FAMILY RECONCILIATION THROUGH REMEDIAL DETENTION: THE BECCA BILL'S UNINTENDED CONSEQUENCES

By

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To the Faculty of Washington State University:

The members of the Committee appointed to examine the dissertation of JENNIFER R. ALBRIGHT find it satisfactory and recommend that it be accepted.

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David Brody, Ph.D.
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FAMILY RECONCILIATION THROUGH REMEDIAL DETENTION: THE BECCA BILL'S UNINTENDED CONSEQUENCES

Abstract

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Twenty years ago, in response to a young runaway's tragic murder, Washington made sweeping changes to its laws, giving parents and the Juvenile Courts increased latitude over managing the state's at-risk youth. Through subsequent revisions to the laws, loopholes in state and federal law, and problematic implementation, the Becca bill has allowed for the secure detention of youth for status offenses since its inception. In King County, the state's largest detention facility, Becca youth have traditionally been completely sight and sound separated. However, due to increased pressure on county budgets, King County recently made a policy change allowing the co-mingling of Becca youth, who have committed no criminal offense, with more seriously delinquent offender youth. This study takes advantage of the pre- and post-housing change to compare the outcomes of Becca youth who are housed separately from and those that are co-mingled with offender youth.

The outcomes that were explored were subsequent referrals for prosecution, subsequent secure bookings, and ultimately contact with the adult criminal justice system. Outcomes suggest that there is no increased harm to the Becca youth that are co-mingled with more serious offender youth. Outcomes also suggest some harmful effects of detaining non-offender youth for
any reason which confirms a growing body of research documenting the myriad harms wrought by even short periods of secure detention.

The State of Washington and King County have a choice in detaining Becca youth. They could be offered alternatives programs, or deferred from the system altogether which may ultimately decrease harm. However, this study suggests that housing decisions to separate or co-mingling have little effect on poor justice system outcomes.
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Dedication

For my Lothspeichs: Steve and Caitlyn.

You have both sacrificed daily for this project for years.

You are both, quite simply, the beginning and the end.
CHAPTER ONE
INTRODUCTION

New public policies, especially in the criminal and juvenile justice realms, are oftentimes born out of highly publicized tragedies. Examples abound in Washington State, as evidenced by a recent police shooting. In November of 2009, four on-duty Lakewood Police officers were murdered in a coffee shop in Parkland Washington by a violent repeat offender from Arkansas who had recently bailed out of jail. In the legislative session immediately following this horrific crime, there were 19 proposed changes to bail and bond\(^1\) procedures (La Corte, 2009; Willmsen, 2010), as well as a proposed constitutional amendment\(^2\) (Washington State House Joint Resolution 4220 - 2009-10; Washington State Senate Joint Resolution 8224 - 2009-10).

According to the Washington State Code Reviser\(^3\), in the prior legislative sessions there were at most one or two technical changes to the provisions during a single legislative session. While public policies should reflect the needs and desires of the citizenry at the time, these emotion driven, knee-jerk proposals are often not well researched and, once implemented, do not solve the problems they were intended to solve, and, in fact may create more problems in the future.

---

\(^1\) Regarding Bail Practices and Procedures: SB 6673
Regarding establishment of work group on bail practices: SSB 6673, CH 256 (2010)
Regarding exceptions of certain persons and crimes from being bailable: HJR 4213, HJR 4214, HJR 4218, HJR 4220, ESHJR 4220 (2010), SJR 8212, ESSJR 8218, SJR 8224
Regarding bench warrants and limited jurisdiction courts using bail bond agencies to execute warrants: SB 5247, SB 6313
Regarding corporate surety bonds, minimum fees and penalties for violations: SB 6188, SB 6312
Regarding individualized determination by judicial officer of conditions of release for felony offenses: HB 2625, CH 254 (2010), SB 6664
Regarding excepting persons charged with a most serious offense from being bailable under certain conditions: HJR 4213, HJR 4214.

All bills 62nd Legislative Session (2011)

\(^2\) Engrossed Substitute House Joint Resolution 4220, amending Article I, section 20 of the Washington State Constitution.

\(^3\) [www.leg.wa.gov/codereviser/Pages/default.aspx](http://www.leg.wa.gov/codereviser/Pages/default.aspx)
There is a long and sustained history of such emotionally charged, but not necessarily thoughtful legislative reactions in Washington State. On October 17, 1993, thirteen-year-old Rebecca Hedman was bludgeoned to death by her john and her body dumped on the banks of the Spokane River. Hedman, known to her family and friends as Becca, was a chronic runaway. Becca left her Tacoma home in 1992 and eventually ended up on the streets of Spokane, supporting her crack cocaine habit with prostitution. While Hedman's parents had sent a young Becca to a state supported crisis residential center, and later to a group home, these interventions clearly did not have the intended impact on her behavior (Harris, 1995).

Once Becca turned thirteen, and continued running, her parents felt they had no legal recourse. At the time, Washington State did not allow parents to commit a child aged thirteen or over without the youth's consent (RCW 13.40; Murakami, 1995). Parental advocates had begun lobbying the Washington State Legislature to do something to assist them in controlling runaway youth. After Becca's murder, her parents added their voices to the chorus and lobbied the Washington State Legislature to change the law by adding more parental and police controls over juveniles.

**The Becca Bill**

The public outcry after Becca's murder prompted the Washington State Legislature to significantly re-work the state's Compulsory School Attendance and Admissions Law (RCW 28A.225) and draft new legislation entitled the Family Reconciliation Act (RCW 13.32A), also known as the Becca Bill. Through the court system, the Becca Bill provided parents more control over the lives of their children by creating detention options for juveniles known as status, or non-offenders. Status offenders are youth that commit acts that if carried out by an adult, would
not be a crime, but due to their status as juveniles, qualifies as an offenses. Examples include not attending school, running away or drinking alcohol.

The Becca Bill includes two involuntary interventions that can be used for youth where reconciliation is not possible in a voluntary fashion. These interventions are known as At-Risk Youth (ARY) and Child in Need of Services (CHINS) petitions. Pursuant to an ARY petition, the court can order that a youth reside outside the home. Pursuant to a CHINS finding, the court can order that the youth reside inside the home. In addition to the ARY and CHINS provisions, the bill revised the state's truancy provisions, requiring that school districts take action when students have unexcused absences by ultimately filing truancy petitions with the juvenile court. The truancy petitions of the bill are the most common mechanism utilized. In 1997, as a result of the new provisions, the school districts in the state filed over 15,000 truancy petitions, as compared to 91 filed in 1994 (Washington State Institute for Public Policy, 2009).

The Washington State Becca Task Force, a voluntary group of legislators, judges, court administrators and law enforcement who meet regularly to review current research and examine Becca related outcomes (2009) has found that the state funding mechanisms for the bill may favor increased filing of petitions, rather than treatment or reconciliation services. State funding of the Becca Bill for the counties is based on cost estimates for the formal truancy process such as court filings, court hearings, and detention costs. If the juvenile court provides services outside of formal court processing, those costs are generally borne by the county's general fund or grants. For the counties, sustainability of the Becca process promotes more truancy filings, more formal court processing, and does not include treatment.

The legislature's original intent in passing the Becca Bill was to provide parents and the court tools for controlling and assisting their teenagers. Formal court processing was to be used
as the last resort. Despite these intentions, the way the bill has been implemented in the state tends to favor formal system intervention, and has, in fact, exposed many more status offender youth to detention since its passage (Washington State Becca Task Force, 2009).

A number of evaluations of the Becca Bill since its inception have generally shown the bill to be effective in curbing truancy and keeping youth in school (Washington State Institute for Public Policy, 2000 and 2002). However, the Washington State Institute for Public Policy (WSIPP) and others have also found significant problems with implementation. The bill has been open to a wide range of interpretation from the individual juvenile courts across the state, and the myriad school districts involved in the ARY, CHINS and truancy provisions of the bill. The WSIPP (2009) found a great deal of variation in the number of absences required before a school district files a petition, how many hearings a youth has per case, and how many contempt filings are ultimately filed. On average, youth are subject to 1.4 court hearings per truancy filing, but in some counties, youth average up to 7 hearings per filing (2009, pg. 5).

While there are differences in the use and application of the Becca bill across counties, overall, these findings are encouraging, and indicate positive outcomes related to keeping youth in school. What is not addressed is the large increase in status offender youth that have been exposed to secure detention because of the Becca Bill. The Becca Bill allows for the secure detention of youth that have committed no criminal offense, as a remedial measure, intended to correct the youth's runaway, truant or otherwise out of control behavior. Yet, it is possible that exposing youth to secure detention and other delinquent and potentially violent offender youth in detention, may have unintended negative consequences on those youth that far outweigh the possible benefits.
**Current Focus**

The focus of this research is to assess the effects of aggregating and co-mingling marginally delinquent non-offenders for remedial rather than punitive reasons. Remedial detention allows youth to be held securely, but only until the point that the court feels they have gained compliance with their order; it is not meant as punishment for an act. Remedial detention for status offenders is used as a form of preventive punishment, as these youth have not committed a crime and therefore pose only a slight public safety threat. In the process of preventative confinement are we doing more harm to these youth than good? We may in fact be setting marginally delinquent youth on a path toward long-term criminality and serious behavior issues (Dishion, McCord and Poulin, 1999; Wells, 2010; Models for Change, 2013).

