

The Paradoxical Effect of a Juvenile Code Change in Virginia¹

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The impact of a new state juvenile code on the processing of youth through one court locale was examined using an interrupted time-series design. The intent of the new code was to limit penetration of youth into the juvenile justice system. This locale, however, showed an increased number of youth going through to court despite no increase in the number of youth arrested. The importance of this paradoxical effect for local juvenile justice planners and court officials is discussed briefly.

Diversion of status offenders, i.e., those youth whose offenses would not be crimes if they were adults, has been one of the major thrusts of juvenile justice reform in the last 15 years (Empey, 1978). Backed by social science theory on labeling (e.g., Schur, 1973), the effectiveness of institutions (e.g., Lipton, Martinson, & Wilks, 1975), and the iatrogenic effects of state intervention in family affairs (e.g., Institute for Judicial Administration/American Bar Association, 1977), this reform has gained wide acceptance. Viewed historically, diversion can be seen as part of the policy shift to a "liberty model," curtailing the state's power with disenfranchised groups (Rothman, 1974). Politically, it can be seen as a compromise between civil liberties oriented liberals and law-and-order oriented conservatives (Miller, 1978), promising separation of juveniles who deserve to be treated as criminals from those who would be victimized by continued involvement.

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Programatically, diversion offers the promise of more efficient preventive services, a reduction in court overload, and an increase in community responsibility for youthful offenders (Carter & Klein, 1976). Basically, diversion is a concept whose time has come.

Because of its broad-based appeal, diversion has even surfaced as an issue for federal legislative consideration, with the Juvenile Justice and Delinquency Prevention Act of 1974 being the most far-reaching of the steps taken to promote it (Hellum, 1979). The logic behind the act was summarized clearly by its chief supporter, Senator Birch Bayh (S. Rep. No. 93-1011, 93rd Cong., 2nd Sess. 111, 1974):

At each step along the way that children seem headed for trouble, the community should be able to choose the least amount of intervention necessary to change the behavior.

Minimization of penetration into the juvenile justice system was clearly the primary intent of this act. Restriction of the flow of youth through the court system and into state institutions was expected to occur as a result of better screening and referral. Not surprisingly, the subsequent provision of ancillary community services to support this aim has given rise to a multitude of definitions of "successful" diversion (Klein, 1976). In considering the impact of this legislative change, however, it is important to remember that the overarching goal was to limit the number of youth in the juvenile justice system and to reduce the chance of a youth being processed into the system.

Achieving this goal is a complex process, however, requiring a number of changes at the state and local level. If nothing else, services must become more community-based and state statutes must impede the taking of children into state care. The strategy chosen by the federal government to promote these ends was the straightforward "carrot on a stick" approach. Federal money for delinquency programming was offered, but with a proviso. Each state qualifying for funds had to submit an acceptable plan demonstrating that within 2 years status offenders would no longer be placed in juvenile detention or correctional facilities, but would instead be placed in shelter care facilities. Money would be forthcoming to only those states that took on the burden of treating status offenders in the community.

Virginia, like many other states, revised its juvenile code to qualify for federal aid (Whitebread & Paulsen, 1974; King, 1980). The intent of the new state code was consistent with the aims mentioned earlier (Va. Code 16.1-227, Cum. Supp. 1978):

To divert from the juvenile justice system, to the extent possible consistent with the public safety, those children who can be cared for or treated through alternative programs.

The new state code promoted this minimization of penetration in several specific ways. First, the juvenile court judge was permitted to hear status offense cases only when they were "habitual" and all attempts at community programs had failed. Second, only delinquency cases qualified for commitment to a secure state institution. Third, and perhaps most important, each court was required to have an intake officer designated to hear all cases. Although already present in many courts, the intake officer was established as the primary gatekeeper to the justice system, monitoring youth, connecting them with community services, and sending only the more serious offenders through to court. In short, Virginia had complied with the intent of the federal legislation in attempting to limit the reach of the juvenile court.

The broad social benefit of this approach to diversion implementation has yet to be determined (Klein, 1979). Diverse impact data at the organizational, family, and individual levels of analysis are needed to make such a judgment (Kelly, 1971). However, one important consideration must be whether the policy changes to promote diversion have actually minimized penetration into the system. As mentioned previously, this outcome is basic to both the concept of diversion and the intent of the law, and therefore warrants consideration. For example, if diversion legislation has greatly increased the number of youth in community programs showing positive outcomes but has affected only marginally the number in state care, any judgment of the success of diversion in this case must be equivocal. The following case study considers the effect of the change in the Virginia code on one locale, hopefully contributing to the data pool and generating some hypotheses concerning juvenile diversion policy in general.

