

“The Politics and Policy of Juvenile Diversion Programs”

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ABSTRACT

Policymaking involves the allocation of governmental resources often based on public opinion about a particular salient event. The choices, outputs, and impact of policy decisions are dependent upon the perceived injustices by society which generally commence with mass mobilization and ends with politicians placing the controversial issue on the legislative agenda. This is particularly so when the issue involves matters related to criminal justice. This paper takes a look at the historical and political development of one salient issue, juvenile delinquency. First, an examination of the Child Saver’s Movement is highlighted as it was the impetus for separating juveniles from adults on matters related to criminal justice. This separation continued well into the 1960’s and 1970’s and received financial and policy support at the federal level until funding sources were depleted. The paper then shifts to the theoretical foundations for juvenile diversion programs viewed from a criminological perspective. Labeling Theory is closely tied to juvenile diversion programming however as several of the case studies suggest, a more community integrated theory may best explain both the onset of delinquency and how best to address the issue of youthful misbehavior. A program’s success often depends on those who implement it. Prior work on diversion programs suggests there are only slight differences between legal and therapeutic actors regarding decision making, but the perceptions by youth when it comes to the formal and informal system often differ. Youth in diversion programs were more positive and felt they were treated with more rehabilitation in mind. Contrarily, those not referred to diversion felt legal actors only cared about punishment. Finally using case studies, a comprehensive contextual analysis on four diverse state diversion programs were analyzed. A close inspection of these programs suggested one ingredient for success, community participation. When several members of the community got involved in a delinquency case the completion rate was high while recidivism was low.

Introduction

Juvenile diversion programs are an attempt to turn youth away from the formalized juvenile court system (Russell & Wood, 1998). While a youth has committed a juvenile crime or a status offense, the aim of juvenile diversion is to suspend their involvement with the formalized juvenile justice system and instead refer youth to a treatment or self-help program to address the underlying causes of delinquency. Oftentimes pre-intervention services are provided to potential “at risk” youth whose behavior provides a signal to parents, teachers and friends of possible future delinquency.

This content analysis is an effort to explain the historical and political nature of how juvenile diversion programs first developed in the United States and review the literature on the perceptions of the actors involved in juvenile diversion decision making. There will also be an examination through case studies of states that have implemented diversion programs. Research questions to be explored in this analysis are as follows: What in fact is public policy and what causes certain issues to get on the formal agenda of policymaking; how does the political climate influence support for particular policies, and in this case juvenile justice; and what are the perceptions of the actors who implement juvenile policies? Finally, this paper discusses the theoretical framework for juvenile diversion programs rooted in the sociological literature and blossoming into criminology. Social Reaction Theory (a.k.a. Labeling Theory), more recently popularized by the work of Howard Becker (1960), asserts that by labeling a youth delinquent for their initial primary deviance, society is in fact creating more deviance. An examination of the literature with respect to the politics and theoretical framework of juvenile justice provides a window into juvenile diversion policy ideas and practices.

Criminal Justice Policymaking: Setting the Agenda

Public policy can be defined as what governments do, or avoid doing to people and for people, on behalf of public and private interests (Wells & Hamilton, 1996). Public policy is often examined through three levels: (1) choices, decisions made by politicians; (2) outputs, choices put into action; and (3) impact, the effects that policy choices have (Peters, 1999). Before one can examine specific policies, it is important to understand just how policy issues become salient. Much of what gets on the political agenda is a function of the symbols presented to the American public. For example, symbols often presented in the media strike a chord with Americans, particularly if they are graphic (Stone, 2001). In the criminal justice arena, visual violence speaks volumes and has an immediate impact on its viewers. When people are exposed to violence, they may mobilize for action. Mobilization by Americans can often set the agenda for politicians seeking reelection by appearing tough on crime. When visual images and symbols of violence are seen in the media regarding youth violence, the perception is that such violence is rampant and these images strike fear in most Americans.

Criminal justice policymaking is unique. Even though specific issues can be debated, the outcome is usually one of agreement—everyone wants less crime. Criminal justice policies can take on a number of perspectives, and depending on the political climate at the time, one perspective seems to dominate. For example, there are the “Crime Control” and “Due Process” perspectives; the former emphasizes an assembly line justice which is often perceived as overly harsh, while the latter is more concerned with safeguarding citizens’ constitutional protections (Packer, 1968). There is also the “Rehabilitative” perspective, often referred to as the medical model, which devotes attention to caring for and treating those in need as well as the non-interventionist approach which suggest only some people will become involved in deviant

behavior, yet when formal authorities intervene, it only makes matters worse. Creating more laws only serve to label a person and create a net widening effect (Siegel & Senna, 2004). Net widening refers to the expansion of entering juveniles into the system, who would otherwise have been left alone (Binder & Geis, 1984). The non interventionist perspective, (Labeling Theory), will be elaborated on in a future section.

