An Assessment of Juvenile Justice System Reform In Washington State

VOLUME II

THE IMPACT OF WASHINGTON'S REFORM ON JUVENILE JUSTICE AGENCIES

MARCH 1983

PREFACE

The Washington juvenile justice code is the most unusual and innovative change that has occurred in the juvenile 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 non-criminal 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:

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

"From Rehabilitation to a Legal Process Model: Impact of the Washington reform on Juvenile Justice Agencies" (Schram and Schneider, Volume II)

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

"An Accountability Approach to Diversion" (Seljan and Schneider, Volume IV)

"A Comparison of Intake and Sentencing Decision-Making Under Rehabilitation and Justice Models of the Juvenile System (Schneider and Schram, Vol. V)

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

"Divestiture of Court Jurisdiction over Status Offenses" (Schneider, McKelvey and Schram, Volume VII)

"Attitudes of Juvenile Justice Professionals to Reform in the Washington System" (Seljan and Schneider, Volume VIII)

"Methodologies for the Assessment of Washington's Juvenile Justice Code" (Schneider and Seljan, Vol. IX)

"Executive Summary: The Assessment of Washington's Juvenile Justice Reform" (Schneider and Schram, Vol. X)

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INTRODUCTION

Prior to July, 1978, the juvenile justice system in the state of Washington resembled that found in most parts of the United States: the overriding purpose was to provide for the care of delinquent and dependent children so as to bring about their rehabilitation; referrals were often handled informally by probation officers who were guided in their decisions by treatment goals rather than legal principles; and the doctrine of parens patriae guided the practices of the juvenile court.

The legislation passed by the 1977 Washington State legislature represents the most substantial reform of a state juvenile justice code that has occurred anywhere in the United States.[1] Washington's new code requires juvenile courts to formalize their procedures, extends to juveniles the some due process available to adults in criminal proceedings (with the exception of trial by jury), institutes methods to improve accountability for decisions at various points in the juvenile justice system, and creates formal, accountability-based diversion systems. Taken together, the requirements constitute a rejection of the traditional doctorine of parens patriae. In its place, the new law embraces an adversarial philosophy similar to that inherent in the adult system of justice. In this sense, the law articulates the means by which justice shall be afforded to alleged and convicted juvenile offenders.

Serveral of the provisions of Washington's new juvenile justice legislation merely codify procedures adopted previously by prosecutors, probation officers, judges and other court personnel. In other instances, however, the provisions formalize and mandate new functions and responsibilities for these actors. For example, the law now requires that the

prosecutor screen all complaints (referrals) for legal sufficiency and file all informations (petitions) to the court. Under the old law, these legal tasks frequently were performed by probation counselors trained in treatment and social work technqiues. Currently, the prosecutor may relinquish this responsibility to probation counselors only if the complaint would not be a felony if committed by an adult and if the prosecutor has filed written notice of such a waiver to the court. Thus, at least on charges that involve serious offenses, only an attorney can screen and prosecute cases on behalf of the state.

Similar formalization of procedures is evident in the provisions that set forth court responsibility upon receipt of an information, and in provisions that specify the requirements and conditions for the custody and detention of juveniles. These sections not only restrict severely the circumstances under which youth may be taken into custody or detained, they also set forth the expectation that, subsequent to a hearing, youths shall be released from detention on their personal recognizance or on bail in an amount set by the court. Without compelling reasons for pre-trail custody or detention, therefore, it is presumed that the least restrictive means should be used to ensure the appearance of juveniles at court hearings or any other proceeding.

One of the more significant changes in juvenile court procedures mandated by the new law is that a decline (remand) hearing is to be held on all cases in which youth 16 and 17 years of age are accused of specific serious crimes. The decline hearing may be waived, however, if agreed upon by the court, the parties and their counsel. The purpose of the hearing is to establish jursidiction for the adjudication of such cases, i.e., retention of jurisdiction by the juvenile court or transfer of jurisdiction for prosectuion in the adult criminal court. Decline hearings per se are not new in

Washington State. What is new is the requirement for systematic application of these hearings to establish more consistency in the justice system.

In addition to formalizing court functions in juvenile justice, the new law extends to juveniles virtually the same due process afforded adults in felony proceedings. Many of these due process provisions are enumerated in RCW 13.40.140, which codifies existing or slightly modified court rules and specifies several new provisions.[2] In particular, this section provides for the following.

1. Right to counsel at all critical stages of juvenile court proceedings. Under a financial hardship requirement, counsel is to be provided in any proceeding where the youth may be subject to transfer of court jurisdiction for criminal prosecution or in any proceeding where the youth may be in danger of confinement or partial confinement;

2. Right to appointment of experts;

3. Right to subpoena witnesses, documents, etc.;

4. Right to adequate notice, discovery, opportunity to be heard, confrontation of witnesses, findings based solely on evidence adduced at hearing, and an unbiased fact-finder;

5. Privilege against self-incriminations;

6. Limitations on admissible evidence;

7. Right to verbatim transcription of proceedings; and

8. Right to an open hearing.

Several unique due process provisions are provided in addition to those enumerated above. The first of these appears in RCW 13.40.080, which describes the process whereby offenders may be diverted from formal court proceedings. Since many minor or first offenders are not adjudicated and are

exempt, therefore, from most of the provisions above, the new legislation specifies precise procedures required to protect the interests of divertees. In addition to the right to counsel at any critical stage of the diversion process, all conditions of the diversion agreement must be specified in the form of a written contract agreed upon by eligible divertees and the appropriate agents of the court. Furthermore, these youth must be advised in writing that violations of these conditions constitute the only grounds for termination; that termination requires a court hearing; and that the agreement shall become part of their criminal records. Youths who are offered diversion agreements may choose not to be diverted and request, instead, that the cases be heard in juvenile court. In such instances, all due process provisions are extended to these youth.

A second unique provision allows juveniles to appeal court dispositions (sentences) outside the presumptive sentencing standards or those that impose confinement for first or minor offense. If requested, the Court of Appeals reviews the record that was before the disposition court and renders decisions which either uphold or modify the sanctions imposed. This right to appeal dispositions under the conditions specified above is unique to the juvenile justice system. Adults in the state of Washington are not permitted to appeal sentences imposed by the criminal courts.[3]

Taken together, this group of provisions requires that actors within the juvenile justice system be accountable for their activities and decisions. Written justifications for departures are required throughout many different decision points in the system. For example, prosecutors are required to document their reasons for not charging a youth when there is probable cause that a youth committed an offense. Diversion units that refuse to enter into a contract with an eligible divertee must provide a written statement to the

court that specifies the reasons for refusal. The court must state its reasons for imposing dispositions outside the presumptive sentencing range and must set forth in writing its findings in all decline hearings. Similarly, verbatim transcriptions and official records of adjudication and disposition (sentencing) hearings are required.

Accountability for decision-making goes well beyond mere legal documentation. The privacy (secrecy) of court proceedings involving juvenile offenders provided under the old law is virtually eliminated since current proceedings are presumed to be open to the general public and to the press. Thus, for the first time in Washington, public scrutiny of court hearings is permissible.

In sum, the new law establishes the process by which juvenile justice shall be rendered in the state of Washington. The legislation imposes a formality and commitment to due process that blurs the previous distinctions between juvenile and adult criminal proceedings. In so doing, it has greatly modified the functions and responsibilities of system actors. Under the new code, the systematic, uniform, and equitable application of justice is an end in itself.

METHODOLOGY

Several overlapping research efforts were undertaken to address the juvenile offender provisions of the new law, including aggregate data studies, individual level case studies, and surveys of agency professionals. The effects of formalization and organizational change were based exclusively on data obtained from the survey portion of the assessment.

The professional surveys consisted of structured interviews with selected system actors throughout the state, including judges, juvenile court

administrators, law enforcement officials, prosecutors, public defenders or assigned defense counsel, and diversion staff. The purpose of these interviews was to obtain experiential information on and perceptions of the law from the practitioners responsible for its implementation.

Agency Samples

A systematic, stratified sampling procedure was used to select agencies to be included in the survey. First, all 39 counties in Washington were ranked in size according to five population groupings: (1) over 200,000; (2) 100,001-200,000; (3) 50,001-100,000; (4) 25,001-50,000; and (5) 25,000 and under. Next, the four counties with the largest populations were selected from within each population group, a process that yielded 20 counties which varied by size and location throughout the state. Within each of these 20 counties, the agency samples consisted of the following:

1. The sheriff's department (county jurisdiction);[4]
2. The largest police department (municipal jurisdiction);[5]
3. The juvenile court;[6]
4. The prosecutor's office;[7]
5. Diversion units;[8]
6. The public defender's office;[9] and
7. The superior court.[10]

Taken together, the jurisdictions served by these sample agencies represented approximately 90 percent of the total state population.

Respondent Sample

The director of each agency included in the sample (sheriff, chief, presiding judge, prosecutor, 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 serve as the interview respondent or to identify a staff person within the agency who was most familiar with the practices and procedures regarding juvenile offenders both before and after the enactment of the new law.

Prior to the actual interview, informed consent to participate in the research was obtained from potential "expert" respondents. In addition, copies of the interview schedule were sent to these respondents in advance. With the exception of several in-person contacts, all interviews were conducted by telephone.

Survey Instruments

The interview schedules were developed exclusively for this study. The instruments contained a variety of response formats, including structured and open-ended questions, as well as a 10-point rating scale. In most contexts, the zero-to-ten 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 synonomous 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 in all surveys. This procedure permitted information to be obtained on the same topics from a variety of system actors. Thus, analysis of common questions could be undertaken (1) to examine experience with and perception of the new legislation across all agencies, and (2) to compare differences in experiences or perceptions among similar agenices.

There are, of course, limitations in a survey approach. Data obtained from the interviews were often very subjective and based upon the knowledge, experience, beliefs or surmise of individual respondents. Despite these limitations, the responses frequently represented the best approximation of "reality" with respect to the effects of the law on system and organizational change.

FINDINGS

The formalization study was undertaken for two primary purposes: (1) to examine the extent to which juvenile justice practices and procedures changed as a function of the new legislation, and (2) to determine organizational responsibility and resource requirements for implementing these changes. The major research questions addressed include:

1. To what degree has control of the court intake and adjudicatory processes shifted from probation counselors to prosecuting attorneys?

2. To what extent have juveniles exercised their right to counsel under conditions of potential confinement, diversion, and waiver hearings?

3. Have new types of informal adjustments by prosecutors or probation counselors arisen within the system or have all types of informal probation and surpervision been abandoned?

4. What is the likelihood of a wavier (decline) hearing and has this changed from the pre-legislation era? What is the likelihood that a juvenile will be remanded to adult court, given that a waiver hearing was held, and has this changed since the new law?

5. Has the likelihood of pre-trial detention changed from the pre-legislation period?

6. Have open hearing occurred and, if so, have they created problems?

7. Have the formalization requirements resulted in the need for new resources or produced any resource savings?

Each of these question is addressed with data obtained from the professional surveys undertaken in 20 counties. Several of these same

questions are explored in more depth with individual level case data presented in Chapter 2.

Intake and Adjudicatory Processes

Under the new legislation prosecutors have the power to screen for legal sufficiency, file charges, represent the state at all juvenile court hearings, recommend sentences, and divert youths from the adjudication process. Along with these powers, of course, prosecutors also assumed new and frequently time-consuming responsibilities.

The shift of power to presecutors is, perhaps, the most critical of all the organizational changes because it is likely that many of the other changes--such as the use of legalistic rather than treatment criteria in decision making--are more palatable to prosecutors than to probation officers. To determine the extent of organizational changes, three specific processes were identified which could have been transferred from probation to prosecution: (1) screening of referrals for legal sufficiency, (2) filing and diversion decisions, and (3) representing the state at formal procedures including arraignments and fact-finding hearings. The surveys conducted in the 20-county sample included questions to determine which agencies were responsible for these functions both before and after the new law. This permitted a determination of whether the legislation produced changes in agency responsibilities or whether the most of the areas were already characterized by a relatively high degree of prosecutorial involvement even before the legislation was passed.

Screening for Legal Sufficiency

Prosecutors are required, under the new law to determine whether "...the alleged facts bring the case within the jurisdiction of the juvenile court"

and whether "...there is probable cause to believe that the juvenile did commit the offense."[11] This function, commonly referred to as screening for legal sufficiency, can be performed by probation staff, however, if the complaint would not be a felony if committed by an adult and if the prosecutor has filed written notice of waiver to the court.[12]

According to the survey respondents, implementation of the screening requirements resulted in marked change in organizational responsibility for this function (see Table 1). Prosecutors and juvenile court administrators indicated that, prior to the new law, court staff (usually probation counselors) always screened misdemeanor cases in 90 percent of the 20 jurisdictions surveyed. Subsequently, probation staff screened these less serious cases in only 10 percent of the jurisdictions. Although less dramatic, a similar shift in screening responsibility was observed with regard to felony complaints. More than half of the jurisdictions surveyed used probation staff to screen felony cases prior to HB 371; none of the juvenile courts maintained this function afterwards.

Filing

The new legislation not only transfers the initial screening functions to prosecutors, it also articulates the circumstances under which the prosecutor must file an information with the court, that is, a written statement of the facts that support the offense charged.[13] Prosecutors are mandated to file on all Class A and B felony cases as well as on some Class C felonies that meet the standards for legal sufficiency. Prosecutors also are required to offer diversion agreements to all youths accused of misdemeanors unless there is a substantial prior criminal history. These requirements serve two purposes. First, they remove the charging decisions from probation

TABLE 1. ORGANIZATIONAL RESPONSIBILITY FOR SCREENING FELONY AND MISDEMEANOR REFERRALS

Function	Responsible Agency	Pre-371 Number	Pre-371 %	Post-371 Number	Post-371 %
Screens for legal sufficiency in Felony Referals	Pros. Only	3	15%	20	100%
	Both	6	30%	0	0%
	Prob. Only	11	55%	0	0%
	Totals	20	100%	20	100%
Screens for Legal Sufficiency in Misdemeanor Referals	Pros. Only	1	5%	12	60%
	Both	1	5%	0	0%
	Prob. Only	18	90%	8	40%
	Totals	20	100%	20	100%

staff and make them the responsibility of the prosecutor. Second, by forcing the prosecutor either to file or divert all complaints for which there is probable cause to believe that a juvenile committed a criminal offense, it also terminates the practice of informal adjustments of referrals.

Respondents from 60 percent of the counties surveyed stated that cases were no longer adjusted informally in their jurisdictions but in 40 percent of the areas, the prosecutors indicated that they sometimes adjusted referrals. The circumstances identified by the prosecutors included cases involving (1) very young alleged offenders (15 percent of the counties); (2) minor misdemeanors, such as possession of alcohol (10 percent) (3) out of state residents (5 percent); or (4) youths already under some form of court jurisdiction (10 percent). The survey data clearly implied, however, that these adjustments did not occur very frequently and did not involve very many youths.

Representation at Hearings

In the pre-reform system, it was common practice for juvenile courts to permit probation counselors to act as prosecutors, i.e., to represent the state during arraignments, fact-findings (trials), and sentencing hearings.

Organizational responsibility for representation functions (pre- and post-legislation) is shown in Tables 2 and 3. Before HB 371 was implemented, prosecutors played only a minor role in the adjudication process. Even in fact-finding hearings involving felony cases, prosecutors were involved in only 60 percent of the counties.

According to survey respondents, prosecutors during the post-371 period, assumed representation responsibility for felony arraignments and felony fact-finding hearings in 90 percent and 100 percent of the sample jurisdictions, respectively.

Table 2. ORGANIZATIONAL RESPONSIBILITY FOR REPRESENTING THE INTERESTS OF THE STATE IN FELONY CASES BEFORE THE JUVENILE COURT

Function	Responsible Agency	Pre-371 Number	Pre-371 %	Post-371 Number	Post-371 %
Represents State at Arraignments[1]	Pros. Only	3	15%	18	90%
	Both	4	20	1	5
	Prob. Only	8	40	1	5
	Totals	15	75%	20	100%
Represents State at Fact-Finding Hearings (Trials)	Pros. Only	12	60%	20	100%
	Both	3	15	0	0
	Prob. Only	5	25	0	0
	Totals	20	100%	20	100%

[1]Five of the counties included in the survey did not have arraignments of a formal nature before the legislation was passed.

TABLE 3. ORGANIZATIONAL RESPONSIBILITY FOR REPRESENTING THE INTERESTS OF THE STATE IN MISDEMEANOR CASES BEFORE THE JUVENILE COURT

Function	Responsible Agency	Pre-371 Number	Pre-371 %	Post-371 Number	Post-371 %
Represents State at Arraignments[1]	Pros. Only	3	15%	15	75%
	Prob. Only	12	60	5	25%
	Totals	15	7%%	20	100%
Represents State at Fact-Finding Hearings (Trials)	Pros. Only	6	30%	18	90%
	Both	5	25	0	0
	Prob. Only	5	45	2	10%
	Totals	20	100%	20	100%

[1]Five of the counties included in the survey did not have arraignments of a formal nature before the legislation was passed.

Even when the law did not require change in organizational responsibility for representation, as in the adjudication of misdemeanor offense, the change was considerable. The prosecutor represented the state in misdemeanor arraignments and fact-finding hearings in only 15 percent and 30 percent of the jurisdictions, respectively, during the pre-reform era compared with responsibility for misdemeanor arraignments in 75 percent of the counties and fact-finding hearings in 90 percent of the jurisdictions afterward.

In sum, the new legislation altered the roles and responsibilities of probation counselors and prosecutors in the screening, filing, and adjudication of juvenile offenses. With the exception of the development of sentencing recommendations, the probation counselor was virtually removed from pre-adjudicatory and trial proceedings. During the post-371 period, these legal roles were assumed by attorneys who screened cases, filed charges, and represented the interests of the state at hearings before the court. Taken collectively, these modifications in functions are very consistent with what Rubin (1980) referred to as the "legal process model."[14] Adoption of such a model required the rejection of much of the traditional rationale for a separate juvenile court system, as well as the abandonment of the doctrine of parens patriae during pre-sentence proceedings.

