

**An Assessment of
Juvenile Justice System
Reform in Washington State**

VOLUME IV. THE DIVERSION OF MINOR OFFENDERS
AN ACCOUNTABILITY APPROACH

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THE DIVERSION OF MINOR OFFENDERS:

AN ACCOUNTABILITY APPROACH

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TABLE OF CONTENTS

PREFACE	i
INTRODUCTION	1
Traditional Approaches to Diversion	2
Diversion in the State of Washington	4
Purpose of the Study	7
The Data	8
DIVERSION PROGRAM MODELS	9
Pure Models	10
Mixed Models	11
THE DIVERSION PROCESS	13
Diversion Eligibility	13
Diversion Intake	18
Due Process Guarantees and Practices	18
The Youth's Choice	19
Diversion Requirements	21
The Role of the Community	22
Provision of Job Assistance	25
Problems with Diversion Requirements	26
Failure to Meet Conditions of the Diversion Agreement	26
PROBLEMS AND PROSPECTS	30
Accountability	30
Due Process Safeguards	32
Uniformity	33
Conclusion and Postscript	36
FOOTNOTES	38
REFERENCES	40

LIST OF TABLES AND FIGURES

FIGURE 1:	The Diversion Process	14
TABLE 1:	Diversion and Filing Criteria	15
FIGURE 2:	Flow Diagram of Process if Youth Violates Diversion Agreement	29
TABLE 2:	Estimates of How Often Diversion Agreements Include Restitution, Community Service, and Interview Requirements	35

PREFACE

The Washington juvenile justice code is the most unusual and innovative change that has occurred in the juvenile justice system of any state since the historic court decisions of the late 1960s. Based on the philosophical principles of justice, proportionality, and equality the legislation seeks to establish a system that is capable of holding juveniles accountable for their crimes and a system that, in turn, can be held accountable for what it does to juvenile offenders. The legislation is an articulate and faithful representation of the principles of "justice" and "just deserts."

Consistent with those philosophical principles, the reform of Washington's juvenile system involves proportionate decision-making standards for intake and sentencing; the provision of full due process rights; and the elimination of all court jurisdiction over noncriminal misbehavior (status offenses).

An assessment of the implementation and consequences of the reform in Washington's juvenile justice system was funded by the National Institute of Juvenile Justice and Delinquency Prevention. This report is one of several which contains information about the impact of the legislation. Reports produced by the study are:

Volume I: A Justice Philosophy for the Juvenile Court
(Schneider and Schram)

Volume II: From Rehabilitation to a Legal Process Model: Impact
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Volume IV: An Accountability Approach to Diversion
(Seljan and Schneider)

Volume V: A Comparison of Intake and Sentencing Decision Making
Under Rehabilitation and Justice Models of the Juvenile
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Volume VI: The Impact of Reform on Recidivism
(Schneider and Schram)

Volume VII: Divestiture of Court Jurisdiction Over Status
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Volume VIII: Attitudes of Professionals Toward a Justice
Philosophy for the Juvenile Court (Seljan and Schneider)

Volume IX: Methodologies for the Assessment of Washington's
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Volume X: Executive Summary: The Assessment of Washington's
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THE DIVERSION OF MINOR OFFENDERS: AN ACCOUNTABILITY APPROACH

INTRODUCTION

Prior to the adoption of the 1978 Juvenile Justice Act, diversion in the state of Washington (as in most other states) was undertaken as an informal process intended to avoid adjudication and channel accused youth into social service programs where they would receive counseling, tutoring, or other treatment designed to rehabilitate them. Washington's reform law changed this process in two distinctive ways: First, the legislation formalized diversion and specified the exact criteria for determining who should and who should not be offered diversion agreements; second, the diversion system was founded upon principles of offender accountability in the form of restitution and community service rather than principles of treatment and rehabilitation. This formalized diversion system in Washington state has completely replaced the informal adjustments commonly made by intake and it is without doubt a distinct move away from the indeterminate treatment-orientation that has characterized most diversion efforts in other parts of the United States.

Washington's approach to diversion reflects several trends that in the past decade have gained considerable momentum in juvenile justice. One of these is the concept of diversion itself, which became a popular delinquency prevention and control strategy in the late 1960's and early 1970's.¹ A second trend reflected in the diversion provisions (as well as in other portions of the law) is the now widespread use of restitution or community service as an alternative to traditional court sanctions. The movement to

shift responsibility for delinquency prevention and control from the court to the community also is present in the Washington code in the form of encouraging (though not mandating) community involvement in the diversion process.² Finally, the trend away from a paternalistic approach to juvenile justice toward a more legalistic one is clearly evident in the diversion provisions which insure many due process rights for diverted youths.

Traditional Approaches to Diversion

Even though Washington's reform code reflects some of the most recent trends in juvenile justice, the approach to diversion is highly unusual and is a marked departure from diversion as it has been conceptualized and operationalized nationally. Diversion from the justice system has taken on a broad array of meanings partly because the term itself denotes a process whose definition varies as the activities and decisions related to policy goals vary. As a result, there has been considerable confusion and disagreement regarding the rationale, goals, and efficacy of diversion as a juvenile justice reform. Much of the research on diversion documents its apparent failure to live up to expectations. The inconclusive merits of the diversion approach frequently have been attributed to two factors:

(1) inadequate or poorly articulated theoretical rationales, and (2) implementation by persons or institutions whose own philosophies or self-interests were in conflict with policy goals (e.g., see Lundman, 1976; Klein, 1978; Blomberg, 1977; Vorenberg and Vorenberg, 1973).

Diversion as a mechanism for juvenile justice reform was conceived as a delinquency prevention strategy. It grew out of a concern that the official labeling of a youth as delinquent tended to be a self-fulfilling prophecy.³ This was the rationale for diverting youth away from formal court processing. Equally important was the question of what, if anything, youth involved in minor violations of the law should be diverted to. The positive tenet of labeling theory, guided by what has been termed "social opportunity structure theory," is that the development of a commitment to social norms can occur only if the individual is permitted access to positive and legitimate experiences in institutions outside corrections (e.g., the school, work, the family). In other words, the mere avoidance of the negative label associated with the correctional system will not by itself give the juvenile a stake in conformity. The focus of this perspective was institutional (as opposed to individual) reform, and the aim was to broaden access to legitimate opportunities in work and school (Polk and Halferty, 1973; Polk and Kobrin, 1972; Schur, 1973; Empey, 1978:556-558).

Evaluations of diversion programs in operation, however, indicated that they often expanded rather than reduced the negative aspects of juvenile justice system processing (Klein, et al., 1976; Blomberg, 1975). For example, in the study reported by Blomberg (1977) diversion became a programmatic and service extension of informal probation. The diversion program that was the subject of Blomberg's study emphasized whole family treatment, the assumption being that delinquency prevention and control depend upon early intervention into family/youth problems. As a result, indeterminate and disparate "treatment sentences" were imposed, not only on

the allegedly deviant juvenile, but on his or her parents and siblings as well. Blomberg concluded:

Although diversion was advocated at the federal level as an alternative for formal juvenile court handling of youth, it was locally interpreted and developed as a means to extend the court's service to youth and families previously not handled by the court. (1977:276)

Rehabilitation-oriented, court controlled diversion is clearly inconsistent with the sociological theories (including labeling, control, strain, social opportunity structure theories) which provided the theoretical rationale for the diversion movement.