The History and Politics of Juvenile Diversion Programs in Response to Delinquency

Juvenile diversion can be formally defined as, “any process that is used by components of the criminal justice system (police, courts, and corrections), whereby youth avoid formal juvenile court processing and adjudication” (Roberts, 1998, p. 138). Juvenile diversion, in a sense, has been around since the 1800s when the House of Refuge and the Child Savers Movement were devoted to preventing children from being exposed to adult criminals and instead attempted to “divert” them from the formal system. By the late 1800s, the Child Savers Movement was successful in removing youth from the formalized adult system, as the first court strictly devoted to juveniles opened its doors in Chicago in 1899 (Elrod & Ryder, 1999). Juvenile courts were established to take youth out of the mainstream organization for fear of the negative consequences, which could affect their future behavior as well as result in their own potential victimization.

The first juvenile court was born out of the Progressive Era which saw a need to save children from the ills of urbanization and social poverty. Progressives wanted to rescue children from a life of servitude and unhealthy conditions in the home. Many social and legal agencies primarily in Chicago began to lobby for reform in the way children were handled by the current criminal justice system (Parker, 1976). It was believed that if parents could not take care of their

children, then the state should take on such a role. Group homes were established in an effort to correct the behavior of youth and provide them with a structured disciplined life. These homes were called *Houses of Refuge*, the first being in New York, and later spreading to other cities like Chicago and Philadelphia.

While these Houses of Refuge provided safe havens for children, separate legislation dealing with delinquency and child victims was virtually non-existent. The notion that the government should assume responsibility for the supervision and protection of children, a philosophy known as *parens patriae*, was already well established in England (Caldwell, 1961; Lenroot, 1923). Two very influential organizations heavily involved in the passage of child reform legislation were The Chicago Women's Club and the Hull House Community. While the Chicago Women's Club worked within the already existing penal system for juvenile reform, the Hull House devoted much of its attention to delinquency prevention (Parker, 1976). Both organizations lobbied members of the Illinois legislature as well as the governor before the bill was passed in 1899. The first juvenile law entitled "An Act to Regulate the Treatment and Control of Dependent, Neglected, and Delinquent Children" also known as the Juvenile Court Act of 1899, established the first juvenile court in Cook County. The Court opened its doors on July 5, 1899 under the direction of the Honorable R.S. Tuthill (Caldwell, 1961).

During the 1960's there was dramatic distrust of the government in response to the Vietnam War. Political protesters took on the government in an effort to expose its injustice and visible corruption. Furthermore citizens (many of whom were protesters) became more aware of their due process rights under the U.S. Constitution, after several landmark U.S. Supreme Court cases were decided, and Americans who saw the government as infringing on these rights became angered at what they perceived to be governmental supremacy. In the 1960's this was reflected

in the decisions of the Warren Court, which extended a number of civil liberties to Americans, particularly those having to do with the rights of criminal defendants. Landmark cases such as *Mapp v. Ohio* 367 U.S. 641 (1961) and *Miranda v. Arizona* 384 U.S. 436 (1966) echoed this civil liberties sentiment, in that the Court appeared to be distrustful of law enforcement—feelings which seemed to be reflected by many Americans. Thus, the political climate of the 1960's set the stage for a radical shift in how defendants were to be treated. This reaction, coupled with the history of wanting to save/rehabilitate children instead of punishing them, led to alternative remedies for handling troubled youth.

Formal juvenile diversion programs were born out of President Lyndon B. Johnson's 1967 Commission on Law Enforcement and Administration of Justice (Roberts, 2004; Elrod & Ryder, 1999). The Commission was set up by the Johnson Administration as part of a larger effort to recommend new strategies for dealing with criminal justice issues. Specific to juveniles, the Commission stated:

The formal sanctioning system and pronouncement of delinquency should be used only as a last resort. In place of the formal system, dispositional alternatives to adjudication must be developed for dealing with juveniles, including agencies to provide and coordinate services and procedures to achieve necessary control without unnecessary stigma... the range of conduct for which court intervention is authorized should be narrowed, with greater emphasis upon consensual and informal means of meeting the problems of difficult children (Elrod & Ryder, 1999, p. 167).

