An Assessment of Juvenile Justice System Reform in Washington State

VOLUME VIII. ATTITUDES OF PROFESSIONALS TOWARD A "JUSTICE" PHILOSOPHY FOR THE JUVENILE COURT

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ATTITUDES OF PROFESSIONALS TOWARD A "JUSTICE" PHILOSOPHY FOR THE JUVENILE COURT

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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 of the Washington Reform on Juvenile Justice Agencies (Schram and Schneider)

Volume III: Presumptive Sentencing Guidelines for Juvenile Offenders (Schram and Schneider)

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 System (Schneider and Schram)

Volume VI: The Impact of Reform on Recidivism (Schneider and Schram)

Volume VII: Divestiture of Court Jurisdiction Over Status Offenses (Schneider, McKelvy and Schram)

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 Juvenile Justice Code (Schneider and Seljan)

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ATTITUDES OF PROFESSIONALS TOWARD A "JUSTICE" PHILOSOPHY FOR THE JUVENILE COURT

INTRODUCTION

In 1977 the Washington state legislature culminated almost 10 years of debate by adopting a new juvenile justice code that calls for changes not only in the practices of the juvenile system, but in its basic premises and philosophy as well.[1] Based on the principle of "justice" and "just deserts," the reform code emphasizes uniformity, equity, fairness, and accountability rather than rehabilitation or deterrence. According to the statement of legislative intent (see Figure 1), the law seeks to establish a juvenile justice system that can be held accountable for what it does to juveniles and one that is capable of holding juveniles accountable for their offenses.

Several parts of the Washington law are especially significant:

1. Sentences are presumptive and determinate (within very narrow ranges established by sentencing guidelines), and are proportionate to the seriousness of the immediate offense, the age of the youth, and the prior criminal history. Youths designated as serious offenders by the state law are to be committed to a state institution for 30 days or more (depending on the sentencing guidelines) unless the judge declares that a manifest injustice would occur. Alternatively, youths designated as "minor or first" offenders by the law cannot be committed nor detained in local facilities unless the judge declares that a manifest injustice would occur.

2. Responsibility for intake to the juvenile system now resides in the prosecutor's office for all felony cases and for misdemeanor incidents (unless the prosecutor waives intake for these offenses to probation).

FIGURE 1. STATEMENTS OF LEGISLATIVE INTENT

OFFENDERS (RCW 13.40.010)

"It is the intent of the legislature that a system capable of having primary responsiblity for, being accountable for, and responding to the needs of youthful offenders, as defined by this chapter, be established. It is the further intent of the legislature that youth, in turn, be held accountable for their offenses and that both communities and the juvenile courts carry out their functions consistent with this intent. To effectuate these policies, it shall be the purpose of this chapter to:

(a) Protect the citizenry from criminal behavior;
(b) Provide for determining whether accused juveniles have committed offenses . . .;
(c) Make the juvenile offender accountable for his or her criminal behavior;
(d) Provide for punishment commensurate with the age, crime, and criminal history of the juvenile offender;
(e) Provide due process for juveniles alleged to have committed an offense;
(f) Provide necessary treatment, supervision, and custody for juvenile offenders;
(g) Provide for the handling of juvenile offenders by communities whenever consistent with public safety;
(h) Provide for restitution to victims of crime;
(i) Develop effective standards and goals for the operation, funding, and evaluation of all components of the juvenile justice system and related services at the state and local levels; and
(j) Provide for a clear policy to determine what types of offenders shall receive punishment, treatment, or both, and to determine the jurisdictional limitation of the courts, institutions, and community services."

* *

STATUS OFFENDERS (RCW 13.34.020)

"The legislature declares that the family unit is a fundamental resource of American life which should be nurtured. Toward the continuance of this principle, the legislature declares that the family unit should remain intact in the absence of compelling evidence to the contrary."

Explicit criteria, based on the seriousness of the offense, age, and prior criminal history of the youth, govern the decision to file or to divert the youth. The use of "informal adjustment" is no longer permitted. Law enforcement agencies, however, still exercise their traditional discretion on whether to refer or adjust incidents involving juveniles.

3. The law establishes community-based diversion programs for juvenile offenders in lieu of formal processing. All nonfelony first offenders and many minor (but chronic) offenders must be offered diversion as an alternative to the formal court process. Washington's approach, however, is quite unusual in that the responsibility of the diversion program is to hold the youths accountable for their offenses by requiring restitution to the victim or community service work rather than to provide the youths with social services, counseling, recreational programs, educational assistance, and the like.