The stated benefit of the Becca Bill, as evidenced in the official title of the bill, is family reconciliation. The less overtly stated benefits of the bill were to give parents and the court more tools for dealing with at-risk youth. Finally, there is a cost to the youth of the state that comes as a benefit to the coffers of the state: allowing the court to detain non-offender youth through valid court order loopholes in the Juvenile Justice and Delinquency Prevention Act (JJDPA) allows the state to maintain millions of dollars of federal funding. While continued funding from the Office of Juvenile Justice and Delinquency Prevention (OJJDP) is not a stated goal or benefit of the Becca Bill and never will be, it is an outcome of the specific implementation of a questionable public policy. Understanding the long term costs to the youth caught up in this program versus the short term benefits to families, the courts, and the communities at large is of considerable importance, not only to King County, but to juvenile justice policy and practice in general. The benefits to youth are vague and unknown through currently available data sources, but the harms to youth can be assessed through this research and will open the conversation to policy-makers.
and key stakeholders in the state, as well as serve as an example to other states that have similar policies.

The implementation and local execution of the Becca Bill provisions has been evaluated numerous times over the last 17 years. The WSIPP (2009) has comprehensively evaluated the truancy provisions of the bill and the cost benefit of the programs. The compliance or non-compliance with the JJDPA has been examined, and the costs of the bill are debated each biennium. The co-mingling of status offender youth with offender youth has been litigated and practices have been changed and changed again. What has not been examined thoroughly or systematically is the effect that detention of status offenders for violation of contempt of court has on longer-term delinquency or criminality.

The JJDPA specifically mandates the deinstitutionalization of status (non) offenders. This provision exists in federal law for a reason. There is ample theory and empirical research to suggest that detention is extremely harmful for youth, and especially so for youth who are not yet fully engaged in a delinquent lifestyle (Holman and Ziedenberg, 2007; Mendel, 2011). Non-offenders held under the provisions of the Becca Bill fall into this category, but policy makers, analysts and juvenile justice researchers have yet to systematically investigate just how harmful their detention is.

To assess the long-term costs to the non-offender youth labeled and co-mingled in secure detention under the provisions of the Becca Bill, a number of questions are explored in this research:

1) Do the co-mingled non-offenders return to secure detention at a higher level than the separated non-offenders?
2) Do the co-mingled non-offenders return to secure detention more quickly than the separated non-offenders?

3) Do co-mingled non-offenders have higher numbers of referrals for prosecution than non-offenders who were housed separately from offenders?

4) Do co-mingled non-offenders contact law enforcement (evidenced by referrals for prosecution) more quickly than the separated non-offenders?

5) Do co-mingled non-offenders have higher levels of adult system contact than non-offenders who were housed separately from offenders?

Data

The source of the data for analysis in this research is obtained from King County, the largest county in the state of Washington and one of the largest and most diverse counties in the U.S. Because of its large size, relatively high vacancy rate, and its physical layout, King County is able to maintain complete separation of its offenders and non-offenders in secure detention for contempt of court. Most Washington counties try to separate their non-offenders from the offenders by placing them in different dorms or units, but King County is able to provide complete sight/sound separation of the non-offenders from the offenders. Non-offenders do not program, eat or recreate with the offenders, thereby eliminating the opportunity for co-mingling and deviancy training.

Two data sets are utilized in this analysis. They vary in size, but are managed in the same fashion. The first data set is drawn from detention records for all non-offender youth that were booked into the King County Juvenile Detention facility during 2003. The second data set, while smaller overall due to nationwide trends of declining detention and jail populations, is drawn from the year 2009. Aside from the overall differences in sizes between the two data sets, the
only theoretical difference is the housing location of the non-offender youth. In 2003, the non-offender youth were housed in Z-Hall, which is significantly separated from the offender population. In 2009, due to a housing policy change, the non-offender youth were co-mingled with the offender youth.

The King County Juvenile Detention Facility is a two story secure facility, with all offender units located on the bottom floor. There is one living hall on the top floor of the facility - Z-Hall. Z-Hall is located between the vehicular sally port and the secure facility's Central Control. The youth housed in Z-Hall have no chance of any sight or sound interaction with offender youth. In 2008, due to the high cost of providing this level of separation, the Becca youth were moved to their own hall on the offender floor in the detention building. The separation is much less complete from 2008 forward.

The initial set of data includes non-offender youth in detention in 2003. The choice of this year for the initial data set allows the tracking of these juveniles through official records until the time that they turn 18 and age into the adult criminal justice system. This provides adequate time to determine whether youth have learned new criminal behaviors and subsequently taken that knowledge out of the detention facility. Except in extreme cases, such as decline of juvenile jurisdiction for serious criminal activity, it also provides the opportunity to follow youth who are committed to a state reformatory for a longer period of time. The data used for this research includes only detention information and only for King County.

Conclusion

The brutal murder of a troubled young woman is bound to shock the conscience of the citizens and lawmakers in any state, as Becca Hedman's death in 1995 did to the people of the State of Washington. When these shocking crimes occur, the people and the legislators of the
state should review current laws, assess loopholes, suggest changes, or even write completely
new laws. However, all of those processes should be undertaken in a thoughtful, rational way
that accurately evaluates all of the costs, benefits, and intentions of any new legislation, and not
just its stated hopes. It is clear that this did not happen prior to the drafting and implementation
of the Becca Bill.

The bill has been revised numerous times over the years as the state and the counties have
struggled to implement the bill as written, while at the same time being true to the intent of the
legislation and dealing with the stresses of higher costs, shrinking budgets and less and less
capacity within the juvenile justice system. County detention managers have done the very best
that they can to separate non-offender youth who have been bootstrapped into secure detention,
but can only work within the bounds of the physical plants of their respective facilities.

The change in housing policy in King County that was itself a convoluted reaction to
budget pressures coupled with the threat of lawsuit, has allowed a quasi-experimental
exploration of the harm that may be occurring through two mechanisms: 1) detaining non-
offenders in secure detention at all and 2) co-mingling non-offenders with offender youth that
have actually committed criminal acts. It is the hope that this research, regardless of the ultimate
findings, will re-initiate a conversation about the detention of non-offender youth and, if they
must be detained, whether they are co-mingled.
Chapter One References


Harris, Bonnie. (July 20, 1995). "Medlock Gets 26-Year Term in Girl's Death: Rebecca Hedman’s Murderer is Sentenced." The Spokesman Review.


Legal References

RCW 13.32A (Family Reconciliation Act; "The Becca Bill").

RCW 28A.225 (The Compulsory School Attendance and Admission Act).
CHAPTER TWO
HISTORY AND CONTEXT OF THE BECCA BILL

While Becca's tragic murder certainly sparked the public outrage necessary for legislative changes, it was likely just the straw the broke the camel's back. Parental advocates in Washington State had long been asking for changes that would provide them with more tools to control their out of control youth. With Becca's parents adding their voices to the chorus, the context was right for swift legislative action.

Support for the Becca Bill was not universal, and the passage of the legislation was not without problem. This chapter provides background on the Becca Bill, including its path through the Washington State Legislature, and its ultimate implementation at the statewide and county levels. This chapter also provides the legal context from which the Becca Bill was formed, which includes both existing state level legislation and wide ranging federal law in the form of the Juvenile Justice and Delinquency Prevention Act (JJDPA). The controlling aspects of this law and its effect on the implementation of the Becca Bill in Washington are also discussed in this chapter. Finally, the implementation of the Becca Bill in King County is discussed, which provides both the general and specific context for this research.

The Becca Bill

In response to the tragedy of Becca's murder, the State Legislature and Governor convened the Council on Families, Youth and Justice in 1994 to review the 1977 Juvenile Justice Act\(^4\) (the controlling law at the time) and develop recommendations for change. The Council's final report listed the problems with the existing 1977 Juvenile Justice Act as: 1) a lack of crisis

\(^4\) RCW 13.40
residential facilities; 2) ineffectiveness of family reconciliation services because of their voluntary nature; and, 3) a lack of secure placement alternatives to improve the effectiveness of the process (Washington State Council on Families, Youth and Justice, 1994; Ivey, 1996). The report spawned five different versions\(^5\) of a comprehensive juvenile and family services act in the 1995 Legislative Session. A particularly controversial provision of HB1417 (the habitual runaway provision) was ultimately combined with SB 5439 and was passed by the Legislature.

According to the statute, the Legislature found that there was a need for a system to assist children and parents in conflict, and that parents were not sufficiently informed of their rights regarding their children. Furthermore, because chronic runaways put themselves at serious risk, the Legislature concluded that secure facilities must be provided to help parents protect their children and to aid children in protecting themselves (Statement of Legislative Intent, RCW 13.32A.010, 1995).

The bill, as passed by the Washington State Legislature, was differentiated from the previous law in three key ways. First, the bill allowed much more latitude to law enforcement for contacting and detaining youth in secure crisis residential centers (CRCs). Secure CRCs are defined by the bill as "a crisis residential center, or portion thereof, that has locking doors, locking windows, or a secured perimeter, designed and operated to prevent a child from leaving without permission of the facility staff" (RCW 13.32A.030(15)). When the youth is admitted to a secure CRC, the staff are required to hold the youth for a minimum of twenty-four hours, but not more than five consecutive days (RCW 13.32A.130(1)).

The second major provision of the bill concerns the Child in Need of Services (CHINS) and At-Risk Youth (ARY) petitions. These petitions existed prior to the bill but the courts could, 

\(^5\) SB 5439, SB5480; SB5191; SB 5649; and HR 1417 (54th Legislative Session; 1995).
and generally did, refuse to hear the petitions citing scarce resources and crowded courts. The bill provides that no court may refuse to hear a CHINS or ARY petition.

