from a victim standpoint, too, you're like, wait a second I was victimized, and, ok, this person got 2 years' probation, and what does that mean to me?

Officer Martinez concluded, "You just have to understand, and it took me a while to realize the system, and that's why I support RJ so much, because it's in lieu of the system."

When describing the problems RJ helped to solve, several officers recounted troubling situations in which they had contacted "good kids" who had "just made a mistake" or done "something stupid," whom they did not want to "send to the criminal justice system" because they felt that the suspects did not deserve or would be unduly harmed by jail time and/or a permanent criminal record that limits prospects for licit employment. Additionally, officers noted that the safety and justice bureaucracies that circumscribed their work problematically

used a “one-size-fits-all” approach that could lead to irrational and inefficient outcomes in many cases. In Officer Martinez’s words,

From a police officer standpoint, sometimes you’re encountering someone where, just through your conversation with them you know, wow, this is a good person, this is a good person who made a dumb decision, made a mistake, and you understand how the criminal justice system works, and you understand how once they’re in the system, that’s gonna follow them around for the rest of their life. And so to be able to have a program that still holds someone accountable—and in a way holds them more accountable than the criminal justice system does, depending on what the charge is—and allows them to kinda get out from underneath that umbrella, make it right, and be able to move forward with their life without continuously having that come back and bite ’em, to me, that just, you know, in some cases it’s a no-brainer and I’m glad we have that available to us.

When recounting how he promoted RJ to other police officers, Officer Blackford described the same dilemma, and explained how RJ can be used to address it:

There’s absolutely times when people need to go to jail, and we’re not saying not to send those people to jail, ’cause that’s why those people go to jail. But everybody in this room—’cause I was talking to a room of officers—everybody in this room has had a case where you’re like, “wow, I really don’t wanna send this person to jail. But I don’t have any other options. I can’t give them a warning; the victim wants something done; jail’s not the right place for this person, I know that, but I don’t have any other options.” This is your other option.

Similarly, Sergeant Hicks explained the purpose and benefits of RJ by describing a situation for which RJ would have been a “perfect” solution, had the program been around at the time:

We have a man who was probably my age now, who got into a confrontation with some punks that, I think it was a softball game, and they were just being little turds, like sometimes teenagers can be, and this guy got out of his car with a softball bat and he menaced them with it, more along the lines of, you know, “straighten up, fly right, or I’ll bash your head in,” not really intending to do it, but nevertheless, by the letter of the law, as soon as one of those kids says, “I was in fear for my life,” or “I was afraid I’d be seriously injured,” all of a sudden this guy’s looking at a felony menacing charge. And this guy’s not a hardened criminal, it’s dubious as to whether he really had serious intent but, um, you can’t just blow it off either, ’cause it was irresponsible behavior. And in that particular instance, I actually called this dude’s attorney ’cause it was a mandatory he’d go to jail kind of thing. Um. We have things that you call arrest determinants, and certain offenders have to go to jail and it’d have to be the [Vista] County Jail where they have to go through the bonding process through the bond commissioner’s reviews; actually have certain conditions put on their terms of release, like no contact with the victim, no alcohol things like that; things that are intended to keep them on the straight and narrow after they’re released or, if not, helping them, at least giving the system a handle on which to grab them and put them back in. And nonviolent crimes, generally speaking, your Class 4 or 5 felonies, typically don’t require a trip over there but a count of violence does, and felony menacing fit that criteria, and it was like on a Saturday, too, and it might’ve even been a three day weekend, so it was the kind of deal where this guy was gonna be locked up for a couple days and that wasn’t necessary; it was a waste of resources it would certainly add a lot of stigma to him and so I called up the DA [district attorney], and he said...something like, “book and release him with charges pending and

then uh tell him to contact our office Monday or else we put out a warrant for his arrest.”

Something like that. And so it was a workaround, but RJ would’ve been perfect for that.

These anecdotes provide insight into how police officers experience a fundamental dilemma of organizing: the tendency of structure to take on a life of its own and replace or displace human agency, possibly becoming a stumbling block for actors pursuing the goals that inspired the structure in the first place. Ironically, structures put in place to support a process can become calcified and inflexible, and undermine successful performance of that process, creating what Stohl and Cheney (Stohl & Cheney, 2001) called a *formalization paradox*. Thus, organizational members find creative ways to manipulate structure, working with, around, or against it, as did the district attorney and the police department in the instance described above. In Sergeant Hicks’s story, RJ is cast as yet another “workaround” that allows officers to circumvent legal or procedural requirements (e.g., “arrest determinants”) and insert their own agency and discretion into the judicial process.

Inflexibility and uniform adherence to standard operating procedures greatly diminishes the role of “professional expertise” in safety and justice, and requires that complex situations be simplified down to the several variables deemed relevant for determining the standard response. Certainly, mandating the same response in a diverse range cases is bound to produce irrational results at least some of the time; and a few officers remarked that RJ succeeds because “it’s not one-size-fits-all” and allows stakeholders in a given offense to tailor the justice response according to their needs. Despite the importance and value of flexibility, the thought of police officers being able to divert from the judicial process whatever suspect they may deem undeserving of criminal justice is alarming, as it undermines the philosophical foundation of the U.S. justice system—that “justice is blind”—and builds in an opportunity for differential (i.e.,

discriminatory) treatment of suspects. Yet, organizational members find workarounds because of legitimate needs and real problems, and the ideal of “blind” justice is not an attainable goal (nor is it necessarily desirable, according to RJ theory) for a system comprised of human actors that more closely resembles an ecosystem than a machine (according to the insights of complexity theorists; see, e.g., Dent, 1999).

Because it attends to the actual dilemmas organizational members experience and the situated ideals that guide their responses, GPT is a more effective tool for cultivating just, equitable, and restorative judicial practices than is ideal theorizing. An ideal theory approach to the problem of officer discretion potentially exacerbating relationships of privilege and oppression might prescribe a tighter organizational structure to restrict pre-judicial discretion. A GPT analysis, however, foregrounds the needs and experiences of the people engaged in the practice, and in this case supplies the insight that tightening the bureaucratic straightjacket that officers find so burdensome and problematic will not address the felt difficulties that give rise to problematic strategic actions.

To summarize, officers valued RJ as a novel approach that promised to mitigate some of the challenges of the bureaucratic structure of the criminal justice system; they saw it as a particularly valuable alternative in cases that require a harsh response by the letter of the law, but that do not, in the officer’s judgment, actually warrant the course of action that arrest determinants mandate. Some officers also suggested that RJ potentially holds offenders more accountable than other criminal justice options and reduces recidivism. Many were adamant that the threat of being referred back to the courts gives the RJ program “teeth.” Because disillusionment with the criminal justice system inspires support for RJ, some RJ-championing officers feared that, through institutionalization, RJ might gain the world but lose its soul; as one

officer put it, “you don’t wanna lose all the good aspects of RJ...make it where it’s rigid and standard, and you know. Just another piece of the criminal justice system, just like probation, or you know, all the other, deferred, uh, yeah.” Thus, many officers viewed RJ as a valuable option for addressing dilemmas that arise when policies and procedures of the safety and justice bureaucracy conflict with officers’ personal and professional judgments. I now consider what situated ideals make RJ an appealing alternative to the problems of bureaucratic structure.