4. Juveniles can no longer be brought under the jurisdiction of the court for the commission of status offenses. Although many states have amended their codes to deinstitutionalize status offenders and/or to divert some of them from the juvenile system, only two states -- Washington and Maine -- have developed legislation which divests the court of all jurisdiction over noncriminal misbehaviors generally designated as status offenses. Services for these youths and their families are to be provided by a state executive agency, the Department of Social and Health Services.

The status offender provisions in Washington's initial legislation (House Bill 371, passed in 1977) were, in most respects, identical to the standards set forth by the Institute of Judicial Administration (IJA) and

the American Bar Association (ABA) for the juvenile systems.[2] In fact, the exact language of the standards was used in major sections of the law. Washington's approach to the offender provisions, while not taken directly from the IJA/ABA standards, is based on the same philosophical premises as those which provide the orienting rationale for the standards. Indeed, the Washington law reflects the tenets of the justice model more carefully and consistently than do the IJA/ABA standards.

From the outset, the new approach and its explicit abandonment of the rehabilitation-oriented, parens patriae philosophy was opposed by judges, probation officers, and other social workers involved with the juvenile court. Support came from a diverse coalition of organizations, including the American Civil Liberties Union, the Washington Association of Sheriffs and Chiefs, victim rights groups, prosecutors, and many others who supported either the specific reforms that were being made or the underlying philosophy of the new approach, or both.

The purpose of this report is to examine the attitudes and opinions about the reform held by key juvenile justice professionals approximately two years after the new system had been implemented in the state.

METHODOLOGY

Professional attitudes toward the legislation and professional perceptions of whether the legislation was having its intended effects on juveniles were obtained from in-depth, structured interviews with juvenile justice agency personnel in a 20-county sample within the state of Washing-

ton. A systematic stratified sampling procedure was developed to maximize the proportion of the state's population included and to provide representation for the many small jurisdictions within the state. First, all 39 counties in Washington state were ranked according to five population groupings: (1) over 200,000; (2) 100,001 to 200,000; (3) 50,001 to 100,000; (4) 25,001 to 50,000; and (5) 25,000 and under. Next, the four counties with the largest populations were selected within each population group, a process that yielded 20 counties that varied by size and location throughout the state (see Figure 2). The 20 counties include 90 percent of the state's population and also include eight of the 19 counties that have fewer than 50,000 population.

Within each of these 20 counties, the agency samples consisted of the following:

Agency or Professional Group	Actual # of Respondents
(1) Sheriff's Department;	19
(2) Largest Police Department (municipal jurisdiction);	19
(3) Juvenile Court Administration & Probation;	20
(4) Prosecutor's Office;	19
(5) Diversion Unit;	18
(6) Counsel for the Defense;	19
(7) Judiciary.	17

Also shown are the actual number of persons from each type of agency or professional group that participated in the study. Overall, missing respondents were evenly distributed across the counties. With the excep-

FIGURE 2. SAMPLE COUNTIES AND CORRESPONDING MUNICIPALITIES INCLUDED IN THE AGENCY SURVEYS

County	Municipality
200,000+ Population:	Largest Corresponding City:
1. King	1. Seattle
2. Pierce	2. Tacoma
3. Snohomish	3. Everett
4. Spokane	4. Spokane
100,001 - 200,000 Population:	
1. Clark	1. Vancouver
2. Yakima	2. Yakima
3. Kitsap	3. Bremerton
4. Benton/Franklin*	4. Richland
50,001 - 100,000 Population:	
1. Thurston	1. Olympia
2. Whatcom	2. Bellingham
3. Cowlitz	3. Longview
4. Grays Harbor	4. Aberdeen
25,001 - 50,000 Population:	
1. Lewis	1. Centralia
2. Grant	2. Moses Lake
3. Walla Walla	3. Walla Walla
4. Chelan	4. Wenatchee
25,000 or Less Population:	
1. Mason	1. Shelton
2. Douglas	2. Waterville**
3. Stevens	3. Colville
4. Pacific	4. Raymond

*Although served by only one juvenile court, Benton and Franklin counties each have independent enforcement and prosecution agencies which were included in the surveys.

**Waterville has no police department and, therefore, was not included in the law enforcement survey.

tion of one county where three agencies elected not to participate, no more than one respondent is missing from any one county.

The director of each agency included in the sample (sheriff, police chief, court director, etc.) was contacted by a member of the professional research staff to explain the purposes of the assessment and to elicit cooperation in the research effort. Each consenting agency director was then asked to either serve as the interview respondent or to identify a staff person within the agency who was most familiar with practices and procedures regarding juveniles from the pre-reform time period to the present. Contacts made with these agencies, and with the Superior Court administrator for each county, were used to identify the most knowledgeable respondents for the Defense Counsel and Judicial surveys. With the exception of several in-person contacts, and four mailed surveys, all interviews were conducted by telephone.