THE PRESENT STUDY

All youth arrested between July 1, 1976 and July 1, 1978 in a Virginia city of approximately 45,000 people formed the subject pool for this case study. Records kept by the city police youth division showed a total of 1,057 youth accounting for 1,454 arrests during this 2-year period. A data file for each juvenile and his/her arrest history during this period was established from the police files. Each arrest was then tracked through the regional detention center and juvenile court to determine its outcome. Using three multiple sources, each arrest could thus be coded as having one of three outcomes: (a) released to parents by police, (b) resolved at intake hearing, or (c) petitioned on to a court hearing.

The juvenile code change became effective on July 1, 1977, giving a 1-year base line before the change and a 1-year follow-up after the change.

By comparing the outcomes for the juveniles arrested before versus those arrested after the code change, it is possible to determine whether the new code had an impact on the penetration of juveniles into the local justice system. As mentioned previously, the intent of the act was to restrict the flow of juveniles, forcing more youth to be diverted from the system at earlier points of contact.

It should be mentioned that the city police and juvenile court under study can both be considered progressive, highly professional, and well regarded in the state. The police department has had a seven-officer youth division since 1972, emphasizing community involvement and delinquency prevention. Training and attendance at national conferences is supported and encouraged by the department. The eight-member court staff function mainly as brokers of community services (Nock & Alves, in press), emphasizing diversion of status offenders and due process. The judge is respected throughout the state as a progressive, thinking professional. In addition, for its size, the community has a large social service network.

RESULTS

The number of youth exiting the local juvenile justice system at the three possible points mentioned earlier, i.e., after police arrest, after the intake hearing, or after a court appearance, were examined over the 24-month period. These graphs are presented in Figures 1 through 6. A clarification of what each of the graphs represents may be helpful.

The sample was viewed two ways in order to gain a clearer understanding of what types of youth were being diverted at each point in the system. Figures 1, 2, and 3 consider only the outcomes of each youth's *first arrest* recorded in our data. Thus, each juvenile is presented only once in these figures. To clarify by example, using the month of January 1977 in the center of the horizontal time line, we can see from Figure 1 that 10 youths, arrested for the first time during that month, were diverted by the police. Figure 2 demonstrates that two youths, arrested for the first time during that month, had their cases resolved at an intake hearing. Figure 3 shows that 13 youths, arrested during that month had this first arrest come to court.

Obviously, the subjects recorded as first arrests in the later months are more likely to be "true" first arrests, since it is possible that some youth in the earlier months had been arrested before our observed time span. A review of the police files for a 6-month period prior to July 1, 1976, however, showed that none of the first arrests examined here were arrested