Right to Counsel

In the Gault decision (1967), the Supreme Court affirmed that juveniles have the right to legal counsel when charged with an offense that would be criminal if committed by an adult. The new legislation not only codifies this right to counsel "...at all critical stages of the proceedings," it mandates, unless wavied, that counsel must be provided "... in any proceeding where the youth might be subject to transfer for criminal prosecution (in adult court) or "... in danger of confinement".[15] Since all but the most minor or

divertable offenses are subject to confinement, this provision requires that juveniles charged with more serious offenses must be permitted to obtain an attorney or be provided with counsel at public expense.

To estimate compliance with the new legislation, all prosecutor, public defender, and juvenile court administrator respondents were asked to estimate how frequently youth actually obtained private or public counsel to represent their interests in cases where juveniles were subject to transfer of jurisdiction (remand to adult court) or in danger of confinement. Using the zero to 10 scale to estimate, the average scores from prosecutors and public defenders were very similar, that is, 8.5 and 8.3, respectively. The mean estimate from court administrations was somewhat higher (9.5), but still very close to the scores provided by the other system respondents. These estimates indicated that youth were almost always provided with counsel. The respondents also were asked whether there had been a change in the likelihood that accused youth would obtain counsel. Court administrators in 90 percent of the counties and prosecutors in 68 percent of the counties said that the likelihood had increased. When asked to specify the reasons for this increase, the most frequent answer from each survey group was that it reflected the more formal, adversarial process created by the new legislation (see Table 4).

TABLE 4. SURVEY RESPONDENTS' REASONS FOR THE INCREASED USE OF DEFENSE COUNSEL FOR YOUTH ACCUSED OF CRIMINAL OFFENSES

Reason for Increased Use of Counsel	Prosecutors Number	%	Court Administrators Number	%
More formal/adversarial process	6	46.1%	6	33.3%
Counsel is free or assigned	3	23.1%	4	22.2%
Law is so complex	0	0%	3	16.7%
More hearings now	2	15.4%	0	0%
Judges insist	0	0%	2	11.1%
Youth encourged to obtain	1	7.7%	2	11.1%
Diversion	0	0%	1	5.5%
Mandated by law	1	7.7%	0	0%
Totals	13	100.0%	18	99.9%

Counsel for Divertees.

Youths eligible for diversion are guaranteed the right to representation by counsel "...at any critical stage of the diversion process, including intake interviews and termination hearings.[16] Counsel, however, is not mandated as it is under conditions of transfer of jurisdiction or potential confinement. Instead, courts are only required to advise such youth of their right to counsel.

Juvenile court administrator, public defender and prosecutor respondents were asked to estimate how often, using the zero to 10 scale, divertable youth actually sought legal counsel prior to the establishment of a diversion agreement. The average estimates obtained from the three respondent groups were very similar: 1.6 for court administrators and prosecutors, and 2.1 for public defenders. These findings suggested that divertable youth sought counsel only rarely--at least prior to entering into a diversion agreement.

Eligibility for Counsel.

The new legislation was silent on the specific income or needs test necessary to determine eligibility for public (or assigned) defense counsel. As a consequence, each court jurisdiction developed its own criteria or procedures to assign counsel to juveniles who might otherwise be unable to afford legal representation.

Public defender survey respondents in 19 of the 20 sample jurisdictions were asked to specify eligibility requirements for public counsel in their respective counties. In 53 percent of the jurisdictions, counsel was assigned automatically in non-diversion cases, regardless of financial need, or upon the youths' request for legal representation. According to these respondents, it was assumed that no juveniles were able to pay for services. As such, no needs tests were used to determine eligibility, although one of these counties

attempted to collect costs from parents who were willing or able to pay.

In the remaining 47 percent of the sample counties, some form of financial screening was required prior to counsel assignment. Most often this consisted of a judical review of a financial statement from parents that demonstrated that the costs of counsel would constitute a substantial burden to the family. Even when parents were found able to afford counsel, but refused to provide it, most of these latter counties still assigned legal representation and assumed the costs.

When these same respondents were asked whether there were any problems with the procedures or criteria for public defense in their jurisdiction, only 21 percent replied in the affirmative. The most frequent problems cited were that (1) it was "too easy for juveniles to obtain legal advice," (2) that a "system was needed to monitor assignments and recover public funds from convicted offenders."

In sum, there seemed to be little question that the new legislation increased the demand for defense counsel. Such a finding was not unexpected. An adversarial approach to juvenile proceedings--an approach implicat in HB 371--has required more resources to prosecute juveniles, as well as to defend them. Thus, adoption of a legal process model of the kind devised in Washington has necessitated the creation of expanded (and often expensive) services to ensure that juveniles will be afforded essentially the same due process protections as adults accused of similar crimes.

Pre-Trail Detention

The circumstances under which a juvenile may be held in detention prior to adjudication are identified in the new law and, even though various interpretations might be given to the provisions, the intent is to strictly limit the number of youths held in secure confinement pending adjudication.[17]

The changes that these requirements produced in the juvenile courts varied among the different jurisdictions included in the survey. Of the juvenile court administrators sampled, 55 percent said that pre-trial detention had decreased, 30 percent reported no change, 10 percent belived it had increased, and five percent did not know. This information is generally consistent with the conclusions drawn from the individual-case data collected in King county, Yakima and Spokane which shows declines in the proportion of youths held in detention before trial (see Volume V of the assessment reports).

Transfer to Adult Court

Long before the passage of HB 371, Washington law permitted juvenile courts to decline jurisdiction over certain cases and to transfer (remand) them to adult criminal courts for prosecution. In practice, there was little consistency among the juvenile courts with regard to the kinds of cases (or accused offenders) subjected to decline hearings or actually transferred to adult courts. Such decisions appeared to be highly discretionary and were pursued or avoided for a variety of motives. In some instances, for example, defense counsel requested such a transfer on the presumption that the adult court sanctions for the same offense would be less severe than the sanction imposed by the juvenile court. In other instances, the prosecutor favored transfer of jurisdiction in cases involving violence or injury, because the adult court could sentence offenders to longer periods of incarceration.

The new law attempts to provide a framework for the kinds of cases that should be considered for decline hearings. For example, RCW 13.40.110(1) presumes that such hearings shall be held in cases that involve 16 and 17 year old youth who are accused of specific "serious" offenses. However, the law permits juvenile court judges to exercise their discretion with regard to the actual transfer of jurisdiction. Thus, although there seems to be an implicit

assumption in the legislation that older youth should be held more accountable for their criminal behavior, it preserves the right of local courts to determine jurisdiction.[19]

Decline (Remand) Hearings

Court administrators, prosecutors, and public defenders included in the survey generally reported that the likelihood of remand hearings had not changed or, if a change occurred, the likelihood had increased (see Table 5). It might be noted that decline hearings in both the pre and post time periods were very infrequent.

Actual Remands to Adult Court

The survey data presented in Table 6 indicate that the majority of court administrator and public defender respondents agreed that HB 371 had not changed the likelihood that juveniles actually would be remanded. In contrast, prosecutors were somewhat more likely than the other respondent groups to believe that remands had increased. On the whole, these perceptions were confirmed by the individual case data which shows no change in remands for the three jurisdiction included in the intensive part of the study (see chapter 2 of this report and Volume V).

Open Hearings

One of the more novel provisions of the new legislation is that which permits the press and public to attend juvenile court hearings.[20] This concept of open hearing represents a major change in practice since, prior to the new law, juvenile court proceedings in Washington were held in virtual secrecy. The rationale for this old practice was well-intentioned and consistent with the philosophy of parens patriae--to protect juvenile

TABLE 5. SURVEY RESPONDENTS' ASSESSMENTS OF THE EFFECT OF HB 371 ON THE LIKELIHOOD OF DECLINE HEARINGS

Assessment of Likelihood	RESPONDENT GROUP Court Admin.	Pros.	Pub. Def.
Increased	35.0%	47.4%	52.6%
Decreased	10.0%	15.8%	0.0%
No change	55.0%	26.3%	36.8%
Don't Know	0.0%	5.3%	10.5%
Total	100.0%	100.0%	100.0%

TABLE 6. SURVEY RESPONDENTS' ASSESSMENTS OF THE EFFECT OF HB 371 ON THE LIKELIHOOD OF REMANDS TO ADULT COURT

Assessment of Likelihood	RESPONDENT GROUP Court Admin.	Pros.	Pub. Def.
Increased	10.0%	36.8%	26.3%
Decreased	15.0%	10.5%	5.3%
No change	75.0%	47.4%	57.9%
Don't Know	0.0%	5.3%	10.5%
Total	100.0%	100.0%	100.0%

offenders from public notoriety that might interfere with their rehabilitation or acceptance in the community.

During the period between the enactment of the law and its implementation, many juvenile justice practioners expressed concern that juvenile proceedings might be packed with reporters and court watchers. Some believed that the presence of the public might jeopardize the reputation of very young offenders or interfere with the order of the hearings.

To explore these concerns, survey respondents were asked whether open hearings had caused problems in their jurisdictions. Ninety-five percent of the court administrators and 90 percent of the prosecutors and public defenders replied in the negative. Most of these respondents indicated that the press and the public seldom attended hearings unless the cases were particularly heinous or unusual. Those few respondents who stated that open hearings had created problems posited several reasons for their beliefs, including stigmatization of the juveniles, family embarrassment, and the reluctance of juveniles to disclose their crimes in an open forum.

PREPARATION AND COMPLIANCE

House Bill 371 was passed by the legislature in June, 1977. With the exception of one section, the effective date of the new law was July 1, 1978. Thus, almost all criminal and juvenile justice agencies had more than a year to plan for the implementation of the provisions.

Without detailing the preparation process, suffice it to say that hundreds of meetings, workshops, training sessions and seminars were conducted throughout the state to familiarize agency personnel with the law and to facilitate the development of local and state-wide plans to respond to the requirements. Despite these efforts, very few agencies were fully prepared for the new law at the time it went into effect. Several survey respondent groups were asked to rate (on the zero-to-ten scale) the extent to which their respective agencies were prepared to implement the offender provisions on July 1, 1978. Prosecutor responses ranged from 2 (only slightly prepared) to 10 (totally prepared), with an average rating of 7.0. The distribution of court administrator responses was very similar; as was the average preparation score of 7.6. In contrast, the preparation scores from public defenders and diversion responses were more diversified than for the others, although the average values were 5.6 and 6.1, respectively.

During the first four years after the legislation went into effect, most of the early implementation problems were solved. Agencies within local court jurisdictions developed and institutionalized new procedures to screen referrals, ensure due process, adjudicate cases, and provide community supervision and treatment.

Not all juvenile and criminal justice agencies welcomed the changes brought about by the legislation. Despite some continued resistence and opposition to the offender provisions, however, no evidence was found that

these agencies willfully ignored or attempted to undermine the intent of the law. All respondent groups shared this assessment. When asked to estimate agency compliance (on the zero-to-ten scale) with the offender provisions, the following average scores were obtained: prosecutors (9.5), court administrators (9.4), law enforcemnt (8.9), diversion units (9.2), and public defenders (8.8). In qualitative terms, such findings suggested that respondent agencies judged themselves to be in almost total compliance.

Resources

Implementation and maintenance of Washington's version of a legal process model was expensive--particularly to local government agencies. New juvenile justice personnel were added to existing staff in the form of deputy prosecutors, public defenders, court clerks, para-legals, file clerks and secretaries. New or supplemental services were required in the areas of drug and alcohol, education and employment counseling. Diversion programs were established; accountability boards, community service placements, and employement opportunities were developed. New equipment was purchased in the form of desks, chairs, computer programs/terminals, and courtroom tape recorders and sound equipment. Agency facilities were expanded and/or additional office space was obtained. Training programs, manuals, procedures, forms, case records and reports were modified or developed to reflect the legislative requirements.

From the summary data presented in Table 7, it was possible to examine the frequency with which specific resource needs were identified. The most frequently cited need among all respondent groups was for new personnel, either in the form of additional lawyers or as probation/diversion staff, para-legals, secretaries, clerks, etc. This finding was not surprising for three of the four respondent groups. The implementation of a legal process

TABLE 7. SURVEY RESPONDENTS' ASSESSMENT OF ADDITIONAL RESOURCES REQUIRED TO IMPLEMENT THE OFFENDER PROVISIONS (MORE THAN ONE RESPONSE AVAILABLE)

Resource Needed	Prosecutors		Pub. Def.		CT. Admin.		Diversion		Total	
	No.	%	No.	%	No.	%	No.	%	No.	%
1. Personnel										
a. Additional Attorneys	16	84.2	3	15.8	0	0	1	5.5	20	26.3
b. Other Staff (Probation, secretarial, clerical, etc.	14	73.7	4	21.1	8	40	13	72.2	35	46.1
2. Services										
a. Alcohol/Drug Treatment	0	0	0	0	1	5	3	16.7	4	5.3
b. Educational counseling Program	0	0	0	0	1	5	3	16.7	4	5.3
c. Job Assistance	0	0	0	0	1	5	1	5.5	2	2.6
d. General Mental Health Counseling	0	0	0	0	2	10	2	10	4	5.3
3. Diversion										
Community Service Placement/ Supervision	1	5.3	0	0	8	32	10	55.6	19	25.0
Restitution Program	1	5.3	0	0	6	30	0	0	7	9.2
Volunteers for Accountability Boards	0	0	0	0	2	10	0	0	2	2.6
4. Detention Resources	0	0	0	0	3	15	0	0	3	3.9
5. Equipment/Supplies	9	47.4	3	15.8	4	20	3	16.7	14	18.4

model undoubtedly resulted in a greater demand for prosecutor and defense counsel services. Similarly, development of formal diversion programs required new or additional personnel resources in most of the counties included in the survey. However, it was not at all apparent why 40 percent of the court administrators required additional staff, since the legislation reduced the roles and responsibilities of court personnel in most jurisdictions.

To explore further the effect of the offender provisions on agency resources, respondents were asked to indicate whether the law had effected the number of personnel hours needed to handle cases involving juvenile offenders, compared to those that were required before. From Table 8, it can be seen that the majority of the court administrator and prosecutor respondents stated that much more personnel time was needed to process offender cases now than prior to the new legislation. Public defender and law enforcement respondents appeared to be less impacted than the other respondent groups, although the majority of these former respondents believed that there was some increase in personnel hours required. With the exception of two law enforcement officers, no respondent believed that the offender provisions had reduced the number of personnel hours needed to handle cases within each respective agency.

A variety of factors converged to tax the capacity of local agencies to handle offender cases, according to the survey respondents. Foremost among these, of course, was the direct impact on resources generated by the formalization of the system itself. Other factors were not so easily anticipated. For example, many justice system practitioners were unaware of the extent to which probation staff had informally adjusted vast quantities of delinquency referrals prior to HB 371. Under the new law, these cases were to be screened by prosecutors and, if legally sufficient, they were to be

TABLE 8. SURVEY RESPONDENTS[1] ESTIMATE OF THE EFFECT OF HB 371 ON THE PERSONNEL HOURS NEEDED TO HANDLE CASES INVOLVING JUVENILE OFFENDERS.

Hours Needed	Ct. Admin. No.	%	Prosecutor No.	%	Pub. Def. No.	%	Law Enf. No.	%	Total No.	%
Much More	12	60	17	89.5	9	47.4	6	15.7	44	45.8
Moderate Increase	5	25	2	10.5	3	15.8	8	21.1	18	18.8
Small Increase	1	5	0	0	2	10.5	5	13.2	8	8.3
No Change	2	10	0	0	2	10.5	15	39.5	19	19.8
Small Decrease	0	0	0	0	0	0	2	5.3	2	2.1
Moderate Decrease	0	0	0	0	0	0	2	5.3	2	2.1
Much Less	0	0	0	0	0	0	0	0	0	0
Don't Know	0	0	0	0	3	15.8	0	0	3	3.1
Total	20	100%	19	100%	19	100%	38	100.1%	96	100%

[1]Includes both police and sheriff survey respondents.

formally diverted or adjudicated. Thus, virtual elimination of the informal adjustment practices of the past greatly increased the number of cases which entered the system and required official processing.

In addition, formalization appeared to modify the behavior of the primary source of offense referrals--police agencies. Forty percent of the law enforcement respondents stated that their officers were more likely to arrest and refer suspected juvenile offenders now than they were before HB 371. Furthermore, these respondents estimated that the increased likelihood of arrest and referral was rather substantial, that is, an average score of 4.9 on the zero-to-ten scale. A variety of reasons were posited for this change, the most frequent of which could be characterized as (1) "more confidence that something would be done to juvenile offenders", and (2) "the need to establish official criminal histories for repeat offenders." The result of this alteration in the use of police discretion (i.e., to arrest and refer rather than to warn and release) was an apparent increase in the number of cases that require official attention.

In sum, when the direct and indirect consequences of formalizing the system are taken together, it is clear that more cases must be procesed and, further, that processing requires more time and legal expertise than was necessary in the past. This has resulted in the need for more resources within juvenile court jurisdictions. Thus, much of the cost of implementing the offender reforms have been borne by local (primarily county) governments.

CONCLUSIONS

Washington's legislation represented the most significant effort undertaken in the last 60 years to modify the system of juvenile justice in this or any other state. The new legislative requirements effectively abrogated the doctrine of parens patriae. In its place, a new approach, based upon a legal process model, was adopted. This new model required juvenile courts to formalize their procedures, ensured due process to accused and adjudicated offenders, and instituted methods to improve accountability for decisions throughout the system.