The interview schedule contained a variety of response formats, including structured and open-ended questions, as well as a 10-point rating scale. The 10-point rating system was used in lieu of a Likert-type scale (e.g., very satisfied, satisfied, etc.), because (1) it was more adaptable to research needs, and (2) it provided the best method to quantify subjective responses. For example, in most contexts, the zero-to-10 scale was used to solicit responses that represented the "amount" or "likelihood" of an occurrence. Thus, a response of zero meant "none" or "never," and a 10 indicated "total" or "always." Alternatively, a response of 1 or 2 was synonymous with "infrequent" or "occasional," whereas an 8 or 9 was translated as "usual" or "very frequent."

Although separate interview instruments were developed for each type of agency, many common questions were included either in all surveys, or in all surveys of agencies affected by a particular legislative reform. This procedure allowed information to be obtained on the same topics from a variety of system actors. Thus, analysis of responses to common questions could be undertaken to examine experiences with and perceptions of the new legislation across all agencies, or to compare differences in experiences or perceptions among similar agencies.

The topics covered in subsequent parts of the report include (1) overall levels of support and opposition to the reform by persons in each agency and each county; (2) judicial reactions to the sentencing standards and other specific provisions of the code; (3) perceptions held by professionals regarding the consequences of the law on uniformity, accountability, fairness, and recidivism; (4) recommendations for change in sentencing standards; and (5) correlations between support for the law and perceptions of its consequences.

SUPPORT AND OPPOSITION TO THE REFORM

It was anticipated that there would be opposition to the new code by those whose authority, responsibility, or discretion had been diminished by the reform. It was also expected that those who agreed most strongly with the doctrine of parens patriae would find it especially difficult to deal with the changes. Thus, judges and court administrators (who supervise probation and serve as the chief probation officer) were envisioned as

having the highest potential for continued opposition to the law because of the enormous reduction in their discretion, the reduction in their control over juvenile cases that come before them, and because they were expected to resist the change in the fundamental underlying philosophy of the juvenile system -- rehabilitation.

To explore the issue of support as systematically as possible, survey respondents were asked to provide their perceptions of support and opposition for themselves, their agencies, and other persons and groups affected by the law. In order to quantify the answers, respondents were asked to use a modified version of the zero to 10 scale. In this instance, a 10 indicated extremely strong support, zero indicated extremely strong opposition, and a 5 represented a neutral position which was neither for nor against the provisions.

Respondent Positions

Respondents were asked to characterize their own positions with regard to the new offender provisions. Table 1 shows responses by professional group and Table 2 shows responses by county. It is apparent that there was a wide diversity of opinion within and across groups. It is also clear that the offender provisions had not enjoyed overwhelming support even from some of the agencies that one might expect to have been most supportive, and in some counties respondents were overwhelmingly opposed to the law.

As was anticipated, prosecutors tended to be more supportive than other professional groups (mean = 6.8) and judges were the least supportive (mean = 4.6). The levels of support exhibited by representatives of law

TABLE 1. SUPPORT AND OPPOSITION TO THE OFFENDER PROVISION BY PROFESSIONAL GROUP

Respondent Group	No. of Cases	Average Score	Oppose	Neutral	Support
Police	19	6.1	26%	11%	63%
Sheriff	19	6.1	37	16	47
Diversion	18	6.0	39	0	61
Public Defender	18	5.6	22	22	56
Prosecutor	17	6.9	18	12	70
Court Administrator	20	6.1	20	15	65
Judge	16	4.6	50	12	38
Total	127	5.9			

TABLE 2. SUPPORT AND OPPOSITION TO THE OFFENDER PROVISIONS BY COUNTY

County	No. of Cases	Average Score	Oppose	Neutral	Support
A	6	6.00	43%	0%	57%
B	6	5.33	33	17	50
C	7	7.00	14	14	72
D	6	6.33	0	33	67
E	7	6.14	14	14	72
F	7	6.57	14	0	86
G	6	4.00	50	17	33
H	7	6.43	43	0	57
I	7	6.14	29	14	57
J	6	5.50	33	33	33
K	5	7.00	0	0	100
L	7	7.00	14	14	71
M	6	6.33	33	0	67
N	5	5.00	20	60	20
O	6	6.67	17	0	83
P	6	5.67	50	17	33
Q	4	4.25	75	0	25
R	6	7.83	0	17	83
S	7	5.71	29	14	57
T	7	1.86	100	0	0
Total	127	5.91			

enforcement (6.1) were slightly higher than other agencies, while those of defense (5.6) and diversion (6.0) were somewhat lower. Most surprising, however, was the high level of support from court administrators (6.1).