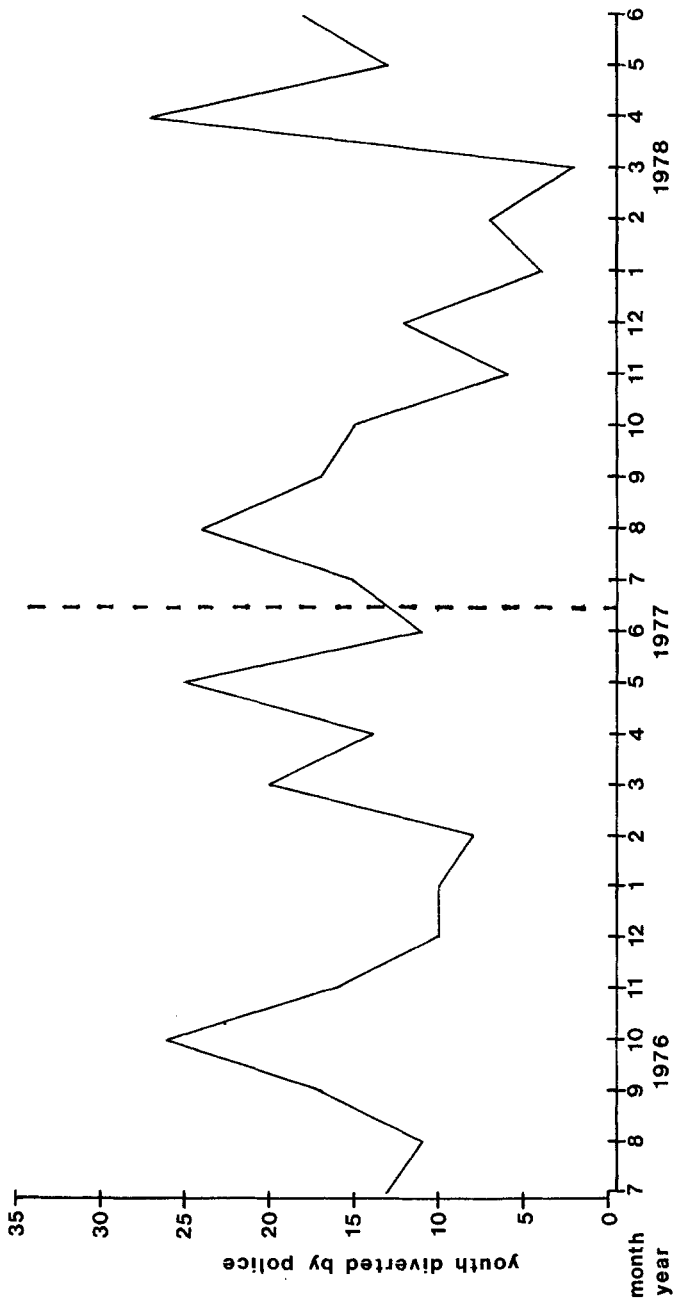


Fig. 1. First arrests: youth diverted by police.

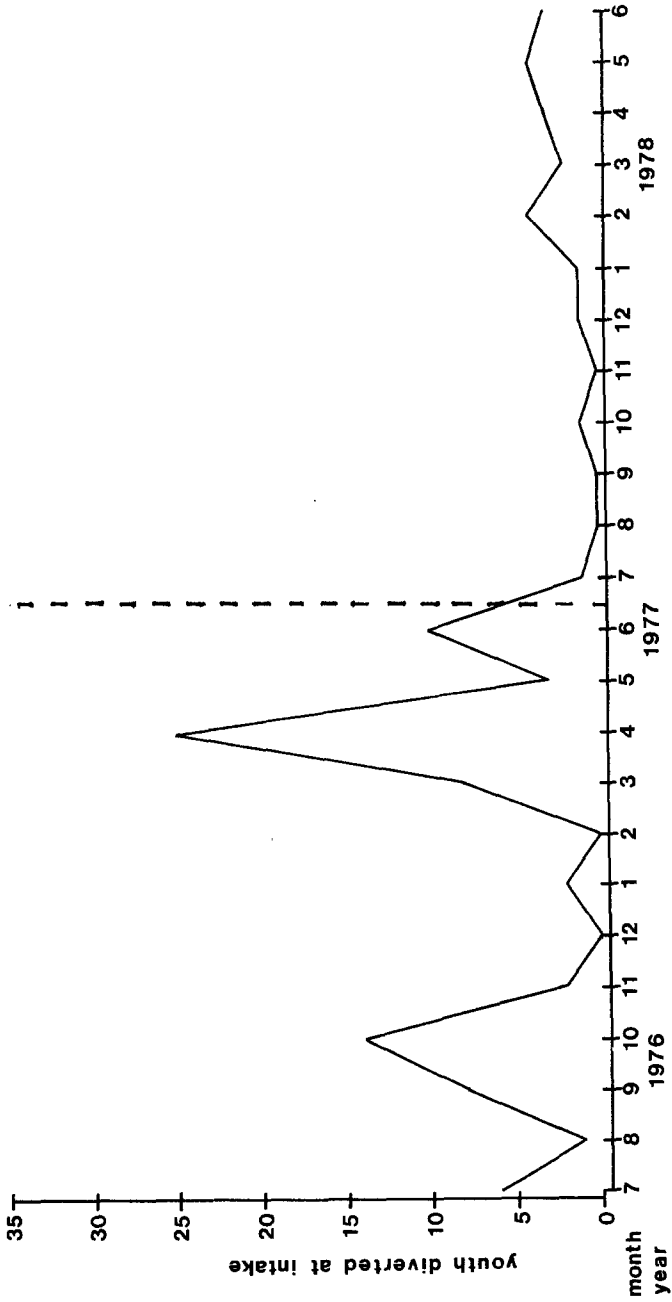


Fig. 2. First arrests: youth diverted at intake.