“It’s not the criminal justice system:” Philosophies that legitimize the use of RJ

Philosophies related to justice, desert, and criminality, combined with views on the technical and theoretical limitations of RJ and the criminal justice system, informed officers’ choices about RJ referrals. To begin, although one officer explicitly equated referring offenders to RJ as “cutting them a break,” several others claimed that RJ holds offenders more accountable than the criminal justice system and results in lower recidivism, because it demands moral and social engagement and/or provides “more repercussions” for offenders than does, for example, getting a ticket and “just writing a check.” Additionally, some officers reported that RJ supports community involvement and victim satisfaction through a dialogical process. One officer observed that victims typically “come on-board” with an RJ referral after they learn that “they’re gonna be able to tell the person how this made ’em feel [...] Because they do wanna tell that person...this is how that, what you did to me made me feel.” The implicit assumptions in these accounts of RJ’s advantages are that justice requires learning and accountability, and judicial interventions ought to compel offenders to understand and attend to the harm they caused. Notably, both of those goals are accomplished communicatively. Overall, the assumption that RJ is strong where the criminal justice system is weak—and vice versa—undergirded much RJ-championing discourse. The failure of the criminal justice system to consistently hold offenders

accountable, prevent recidivism (either through effective education or lengthy detention), and satisfy victims inspired officer support for RJ, and suggested some level of adherence to the belief that justice is a communicative accomplishment.

Next, those officers who viewed RJ as a much-needed alternative to the criminal justice system often invoked notions of desert in their accounts of when and why RJ is appropriate. On some occasions, officers explicitly stated that RJ was an option for “good kids” or “good people” who did not “deserve” the criminal justice system, and in other cases, notions of desert were implicit in talk that framed some actions as “mistakes” and others as “crimes.” In the world constructed in the interview discourse, “hardened criminals” commit *crimes*, while good kids/people make *mistakes* or “do something dumb.” Various characteristics distinguished *good people* from *criminals*. First, good people tend to be first-time offenders, while those who “already had a chance and blew it” were generally considered undeserving of another chance. Second, good people make understandable mistakes—as Officer Martinez put it, “everyone’s done dumb stuff that has been wrong; I was lucky enough not to get caught... that’s the only difference between me and somebody who got caught”—whereas criminals are less relatable. Criminals never seem to learn their lesson, perhaps because, as Officer Edstrom suggested, they come from “bad” families. Similarly, good kids were occasionally described as college-bound, “straight-A students,” and/or as having attentive parents and good family role models. Finally, good kids are reachable and correctable, whereas hardened criminals are either more difficult to reform, or are hopeless cases; they may lack parental supervision, model their behavior on criminally involved family members or peers, occupy a cultural context in which serving jail time earns “street cred” (as is the case in many gangs), or otherwise lack the resources and motivation necessary to repair harm and change their behavior patterns.

Undoubtedly, the labeling of suspects as relatable and good as opposed to criminal and hopeless is influenced, at least to some extent, by racial, ethnic, class, or other identity group based bias (however subtle or unconscious it may be). Even assuming, hypothetically, the absence of personal biases and the omnipresence of antioppressive intentions on the part of police officers, the *good kid* referral criterion (and perhaps the whole practice of placing RJ decisions in the hands of one person) still, undeniably, introduces the possibility that RJ could exacerbate social inequity by operating as an escape hatch from the criminal justice system for privileged offenders. Consider, for example, that the ability to communicatively perform regret and responsibility-taking requires cultural capital (see Bourdieu & Passeron, 1977), and individuals who fear or distrust the police and/or are accustomed to the adversarial vocabulary of the legal system are clearly at a disadvantage when “auditioning” for the *good kid* role in an interaction with a cop. Investigation into what aspects of suspects’ communication serve as heuristic cues for RJ decision-makers would shed light on the assumptions and biases (which can be understood as a kind of situated ideal in their own right) that guide referral decisions.

Conclusion

The analysis of the data obtained in this study suggests that officers generally regarded the VRJ program either as a problematic imposition that left them with no choice but to (appear to) comply, or as a tool that loosened the straightjacket of formal legality and allowed them to facilitate better justice outcomes by referring appropriate cases and (for some officers) participating in circle processes. RJ skeptics were troubled by what they perceived to be a simple contradiction in managerial efforts to mandate voluntary participation among the rank-and-file. Having perceived a mandate to make referrals while at the same time viewing VRJ as a juvenile-specific, limited, and perhaps even “cute” or “feel-good” program, some officers coped

by changing their arrest practices—namely, seeking out small-time offenders (ideally in high numbers) to refer. Officers regretted and resented making superfluous arrests, but viewed that practice as the only way to cope with the double-bind imposed on them. A lack of confidence in VRJ's capacity to administer justice and reduce risk was apparent in some officers' stated preference for escalating trivial, otherwise non-ticket-worthy offenses to refer them to RJ rather than maintaining the same arrest practices and diverting some of those cases into RJ.

On the other hand, officers who appreciated and praised VRJ used RJ referrals as a strategy for sidestepping problems of the criminal justice system and reclaiming agency within an impersonal bureaucracy. These officers shared certain ideals and beliefs that made RJ an attractive option for a limited range of cases. They valued the professional judgment of street cops and held broader views on police work that included some role in the administration of justice (as opposed to just law enforcement), they held learning and accountability to be important features of justice, and they viewed the criminal justice system as inadequate for achieving these aims.