A comparison of "average" scores and scores collapsed into "oppose," "neutral," and "support" show that when extreme responses are controlled, prosecutors and court administrators appear even closer in their positions and, again, the level of support by the latter is quite surprising (18 percent of the prosecutors compared to 20 percent of the court administrators were opposed, and 70 percent of the prosecutors compared to 65 percent of the court administrators were supportive). However, prosecutors tended to be very supportive, with eight respondents reporting scores between 8 and 10, whereas court administrators were more lukewarm in their support with eight characterizing their support with a score of 7.

Proportionately, the extent of opposition expressed by judicial respondents is significantly higher than opposition by prosecutors (50 percent vs. 18 percent, $\alpha < .05$). Defense counsel tended to be more neutral than other groups. The mean scores for sheriffs and police chiefs were identical and although 47 percent of the sheriffs compared to 63 percent of the chiefs actually indicated "support," these differences are not statistically significant.

Judicial respondents were asked to indicate their support or opposition to some specific reforms which were brought about by the adoption and implementation of the law. Table 3 shows the mean support score for each reform, the median score, and the range of responses. As can be seen from the data in this table, responses on nearly every reform covered the entire

TABLE 3. JUDGES' POSITION WITH RESPECT TO SPECIFIC LEGISLATIVE REFORMS

Reform	Mean	Median	Range
1. The uniform sentencing standards	3.250	3.167	0-9
2. The formal diversion system	6.188	7.000	0-10
3. The codification of "due process" for juveniles	6.875	7.900	0-10
4. The overall formalization of the juvenile justice system	5.625	6.833	0-10

range from total opposition to complete support. With such a diversity of opinion, the median response provides a better indication of how judges tended to view these reforms.

Support for the uniform sentencing standards was clearly very low. Only one respondent indicated very strong support; the lower median scores show that responses clustered around the low end of the scale (three judges indicated complete opposition, or a score of zero, and two gave the standards a score of 1). On the other hand, judicial respondents indicated considerably more support for the formal diversion system, codification of "due process" for juveniles, and the overall formalization of the juvenile justice system.

The exact nature of the support or opposition was explored more qualitatively by asking judicial respondents to comment on their observations and conclusions regarding the informal vs. the formal system. Generally, judges tended to feel that formalization contributed to the protection of juvenile rights as well as to the accountability both of the system and of the juvenile (particularly the older, more serious offender). Formal processes were also seen as increasing fairness and equity in the handling of juveniles.

There were several criticisms, however, both by those who tended to support the more formal processes, and those who opposed them. First, the fact that more cases must be formally processed, and second, that processing requires more time and legal expertise than was necessary in the past were seen as resulting in an overall increase in the expense to local juvenile courts. Some judges felt that this expense has not been offset by the

advantages accrued -- or that while some formalization is good, the law went overboard in its requirements. For example, several respondents felt quite strongly that the formalized process is inappropriate for the very young offender or very minor offender. While judges generally did not appear to be opposed to applying to older, more serious offenders the same criteria used for adult criminals, they had serious reservations about the efficacy of giving criminal records to "children" and of using a legalistic means to hold them accountable. They favored, instead, a more informal and more individualistic approach, taken in concert with the family and school. The response from one jurisdiction in the sample summarizes these sentiments:

> Judges in this county feel that there should be a combination of the pre and post systems. Ages 13, 14, and 15 should be treated presumptively, with court discretion to drop or elevate into the older or younger system. Because of their sophistication level, ages 16 and 17 should be handled in the same manner as adults with the only difference being that they be housed in separate facilities. The present system is <u>not</u> suitable for kids under 13. [The new law] is too formal for these kids -- it's senseless. They should be handled informally, with parents.

PERCEPTIONS OF CONSEQUENCES

Perhaps the most unique and intriguing change made in the Washington juvenile justice system is the limitation placed on professional discretion and the introduction of presumptive decision-making at several critical points in the system. Indeterminate sentencing, based on the rehabilitative needs of the youth, has been replaced with a presumptive sentencing scheme in which the "expected" or "normal" sentence (as determined by the sentencing guidelines issued by the Department of Social and Health Ser-

vices) is to be given unless there are extenuating circumstances. Exceptions to the sentencing standards can be made, by the judge, through a declaration of manifest injustice and the filing of written reasons for the enhancement (or reduction) of the sentence. The intent of the legislation was to produce more uniformity and equity in the sanctioning system; and to hold juvenile offenders accountable for their behavior.[3] The section which follows examines juvenile justice professionals' perceptions of change in fairness, accountability, and deterrence, as well as their reactions to the Uniform Sentencing Standards.

