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Juvenile Diversion: Results of a Three Year Experimental Study

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Abstract

In a three year longitudinal study of first time juvenile status offenders assigned at random to three treatment groups and a control group, no significant differences were found in recidivism rates among the groups. A total of 398 juveniles in this study were cited for offenses of tobacco or alcohol in a medium-sized metropolitan northwest city. The offenders were assigned at random to four groups: a traditional magistrate court, a traditional Youth Court diversion program, a new non-judicial diversion program and a control group. None of the groups including the control group showed a significant difference in recidivism rates. It was determined from the evaluation of all groups that the diversion program offered the most cost effective program intervention to provide more services to potentially troubled teens.

1.0 Introduction

American prisons and are the most populated in the world and show few signs of slowing in their growth rates (Harrison and Beck, 2003). As of December 2002, 2,166,260 persons were incarcerated in the U.S. prisons and local jails (Harrison and Beck, 2003). Of that number over 110,284 were juveniles (Harrison and Beck, 2003).

Many of the adults in American prisons began their criminal careers as juveniles (Sherman, Gottfredson, MacKenzie, Eck, Reuter, & Bushway, 1998). As we continue to search for ways to break the cycle of crime, we have attempted to rehabilitate adult offenders as well as juveniles. One approach to breaking this cycle of adult incarceration has been to divert juvenile offenders from the justice system as early as possible. This present research was designed to determine which intervention was the most effective in ending recidivism of juveniles..

1.1 Literature Review

The concept of diversion of juveniles from the juvenile justice system has a long history in the scholarly literature as well as in federal juvenile justice policy. The theoretical background of diversion is based on the "labeling" principles dating back to Tannebaum (1938). The scholarly debate was further developed by the research of both Becker (1963) as well as Lemert (1951). Becker (1963) argued that labeling by certain social groups in power have a detrimental effect on juveniles. The work of Lemert (1951) discussed the effect of secondary deviance of juveniles that were processed through the juvenile justice system and contributed to the argument that the system, instead of helping, may actually contribute to further delinquent acts of juveniles.

Over the past 30 years many research projects have been conducted to test various methods of diversion. While much research has been conducted to test diversion methods, few have taken advantage of true field experimental conditions (Campbell, D.T., 1969; Severy & Whitaker, 1982). Unfortunately, utilizing true experimental designs in the juvenile justice setting can have serious political implications (Severy & Whitaker, 1982). Yet, the absence of a control group design prevents testing from a base line. The methodology of this project allowed the comparison of the groups to each other and the comparison of the different treatment interventions to a baseline control group.

In addition to research design questions, a number of other issues were also significant. One of the most significant issues raised by diversion was the “net-widening” effect of this type of program. In an evaluation of eleven California diversion projects Bohnstedt (1978) found that half of the 3871 clients served would not have been processed by the system if court diversion programs were not available.

Courmarelos and Wetherby (1995) studied juveniles in a diversion project that were all first time offenders. They were from the jurisdiction where they were cited for existing status crime violations. The authors noted that if the court did nothing, most first time young offenders would not get into any further trouble and thus, limiting the net-widening possibilities.

Kammer and Minor (1997) evaluated a program that intervened in cases of juveniles from 11 to 18 years charged with status or “low-level” delinquent offenses and no prior record. The program was 16 months long and only handled 12 offenders at a time. Of the 86.2% (N=81) who graduated, 67% were rearrested during the evaluation follow-up. Of the juveniles originally arrested for status offenses, those that recidivated were charged with delinquent acts.

Lazovich, Ford, Forster, and Riley (2001) looked at a tobacco diversion program in particular to determine the success of the approach. Juveniles cited for use of tobacco were given the option of going to court, paying a fine, or attending a single 2.5 hour diversion course that discussed the harms of tobacco use. Most youths charged chose to pay a fine of \$50-\$75 and not attend the \$25 class. The research indicated that there was little difference in attitudes of juveniles who attended the class and those paying the fine. Interestingly another finding was that those paying the fine reported significantly lower subsequent tobacco use.

In addition to the “net-widening” effect, the current “get tough”/ accountability approaches have increased and negatively impacted juvenile court case loads. Butts (1996) reported that 66% more status offenders were processed by the juvenile court in 1994 than 1985. At the same time his study noted that delinquency petitions increased dramatically. This calls into question the philosophy of the juvenile court when compared to the adult court. As the juvenile court becomes more punitive it continues to be burdened by increased caseloads for both serious and status offenders (Butts, 1996; Minor, Hartmann & Terry, 1997).