Both groups (i.e., skeptics and supporters) described RJ as being best suited for petty, juvenile, and first-time offenders—in short, “good kids” who “deserve a second chance.” Implicit criteria including ease of getting a case into the VRJ program, likelihood of completion, and assessment of what the offender “deserves” or “needs” also guided referral practices. The following chapter discusses impacts and implications of the referral practices reported here

Chapter 5

Discussion and Conclusion

The purpose of this study was to explore how tensions of RJ institutionalization are experienced and managed by the rank-and-file police officers who act as the gatekeepers of an RJ program, and to shed light on how the management of those tensions shapes the symbolic universe of justice. A central question, both for practitioners and scholars, has been whether RJ can be institutionalized and become (part of) the normal way of doing justice without being severely compromised and stretched beyond recognition. If RJ is defined by flexibility, particular/local (stakeholder) control, and moral aims that privilege affect and discursive processing over efficiency and uniformity, then is the very essence of formal legality hostile to RJ itself, such that institutionalization will inevitably amount to a cooptation of RJ by state bureaucracy? To gain a better understanding of what happens when contradictory logics collide, this study used GPT techniques to examine the problems, strategies, and philosophies at play in the development, habitualization, and legitimization of RJ practices in a law enforcement organization. In addressing the questions, *How do rank-and-file officers experience and manage tensions of RJ administration?* and, *How do police referral practices (re)constitute the symbolic universe of justice?* it has revealed how officers' referral practices both reflected and produced ironies of institutionalization. Most strikingly, the data show that RJ implementation led to superfluous arrests and opened an ambiguously accessible escape valve from the criminal justice system, creating the potential for RJ to (a) act as a net-widening mechanism that brings more people in contact with criminal justice apparatuses and (b) become a boon to social disparities and institutional racism and classism. The first irony can be traced, in large part, to a managerial

message perceived as a double-bind: “you don’t have to but you have to,” which illustrates a paradox of control, and provides a rather stunning example of how bureaucratic tendencies toward alienation, hierarchy, and calcification can produce self-defeating irrationalities. Meanwhile, the second irony illuminates the value of the bureaucratic ideal of situation-blind justice and centralized control as a means of reducing opportunities for bias and differential (i.e., discriminatory) exception-making. Thus, the findings affirm both “the likelihood that few organizing tools are inherently liberating or oppressive” (Ashcraft, 2006, p. 75) and the importance of cultivating hybrid forms that meaningfully revise bureaucracy without disposing of both baby and bathwater. This chapter explores possibilities for intentionally cultivating RJ as a form of organized dissonance. I begin by answering the second research question (as the first question is answered in the results section), arguing that police referral practices reconstitute the meaning of RJ and reshape the symbolic universe of justice in problematic ways. Next, I analyze instances where VPD practice fell short of merging opposing logics to achieve contradictory aims and compare those to Ashcraft’s (2006) case of successful organized dissonance to highlight differences in organizational communication (specifically with an eye toward control messages). This exercise extends Ashcraft’s work by painting a more detailed picture of dissonance and the practices that facilitate or impede its organization. I conclude by discussing some additional theoretical implications and considering what the study suggests about the prospect of a broad-based restorative turn in criminal justice.

Implications of Referral Practices for Restorative Goals and the Symbolic Universe of Justice

When viewed in isolation, superfluous arrests are a logical response to a situated dilemma. In the bigger picture, however, the strategy makes VRJ an instrument of one of the

problems it is intended to solve and turns the skeptic's vision of RJ as an (over)reaction to trivial offenses into a self-fulfilling prophecy. In RJ circles, participants often discuss how the offender's actions had a ripple effect, harming many more people than the immediate victim, and reverberating into the broader social fabric of the community. Each time resources are dedicated to convening a conference where participants struggle to identify the harms and obligations that result from, say, teenagers failing to leave the park by curfew, it is not just the families, volunteers, grant-funded professionals, and off-duty police officers (being paid overtime to attend) who are, to use Officer Edstrom's words, "jammed up." Although such a conference could potentially benefit the offender and his or her family, my data suggest that, more often, everyone involved—including VRJ staff—regards it as an absurd waste of time and money. Beyond consuming limited resources, trivial conferences risk trivializing RJ in the eyes of various stakeholders by making a mockery of a communicative process that has the potential to (and often does) restore the balance of justice and build safer communities through respectful dialogue and stakeholder empowerment.

A member of the state RJ coordinating council explained that her vision is to make restorative values and practices a cultural norm and an institutional standard. Although he expressed disappointment about police reluctance to use RJ for a wider range of cases, he remained optimistic: "if we can start with kids, great." Indeed, juvenile corrections is a good starting point for RJ; the "good kids only" criterion, however, is problematic to the extent that it contributes to the outcome of RJ to draining safety and justice resources by directing them toward the most well-resourced, lowest-risk, and lowest-needs individuals. Another cause for concern is the way in which using RJ mostly for crimes with no direct victim (e.g., minor in

possession, curfew violation) (re)conceptualizes the approach as an intervention on behalf of the offender, thereby potentially diminishing its capacity to serve and protect victims.

Practical Implications

What would it take for RJ lose the kid gloves and extend opportunities for restorative dialogue to a diverse population of victims and offenders? When I posed this question to a member of the state coordinating council and asked also about the relationship between VRJ's technical capacities and police willingness to refer higher-risk cases, he remarked, with a hint of exasperation, that the partnering organizations cannot learn the technical limitations of RJ if officers refuse to refer cases that would test the limits. Thus, when it comes to getting different kinds of referrals, it seems CJC faces a classic dilemma: you need a job to get experience, but you need experience to get a job. The preceding analysis at least points to one idea about what *not* to do in response to that frustration: imploring the police department to refer more cases is liable to bring more trivial offenses onto the RJ case load.

The problem and technical levels of analysis point to several deeper causes of problematic RJ outcomes, including: an organizational power structure that limits opportunities for metacommunication, a paradoxical need—endemic to any effort to enhance employee engagement—to compel voluntary participation (Stohl & Cheney, 2001), perception of the resulting tension as a double bind (Tracy, 2004), and subsequent engagement in strategies of neglect or determined ignorance (Stohl & Cheney, 2001). The philosophical level of analysis, however, provides the best clues as to where to direct human effort to cultivate practices that advance the goals of RJ proponents. Given that the luck-of-the-draw dilemma only makes sense in light of the narrow espoused referral criteria, and that VRJ's technical limitations are a barrier to expanding those criteria, VRJ's capacity to supervise higher-risk offenders and enforce

compliance (e.g., with restitution payments) through intermediate sanctions (as opposed to turning the case over to the courts) may be a good target for intervention.

In the case of VRJ, I imagine that mobilizing the power and legitimacy of the legal system to support collection of restitution and offender supervision and accountability would go a long way toward addressing the perception that public safety is compromised when higher-risk offenders are referred to RJ. However, by acquiring those authoritative capacities, VRJ would come to resemble probation, and would be exercising state power; thus, it would need to be subjected to the legal formality that (at least in theory) keeps state agencies legitimate and accountable to the people through a system of checks and balances. Understandably, RJ-championing VPD officers and other RJ advocates are weary of the prospect that RJ might fall victim to Burke's "bureaucratization of the imaginative." As Officer Blackford explained,

[Expanding the use of RJ] is definitely gonna be a challenge. It's great because the laws get the funding and stuff, which you need to have, but then you start running to these types of issues about, you don't wanna lose all the good aspects of restorative justice, and like you said, institutionalize it, make it where it's rigid and standard, and you know, just another piece of the criminal justice system, just like probation, or you know, all the other, deferred, uh, yeah.