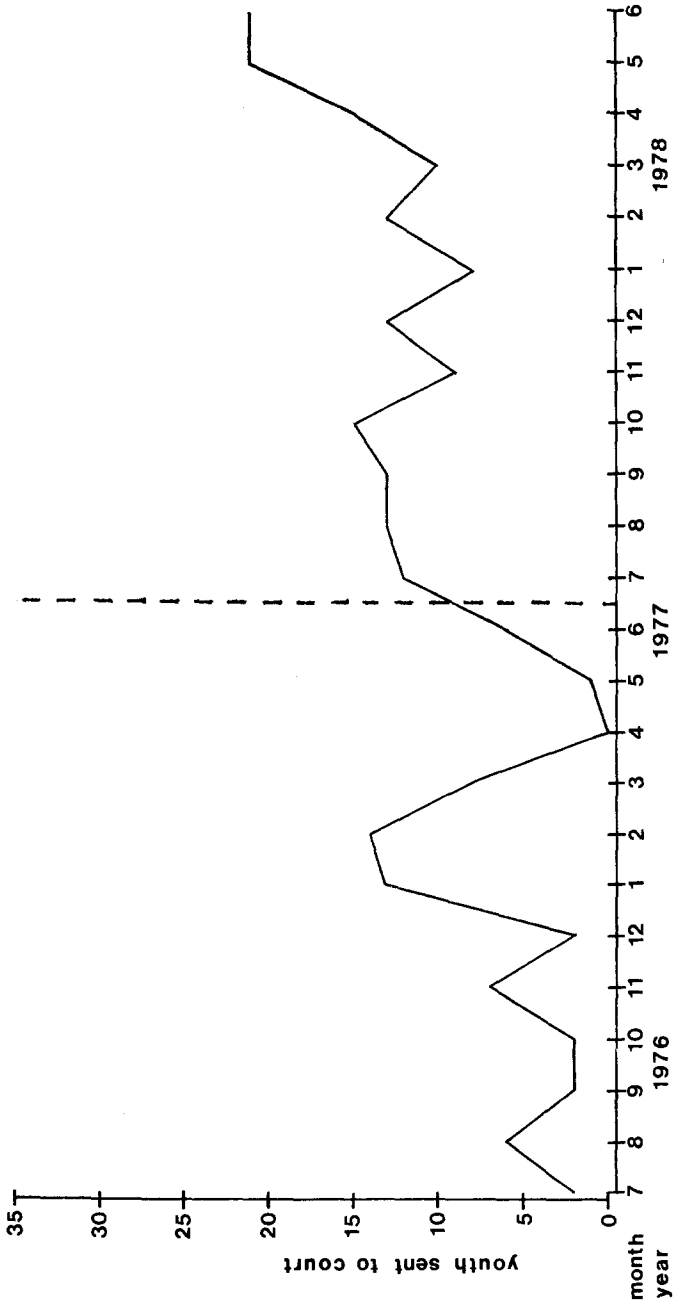


Fig. 3. First arrests: youth sent to court.

during that period. While it is possible that some youth could have been arrested more than 6 months previous to our examined time span, it is reasonable to assume that the greater part of those youths classified as first offenders are such.

Figures 4, 5, and 6 represent *all arrests* over the 24-month period, with youth arrested more than once in this time span therefore accounting for more than one data point. To clarify by example again, using the same month, January 1977, we see that 11 of all juvenile arrests during that month were diverted by the police, 4 were resolved at an intake hearing, and 23 went to court. In summary, Figures 1–3 demonstrate the outcome trends for all youth arrested for the first time, while Figures 4–6 demonstrate the outcome trends for all arrests during this particular time period. The dotted line in each figure indicates the effective date of the code change.

If penetration of youth into the juvenile justice system had been minimized as a result of the code change, we would expect to see an increase in the number of youth handled by police and intake and a decrease in the number of youth appearing in court. However, cursory examination of these graphs reveals nearly the opposite both for youth arrested for the first time and for all arrests. Both police diversion rates show a short-lived decrease but remain basically unchanged, both intake diversion rates drop, and court appearances increase.

Each of the six interrupted time series was tested for a change in level using generalized least-squares regression with a simple autocorrelation model (Johnston, 1972). The main drawbacks of such an approach involve its use in comparing multiple time series and the possibility of a more complex ARIMA model (Box & Jenkins, 1976) being more descriptive of the series (Cook & Campbell, 1979). However, given the small number of observations, the clarity of the hypotheses regarding the shifts, and the counterbalancing of seasonal trends present in the design, the adoption of a simple autocorrelation model was considered adequate. The main question was whether the shift in levels signified more than a chance fluctuation.

The level of police diversion did not change significantly after the code change for either first offenders or all arrests. The number of youth diverted at intake did change significantly, however, for both first offenders ($F(2, 20) = 4.92, p = .04$) and all arrests ($F(2, 20) = 5.55, p = .03$), with less youth diverted at intake after the code changes. Number of youth petitioned to court showed a significant increase for both first offenders ($F(2, 20) = 10.10, p = .05$) and all arrests ($F(2, 20) = 14.93, p = .001$). Police action was not greatly affected by the new juvenile code, but the likelihood of a case being referred past intake and into court appeared to be greater.