While the stated intent of the bill was to encourage voluntary reconciliation of the youth and family, the CHINS and ARY petition process can be used if voluntary reconciliation is not possible. A CHINS youth is defined as a juvenile:

(a) Who is beyond the control of his or her parent such that the child's behavior endangers the health, safety, or welfare of the child or any other person;

(b) Who has been reported to law enforcement as absent without consent for at least twenty-four consecutive hours on two or more separate occasions from the home of either parent, a crisis residential center, an out-of-home placement, or a court-ordered placement; and

(i) Has exhibited a serious substance abuse problem; or

(ii) Has exhibited behaviors that create a serious risk of harm to the health, safety, or welfare of the child or any other person;

(c)(i) Who is need of (A) Necessary services including food, shelter, health care, clothing, or education; or (B) services designed to maintain or reunite the family;

(ii) Who lacks access to, or has declined to use, these services; and

(iii) Whose parents have evidenced continuing but unsuccessful efforts to maintain the family structure or are unable or unwilling to continue efforts to maintain the family structure; or

(d) Who is a "sexually exploited child." (RCW 13.32A.030(5))
An ARY youth is defined as a juvenile:

(a) Who is absent from home for at least seventy-two consecutive hours without the consent of his or her parent;

(b) Who is beyond the control of his or her parents such that the child's behavior endangers the health, safety, or welfare of the child or any other person; or

(c) Who has a substance abuse problem for which there are no pending criminal charges related to the substance abuse. (RCW 13.32A.030(3))

The bill also made changes to RCW 28A.225, the Compulsory School Attendance and Admission law. Specifically:

(1) If a child under the age of seventeen is required to attend school under RCW 28A.225.010 and if the actions taken by a school district under RCW 28A.225.020 are not successful in substantially reducing an enrolled student's absences from public school, not later than the seventh unexcused absence by a child within any month during the current school year or not later than the tenth unexcused absence during the current school year the school district shall file a petition and supporting affidavit for a civil action with the juvenile court alleging a violation of RCW 28A.225.010; (a) By the parent; (b) by the child; or (c) by the parent and the child. (RCW 28A.225.030(1).

Under this statute, truancy petitions are required to be filed by school districts or parents for youth who are chronically truant and unresponsive to community or school-based efforts to compel school attendance. Failure to comply with CHINS, ARY or truancy petitions can lead to
findings of civil contempt for either the parent or child involved. If the child is found to be in
contempt, the court may impose a fine of up to $100.00 and/or order confinement for up to seven
days. For civil matters, the sanction that the court imposes for a finding of contempt is intended
to be remedial and the punishment progressive in nature. Contempt findings are used to coerce
the youth into complying with the original order, which must be within “the person’s power to
perform” (King County Work Group on Commingling Issues, 2000).

At the extreme end of the continuum of sanctions a youth may receive for contempt of
court findings is secure detention. Youth found in contempt may be sentenced to up to seven
days in secure detention. Following an order to detention, a review hearing must be held in
accordance with Washington State law that allows the youth to follow the court’s special
conditions and ‘purge’ themselves from the detention sentence (RCW 13.32A.250). Purge
conditions must be within the youth’s power to perform and generally include written
assignments regarding the importance of school attendance or any other topic that the juvenile
judge deems appropriate. For youth not sentenced to secure detention, conditions that purge a
youth from the sentence often include things such as community service, treatment programs, or
academically based assignments.

Finally, the version of the bill that was passed by the Washington State Legislature
included a controversial "habitual runaway" provision which allowed for the confinement of a
status offender youth for up to six months in a secure facility (HB 1417, 1995). The bill stated:

If a child has run away from his or her parent's home three times in a twelve
month period, the court shall enter a finding that the child is at risk and the court
on its own motion shall detain the child in a secure facility or other court ordered
treatment program for a period not to exceed six months.
When House Bill 1417 was presented to Governor Lowry, he vetoed a number of provisions of the bill, most notably the habitual runaway provision, citing five concerns: 1) that due process would be violated; 2) that the habitual runaway provision gave courts nearly unlimited discretion; 3) that the habitual runaway provision seemed too punishment oriented, despite the overall treatment-oriented focus; 4) that the habitual runaway provision would be too costly to implement; and, 5) that the habitual runaway provision was unnecessary in light of the secure CRC condition (Murakami, 1995a; Mapes, 1995). In addition, the Washington State Attorney General warned that the habitual runaway provision would have provoked a federal lawsuit and jeopardized millions of dollars in federal funding (Mapes, 1995). The legislature was ultimately unable to muster enough votes to override Lowry's vetoes, and what was ultimately signed into law was a lesser version of House Bill 1417, formally referred to as the Family Reconciliation Act of 1995 (RCW 13.32A); informally known as the "Becca Bill".

Despite the initial public support, and the outcry that initiated the bill, the implementation of the Becca Bill has been problematic from inception. Opponents of the bill assert that it has failed to meet any of its stated goals (Roberts, 1996), has pitted the Counties and State against each other over funding of the provisions (Cafazzo, 1996; George, 1998; Associated Press, 1999; Ferloito, 2010) and has jeopardized federal funding of State programs due to conflict with the deinstitutionalization provisions of the Juvenile Justice and Delinquency Prevention Act of 1972\(^\text{6,7}\) (Ivey, 1996). Moreover, because the planned secure crisis residential centers were never

\(^6\) 42 U.S.C. 5633 [Sec 223.] State Plans at (a)(11)(A) states that States shall provide that "juveniles who are charged with or have committed an offense that would not be criminal if committed by an adult, shall not be placed in secure detention facilities or secure correctional facilities."

\(^7\) In a letter from John J. Wilson, Deputy Administrator, U.S. Department of Justice to Rosalie McHale, Program Coordinator, Juvenile Justice Section, Washington State Department of Social and Health Services, Wilson warns that Washington could lose all federal funding under the JJDP Act if the Becca Bill was enacted as passed (May 2, 1995).
entirely implemented, it has likely caused the secure detention of hundreds of non-offenders statewide (Williams, 1998; Garber, 2002).

In 1998, twenty Washington Counties\(^8\), including King County, successfully sued the State of Washington via the Unfunded Mandate Act to recoup $5.3 million in costs for administering the Becca Bill between 1995 and 1997 (George, 1998). While the legislature envisioned that the Court would be used only as a last resort for families in crisis, WSIPP reported that as a result of the Becca Bill truancy petitions in the state increased over 165 percent between 1994 and 1997 (Miller, Klima and Nunlist, 2009).

Truancy petitions are just one component of the Becca Bill provisions, but are illustrative of the huge increase in workload for the juvenile courts, school districts and counties as a whole. Even with the settlement of the 1998 lawsuit, the counties remain less than fully funded by the state for the provisions of the Becca Bill and it remains a point of tension for the two levels of government.


Prior to its passage, there was concern that the Becca Bill exceeded Washington's authority under the JJDPA (42 USC § 5601-5633) (2002)). The JJDPA was passed specifically in reaction to some state's tendencies to lock up truants, runaways, and incorrigibles who had committed no crime (Ivey, 1998). The 1974 National Advisory Commission on Criminal Justice Standards and Goals found that at least fifty percent of detention populations nationwide were juveniles who had committed no crime, but were held in secure facilities under deplorable conditions (Crank, 1995).

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\(^8\) Benton, Clallam, Cowlitz, Ferry, Franklin, Grays Harbor, Island, King, Kitsap, Okanogan, Pend Oreille, Pierce, Skagit, Snohomish, Spokane, Stevens, Thurston, Whatcom, and Yakima.
The JJDPA provides funds to states that follow a series of four federal protections, known as the "core protections" of care and treatment in the juvenile justice system. The four core protections of the act are:

**Deinstitutionalization of Status Offenders (DSO)** - Status offenses are offenses that are only crimes if committed by juveniles, such as truancy, running away, and being in possession of alcohol. Under the JJDPA, status offenders may not be held in secure detention or confinement. Instead, these youth are to receive community-based services.

**Jail Removal** - Juveniles may not be detained in adult jails except for limited periods before release or transporting them to an appropriate juvenile placement, in rural areas, or when weather and travel conditions prevent authorities from transporting them.

**Sight and Sound Separation** - When youth are held in an adult jail under the exceptions noted above they may not have any sight or sound contact with adult inmates.

**Disproportionate Minority Contact (DMC)** - The DMC protection requires States to assess and address the disproportionate contact of youth of color at key decision points in the juvenile justice system. In the most recent reauthorization of the JJDPA the DMC requirement was broadened from disproportionate confinement only to include all contact with the system.

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9 The core protections do not apply to youth who are prosecuted in adult court.
10 The DSO and Sight and Sound protections were part of the original 1974 Act.
11 The Jail Removal protection was added in 1980.
12 The DMC protection was added in 1992.
As part of gaining compliance with the JJDPA, Washington’s 1977 Juvenile Justice Act\textsuperscript{13} divested the juvenile court of its entire jurisdiction over non-offenders. This action was taken as a way of eliminating the delinquent or system-involved label from non-offender youth. The Washington State Legislature determined that non-offender youth should instead be offered services on a voluntary basis. In situations where status offender youth were deemed to be at risk\textsuperscript{14}, the Washington State Legislature authorized law enforcement to pick up reported runaways if the officer believes the youth are in dangerous circumstances (Lieb, Fish and Crosby, 1994). The implementation of the 1977 Juvenile Justice Act allowed Washington to come into quick compliance with the JJDPA.