Perceptions of Change in Fairness

Representatives from the juvenile justice agencies were asked whether they believed that sentencing is more or less fair and equitable now than it was prior to the law. Table 4 indicates that half of the agency respondents thought that sentencing is now more fair, but another 21 percent perceived no change and 28.5 percent thought that sentencing, post-reform, is less fair. Some of the differences in perceptions between professional groups are significant. For example, while 61 percent of the prosecutors viewed sentencing as more fair now, only 27 percent of the judges do ($p < .01$), and 60 percent of the judges actually said that sentencing is less fair than it was prior to the reform.

The survey data indicates that judicial respondents perceived uniformity and consistency as major advantages to the sentencing standards approach, but judicial respondents, almost without exception, were critical of the limitations these standards impose on judicial discretion. The

TABLE 4. PERCEPTIONS OF FAIRNESS[1]

Type of Respondent	Number of Cases[2]	More Fair/ Equitable	No Change	Less Fair/ Equitable	Total
Sheriffs	18	61%	6%	33%	100%
Police Chiefs	19	58%	21%	21%	100%
Prosecutors	18	61%	22%	17%	100%
Court Administrators	20	40%	25%	35%	100%
Defense Counsel	18	56%	22%	22%	100%
Diversion Unit Directors	15	47%	40%	13%	100%
Judges	15	27%	13%	60%	100%
Total Population	123	50.4%	21.1%	28.5%	100%

[1]The exact question was: "The new law was intended to make sentencing of juvenile offenders more fair and more equitable. Please estimate whether sentencing is more or less fair and equitable in your jurisdiction now than it was prior to SHB-371."

[2]The number responding to this particular question, excluding "don't know" responses, is shown in this column.

reasons advocated for judicial discretion centered around the issue of taking into account individual differences. There appeared to be strong sentiments among judges that no two persons and no two crimes are alike, and that fairness and equity do not go hand in hand with uniformity and consistency.

Diversion unit directors were also asked whether they believed that the current system of determining which cases will be diverted and which will be filed is more fair and equitable than the pre-371 system. Forty-three percent of those with an opinion thought that the current screening system is more fair and equitable. This change was generally attributed to greater consistency in decision making. Fifty-seven percent peceived no change. The two major reasons given to explain the lack of change were that the previous standards are essentially the same as current ones, or that discretion was not misused in the past.

Perceptions of Change in Offender Accountability

Another objective of Washington's revised juvenile code was to make juveniles accountable for their criminal offenses. Although "accountability" was never defined in the legislation, interviews with sponsors of the legislation suggested that the intent was to impress upon youths that they are responsible for their behavior and, if they commit a crime, the system will impose a sanction proportional to the gravity of the offense. Three aspects of the law were intended to increase juvenile accountability:

1. The law was designed to put an end to informal adjustments and supervisory practices;

2. Informal processes were replaced by a formalized diversion system which emphasizes restitution and community service work rather than social services or counseling;

3. All offenses count as part of the criminal history in the event the youth is again involved in an offense.

Survey respondents generally indicated that practices within the counties had shifted to be in compliance with the provisions of the law that were designed to increase the extent to which juveniles are being held accountable for their offenses. All of the counties have diversion units, the majority have community accountability boards, and most youth who are diverted are required to do community service work or pay restitution to their victims. In addition, survey data indicates that the informal practices of the past have been eliminated completely in 30 percent of the counties represented, with the estimate of informal handling in the remaining counties at about 10 percent of legally sufficient cases (in contrast to an estimated 50 to 80 percent in the pre-reform era). In addition, all of the counties in the sample have developed procedures so that offenses committed by either adjudicated or diverted youths count as part of the future criminal history.

The surveys explored respondents' perceptions of whether these changes in the system have resulted in any actual increase in "accountability." Seventy-six percent of the diversion unit directors interviewed thought that the current diversion system is more effective in terms of holding youth accountable for their offenses than was the informal process of the pre-reform system. In response to a question on all surveys comparing accountability of juveniles before and after the legislation went into

effect, half or more of the respondents from each group stated that youth in their jurisdictions weremore likely to be held accountable now, 10 percent reported no change, and 23 percent said that youth were less likely to be held accountable now (see Table 5). Reasons for this latter judgment included: (1) diversion sanctions are too lenient or lack effective means of enforcement; (2) sanctions for "chronic" middle offenders are too lenient; and (3) the sentencing standards encourage pleas to less serious offenses. The most frequent reason given for "no change" in accountability was that the system held youth accountable before and does now.