As a result of the Commission's recommendation, formalized youth service bureaus were established to facilitate building partnerships between communities and agencies to establish new programs to meet the needs of troubled kids. Ideally, these bureaus would act as a substitute for the formal juvenile court and address the alarming arrest rates. These youth service bureaus had five goals:

1. Divert juveniles from the formal justice system

2. Fill in existing gaps by providing services for youths and their families
3. Provide case/program coordination
4. Provide modification of youth services
5. Involve youth in the decision-making process (Elrod & Ryder, 1999, p. 167)

At the time these bureaus were developed, there was an abundance of funds. Federal support came to such programs through the Law Enforcement Assistance Administration (LEAA) grant and the Office of Youth Development and Delinquency Prevention. State and county matching grants also increased the financial resources of schools, vocational programs, social work programs, and counseling services in an effort to adequately provide assistance to youth (Roberts, 2004).

In the 1970s, diversion programs continued to grow. In 1973, LEAA's National Advisory Commission on Criminal Justice Standards and Goals was supportive of the progress diversion programs had made (Roberts, 2004). The Commission insisted that diversion programs continue to decrease the costs to the juvenile justice system as well as cut the delinquency rate in half (Roberts, 2004). Such efforts seemed a daunting task, but other supportive sources such as the passage of the 1974 U.S. Juvenile Justice and Delinquency Prevention Act provided a boost to diversion programs, specifically Title III, the Runaway Youth Act. This Act called for community and social support to be provided to runaway youth in the form of food, shelter, counseling, and emergency services (Roberts, 2004). Furthermore, in 1976, the Office of Juvenile Justice and Delinquency Prevention made a 10 million dollar block grant available for diversion programs across the United States (Roberts, 2004, p. 188).

However, this did not mean all programs ran smoothly. In fact, getting youth to cooperate proved to be a difficult task. Because juvenile diversion programs are voluntary, it was difficult to obtain high levels of participation. If a youth did not participate, then they were

sent back to the justice system and punished, even if non compliance in the diversion program was their only new offense (Elrod & Ryder, 1999). Similarly, problems at the end of the 1970s began to occur in regards to funding sources. While LEAA provided the initial monetary start up, the unwavering supply of funds could not last, especially since LEAA was also responsible for funding adult rehabilitation programs. While juvenile diversion was still popular, monetary incentives for agencies to continue such programs were sparse.

Now that the political and historical nature attached to saving children from a life of crime has been examined, it is appropriate to explore the theoretical framework which continues to guide juvenile justice policy today.

Theoretical Framework for the Implementation of Juvenile Diversion

Symbolic Interactionism

According to Sheldon Stryker (1959), there are a few assumptions which underlie Symbolic Interactionism. First, man is unique to the environment and must be examined without reference to other animals; he is in fact a creature unto himself. The unit of analysis for understanding man is through the social act regarding an event and the best way to study man's behavior is through an examination of the social relationships where he interacts. There is a dynamic process that takes place during a social event and according to symbolic interactionism this ebb and flow is worthy of investigation. More importantly, human conduct must go beyond investigating just the action by man, but by his reaction as well (pp. 112-113). One of the most important ways social interaction can take place is through language and gestures. According to Symbolic Interactionism, our human nature, in order to retain information and communicate,

engages in a process of compartmentalizing or categorizing. Humans are often categorized by the assignment of positions such as: professor, doctor, engineer, mother, etc., and to each of these positions there is a counter position. These counter positions remind us of our role, and as Stryker states, “we come to know what we are through others’ responses to us” (p. 116). On the basis of what categories we are in and where we fall, certain expectations are made about how we should act. The manner in which we act defines who we are...our *self*.

Charles Cooley (1922) expanded on the role of self to include self awareness. The way in which one behaves can be based on three accounts: how we believe we appear to others, the judgment by others based on that appearance, and finally the self image resulting from that perceived judgment (p. 184). More importantly, Cooley inserted an element of emotion into the continuous self appraisal one undergoes, particularly that of pride and shame. However, Cooley was not the only one who introduced emotional elements into self awareness, so too did Ervin Goffman. Goffman focused on embarrassment; he believed that was a universal social reaction which provides personal constraint and situation avoidance in the most inappropriate social circumstances. Goffman also went one step beyond Cooley in stating that individuals dealing with emotions such as embarrassment and/or shame will also try and manage or perhaps deny such emotion in order to rationalize their own actions (Scheff, 2005).