Diversion in the State of Washington

What sets the Washington approach apart is that the processes, activities, and resources of the diversion program were designed to be operationally consistent with a clearly articulated theory of justice. As with most of the Washington juvenile law, the diversion provisions reflect quite clearly the basic tenets of a justice approach. Punishment is to be limited to that which is deserved by the youth; sanctions are to be proportionate to the offense seriousness and degree of culpability; the juvenile and the system are to be held accountable for their behavior; and required treatment or social services are rejected as rationales for determining the amount or length of punishment.⁴

The rejection of treatment as an appropriate sanction immediately and clearly distinguishes it from the diversion programs which, operationally, considered rehabilitation their primary goal. Establishing diversion programs in the community independent of probation is also consistent with

the justice philosophy of punishment, which posits that the offender of social norms should be judged by the community, by "the man on the street." Lewis, in "The Humanitarian Theory of Justice" (1970:289) states that sentences should be "in the hands of jurists whom the public conscience is entitled to criticize" on grounds of rights and justice. Lewis contends that if punishment is based on what deters or what will cure rather than what is deserved, the offender is removed from the sphere of justice altogether; only the experts (the psychiatrist, social worker, criminologist, etc.) can judge what is needed to cure the pathology, to deter the criminal (p. 293).

While delinquency prevention assumes a secondary role, it is clear that the proponents of the Washington diversion program were influenced by labeling theory in that they sought to minimize the stigma associated with formal adjudication (Naon, 1976). There is no conviction, no probation. Youth who are involved in behaviors that would not be crimes if they were adults (e.g., running away, truancy, curfew violation) are not to be treated as criminals at all. First-time offenders whose crimes involve no victim or involve very minor property loss can be counseled and released, thereby minimizing social intervention in the minor forms of youthful misconduct in which virtually all youths engage and which presumably are rarely repeated.

Other provisions were intended to prevent the stigma of a juvenile offense from jeopardizing legitimate adult careers. Specifically, the code allows diverted juveniles (1) to have their record sealed if they have not been charged with another offense for two years after finishing the diversion agreement, and (2) to have all records of the offense destroyed at the

age of 23, providing that they have not subsequently been convicted of a felony or accused of a crime that is pending.

The community accountability approach advocated by the law is consistent with control theory in that it attempts to strengthen the bond between juveniles and the communities in which they live. Offenders are made aware that persons within their neighborhood believe that crime detracts from the quality of life in their community. Thus, the community must be repaid for the offense through community service work. The assumption is that deterrence will be achieved (1) by holding youths accountable and responsible for the crime itself, (2) by providing juveniles with a model of community involvement that demonstrates community concern and provides information and support, and (3) by imposing sanctions that juveniles will perceive as fair (consistent, uniform, commensurate, and related to the misdeed). Conspicuously absent, however, is any formalized attempt to restructure educational and work opportunities for youth in a way that might increase their investment in conformity. While programs can, and do, arrange job placements for youth who are ordered to pay restitution or to do community service, the task of social reform rests with those members of the community who become involved with (and thereby aware of) the problems of youth.

Furthermore, the accountability goal is pursued in spite of the fact that the end result might be an increase, rather than a decrease, in juvenile justice system processing. Youths, who under the old system might have been handled through an informal adjustment procedure--often with no sanction--are, under the new system, formally diverted and required to compensate for their offense. Also, even though there is no conviction,

they are explicitly told that a record of the offense will be maintained and that it will be included in their criminal history should they commit a new offense.

Washington's diversion system is based on principles of justice and, therefore, is markedly different from diversion in most juvenile systems. Delinquency prevention is a secondary goal, and while the labeling perspective is reflected in the law, the first and foremost concern is justice. The Washington model is consistent with Schur's radical nonintervention approach which suggests that the juvenile justice system should "concern itself less with the problem of so-called delinquency and more with the dispensing of justice" (Schur, 1973:168). Schur states:

Individualized justice must necessarily give way to a return to the rule of law (emphasis in original). This means that while fewer types of youthful behavior will be considered legal offenses, in cases of really serious misconduct such traditional guidelines as specificity, uniformity, and nonretroactivity ought to apply. Juvenile statutes should spell out very clearly just what kinds of behavior are legally prescribed, and it should set explicit penalties for such violations. (1973:169)

Schur emphasizes that these measures do not constitute a "get tough" policy so much as a "deal evenly" one and suggests that such measures would probably generate a greater respect for the legal system on the part of juveniles..

Purpose of the Study

In Washington, the primary goal of diversion is to hold youths accountable for their offenses and simultaneously to minimize the stigma, labeling, inconvenience and other negative factors associated with formal court

processing. In addition, the sanctions should be uniform (to meet the overall goal of the legislation) and the rights of the juvenile should be protected throughout the process. As indicated earlier, these goals reflect the principles inherent in the justice approach. Within this framework, the legislation encouraged (but did not mandate) programmatic approaches believed to have a deterrent effect on juvenile crime (as well as a rehabilitative effect) and which also promised to be more cost-effective than traditional juvenile court processing by probation departments.

A study of Washington's formalized, accountability-oriented diversion system was undertaken in order to assess the extent to which the program models, policies, and procedures developed at the local level were consistent with the theories and philosophy underlying these provisions.

In order to avoid detailed and unstructured descriptions of program practices, the discussion will focus on organizational characteristics and procedures necessary to achieve the intent of the legislation and on critical decision points where problems might arise. Practices not covered by the legislation, but which could impact the performance of diversion or other parts of the system are also examined. The discussion begins with a description of the organizational context in which the diversion goals have been pursued. This is followed by a description of each critical stage of the diversion process, as it was intended and as it was operationalized.

The Data

Research on the implementation of the diversion provisions was based primarily on a survey of 18 sample counties with 17 separate programs (19

programs were contacted, and two did not want to participate in the study).⁵ A questionnaire was developed to explore the experiences and perceptions of diversion program directors with Washington's juvenile justice code. The survey was an in-depth, structured telephone interview that yielded information about the implementation planning process, the organization and operation of different diversion program models, problems encountered in implementation, and issues that are of continuing concern in terms of operation and program effectiveness. The interviews were conducted in early 1980, and represent experiences with approximately the first year and a half of operation.

Findings from these surveys were supplemented by the surveys of other professional groups (e.g., court administrators, prosecutors, public defenders), by interviews with sponsors of the legislation, and by the program guidelines of the diversion units surveyed (when available).

DIVERSION PROGRAM MODELS

Several different organizational models are permitted under the law, but the one most strongly encouraged is independent of the court and involves community volunteers in all stages of the diversion process. The programs that were implemented all share the goal of holding juvenile offenders accountable and responsible for their action through procedures in which the offender is required to compensate the victim and the community, but the surveys indicated that the programs were organized in a number of different ways. It was possible to identify two types of "pure" models--one which

maximizes independence and involvement of the community and another which minimizes these--but most jurisdictions adopted some type of mixed model.

Pure Models

The model that is most consistent with the legislation has been called a "community accountability board/contract" model (CAB/Contract). It is patterned after the Seattle Community Accountability Program which existed before the law was passed and which continued as part of the new legislation. The Seattle program is administered by a city (rather than county) agency and is under contract with the county court. The CAP, in turn, subcontracts to nonprofit youth service bureaus located in various neighborhoods throughout Seattle to perform the work of the diversion program.