The findings from the survey research indicated that there had been substantial compliance with these legislative requirements. The major conclusions regarding agency change:

(1) Prosecutors in all jurisdictions surveyed assumed responsibility for intake, filing and adjudicating decisions for felony cases and, in most counties, for misdemeanor cases as well. Transfer of this authority from probation to prosecution produced significant organizational changes and, according to indications from the respondents, resulted in more uniformity in decision-making. Informal adjustment of referrals and informal supervisory practices were eliminated. With some very minor exceptions, there was no indication that new types of informal practices arose in the prosecutors offices or in the diversion units.

(2) The right to counsel at all critical stages of the proceedings was observed. Furthermore, unless waived by defendants, all jurisdictions surveyed provided counsel in cases where the juveniles were subject to transfer of jurisdiction for prosecution or were in danger of confinement.

(3) All local juvenile court jurisdictions adopted local rules or criteria that identify the circumstances under which accused offenders can be detained prior to adjudication. According to the survey respondents, these rules, in combination with legislative limitations on detention without cause, reduced the likelihood that accused youth would be detained. With the exception of diversion, other pre-adjudication interventions, treatments, conditions, punishments, etc. were eliminated.

(4) The legislation stipulated the kinds of cases to be subjected to decline hearings and possible transfer to adult court for prosecution. Although this section of the law apparently increased the likelihood of decline hearings in the majority of jurisdictions, it had little impact

on the likelihood of actual transfer of jurisdiction. Thus, these provisions seemed to have had little impact on either the juvenile or adult justice systems.

(5) One purpose of Washington's legal process model was to structure official discretion at decision points throughout the system. With the possible exception of plea negotiations and agreement, the survey findings indicated that prosecutors, probation counselors, diversion units and judges have abided by the legislative restrictions and standards, or have provided written documentation to justify decisions that did not conform.

(6) Court proceedings were opened and, as such, the public and press were able to view portions of the juvenile justice system in action. With the exception of a few "sensational" cases, however, the public demonstrated little interest in attending juvenile proceedings. Thus, although parts of the system became potentially more "visible," public observation was minimal.

(7) Compliance with the formalization provisions required new or additional resources in almost every juvenile court jurisdiction surveyed. Movement toward an adversarial system of justice required more prosecutors, more public defenders, more assigned counsel. Referrals increased. More informations were filed. The number and complexity of hearings increased. More juvenile offenders were adjudicated and diverted.

These additional demands on the system were not offset by any identified resources from some other part of the system. Probation counselors, stripped by their legal processing functions, found new tasks to perform. Additional staff were hired in most jurisdictions to develop and supervise diversion agreements.

Thus, the effect of the offender provisions was to increase resource requirements, particularly at the local level. With the exception of some expendentitures to support diversion units, the costs of additional personnel, equipment, supplies and facilities were assumed by local governments.

In sum, formalization of the juvenile justice system was expensive and beset with many problems, most of which were resolved. Compliance has been remarkably high, even in those jurisdictions where respondents expressed the most antagonism to the requirements.

CHAPTER 2. THE EFFECTS OF JUVENILE JUSTICE SYSTEM REFORMS ON CASE PROCESSING

INTRODUCTION

Washington's reform legislation called for many changes in the juvenile system: it shifted responsibilities from one agency to another--often from probation to prosecution; it changed the criteria to be used in making decisions or, in some instances, set forth criteria where none had existed before; and it limited the discretion available to decision makers. For some of the processes, it specified entirely new ways of conducting the business of the court. The basic rationale for these changes was to insure due process rights for juveniles and, in general, to make it easier to hold the juvenile system accountable for what it does with juvenile offenders.

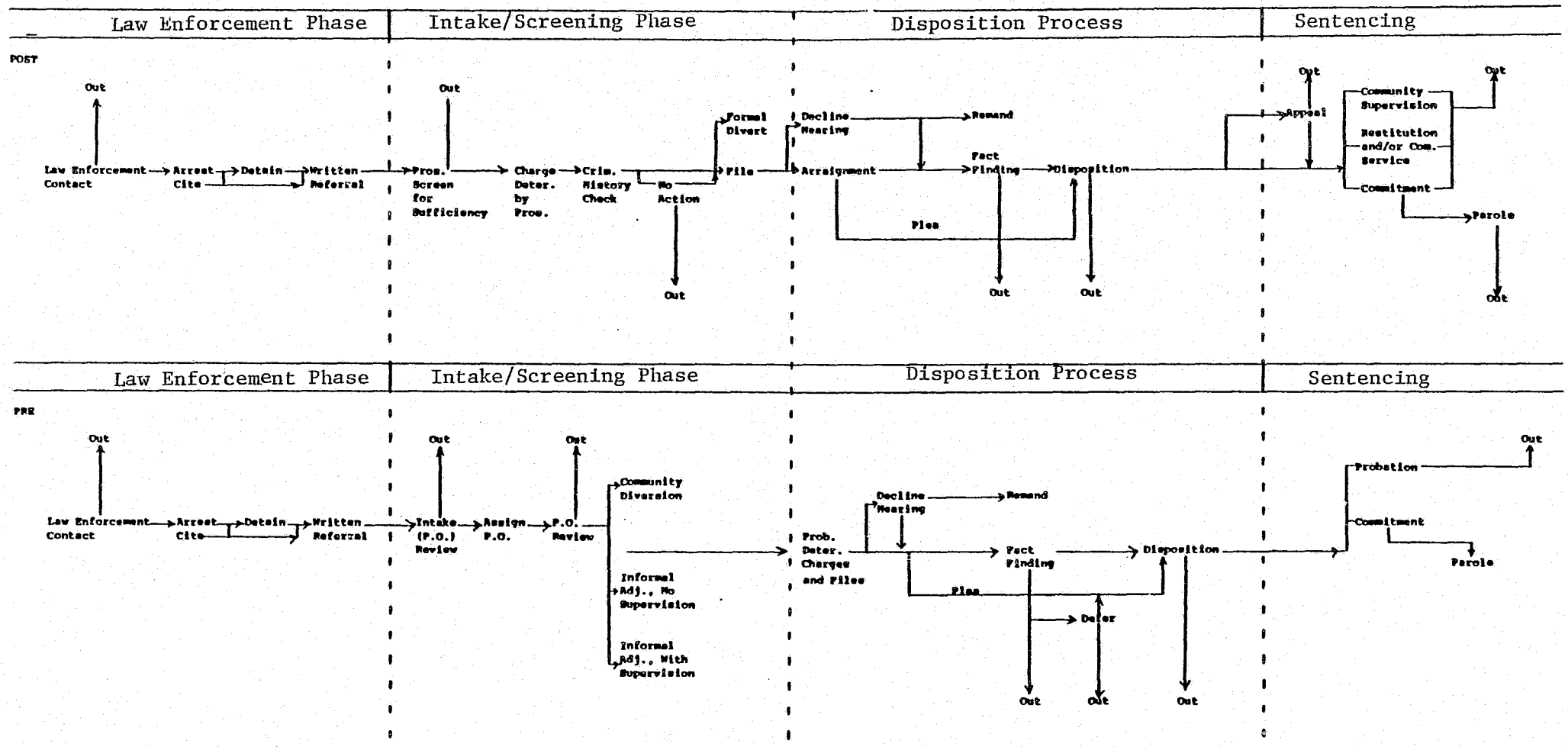
The primary purpose of the analysis in this chapter is to determine whether the changes in organizational responsibility and decision making produced changes in the case flow for several important points in the system beginning with arrests and ending with sentencing.

A comparison of case processing in the pre and post systems is shown in Figure 1. For convenience, the process has been divided into four phases: law enforcement phase, intake/screening phase, the disposition process, and sentencing.

Law Enforcement Phase

The legislation did not specify any substantial changes in law enforcement arrest or referral procedures. This phase, however, is incorporated into the case flow analysis for two reasons. First, there are theoretical reasons to anticipate changes in law enforcement behavior as a result of changes in the way juvenile courts handle offenders and, second, law enforcement practices control the flow of cases into all other parts of the system thereby making this "entry" point a critical one for assessing the impact of the law.

FIGURE 1. FLOW DIAGRAM OF THE POST-371 AND PRE-371 SYSTEMS



[1]The flow of cases shown in the top portion of the diagram represents a hypothetical juvenile justice system which is consistent with House Bill 371 and its amendments, Senate Bill 2768. Likewise, the lower portion of the diagram represents a system that is consistent with the pre-HB-371 legislation.

The number of juvenile cases referred by law enforcement to the juvenile intake process depends on three factors: (1) the number of offenses committed by juveniles, (2) the proportion of these which result in a recorded contact or "arrest," and (3) the proportion of the contacts which are referred by law enforcement officers to court, rather than adjusted or kept out of the formal system for some reason. Police officers might be inclined to refer a higher proportion of cases under the new legislation if it increased their confidence in the ability of the system to deal effectively with juvenile crime. The increased formalization of procedures and the increased emphasis on accountability could provide such incentives. However, the actual extent of change under the post-reform system depends on the prior practices that existed. If almost all youths were referred even before the new law went into effect, then the legislation would not produce much of a change.

Changes also could occur in the number of youths contacted by law enforcement for criminal offenses. This type of change could be produced by an increase in the number of offenses committed by juveniles or by a change in the number of these contacts that are officially recorded by law enforcement. It is generally believed that most police departments throughout the United States sometimes adjust or divert juvenile cases without any written record being prepared at all. When this happens, the case is not entered in the records and is not reflected in a study such as the one we are conducting. Legislation which encourages officers to record these incidents would produce an apparent increase in the number of contacts being made but it would not be possible to determine how much of the change is produced by law enforcement behavior and how much is produced by a change in the number of offenses actually committed by juveniles.

Intake/Screening Process

Responsibility for intake and screening of juvenile cases was taken from probation departments and shifted to prosecutors. Although prosecutors could waive this responsibility for misdemeanor cases if they wished to do so, most of the jurisdictions in Washington did not. Thus, the nature of the intake process for youths accused of felonies and, in most instances, for youths accused of misdemeanors as well, should have changed dramatically from one based mainly on rehabilitative principles to one that emphasizes legalistic criteria and holding juveniles accountable for their behavior. Cases are screened for legal sufficiency and decisions regarding diversion vs. filing are highly constrained by the presumptive requirements in the law.

In the past, these decisions were made by probation couselors with the treatment needs of the youth as the important criteria whereas, under the reform legislation, the seriousness of the offense, prior criminal record, and age of the youth are the sole factors to be considered.

The old legislation permitted probation officers several kinds of informal or administrative supervisory options in lieu of filing whereas the new legislation obviously discourages these. Even the diversion process, under the new law, is a formalized one in which the offense counts as part of the youth's subsequent criminal history and the formal system can be used to enforce the sanctions (resitution or community service) that can be imposed by the diversion units.

Changes from the use of rehabilitative criteria to legalistic ones at intake are generally expected to produce an increase in the number of petitions and an increased flow of cases into the formal adjudicatory process. This increase can reflect increases in arrests, increases in law enforcement referrals to court, and/or increases in the use of the formal process rather than adjustments or diversion.

Generally, it is reasonable to believe that prosecutors would be less likely than probation officers to divert or adjust cases when the decision is entirely discretionary, but it is more difficult to anticipate the type of change that might occur in Washington when the decision is highly constrained by directives to the prosecutors that certain cases must be filed and others must be offered diversion. Although many (probably most) of the juvenile justice specialists within the state of Washington expected an increase in filings, the rationale which prompts such an expectation under most circumstances (i.e., discretionary decision making at intake) existed only in the pre-reform system. Thus, it is difficult to develop any theoretical expectations regarding whether the likelihood of diversion (post) would be higher or lower than the likelihood of adjustments (pre).

The Disposition Process

The disposition phase, as defined here, begins with the filing of a formal petition (information, as it is called under the new law) and ends with the formal finding on the case (guilty, not guilty, dismissed). As noted previously, the common expectation in Washington was that there would be an increase in the number of cases on which formal petitions were filed; hence, there was the expectation of an increase in contested cases as well as uncontested ones (plead cases) and the expectation of an increase in each type of finding: guilty, not guilty, dismissed.

In addition to the change in the intake process which resulted in prosecutors being responsible for filing charges, there were two other important changes in the disposition process, per se. One of these was that the criteria for holding decline (remand) hearings were altered so that there hearings are automatic for certain combinations of age, offense seriousness,

and prior criminal record. There were, however, no changes in the criteria upon which the judge is to make a decision regarding the actual remard of the case. Thus, it is reasonable to expect an increase in the number of decline hearings and in the probability of such a hearing, given that the case has survived the intake screening.

On the other hand, there are no particular reasons to expect the number of youths actaully remanded to adult court to increase unless such an increase might occur as a byproduct of the effort to hold juveniles accountable for their offenses. It could be argued, of course, that the adult system is not particularly adept at holding adults accountable for their offenses and might not do any better with juveniles. Conversely, the adult system is able to issue sentences of considerably greater duration and, for that reason, one might propose an increase in the probability of waivers.

The second change of interest here is that defense counsel must be provided to all youths who are in danger of a confinement sanction. The increased involvement of defense lawyers might affect the results of the adjudicatory process by, for example, increasing the probability of contested cases or by increasing the likelihood of dismissals or findings of not guilty. It is not clear, however, exactly what should be expected in Washington (if anything) because local court rules regarding defense counsel were not much different than the requirements of the legislation and because data on the actual presence of defense counsel in either the pre or post system were not available.

Sentencing Process

The sentencing parameters in the legislation and in the standards developed by the Department of Juvenile Rehabilitation were expected to eliminate direct placements in group or foster homes (of delinquent youths)

because this disposition was not permitted. Otherwise, however, there were no theoretical reasons to expect any particular changes in the use of the sentencing options (commitment to the state, local detention, community supervision) since changes would depend on the sentencing patterns that existed before the legislation was passed as well as on the requirements in the law.

METHODOLOGY

The overall impact of the law on the number of cases referred to juvenile court, the number of petitions filed, hearings held, sentences issued, and so forth was not known at the time the law was passed and has been extremely difficult to anticipate. The number of cases at each point in the process depends, in part, on the number entering the system, using law enforcement contacts as the entering point, as well as on the probability of a case continuing to the next level rather than exiting from the system prior to sentencing.

Data from the three juvenile court jurisdictions (King county, Spokane, and Yakima) were used to determine the extent to which the new law modified case processing and to determine whether changes in the number of cases at various decision points should be attributed to changes in the number of cases entering the system or to a change in the probability of continuing through the system at various decision points, or both. Thus, one aspect of the analysis focuses on the total number of cases at each decision point and on whether the difference between pre and post is great enough to be attributed to the legislation rather than to chance. A second part of the analysis is to examine each decision point (each transaction) to determine if there has been a change in the probability of various options being used by persons making the decision at that particularly point.

The sampling scheme used in the study involved the selection of cases entering at law enforcement and the tracking of these cases through the entire system for both the pre and post time periods. Each court jurisdiction was examined separately to provide information on the extent of variation among the jurisdictions examined.

Cases tracked through the King County and Yakima systems originated as arrests (contacts) of juveniles by the Seattle Police Department and the Yakima Police Department for specific criminal incidents and were followed until their termination in the system. In contrast, Spokane County police data contain only the cases that are referred to juvenile court. Thus, the analysis in Spokane begins with referral rather than with contacts.

The tests of statistical significance were undertaken on the individual-level data using the date of entry as a control variable for overall trend and an intervention variable (with the pre time period scored as zero and the post scored as one) to test for change above and beyond that which might have been produced by an overall trend.[21]

In addition to the individual case data, information from the interviews with agency officials in the 20-county sample also will be used to provide insight regarding the possible reasons for the changes that were observed as well as to examine whether it appears that the changes found in the three jurisdictions are representative of the state as a whole.

The two major research questions are addressed at each of 13 different decision points within the juvenile process are:

1. Whether changes have occurred in the total number of cases handled at each point in the system, and

2. Whether changes have occurred in the probability that each particular decision will be made.

Of the more than 40 decision points which were initially identified in the case processing, the following 13 were selected as involving the most critical decisions.

A. Law Enforcement Arrests/Official Contact

1. Decision - Released to Parents

2. Decision - Referred to Juvenile Court

B. Case Intake and Screening

3. Decision - Filed in Juvenile Court

4. Decision - Informal Adjustment

5. Decision - Case Divertable

C. Disposition Process

6. Decision - Formally Diverted

7. Decision - Remanded

8. Decision - Pled Guilty

9. Decision - Found Guilty

D. Sentence/Sanctioning Process

11. Decision - Institutional Commitment

12. Decision - Placement in Group/Foster Home

13. Decision - Detention

14. Decision - Non-Confinement (e.g., community supervision/probation, restitution, community service, etc.)

Detailed flow charts showing the number of cases at each point, pre and post, for Spokane, Yakima and King County are in Appendix A of this volume.