In 1980, amendments to the JJDPA allowed courts to incarcerate non-offenders under two specific conditions: 1) if the juvenile ran away from a non-secure placement (42 U.S.C. 5701 § 301 (1980); Ivey (1996); and, 2) if the juvenile violated a valid court order and was then found in contempt of court (42 U.S.C. 5633 [Sec 223] at (a)(11)(A)(i)(ii)(iii)). The violation of a valid court order changes the status offender from a non-offender to an offender and is referred to as "bootstrapping," because it allows for the upgrade through a legal proceeding of a status offender to an offender. These provisions were intended to provide the Juvenile Courts with options for dealing with certain chronic or particularly troubling status offenders. Washington State consistently uses the valid court order exemption to bootstrap a status offender to an offender status and subsequently allows those youth to be held in secure detention. Bootstrapping occurs when a status or non-offender violates a valid court order, which is a criminal offense. Essentially the youth has been transformed from a non-offender to an offender, opening up the

\textsuperscript{13} Chapter 13.40 Revised Code of Washington (Juvenile Justice Act of 1977)
\textsuperscript{14} See RCW 13.32A.030(3)
possibility of detention, adding official criminal history and officially applying an offender label to the youth.

The Office of Juvenile Justice and Delinquency Prevention (OJJDP) has indicated that bootstrapping is not consistent with its policies (47 Federal Register 21226, 1982). OJJDP's position appears to be consistent with Congressional intent, as well. In 1977, the Law Enforcement Assistance Administration's Office of General Counsel issued Legal Opinion 77-25 which stated that a status offender who violates a court order remains a status offender unless the violation would in itself be criminal if committed by an adult, and until the juvenile is charged with or adjudicated for the particular criminal offense. OJJDP's own legal counsel has ruled that violation of a court order by a status offender is an insufficient legal basis to categorize the juvenile as criminal, or as a delinquent offender, thus removing the juvenile from the deinstitutionalization requirements of the JJDPA (Holden and Kapler, 1995, pg. 7).

The Valid Court Order Exception

Becca youth, even those in secure detention, are non-offenders; they have not been adjudicated or found guilty of a statutory criminal offense. These youth are simply being held in contempt of court for failure to follow the court’s instructions. This is not to say that all youth being held for civil contempt in violation of a Becca order have not previously been (or will subsequently be) charged with and held on a criminal disposition. In King County, approximately 25 percent of youth held in detention on civil contempt orders have previously been held in detention on criminal matters (King County JIMS15).

The valid court order provisions of the Becca Bill and the JJDPA function as loopholes that allow the State to maintain federal funding and allows for the secure detention of non-

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15 Juvenile Information Management System (JIMS) is King County’s Juvenile Justice Information System and the county’s system of record for all juvenile prosecutorial, court and detention information.
offender youth by bootstrapping them to an offender status. Even with use of the valid court order provision, between 2000 and 2010 the state was found to be out of compliance with the DSO provisions because the Becca Bill allows the housing of non-offenders in a crisis residential center within a secure detention facility. As a consequence of non-compliance with the DSO provisions, the federal government, through the OJJDP, reduced funding by 25 percent to the State of Washington (Washington State Partnership Council on Juvenile Justice, 2013; pg. 1).

Early in implementation of the Becca Bill, the state envisioned that adequate secure CRCs would be constructed in the counties, such that Becca youth would be held in those facilities. However, the secure crisis residential centers were never fully constructed, and the year 2000 changes to the Becca Bill allowed for the use of secure crisis residential centers as confinement for youth found in violation of a valid court order (contempt of court), but only if the SCRC is a separate, secure section of a juvenile detention facility (King County Work Group on Comingling Issues, 2000, pg. 3, emphasis in original).

In King County, there is no co-located secure crisis residential center, therefore, youth held legally for contempt of court are held in secure detention. Currently, there are four secure crisis residential centers in the state that are co-located with a detention facility (and thereby qualify to hold non-offenders on contempt of court violations). These facilities, located in Chelan, Clallam, Kitsap and Snohomish Counties maintain a total of 26 beds for the entirety of the state of Washington. For King County, because there is no secure CRC co-located with the detention facility, Becca youth who are found in contempt of court, and ultimately detained for that violation, are held in secure detention. Through a twisted collection of overlapping laws and loopholes, status offender youth, who have committed no crime, can be bootstrapped into
offender status and detained in secure detention despite the stated intention of all the laws and lawmakers involved.

**Aggregating and Co-Mingling of Youth**

While the Becca Bill may have generally made the state and its citizens feel that they have better legal tools for handling their youth, there are a number of expensive and harmful unintended consequences of the bill. Those mentioned above are high level, systemic issues generally amounting to conflict between the levels and branches of government. There are, however, very real consequences for the individual youth that are caught up in the provisions of the bill, especially youth that are securely detained as a result of the bill.

One of the most consistent research findings in social science relates to the strong effects peers can have on one another (Sutherland, 1947; Elliott, Huizinga, and Menard, 1989; Akers, 1989; Warr, 2002; Dodge, Dishion and Lansford, 2006; Dodge, Dishion and Lansford, 2006b; Elliott and Menard, 2006; Prinstein and Dodge, 2008). Whether it relates to health risks, aggressive behavior, influence on attitudes and behaviors, or even marketing research trying to understand how popular ideas emerge, research all points to one simple finding: "there is a remarkably strong association between youths' behaviors and the behaviors of their peers" (Prinstein and Dodge, 2008, pg. 3). Within criminal and juvenile justice research, one of the strongest predictors of adolescent delinquency is the delinquency level of close friends (Cohen, 1955; Klein, 1971; Elliott, Huizinga and Ageton, 1985; Reiss, 1988; Reiss and Farrington, 1991; Warr, 1993; Dishion, et. al., 1999; Dishion, McCord and Poulin, 1999; McCord, Widom and Crowell, 2001; Warr, 2002).

The most common method of dealing with delinquent adolescents in this country is to remove them from mainstream peers and then place them together; or aggregate them, in
treatment programs, educational settings, and in detention (Dodge, Lansford and Dishion, 2006). How peer influence works in settings where delinquent youth are removed from mainstream youth and placed together with other delinquent youth (aggregation), such as juvenile detention facilities, is not yet well defined and understood. What is well supported in the literature is that peer influence does operate in intervention groups that aggregate deviant youth for purposes of treatment (Dishion, McCord and Poulin, 1999). Harmful effects of aggregating deviant peers have been shown in juvenile justice, mental health, education, and after-school settings (Prinstein and Dodge, 2008). What is also well documented is that the most common practice for treatment of deviant youth is aggregation with other deviant youth. It is also well supported in the literature that negative long-term effects are further enhanced in custodial programs, such as detention (Osgood and Briddel, 2006; Lipsey, 2006; Lipsey, Howell, Kelly and Carver, 2009; Dodge, Lansford and Dishion, 2006).

While effects of peer influence are well documented, the mechanisms of transmission are not well understood. Scholars have offered a theoretical explanation of peer influence amongst aggregated youth called deviant peer contagion. Deviant peer contagion refers to the inadvertent negative effects associated with intervention protocols that aggregate peers in the delivery of a therapeutic protocol, educational service, or community program (Dishion and Dodge, 2006). While most scholars would say that detention cannot be considered a therapeutic protocol (Lipsey, 1994; Greenwood, 1995), it is also almost certain that deviant peer contagion operates in custodial juvenile justice settings.

Scholars suggest that rates of deviant peer contagion vary with age, gender, and socio-economic status. Deviant peer contagion as a theory also suggests that deviant influence operates most strongly on youth that are only marginally deviant. Notably, it is precisely those youth most
often seen under Becca petition. Although research into the mechanisms and moderators of deviant peer contagion is in its early stages, the methodologically robust findings that are available favor the prevailing principle that avoiding deviant peer contagion means avoiding institutionalization at all costs (Greenwood, 2006).

**Co-Mingling in Washington State**

Despite these robust findings that warn against detaining marginally delinquent youth with other delinquent youth, and specifically because of the lack of secure crisis residential centers in Washington State, the majority of non-offender youth held on contempt of court findings under the Becca Bill are housed with (otherwise referred to as co-mingling) offender youth in the county's juvenile detention facilities. All facilities take care to attempt to sight and sound separate offender and non-offender youth, or to place non-offender youth in their own units (without offenders), but due to size and layout complete separation of non-offenders is not always possible. King County, because of the large size of its detention facility and its multi-story layout, is the only county in the state that can actively and completely separate the non-offender youth from the offenders.

There is no state requirement that non-offender youth be held separately from offender youth (King County Work Group on Commingling Issues, 2000; Washington State Institute for Public Policy, 2001). While little systematic research exists to establish best practices in this area, most detention administrators in the State of Washington, and certainly in King County, feel that it is appropriate to house non-offenders separately from offenders (King County Work Group on Commingling Issues, 2000). However, for most juvenile detention facilities operating in the state, it is not possible to completely separate the youth in all aspects of housing.
The Becca Bill allows for the co-mingling of marginally delinquent non-offender youth with more delinquent offender youth, sometimes in the same living area. The state has the option to detain non-offender youth and, by not funding the construction of adequate secure CRCs or affirmatively disallowing secure detention as an option to violation of a valid court order, has accepted the co-mingling of Becca youth with other, more seriously delinquent offender youth. It is vitally important to understand the harm that could come to the Becca youth by the policy decision to co-mingle them. Deviant peer contagion gives us a theoretical base and a lens through which to unravel the aggregation problem.
Chapter Two References


King County Work Group on Commingling Issues. (2000). *Review of Options for Detained Non-Offender Youth.* Seattle, WA: King County, WA.