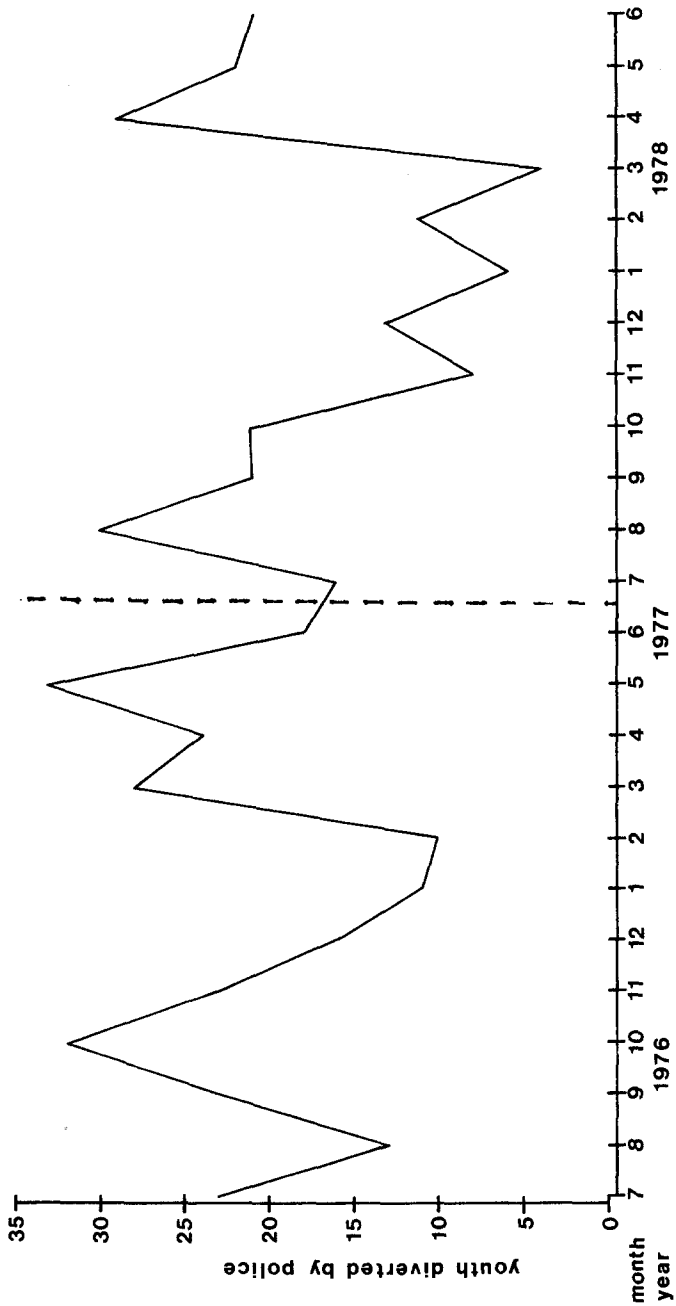


Fig. 4. All arrests: youth diverted by police.