This model is characterized by a high level of community responsibility for the diversion process, and physical, financial, and administrative independence from the juvenile court. Community volunteers actually meet with diverted youth, discuss the offense, negotiate the type and amount of restitution, monitor the youth's progress and, in some instances, meet again with the youth when he or she has completed restitution or community service hours. If the juvenile fails to meet the requirements of the diversion agreement, the volunteers are also involved in the decision to terminate the case for noncompliance and return it to the prosecutor for further action. Members of community accountability boards may also be actively involved in developing community service sites, and in promoting intervention strategies or voluntary youth services.

Nine of the 18 jurisdictions sampled reported that some or all diverted youth were handled by an agency outside the court, and all of these programs utilized community accountability boards. However, only two programs indicated that community volunteers were involved in all stages of the diversion process, and even in Seattle where this model originated, some diversion cases were handled by probation.

The second pure model, the "probation model," represents the opposite end of the community involvement and control continuum. This type of program is located within the probation department of the juvenile court and utilizes no community volunteers in the diversion process. Certain probation staff are given the title of diversion officer and handle all of the diversion cases along with, or in lieu of, a regular probation caseload.

The survey data showed that 15 of the 18 jurisdictions utilized volunteers (via community accountability, diversion, or appeal boards) and that 14 had at least some components which were independent of the court. Thus, only three programs fell into the "pure probation" type of diversion model.

Mixed Models

Four different kinds of mixed models were identified.

1. CAB/Probation Model. The CAB/Probation model is similar to the CAB/Contract model except that the paid diversion staff are administratively located within the probation department of the juvenile court. In this model there is a high level of community responsibility for the diversion process, but a low level of autonomy from the court. Five of the 18 programs studied adopted this model.

2. Probation/Contract Model. In this model the diversion unit is located within the court or probation department but there is no community board. A court diversion officer is responsible for developing the diversion agreement and for assuring that the juvenile's rights to due process are protected. Unlike the pure "probation model," however, one or more program functions are provided by an outside agency. For example, in one jurisdiction the community service and offender service components were located in a nonprofit agency which located work sites and provided supervision.

3. CAB/Probation/Contract. Another variation is a CAB/Probation/Contract configuration, where the diversion unit is located within probation, there is a community accountability board, but certain types of referrals (e.g., alcohol, drug abuse, traffic) are handled by independent agencies.

4. Bifurcated Programs. Finally, in some jurisdictions, accountability boards exist in some neighborhoods and not in others. In the absence of a board, diverted youth are handled either by a contracted diversion unit (if there is one) or by a diversion unit within the court itself. This pattern appears to have developed in some rural counties, as well as in some of the most densely populated sections of the state. A practice that seems to accompany this particular approach is that since there is a diversion unit within the probation department, youth who are already on probation are diverted to the in-house diversion program rather than the community-based program, even if there is one available in the youth's neighborhood.

THE DIVERSION PROCESS

Figure 1 depicts how a youth enters a diversion program, moves through it, and exits from it. During this process, critical decisions are made by prosecutor or probation staff, the diversion program, and the youth. The discussion that follows focuses on several of the most critical decisions, on who has authority to make decisions at each point, on what the available options are and how they have been exercised by the existing diversion units.

Diversion Eligibility

The first three decisions in the diversion process take place outside the program itself. These are: (1) the screening for legal sufficiency, (2) determination of diversion eligibility, and (3) the decision to file, divert, or informally adjust. Under the Washington code, offense complaints are referred directly to the prosecutor, and no diversion or informal adjustments are to be made before a screening for legal sufficiency occurs. Decisions governing which youths are to be diverted and which ones are subject to the formal court process are to be guided solely by considerations of the seriousness of the offense and the number of prior offenses committed by the youth. Discretion is extremely limited in the sense that the law mandates diversion for certain combinations of offenses and prior records whereas it requires formal processing for others. Information contained in the law regarding which youths are to be diverted and which ones are not has been converted to a matrix (see Table 1). The cells in the table that contain asterisks indicate the combination of offenses and priors