FINDINGS

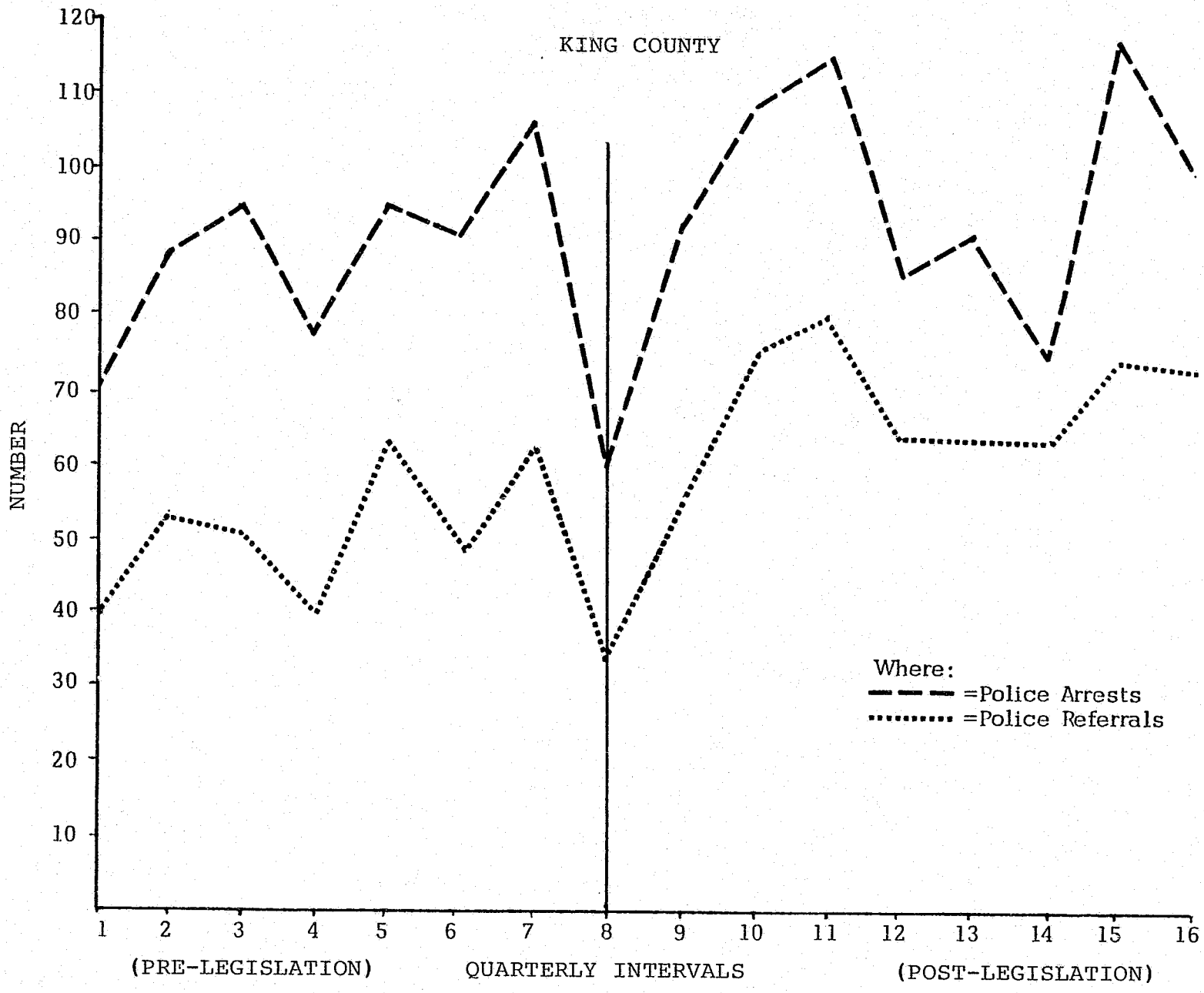
Law Enforcement Arrests/Contacts

Arrests in King county were higher in the post-reform period than before (by 27 percent) and, in Yakima, arrests after the law went into effect were down by 12 percent. In neither case, however, was the change clearly attributable to the passage or implementation of the legislation. As shown in Figure 2, the change in King county probably was produced by the upward trend that existed before the law was passed. Arrest patterns in King county however, may have been disrupted by some kind of "anticipatory response" to the new law as the number of arrests declined sharply during the three months before the law was to be implemented and increased sharply immediately afterward. This "rebound" effect was short-lived, however, and the number of arrests stabilized as a level similar to that which existed before the law was implemented. Arrest information from Yakima is shown in Figure 3 and, as in King county, the difference between pre and post appears to have been produced by the pre-existing trend rather than by a change in law enforcement behavior that coincides with the implementation of the law.

Decision 1. Release to Parents

A comparison of the pre and post data from King county indicated a substantial and statistically significant reduction in the use of parental releases (see Appendix A, Decision 1, for the King county court). During the two years before the law was implemented, more than ten percent of all arrests in King county were adjusted through such releases compared with about one percent during the post-legislation period. Police officers in Yakima, however, did not record their adjusted cases as releases to parents. Most of the apparent adjustments in Yakima (and there were fewer than in King county)

Figure 2. NUMBER OF SAMPLE POLICE ARRESTS AND REFERRALS AT EACH THREE MONTH INTERVAL FROM JULY 1, 1976, TO JUNE 30, 1980.



were recorded as "handled within the department" by the juvenile officer. About seven percent of the cases in Yakima were adjusted and this dropped to three percent after the law was passed--a change that was not statistically significant.

Decision 2. Referred to Juvenile Court

The proportion of cases referred to juvenile court, given that an arrest (contact) had been made, increased both in Seattle (from 77 percent to 85 percent) and in Yakima (from 80 percent to 86 percent). These changes (see Figures 2 and 3 were statistically significant. The referral patterns in the Yakima court were particularly interesting. Arrests of youths actually declined in the post-legislation period but the probability of a referral, given an arrest, increased. Nevertheless, this combination of factors resulted in their being fewer cases, overall, handled by the juvenile court in the post-reform system.

The individual-level study in Spokane county commenced at Decision 2 (see Appendix A) which is the point of referral to juvenile court. Police referred almost 60 percent more cases after the law went into effect but, as in Seattle, the increase did not appear to be connected with the passage or implementation of the law (see Figure 4). Rather, referrals show a sustained upward trend during a six to nine month period prior to the new legislation and the overall increase in cases should be viewed as the normal continuation of that trend rather than a direct consequence of the legislation itself. In sum, the data from Yakima and Seattle support the contention that police officers under the new system were more likely to refer cases to juvenile court.

Figure 3. NUMBER OF POLICE ARRESTS AND REFERRALS AT EACH THREE MONTH INTERVAL FROM JULY 1, 1976, TO JUNE 30, 1980.

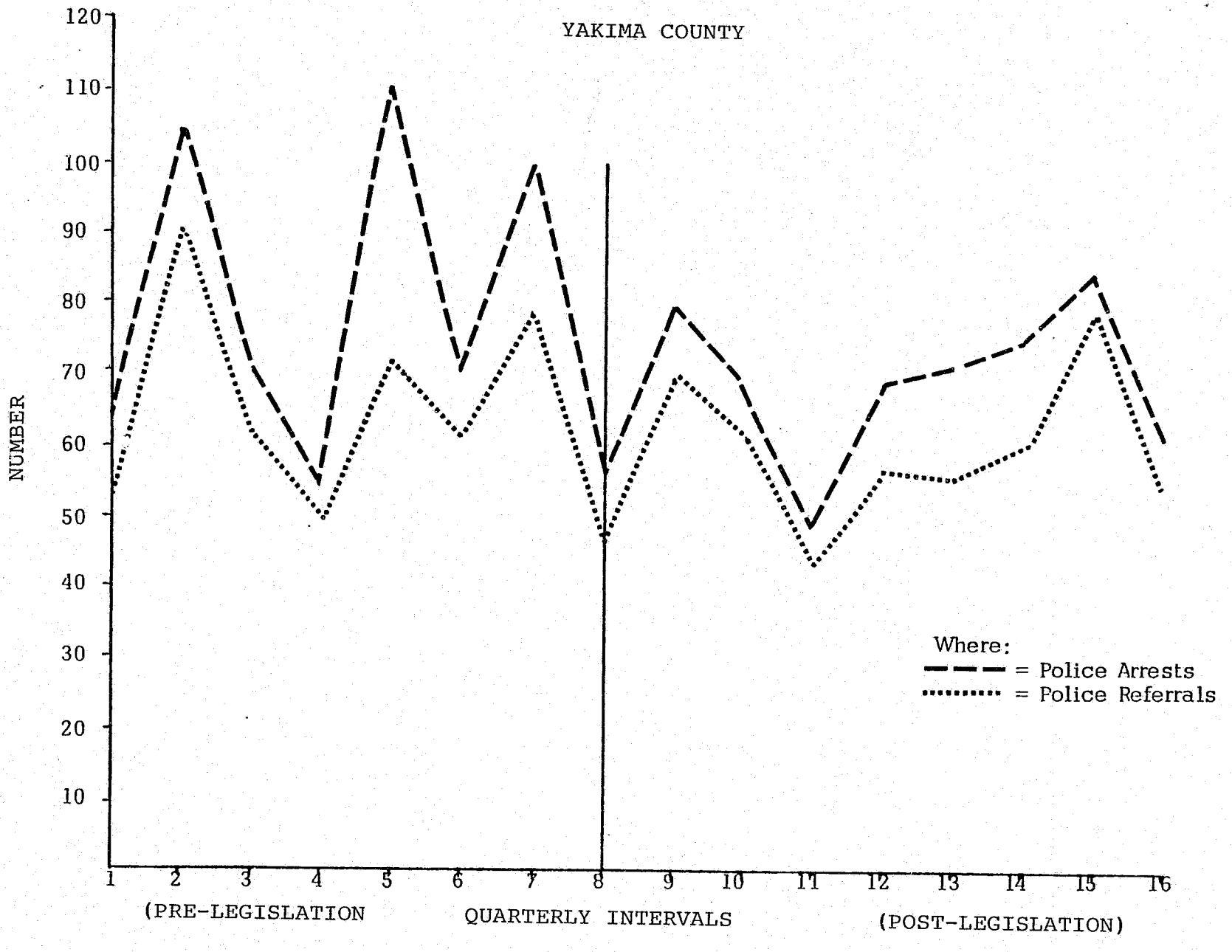
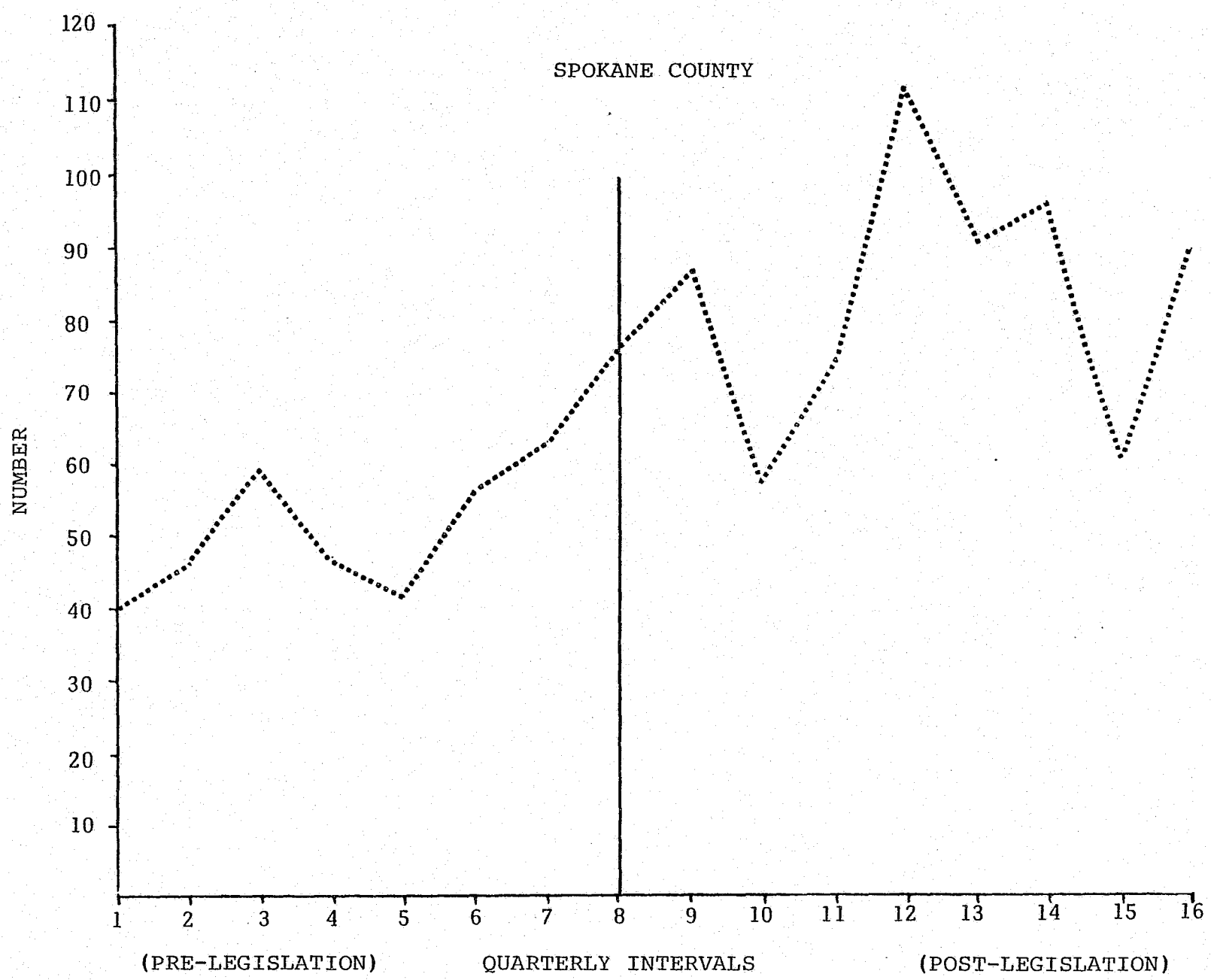


Figure 4. NUMBER OF SAMPLE POLICE REFERRALS AT EACH THREE MONTH INTERVAL FROM JULY 1, 1976, TO JUNE 30, 1980.



Intake Screening Process

Changes made in the intake process were, perhaps, more substantial than those imposed on any other part of the system. The responsibility for this decision was changed from probation to prosecution and, in addition, the open discretion of the pre-reform system to informally adjust cases or to file charges was replaced with specific guidelines regarding which cases had to be filed (given legal sufficiency) and which ones had to be diverted. Thus, there were expectations of considerable changes such as an end to informal adjustments and an increase in diversions. It was not known, however, whether the number or probability of cases filed would increase and it was not known whether the number of diverted cases would be similar to the number that previously had been informally adjusted. The data on these decision are shown in Appendix A, decisions 3 through 5. Figures 5 through 7 show the number of cases filed and diverted in the three courts and figures 8 through 10 show the number of cases informally adjusted.

Decision 3. Filed in Juvenile Court

The number of cases filed in juvenile court increased tremendously in King county (Seattle) and Spokane, but not in Yakima. As shown in Figure 5, the number of filings (involving one or more charges) almost doubled in King county and the proportion of referrals that resulted in filings increased from 31 percent (pre) to 43 percent post--a statistically significant change. The pattern of change in King county (see Figure 5) was somewhat enigmatic. The implementation of the law was followed by an immediate and rapid increase in filings. However, within one year, the number appeared to stabilize at an intermediate point between the high level of filing activity observed during the first year of the law and the relatively low level of activity throughout the pre-legislation period.

Figure 5. NUMBER OF SAMPLE FILINGS AND DIVERSION DECISIONS AT EACH THREE MONTH INTERVAL FROM JULY 1, 1976, TO JUNE 30, 1980.

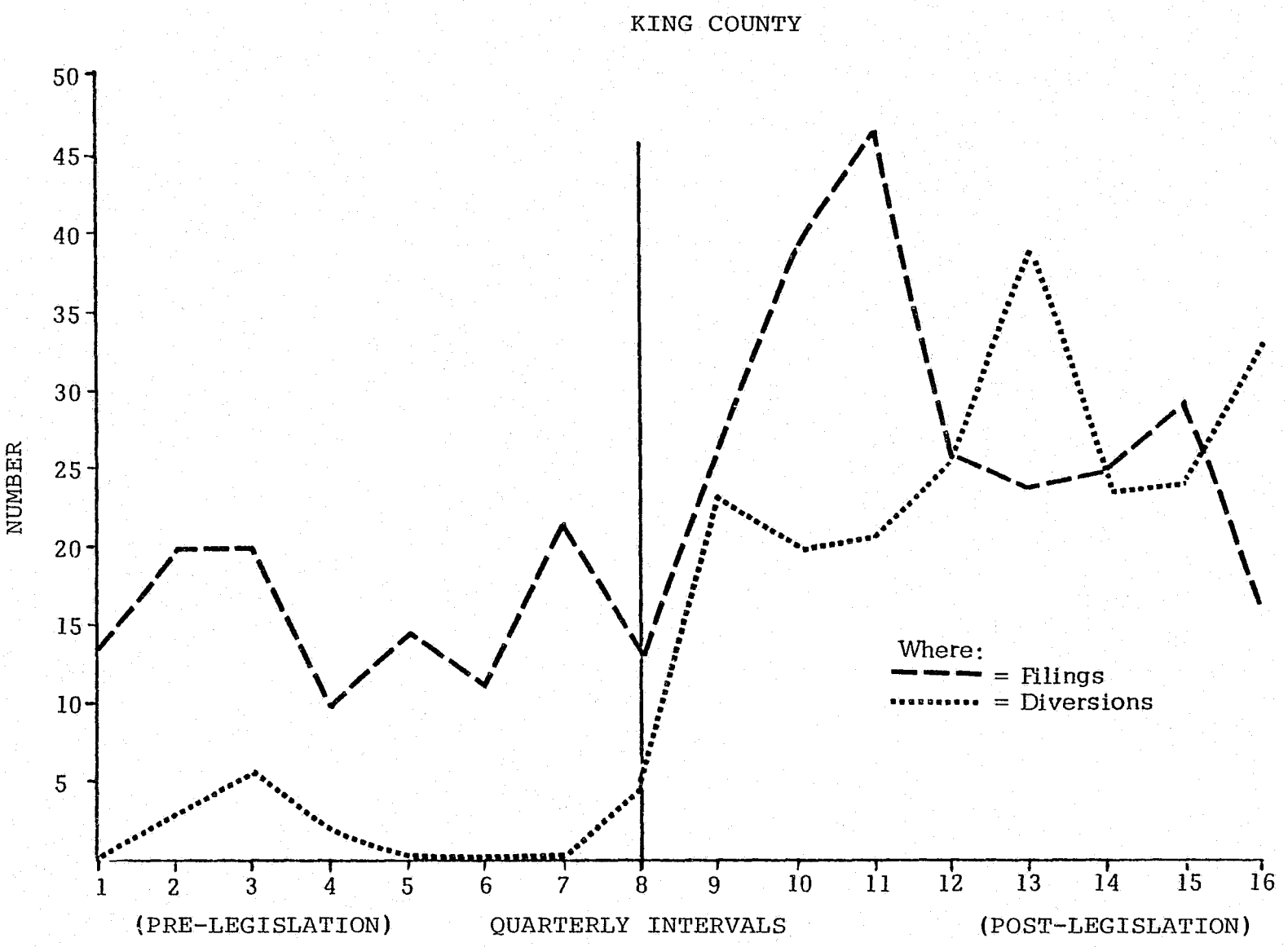


Figure 6. NUMBER OF SAMPLE FILINGS AND DIVERSION DECISIONS AT EACH THREE MONTH INTERVAL FROM JULY 1, 1976, TO JUNE 30, 1980.