Finally Herbert Mead (1925) studies the role the mind plays with symbols and language. He believed that individuals use the cognitive processes of the mind to take on the role placed on them by others. Self identity, according to Mead, is void of emotion, only encompassing a cerebral process. “It is just because the individual finds himself taking on the role of another, that he becomes an object unto himself (Mead, 1925, p. 268). It is Mead who established that this role taking behavior is how one self identifies, what he referred to as the “me.” It is this new

concept of the “me” which will be investigated, connecting Symbolic Interactionism with Labeling Theory.

Symbolic Interaction, Labeling Theory, and Juveniles

“Most etiological statements of Labeling Theory are rooted in the perspectives of symbolic interactionism” (Matsueda, 1992, p. 1587). Mead (1925) who contended a person takes on a role to form a new identity, has transcended into sociological explanations of delinquent behavior. For example, Edwin Lemert (1951) expanded Mead’s concept of “me” by discussing two actions by a person which result in the “role taking” of delinquent behavior. The first is known as primary deviance, which can be an insignificant act which causes a negative societal reaction. This individual then internalizes the reaction by society which in turn leads to secondary deviance.

When a person begins to employ his deviant behavior or a role based upon it as a means of defense, attack, or adjustment to the overt and covert problems created by the consequent societal reaction to him, his deviation is secondary. Objective evidence of this change will be found in the symbolic appurtenances of the new role, in clothes, speech, posture, and mannerisms, which in some cases heighten social visibility, and which in some cases serve as symbolic cues to professionalization. (Lemert, 1951: 76)

Thus when a youth is labeled delinquent, they take on the role of a delinquent, and the consequences often lead to repeated misbehavior. Secondary deviance has been referred to as the inevitable result of being “tagged” or stigmatized by the criminal justice system (Tannenbaum, 1938). The youth will act out their role of delinquency with subsequent law violations because that is their new identity. Therefore, it is the process of labeling offenders, particularly juvenile offenders that have far reaching consequences for the juvenile justice system.

It is clear to see why diversion programs would be an obvious policy proposal for proponents of Labeling theory. By diverting youth away from the formalized process, they will not internalize the label of “delinquent”, and are less likely to commit future delinquent acts. Yet, there has been criticism of Labeling Theory regarding its explanatory power for the cause of criminality and for delinquency in particular. Critics have argued the theory lacks an adequate explanation for the initial onset of delinquency. For example, there are some youth who initially commit crimes prior to any label of criminal or delinquent. Labeling theorists place a great emphasis, not at the initial behavior *of* the offender, but at societal reaction *to* the offender. This makes any explanation concerning the onset of criminal behavior problematic.

Other Theoretical Explanations for Juvenile Delinquency & Diversion

Labeling Theory may not be the sole explanation for the existence of diversion programs. A more integrative theory of criminology may best explain a diversion program’s success. Integrative theories are an attempt to combine multiple theoretical explanations for the causes of crime (Shoemaker, 2010). Specific to juvenile delinquency, Sullivan and Wilson (1995) argue integrative theories that take into account an ecological approach to criminality is essential for a successful diversion program. Elliot, Huizinga, and Ageton (1985), offer an integrative theory which combines social strain, social disorganization, and weak bonds to society as a more comprehensive approach to explaining delinquency. Here *community* or lack thereof, matters when it comes to a youth engaging in delinquency. The label a youth receives may only come after there has been a breakdown in the community structure where no one cares about their neighborhood, i.e. lack of collective efficacy, and thus a youth engages in initial/primary

deviance. This could help address the criticism leveled at Labeling Theory for its failure to address the onset of initial delinquent acts. More recently Veysey & Messner (1999) using an integrative theoretical approach to delinquency, examined social disorganization along with parental and social control, but also included learning theory. The premise was that family disruption along with urbanization and residential mobility do affect the community's ability to control crime, but these were not the only considerations. Rather, there are other mediating variables which could be responsible for crime such as peer groups. Their research concluded that peer groups as well as location and lack of parental control contribute to delinquent behavior.

The effective control of delinquency can be seen through a supportive community structure and many integrative criminologists suggest that providing services to youth while ignoring the community as a whole is a failed effort. Communities must have an adequate supply of resources to assist those being diverted. Many youth lack a champion at home and oftentimes the justice system is the only support they receive. Therefore many criminologists, who advocate an inter-organizational community outreach approach to juvenile delinquency, see Labeling Theory as only half the answer to delinquency; the second half must come from the community (Sullivan & Wilson, 1995).