When respondents were asked to estimate the magnitude of the increase, the average score obtained was 6.4 on a scale of zero to 10. The magnitude of decrease estimated by those with this perception was very similar (5.9). While prosecutors were more likely to perceive an increase (67 percent) and court administrators the least likely to perceive an increase (45 percent), these differences are not statistically significant.

Perceptions of Change in Deterrence

While deterrence was not a primary goal of the revised juvenile code, there was some expectation that the new presumptive sentencing standards, by making punishment more certain or more severe, would operate as a deterrent to criminal behavior. Persons implementing the law, however, agreed overwhelmingly that presumptive sentencing did not deter crime more effectively than the indeterminate sentencing policies that were in effect prior to the reform. In fact, although a slight majority (52 percent) indicated that there had been no change, 40 percent stated that the sentencing guide-

TABLE 5. RESPONDENT PERCEPTIONS OF WHETHER JUVENILES ARE MORE ACCOUNTABLE NOW THAN IN THE PAST[1]

Type of Respondent	(N)[2]	More Accountable	No Change	Less Accountable
Sheriff	(19)	53%	10%	37%
Police Chief	(19)	63%	16%	21%
Prosecutor	(18)	67%	5%	28%
Defense Counsel	(18)	56%	44%	0%
Court Administrator	(20)	45%	25%	30%
Diversion Unit Director	(28)	61%	22%	17%
Judge	(17)	53%	18%	29%

[1]The exact question was: "One of the central purposes of the new code is to make youths who commit crimes more accountable for their offenses. In your community, are offenders any more or less likely to be held accountable now than they were before HB-371?"

[2]The number responding to this particular question, excluding "don't know" responses, is shown in this column.

lines in effect at the time of the survey had actually increased the likelihood that youth would offend (or reoffend).

Those who reported less deterrence emphasized two major problems: (1) the sanctions imposed were too lenient to be perceived as punishment; and (2) juveniles -- with the emphasis on "streetwise" youth -- quickly figured out the point system and how to manipulate it. Some persons also expressed the opinion that plea bargaining undermines sentencing schemes by conveying to youth the message of "beat the system."

The major criticism was that the standards were too lenient for first offenders. As one respondent put it: "It's like expecting a child not to take any cookies from the cookie jar, after you've made it perfectly clear that nothing bad will happen until s/he has taken at least three." This raises a critical issue. The law intended for punishment to be certain, but the amount of punishment to be given under a justice approach does not depend on the amount perceived to accomplish future-oriented goals such as reducing crime or recidivism or rehabilitating the offender. Whether the goals of fairness and accountability can be pursued without the system resorting to punitiveness as a means of social control (in lieu of rehabilitation) has been a major concern of proponents of the justice approach.

Many of those who saw "no difference," as well as those who saw less deterrence, rejected the theory that threat of punishment deters. A prevalent opinion among these respondents was that juveniles act impulsively without concern for consequences. As Table 6 shows, there were significant differences in perceptions between the professional groups represented. Judicial respondents were twice as likely to report <u>less</u> deterrence than were representatives from defense or diversion ($\alpha < .05$).

TABLE 6. RESPONDENT PERCEPTIONS OF WHETHER THE NEW PRESUMPTIVE SENTENCING STANDARDS MORE EFFECTIVELY DETER CRIMINAL BEHAVIOR THAN THE INDETERMINATE SENTENCING POLICIES IN EFFECT PRIOR TO HB-371[1]

Type of Respondent	(N)[2]	Yes, Now More Deterrence	No Difference	No, Now Less Deterrence	Total
Prosecutor	(15)	7%	40%	53%	100%
Defense Counsel	(19)	5%	69%	26%	100%
Court Administrator	(20)	5%	60%	35%	100%
Diversion Unit Director	(15)	13%	53%	33%	100%
Judge	(16)	6%	31%	63%	100%
Total	(85)	7	52%	41%	100%

[1]The exact question was: Some have suggested that presumptive sentencing increases the certainty of punishment for juvenile offenses. Furthermore, they have theorized that certainty of punishment deters offenses. Based upon your professional experience and perceptions, do you believe that the new presumptive sentencing standards more effectively deter criminal behavior than the indeterminate sentencing policies in effect prior to HB-371?

[2]The number responding to this particular question, excluding "don't know" responses, is shown in this column.