This is a valid concern that captures the dilemma at the heart of the institutionalization and new informalism debates. This study, however, echoes other calls in the literature (e.g., Fitzpatrick, 1988; Henry, 1985, 1987) to move away from a preoccupation with questions of corruption and cooptation. For one, it calls into question the extent to which RJ retains its integrity and good aspects even when it is positioned as an alternative to the criminal justice system that is housed in the independent sector. In other words, the notion of a pure, (semi)autonomous form of RJ

that hovers in the background of certain critical accounts of institutionalization is romantic, idealized, and ultimately, chimerical. It is certainly reasonable to worry that, through institutionalization, RJ could gain the world and lose its soul; however, it seems also to be the case that, by standing apart from the system, RJ practice can remain marginal and still lose its connection to restorative principles.

Nonetheless, RJ advocates have reason to be optimistic. Irony and irrationality are par for the course in any collective human endeavor, and much research suggests that organization members can and do find productive ways of strategically engaging tensions and merging opposing logics to meet contradictory aims (Ashcraft, 2006). Such a feat cannot be accomplished, however, by reducing tensions to simple contradictions and posing solutions that erase or obscure paradoxes. Thus, my suggestion is to resist the temptation to quarantine RJ by positioning it as the friendlier, better, kid-centered (but limited) approach in a dual-track model. The best hope for achieving a restorative turn in criminal justice administration comes from engaging RJ and formal legality as a dialectic and resisting discursive closure in the face of the many paradoxes that vex RJ institutionalization. More to the point, successful institutionalization requires that opposing logics be thoughtfully and strategically merged to support the simultaneous pursuit of contradictory goals; in other words, it requires organized dissonance.

Notably, the data reported here do contain instances of officers strategically playing restorative and retributive practices off of one another, for example, by using the threat of criminal charges (i.e., a ticket or summons) to motivate participation and compliance with RJ. In this way, retributive logic (i.e., the threat of inflicting pain) presumably provides the “teeth” needed to make RJ possible. Absent such recourse to the state’s coercive power, RJ would be

impotent, according to many officers who therefore favored a dual-track rather than an integrative model of restorative and retributive/rehabilitative justice. Certainly, coercion is a necessary aspect of justice administration; “voluntary” participation in RJ always occurs within a context of limited formal alternatives and various forms of informal social control. However, quarantining RJ as a separate track and encouraging offenders along it by referencing the dark and ominous path they will find themselves on otherwise is not the only way to compel compliance. The dual-track model does fulfill certain ideological needs or desires by allowing RJ to play the “good cop” and maintain a semblance of “pure,” non-state, community justice. The problems of such a set up are exposed in Henry’s (1984) research, which, as previously explained, demonstrates that even semiautonomous pockets of “private justice” are subject to many of the same ironies and contradictions as formal legality. The ironies exposed by the present study support the same conclusion: paradoxes inhere no less in CJC than in state bureaucracies. Although one could argue that the cross-sector collaboration between CJC and the public police department is the source of the self-defeating practices discussed in this study, research conducted in single-sector and single-organization contexts (most notably Ashcraft, 2006; Henry, 1984; Stohl & Cheney, 2001) suggests that many paradoxes and contradictions arise directly and inevitably from the structure–action relation that characterizes human organizing. The complexity of the confluence of contradictory logics that occurs around VRJ provides excellent fodder for reflection on the seemingly unbounded nature of certain dialectic tensions. Engaging in such reflection also clarifies some ontological implications of this study.

Ontological Implications

Notably, parallel tensions of institutionalization occur in multiple contexts simultaneously; contexts include organizational control, interorganizational coordination and

control, and broad-based social control (i.e., the mission of criminal justice). Interorganizational tensions are seen in the collaboration between VPD and CJC, which practice different organizational forms. The former is a paramilitary bureaucracy and the latter, like many nonprofits, espouses some commitment to “counterbureaucratic” ideals (see Deetz, 1992). CJC itself is an ambiguous hybrid rich in the contradictions of postbureaucracy; for example, it practices hierarchy while touting participation and strategically performs a commitment to value rationality before an audience of funding agencies, and thereby engaging instrumental rationality in the face of a survival imperative that becomes an end in itself. Thus, VRJ is a collaboration constituted by organizations practicing bureaucratic and (quasi)postbureaucratic forms. At the same time, institutionalizing RJ more generally requires that opposing needs be met simultaneously; for example, RJ must be implemented in a way that is flexible enough that various judicial districts can tailor it to their needs and exercise local control, and it also needs to be centrally controlled and governed by some kind of universal standard so that the concept retains its integrity rather than being stretched beyond recognition.

Paradoxical aims inhere in the police organization as well, as seen in the case of “voluntelling” where rank-and-file officers are, in a sense, required to choose to make RJ referrals. At the heart of that paradox of control are twin needs for central/universal control and discretion/particular control. Clearly, contradictory aims are present in the interorganizational collaboration and in organizational practices involving, for example, control, participation, and formalization. Additionally, as RJ is integrated into criminal justice practice, it is increasingly instrumentalized and subjected to the risk-control imperative that characterizes capitalist legality. RJ thus comes to face the same demands for efficiency and results imposed on all public-sector criminal justice practices. Incessant (and, according to Daly, 2002, perhaps futile) efforts to

demonstrate that RJ effectively reduces recidivism are a result of RJ being subjected to instrumental rationality in the criminal justice system; to survive in in the public sector, RJ must brand itself as an “evidence-based practice” despite its process-based ideal and committed to moral rationality. Thus, RJ in the public sector must achieve both moral and instrumental aims.

Another canon of formal legality in tension with RJ is the imperative for equal treatment under the law. The RJ principles of stakeholder control and particularism often mean, in practice, that two offenders who committed the same crime could go into two different RJ circles and come out with two very different contracts. Thus, justice itself (i.e., legalistic social control) requires both universal/central and particular/local control. This list is far from exhaustive, but it shows that the VRJ program is a site of confluence where multiple, contradictory logics converge. Tensions mirror one another across multiple contexts: RJ practice aims to increase stakeholder control over conflict resolution and criminal justice, and the introduction (or imposition, depending who is asked) of RJ into police practice engenders tensions between paradoxical needs for rank-and-file discretion and particularism, on the one hand, and managerial control, on the other, to “mandate discretion” when officers do not choose participation.