“Treating youth in the community diversion is seen as a way to reduce further involvement with the juvenile justice system. The idea has been particularly intriguing because of its added benefit of relieving an overburdened judicial system (Whitaker, Severy, & Morton 1984: 175-176).”

1.2 Theoretical Foundation

Diverting juvenile offenders from the traditional juvenile justice system has been influenced by various theories but most prominently labeling theory and differential association theory. Differential association theory’s basic premise is that through association with deviant groups individuals are more likely to become deviant themselves. Juveniles incarcerated with other juvenile offenders will interact and are more likely to join deviant groups.

“The rise of juvenile diversion is in large part attributable to the popularity of labeling theory during the 1960’s (Osgood & Weichselbaum, 1984:35).” Labeling theory continues to be the most powerful force for diversion from the justice system. Labeling theory hypothesizes that the delinquent behavior (primary deviance) and the act of being labeled by powerful authority figures in the society will strongly influence juveniles to believe themselves to be deviant and create secondary deviance (Klein, 1986). This in turn creates a self-fulfilling prophecy that is more likely to occur and create a higher potential for a life of crime (Schur, 1971).

Diversion programs are intended to keep juvenile offenders out of the criminal justice system from the outset and thus reduce their interaction with other, possibly more serious, deviant groups. By keeping juveniles out of the system, the labeling impact of courts and judges will be reduced. Juveniles will also develop less of the secondary deviance patterns that result from being labeled by the system as “delinquent.”

Additionally, many diversion programs, including this one, require public service activities. Social control theory (Hirschi, 1969) hypothesizes that involvement in conventional activities will provide troubled youth with linkages to the larger society and thus reduce deviant activities.

2.0 Experimental Methodology

All true experiments require both random assignment to a treatment group(s) and a control group. A field experiment takes place outside a laboratory environment. When the city of Boise decided to begin a new diversion program funded by a federal grant, they wished to determine which diversion program was the most effective at reducing recidivism and thus reduce the expanding workload of the court. For several years the city had run a Youth Court. The Youth Court had been started to reduce the growing case load of the magistrate court but it could not handle the growing case load due to changes in the laws bringing more juveniles into the system. A new Juvenile Accountability program was designed to handle a larger case load efficiently but the city wanted to determine if the new program was as good as or better than the alternatives. It was further determined that to compare only two groups would not be sufficient to determine efficacy. To fully determine which diversion program was best at reducing recidivism, an experimental control group was included. It was additionally determined that the inclusion of the Magistrate Court and a Control Group would balance the experimental analysis by allowing a comparison with traditional methods of juvenile adjudication and juvenile diversion.

When the program began, the four groups (control group and 3 experimental groups) were setup and first time juvenile offenders charged with the status crimes of tobacco or alcohol possession were randomly assigned to one of the four groups. At the end of one year the experiment assignment was halted and the groups analyzed. Those subjects found to not match the experiment criteria (not first time offenders or charged with additional crimes not covered by the study) or those that did not complete the programs that they were assigned to were disqualified and removed from the study. The final number of juvenile subjects assigned to the groups was: Juvenile Accountability Group-72, Youth Court Group-75, Magistrate Court Group-83, and Control Group-68. The Magistrate Court group was the largest since none of the subjects were disqualified for noncompliance.

2.1 Comparison of Groups

The four randomly assigned groups in this experiment were the Juvenile Accountability group (JA), the Youth Court group (YC), the Magistrate Court group (MC), and the Dismissed Charges/Control Group (CG). As qualified citations came into the facilitator's office, they were assigned randomly to each of these groups. Once the year long data collection was completed, those individuals that did not complete the requirements for membership in their groups were eliminated. The Juvenile Accountability and Youth Court groups were most likely to suffer disqualification since any member that did not complete the required actions (public service and/or education) was sent to Magistrate Court and was no longer a member of the study.

2.2 Juvenile Accountability Group

The parents of juveniles that were randomly assigned to the Juvenile Accountability Program were notified in writing that their son/daughter had been issued a citation and was being referred to the program as an alternative to being sent to Magistrate's Court. In order to participate in the program at least one parent had to accompany the juvenile to the program to discuss the circumstances of the citation; determine a possible cause and result of the citation; and ultimately divert the citation from Magistrate's Court to the Juvenile Accountability Program. After this notification, the juveniles went through a structured intervention that included an Intake/Assessment Process to collect information including socio-demographic variables as well as their history of substance abuse and use. Juveniles were also directed to additional community services if needed. Parents were required to complete a confidential questionnaire. Based on the intake process, a program was developed and both the juvenile and parent signed a contract to complete the conditions stipulated in the Juvenile Accountability Program. This contract required the juvenile to complete approximately fifteen to twenty hours of community service as part of the program. They generally were assigned to the City Parks and Recreation or other city departments. The juvenile was required to pay any restitution due by the end of the program; attend a Court Alcohol or Drug Awareness Class and make an optional (may be required by program coordinator or parent) supervised visit to the jail to visit an inmate incarcerated on a sentence of alcohol, drugs, or violence. At the conclusion of this program the juvenile