Perceptions of Actors Involved in the Implementation of Juvenile Diversion Programs

In order to appreciate the success or failure of juvenile diversion programs, it is best to understand the perceptions of those who provide such services, as well as the clients they serve. Osgood & Weichselbaum (1984) conducted one of the first studies examining the perceptions of juvenile diversion service providers and their clients. Their research asked, “Do diversion programs provide their clients with a substantially different experience than they would receive through formal disposition?” (Osgood & Weichselbaum, 1984, p. 34). In testing Labeling Theory’s usefulness to diversion programs, they operationalized a set of variables which are inherent in labeling theory; stigma, social control, and coercion. Stigma was operationalized by asking providers to describe their clients in terms associated with delinquency (are the youth you deal with...bad kids? Get into trouble? Suffer from emotional problems?). Social control was measured by whether or not a diversion program was implemented, thus representing formalized control, and coercion was measured by a juvenile’s choice to participate in the program given his/her limited options. Data for the study came from a national evaluation of programs funded by the Diversion Initiative of the Office of Juvenile Justice and Delinquency Prevention (Osgood & Weichselbaum, 1984). Data collection was via responses to questionnaires which were sent out to four sets of persons: service providers of diversion programs, clients in diversion programs, service providers of formal justice agencies, and clients of formal justice agencies (Osgood & Weichselbaum, 1984). The diversion programs chosen were a fair representative of different programs across the United States that focused on counseling, education, vocation, and recreational opportunities. Interviews were also conducted with clients of diversion programs six months after being referred to the program.

Findings showed that there was a difference in the perceptions of service providers and clients among diversion and formal justice processing agencies. As Osgood & Weichselbaum (1984) note, the strongest difference was in how they view the clients they dealt with, as well as the progress these clients achieved. Formal justice service providers for example, saw their programs as being more coercive and more concerned with controlling the juvenile as compared to diversion service providers (Osgood & Weichselbaum, 1984). Also, service providers working in diversion programs viewed their role as one of having greater concern with “servicing the needs” of their clients rather than enforcing punishment. These diversion providers were also less likely in interviews and questionnaire responses to refer to their clients as delinquents and emotionally disturbed (Osgood & Weichselbaum, 1984). The clients also saw themselves differently based on whether they were in formal or diversion programs. Clients in diversion programs saw their service providers as “helpful” and thought these providers truly believed in rehabilitation, whereas clients in the formal justice agency perceived service providers as punitive agents of the criminal justice process (Osgood & Weichselbaum, 1984). Thus, this research seems to suggest that there are different perceptions among service providers in diversion programs compared to those in the formalized justice process. More importantly perhaps is the fact that the clients’ attitudes about themselves are reflected in the service providers’ beliefs in the client, a conclusion supportive of Labeling Theory.

Other research has focused on the decision making process of those who possess the power to divert youth from the system. There have been studies which specifically address the overall goal of determining what factors (legal and extralegal), go into the decision making process to divert or not divert a youth from the system. Potter & Kakar (2002) conducted research addressing how decision-makers in the juvenile justice system philosophically view the

role of diversion. Their study sent out self-report questionnaires to those in the juvenile justice field (intake workers and prosecutors) in the state of Kentucky, who were responsible for making diversion decisions in the year 1998. The response rate was 68% and the questions included decision makers' opinions on diverting youth, who were charged with delinquent offenses, out of the juvenile justice system (Potter & Kakar, 2002, p. 26). Other questions related to whether they saw diversion as a type of punishment or whether it was considered a form of treatment, what they thought their clients' needs were, and what type of offenses are best suited for diversion programs (Potter & Kakar, 2002). Next respondents were to rate the importance (very important, somewhat important, not important), they assign to factors in the diversion decision making process. These involved legal factors, such as the seriousness of the offense as well as extralegal factors, such as characteristics of the offender and the offender's family ties.

With respect to legal factors, county attorneys considered premeditation of the crime, seriousness of the crime, and punishment as the factors they consider most for admissions into a diversion program. Intake workers saw diversion programs as a good idea overall, and saw the seriousness of the crime as less of a factor in determining diversion eligibility (Potter & Kakar, 2002). Intake workers seemed to have better knowledge compared to county prosecutors, as to how diversion programs operate. For example, the survey indicated that prosecutors saw the programs as too lenient with no restrictions, when in fact the Kentucky programs had several restrictions as a precursor to admissions. Extralegal factors, like the youth's appearance, had little effect on both prosecutors and intake workers' decisions regarding admissions, although attitude of the offender did make a difference in outcome success (Potter & Kakar, 2002). This is not surprising since motivation to succeed is instrumental in any program's success. Such research underscores the role penal philosophy played with respect to the decision-making

process. Perhaps not surprisingly prosecutors known to have a more retributive philosophy on punishment, seemed more skeptical of diversion programs as opposed to intake caseworkers who support rehabilitation efforts.