Legal References


RCW 13.32A (Family Reconciliation Act; "Becca Bill")

RCW 13.40 (Juvenile Justice Act of 1977)

RCW 28A. 225 (Compulsory School Attendance and Admission)
CHAPTER THREE

THEORETICAL FRAMEWORK

Implementation of the Becca Bill has resulted in two primary areas of concern that are being addressed by this research. Through the use of the valid court order exception, the Becca Bill allows for bootstrapping of non-offender or status offender youth into a legal status that, while it does not result in criminal history for the youth, treats them as offenders in terms of allowing secure detention. After the youth are re-classified from status offenders to delinquents through the violation of a valid court order, they are also allowed to be co-mingled in secure detention with youth that have truly committed offenses, sometimes serious ones. The bootstrapping and co-mingling leads to two theoretical concerns for the Becca offenders: 1) they are securely confined with other delinquent youth; and, as such, 2) they are labeled, by the most powerful of labelers, the Superior Court. These two areas of concern are certainly intertwined, as are the theories that provide the background for anxiety about the implementation and harm done by Becca Bill policy. Aside from the harms of secure detention, by reclassifying status offenders as offenders, the state applies a powerful label to the youth.

This research, by exploring the harm of detention and specifically the harm of co-mingling offenders and non-offenders in secure detention, ultimately examines two theoretical processes that are intertwined, but can be distinguished. The first process is the macro level criminological theory of labeling. The Becca Bill has bootstrapped non-offenders into a delinquent label which, in turn, allows them to be securely detained. The second, or micro level process, is deviancy training. Deviancy training is a specific progression of peer contagion that occurs when youth are aggregated for detention or other programming, which portends a learning
process that substantially affects subsequent deviant behavior. When non-offender youth are either aggregated with other non-offender youth, or co-mingled with seriously delinquent offender youth, deviancy training can occur.

Labeling theory provides a societal level view of the bootstrapping problem with the Becca Bill. Labeling theory, at its most basic descriptive level posits that society can create the very things that it intends to stop, for example crime and/or delinquency. Labeling theory, unlike many other criminological theories rejects the idea of using the offender as the unit of analysis and instead proposes that we focus attention not on the behavior of the offender but on the behavior of the one who applies the label and therefore seeks to control the offender through application of the label (Cullen and Agnew, 1999). Through numerous legislative changes and incomplete implementation, the Becca Bill has created an entire new class of juvenile delinquents.

The Becca Bill has effectively opened the doors of the jailhouse and admitted a whole new class of juvenile delinquents who, as status offenders, are not only marginally delinquent, but in the world of the American teenager would not be considered deviant at all. Once admitted to the juvenile justice system, and particularly the detention facility, the micro-level theory of deviant peer contagion controls and amplifies the delinquency process.

Deviant peer contagion, a specific mechanism of peer influence, is based in the differential association feedback loop of labeling theory, that occurs when youth are aggregated and provided minimal adult intervention, such as in a juvenile detention facility (Osgood and Briddell, 2006; Dodge, Lansford and Dishion, 2006). In this research, deviant peer contagion gives a base for investigating the amplification process on the individual level that the Becca Bill has allowed.
While deviant peer contagion is what is primarily at issue in this research, the discussion begins with labeling because the roots of deviant peer contagion are in labeling theory, and understanding the macro theory first should help to illuminate the roots of the perspective. This chapter addresses the theoretical and empirical research that informs our knowledge of formal labeling, and then moves forward to provide insight into the process of differential association that is a central reinforcement mechanism of secondary deviance. This chapter provides an overview of the development of labeling as a lens through which to examine official criminal justice agencies and examine their actions. Finally, the chapter also explores the concept of deviant peer contagion as a specific mechanism of peer influence that addresses differential association and its effect on continued delinquent behavior.

**Labeling Theory: The Dramatization of Evil**

Early criminologists recognized that placing people in prisons could deepen involvement in crime (Cullen and Lilly, 1999). Jeremy Bentham lamented that "an ordinary prison is a school in which wickedness is taught by surer means than can ever be employed for the inclination of virtue. Weariness, revenge, and want preside over these academies of crime" (cited in Lilly, Cullen and Ball 2007, pg. 127). Willem Bonger similarly noted that in imprisoning young people who have committed misdemeanors of minor importance we are bringing up professional criminals (Cullen and Ball 2007). These general observations and insights on the effects of labeling were largely stated in passing and not fully integrated into a theory until much later (Cullen and Agnew, 1999).

Rooted in the massive social upheaval and increasing distrust of government agencies surrounding the Great Society of the 1960's, labeling theory took root with sociologists who began to critically question the views of society, including those of crime (Kubrin, et. al., 2009).
Through the 1960's, society became more and more skeptical of the government and labeling became a natural answer to the question of why certain people are more frequently stigmatized than others. With mistrust of government growing, labeling was one way to critique and explain abuses of power (Williams and McShane, 2004).

Noting that definitions of crimes differ in time and place (for example, alcohol prohibition, marijuana legalization laws in the Netherlands, or more recently Washington and Colorado), labeling theorists question the notion that as crime is necessarily bad, those who commit crime must also be necessarily bad. Thus, labeling theorists adopt a more relativist definition of crime and deviant behavior, or one that assumes that nothing about a given behavior automatically makes it deviant. Deviance is not a property of behavior; it is a result of how others view that behavior (Kubrin, et. al., 2009). Labeling theorists believe that the state has a role and responsibility in the creation of crime and deviance. Labeling theory is unique in this way among criminological theories. What distinguishes labeling theory from other theories of crime is that it locates the starting point for inquiry into the source of criminality not with the offender and his or her environment, but instead focuses on the variety of ways that society, and especially the state, creates and reacts to the deviant act and the actor.

The intellectual history of labeling as a criminological theory can be found in symbolic interactionism in sociology. Symbolic interactionism is the idea that meaning is derived from interaction, through communication, symbols and language. According to George Herbert Mead of the Chicago School and Charles Horton Cooley, our conception of ourselves is shaped by our interaction with others (Lemert, 1993). An individual's identity, self-concept, values, and attitudes only exist in the context of acting, reacting and changing in social reaction with each other. This is to say that labeling of an individual by another affects one's own identity. This is a
key concept in labeling theory that Cooley (1993) called the "looking glass self." The looking glass self indicates that our self-concepts are reflections of other's opinions of us. Other's views and opinions of us are reflected in our own self-image. Other's views are communicated to us by the labels applied to us by others (i.e. mother, wife, runner, and colleague). We define ourselves based on these labels. We take into account how people treat us to gain a sense of who we are.

One of the earliest statements of symbolic interactionism as a new and distinct theory was by Frank Tannenbaum in 1938's *Crime and the Community* (1994). Tannenbaum studied juvenile street gangs and described how normal parts of adolescent behaviors, such as breaking windows and school truancy, evolve from nuisance to evil. These youth who engage in simple delinquency come into conflict with the community, and the community begins to see the youth as irritating and troublesome, which then separates the youth from conventional society and starts the process of labeling, or the “dramatization of evil” that locks the youth into a life of crime. Tannenbaum notes that “the process of making the criminal, therefore, is a process of tagging, defining, identifying, segregating, describing, emphasizing, making conscious and self-conscious; it becomes a way of stimulating, suggesting, emphasizing, and evoking the very traits that are complained of” (Tannenbaum, 1994, pg. 259).

Tannenbaum (1938) was also the first scholar to emphasize the role of the state in the process of labeling the deviant. Tannenbaum (1938) noted that while only some children who break the law are caught, they are all equally guilty. This point is significant to labeling theory and the analysis of the Becca Bill. The youth who is caught breaking the law is singled out for specialized treatment as the arrest precipitates state intervention. The youth's world is now significantly altered, and the youth starts to reconsider his or her identity. He or she is classified as deviant and the entire world becomes a different place. Tannenbaum notes that this is
especially true if the youth is detained where his or her “uncrystalized” (1994) attitudes are hardened through the education that other offenders provide.

The first scholar to systematically discuss the process of labeling on deviance was Edwin Lemert in 1951's *Social Pathology*. Lemert claimed that there were two kinds of deviant acts: primary and secondary. Primary deviance occurs when an individual violates societal norms without viewing himself as a deviant. Primary deviance is unorganized, inconsistent, and infrequent (Kubrin, 2009) and, because the individual committing the acts has not internalized the deviant label, is of little interest to labeling theorists. Once the deviant label is attached to a person, the deviance can stabilize and one's self-image can change. Deviant acts that occur subsequent to this change in self-concept are known as secondary deviance. Secondary deviance cements within the individual after the community has become aware of the primary deviance and has labeled the individual as criminal, delinquent, or another deprecating label. According to Lemert (1951, pg. 76), the sequence that leads to secondary deviance is as follows:

1. Primary deviation,
2. Social penalties,
3. Further primary deviance,
4. Stronger penalties and rejection,
5. Further deviation,
6. Crisis reached in the tolerance quotient, expressed in formal action by the community to stigmatize the deviant,
7. Strengthening of the deviant conduct as a reaction to the stigmatizing and penalties, and
8. Ultimate acceptance of the deviant social status.
Adler, et al., (2010), define the labeling process in more practical terms, and propose an example where a youth commits a primary deviant act such as stealing from a neighbor and the neighbor gets mad, which is an informal social reaction. The youth continues to break the rules by also vandalizing the neighbor's car, which prompts the neighbor to tell the youth's parents. The youth then commits a more serious offense; he is caught shoplifting and formally adjudicated. He is then labeled as delinquent and bad by the neighborhood, his family, and friends; which causes him to start to think of himself as a delinquent, so he joins other delinquent youth who are engaging in similar activities. Finally, the youth robs a local grocery store, a much more serious (and secondary) deviant act, with members of his gang of delinquent friends and is returned to court and is cast out of conventional society, causing him to fully adopt a deviant lifestyle.