wrote at least a two-page essay analyzing the experience. The final aspect of this program was an Exit Interview, which involved a form completed by both a parent and juvenile and an interview with the Director of the Program. If the juvenile did not re-offend for one year the citation was removed from their permanent record.

2.3 Youth Court Group

Juveniles in the second intervention program were randomly assigned to the Youth Court Program offered as a service through the YMCA. A judge presided over the largely student-run process. High school students volunteered to participate as jury members and attorneys for the Youth Court. The jury generally consisted of at least twenty students who heard eight cases weekly. Students were assigned to serve as “prosecutors” and “defense attorneys.” The sentence usually involved a tobacco or alcohol education course, community service hours in a designated program, and an essay at the conclusion of the program. In most cases, juveniles received:

- >Eight hours of counseling, offered through the YMCA or Juvenile Court;
- >Ten to twenty hours of community service;
- >A class in substance abuse for more serious offenders; and
- >An essay or poster at program completion.

In addition to these interventions, juveniles with a more severe nicotine addiction were referred to a hospital based intensive “stop smoking” class for a reduced fee. Again, if the juvenile did not re-offend for one year the citation was cleared from their permanent record.

2.4 Magistrate’s Court

These cases were handled along the traditional lines of the court. Generally the sentence from the court included a fine and stern warning from the judge regarding future use of illegal substances. This resulted in a permanent record for the juvenile.

2.5 Control Group

The Control Group was composed of approximately one-fourth of all individual juvenile misdemeanor citations involving alcohol and tobacco possession. Juveniles that were placed in the Control Group were referred to the Juvenile Accountability Administrator for a brief assessment and “pardon interview.” They were also offered community resources on a voluntary basis. In this brief interview the juvenile was informed of the citation and shown a short film entitled “Enough Is Enough.” The juvenile was informed that the citation would not be filed in the event that he or she discontinued the behavior named in the citation for at least one year.

3.0 Findings

These data were gathered on the first time juvenile offenders over a 2-3 year tracking period. They do not include those juveniles who left the jurisdiction of the study or those who failed to complete the program.

3.1 Violation Code

All of the first-time juvenile offenders were cited for tobacco or alcohol. Of the 293, 120 were cited for tobacco possession, 14 were cited for smoking, 8 were cited for possessing alcohol and 148 were cited for drinking alcohol. The final 3 were not recorded but were for tobacco or alcohol. It is interesting that more drinkers than smokers were caught.

3.2 Program Group Membership

As the juveniles entered the program over the year of data collection, they were assigned at random to one of four groups; juvenile accountability (71), youth court (75), Magistrate court (79) or the control group (68). The group numbers were different since no one could be forced to participate in the programs and could choose not to be part of the study. The Magistrate Court group was the only one (as it is the normal punishment) that the juvenile could not choose non-participation.

3.3 Age

The age range for this study was from 12 years to 18 years old. The lower boundary was set by the actual behavior of the offenders and 12 years old was the youngest caught. The upper bound was set by the legal age for tobacco use of 18. While 19-21 year olds are prohibited from drinking alcohol, it was decided to include only those who were juveniles. See Table 1 for age frequencies. The more or less normal distribution can be part accounted for by older aged juveniles being more mobile. Younger children had less mobility and older teens often had cars. Those in the middle were most likely to be caught since they were outside and usually on foot.

Insert Table 1 Here

3.4 Ethnicity

For those that have known ethnicity, the percentages closely match the percentages in the population according to Census data. Whites made up of 91.4% of the sample, Hispanics made up 5.6% of the sample, Asians made up 2.1% of the sample and Blacks made up less than 1% (.9%) of the sample. These percentages were very close to the population percentages in the county. These data implies that law enforcement in this community were not targeting minority groups.

(Insert Table 2 Here)

3.5 Gender

Males slightly out numbered females 160 to 133. This was likely due to males smoking more than females and also males being somewhat more likely to be outside while engaging in the behavior.