That tension between bureaucratic and postbureaucratic organizational control at VPD is concurrent with a tension between restorative/particular–formal-legalistic/universal social control in the symbolic universe of justice is noteworthy. *Safety* and *justice* are the telos of law enforcement and criminal justice practice. Conventional wisdom suggests that VPD process and organization are means to an end; bureaucratic and postbureaucratic practice are tools/methods for achieving superordinate goals (in this case, safety and justice). The parallelism between tensions of social control (i.e., justice) and tensions of organizational control is not necessarily surprising when considered from the perspective of integral plurality, which views formal and

informal modes of social control as mutually dependent. It does raise the question of whether a postbureaucratic form of justice could be implemented by strictly bureaucratic means, which does more to highlight the limitations imposed by organizational ontologies premised on container and machine metaphors. The container metaphor problematically implies that VRJ is distinct or distinguishable from its “product;” similarly, the machine metaphor implies that VRJ performs a function such that process and outcome are related but still distinct. These assumptions impose boundaries that isolate organization members’ practice from the symbolic universe of justice (a tenuous choice considering that justice is the telos of the organization) and that sharply delineate means and ends. Such delineation is indefensible under the rubric of Berger and Luckmann’s (1966) theory of institutionalization. Instead, the parallel tensions I have highlighted in this case of RJ institutionalization depict a flatter social world in which form and function collapse in on each other, making it increasingly difficult to separate degrees of formality and organizational, interorganizational, and conceptual/symbolic contexts onto vertical “levels” of social order. Thus, this discussion proceeds under the assumptions that means and ends are mutually constitutive (see Dewey, 1938) and that the practice of organizational form is not circumscribed by the boundaries of the organization (however ambiguous and mutable they may be). Rather, postbureaucratic hybridization is relevant to organizational control and broad-based social control, in part because those categories are artificial (though not inconsequential). In the next section, I characterize VPD members’ practice as just plain dissonance rather than organized dissonance as I consider obstacles to, and opportunities for, organizing dissonant practice.

Organizing Dissonant Practice (Or, Putting the “Organized” in “Organized Dissonance”)

“RMS,” the feminist organization studied by Ashcraft (2006, p. 78), which “invoked bureaucratic tools to revise feminist control,” provides the prime model for what RJ-as-organized-dissonance might look like. RMS members engaged with the tensions of homogeneity–heterogeneity, obtrusive/universal–unobtrusive/particular control, and instrumental–moral aims in part by formalizing their feminist commitments in a “living document” that articulated “non-negotiable” values of the organization. The apparent ironies of feminist-bureaucratic control in this case did not amount to “collective schizophrenia” but rather “established a working relationship between ostensibly opposed forms,” because “RMS’ version of formalization at once adopted and revised bureaucratic control” (p. 77). Specifically, Ashcraft showed how RMS members revised bureaucratic tendencies toward sedimentation, hierarchy, and universalism in several key ways, which are at least hypothetically (though not easily) achievable in a criminal justice context if the VPD case is broadly representative.

First, RMS members mitigated the formalization paradox (as described by Stohl & Cheney, 2001) through a “commitment to *living* rules, *problematized throughout* their life” (Ashcraft, 2006, p. 77), meaning, “complex situations and member complaints often rendered rules suspect or void, while routine sarcasm mocked infatuation with rule-enforcement, supporting the norm that no formal rule is sacred” (Ashcraft, 2006, p. 77). Thus, features of organizational culture at RMS guarded against the tendency for rules to become “revered as an end in themselves” (Stohl & Cheney, 2001, p. 361). In stark contrast to the cultural norms around rule following and enforcement that Ashcraft described, a paramilitary culture that discouraged dissent, questioning, and metadiscourse (i.e., talk about talk) was evident in VPD officers’ framing of such forms of communication as “arguing,” disobedience, or lack of commitment. Paramilitary culture likely accounts for many officers’ preference for intra-rank

coping (i.e., muddling through) over risking inter-rank metacommunication that might be perceived as inappropriate, and thus is linked directly with the goal-defeating practice of superfluous arrests. Yet, the stated intention behind the managerial message that was interpreted as “you don’t have to but you have to” was to create the kind of living rule that would codify an intention but flex to accommodate context and complexity. Why did VPD managerial communication fail to convince the rank and file that the rules were more like flexible guidelines, while the RMS document succeeded? “Cultural difference” is a terribly vague answer to that question, but it usefully directs attention away from management and confirms that “organizational form” is diffuse and alive in practice, and ought not to be characterized as a structural phenomenon.

In addition to committing to *living* rules, RMS “members prioritized the *collective generation* of policy,” which responded to a bureaucratic experience that police officers are undoubtedly quite familiar with: “The (temporal, physical, hierarchical) distance between a rule’s origin and application is such that the rule feels incontestable (as in, ‘I didn’t make the rules; I just enforce them’)” (Ashcraft, 2006, p. 77). In practice, this meant that “most RMS members, even volunteers and clients, could participate in policymaking; and when a rule elicited grumbles from those who missed its origins, it was likely time to revisit” (Ashcraft, 2006, p. 77). It is possible that the introduction of VRJ spurred some revisions along these lines at VPD, although my data provide no information about VPD policymaking practices prior to VRJ. The data do suggest, however, that “grumbles” from the rank-and-file influenced policy; most notably, the command staff’s insistence that there was no RJ quota reflected an acknowledgement and responsiveness to rank-and-file concerns. Yet, officers’ senses of efficacy (i.e., a feeling that one can make a difference in shaping organizational processes and outcomes)

varied greatly; those who engaged in the most problematic coping strategies seemed to view themselves as casualties of bureaucratic irrationality rather than as agents. The officer with the greatest sense of efficacy—demonstrated in part by his use of “we” rather than “they” language when talking about policy change (e.g., “we need to...” vs. “they should...”)—served as a liaison officer and was “at the table” for CJC policy conversations; and that table was literally and metaphorically located at CJC. The link between RJ support and feelings of efficacy suggests that collective policy generation (or at least perceiving the opportunity for it) does indeed have the potential to counteract bureaucratic experiences of alienation, and the self-defeat they often engender. It is also exceedingly clear that collective generation of policy comes with its own set of challenges, paradoxes and ironies (see Stohl & Cheney, 2001), and that managerial efforts to increase worker participation can backfire spectacularly. Managerial communication aimed at making room for discretion and flexibility in VPD policy was interpreted—within the frame of paramilitary, bureaucratic conventions and expectations—as “voluntelling,” a term which colorfully describes a uniquely “postbureaucratic” experience of bureaucratic alienation.

Missing at VPD but present at RMS were two crucial ingredients for meaningful (as opposed to merely cosmetic) revision of bureaucratic control: transparency and metacommunication. Some insights from family communication scholars are helpful for theorizing the possible connections between bureaucratic control, transparency, and metacommunication. In particular, Hoffman’s (1963) well-known theory of parental discipline usefully distinguishes three types of control messages: *power assertion* (e.g., “because I said so”), *love withdrawal* (i.e., strategically withholding affection), and *induction*, which involves transparently explaining the need or rationale behind a control message (e.g., “because I don’t want you to spoil your appetite before dinner”). Parental use of induction messages is associated

with greater compliance, more prosocial behavior, and more secure attachment in children (see, e.g., Eisenberg & Mussen, 1989; Krevans & Gibbs, 1996; Staub, 2013; Zahn-Waxler, Radke-Yarrow, & King, 1979). Although an analogy to parent-child relationships carries some unfortunate political and emotional connotations (manager-as-parent and bureaucratic paternalism are not images I wish to endorse), Hoffman's framework nonetheless provides a good starting point for discussing organizational control messages and how they relate to member practices.