Although Tannenbaum and Lemert explicitly state that society's reaction can generate and reinforce additional deviance, it was Howard Becker's work *Outsiders* (1963) that pushed labeling to the forefront of criminological inquiry. Becker analyzed the history of marijuana laws in the United States and described how the federal government transformed marijuana use into a deviant act through the Marijuana Tax Act of 1937. The Federal Bureau of Narcotics saturated the media with stories of marijuana-crazed immigrants and out-of-control youth. These stories served to criminalize the drug and demonize those used it. Becker specifically noted that deviance can be created, because different groups have different views of what is right and wrong in certain situations. What is deviant and who is deviant is in the eye of the beholder, especially in the segment of society that determines who and what is criminal.

Becker noted that the reaction to the deviant act is as important as the act itself. He reminded us that not all crimes are discovered and, therefore, not everyone who engages in crime
is labeled as a criminal. Becker transformed the question that criminologists sought to answer from "why do people become criminal?" to "how do we react to people who are criminal?" This is the distinguishing factor of labeling theory; the shift of the level of analysis from the offender himself to that of the state or system and their role in the initial label and the further creation of criminality.

While Lemert had previously defined the label as an independent variable, Becker added a new dimension to labeling theory whereby the label is a dependent variable in that it is created and explains why some people are labeled and others are not. Becker (1963, pg. 9) states:

*Social groups create deviance by making the rules whose infraction constitutes deviance*, and by applying those rules to particular people and labeling them as outsiders. From this point of view, deviance is *not* a quality of the act the person commits, but rather a consequence of the application by others of rules and sanctions to an "offender." The deviant is one to whom that label has successfully been applied; deviant behavior is behavior that people so label [emphasis in original].

In short, what is established in the creation of deviance are rules, laws, characteristics of the individuals, and the reactions of society that act to separate the deviant from those who are not deviant. It is not important that deviance actually exist, just that the audience *thinks* that it exists. The perception is the reality. It is not important that the behavior actually exist. What is important is that there is a reaction to the behavior that then creates further deviance. The problem for Becker is explaining how *outsiders* (deviants) are chosen and labeled (Williams and McShane, 2004).
To show how society's reaction leads to more crime, not less, labeling theorists borrowed Merton's (1968) concept of a "self-fulfilling prophecy." Merton's self-fulfilling prophecy indicates that a false definition of the situation in the beginning evokes a new behavior that ultimately makes the original false conception true (1968). The false definition means that once arrested and processed through the criminal (or juvenile) justice system, citizens not only define the behavior as bad or criminal, but also assume that the offenders as people are bad; that they are the type of person who will soon be in trouble again (Lilly, Cullen and Ball, 2007). Lemert suggested that these predictions are likely to be wrong. Most primary deviance is not deeply rooted in character or lifestyle; it's unstable, unformed, and experimental.

The assumptions that society makes about the offender being a criminal are consequential, because they shape the way society reacts to the offender. Equipped as they are with the false definition of criminal, society can set in motion the processes that evoke the anticipated behavior in the offender and can then transform the offender into the very type of criminal that society fears. The conferring of a criminal label singles out a person for differential treatment. The offender becomes, in Becker's words, "one who is different from the rest of us, who cannot or will not act as a moral human being and therefore might break other important rules. As a result, being a criminal becomes the person's master status or controlling public identification" (Lilly, Cullen and Ball, 2007; pg. 34). In social encounters, people do not consider an offender's status as a husband, parent, or co-worker; they only see that they are interacting with a criminal.

**Increasing Deviance through State Labeling**

Despite classifying the youth as status offenders, the reality is that the youth affected by the Becca Bill are processed by the juvenile justice system in a way that is practically
indistinguishable from offender youth who have committed sometimes serious criminal acts. They are, to mix the famous metaphor, a rose by another name – that smells just as sweet. It is that context that provides the means by which their identities and subsequent actions can so dramatically change.

How does a person's identity change so drastically as a result of the label so as to lead the individual into persistent and sustained deviance? There are three primary ways that a label can lead to secondary deviation: 1) by altering one's self-concept; 2) by limiting one's range of conventional opportunities; and, 3) by encouraging movement into a deviant subculture. Each path reinforces the other, leading to even greater involvement in crime and deviance. Figure 3.1, (Conklin, 1992, pg. 296) illustrates the three paths from primary to secondary deviance.

**Figure 3.1: Three Paths to Secondary Deviance**

![Diagram of Three Paths to Secondary Deviance]
According to labeling theory, self-concepts are constructed in an active way; identity is not a fixed point. A person's self-concept is formed and re-formed in an interactive process of negotiating and defining his or her identity (Kubrin, et. al., 2009). When people are caught violating the law (not simply violating the law, but caught), and they are arrested by the police and processed by the court, their self-perceptions can be altered and they begin to think of themselves as criminals, which is the first pathway to secondary deviance. For juveniles especially, processing by the juvenile justice system can have long lasting negative impacts on self-concept (Schwartz and Skolnick, 1962). Bliss (1977) found that delinquents in detention had the most negative self-concepts, followed by youth on probation, while non-delinquents had the most positive self-concept. Garfinkel (1956) referred to court appearances as "status degradation ceremonies" in which people who are processed for violating the law are recast as unworthy and given a new identity as a delinquent, through application of the delinquent label by the court. The court process can initiate the self-fulfilling prophecy that Becker warned could lead to further deviance.

Labeling theory is where the danger of bootstrapping non-offenders into a delinquent identity is the most troubling. Labeling theorists would say that through the juvenile court applying an undeserved label of delinquent to youth who are in fact not delinquent but might also be on the cusp of delinquency, the labeled youth might begin to believe it, and act out, and live it.

The Three Pathways to Secondary Deviance

The effects of the label on self-concept are dependent upon who does the labeling and who is being labeled. There is evidence to suggest that the official labeling as delinquent, criminal, or deviant by the state through the criminal or juvenile justice systems can perhaps be
the most influential in the degradation of one’s self-concept (Tannenbaum, 1938; Mead, 1964; Gold, 1970; Ageton and Elliott, 1974; Gibbs, 1974; Klein, 1974; Farrington, 1977; Hepburn, 1977; Thomas and Bishop, 1984; Adams, et.al., 2003; Bernburg, et. al., 2006). It is possible that the individual may be able to fight off or reject the degrading label. If the label is inconsistent with the person's idea of him or herself, their self-concept may remain intact and the label will not persist.

There is also evidence to suggest that informal labeling, by parents, friends, and other significant others may also increase further delinquency. The mechanisms are similar to formal labeling, involving changes to one's conception of self, due to reflected appraisals. (Matsueda 1992) states that individuals who see themselves from the standpoint of others as someone who would engage in delinquent behavior in a certain situation are more likely to actually engage in said delinquent behavior. Matsueda was successful in finding evidence to support the link between informal labeling, specifically on the part of parental labeling, and subsequent delinquency (Bartusch and Matsueda, 1996).

The second pathway to secondary deviance is through a reduction in positive, pro-social opportunities. The reduction in opportunities could be through damage or strain to familial or intimate relationships, or limits to gainful employment and/or educational opportunities. Becker (1963) noted that the labeling of deviants denies them ordinary means of carrying on routines of everyday life that are open to most people and, because of this, deviants, often out of necessity, develop illegitimate routines. Once applied, the deviant label is often so strong that it tends to exclude deviants permanently from mainstream culture, leading to further deviant behavior.

As an example, individuals with past convictions for selling or possessing illegal substances are not eligible for any grants or scholarships through the Free Application for
Federal Student Aid (FAFSA). This severely limits access to Stafford Loans, Pell Grants, and many state and local financial aid offerings. While a conviction does not limit an individual from gaining an education, it can make it nearly impossible to garner student aid which oftentimes puts a university education out of reach which, in turn, also puts most gainful long term employment out of reach.

In addition to damaging self-concept and limiting pro-social opportunities, the third path to secondary deviance is by pushing labeled individuals into subcultures where they learn criminal activity and motives from other criminal peers. Gangs are a perfect example of this third pathway. The isolation that a juvenile delinquent experiences through his or her label pushes him into companionship with other juvenile delinquents and this group then becomes a means of escape and security (Kubrin, 2009). The abrogation of ties to conventional society is most probable when state intervention involves institutionalization. Detention entails the loss of existing connections to society and strains family and peer relationships to the point where they might not survive. It also mandates that offenders reside in a social setting with other, sometimes more hardened, criminals. Education in crime, as Tannenbaum (1938) and other early criminologists noted is the likely result (Lilly Cullen and Ball, 2007).

Evidence of Labeling

Researchers in many divergent fields, using many different methods, have sought empirical support for labeling, defining the label as both cause and effect, as well as searching for evidence of formal and informal labeling. Early studies indicated support for the effects of labels on subsequent deviance. Wenz (1978) reported that informal labeling by friends and parents increased the likelihood of suicide attempts by young people. Aultman and Wellford
(1979) found that variables that reflected parental and teacher labeling were closely related to subsequent delinquency.