3.6 Numbers of Juveniles Who Recidivate

Interestingly, over the three years, 56.7% of these first time offenders did not recidivate at all. Of those that did recidivate most, 32.4%, recidivated 3 times or less. Just over 1 percent recidivated 10 times or more during these three years indicating that they were chronic offenders.

(Insert Table 3 Here)

As reported elsewhere (Patrick, Marsh & Bundy, 2004), the groups did not differ significantly in any of the demographic characteristics measured such as ethnicity, gender, age. The random assignment to the four groups resulted in 4 groups that were statistically the same. Additionally, the four groups did not differ in their recidivism rates. This meant that for the analysis of recidivism, the data could be treated as one group. Whether first time offenders were sent to the new diversion program, the established youth court, the traditional magistrate's court or placed in the control group, recidivism rates were not statistically different. (This issue will be discussed in detail in the discussion section but the following analysis presents the recidivism behavior of the 127 juveniles that did recidivate.

(Insert Table 4 Here)

3.7 Recidivated for Tobacco or Alcohol

For the 127 juveniles that did recidivate over the three year period, more recidivated for the same offenses than any other. Ninety six (75.6%) were cited again for tobacco or alcohol while 31 (24.4%) did not. It is interesting that almost 25% were not caught again for tobacco or alcohol. More specifically, 46 (36.2%) were caught smoking again and 61 (48.0%) were caught drinking again. Those caught drinking also included DUI traffic offenses. The issue in the evaluation was did the program work, did the teens get better that hiding their behavior or was getting caught drinking or smoking a random event?

3.8 Recidivated for Drugs

Of those who recidivated, 22 (17.1%) were caught committing drug related offenses. It appeared that tobacco and alcohol were not the gateway drugs some see. Less than 10% of the total sample were caught using drugs. This was not much greater than the overall 7.7% percentage in the population estimated to be using drugs (CDC, 2001).

3.9 Recidivated for Non Alcohol Related Traffic Offenses

Of those that did recidivate, 41 (31.8%) committed various traffic offenses. This number was low since most 12-15 year olds (over 38% of the sample) could not legally have a license.

3.10 Recidivated for Violent Crimes

Only 9 of these 293 first time offenders recidivated for violent crimes over the three year study period. This was only 6.9% of those that recidivated and 3.1% of the total sample.

3.11 Recidivated for Property Crimes

Recidivism for property crime was more common than all others except repeating the original charges or drug related crime. 16.9% of those that recidivated did so for property related crimes. This accounted for 7.5% of the total sample.

3.12 Recidivism for Running Away from Home

A small number of juveniles re-offended for running away from home (N=9).

4.0 Discussion

This work shows that these groups did not differ from one another in any significant way either in their demographics or in their recidivism rates. The random assignment to the four groups worked in creating comparable groups. The analysis of the recidivism patterns of these groups over three years showed that they did not differ in the types of recidivism they engage in. It did not matter what treatment was given to these first time offenders who recidivated. This did not mean that there were not potential differences among the three treatment groups in other ways.

The new Juvenile Accountability (JA) program studied processed more juveniles at a lower cost than the other treatment groups. Furthermore, it reduced the case load of the magistrate court system allowing it to deal with more serious cases. These findings have led to the juvenile diversion program being expanded. What remains at this junction is to determine why there are no differences in these group's recidivism rates.

4.1 Age Theory

Statistics show that the vast majority of juvenile status offenders grow to be reasonably upstanding citizens. No one obeys every law all the time and youth are more likely to commit infractions than older citizens for a number of reasons. First of all there are more laws for juveniles to break. If these juveniles were adults they would not be in this program as these actions would not be under the purview of the justice system. Additionally, youth are seen to have less developed moral character than adults (Kohlberg, 1969). This can lead them to impulsive behavior and thus more criminal activity.

4.2 Labeling theory

Labeling theory postulates that negative contact with authority figures can lead ultimately to being labeled as a deviant and the resulting treatment as a deviant will lead to increased criminal activity. These results did not support this perspective. There were no differences among the treatment interventions and the control group. It could be that the limited contact the control group had with the authorities could have led to labeling but this was unlikely especially considering the lack of statistical difference among the three treatment groups. A better interpretation

would be that no labeling occurred in any of the groups. These were first time status offenders for tobacco and alcohol behaviors, two crimes that will ultimately be legal when the juveniles reach 18 and 21 respectively. Labeling theory requires extensive and repeated labeling to produce change and this being the first should not produce significant secondary deviance. A more detailed analysis of those that commit many repeat offenses would be necessary to determine if any labeling was occurring. At this point the number (N) of those that can be seen as habitual offenders was too small for any statistical analysis. Further analysis of this program as it expands to second and third time offenders as well as more serious non-violent offenses will be necessary analyze the viability of labeling theory in this population.