Appropriateness of Sentencing Standards and Recommended Changes

When asked whether the prescribed sanctions were generally appropriate, 63 percent of the prosecutors and 70 percent each of the court administrators and judges said "no." Approximately half of the defense and diversion respondents also said "no." Reasons given by court administrators for the inappropriateness of the sentencing standards were rather evenly divided between statements that the sanctions were too lenient, that judges should be permitted more sentencing discretion, and that the standards were being used to manipulate the state institutional population. Judges and prosecutors who did not believe that the sanctions were appropriate said that the standards were too lenient. Some prosecutors also believed that they did not permit judges sufficient sentencing discretion.

Nearly all respondents (90 percent) said that they would recommend changes in the current sentencing guidelines. Changes most frequently recommended are shown in Table 7.

PERCEPTIONS OF CONSEQUENCES AND SUPPORT FOR THE OFFENDER PROVISIONS

To identify the strength of the relationship between overall levels of support for the offender provisions and respondents' perceptions of specific major consequences, support scores were cross-tabulated with perceptions of change in fairness, accountability, and deterrence, and with assessments of the appropriateness of the sentencing standards for youth referred to court.

TABLE 7. RECOMMENDED CHANGES IN SENTENCING STANDARDS

Type of Change	Times Mentioned	% of Responses
1. Increase severity of some sanctions	32	27%
2. Increase judicial discretion	29	24
3. Eliminate entirely	20	17
4. Simplify, clarify, revise (structural recommendations)	18	15
5. Decrease severity of some sanctions	9	7
6. Remove from authority of DSHS	7	6
7. Other	5	4
Total	120	100%

For purposes of analysis, support scores were trichotomized, with responses of zero to 4 representing opposition, 5 a neutral position, and scores of 6 to 10 meaning support. The results, displayed in Table 8, indicate that respondent support for the reform is significantly related to perceptions of consequences. For example, 74 percent of those who reported that sentencing is now more fair indicated support for the offender law, compared to 54 percent of those who perceived no change in fairness, and 26 percent of those who believed that sentencing is less fair now. Similarly, 73 percent of those who believed youth are more apt to be held accountable now were supportive, compared to 54 percent of those reporting "no change" and 24 percent of those who responded that youth are less likely to be held accountable.

Earlier it was reported that only seven percent (six out of 82 respondents) of the sample believed the new standards have had a deterrent effect. Of the 52 percent who reported "no difference," the majority (70 percent) still indicated support. This result, supplemented with reasons given for "no change," suggests that those who saw sentencing as unrelated to criminal behavior, or who thought that in theory certainty or severity of punishment should act as a deterrent, were not using deterrence as a major criteria for evaluating the effectiveness of the reform. However, of the 40 percent who believed that there had actually been a decrease in deterrence, over half (55 percent) indicated opposition, and only 36 percent indicated support.

The gamma coefficients reported in Table 8 indicate fairly strong (and significant) correlations between perceptions of consequences and levels of

TABLE 8. RESPONDENT SUPPORT OR OPPOSITION TO OFFENDER PROVISIONS BY PERCEPTION OF CONSEQUENCES

CONSEQUENCE	(N)[1]	OPPOSE (0-4)	NEUTRAL (5)	SUPPORT (6-10)	TOTAL
Change in Fairness					
More Fair Now	(59)	12%	14%	74%	100%
No Change	(26)	35	11	54	100
Less Fair Now	(34)	62	12	26	100
Gamma = -.62 p < .001					
Change in Accountability					
More Accountable	(71)	17%	10%	73%	100%
No Change	(25)	35	11	54	100
Less Accountable	(29)	55	21	24	100
Gamma = -.56 p < .001					
Change in Deterrence					
More Deterrence	(6)	0%	33%	67%	100%
No Change	(43)	16	14	70	100
Less Deterrence	(33)	55	9	36	100
Gamma = -.56 p = .002					
Appropriateness of Sentencing Standards					
Generally Appropriate	(35)	17%	22%	72%	100%
Not Generally Appropriate	(54)	37	13	50	100
Gamma = .42 p = .10					

[1]The number responding to each question, excluding "don't know" responses, is shown in this column.

support. However, while the coefficients provide a measure of association, they do not indicate that a causal relationship exists. A person might adopt a positive or negative position about the reform depending on perceived outcomes, but an a priori negative (or positive) disposition toward the legislation could influence a respondent's actual perception of consequences.