While it is important to discern the public attitudes and opinions of those making the decision to administer juvenile diversion programs, it is also important to address the ongoing rhetoric with respect to punishment which influences juvenile policy. Media outlets are quick to point out the heinous nature of violent juvenile acts, just as they are quick to point out the public's disgust. Yet at the same time, one wonders whether the public's attitude has been negatively ingrained to the point where they have given up on juvenile rehabilitation all together? Understanding such research is important because public opinion is instrumental in shaping the American political landscape. Those who vote shape policy outcomes.

Cullen et al. (1998) explored overall public opinion with respect to early intervention programs dealing with juveniles. Early intervention programs are considered to be diversion, as they target "at risk" youth from entering the formal justice system. In one public opinion study, one thousand households were randomly selected to receive a mail questionnaire in the state of Tennessee, asking respondents if they supported early intervention programs for youth, *even though this could increase their financial burden* by raising taxes (Cullen et al., 1998). Respondents were asked to state their support for eight statements which spoke to early intervention programs (Big Brother/Big Sister, parenting programs, treatment for neglected and abused youth, and school-based programs). Results indicated an overwhelming 86 percent support for early intervention programs (Cullen et. al, 1998). Even when given a forced option between spending money on building prisons and early intervention programs, there was still strong support for early intervention.

Public opinion varies with respect to support for diversion programs when demographic factors are considered. Research findings suggest that women are slightly more supportive of early intervention programs than men. This gender gap may be attributed to the fact that women have a nurturing instinct with respect to children and this leads to higher support for early intervention. Although there were differences in these two areas, the differences were marginal in comparison to the overwhelming support for early intervention (Cullen et al., 1998).

Scholars have also investigated race with respect to client referral. Leiber & Stairs (1999) use the work of Sampson and Laub's Integrative Conflict Theory to see whether race has an influence on the decision to place youth in a diversion program. Sampson and Laub believe conflict occurs by the use of official social control, symbolic threats, and urban poverty and inequality (Leiber & Stairs, 1999, p. 57). Symbolic threats, according to these theorists, can be seen in the discomfort level and uneasiness placed upon decision-makers in the juvenile system. According to the authors, decision-makers see minorities as a social threat and unable to abide by middle-class standards in society, and therefore are less likely to be seen as a possible candidate for a diversion program (Leiber & Stairs, 1999). Perceptions about minorities are universal and African Americans in particular are often "labeled" as drug users and delinquents when compared to Caucasians.

Leiber & Stairs also hypothesized that African Americans will be subjected to increased social control than similarly situated Caucasians, (in those areas with greater structural and urban disparity), and therefore sent to the formalized system and not referred to diversion programs. To test such a theory, researchers operationalized structural factors by using: the level of poverty (level of income), moral/sexual promiscuity (out of wedlock birth rate), and racial inequality (ratio of African Americans to Whites) (Leiber & Stairs, 1999, p. 61). Regardless of the client's

race, juvenile justice personnel tended to refer youth to court when there were structural and poverty barriers for the client. It appears when controlling for legal and extralegal factors, in only one of the three jurisdictions under investigation did race of the offender seem to affect their admittance to a diversion program. Therefore, it may not be race ALONE which impacts going to a diversion program, but other social contextual factors which mediate racial influences, such as family structure (Leiber & Stairs, 1999).

Diversion Programs: Success or Failure?

As with any program, the ultimate goal is to examine its effectiveness for further continuance. Effectiveness can be measured in a number of ways, but in the field of criminal justice and more specifically rehabilitation evaluation, success is often measured by examining recidivism rates of offenders. While a comparison of such rates across state programs could potentially suffice, this research paper goes further by employing the case study method. According to Yin, “a case study is an empirical inquiry that investigates a contemporary phenomenon within its real life contexts” (Yin, 2003, p. 13). Therefore a brief examination of the contextual organization and implementation of state juvenile diversion programs will allow for a more encompassing explanation of the success or failure of such programs, something for which case studies are designed (Yin, 2003). The following states implemented diversion programs and were chosen for examination in this study because of their geographic representation.

Colorado

Adams County Colorado was an ideal site for a juvenile diversion program. Not plagued with crime in general, there were still enough status offenses committed by juveniles to warrant intervention. In response to criticisms that diversion programs hamper the constitutional rights of

juveniles, create net widening, and to address the contradictory evidence regarding recidivism rates, Adams County intended to implement a successful juvenile diversion program (Pogrebin, Poole, & Regoli, 1984).