Viewed through the lens of Hoffman's (1963) theory, managerial control messages that treat rules as an end in themselves—for example, by treating “avoiding punishment” as a rationale for compliance—would be categorized as power assertion strategies. Love withdrawal might be analogous to managerial use of praise and recognition as a control tactic, as illustrated by a VPD management cop's remark that officers who referred a significant number of cases to VRJ would be rewarded with a “pat on the back from the sergeant” in their performance evaluation. Induction, then, would involve transparent communication about the managerial goals that policies were intended to support, ideally accompanied by ongoing metacommunication about means and ends.

Rank-and-file officers could all articulate the rationale management supplied for embracing VRJ (e.g., it reduces recidivism), and the officer support and participation inspired by that reasoning may be understood, in part, as a product of inductive control. None could articulate the paradoxical set of needs that the “voluntelling” message was intended to serve, which suggests a deficit of *metacommunicative* transparency. Furthermore, a lack of inter-rank communication about the impact and viability of policies and managerial control strategies in turn undermined the viability the primary inductive control messages supplied by management.

That is, RJ skeptics who made superfluous arrests knew better than to buy into the claim that RJ reduces recidivism, because they knew they were “referring the kids who never would have reoffended anyway.”

In contrast, RMS members’ apparent success in using collective generation of policy to counteract bureaucratic alienation seems to have been accomplished in part by effective use of inductive control messages. A comparison the two organizations reveals a need to distinguish between two subtypes of inductive control messages, which I will call inductive-open and inductive-closed because the former creates discursive opening and the latter accomplishes discursive closure. VPD managers used inductive-closed control messages, which supply explanations or justifications for managerial choices and end the discussion there. Inductive-open control messages, used at RMS, answer the *why* question by citing the original rationale and inviting further discussion. Inductive-closed messages do mitigate the bureaucratic experience of alienation to some extent by creating transparency (even if it is muddy transparency): Managerial choices are justified and explained in a way that potentially makes policy seem less arbitrary. Inductive-closed control does not stray very far from bureaucratic power arrangements, but it does move away from infantilizing, “because-I-said-so” style managerialism; including a rationale when introducing policy communicates greater respect for the message recipient’s intellect.

Inductive-open messages also justify and explain policy, this time with a posture of openness to feedback and revision. By creating discursive opening, this kind of inductive control approaches postbureaucratic, participatory ideals but potentially risks throwing out the baby with the bathwater by depriving organizations of some beneficial aspects of bureaucracy. Structure (in this case, policy) acts as a substitute for communication and thus facilitates progress and

efficiency in a way that is analogous to language itself—imagine, for example, how cumbersome (perhaps even impossible) the present discussion would be if terms like “RJ” and “structuration” were not allowed to stand in for their referents and become taken for granted (like words, policies are bracketed, condensed conversations). Similarly, RMS members found their work encumbered when they had to have the same conversations and debates over and over again, which is the problem that inspired their list of “non-negotiables.” Certain assumptions needed to be taken for granted so that they could move on with their work. Thus, a policy that is *too* “alive” and too open for discussion is self-defeating, such that the word “policy” is an inaccurate label for it. Inductive-open control messages can effectively hybridize bureaucratic and postbureaucratic forms to accomplish contradictory aims if they invite *bounded* conversation. Some metaphors can help clarify the subtle but crucial features of inductive-open control that falls somewhere in between the poles of too open (and thus inefficient) and too closed (and thus alienating), and to summarize the insights gained by applying this framework to organizational communication.

First, consider that inductive messages can serve to punctuate conversations in at least three ways: Inductive-closed messages act like a period on the end of a sentence—a sentence spoken, most likely, by a manager. Such messages reference and perhaps expose the foundations upon which structure is built, and they do so in a way that takes the integrity and solidness of those foundations as a given. Inductive-open messages that fail to support hybridization act like a question mark on the end of a sentence: They present the sentence as an open quandary and invite (or mandate) a response. This type of message offers up the foundations for prodding and reconfiguration, and constant shifting and jiggling may prevent participants from building anything on those foundations. Inductive-open messages that do support hybridization and the

achievement of contradictory goals end the sentence with an ellipses. A sentence that ends with an ellipses is assertive and humble at the same time; it invites further comment without undermining itself. In this case, the foundations are exposed, dusted off, and described in a way that contextualizes and historicizes them (“this is how these got here, this is why we chose this model and arrangement”). Such presentation of rules and their rationales writes agency into text: The rules are personalized and remain tied to their authors and the contexts that inspired them, rather than assuming a universal, “that’s-just-how-it-is” status.

The tension between central/universal and local/particular control is likely as old as formalized organization itself. The word “bureaucracy” was coined as a sarcastic pejorative by Jean-Claude Marie Vincent de Gournay, who became France’s Administrator of Commerce in 1751, eighty years after King Louis XIV and his Comptroller General of Finance sought to root out corruption and reassure the French populace by insisting that government officials abide by uniformly-applied rules. Gournay railed against the regulations he judged to be suppressing the economy, and coined the term “bureaucratie”—government by desks—“to symbolize a government run by insensitive rule-makers and rule-enforcers who did not understand or care about the consequences of their actions” (Starbuck, 2003, p. 149).

This study supports the basic proposition that ahistorical, universalized, author-less rules enact “bureaucratie” as rule-by-desks while historicized, contextualized, author-ized rules enact postbureaucracy as rule-with/by-people (which engulfs action-by-people and structure-by-people). People, of course, are always attached to a particular set of interests and needs, and they make and enforce rules as they seek to fulfill those. Meanwhile, rules inscribed with anonymous authority read like universal truth claims, and the particular set of interests and needs that inspired them disappears along with the author(s) (see Koschmann, Kuhn, & Pfarrer, 2012;

Kuhn, 2008). Thus begins the march toward bureaucratic alienation and the formalization paradox (Stohl & Cheney, 2001). When human agents and historical context evaporate out of rules and policies, agency disappears from structure (or becomes invisible within it) and structure becomes the calcified remains of a living body. Also erased in that process is *responsibility* of people and circumstances for rules (as opposed to a “thems the rules” stance) and *responsibility* of rules to (changing) people and (changing) circumstances. On the other hand, by not allowing authority to escape and supersede context and people (i.e., authors), RMS members managed to revise bureaucratic alienation and calcification while still enacting authority and control. Thus, the postbureaucratic ideal of rule-with/by-people could also be articulated, perhaps more grandiosely, as *rule-by-reason* where “reason” denotes transparency and responsibility-taking rather than enlightenment-style rationality.