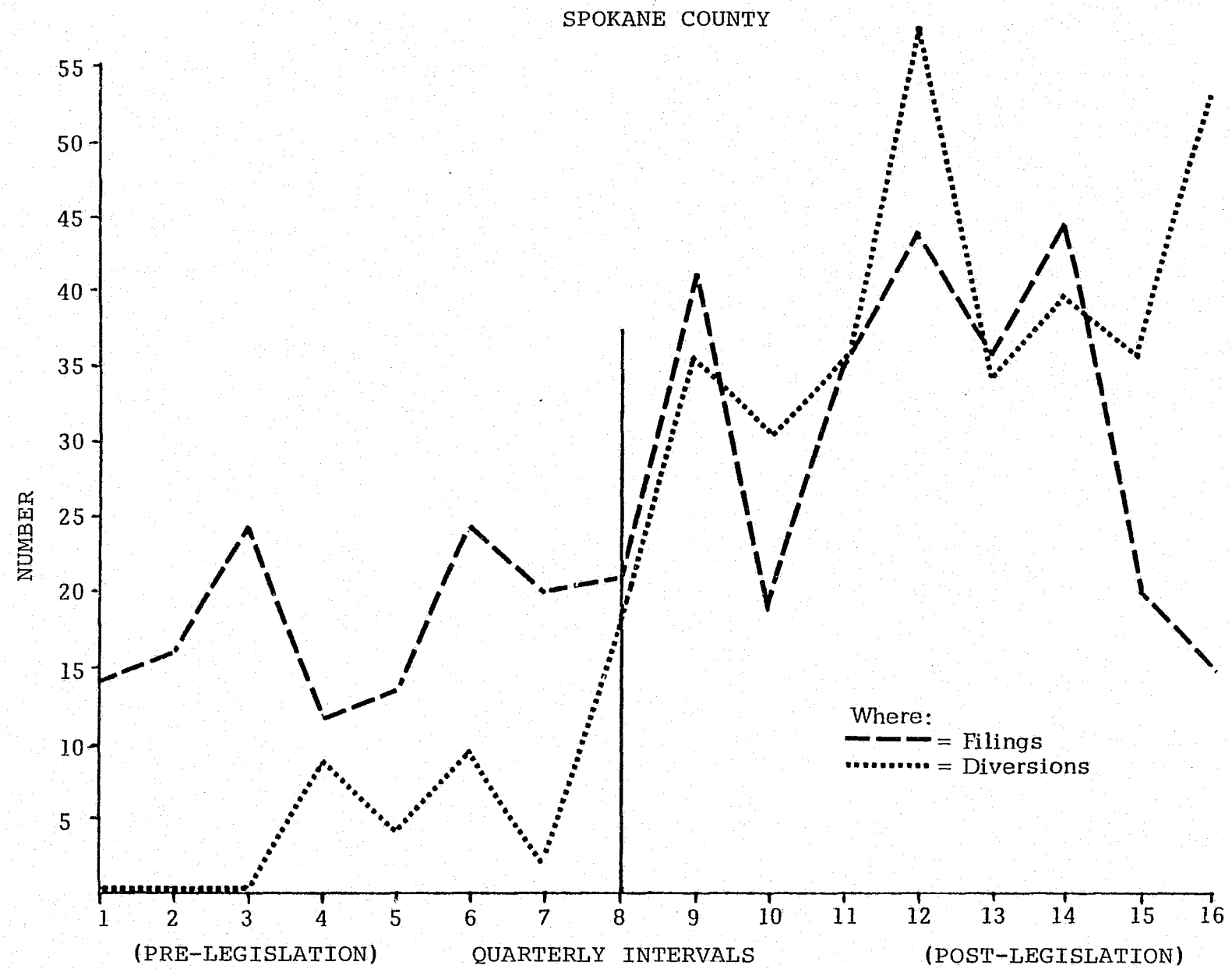


Figure 7. NUMBER OF SAMPLE FILINGS AND DIVERSION DECISIONS AT EACH THREE MONTH INTERVAL FROM JULY 1, 1976, TO JUNE 30, 1980.

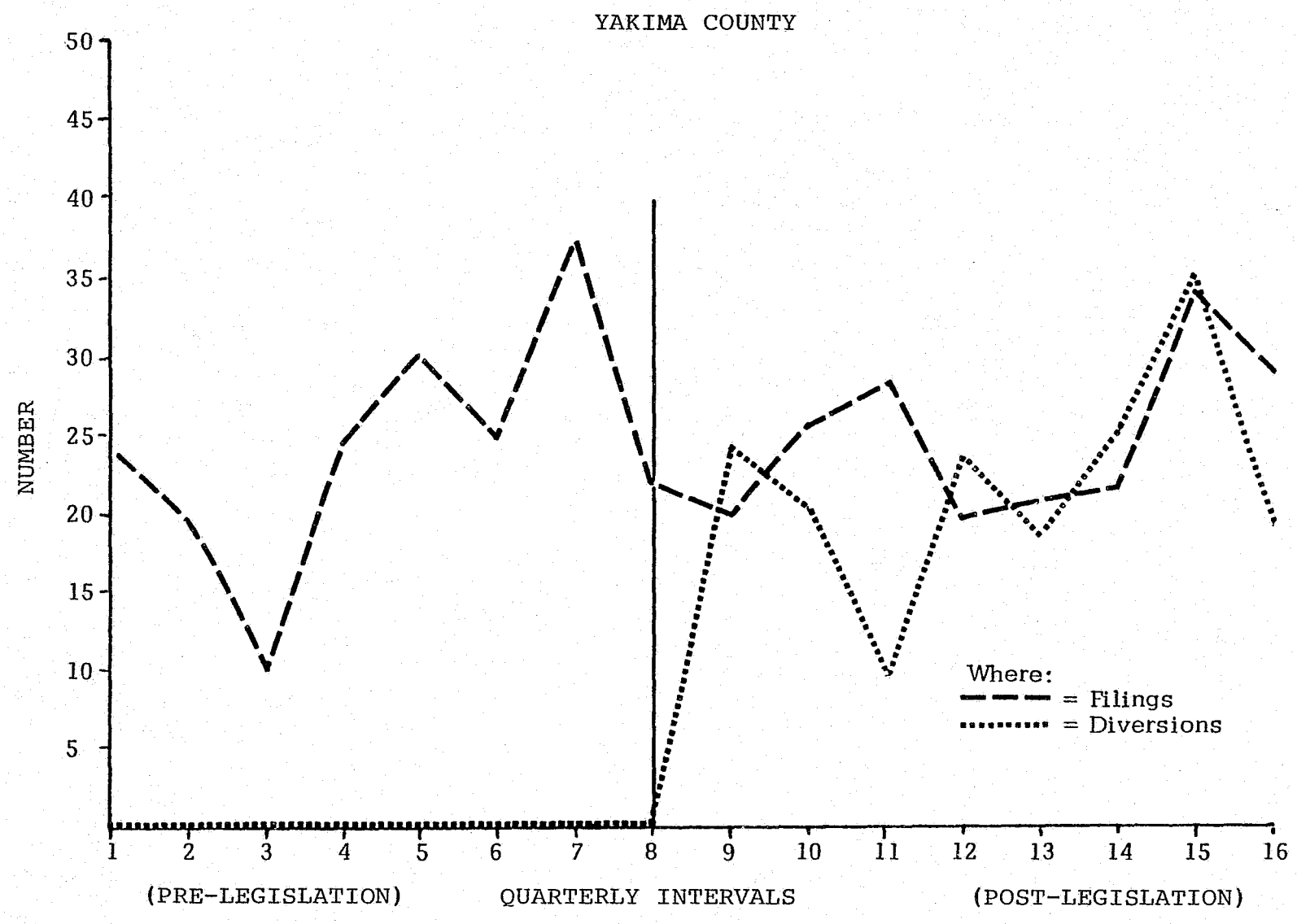


Figure 8. NUMBER OF SAMPLE INFORMAL ADJUSTMENTS DURING EACH THREE MONTH INTERVAL FROM JULY 1, 1976, TO JUNE 30, 1980.

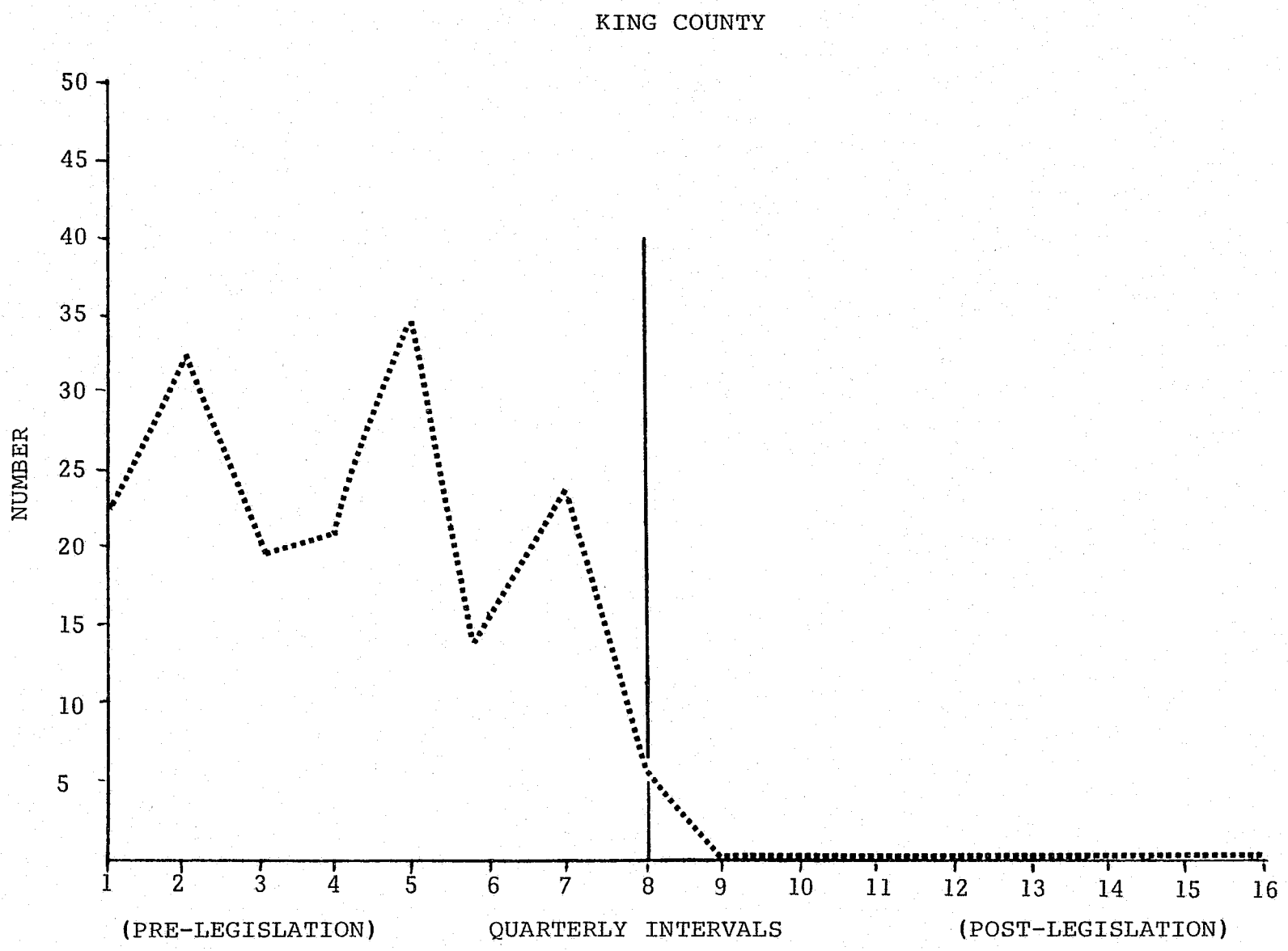


Figure 9. NUMBER OF SAMPLE INFORMAL ADJUSTMENTS DURING EACH THREE MONTH INTERVAL FROM JULY 1, 1976, TO JUNE 30, 1980.

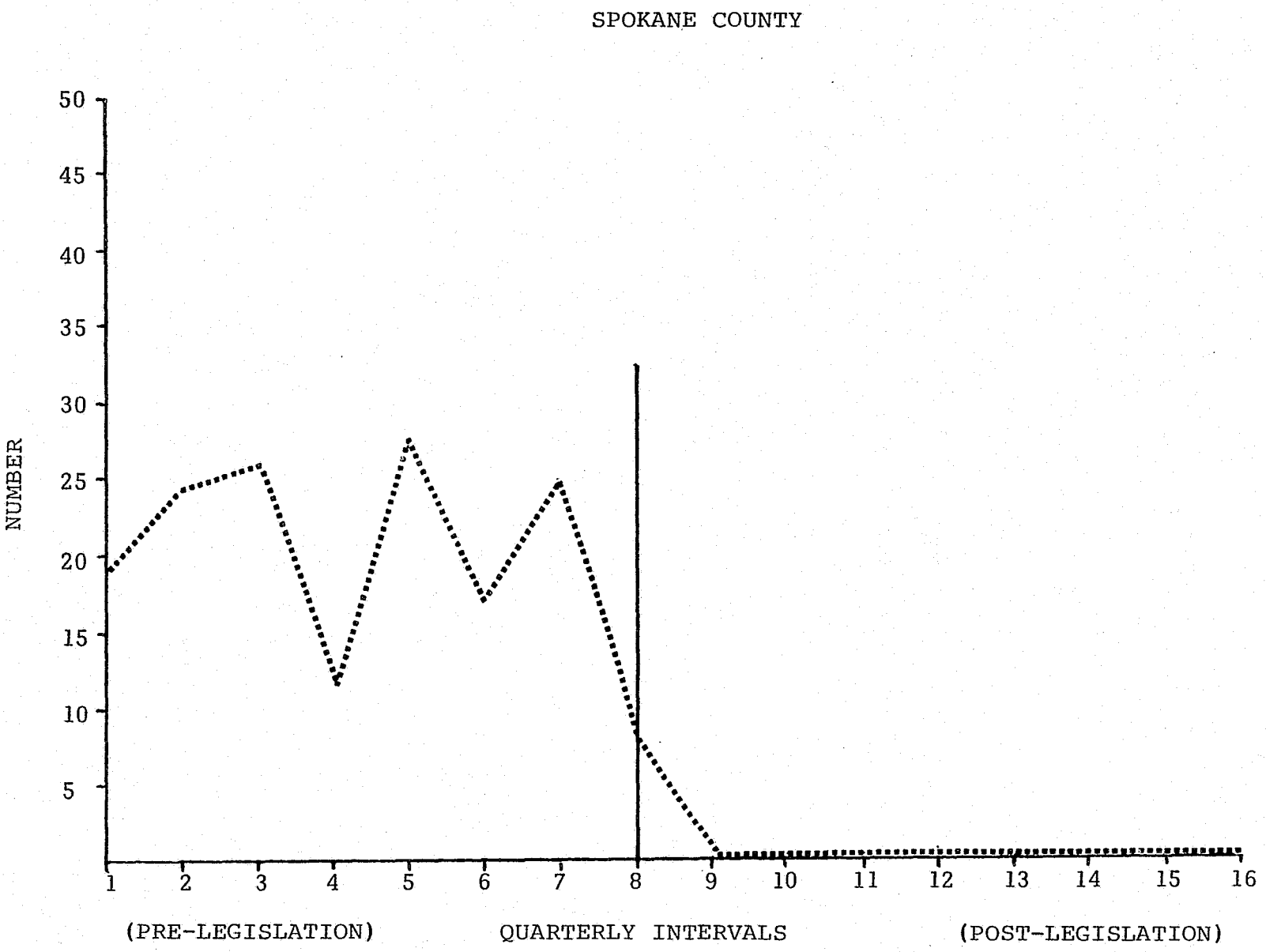
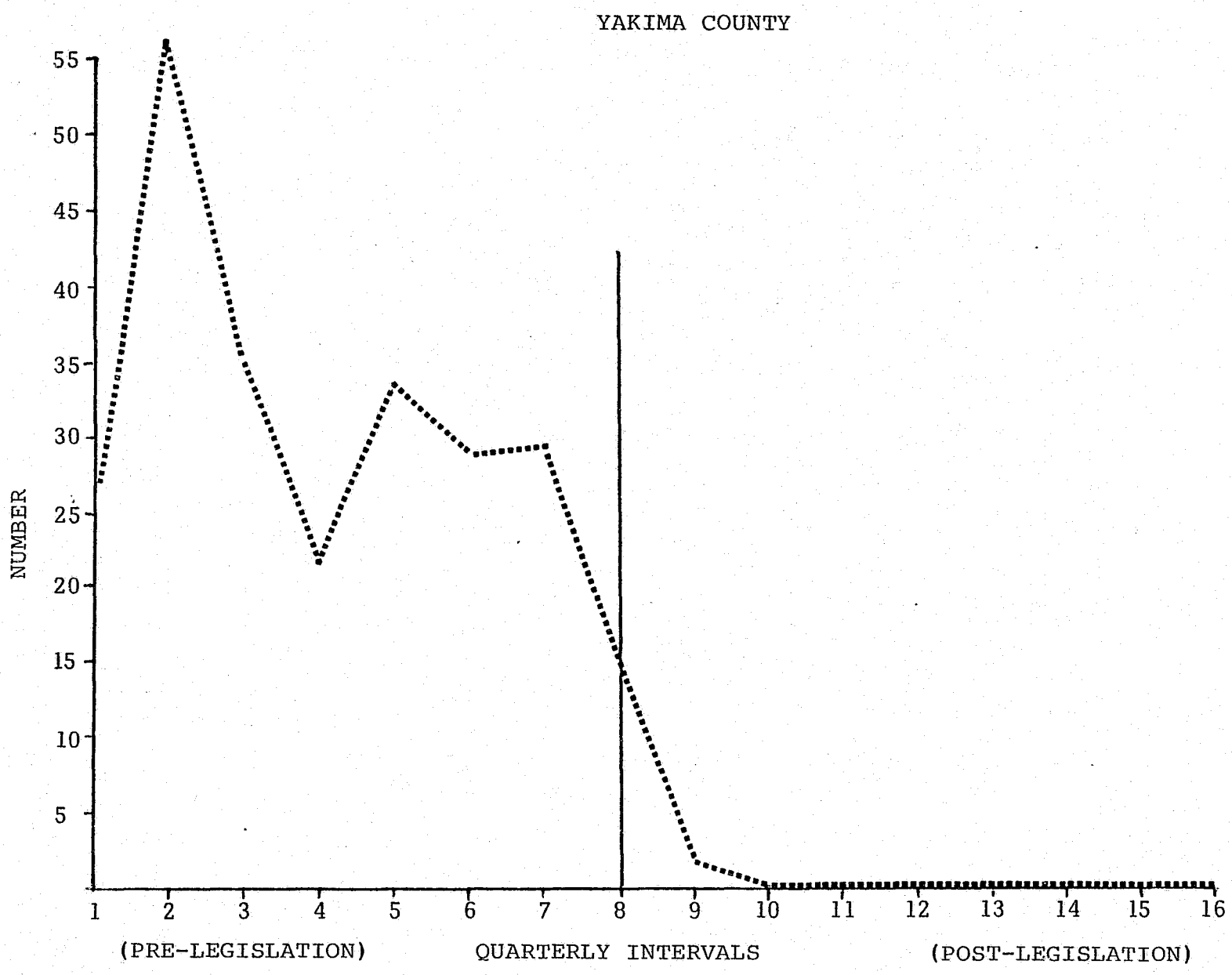