The diversion program in Adams County set out to:

1. reduce court caseloads
2. lower recidivism rates
3. reduce net widening over juveniles
4. lend itself to rigorous evaluation (Pogrebin, Poole, & Regoli, 1984, p. 306).

The Adams County Juvenile Diversion Project (ACJDP) was set up as an experimental design. Potential juveniles who fit the standards and criteria strictly designed for the program were randomly assigned to either a control group (that received a lecture on proper behavior and were sent home) or the experimental group, those who participated in the ADJDP. Those in the experimental group went through an unusually long diversion process beginning with an at home visit. This intensive visit included counselors trained at assessing a youth's family functioning, child/peer group interaction, as well as the child and parents' emotional state. The ACJDP services were provided in the form of counseling, academic testing, and mental health evaluations (Pogrebin, Poole, & Regoli, 1984). The project ran from October 1977 through March 1979 where 848 juveniles were referred and 684 cases were evaluated (Pogrebin, Poole, & Regoli, 1984, p. 312).

The ACJDP did reduce the county's caseload by 21.3%. When comparing the recidivism rate between the control group and the experimental group during the projects operation, the former was 11.5% and the latter was 6%. After the program, the experimental group's rate of recidivism was only 3% (Pogrebin, Poole, & Regoli, 1984, p. 315). Realistic numbers show that 577 youth were truly diverted, in that had it not been for the ACJDP, their cases would have gone through the system. The overall findings state, "at the end of 18 months, the treatment

group had a lower recidivism rate than did the control group” (Pogrebin, Poole, & Regoli, 1984, p. 318).

San Diego

In May of 1982, San Diego County implemented two intensive juvenile diversion programs, The Vistas and the Encinitas, where each city took on a partnership between Lifelines Human Services Agency and the San Diego County’s Sheriff’s Department (Nugent, 1991). In order to be eligible for the program:

1. the incident must be the youth’s first offense
2. it must be a minor offense
3. youth must accept responsibility for the crime
4. the youth and family agree to abide by the panel’s decision (Nugent, 1991, p. 190).

The diversion program was divided up into three stages; initial hearing, implementation of consequences, and a review hearing. Within 14 days of a youth’s arrest, a rotating community panel made up of teachers, youth and counselors inquired about the circumstances of the crime, the parents and youth’s response, the youth’s attitude about their arrest, and their future goals (Nugent, 1991, p. 190). The panel then assessed why the juvenile might have committed their crime and sought to gain an individualized understanding of the circumstances which led to the event. Next, the panel came up with a “contract” where the juveniles have a certain amount of time to complete a variety of assignments related to community service, restitution, and educational tasks. Nugent notes that nearly 75% of the “contract” constituted community service. The San Diego Model tried to implement mutual respect, encouragement, goal directed behavior, and social accountability. The success rate for San Diego’s program was reported with 82% of those completing the program not returning after one year, which was higher than the national average of 59% (Nugent, 1991, p. 195-6).

Kentucky

The third case study involved a Kentucky Teen Court Program. Kentucky's Teen Court program attempted to:

1. teach teens accountability
2. assist juveniles in gaining respect for the legal system through interactions with both peers and adults
3. guide youth, through peer pressure, to involve them in law abiding behavior (Minor et al., 1999)

Teen courts hold juveniles accountable by sanctions suggested by their own peers. Kentucky is unique in that judges are the only ones that can refer juveniles to teen court. Teens are not only the offenders in court, but also serve as jurors, court clerks, and even fill the role of attorneys (Minor et al., 1999). Unlike an adult court, there is no verdict of guilt or innocence; therefore teens were permitted only to recommend possible dispositions. Dispositions included restitution, apologies to the victim, counseling, and new curfew. To test the success of Kentucky's teen court program, data was compiled from the Administrative Office of the Courts to see if such programs were effective (Minor et al., 1999). Recidivism was measured by the number of times a juvenile made further appearances in the juvenile court for new offenses. During a one year follow up, the recidivism rate was nearly one third, with 70% of youth completing the program. Not surprisingly the findings concluded however that only very minor cases are appropriate and should be referred to teen courts, as more serious offenses cannot be adjudicated by minors.

Ohio

Since 1958, the Hamilton County unofficial Juvenile Community Courts Diversion Program has been redirecting youthful offenders away from the detrimental aspects of the adult criminal justice system. This diversion program was designed for first-time, non-felony offenders. The

goal is to divert these offenders away from stigmatization that comes from the formal adjudicatory process and “instill the discipline necessary to remain out of trouble” (Lipps & Hendon, 2004, p.1).