Kubrin, et al., (2009) detail two classic qualitative studies of labeling that offer support for the theory. Rosenhan (1973) assessed the difficulty in shedding the label of mentally ill by sending his graduate students into a mental hospital with invented complaints of schizophrenia but actual life histories. The students were instructed to act normally while in the hospital; but despite not doing anything out of the ordinary, the students remained hospitalized for an average of 19 days (and up to 52 days). Their schizophrenia was never questioned and even upon release they were told that they were simply in remission, indicating that it could re-appear at any time. Rosenhan's study suggests that once a person is labeled with a disorder, the label can be incredibly difficult to shed.

Another study by Margolin (1992) focused on the other side of the labeling coin - those persons doing the labeling. Margolin demonstrated how a criminal label, in this case "child abuser" is constructed by caseworkers and becomes attached to the accused individuals. She analyzed 120 case files and established how caseworkers ‘proved’ that the people committed child abuse, by discrediting the labeled individual and almost universally describing the victims (usually children) as credible and competent witnesses. Margolin’s work underscores the role of those in power in the labeling process.

Sherman (1992) found that mandatory arrest of domestic batterers and the label associated with the arrest did influence subsequent episodes of domestic violence. However, the evidence tentatively seemed to suggest that the impact of arrest - or the label - varied according to employment status. Sherman suggests that because the batterer’s economic well-being and
stake in conformity are threatened, those that are working are less likely to recidivate after initial arrest. By contrast, arrest appears to escalate incidents among batterers that are unemployed.

A recent well-specified, longitudinal investigation by Bernburg et al., (2006) examined the short-term impact of formal criminal labeling (involvement in the juvenile justice system) on involvement in deviant social networks (gangs) and increased likelihood of subsequent delinquency. The researchers found that juvenile justice intervention positively affected subsequent involvement in serious delinquency through gang involvement.

Finally, there is a small, but growing, body of research that, consistent with labeling theory's predictions, finds that one specific sanction - imprisonment - might lead to further deviance. In their longitudinal study of boys from Boston, Sampson and Laub (1993; Laub and Sampson, 2003) found that incarceration during both the juvenile and adult years increases criminal activity through a decrease in job stability. Showing that incarceration has an effect on longer term recidivism is not the same as contending that it is the main factor in explaining stable involvement in crime. Other factors matter more than confinement (Sampson and Laub, 1993). Given that millions of adults and juveniles in the U.S. spend time confined at some point in their lives, even modest criminogenic effects of the prison sanction could have significant impact on public safety. Dmitrieva, et al., (2012) have found evidence that, at least in the short term, detention has detrimental effects on maturity among adolescents, which leads to poor decision making and lack of responsibility, which in turn could lead to more criminal conduct among previously detained youth.

Research stemming from the Pathways to Desistance study data consistently finds that incarceration has little to no effect on reducing future recidivism and has potentially devastating non-justice related outcomes. Steinberg, Chung and Little (2004) found that juvenile justice
intervention is more likely to arrest a youth's development than promote it. The system does little to prepare youth for re-entry into the community, which in turns heightens the chances that young offenders will experience failures in education, work, and the establishment of healthy interpersonal relationships (pg. 32), all of which serve as protective factors for success in adulthood.

Even with regard to justice related outcomes, Loughran et al., (2009) found that there is no effect of secure placement on future rates of arrest and, in fact, may have a slightly negative effect because incarceration raises the likelihood of re-arrest. In the same study, the authors found no benefit of longer lengths of stay in secure confinement in reducing self-reported re-offending (Loughran, 2009). Loughran et al., also go on to warn that secure placement is problematic precisely because it can label and stigmatize less serious offenders and therefore prevent their successful reintegration into pro-social roles in the community, which further erodes the successful transition into adulthood.

**Critiques of Labeling**

Critics have challenged labeling theory, arguing that it is not a theory but a "sensitizing perspective" (Williams and McShane, 2004, pg. 140). Becker (1963) explained early on that labeling was not intended as a theory, but rather as a way of looking at human activity that expands traditional research to include the process of formal social control. Labeling is not primarily interested in the person who commits a deviant act once, but is much more interested in the person who sustains a pattern of deviance over a long period of time and who makes deviance a way of life and organizes identity around a pattern of deviant behavior. It is also important to note that labeling has been heavily criticized. In addressing the theoretical concerns of critics, Williams and McShane (2004) state very simply that there has been no complete
statement of labeling and that the lists, propositions, and statements that have made up the bulk of writing and thinking regarding labeling theory are mostly sketches put together by the critics themselves.

Critics also suggest that labeling theory is overly passive regarding the role of the offender, or the one who is labeled. They argue that in the classic constructs of labeling, the labeled never fights back, never tries to throw off the label. Critics would argue that this indicates the label correctly locates and identifies real behavior rather than creating it. Tittle (1975) points to research regarding criminals whom have lengthy criminal lives despite never having been labeled. Check forgers, marijuana users, and many other white-collar criminals are often never apprehended and therefore never labeled, yet still accumulate lengthy criminal histories.

Finally, critics of labeling theory take issue with the fact that labeling theory does nothing to explain primary deviance. Labeling theory is seen as deficient in this regard because it does not address the root cause of crime. For labeling theorists, primary deviance is uninteresting because it is sporadic and non-patterned.

**The Future of Labeling**

Recent decades have found the get-tough criminal justice policies, which claim more and harsher punishment can deter future crime, to be largely unsupported. Years of get tough polices, such as the three-strikes law, juvenile waiver to adult court, increased surveillance in the community, and generally longer sentences, has more than quadrupled the incarceration rate in the United States since 1975 (Chaiken, 2000) and has left states and counties with prisons and jails filled to capacity. While crime rates are now nearing an all-time low in the United States (Federal Bureau of Investigation, 2012), it is unknown whether the low crime rate is due to
massive levels of incarceration or some other social or demographic trend (Clear, 2007; Clear and Austin, 2009; Haq, 2010; Johnson and Rafael, 2012). Increased state intervention in the lives of offenders is of course antithetical to labeling, which predicts that this increased intervention would increase criminal behavior. Finding mixed results in this regard, scholars have turned their attention to the quality of the sanction. Three recent attempts at extending labeling theory in that direction are Braithwaite's reintegrative shaming theory, Sherman's defiance theory, and Rose and Clear's coerced mobility theory.

John Braithwaite (1989) has taken up the issue of the conditions under which societal reaction increases (as labeling theory predicts) or decreases crime. Braithwaite introduced the concept of shaming to criminology, which he defined as "all processes of expressing disapproval which have the intention of invoking remorse in the person being shamed and/or condemnation by others who become aware of the shaming" (pg. 9). Shaming comes in two varieties - reintegrative and disintegrative - and each has a different impact on subsequent deviance.

Braithwaite argues that disintegrative shaming, consistent with labeling theory, stigmatizes, excludes from the community, and creates a class of outcasts. The offender is beyond forgiveness and unwelcome in the community, which results in further entrenchment in the criminal lifestyle. On the other hand, reintegrative shaming occurs when the initial criminal act evokes community disapproval, but is followed by attempts to "reintegrate the offender back into the community through ceremonies that decertify the offender as deviant" (Braithwaite, 1989; pg. 100-101). This reintegrative process reduces subsequent criminal activity by exerting greater control over offenders and not setting in motion the criminogenic process caused by stigmatizing and social exclusion.
Braithwaite also points out that the underlying social context determines the extent to which shaming will be reintegrative or disintegrative. In communal societies such as Japan communities are interdependent and based on mutual help and trust. Shaming in Japan is reintegrative and produces low crime rates (Becker, 1988). On the other hand, the United States lacks shared cultural and institutional bases that that would encourage viewing offenders as part of an interdependent community. Therefore shaming in the United States tends to be disintegrative and Braithwaite would argue is a reason that the United States is burdened with a high crime rate.

Braithwaite has enriched labeling theory by instructing that shaming (or labeling) varies in its nature and effects, but also that the variation is contingent upon the society in which the shaming takes place (Lilly et al., 2007, pg. 140). Reintegrative shaming as a theory has shown mixed but promising results, yet even Braithwaite recognizes that the elements of reintegrative shaming need to broken down to see what items are theoretically crucial and which should not be a challenge to criminology (Lilly et al., 2007, pg. 141).

Sherman's defiance theory began with the observation that labeling theory does not account for the many examples where sanctions and punishment does reduce crime. At the same time, Sherman recognized that there were also many examples where sanction and punishment did increase crime as labeling theory would predict. Therefore, he set out to answer the question under what conditions does each type of criminal sanction reduce, increase, or have no effect on future crime (Sherman, 1993, pg. 445)?

Sherman's central concept is that of defiance, which he defines as the net increase in prevalence, incidence, or seriousness of future offending against a sanctioning community caused by a proud, shameless reaction to the administration of a criminal sanction (Sherman,
Of specific importance is the observation that when offenders are treated poorly or disrespected by the police or courts, they are likely to act defiantly. In such cases, sanctions are not perceived as legitimate and are incapable of bringing about the intended effect of reducing future crime.

There are three factors that, according to Sherman, increase the likelihood of the offender perceiving disrespect and prompting increased criminal activity. First, when offenders have few social bonds to the community, there is little to restrain their defiance. Second, when offenders perceive that the sanction is stigmatizing not the act but themselves personally, they are more likely to act in defiance. Third, when offenders refuse to acknowledge that they have been shamed, they are more likely to respond with pride and use crime to exact revenge on the community. In a situation where all three factors are in play, such as in minority, inner-city youth following the code of the street, Sherman would predict that criminal sanctions are very likely to backfire, creating more criminal activity as labeling theory would predict.