Figure 10. NUMBER OF SAMPLE INFORMAL ADJUSTMENTS DURING EACH THREE MONTH INTERVAL FROM JULY 1, 1976, TO JUNE 30, 1980.



Filings in Spokane also show an immediate and somewhat erratic elevation (Figure 6). The absolute number of filings almost doubled in the post-legislation period but the increase in filings as a proprtion of referrals was not as great (see Appendix A, Decision 3 for Spokane county). Charges were filed on 32 percent of all referrals before and on 39 percent afterward--a change that was not great enough to rule our chance variation as the primary factor. It appears, then, that the elevation in filings resulted mainly from the enormous increase in referrals rather than from an increase in the probability of filing, given a referral, in Spokane. In Seattle, however, the increase in filings reflected both an increase in referrals and an increase in the likelihood that a filing would result once a referral had been made.

The data from Yakima (see Figure 7) demonstrated no apparent change in the number of filings and an analysis of the probability of filings, given that a referral had occurred, also did not change significantly. Before the law was passed, 37 percent of the cases resulted in filings--the highest rate of filing among the three counties studied--and this proportion went to 41 percent afterward. The increase was not great enough to be statistically significant.

Decision 4. Informal Adjustment

The majority of cases that were not filed in the pre-legislation time period were informally adjusted (see Figures 8, 9, and 10.) More cases were adjusted during the pre-legislation period than were filed in each of the three counties studied. Informal adjustments, however, virtually disappeared after the law was passed and the change in all three places was obviously statistically significant.

Decision 5. Diversion

Although diversion practices or programs existed in some form in many juvenile courts long before the passage of the law, the post-reform system eliminated the discretionary decision regarding who would participate in diversion. It required the use of this option under some circumstances and it eliminated informal adjustments. Figures 5, 6, and 7 show the remarkable increase in diversion. In all three counties, the number of diversions approximated or exceeded the number of filings throughout the post-legislation periods. A comparison of the proportion of cases diverted (post) with those that were either informally adjusted or diverted (pre) indicates a decrease in Seattle (from 44 percent to 37 percent) and in Yakima (from 49 percent to 38 percent) but in Spokane, the proportion adjusted was almost exactly the same as the proportion diverted after the law went into effect (49 percent and 48 percent, respectively).

Disposition Process

The disposition process encompasses a substantial number of decisions made by system actors (prosecutors and judges) as well as by defendants and their counsel. Some of these decisions result from fact-finding or jurisdictional proceedings, such as charge dismissals, findings of guilty or not guilty, and remands to adult courts. Others, such as guilty pleas, are sometimes the product of negotiations between defendants (or counsel) and prosecutors in exchange for charge reductions or favorable sentencing recommendations. Still others involve decisions by youth and court authorities to accept diversion agreements. Despite the array of decisions, only four were selected for extensive discusion. These decision points are shown in Appendix A as "formally diverted, "remanded" "pled guilty" and "found guilty."

Decision 6. Formally Diverted

Diversion removes juveniles from the formal adjudicatory process but it does not necessarily lessen the sanctions that might be imposed upon them nor does it protect them from the inclusion of the offense in their criminal history if another offense is committed. Youths who are diverted by the prosecutor (at decision 5) may not actually enter into a diversion agreement and continue through that part of the process. Given that diversion does not seem to have many advantages, it is reasonable to expect that eligible divertees might prefer formal adjudication. According to the survey respondents, however, this was not the case. Prosecutors and court administrators in the 20-county sample estimated that juveniles rarely chose the formal process and the data from the three court jurisdictions indicated that this was correct. During the post-legislation period in King county, for example, 200 of the 204 juveniles diverted by the prosecutor entered into formal diversion agreement and were, therefore, "formally" diverted (see Appendix A, Decisions 5 and 6). Similar patterns were observed in the other two counties. All eligible divertees in Spokane county apparently were diverted while 173 of 174 in Yakima county were diverted.

An assessment of the impact that diversion had on the case processing in Washington depends on whether diversion (post) is compared with diversion (pre) or whether the post-reform diversion process is viewed as a "replacement" of the informal adjustments that existed before the law was passed. As noted previously, the proportion of cases which reach intake and are then diverted was only slightly less (post) than the proportion which reached intake and were informally adjusted or diverted, pre. From this perspective, diversion and informal adjustements serve a similar purpose: they remove the youths from the formal adjudicatory process. Another

perspective, however, is to view the process in terms of the requirements imposed on the juveniles whose cases are diverted or adjusted. If it is assumed that the informal adjustements did not involve any requirements of the youth and, alternatively, that a formal diversion process (either pre or post) imposes at least some minimum requirements and therefore is a "disposition"; then the proper comparison is between the pre and post diversions rather than the pre-reform adjustments and the post-reform diversions. From this perspective, the change in the case processing was enormous. Before the new law in King county, for example formally diverted cases accounted for three percent of all arrests, four percent of all cases that progressed to intake, and eleven percent of all cases that advanced to disposition (i.e., a finding or the imposition of requirements on the youth). During the post-reform system, formal diversions accounted for 31 percent, 36 percent, and 46 percent respectively. The findings from Spokane county are even more dramatic. During the pre-legislation period, formally diverted cases made up nine percent of the cases at intake and 21 percent of the cases that reached the disposition process. In the first two years subsequent to the new law, formally diverted cases comprised 47 percent of the cases at intake and 55 percent of the cases that progressed to disposition. Yakima was the only study site that did not have a court-operated diversion program of some type prior to HB 371. After the law, formal diversions accounted for 31 percent of all arrests, 36 percent of all cases at intake, and 47 percent of all dispositions.

These data indicated quite clearly that the diversion provisions had a profound impact on the system. Approximately half of all cases were disposed through formal diversion and, thereby, adjudication was avoided or, more likely, informal adjustment at the level of intake screening, was avoided.

If it is assumed that the post-reform diversion holds juveniles accountable whereas the pre-reform informal adjustments did not accomplish that purpose, then the diversion requirements produced significant changes on the system and on the number of youths held formally accountable for their criminal conduct.

Decision 7: Remanded to Adult Court

The juvenile justice code contains no legislative waiver requirements with regard to juvenile court jurisdiction (or decline thereof) over specified offenses or offenders. Instead, the law identifies the types of crimes for which older youth (16 and 17 years of age) shall be subjected to a decline hearing, unless waived, to determine whether cases will be heard in juvenile court or remanded to the jurisdiction of adult court. Thus, hearings are legislatively mandated, while actual remands or transfer of jurisdiction remain within the discretionary powers of the juvenile court judge.

Findings presented elsewhere showed that the majority of survey respondent in the 20 sample counties stated that the new hearing requirements produced either no change or a small increase in the likelihood of decline hearings in their respective jurisdictions. Similarly, these same respondents also stated that the hearing requirements had not influenced the likelihood of remands to adult court.

Individual level data from the three sample counties were consistent with the information from most survey respondents. A pre-post comparison of the absolute number of decline hearings showed that they had decreased in all three jurisdictions, but significantly so only in Spokane county. The numbers of hearings, were so small, however, that they represented only two to four percent of the cases referred to each court. It appeared, therefore, that the legislation had only a minor effect on the occurrence of decline hearings.

The number of remands to adult court prior to the new law was very small in all three counties and it remained small after the law went into effect. The number of sample cases remanded in King County for example, was seven before HB 371 and five during the post-period. The same pattern was observed in Spokane and Yakima counties, where the pre-post figures were eleven and seven remands in Spokane and four and six remands in Yakima. No significant difference in the probability of a remand, given a referral, was observed in any jurisdiction as a function of the legislation (see Appendix A, Decision 7).

Decision 8: Pled Guilty

Prior to the new legislation, the role of the prosecutor in the adjudication process was very limited. In most jurisdictions, prosecutors represented the state in juvenile proceedings only when cases involved serious felony charges and/or the cases were contested. The vast majority of cases referred to most juvenile courts were handled by probation counselors who screened for legal sufficiency, conducted pre-trial inqueries, determined which charges would be filed and at what degree of seriousness, represented the state at adjudication hearings, and recommended sentences to the courts. The juvenile courts, in turn, were required to establish jurisdiction (i.e., to detemine that youths were delinquent) and to impose sanction.

Under the treatment or rehabilitation model of juvenile justice, the sanctions recommended by probation counselors and/or imposed by the courts were not expected to be related to the seriousness of the charges or the criminal histories of the youths. Once jurisdiction was established, juvenile court judges were permitted almost total discretion with regard to the sentences they imposed. Under such a system, youths convicted of one

misdemeanor could be institutionalized, whereas others convicted of one or more serious felonies could be released to the community with or without probation supervision. The number or seriousness of the charges was not the salient factor, therefore, that determined the amount of punishment to be imposed for delinquent offenses. Instead, dispositions were guided by consideration of where or how youths might best be helped or rehabilitated.

Enactment of the new legislation charged these practices almost entirely. For example, the transfer to prosecutors of all screening and charging functions meant that they were granted authority to determine the "input" of the formal system of juvenile justice. In addition, the new law specified that conviction charges, in combination with a youth's age and prior criminal history, were to determine the parameters of standard sentences. Thus, conviction charges (current and post) were expected to carry great weight in terms of the punishment that courts were to impose without a finding of "manifest injustice".

The net effect of these legislative changed has been to increase the power (and discretion) enjoyed by the prosecutor. Under the current sentencing scheme, control of the charging decisions is equivalent, in many respects, to control of the sentencing decisions. As such the new law has created all of the ingredients necessary to encourage plea negotiations between the prosecutor and the alleged offender/defense counsel.

To explore this issue, survey respondents in the 20-county sample were asked whether the likelihood of plea negotiations had increased or decreased in their jurisdictions since the new law become effective. Eighty-five percent of the juvenile court administrators and 67 percent of the public defenders stated that the likelihood had increased. When these same respondents were asked to estimate (using a zero-to-ten scale) the frequency of plea negotiations prior to the new law, the mean responses were 1.9

(prosecutors), 2.0 (court administrators), and 5.2 (public defenders). Average estimates of current use were 5.5 (prosecutors), 2.0 (court administrators), and 6.4 (public defenders). Both prosecutors and court administrators, therefore, believed plea negotiations occurred infrequently prior to the new law. Court administrators believed that the law had no effect on the likelihood of plea negotiations, whereas prosecutors judged that negotiations had become quite common. Public defenders believed they were quite likely to occur before the law, and even more likely after its enactment.

To explore these widely discrepant views in more depth, individual level data were examined in each of the three counties studied. If the law resulted in more plea negotiations, it follows that more guilty pleas should have been obtained. The data presented in Appendix A (Decision 8) show that the number of guilty pleas nearly doubled in King County and tripled in Spokane County during the post legislation period. (It was not always possible to distinguish between pleas and findings of guilt in Yakima county).

The number of guilty pleas, however, is not synonomous with an increase in the likelihood of such pleas. In King county, defendants pled guilty in 36 percent of all cases filed prior to the new law and to 36 percent of all cases file during the post-legislation time period. In contrast, the Spokane data show a substantial and statistically significant increase in the probability of a guilty plea, given that the case is filed. The proportion of guilty pleas to filing went from 39 percent during the pre-reform era to 59 percent afterwards. This change was statistically significant. Thus, the individual case data from two counties show that there were increases in the absolute number of youths pleading guilty in both places but in only one (Spokane) was there a change in the probability of a guilty plea, given that the case was filed.

Decision 9: Found Guilty. One of the more interesting questions with regard to the new law is whether the adoption of an adversarial approach to juvenile proceedings has influenced the frequency or outcome of contested cases. Recall that the legislation not only codifies the right to counsel for youths accused of crimes, it also requires, unless waived, that counsel be provided in any proceeding where youths might be in danger of confinement. Since all but the most insignificant charges are subject to detention sanctions (i.e., confinement), this provision essentially requires that many more juveniles must be permitted to obtain an attorney or be provided with counsel at public expense.

To determine the extent to which juveniles actually exercised their right to counsel, survey respondents were asked whether the law had affected the likelihood that youths would obtain legal representation. Ninety percent of the juvenile court administrators and 80 percent of the prosecutors stated that the likelihood of counsel had increased. When asked to estimate the magnitude of change on a zero-to-ten scale, the average score for each respondent group exceeded 5.0, indicating a rather substantial increase in the use of defense counsel.

The individual-level data were used to detemine whether the increased availability of counsel influenced the trial process in juvenile court. (Unfortunatley, data were not available on whether youths actually had counsel or not). In King county, there was no statistically significnat change in the probability of a guilty finding (28 percent of filings, pre, resulted in a finding of guilt compared with 21 percent, post). Also, no differences were observed in the probability of dismissals or findings of not guilty.

The results from Spokane were different. The data show a decline in the proportion of filed cases which result in a finding of guilty and an increase

in both the proportion of dismissals and the proportion of not guilty findings. The drop in guilty findings was substantial enough to be statistically significant. The increase the other two results, combined, was significant although the increase in each one, taken separately, was not great enough to reach statistical significance using the conventional .05 level.

In sum, the adversarial requirements of the new law did not manifest themselves in the trial processes of King county, but there was a reduction in the proportion of contested cases in Spokane county which resulted in a finding of guilty and a corresponding increase in the probability that the case either would be dismissed or a finding of not guilty would be issued by the court.

Sentence/Sanctioning Process

The original sentencing standards became effective July 1, 1978, and were modified slightly during subsequent legislative sessions. Regardless of their form and complexity, all versions (past, present, and proposed) have faithfully reflected the legislative requirements, as well as the justice approach to proportional sanctions, mitigated by age and criminal history.

No great enthusiasm for the standards was detected among the survey respondents. When asked whether the prescribed sanctions were generally appropriate to the offenses and criminal histories of youth referred to their respective courts, 53 percent of the prosecutors and 70 percent of the court administrators said "no." Several categories of reasons emerged. Court administrators said that sanctions were too lenient (29 percent); judges should be permitted more sentencing discretion (29 percent); standards were used to manipulate state institutional populations (29 percent); and standards encouraged plea negotiations (14 percent). Prosecutors who believed the

standards were inappropriate said that the standards were either too lenient (67 percent) or did not permit judges sufficient sentencing discretion (33 percent).

The figures in Appendix A illustrate the pre- and post-legislation sentencing outcomes in King, Spokane and Yakima counties at decision points 10-13. These outcomes ranged (in general order of severity) from institutional commitment to non-confinement sanctions (such as probabtion or community supervision).

Decision 10: Institutional Commitment. Commitment to a state institution is the most severe sanction that can be imposed in Washington's juvenile justice system. As such, the new legislation clearly intended to limit the use of this sanction by permitting it only under the following conditions:

1. presumptive commitment of "serious offenders";

2. Discretionary commitment for youths with 110 or more points; and

3. Discretionary commitment of otherwise uncommitable juveniles if commitment would effectuate a "manifest injustice" and if the court enters reasons for its conclusions.

The individual-level data from all three court jurisdictions shows that the probability of institutional commitments declined after the law was passed and the absolute number of cases dropped in two of the three areas. Commitments during the pre-legislation period in King, Spokane, and Yakima counties were 19, 20, and 39 samples cases, respectively. During the post-law period, the number increased to 22 in King county but decreased in the other two (see Decision 10 in Appendix A). The probability of a commitment in two of the three areas showed statistically significant decreases and, in Seattle, the probability of commitment declined significantly if group home placements were considered with the committed youths and, as shown in another report, the seriousness of the offender is held constant.[22]

Decision 11: Group/Foster Home Placement. Since the law prohibited placement in group or foster homes as a sanction for criminal behavior, such placements should not have occurred during the post period. It was clear that this practice did not disappear in any of courts that were studied, although it occurred much less frequently in all locations (see Appendix A, Decision 11).