To summarize, inductive-open control messages that contextualize, historicize, and personalize rules as part of the rationale are likely more conducive to successful hybridization than are the other type of inductive-open and inductive-closed messages. So how to achieve the ideal type of inductive-open control? It is not a simple question of managerial message crafting. To begin, historicization, contextualization, personalization, and the metaphorical ellipses are performed *metacommunicatively*, meaning, they belong to that genre of message—namely, the *metamessage*—that provides information about how a primary message ought to be interpreted.

Historicizing, Contextualizing, and Personalizing Policy Metadiscursively

Bateson (1972) argued that no communicative act can be understood in the absence of a metacommunicative message about the communication context. For example, monkeys, according to Bateson, would not be able to understand an apparently aggressive move by another monkey as “not hostile” if not for the accompanying metamessage, “this is play” (Tannen, 1993,

p. 3). Thus, metamessages provide a context for the evaluation of messages, and act as “frames” that “exclude certain messages and include others,” such that “what is included inside the frame is interpreted differently from that which is outside the frame” (French, 2003, p. 302). Context sensitivity is communicated in large part not by what is said about a rule, but in what happens around it: Does policy flex and change in response to changing context? Does dissent actually generate change? Additionally, ongoing communication across multiple topics constructs frames for subsequent evaluation of control messages. For example, an RMS member

mocked reverence for standardized policy, using RMS’ “no drinking” rule for clients: “We could say ... ‘You know the rules here, and if we smell it on your breath one more time, you’re outta here!’ Which, really, about all that does is sort of bolster our sense of being able to enforce the rules. It does nothing to teach anybody anything.” (Ashcraft, 2006, p. 76)

In so doing, she contributed to the construction of a (irreverent, context-sensitive, personalized) frame for interpreting rules for RMS staff.

The concept of metadiscursive framing sheds light on why a message that explicitly states that RJ referrals are not mandated might be interpreted as a particularly irritating kind of mandate, and why someone might respond to an apparently inductive message as though it were a power assertion message (and that response would reconstitute the meaning of the original message as having been a kind of power assertion, following Deetz’s [1992] systems model of communication). Metamessages are not just constructed by speakers. Their meaning is determined also by the context in which they are spoken; in other words, their meaning is constituted in interaction. For this reason, managerial control is much more limited than is often assumed. Consider, for example, that the exact same words, if repeated at VPD and RMS, would

take on very different meanings and produce different outcomes in each organizational context. The VRJ failure to successfully achieve contradictory aims—that is, the failure to organize dissonance—is summed up in the statement “you don’t have to, but you have to.” Some officers perceived that managerial communication as unproblematic, and as a genuine invitation to exercise discretion, while others perceived a double bind. The double-bind interpretation may have occurred because an invitation to exercise discretion simply did not make sense (or seem sincere) in the context of a paramilitary culture where power assertion, approval withdrawal, and inductive-closed control messages were the norm. Furthermore, explicit metacommunication about managerial (non)mandates seems an unreasonable expectation for rank-and-file cops in an organization whose lexicon includes terms such as “arguing,” “talking back,” and “having an attitude.” Thus, organizing dissonance at VPD would necessarily involve significant cultural/communicational change. This is not cause for despair, however, and my data provides substantial evidence that cultural change in that direction has been underway for at least two decades (consider, for example, the shift toward “community policing”). Additionally, there is value in reflecting on managerial control messages while acknowledging that meaning is coconstructed in interaction. In the following section, an anecdote serves as the basis for a thought experiment that helps to clarify the subtle “differences that make a difference” with regard to the control messages in my tentative typology. Using a simple metaphor—control over an office thermostat—I demonstrate how the typology can be applied in an organizational context, and I speculate about how control messages may impede or facilitate successful hybridization.

Control Messages Relevant to the Organization of Dissonance: A Hypothetical Application of the Typology

After trying in vain one day to adjust a thermostat in my office at the justice center, I resorted to running a space heater—in August—to cope with the excessive air conditioning blasting from vents that, I was told (by my boss, who provided the space heater), are centrally regulated by some apparently distant (human or nonhuman?) “They.” Although I was ashamed of the wasteful absurdity, I also was amused by how it epitomized bureaucratic excess, irrationality, and alienation. The metaphor usefully illustrates several aspects of bureaucratic life related to control, efficacy (i.e., the feeling that one can make a difference), and alienation. First, in joking with coworkers about the absurdity of the situation I assumed a similar stance of helplessness as did the VPD cops who made superfluous arrests. My eye-rolling resignation was not attributable to genuine impotence vis à vis a central climate control system (I could have sent an email or two and figured out how to submit a request to the correct person or department) but rather to feelings (however mild) of alienation (not knowing who to ask made the task seem daunting enough to not be worth it, and created a sense of being in someone else’s space and not my own), frustration (about not being trusted/able to control a simple aspect of my life) and cynicism (I assumed that at least a few hours would have elapsed between the moment I wrote the first email and the time the room finally warmed up and suspected that I might have returned the following day to a 90 degree office). This case illustrates how small, seemingly trivial, aspects of everyday experience communicate (e.g., constitute control and identity) in ways that are consequential for culture and thus ultimately for prospects for organizing dissonance. To develop this point in greater detail, I offer the following interpretation of how messages related to something as simple as climate control can act to constitute discourse frames that serve a

metacommunicative purpose (i.e., they provide a frame for interpretation of other organizational communication).

Broadly, the office thermostat constructs meaning around my role and status in the organization, and provides me with information about “how things work around here.” Its presence in my office provides a pretense of local/personal control that is belied by its inoperability, which makes it a reminder that I am in someone else’s space. Further, having no sign affixed to the thermostat and thus leaving the office’s occupant to tamper with it to no avail uniquely contributes to a frame of frustrated inefficacy and alienation; perhaps the experience of exerting effort that turns out to be pointless because an anonymous authority has already fixed the outcome (yet has disingenuously invited my participation) in some small way contributes to my expectation that I am unable to affect change in the organization. Alternative messages, if affixed to the inoperable thermostat, might construct different discourse frames. For example, a power assertion message reading “DO NOT TOUCH” would spare the occupant of the frustrations of a pretense of control, but might exacerbate feelings of alienation and the expectation of inflexibility. An inductive-closed message reading “Do not adjust—system is centrally controlled to prevent dysregulation and inefficiency” would be less infantilizing and more respectful, but would not enhance the occupant’s sense of efficacy. An inductive-open message reading “Adjusting individual thermostats throws off the programming and can make A/C run all night. Please contact Kim Smith (ks@org.org) if it needs to be adjusted” would communicate to the occupant that she is contributing to a shared goal (i.e., the smooth and efficient functioning of the system), that she is able to affect change, and that the larger “we” of which she is a part has some concern for her needs. Such a message would contribute to the construction of a discourse frame that would support successful hybridization, and thus

exemplifies the type of communication that ought to be cultivated by members of hybridizing organizations.