FIGURE 1. THE DIVERSION PROCESS

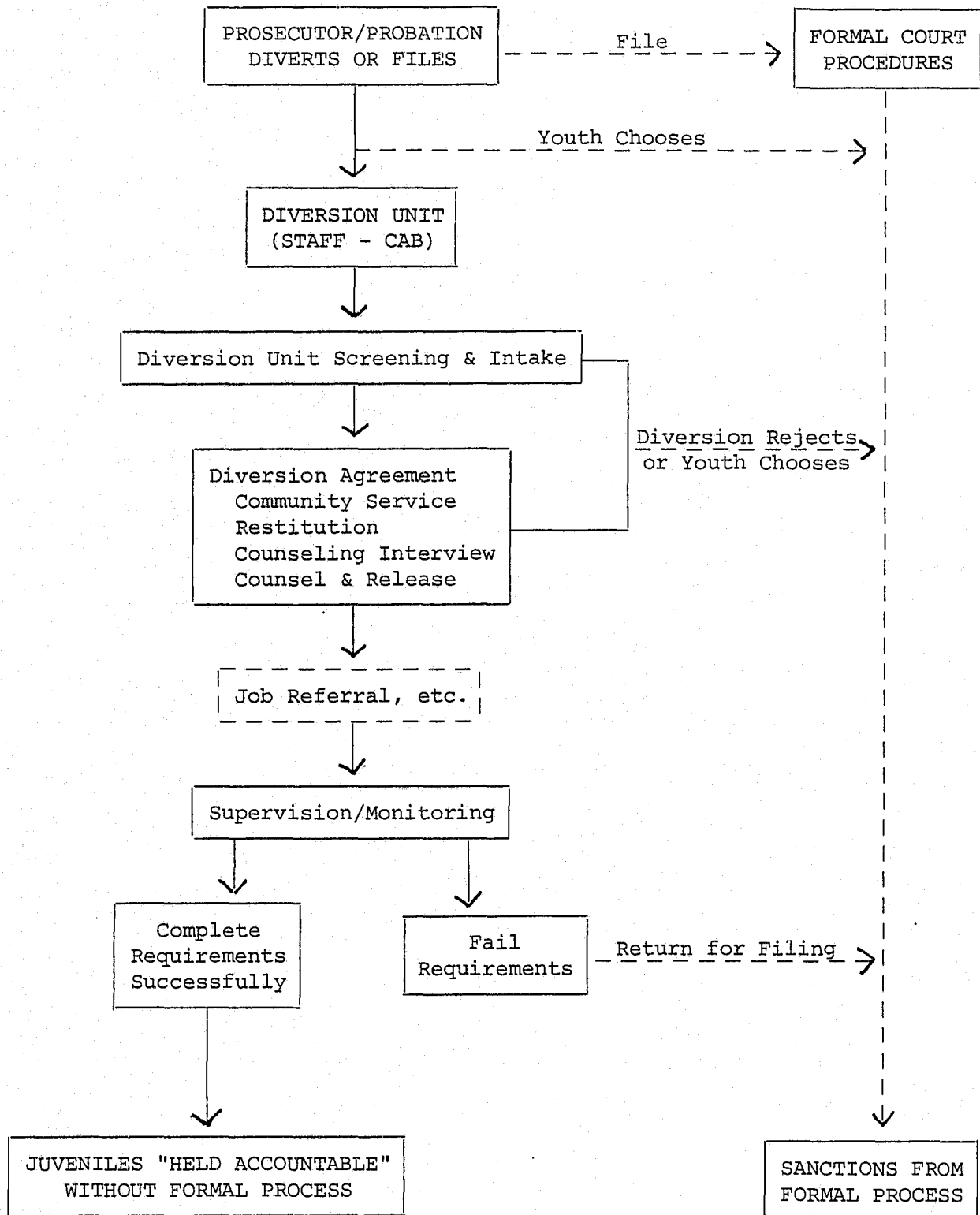


TABLE 1. 1979 DIVERSION AND FILING CRITERIA¹

PRIORS: AT LEAST...	CURRENT CHARGE				GROSS MIS- DEMEANOR	MIS- DEMEANOR
	CLASS A	CLASS B+	CLASS B	CLASS C		
1 Class A	*	*	*	*		
1 Class B+	*	*	*	*		
1 Class B	*	*	*	*		
3 Class C+	*	*	*	*		
3 Class C	*	*	*	*		
2 Class C	*	*	*	*		
1 Class C and 2 Less Serious	*	*	*	*		
1 Class C and 1 Less Serious	*	*	*	*		
1 Class C	*	*	*	*		
4 Gross Misdemeanors	*	*	*	*		
4 Misdemeanors	*	*	*	*		
3 Gross Misdemeanors	*	*	*	*		
2 Gross Mis- demeanors and 1 Misdemeanor	*	*	*	*		
1 Gross Mis- demeanors and 2 Misdemeanors	*	*	*	*		

TABLE 1. (Continued)

PRIORS: AT LEAST...	CURRENT CHARGE				GROSS MIS- DEMEANOR	MIS- DEMEANOR
	CLASS A	CLASS B+	CLASS B	CLASS C		
3 Misdemeanors	*	*	*	*		
2 Gross Misdemeanors	*	*	*	*
1 Gross Mis- demeanor and 1 Misdemeanor	*	*	*	
2 Misdemeanors	*	*	*	
1 Gross Misdemeanor	*	*	*	
1 Misdemeanor	*	*	*	

¹The information in Table 1 indicates the mandatory diversion and filing requirements under the Washington law SB 2768 which went into effect in April, 1979. Dots (...) indicate the combination of current charge and priors for which diversion is mandatory. An asterisk (*) shows the combination of current charge and prior for which the filing of a petition is mandatory. Blanks indicate discretion on diversion filing.

which require formal court processing; the cells with dots (...) are the combinations that require diversion; and the blank cells indicate the youths over whom the prosecutor has the discretion whether to file or divert.

Technically, the law permits prosecutors neither to file nor divert provided that a record is kept of the offense and the reasons for this decision. Although prosecutors are permitted to waive the screening for legal sufficiency to probation for misdemeanors, this has not happened in very many jurisdictions (27 percent of the sample). Probation, if it conducts the screening for legal sufficiency, is bound by the same provisions of the law which, in effect, prohibit the pre-reform practice of informally supervising youths or adjusting cases.

Prosecutorial discretion in filing or diverting certain mid-range offenders has resulted in some interesting differences in the types of juvenile cases handled through the diversionary process. According to the diversion survey results, the decision to file or divert optional cases in most jurisdictions is made on a case-by-case basis, using the same criteria specified in the law (i.e., criminal history, seriousness of presenting offense, and age). Five of the 18 diversion units surveyed, however, reported that the prosecutor has formal guidelines or criteria for these cases. In three of these jurisdictions, the court has ruled that all felonies shall be prosecuted. As might be anticipated, these three counties also reported a higher rate of filing on optional cases than did jurisdictions with more lenient standards. (The average estimate was that 7 out of 10 optional cases are filed, compared to an average estimate of 3 out of 10 in jurisdictions permitting diversion of "C" felons.).

Diversion Intake

The diversion unit staff or CAB receives a paper referral from the prosecutor. Some programs screen referrals before arranging a meeting with the youth. A program may refuse to enter into a diversion agreement with a juvenile, and a case could be rejected at this time (as well as at later stages in the process). Rejected cases must be referred back to the prosecutor with a detailed statement of the reasons for refusal.

Approximately a third of the diversion units said they sometimes returned cases to the prosecutor with a recommendation for dismissal. However, this option appeared to be used infrequently (1.7 on a scale of 0 to 10) and, with one possible exception, the reasons given for exercising it were based on legal technicalities, such as legal insufficiency or delays in due process. One respondent indicated that this option might be used for very young offenders when the impact of law enforcement and home discipline was evident.

Due Process Guarantees and Practices

The legislation went to great lengths to obviate many of the common due process concerns associated with traditional diversion programs. For example, the law details the limits of the sanctions which can be imposed on diverted youth, specifies the due process afforded to divertees and potential divertees, and provides for the right to counsel at "any critical stage of the diversion process."⁶ This last provision encompasses the right to counsel "...for purposes of advising (juveniles) as to whether

(they) desire to participate in the diversion process or to appear in the juvenile court."⁷

Data from the surveys of professionals as well as a review of diversion program guidelines and operating manuals indicate that diversion units have developed thorough and well-documented procedures for complying with the due process provisions. All reported that a major purpose of the first meeting with juveniles referred to diversion was to advise them of their due process guarantees, as well as the responsibilities and consequences associated with diversion. Only a few divertees, however, utilize defense counsel, either in making the choice between adjudication and diversion, or in deciding to accept the diversion plan. Diversion respondents estimated that less than 15 percent actually are represented or consult with a lawyer at these critical stages. Only when a youth fails to meet the diversion requirements and the case is returned to the prosecutor or probation, does the role of defense lawyers appear to be at all significant (an estimated five out of ten youth seek counsel at this time). Interestingly, in the judgement of most diversion respondents (69 percent), youth are more likely to choose diversion with a lawyer than without one.

The Youth's Choice

Agreement to accept diversion is tantamount to an admission of guilt for the alleged offense and certain sanctions can be imposed. Restitution and community service work can be required, for example, and offenses for which the youths are diverted become part of their criminal history.⁸ On the other hand, diverted youth cannot be fined, placed on community supervision,

or detained. Furthermore, they do not have to appear in court or before a judge. Data from the surveys as well as individual-level data reported in other reports from the study show that virtually all juveniles who are offered diversion accept it rather than go through the formal process.⁹

The question of why so many juveniles choose diversion over adjudication was explored in the interviews with diversion directors. The consensus of these respondents was that juveniles and their parents perceive the diversion process as more convenient, more expedient, and less intimidating than formal court proceedings. These reasons fit remarkably well with the intent of the diversion process. Community accountability boards are conveniently located in the neighborhood where the juvenile lives, and meetings are scheduled at night or on weekends so that youth don't have to be absent from school, or parents from work in order to attend. With respect to expediency, diversion aims to minimize delays in the dispensing of justice. Finally, several research studies have documented that formal juvenile court procedures can be an intimidating and negative experience for juveniles.¹⁰ Diversion procedures are explained in lay language that youths and parents can understand. The process and, for the most part, the outcome are known rather than unknown, so the element of risk is less.

Several respondents also said that confidentiality is often the major reason families choose to appear before an accountability board. Under the new code, formal court hearings are open to the public. Diversion board meetings, on the other hand, are closed to the public and confidential.

Innocence, according to 16 of the 18 diversion unit directors in the sample, is the primary reason some youth choose adjudication over diversion.

It was also suggested that the formal process might be chosen when a youth (frequently on advise of parents or attorneys) believes the charges will be dropped.