Decision 12: Detention. More youths were held in local detention in all three jurisdictions after the legislation was passed than before but this increase was produced by the overall increase in the number of cases in the system rather than by an increased probability of detention, given a finding of guilt. Tests of statistical significance on detention, per se, are not meaningful, however, unless detention is combined with commitments and group home placements for comparisons of confinement sanctions vs. non-confinement or is combined with other local sanctions (probation) to be compared against commitment to the state.

When all types of restrictions on liberty are combined and tested against non-confinement, significant decreases were found in the probability of confinement sanctions in all three areas. It should be noted at this point that changes in the sentencing patterns, per se, do not necessarily reflect changes in the level of sentence severity for particular types of juveniles and that the seriousness of the offenses and prior record need to be controlled to develop judgements regarding the change in sanction severity. This kind of analysis had been conducted and is reported elsewhere.[24] It substantiates the funding here: the probability of confinement sanctions--holding constant the seriousness of the offense and prior criminal record--acutally decreased during the first two years after the law went into effect.

Decision 13: Non-Confinement. Non-confinement sanctions encompassed a wide array of sentences imposed by the court including probation (community supervision), fines, restitution and so forth. As shown in the flow charts of Appendix A (decision 13) more cases received non-confinement sanctions during the post-legislation period in all three counties both as a result of an increased number of youths found guilty and because of an increased probability of a non-confinement sanction, compared with the restrictions of liberty. The changes were statistically significant in Spokane and Yakima counties. In Seattle, the change was significant if other variables were controlled (such as seriousness of the offender) and if group home placements were included with commitments during the analysis.

In sum, the overall effects of the law and the sentencing standards were most powerful in Spokane and Yakima counties. The magnitude of impact in Seattle, even though statistically significant when other variables were controlled, was not as great as in the other areas.

CONCLUSIONS

The individual-level data indicated that the new legislation modified case processing and decisions at many points in the system. Although these modifications varied somewhat among the three jurisdictions examined, the following conclusions seem to be appropriate:

1. Police in one jurisdiction--King county which includes the city of Seattle--were less likely to informally adjust cases and more likely to refer them to juvenile court for formal processing under the new system. This finding was generally consistent with the perceptions of many law enforcement survey respondents in the 20-county sample. A similar phenomenon of slightly less magnitude, occurred in the most rural county involved in the study,

Yakima, where there were slight decreases in adjustments and increases in referrals. These changes were not statistically significant, however. The amount of change in King county also was not particularly great (from 77 percent to 85 percent of the contacts were referred to court).

2. The transfer of intake decisions to prosecutors resulted in the virtual elimination of informal adjustments in all three jurisdictions but otherwise, the changes varied from place to place. The number of filings increased dramatically in King county and Spokane, but not in Yakima. The probability of filing, given a referral, increased only in King county and not in either of the smaller counties.

3. The frequency of waiver (decline) hearings and remands was not affected by the legislation. Waiver hearings and remands to adult court occurred very infrequently before the new law and, despite the hearing requirements of HB 371, no changes were observed in the frequency of hearings or remands to adult court nor in the probability of these options being used. The absence of this change may reflect the degree of confidence that juvenile justice professionals have in the ability of the juvenile system (compared with the adult system) to deal with the more serious offenders.

4. The legislation had a limited effect on the outcome of adjudicated cases. In King county, there was no apparent effect of the legislation on the proportion of adjudicated cases resulting in guilty findings and there also was no change in the probability that pleas of guilty would be obtained. In Spokane, however, the probability of guilty pleas increased. And, among the contested cases in Spokane, the probability of a finding of guilt actually declined compared with the other two outcomes: dismissals and findings of not guilty.

5. The effect of the law and sentencing standards on sentencing decisions was apparent in all three jurisdictions. In two jurisdictions, judges were clearly less likely to impose commitment sanctions (compared with all other sanctions) and in all three jurisdictions, the probability of restrictions of liberty (compared with community supervision) was reduced.

In all, it was clear that the law influenced the decisions of juvenile justice system actors. The extent to which they were modified, however, depended in large part upon the degree to which the pre-legislation practices of local authorties were consistent with those required by the law. In King county, for example, most changes occurred at the "front end" of the system, that is, at the level of the police decision to refer cases to juvenile court and the prosecutor decision to file criminal charges. Disposition and sentencing decisions (with the exception of formal diversions) were less affected. The pattern of change in Spokane county and in Yakima county was just the opposite. The most significant modifications in case processing in these latter jurisdictions occurred in disposition and sentencing decisions.

APPENDIX A

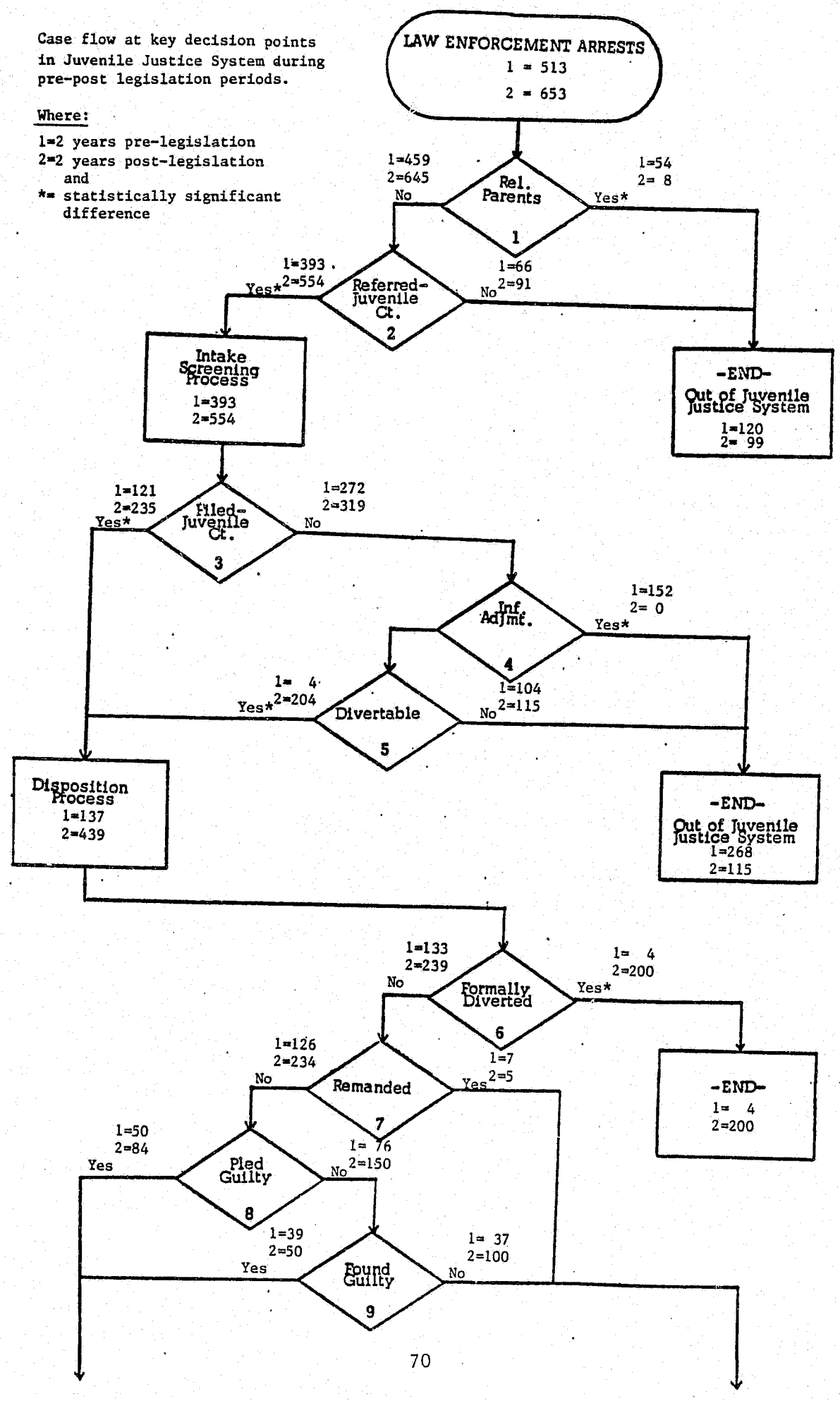
FLOW CHARTS FOR KING, SPOKANE, AND YAKIMA COUNTIES

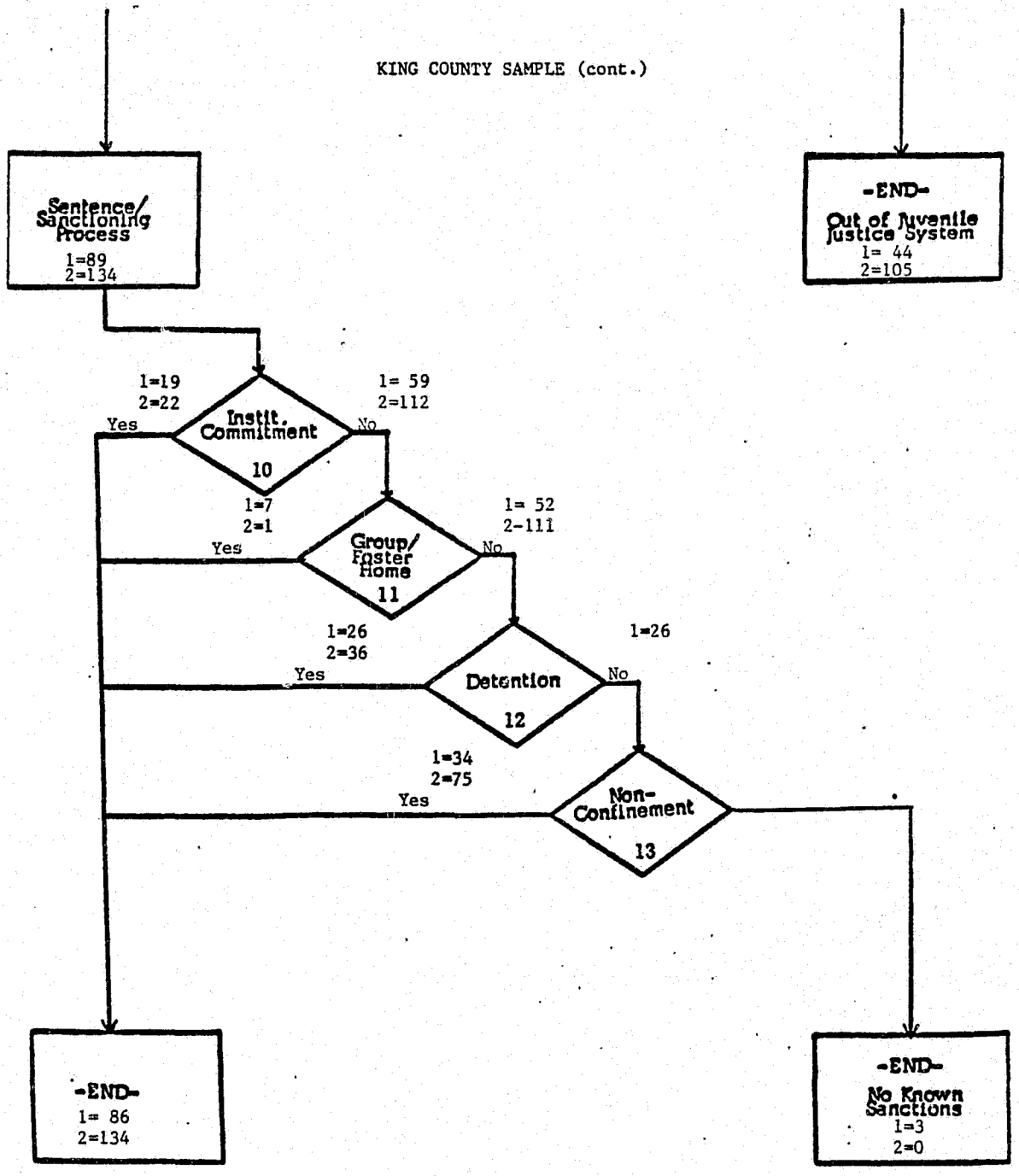
KING COUNTY SAMPLE CASES

Case flow at key decision points in Juvenile Justice System during pre-post legislation periods.

Where:

1=2 years pre-legislation
2=2 years post-legislation
and
*= statistically significant difference





System Decision Probabilities (Multiple Regression Analysis)

Given an Arrest, the Probability of:

1=Released to Parents (Yes) . . . . . t=00 (Decrease)
2=Referred to Juvenile Court (Yes). . . . . t=.06 (Increase)

Given a Referral, the Probability of:

3=Filed in Juvenile Court (Yes) . . . . . t=.00 (Increase)
4=Informal Adjustment (Yes) . . . . . t=.00 (Decrease)
5=Divertable (Yes). . . . . t=.00 (Increase)

Given a Filing, the Probability of:

6=Formally Diverted (Yes) . . . . . t=.00 (Increase)
7=Remanded (Yes). . . . . t= NS.
8=Pled Guilty (Yes) . . . . . t= NS
9=Found Guilty (Yes). . . . . t= NS

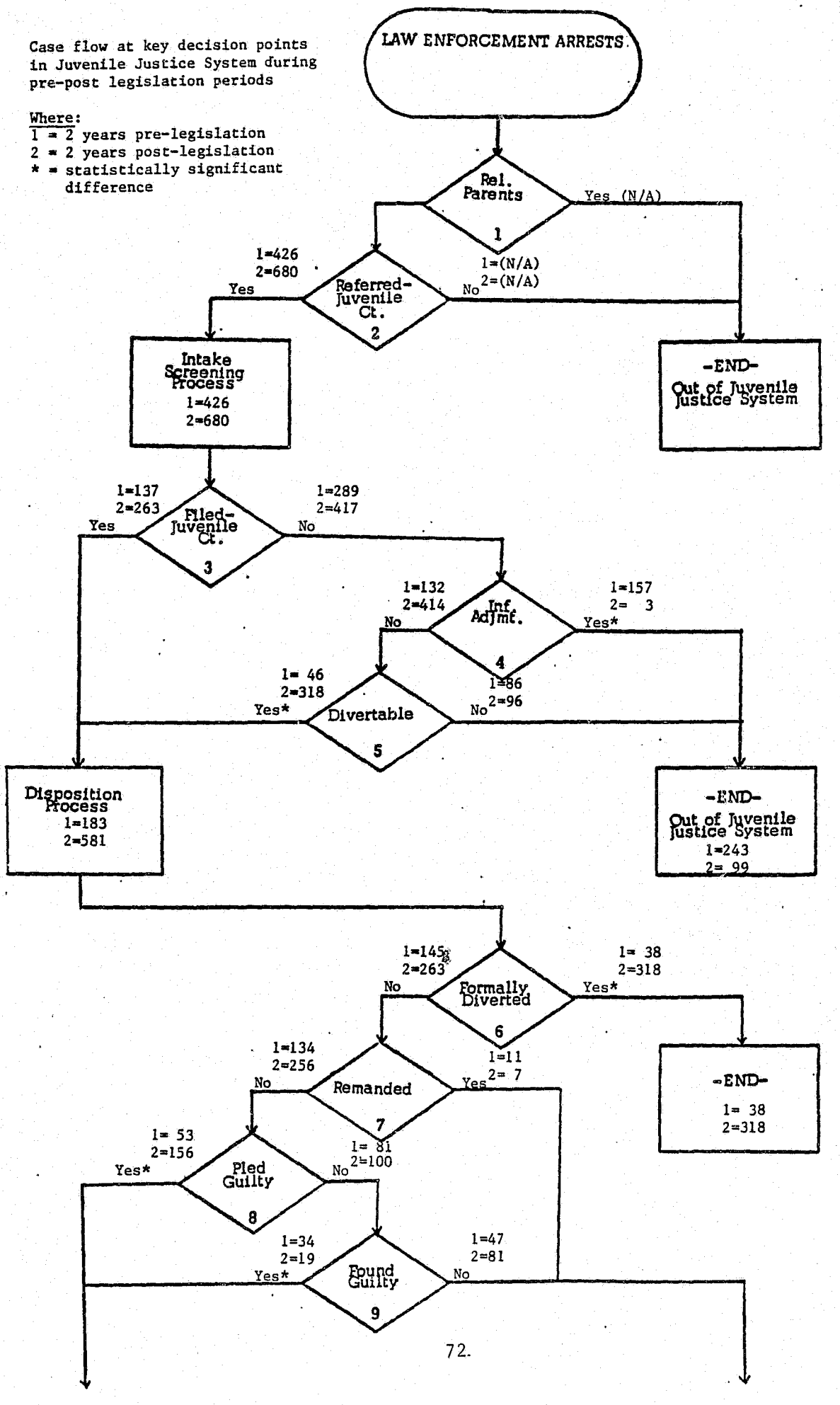
Given a Guilty Finding, the Probability of:

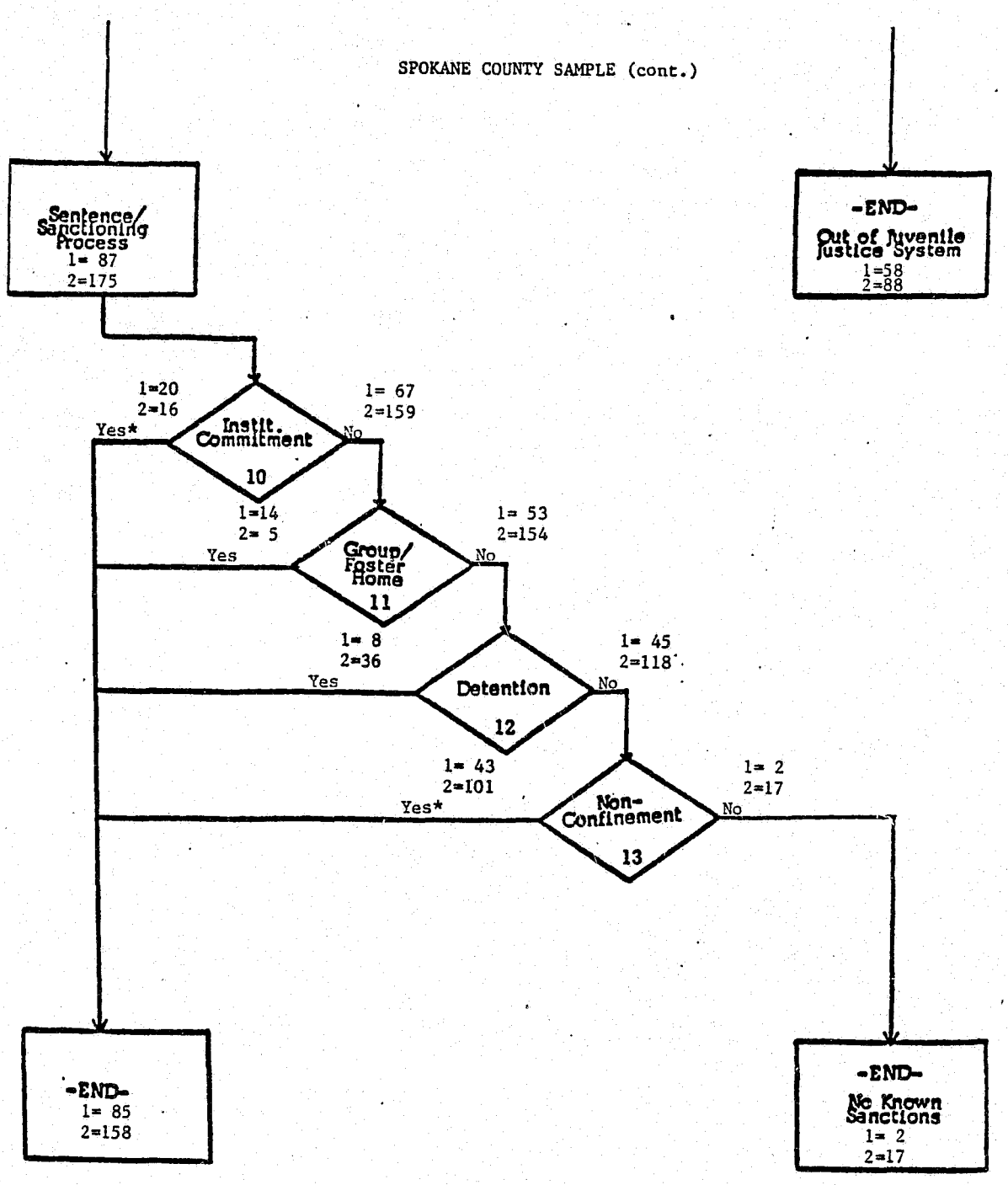
10=Institutional Commitment (Yes). . . . . t= NS
11=Group/Foster Home Placement (Yes) . . . . . t=(N too small)
12=Detention (Yes) . . . . . t= NS
13=Non-Confinement (e.g. Probation). . . . . t= NS
10+11+12=Confinement . . . . . t=.05 (Decrease)

SPOKANE COUNTY SAMPLE CASES

Case flow at key decision points in Juvenile Justice System during pre-post legislation periods

Where:
1 = 2 years pre-legislation
2 = 2 years post-legislation
* = statistically significant difference





System Decision Probabilities (Multiple Regression Analysis)

Given an Arrest, the Probability of:

1 = Released to Parents (Yes)	t = N/A
2 = Referred to Juvenile Court (Yes)	t = N/A

Given a Referral, the Probability of:

3 = Filed in Juvenile Court (Yes)	t = NS
4 = Informal Adjustment (Yes)	t = .00 (Decrease)
5 = Divertable (Yes)	t = .00 (Increase)

Given a Filing, the Probability of:

6 = Formally Diverted (Yes)	t = .00 (Increase)
7 = Remanded (Yes)	t = NS
8 = Pled Guilty (Yes)	t = .05 (Increase)
9 = Found Guilty (Yes)	t = .00 (Decrease)

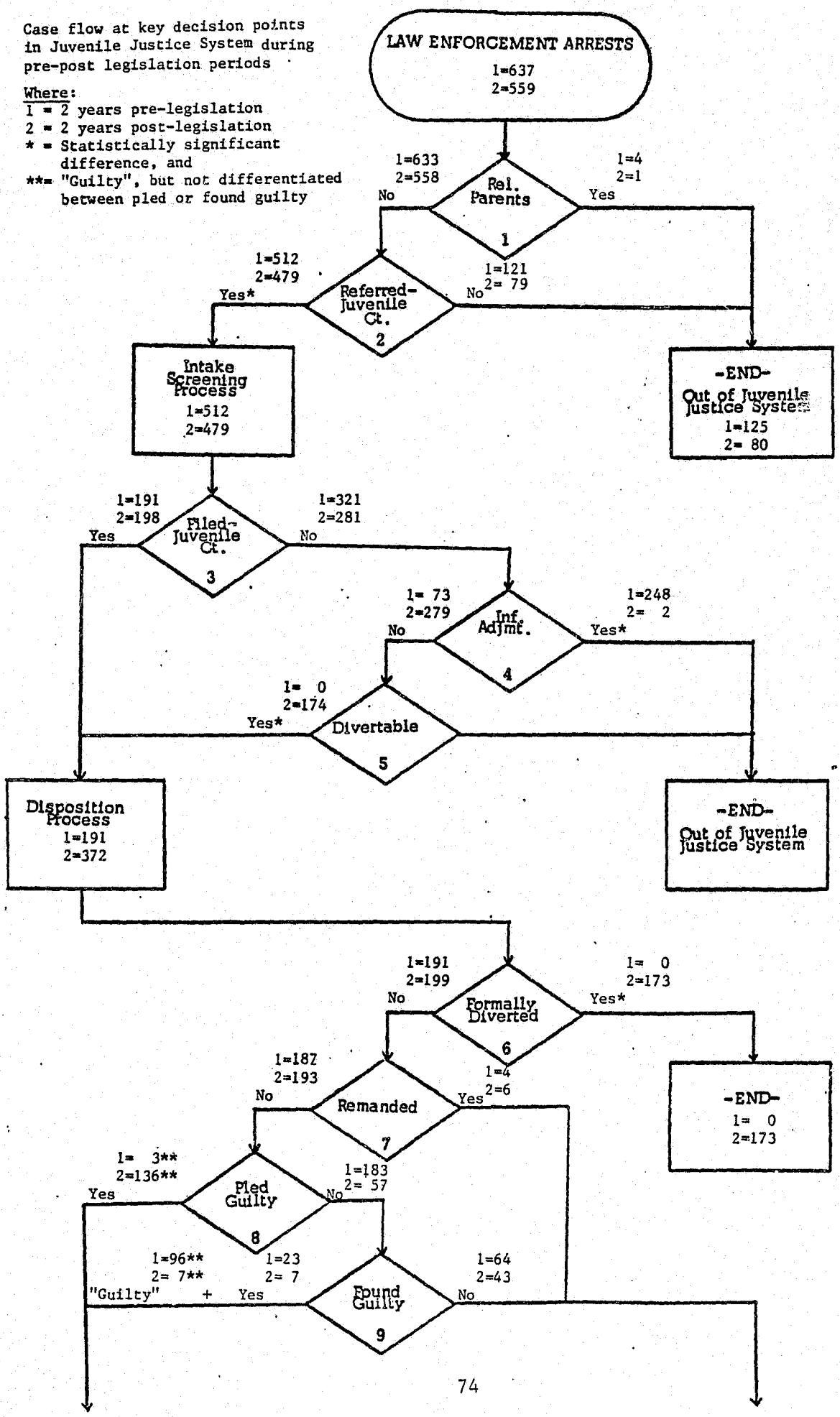
Given a Guilty Finding, the Probability of:

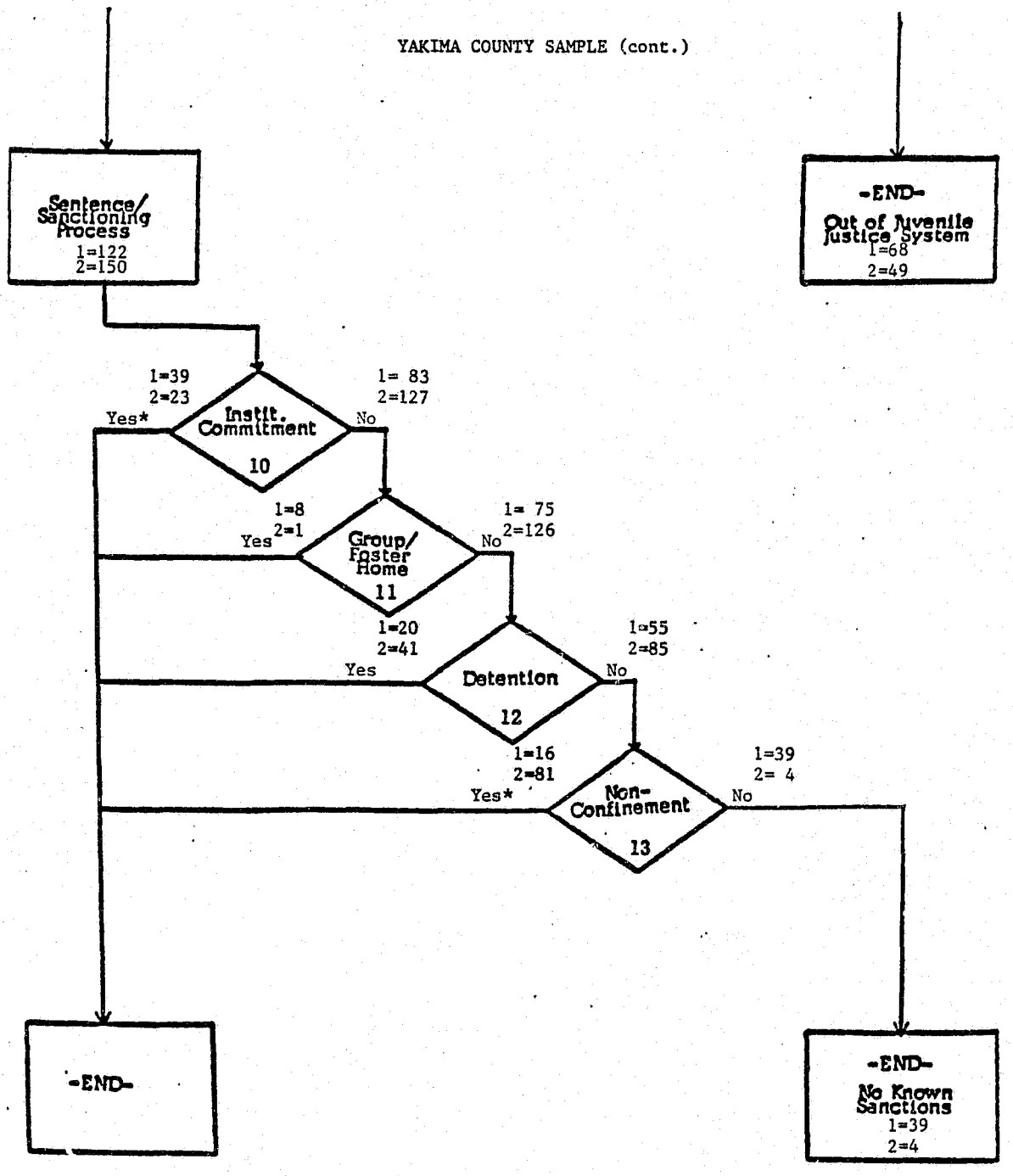
10 = Institutional Commitment (Yes)	t = .02 (Decrease)
11 = Group/Foster Home Placement (Yes)	t = (N too small)
12 = Detention (Yes)	t = (Unstable)
13 = Non-Confinement (e.g. Probation)	t = .00 (Increase)
10+11+12+ = Confinement (Yes)	t = .05 (Decrease)

YAKIMA COUNTY SAMPLE CASES

Case flow at key decision points in Juvenile Justice System during pre-post legislation periods

Where:
1 = 2 years pre-legislation
2 = 2 years post-legislation
* = Statistically significant difference, and
** = "Guilty", but not differentiated between pled or found guilty





System Decision Probabilities (Multiple Regression Analyses)

Given an Arrest, the Probability of:
- 1 = Released to Parents (Yes). . . . . t = NS
- 2 = Referred to Juvenile Court (Yes) . . . . . t = .01 (Increase)

Given a Referral, the Probability of:
- 3 = Filed in Juvenile Court (Yes). . . . . t = NS
- 4 = Informal Adjustment (Yes). . . . . t = .00 (Decrease)
- 5 = Divertable (Yes) . . . . . t = .00 (Increase)

Given a Filing, the Probability of:
- 6 = Formally Diverted (Yes). . . . . t = .00 (Increase)
- 7 = Remanded (Yes) . . . . . t = (N too small)
- 8 = Pled Guilty (Yes). . . . . t = .00 (Increase)**
- 9 = Found Guilty (Yes) . . . . . t = .00 (Decrease)**

Given Guilty Finding, the Probability of:
- 10 = Institutional Commitment (Yes) . . . . . t = .00 (Decrease)
- 11 = Group/Foster Placement (Yes) . . . . . t = (N too small)
- 12 = Detention (Yes). . . . . t = (Unstable)
- 13 = Non-Confinement (e.g. Probation) . . . . . t = .00 (Increase)
- 10+11+12 = Confinement (Yes). . . . . t = .00 (Decrease)

FOOTNOTES

1. Most of the changes in juvenile justice codes represent codification of due process requirements, or changes to bring the state into compliance with the requirements of the 1974 Federal Juvenile Justice and Delinquency Prevention Act regarding status offenders.

2. Kent V. U.S. 383 U.S. 541 (1966). In deciding the Kent case, the Court reviewed the philosophy and practices of the juvenile court and questioned "... whether actual performance measures well enough against theoretical purpose to make tolerable the immunity of the process from the constitutional guarantees applicable to adults."

In re Gualt. 387 U.S. 1 (1967). Gault held that a juvenile charged with an offense which would be a crime if committed by an adult has the right to notice of charge, counsel, confrontation and cross-examination of witnesses, and refusal to answer incriminating questions.

In re Winship. 397 U.S. 385 (1970). The Winship decision reinforced Gault and affirmed that the standard of proof of guilt for juveniles and adults be the same, that is beyond a reasonable doubt.

3. Currently, adult sentences within the state of Washington are indeterminate within statutory maximums. In practice, judges who impose prison sanctions generally sentence offenders to maximum terms. The actual length of the sentence is set by the Board of Prison Terms and Paroles. Felony offenses committed after July 1, 1984, however, will be adjudicated and disposed under a presumptive sentencing scheme wherein judges will impose a determinate sentence within a narrow range. Sentences that depart from the range will be appealable by either the defendant or the prosecutor.

4. Eighteen of the 20 sample departments participated in the survey.

5. All 20 police agencies particpated in this effort.

6. All 20 juvenile court administrations served as respondents.

7. Nineteen of the 20 prosecutor agencies participated.

8. Eighteen of the 20 diversion units were represented in the survey.

9. Nineteen of the 20 sample counties were represented by defense counsel respondents.

10. Judicial respondents participated in all 20 samples counties.

11. RCW 13.40.080 (1).

12. RCW 13.40.070 (8) provides that the prosecutor may waive this screening function in misdemeanor and gross misdemeanor cases.

13. RCW 13.40.070 (3).

14. Rubin, H. Ted. The Emerging Dominance of the Prosecutor in the Juvenile Court Process. Crime and Delinquency, 26 (3), 1980, 299-318.

15. RCW 13.40.140 (2).

16. RCW 13.40.080 (6).

17. RCW 13.40.040 (2) specifies that a juvenile may not be detained unless he/she has committed an offense or violated a dispositions order and (i) is likely to fail to appear for proceedings; or (ii) is required to protect youth from self, (iii) is a threat to the community safety; (iv) will intimidate witnesses; (v) has committed a crime while another case was pending. Additional circumstances under which detention is permitted include suspension or modification of parole, fugitive from justice, or material witness status. (Also see RCW 13.40.050 (5).

18. A recent, but unpublished, study by Ira Schwartz, Fellow, Hubert Humphrey Institue, University of Minnesota, indicated that the State of Washington had one of the highest rates of detention in the nation. Although these data did not distiguish between pre- and post-trial detentions, the vast majority of all detentions in Washington occurred prior to adjudication. The findings of the

Schwartz study suggested that, even though many jurisdictions might have decreased the likelihood of pre-trial detention, the rates continued to be well above the national average.

19. For a critical analysis of judicial discretion in wavier deteminations, see Barry Feld, "Legislation and the Serious Offender: On the Virtues of Automatic Adulthood," Crime and Delinquency, 24 (4), 1981, 497-521. Although Washington's Juvenile Justice Code maintain judicial authority over waiver (remand) decisions, it also contains provisions similar to Feld's concept of "legislative waiver." The statue sets forth criteria (seriousness of the offense and age of the youth) under which the courts are expected to conduct waiver hearings. Thus, the legislation identifies the types of cases that should be considered for possible transfer of jurisdiction, but permits judges to determine whether such cases shall be remanded to adult court.

20. RCW 13.40.140 (6).

21. See other reports in this series for a detailed explanation of the rationale and methodology used for the individual case level studies.

22. See Volume V, "Doing Justice in The Juvenile Court: A Comparison of Intake and Sentencing Decisions Under Rehabilitation and Justice Models."