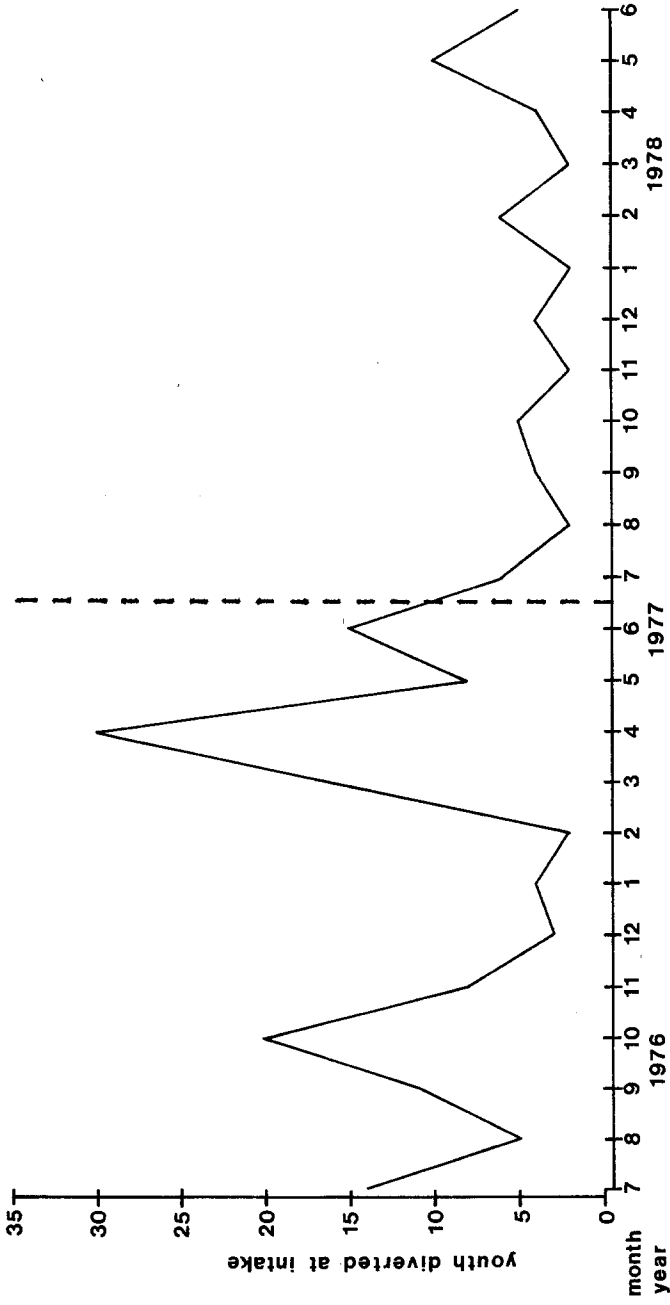


Fig. 5. All arrests: youth diverted at intake.

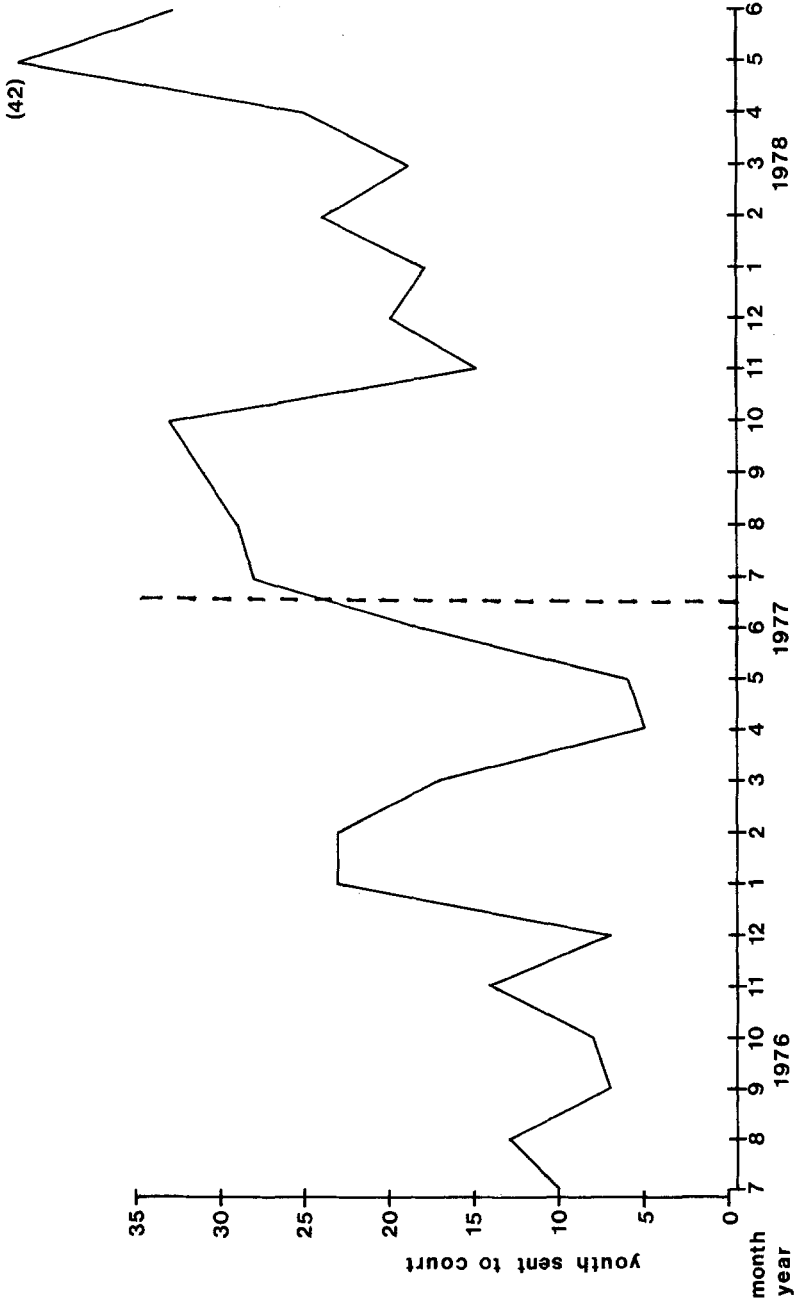


Fig. 6. All arrests: youth sent to court.