Survey results indicated that diversion units generally discourage diversion if a youth claims innocence, and two-thirds of those sampled did not permit these youth to enter into a diversion agreement at all. Nonetheless, many diversion directors, including those who said their programs prohibited diversion under this condition, believed that some juveniles had gone through the diversion process who actually would not have been found guilty if they had chosen adjudication. They felt that these youth had agreed to diversion because they viewed it as preferable to taking on the time, expense, risk, and stigma associated with formal court proceedings.

Diversion Requirements

Under the new law, diverted youth are to be held accountable through a diversion agreement made between the youth and the diversion unit and/or CAB. These agreements can require the youth to pay restitution to the victim or to do a specified amount of community service. Community service is limited to 150 hours. The amount of restitution cannot exceed the victim loss and is limited to the amount the youth reasonably can be expected to pay in six months for misdemeanors, or one year for felonies. The only other requirement which diversion units are permitted to make is attendance at one (and only one, until the recent 1981 amendments) information or educational session to acquaint the juvenile with the availability of social, psychological, or educational services. Participation in any such

services beyond this one session is to be entirely voluntary. Diversion units may release the youth without any sanctions or requirements if the offense is victimless, or if it is a first, minor property offense with less than \$50 property loss (none of which is outstanding), which involved no threat of, or actual physical harm.

For a period including approximately the first one and a half years of operation, survey respondents estimated (using a 0 to 10 scale) that 3.7 of the diversion agreements included restitution, 7.2 included a requirement to do community service, and 4.0 required an information, counseling or educational interview. These were the only requirements used by 78 percent (N = 14) of the programs surveyed. Four programs reported the infrequent inclusion of other sanctions, such as letters of apology, essays, fines, and curfew. The use of sanctions not permitted by the law were generally attributed to an inadequate understanding of the law on the part of new CAB volunteers. Survey results suggested that approximately 25 percent of the youth referred to diversion were being counseled and released.

The Role of the Community

The diversion legislation strongly encouraged, but did not mandate, the involvement of community members in the diversion process. The law states that "...to the extent possible...members of the community shall meet with the juvenile and advise the court officer as to the terms of the agreement and shall supervise the juvenile in carrying out its terms."¹¹ These expectations have been partially realized.

Of the 18 diversion programs studied, three did not utilize members of the community in the diversion process at all, and a fourth program had only an appeal board composed of three members selected by the commissioner. The 14 remaining diversion units had one or more accountability boards, diversion boards, or diversion/conference committees that were staffed by volunteers. The configuration of board membership, the relationship of the board to the diversion unit, and the role of the board in the diversion process varied considerably among the counties studied.

Responsibility for decisions. In those programs which had CABS, diversion agreements including community service or restitution requirements were usually developed between the youth and the board. However, with the exception of three programs, the decision to counsel and release was made by diversion staff (two programs reported this option was not used at all). It also appeared that the decision to require an educational or informational session was often made by diversion staff on the basis of the offense. The most frequently observed practice was that boards handled the more serious offenders, while victimless and less serious offenders were handled by diversion staff.

Responsibility for supervising or monitoring agreement. Although the code specifically encourages community participation in supervision as well as in the development of sanctions, this practice was observed in only two of the 14 programs which utilized community-based boards. Boards could also have the responsibility (and authority) for modifying the diversion agreement and for hearing cases of youth who are allegedly failing their require-

ments. Only five of the 14 diversion respondents indicated that boards in their communities performed this role.

Level of community involvement. Seventy-seven percent of the programs studied utilized community volunteers to some extent in the diversion process. Generally, the boards were involved in what may be considered the most crucial stage of this process, the development of diversion agreements which included the imposition of restitution or community service sanctions.

The surveys suggest that diversion units with accountability boards, and which were administratively part of the court (i.e., the CAB/Probation model), may have gone to greater efforts to involve the community in the diversion process than did many independent CAB programs. For example, three of the five court diversion programs reported that their community accountability boards handled 90 to 100 percent of diverted offenses, and that the board was involved in all cases where a diversion agreement was signed. The majority of independent diversion units, on the other hand, reported that some agreements were developed solely by staff; and in five of the nine jurisdictions that had independent units, respondents estimated that boards handled less than half the diverted juveniles.

Overall, only two diversion programs involved volunteers in supervising or monitoring diversion requirements, and four involved community boards in hearings for youth who were allegedly failing their agreement. It appears, however, that although the role of community volunteers was rarely maximized, the extent of community involvement was significant, especially given the fact that this role was encouraged, not mandated.

Benefits of community involvement. Although a few programs viewed boards as inefficient and having no proven merits, the vast majority clearly perceived community involvement as an asset. The opportunity that these boards created for increased community awareness, influence and responsibility was mentioned repeatedly, which would seem to substantiate the rationale for community involvement. The board was described as the "hub" of the decision-making process by one respondent, and at least some felt that the decisions made by boards were more fair, and had a greater impact on both youths and parents. Three programs mentioned that boards assumed an advocacy role. The contribution of voluntary manpower was also noted, and in the time since these interviews were conducted this contribution has apparently become more important.

Provision of Job Assistance

Since a youth's ability to pay is a criteria for requiring restitution, the access to employment (or lack thereof) could affect the extent to which this sanction is used, the size of the restitution order, and the probability that a youth will complete his or her restitution requirements. Diversion programs can assist youth required to pay restitution in a variety of ways. For example, they can (1) provide employment subsidies for work done in the public sector, or subsidies to private businesses as an incentive to hire delinquent youth; (2) locate and reserve jobs for youth; (3) provide employment training; or (4) maintain a job referral list. Nine of the 18 diversion programs surveyed in Washington did not provide any type of job assistance. Of the remaining nine, four arranged subsidized employment, two

had in-house subsidized employment, and four provided a listing of job referrals.

Problems with Diversion Requirements

Fifty percent of the diversion respondents reported problems with the use of restitution as a diversion option, while 83 percent (N = 15) said they were having problems with community service requirements.

Problems with restitution fell into two major categories: (1) determining restitution amounts, and (2) collecting restitution payments. With respect to the community service option, the most frequently mentioned problems were: (1) locating and/or retaining appropriate work sites (N = 11); (2) providing liability insurance for youth in community service placements (N = 9); and (3) supervising youth (N = 4). Comparatively fewer (44 percent) said there were problems with requiring an informational interview due to the fee for this session or because service providers were reluctant to accept youth on a involuntary, one-time-only basis. Several programs resolved these problems by developing in-house resources for this requirement.

Failure to Meet Conditions of the Diversion Agreement

Not all diverted youth, of course, successfully complete their diversion obligations, particularly when restitution and/or community service are required. Failure to meet the conditions of diversion agreements, however, appears to be a relatively infrequent occurrence. The survey respondents were asked to estimate (on the 0 to 10 scale) the frequency of failure in their jurisdictions. The average estimate obtained from prosecutors and

court administrators was almost identical, i.e., 2.8 and 2.4, respectively. The average estimate of diversion unit directors was even lower (1.8).