4.3 Understanding Types of Recidivism

What authorities do to first time status offenders does not seem to affect recidivism rates. The types of recidivism of these first time offenders may illuminate criminal patterns. These first time status offenders were similar to the general non-offender population. The comparison of the demographic characteristics of the sample closely match the characteristics of the population of the juveniles in the city. What they were doing may well illustrate what the general population was doing.

The majority of those that recidivated did so for the same offenses that originally brought them into the program, smoking and alcohol. A small percentage moved from these illegal but socially acceptable drugs to more serious drug use. Others engaged in property and/or physical crimes. Most that recidivated did so only once or twice over the 2-3 year evaluation period. In other words, while youth commit crimes, most commit minor and/or few crimes. These juveniles committing only a few minor crimes were unlikely to become career criminals and even those that committed more crimes can be identified by careful tracking. More detailed tracking and analysis of repeat offenders is needed to test these ideas.

4.4 Limitations

First time offenders for tobacco and alcohol did not progress to more serious offenses. These juveniles have had no previous contact with the legal system. While they represented the general population of juveniles in this area, they did not represent a cross section of offenders.

The control group was not fully independent; a group of non-offenders would have improved the analysis. It may also have been illuminating to release the control group without any "education". This would have been impossible given the political environment but a comparison of these first time offenders to demographic statistics on juveniles in this area is underway.

5.0 Conclusions

The conclusion of this analysis was that diversion programs do not reduce recidivism in first time juvenile offenders for alcohol and tobacco offenses.. This analysis, along with so many others, show that juvenile offenders diverted from mainstream corrections were not significantly different from others in their recidivism rates.

Labeling theory postulates that all juveniles commit deviant acts so therefore there should be no difference among treatment groups. It is the selection of those to punish that differentiates between those punished and not punished. An comparison of offenders to non-offenders is important to determine if offenders are different from non-offenders. If this is the case, the question remains if officials select offenders based on their ethnic or socio-economic characteristics. While the juveniles in this study were assigned to groups at random, there was no way to control who juveniles were selected by police for citations.

If diversion programs do not reduce recidivism, then what good are they? They do serve an important function. The war on crime has resulted in 2 million incarcerated adults in the U.S. We may be reaching a point where the costs of this war far outweigh the benefits. Diversion programs keep juveniles out of the juvenile justice system and therefore reduce the strain of the system. Some diversion programs are less costly than traditional programs and can

service more offenders. Additionally, diversion program often provide more services to at risk youth. As long as there are laws against many status crimes then these offenders will end up in prison at great cost to society for little benefit. Diversion, through treatment or community corrections, is much less costly than prison.

The underlining fact is that if we punish juveniles less severely for minor offenses their resulting recidivism will be no greater than those that are punished more severely. In the current political environment society is not willing to let juveniles go and not hold them accountable. Therefore, the method that is the least costly and most humane should be the method used. Diversion appears to be one of the best methods for the foreseeable future since it appears to be effective and less costly than other methods. While it does not reduce recidivism, it satisfies public demands for accountability without simply labeling status offenders as deviant. It offers juveniles community service alternatives that may link them to the larger society.

This program is currently being expanded to include non-first time status offenders. This expansion will create a larger pool and allow comparison of first time offenders to those that have had past contact with the juvenile justice system.

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Table 1: Age of First Time Status Offenders

Age	Frequency	Percentage
12	3	1.0%
13	11	3.8%
14	34	11.6%
15	64	21.8%
16	85	29.0%
17	75	25.6%
18	21	7.2%

Table 2: Ethnicity of First Time Status Offenders

Ethnicity	Frequency	Percentage	Known Percentage
White	213	72.7%	91.4%
Hispanic	13	4.4%	5.6%
Asian	5	1.7%	2.1%
Black	2	.7%	.9%

Table 3: Recidivism Over the Three Year Evaluation Period

Recidivism	Frequency	Percentages
0	166	56.7%
1	51	17.4%
2	26	8.9%
3	18	6.1
4	14	4.8%
5	6	2.0%
6	4	1.4%
7	2	.7%
8	1	.3%
9	1	.3%
10	1	.3%
11	1	.3%
15	1	.3%
19	1	.3%

Table 4: Recidivism by Program Group over the Three Year Evaluation Period

	JD	YC	MC	EC
No Recidivism	44	43	45	34
	62%	57%	57%	50%
Yes Recidivism	27	32	34	34
	38%	43%	43%	50%

Chi Square 2.1 Sig. .56

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