Other analyses of the data provide additional information. First, total arrests before and after the code were examined. A test of the interrupted time series for these figures showed no appreciable drop in arrests for the time period before and after the code change ($F(2, 20) = .0001, p = .98$). In fact, the total number of arrests for each year differed by only four. The police arrested virtually the same number of youths before and after the new code. Second, the types of offenses constituting the total arrests over this period were examined. Arrests were broken down into four categories [devised using the *Dictionary of Criminal Justice Terminology* (National Criminal Justice, 1976)]: major crimes against persons and property, minor crimes against persons and property, moral code violations (e.g., drunkenness, disorderly conduct), and status offenses. Each crime-type was then tested as an interrupted time series. Major crimes and minor crimes showed no significant change in level, although minor crimes arrests constituted 27% of total arrests before the code change and 36% of total arrests after the code change. Moral code violations increased from 14% of total arrests to 19% of total arrests after the code change, but this shift in level of the time series only approached significance ($F(2, 20) = 2.53, p = .13$). Status offenses, constituting 29% of total arrests before the code change and 16% of total arrests after, did show a significant decrease in level when tested ($F(2, 20) = 4.46, p = .05$). Although the same number of juveniles were being arrested, significantly less were charged with status offenses. The trends toward increased arrests for minor crimes and moral code violations, although not statistically significant, present the possibility that the reduction in status offense arrests were compensated for by increases in these two categories. The a priori nature of these categories, while theoretically sound, does not maximize any increase which could have occurred. Although not done in this study, a post hoc analysis of the individual offenses showing the greatest increases could provide relevant information for future studies of any recategorization of offenses which may be occurring.

Two potential historical confounds which could have accounted for these shifts must be considered. First, there is the possibility of an increase in juvenile crime. Examination of the Uniform Crime Reports (UCRs) turned in to the FBI during this time period do not support this possibility, however. The UCRs indicate a slight, but steady decrease in crime, a consistent percentage of all arrests being juvenile arrests, and a consistent percentage of juvenile arrests for reported serious crimes. The likelihood of a juvenile "crime wave" explaining these shifts is thus untenable. Second, there is the possibility that pervasive organizational changes in the police department and/or the juvenile court could have occurred concomitant with the code change. No large reorganizations took place in either agency,

but a new intake officer was hired by the juvenile court at the time of the code change. If the observed shifts were caused primarily by this personnel change, however, it is unlikely that they would have occurred precisely at the date of the code change. Instead, any shifts would be expected to occur before this date, since there is usually a considerable time lag between arrest and the intake hearing. In other words, juveniles arrested 1 or 2 months before the code change would be processed by the new personnel, and if decisions were being made significantly differently, they should show up on the arrests made before the code change. The abrupt level change at the effective date of the new code appears to be more likely a result of a widely anticipated statutory change finally being operationalized, similar to the British "breathalyser" crackdown reported by Ross, Campbell, and Glass (1970).

DISCUSSION

This study is certainly not the first case in which intended juvenile justice policy did not materialize in operation (e.g., Klein, 1979; Rappaport, Seidman, & Davidson, 1979; National Academy of Sciences, in press). However, these results demonstrate a paradoxical effect of a broad juvenile justice mandate. Evidently, in this locality, the introduction of a statutory change designed to check the penetration of youth into the juvenile justice system did not show an immediate positive effect. Instead, it appears to have precipitated an expansion of the court's control over police-referred youth. This paradoxical outcome is a revealing demonstration of the power of mediating organizations to undo a policy. Active adaptation, rather than bureaucratic recalcitrance, appears to have occurred.

Initially it should be noted that this basic finding should be of relevance to evaluators of alternative community programs, since the timing of a program's inception in relation to a statutory change could affect judged efficacy. A new law may inflate the pool of potentially divertible juveniles. Thus, a diversion program established immediately after a code change may be receiving diverted youth who would not have been in the system before the code change. As a result, programs could be considered successes with youth "in the system" just by being in the right place at the right time. This study highlights the need for adequate base-line data in evaluation of diversion programs and demonstrates that statutory change can be a powerful confound regarding populations in diversion programs.

The limits of the study for providing definitive answers to more theoretically based concerns about organizational adaptation are obvious. It is a case study documenting a phenomenon in one court, and thus cannot

be taken as clear evidence that this legal mandate has had a consistently paradoxical effect. Also, it traces the processing of only police-referred youth. Consideration of data from other referral sources (e.g., parents, schools) would be necessary to gauge the effect of the code change on the court's overall role. Finally, the limiting of the post code change period to 1 year (while adequately convincing) does not allow for examining the possibility of the level of court processing returning to baseline or decreasing after this time. Each of these limitations is important to recognize when considering what these data actually prove regarding policy impact on court functioning.

The value of this study, however, lies not in generalizable truth, but instead in hypothesis-generation. Certain organizational processes reversed a policy mandate. Isolating these processes and fitting them into a reasonable theoretical framework is the next task for research.