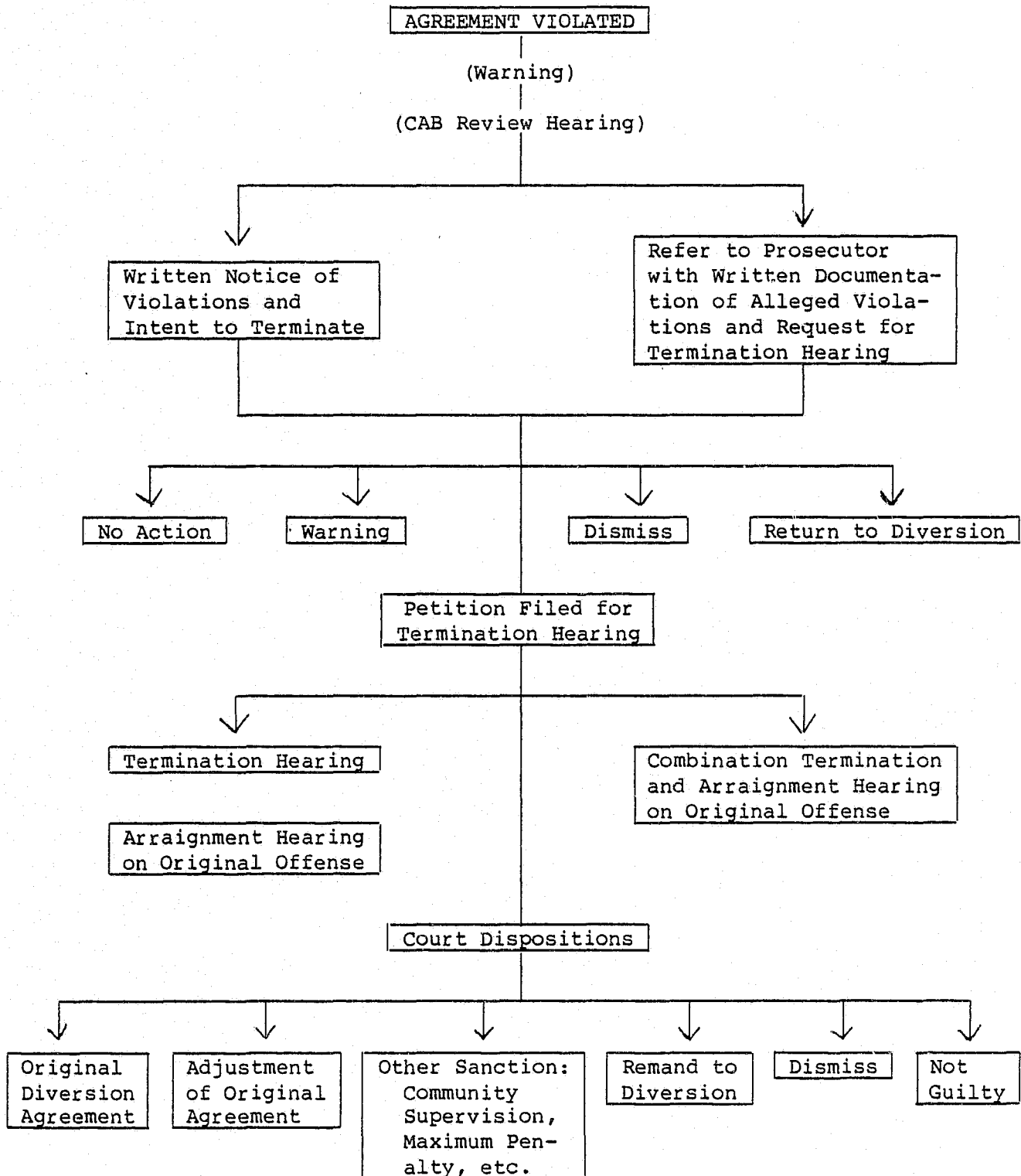
The analysis of successful completion rates of restitution and community service requirements for 85 projects funded by the National Restitution Initiative suggest that even these low, subjective estimates (which numerically might be translated to mean 18 percent to 28 percent) might be high. The overall rate of successful completion for closed cases in the first two years of the restitution initiative was 86.2 percent. The lowest successful completion percentage for any subgroup examined was 76.9 percent for youths ordered 75 or more hours of unpaid community service.¹² Even this lowest rate is higher than that perceived by some respondents.

Process and sanctions. The code specifies that "violation of the terms of the (diversion) agreement are the only grounds for termination" from a diversion program.¹³ The diversionary unit is required to return diversion failures to the prosecuting attorney with written documentation of the alleged violations of the conditions of the diversion program. The juvenile must then be given a court hearing, and can be terminated only if it is demonstrated that the youth "has substantially violated the terms of his or her diversion agreement."¹⁴ The prosecutor may then file an information on the offense for which the juvenile was diverted. If the youth is adjudicated, the court may consider failure to comply with the diversion agreement as an aggravating factor for purposes of disposition. However, violations cannot count as part of an offender's criminal history, and "in no event may a disposition for a violation include confinement."¹⁵

Prosecutors and diversion unit directors were asked to describe the process used in their jurisdictions when it was believed that a juvenile had willfully failed his or her diversion agreement. Figure 2 illustrates each decision point in this process and the options reportedly exercised at each point. All jurisdictions said a petition was filed with the court to terminate diversion, but often only after the diversion unit or the prosecutor's office had given the juvenile a warning and a grace period to comply. Subsequently, or concurrently, prosecutors usually filed an information on the original charges and the case was then adjudicated. However, four jurisdictions reported that the prosecutor sometimes dropped the case or sent it back to the diversion unit.

A wide range of answers was obtained when prosecutors and diversion unit directors were asked to describe the sanctions generally imposed by the court on youth who had failed their diversion agreements. The majority stated that the court generally sentenced youth to the standard range of community supervision (i.e., probation) or simply reimposed the conditions of the original diversion agreement. Approximately a third indicated that the diversion violation was taken into account by sentencing the youth to the highest end of the standard range. Other jurisdictions stated that their courts used more subtle means to coerce compliance; i.e., judges stayed termination or disposition hearing for a period of time to allow (encourage) youth to complete their diversion requirements. Under these latter circumstances, fulfillment of the diversion contract resulted in the termination of any further official action.

FIGURE 2. FLOW DIAGRAM OF PROCESS IF YOUTH VIOLATES DIVERSION AGREEMENT



PROBLEMS AND PROSPECTS

The goals of Washington's diversion programs are to hold juveniles accountable for their offenses in a uniform and consistent manner which minimizes labeling, stigmatization, and cost. Additionally, the formalized diversion system is designed to fully protect the rights of juveniles without involving them in the adjudication process with its probation officers, prosecutors, and judges. The discussion in this section focuses specifically on whether the organizational and operational characteristics of the existing programs are consistent with these goals and principles in the law.

Accountability

It is reasonable to propose that a youth has been held accountable for an offense if he or she pays restitution, does community service work, meets the requirements of probation, is held in detention, fined, or in some other ways experiences an actual loss of time, money, or freedom, which is relatively proportionate to the harm done by the offense. The main issue within the diversion system is whether youths who are counseled and released have been held accountable. These youths must sign a diversion agreement acknowledging that they have accepted the offer of diversion and that they understand that the diverted offense will count in their criminal history should they commit another crime. Since counsel and release is reserved for youths who have committed either a victimless offense or a minor property crime with no loss outstanding, it could reasonably be argued that the

inclusion of the offense in the youth's criminal history constitutes a sanction.

The youth could be viewed as not being held accountable if one of the following occurs: (1) the diversion unit drops the case (this should not include cases that are rejected by diversion and returned to the prosecutor with a recommendation for dismissal on grounds of legal insufficiency); (2) the case is returned to the prosecutor and the charges are dropped; (3) the youth fails to successfully complete the requirements of the diversion agreement and no subsequent action is taken.