In the context of VPD, exemplary, dissonance-organizing managerial communication would explicitly acknowledge the need to meet contradictory aims simultaneously and clarify bottom-line expectations and consequences for failing to meet them. It would also generate formal and informal opportunities for metacommunication and collective policy generation. Specifically, rather than “encouraging” officers to refer cases which emphasizing that there is no mandate or quota, management ideally would metacommunicate about the paradoxical need to mandate voluntary participation, which might sound something like:

We believe increasing our use of RJ can reduce recidivism, improve our relationship with the community, and further our mission to ‘police in partnership with the people,’ so we want you to refer as many cases as possible. At the same time, we realize that you don’t choose your calls, and may not have a lot of opportunities to refer cases, and we know there is no ‘one-size-fits-all’ formula for determining if a case is appropriate. So, rather than mandating a certain number of referrals, we are asking you to document why you did or did not choose to refer to RJ in each case. If you simply write a sentence or two in your report explaining your reasoning, it will show us that you thought about using RJ, and will also give us an opportunity to understand and revisit our assumptions about when RJ is and is not appropriate. What do you think about this idea? Does this seem fair and feasible?”

Of course, officers who disagree with the premises cited in support of the use of RJ, and who are not interested in “policing in partnership with the people” would be alienated from the first sentence of that statement, which illustrates that collective generation of policy requires some

degree of shared goals and values. Thus, as Ashcraft (2006) noted, organized dissonance entails ideological control guided by the principle of bounded diversity. Crucially, the boundaries of acceptable diversity must be openly and explicitly stated so that they can be challenged. VPD members thus could likely benefit from a process similar to the one RMS members used to articulate their “non-negotiables.” A sense of collective ownership and authentic opportunities to contribute to shaping organizational principles and policies—along with clear understanding of the limitations on participation and the organizational bottom-line—would likely mitigate feelings of powerlessness and resentment about RJ or community policing being “force-fed” by management.

That said, changes in managerial communication certainly do not translate directly to broader organizational change, particularly with regard to culture. It just happens to be the most readily manipulatable aspect of organizational communication, and thus the most obvious target for intervention. The thermostat example is intended to illustrate how no communication—regardless of how trivial it may seem—should be dismissed as inconsequential, because each message metacommunicates to members about their roles and how things work in the organization. It is also possible that the message crafted above could be delivered in such a manner or context that it would metacommunicate insincerity and fail to meaningfully revise (and perhaps even strengthen) bureaucratic control. Thus, inductive-open control messages do not “cause” successful hybridization but they are a promising communication practice that may cultivate the organization of dissonance.

Conclusion

This study has examined how RJ referral practices of rank-and-file police officers reflect the tensions of RJ implementation and are constitutive of RJ and the symbolic universe of

justice. Exploration of the problems officers experienced related to RJ, their strategies for managing dilemmas, and the situated and espoused ideals that justified their chosen responses revealed two particularly noteworthy and problematic practices. First, officers who perceived a mandate to refer cases but did not encounter any cases meeting their situated and espoused referral criteria resorted to seeking out small-time, petty offenders who otherwise would receive only a warning (if anything) to refer to RJ. Second, the idea that RJ is for “good kids” who “just made a mistake” and “don’t deserve to go to the criminal justice system” creates an opportunity for discrimination in RJ referral practices. These phenomena ironically risk turning RJ into a net-widening and disparity-exacerbating criminal justice practice. Respectively, these ironies illustrate the worst and best of what bureaucratic practice offers. The first one epitomizes bureaucratic alienation, rigidity, and hierarchy and highlights the need for particular and participatory control, while the second one affirms the importance of procedural and situation-blind justice and the need to minimize opportunities for bias and discrimination through central/universal control.

Thus, rather than endorsing or condemning either RJ or traditional bureaucratic justice practices, the results of this study support a revision to trade-off discourses (embodied, e.g., in early informalist literature such as Abel, 1982; Santos, 1982) and pessimistic lamentations about institutionalization dirtying RJ’s pure ideals. At the same time, the data presented here highlight the danger in presuming that harmonious integration of RJ into existing organizational practices is likely or possible. Instead, it becomes clear that a restorative turn in criminal justice administration requires that competing and contradictory demands be met simultaneously. Previous research (namely, Ashcraft, 2000, 2006) suggests that feminist-bureaucratic hybrids can

do just that, but the organization studied here clearly falls short of Ashcraft's prototype of organized dissonance.

At minimum, the study endorses organized dissonance as a normative ideal for post/bureaucratic organizing. Ashcraft (2006) "argued against the claim that we can learn from the *unique* irrationalities of feminist organizing, or that the contradiction of feminist bureaucracy per se is an exceptional phenomenon to be reckoned with" (p. 80, emphasis original). This study affirms that the "irrationality of enacting postbureaucracy amid bureaucratic legacies" is not unique to feminist organizing. At the same time, by presenting a case of post/bureaucratic dissonance that is decidedly—and deleteriously—*disorganized*, the study suggests that irrationality (i.e., post/bureaucratic hybridity) can be practiced in more or less strategic, adaptive, helpful, and *rational* ways. The way RMS members "'practiced' irrationality" (Ashcraft, 2006) appears to fall into the "more" category, while the self-defeat engendered by some VPD officers' tension-management strategies warrants their placement in the "less" category. Simply put, post/bureaucratic dissonance is ubiquitous but *organized dissonance* is something special. A comparison of the research site with Ashcraft's exemplar reveals significant obstacles to cultivating dissonant practice, but affirms the importance of doing so. To supplement the argument that RJ institutionalization requires post/bureaucratic hybridization with practical consideration of how that might be accomplished, the study advanced a tentative framework that positions metacommunicative control messages as the focal point of hybridization processes.

Future research is needed to more fully conceptualize the process of *organizing dissonance* as a unique and desirable trajectory for organizational change. Additional case studies of hybridizing organizations would allow for broader and more in-depth comparison of more and less "organized" dissonance. Whether the experiences documented here are broadly

representative is unknown, and the present study makes no claim to generalizability. Its inductive approach supported the development of a tentative theoretical framework, but the applicability of that framework to other contexts remains to be seen. By providing a basis for evaluating hybridization processes (i.e., by examining how well they are able to meet contradictory demands), this study provides a jumping-off point for future investigations of the organization of dissonance. Additionally, it points to a need to examine the overlap of culture and form, and suggests that metacommunicative control messages are a good target for inquiry on this topic. Thus, future studies should test the viability of the typology proposed here, and further investigate the relationship between control messages and revision of bureaucratic tendencies.

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