In many ways, the observed results were predictable if juvenile justice is viewed as a series of interdependent judgments rather than as a system with consistent rules (Lamiell, 1979; Blomberg, 1977). In the most basic sense, juvenile justice may not be a terribly consistent system across locales (Rubin, 1976), but may instead be a series of similar judgments understandable only in light of the interaction between actors and conditions present in any particular locale. Each decision regarding a youth's further contact with the juvenile system is made by a gatekeeper whose evaluations of options is affected by a number of factors. Role demands, intraorganizational pressures, and interorganizational considerations all contribute to the gatekeeper's frame of reference on any particular youth. Most likely, policy mandates are interpreted in light of these factors and the power of policy to overcome them is limited.

For instance, the observed lack of change in police arrests should not be surprising given the context of police decision-making. Much literature (Skolnick, 1966; Wilson, 1968; Goldstein, 1977) documents the use of the law by police as a method of maintaining order, rather than as a code of behavior. The police appear to operate more on a critical mass theory for controlling juveniles, contacting and arresting a certain number of youth to keep all juveniles in check. Also, of the juvenile justice processing agents, the police are probably most likely to deal with the victims of juvenile misconduct and thus are pressured to produce ostensible results in the form of arrests. Moreover, efficiency ratings in police departments are generally calculated (and were specifically calculated in this department) by clearance rates, i.e., the ratio of arrests to complaints. A drop in juvenile arrests would go against this commonly held indicator of success. Given the basic nature of these intra- and interorganizational influences, it is not surprising that a code change would not appreciably affect police action. Juvenile arrests serve goals other than code enforcement.

The observed shifts in court processing could have resulted from processes also related to role demands and judgment context. First, there is the reasonable likelihood that juvenile offenses were being consciously relabeled upward by police and juvenile court personnel in an effort to retain control or to secure services perceived as helpful to the juvenile. For example, assault may be substituted for incorrigibility if the youth slapped his/her mother in a family squabble. This is even more likely to occur if it will get the family into a counseling program. Presently, only anecdotal data exist to support this contention (Klein, 1979; Nock & Alves, in press; Picciano, 1979), but this investigation offers partial empirical support of its existence and impact. The mission of these personnel is to work constructively with youth. Defining an incident in a way which is perceived to offer the youth benefit in the long run may then become the only way to do the job right.

Second, gatekeepers' expectations of the impact of the code change on their role and effectiveness could have exerted a powerful influence on implementation of the legislation. Knowing that the change was coming, youth detectives and court personnel statewide anticipated that they would lose all their clout with status offenders. Obviously, this perception could easily have prompted the relabeling mentioned above. Interestingly though, police and court personnel in this city, questioned afterward about the possibility of relabeling as an unintended outcome of the code change, stated that they fully expected this to be the case in many parts of the state. However, they highly doubted that this locality, with its services and professionalism, would exhibit it. Perhaps the anticipation of the effects of change is more subtly influential than the personnel or policy-makers recognize. Creation of a climate of change may crystallize and promote evasive or adaptive patterns aimed at maintaining stability.

None of the above processes is complicated, and taken together they appear to form a parsimonious explanation for the observed results. Interestingly, however, none of these processes appears to have been a serious concern in assessing the value of a policy-focused intervention for controlling the processing of juveniles. Instead, the common assumption of policy-making, i.e., that broad legislative or policy change filters down to individual locales (Sabatier & Mazmanian, 1979) was adopted. In taking such an approach, the adaptability of gatekeepers in the system appears to have been severely underestimated.

The decentralized discretion-based nature of the juvenile justice system may make it a poor candidate for broad policy mandates (Handler & Zatz, in press). Being firmly entrenched historically and organizationally in the notion of individualized treatment (Comment, 1976), the juvenile system is intrinsically oriented away from categorical treatment of offenders. Instead, juvenile legal definitions have been largely formalities placed on behavioral circumstances to warrant intervention. Behavioral and

legal definitions are rarely congruous, as broad variance in court practice nationwide demonstrates (Institute of Judicial Administrative/American Bar Association, 1977). Juvenile processing decisions are individual decisions made in context, but rarely made by explicit formulae easily altered at the policy level (cf. Elmore, 1979 - 1980).

Once the importance of gatekeepers in juvenile justice is accepted, the need for a more ecologically based investigation of juvenile justice policy becomes evident. The effect of numerous contextual factors on gatekeepers' decisions has yet to be explored. Judging from the case study presented here, the social control role demands on police, the desire to secure services for juveniles, the press for organizational stability, and the labile nature of juvenile offense categories can all combine to overcome the intent of juvenile justice policy. Without further understanding of these organizational level forces in dictating individual juvenile justice decision-making, the juvenile system will remain a baffling system in which "the more things change, the more they remain the same."

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