Most of the diversion directors surveyed thought that the formal diversion system is more effective in terms of holding youths accountable than was the informal process of the pre-reform era. This perception is consistent with findings based on individual-case data from King, Yakima, and Spokane counties. In those jurisdictions, the proportion of youths held accountable doubled or even tripled--depending on how accountability is defined.¹⁶ Furthermore, the individual-case data show that the enormous increase in accountability was produced almost exclusively by the fact that the diversion units generally required restitution or community service whereas many of the informal adjustments did not involve any recorded sanctions. In spite of the increase in accountability, however, approximately one-third of all legally sufficient law enforcement contacts were not held accountable (according to the individual-level data) even in the post-reform system and about half of the slippage involved cases apparently referred to the prosecutor that were never filed or diverted. Survey respondents in some jurisdictions acknowledged that cases sometimes were

neither filed nor diverted, but these usually involved very young (under 12) minor, first offenders.

Respondents were also asked whether the prosecutor always files an information when a juvenile waives the diversion option and chooses the formal process. Eleven programs (65 percent) reported that these cases were not always filed on. Although the estimates varied, on the average the respondents said that about half of the youths who opted for formal adjudication rather than diversion were not filed on. These youths, then, either are not being held accountable or the cases were lacking in prosecutorial merit at the outset. Either of these reasons could be cause for concern except for the fact that very few youths choose the formal process. The individual-case data from the three jurisdictions involved in the more intensive study showed that there were no youths in Spokane who selected the adjudicatory process over diversion and about 98 percent of the juveniles in King and Yakima counties opted for diversion if it was offered.

Due Process Safeguards

The due process safeguards contained in the diversion provisions appear to have been implemented as intended, and few problems were reported with respect to the protection of juvenile's rights. However, youth rarely exercised their option to waive diversion or to obtain legal counsel at critical stages in the diversion process. Also, several programs reported that legally insufficient cases occasionally were diverted. A major source of this problem seemed to be inadequate resources in the prosecutor's office to meet the demands of a formalized system. Many respondents (including

prosecutors, court administrators, judges, and diversion unit directors) said that a "backlog" of cases, or "a delay in processing" was one of the most serious negative consequences of formalization.

Some of the public defenders who were interviewed, however, expressed concern that the rights of diverted youth are not adequately protected. They maintained that these youth are rarely represented because the system fails to automatically provide counsel at crucial decision points. Instead, defense counsel must rely on court staff to coordinate referrals, a task some public defenders felt was being neglected.

Uniformity

A third of the diversion respondents felt that the current system for determining which cases will be diverted and which will be filed is more fair and equitable than the pre-reform system. This was generally attributed to greater consistency in decision-making. However, in some counties there was considerable dissatisfaction with screening. It was not uncommon for programs to report that ineligible, (or as pointed out earlier, legally insufficient) cases were being diverted. Also, across jurisdictions, significant differences were reported with respect to the handling of offenders in the discretionary diversion categories. While the vast majority of programs reported most youth in these categories were diverted, a few programs exhibited the opposite pattern, and filed on all (or nearly all) optional file/divert cases.

As noted previously, the dispositions which diversion units can impose are highly restricted (restitution, community service, and one educational/

informational interview). In addition, the amount of restitution and community service is strictly limited by the amount of loss to the victim or, in the event of a victimless crime, to 150 hours of community service. Disparity in dispositions given by the diversion units, however, could exist across jurisdictions if they varied widely in their use of restitution and community service. To explore this issue, diversion unit directors were asked whether or not the diversion agreement always included a requirement that the youth pay restitution in cases where there was property loss or damage to the victim that could be partly or entirely recovered through restitution. The answer was "yes" (56 percent) or "nearly always" (44 percent). The most common reasons given for not requiring restitution were that the youth was "unable to pay" or "too young to work" (mentioned by 7 and 5, respectively). The circumstances under which community service requirements were generally made also appeared to be fairly consistent across jurisdictions. For example, nine persons said community service was generally required when the youth had committed a prior offense, six mentioned the seriousness of the offense, and four mentioned offenses involving property loss (e.g., theft or vandalism). Three respondents, on the other hand, said that characteristics of the youth were considered (such as attitude, home discipline, and age). Of these, only "age" could be considered to be consistent with the intent of the diversion provisions.

Table 2 shows respondents' estimates (by county) of the frequency with which restitution, community service, or an information, counseling, or educational interview were included as a part of the diversion agreement. These estimates indicate that while in some programs either restitution or

TABLE 2. ESTIMATES OF HOW OFTEN DIVERSION AGREEMENTS INCLUDE
RESTITUTION, COMMUNITY SERVICE, AND INTERVIEW REQUIREMENTS¹

County	Restitution	Community Service	Information, Counseling, Educational, Session
A	5	8	6
B	6	4	0
C	3	5	9
D	1	7	1
E	3	9	4
F	3	8	5
G	2	9	2
H	1	5	4
I	2	7	4
J	7	9	6
K	10	7	9
L	3	9	2
M	3	7	2
N	4	8	2
O	1	4	7
P	3	8	3
Q	4	9	2
Average	$\bar{x} = 3.7$	7.2	4.0

¹These requirements can be used in combination with each other. A zero to 10 scale was used to estimate the frequency of each sanction.

community service was ordered, in others both were routinely ordered. The data, however, provides far too little information for any conclusions to be made regarding the proportionality or uniformity of diversion dispositions.

Conclusion and Postscript

The data reported in this paper covers approximately the first year and a half of diversion operation (from July, 1978 to January, 1980). During this time, diversion provisions which were legislatively mandated appear to have been implemented fairly consistently statewide. The considerable variety of program models, on the other hand, is testimony to the fact that the legislation permitted local jurisdictions flexibility in adjusting the requirements of the law to local conditions.

One of the greatest problems during this period was a consequence of formalization. The formal screening process (including the screening by the prosecutor for legal sufficiency and for diversion eligibility) appears to have added a bureaucratic layer that, at least during this early period, required more resources than had been anticipated. The goal of formalization was to protect the rights of children and to make the outcome of decisions more fair. Yet, problems with accountability, due process, and uniformity could generally be traced back to delays in screening, inappropriate referrals, and failure to file on diversion failures.

Since the interviews were conducted, the pursuit of diversionary goals has encountered a new set of resource problems. The federal and state grants that were available for implementation and operation during the first two years are no longer available. Yet the law still mandates diversion.

Some programs have responded by returning the diversion function to probation or by depending more on community volunteers to staff the project. However, accountability is apparently suffering due to a lack of resources to enforce attendance at the initial interview, or to monitor and enforce diversion agreements. Ironically, the original proponents of the diversion system wanted to channel funding away from the juvenile court and into the community. Specifically, they did not want to fund compulsory treatment, and this goal has been realized. On the other hand, what money there is appears to be going to the legal technicians, not to community-based programs which might not only hold youths accountable, but also work toward increasing the investment of young offenders in legitimate pursuits. The final impact of the Washington diversion system may be what some delinquency theorists have advocated all along. Minor offenders will be left alone, simply because limited resources must be spent on processing cases which pose a greater threat to the community.

FOOTNOTES

¹One of the better documentations of the origins and development of the diversion movement can be found in Klein (1976).