There are 28 juvenile diversion courts throughout Hamilton County, Ohio. The juvenile court selects and trains community volunteers to act as “referees” during unofficial court proceedings. Unofficial referrals are largely made by police officers or school officials. If the parent/guardian and child agree to the unofficial hearing, a hearing date is set and the volunteer referee conducts a semi-formal hearing that focuses on the child’s delinquent behavior. Further, the referee will review the child’s behavior, lecture the child, and then will impose punishment (dispositions). Punishment may include essays, unofficial work details, unofficial probation periods, restitution, or counseling (Beck et al., 2006). After punishment is imposed, the juvenile court will get a copy of the report from the unofficial hearing. If no new complaints are filed within one year of the initial complaint, the report is destroyed and there is no official juvenile court record (Lipps & Hendon, 2004).

To test the success in regards to recidivism of Hamilton County’s diversion program, 393 unofficial juvenile court cases were examined from August 5, 2003 to August 5, 2004. It was found that only 40 or 10.1% had recidivated within that one year period. Further, of those 40, only 2.2% had committed a crime more serious than their initial crime; 32.2% had committed a similar offense (Beck et al., 2006, p. 5).

By examining the four case studies, it is clear that juveniles who participate in diversion programs are less likely to recidivate than juveniles in the formalized process. However, by examining the operation of each state’s program as to how the diversion program was carried out, there appears to be a constant theme for success, community involvement. In each of the

four states, some aspect of community involvement was part of the process which as stated previously, supports an integrative criminological approach to understanding juvenile delinquency as opposed to pure Labeling Theory.

Conclusion

This paper explored the following research questions:

1. What is public policy and what causes certain issues to get on the formal agenda of policymaking?
2. How does the political climate impact public policy?
3. What are the perceptions of the actors involved in the criminal justice policy of juvenile diversion?

Public policy is the allocation of resources, who gets what, when, and how much? It also can be described as the actions or inactions of government involving three factors: the choices made, the output resulting from those choices, and the impact resulting from those choices. All of this is affected by the political climate at the time stemming from social movements in response to a perceived injustice. In the case of juvenile diversion programs, it began in the 1800's with the first mass mobilization regarding children, known as the Child Savers Movement. What started out as a small movement by agencies such as the Chicago Woman's Club and the Hull House, grew into an organizational movement that enhanced the lives of thousands of children.

Although there was not a large social movement on behalf of children in the 1960's and 1970's, the political climate at that time resulted in the initiation of juvenile diversion programs. The public's distrust of government along with a growing civil liberties ideology set the stage for legislative action. Both the 1967 Presidential Commission on

Law Enforcement, as well as the 1974 Juvenile Justice and Delinquency Prevention Act, provided the financial support to organizations willing to set up programs for juvenile diversion. Although the financial funds were finite, the notion that a formal system of government could be beneficial to the correction of juvenile behavior was not well regarded. Juveniles, if there was any hope of changing them for the better, needed more social service intervention and less retribution.

A review of the literature regarding the actors involved in juvenile diversion programming suggests that those in the legal field view diversion programs much differently than those who administer the programs. Understanding programming personnel and their penal philosophy is crucial in matters of discretion, and a review of past scholarly work demonstrates that prosecutors' decisions on diversion revolve more around the legal factors of the case (seriousness of the crime, premeditation, and punishment). Contrarily, intake workers focus to a lesser extent on the seriousness of the crime, and more on the rehabilitative success of the youth. Similarly, rehabilitation has also been a consideration regarding public opinion. The public overwhelmingly supports diversion programs for juveniles, even if it means increasing costs through taxes. This could be explained by the hopeful attitude the public has with changing the lives of troubled youth.

Using the case study approach to examine whether juvenile diversion programs have been successful, four state programs were audited in Colorado, California, Kentucky, and Ohio. These states were chosen based on population and geographic representation. Through contextual analysis, as opposed to only looking at recidivism rates, support for an integrative community involvement approach better explains why these programs

were successful. In each case study, the more members of the community were involved in the case's disposition (teachers, counselors, mental health professionals), the more successful the program.

Overall the juvenile court philosophy remains the same today as when the first court was established- that children in trouble should be helped or treated, rather than punished. The Court's mission was to make sure that children were provided with the care and protection owed to them by their parents. When the Cook County Court first opened its doors, there was a balance between dispensing justice and ensuring rehabilitation. The Court's central aim was to do what was in the "best interest of the child." Oftentimes when delinquency occurs, the child's "best interest" lies in an alternative outside of the formal criminal justice system, one that promotes a successful rather than a doomed future.

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