To explore whether respondents tended to have either generally positive or generally negative perceptions of legislative consequences, a count was taken of the number of times that respondents answered positively, negatively, or "no change" to the questions of fairness, accountability, deterrence, and appropriateness of sentencing standards. Four professional groups were included in the "count" and the analysis which follows: prosecutors, court administrators, defense counsel, and judges.[3]

The results, displayed in Table 9, fail to demonstrate a particularly strong tendency for respondents to view these issues interdependently; i.e., there is no clustering at the highly positive, or highly negative end of the possible zero to 4 range. Seven (10 percent) of the respondents were consistently negative in their perceptions; only two (one percent) were consistently positive. The pattern that emerges, however, is not a totally random one. Approximately half of those who responded to all four questions reported either no positive consequences (27 percent) or no negative consequences (24 percent). The lack of a definitive clustering at either end of the scale can be attributed to the fact that 84 percent reported "no change" at least once. This percentage is high, in part, due to the number who perceived "no change" in deterrence. Table 10 shows the

TABLE 9. COUNT OF RESPONSES TO QUESTIONS OF CONSEQUENCE[1]

	Positive Consequence	Negative Consequence	No Change
# of Cases[2]	(71)	(71)	(71)
None	27%	24%	16%
One	24%	34%	55%
Two	28%	17%	25%
Three	20%	15%	4%
Four	1%	10%	n/a
Mean	1.45	1.52	1.18

[1]Questions included in the count are: fairness, accountability, deterrence, and appropriateness of standards.

[2]Respondents included in the above count are representative of defense, the judiciary, court administration, and prosecution.

TABLE 10. DISTRIBUTION OF "NO CHANGE" RESPONSES ON QUESTIONS REGARDING LEGISLATIVE EFFECT

Question	# of "No Change" Responses	Percent
Fairness	26	27%
Accountability	26	27
Deterrence	44	46
Total	96	100%

NOTE: Only 71 "no change" responses were included in the "count," meaning that 25 of those who reported "no change" responded "don't know" to one of the other three questions.

distribution of "no change" responses across the three questions which allowed this response.

The number of positive consequence, negative consequence, and no consequence responses were cross-tabulated with type of respondent, level of support for offender provisions, county, and population size of jurisdiction represented. There were no significant differences between professional groups, counties, and jurisdictions of differing population sizes. Significant correlations were obtained between the number of negative responses and level of opposition on a scale of zero to 10 ($R = .53639$, $R^2 = .29$, $p < .0001$) as well as the number of positive responses and level of support ($R = .41884$, $R^2 = .1764$, $p < .001$).

CONCLUSIONS

It is clear that there has been considerable support for some aspects of Washington's revised juvenile code, particularly those related to increasing juvenile offender accountability and ensuring due process. On the other hand, formalization of the system has been expensive and there has been much dissatisfaction expressed with the sentencing standards. Nonetheless, the strategies for change incorporated in the legislation produced compliance with legislative mandates and resulted in considerable change. These strategies appear to have circumvented some of the often-cited reasons for implementation failure.

First, the problem of incompatability between legislative philosophy and practitioners' professional norms and values was averted by shifting

operational authority to persons whose basic philosophy was closest to that contained in the law. Second, the law established specific, measurable criteria for decision making at most of the critical processing points within the system. Exceptions were permitted, but only if written reasons were given. This strategy assured high visibility of agency conformity to the law, a factor which Teilmann (1980)[4] suggests as important in defining the extent of real or perceived mandate. Finally, the new approaches effectively discouraged agencies from pursuing treatment and rehabilitation goals at the expense of fairness and equity.

On the other hand, the opposition that has existed during the years since the bill was passed has been apparent in legislative deliberations. Hundreds of amendments have been introduced and considered each year and many "corrective" measures have been adopted by the legislature. Many of these have aimed at altering the process through which the sentencing standards are developed and at reintroducing some aspects of the service-oriented system of the past. Whether a justice philosophy in the juvenile system can survive remains to be seen.

FOOTNOTES

[1]Title 13, Revised Code of Washington, 1977 edition. House Bill 371 and Substitute Senate Bill 2768 are codified in Title 13, RCW, 1978 and 1979 editions respectively.

[2]In 1977 the IJA/ABA Joint Commission culminated six years of work by publishing its 23 volumes containing comprehensive, national standards for the operation of the juvenile justice system. A comparison of the Washington law and the IJA/ABA standards in relation to the status offender provisions, diversion, and sentencing is available as a background paper from the Institute of Policy Analysis.

[3]For an overview of the philosophy and rationale of the Washington (State) Juvenile Justice Code, see Schneider and Schram, "A Justice Philosophy for the Juvenile Court," 1983.

[4]Only those surveys which contained all four questions could be included in the "counts" of positive and negative perceptions.

[5]See Teilmann, 1980. Teilman's theory of implementation focuses on practitioners motivation to implement legislation which affects them.

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