²Community-based programs have generally been employed as alternatives to incarceration. However, they have also been advocated as strategies to accelerated social reform in juvenile justice, the schools, and work. Community responsibility for the problem of juvenile delinquency was a major focus of a highly significant position paper prepared by Bob Naon, staff to the House Institutions Committee. This report reviews more than 100 articles, books, and documents and advocates the development of community-based alternatives to both the formal court process and to the institutionalization of juvenile offenders. Naon also advocated the use of accountability-oriented diversion programs (see Naon, 1976).

³For discussions and research on the labeling perspective and the concept of secondary deviance, see Lemert (1951); Lemert (1972); Ageton and Elliott (1974:87-100); Fisher and Erikson (1973:117-194); and Empey (1978:341-368).

⁴For a complete discussion of the philosophy and rationale that led to the adoption of a formalized diversion system based on principles of offender accountability, see Schneider and Schram (1983a).

⁵A stratified sampling procedure was used to select the 20-county sample. The jurisdictions served by this sample represent approximately 90 percent of the total state population. It also provides representative coverage of the smaller counties and jurisdictions within the state.

⁶RCW 13.40.080 (2), (4), (6), and (8)

⁷RCW 13.40.080 (8)

⁸The rationale for including prior offenses in the determination of a sentence generally is based on the notion of culpability: A person who has committed prior offenses is more culpable for the current one than is an individual for whom the current offense is the first.

⁹Case-flow information based on individual-level data from three counties is presented in Schram and Schneider (1983). Schneider and Schram (1983b) also contains information about the diversion process.

¹⁰See Baum and Wheeler (1968); Matza (1964); Wheeler, et al. (1968).

¹¹RCW 13.40.080 (3)

¹²See Griffith, Schneider, and Schneider (1982)

¹³RCW 13.40.080 (6) (b)

¹⁴RCW 13.40.080 (6) (n)

¹⁵RCW 13.40.150

¹⁶These findings are reported in Schneider and Schram (1983b)

REFERENCES

- Ageton, Suzanne and Delbert S. Elliott (1974). The effects of legal processing on delinquency orientation. Social Problems, October:87-100.
- Baum, Martha and Stanton Wheeler (1968). Becoming an Inmate. In S. Wheeler (ed.), Controlling Delinquents. New York: John Wiley and Sons, 33-34.
- Blomberg, T. G. (1975). Diversion: A Strategy of Family Control in the Juvenile Court Process (Technical Report). Tallahassee, FL: Tallahassee School of Criminology, Florida State University.
- Blomberg, Thomas (1977). Diversion and accelerated social control. The Journal of Criminal Law and Criminology, 68(2):274-282.
- Empey, LaMar T. (1978). American Delinquency. Homewood, IL: Dorsey Press.
- Fisher, Gene and Maynard Erikson (1973). On assessing the effects of official reactions to juvenile delinquency. Journal of Research in Crime and Delinquency, July:117-194.
- Griffith, William R., A. L. Schneider, and P. R. Schneider (1982). Rates of Successful Completion of Restitution Requirements in Juvenile Restitution Projects: A Multivariate Analysis (Technical Report). Eugene, OR: Institute of Policy Analysis.
- Griffith, William R. (1983). Restitution or Rebate: The Issue of Job Subsidies in Juvenile Restitution (Technical Report). Eugene, OR: Institute of Policy Analysis.
- Hirschi, Travis (1970). Causes of Delinquency. Berkeley, CA: University of California Press.

- Klein, Malcolm W., Kathie S. Teilmann, Joseph A. Stwyles, Suzanne Bugas Lincoln, and Susan Labin-Rosensweig (1976). The Explosion in Police Diversion Programs: Evaluating the Structural Dimensions of a Social Fad, Chapter IV, in M. W. Klein (ed.), The Juvenile Justice System. Beverly Hills: Sage.
- Klein, Malcolm (1978). Deinstitutionalization and Diversion of Juvenile Offenders: A Litany of Impediments. In N. Morris and M. Torny (eds.), Crime and Justice. Chicago: Chicago Press, 145-201.
- Lemert, Edwin M. (1951). Social Pathology. New York: McGraw-Hill.
- Lemert, Edwin M. (1972). Human Deviance, Social Problems, and Social Control. Englewood Cliffs, NJ: Prentice-Hall.
- Lewis, C. S. (1970). The Humanitarian Theory of Punishment. In W. Hooper (ed.), God in the Dock. Grand Rapids, MI: Eerdmans.
- Lipsitt, Paul D. (1968). The juvenile offender's perceptions. Crime and Delinquency, 14(Jan.):49-82.
- Lundman, Richard J. (1976). Will diversion reduce recidivism? Crime and Delinquency, October:428-437.
- Maher, Brendan and Ellen Stein (1968). The Delinquent's Perception of the Law and the Community. In Stanton Wheeler (ed.), Controlling Delinquents. New York: John Wiley and Sons, 187-221.
- Matza, David (1964). Delinquency and Drift. New York: John Wiley and Sons, 133-134.
- Naon, Bob (1976). Responding to the Youthful Offender: An Overview and Critique of the Juvenile Justice and Correction System. Olympia, WA: Office of Program Research, House of Representatives.

Polk, Kenneth (1971). Delinquency prevention and the youth service bureau.

7 Criminal Law Bulletin, 490.

Polk, Kenneth and David Halferty (1972). School Cultures, Adolescent

Commitments, and Delinquency. In K. Polk and W. E. Schafer (eds.)

Schools and Delinquency. Englewood Cliffs, NJ: Prentice Hall, 71-90.

Polk, Kenneth and Solomon Kobrin (1972). Delinquency Prevention Through

Youth Development. Washington, D.C.: U.S. Government Printing Office.

President's Commission on Law Enforcement and Administration of Justice

(1967). Task Force Report: Juvenile Delinquency and Youth Crime, 27.

Rubington, Earl, and Martin Weinberg (eds.) (1968). Deviance: The

Interactionist Perspective. New York: The MacMillan Company.

Schneider, Anne Larason, and Donna Schram (1983a). A Justice Philosophy for

the Juvenile Court, Vol. I. From An Assessment of Juvenile Justice

System Reform in Washington State (Final Report). Eugene, OR:

Institute of Policy Analysis.

Schneider, Anne Larason, and Donna Schram (1983b). A Comparison of Intake

and Sentencing Decision-Making Under Rehabilitation and Justice Models

of the Juvenile System, Volume V. From An Assessment of Juvenile

Justice System Reform in Washington State (Final Report). Eugene, OR:

Institute of Policy Analysis.

Schram, Donna, and Anne Larason Schneider (1983). From Rehabilitation to a

Legal Process Model: Impact of the Washington Reform on Juvenile Justice

Agencies, Volume II. From An Assessment of Juvenile Justice System

Reform in Washington State (Final Report). Eugene, OR: Institute of

Policy Analysis.

Schur, Edwin M. (1971). Labeling Deviant Behavior: Its Social Significance.

New York: Harper & Row.

Schur, Edwin (1973). Radical Non-Intervention: Rethinking the Delinquency Problem. Englewood Cliffs, NJ: Prentice-Hall.

Vorenberg, Elizabeth and James Vorenberg (1973). Early Diversion from the Criminal Justice System: Practice in Search of a Theory. In L. Ohlin (ed.) Prisoners in America. Englewood Cliffs, NJ: Prentice-Hall, 15-183.