Rose and Clear’s (1998) coerced social mobility theory attempts to extend labeling theory from the individual to the larger community. Rose and Clear explore what happens when the state adopts a policy of mass incarceration that disproportionately removes young, minority males from inner cities. At the end of the year 2010, there were 2,266,800 adults in state or federal correctional facilities (Glaze, 2011). Of those 2.2 million adults, the United States Department of Justice estimates that African American males make up 38 percent, a figure more than six and a half times their population (Bureau of Justice Statistics, 2009, pg. 2). With this level of incarceration concentrated amongst a population of inner-city young African American males, Rose and Clear (1998) theorize that this coerced mobility into incarceration may have the
unanticipated consequence of increasing, rather than decreasing a community's crime rate, an idea consistent with labeling theory.

Rose and Clear are not naive to the counter-intuitive nature of this theory. They realize that it is hard to comprehend how it can be bad for neighborhood life to remove people who are committing crimes in those very neighborhoods (Lilly et al., 2009, pg. 142). However, when the incarceration rate is massive and so concentrated in vulnerable minority inner-city communities, it may become a macro-level force that undermines existing social institutions in such a way as to produce more, rather than less, social disorganization and conditions conducive to crime.

According to coerced social mobility theory, offenders are seen as both liabilities and assets to the community. Their incarceration reduces community liabilities through incapacitation, but it also lessens their assets. Therefore, the net impact on the community will vary highly with the affluence and existing level of social organization of the community. Consider that offenders typically earn money, whether legally or not, and while not always reliable, do provide income for their partners and children. When incarcerated, that support is disrupted, which contributes to social disorganization. Without monetary support, families may change addresses and/or mothers may have to work additional jobs, meaning less time to spend with their children. In addition other males who are not the parent may be introduced to the family; all of which contribute to higher levels of social disorganization.

Also consider that upon re-entry the offender's job prospects are limited. When large swaths of the community have been incarcerated for significant periods of time, no human capital is being built. As a result, marriage prospects are limited, but not motherhood prospects, potentially leading to high rates of single parent households (Sampson and Groves; 1989; Wilson, 2012). Finally, these re-entering offenders likely import prison culture and pro-criminal
values into the community. If incarceration is common enough in the community, prison likely loses its stigma, all of which combine to weaken conventional community institutions.

While imprisonment may achieve short-term reductions in crime rates by incapacitation, it does not mean that overuse of incarceration might not still be a factor in worsening levels of social disorganization and also contribute to the emergence of the next generation of offenders - youngsters who will eventually follow their fathers and brothers into prison (Lilly et al., 2009, pg 144). There is a recent body of literature that suggests that youth's risk-reward calculations differ significantly from those of adults (Shulman and Cauffman, 2013), meaning that juvenile crime may be attributable to transient developmental factors. This means that while the odds of criminal activity might increase during adolescence, age and immaturity may also constitute a mitigating circumstance (Steinberg and Scott, 2003), which is part of the natural aging out process. Recent data show that residential placement can actually slow the process of aging out (Justice Policy Institute, 2009).

With what we know of the harm of incarceration on development of maturity (Dmitrieva et al., 2012), and the potential for incarceration to actually increase future crime, non-violent offenders and surely non-offender youth may be much better off being left alone by the system in full. Research shows that youth who are incarcerated have higher recidivism rates than youth who remain in communities (Justice Policy Institute, 2009) and incarceration does not necessarily decrease crime. An Arkansas study found that the experience of incarceration was the most significant factor in increasing the odds of re-offense (Benda and Tollet, 1999) and, in fact, in Washington State research found that 59 percent of youth that were incarcerated re-offended within one year, and 68 percent within two years (Feld, 1999).
Policy Implications of Labeling

Policy changes influenced by the findings associated with labeling theory have created major changes in criminal and juvenile justice. The major policy implications of labeling theory fall into four areas: diversion, due process, decriminalization, and deinstitutionalization.

Diversion is a direct product of labeling theory's contention that labels can lead to subsequent deviance and therefore should be avoided if at all possible. If stigma is assigned to youth by being processed by the juvenile justice system, the answer is obviously to avoid processing them and divert them from the system. By the 1970's, juvenile justice systems began diverting youth from the system by avoiding official offender labels under direction and guidance of the federal Office of Juvenile Justice and Delinquency Prevention. This did not mean that youth were no longer processed by the system, just that they no longer had an offender record and therefore the most damning label - that of the court. The official label can lead to secondary deviance by limiting pro-social opportunities.

If diversion as a policy had been effective, it would have reduced the subsequent criminality of the youth diverted and ultimately reduced the adult crime rate. However, youth that are diverted are generally less serious offenders, have committed less serious crimes, and are rarely persistent offenders. The research generally indicates that diversion does not reduce labeling, the youth just received a different label (Blomberg, 1980; Austin and Krisberg, 1981; Dunford, 1977), and that diversion actually serves to increase the number of youth brought into the system. Diversion programs are said to create a net-widening effect, because they refer youth for diversion for trivial matters when they should never have entered the juvenile justice system from the start (Decker, 1985; Shelden, 2004; Bechard et al., 2011).
The due processing aspect that labeling theorists are concerned with is that the characteristics of individuals may create different reactions to labels; it was obvious to policymakers that those same characteristics might influence formal processing. In the 1960's critics of the juvenile justice system claimed that justice served in the 'best interest of the child' resulted in unpredictable and discriminatory practices. This led policymakers to add legal protections to the juvenile justice system to support due process as in the adult criminal justice system.

Decriminalization literally means to remove a specific crime from criminal law. Early decriminalization movements, such as Washington's Juvenile Justice Act of 1977, centered on removing status offenders and offenses from the juvenile court. By bringing status offenders into the juvenile court, and potentially into juvenile detention, labeling theorists argued that the youth were not only being stigmatized but were also learning truly delinquent behavior from other offenders with whom they are placed (Williams and McShane, 2004). As highlighted in Chapter Two, the court processing and detention of thousands of truants over the years in Washington State under the Becca Bill is completely antithetical to the decriminalization of status offenders seen elsewhere in the country.

Finally, labeling was the driving force behind deinstitutionalization policies of the late 1960s and 1970s. Mental health patients were largely released from institutions in favor of community-based treatment, with no great uptick in mental health problem. In the juvenile justice realm, the best example of deinstitutionalization is the Massachusetts experiment where Jerome Miller, Commissioner of the Department of Youth Services, closed the doors to all of the state's reform schools and began supervising the youth in the community (Miller, 1992).
Opponents predicted rampant and increasingly violent juvenile crime, most of which were proved unfounded.

**The Differential Association Feedback Loop in Labeling**

Recall from earlier discussion the three pathways from label to secondary deviance that Conklin (1992, Figure 3.1) describes. The first pathway is alteration of one's self-concept, followed by the limitation of conventional opportunities and, finally, individuals are encouraged to move into a deviant subculture. Each path reinforces the other, leading to even greater involvement in crime and deviance. Nestled into the labeling model is the idea of differential association. Differential association is a standalone learning theory of crime that posits that crime, like any other activity, is learned through the process of "differential association."

Edwin Sutherland (1947) first proposed the idea of differential association as an explanation for differing levels of crime in differing neighborhoods in Chicago. Criminologists of the time assumed that crime and delinquency were due to some moral failing of the lower classes. Sutherland, in focusing on law violators who were not poor, began to question this assumption. Instead, he argued that crime is learned like any other behavior and occurs through differential association (Kubrin et al., 2009, pg. 137).

Sutherland assumed that all delinquents and criminals (be they violent or white collar criminals) learn to commit crime just as non-criminals learn to behave conventionally – through socialization with significant others in primary groups (Sutherland, 1949). Sutherland called his theory differential association to describe how groups having criminal knowledge, skills, and practices could have an impact on non-offenders. This impact is proportional to the extent to which they associated with criminal groups relative to associating with conventional groups. In
such a context, learning knowledge, skills, rationalizations, and justifications enable or facilitate rule-breaking activity by defining it as favorable and/or desirable (Henry and Einstadter, 1998).

The theory of differential association is stated in nine parts:

1. Criminal behavior is learned.

2. Criminal behavior is learned in interaction with other persons is a process of communication.

3. The principal part of the learning of criminal behavior occurs within intimate personal groups.

4. When criminal behavior is learned, the learning includes (a) techniques of committing, which are sometimes very complicated, sometimes very simple; and, (b) the specific direction of motives, drives, rationalizations, and attitudes.

5. The specific direction of motives and drives is learned from definitions of legal codes as favorable and unfavorable.

6. A person becomes delinquent because of an excess of definitions favorable to violation of law over definitions unfavorable to violation of law.

7. Differential associations may vary in frequency, duration, priority, and intensity.

8. The process of learning criminal behavior by association with criminal and anti-criminal patterns involves all of the mechanisms that are involved in any other learning.

9. Though criminal behavior is an expression of general needs and values, it is not explained by those general needs and values since non-criminal behavior
is an expression of the same needs and values. (Sutherland, 1947 and Sutherland and Cressey, 1960).

Although all nine statements make up the theory of differential association, it is the sixth statement that Sutherland called the principle of differential association. Thus, it is not a simple theory of associating with bad companions; rather, it is concerned with contact with criminal patterns and definitions balanced against contact with conforming definitions, whether this contact comes from association with those who commit crime or with those who are law-abiding (Cressey, 1960).

Sutherland and Cressey thought differential association an appropriate theory to explain both individual criminality and macro-level community criminality. The importance of each level of analysis differs. For the macro-level community criminality, as evidenced by different crime rates, the differential social organization is of the most import. For the individual level criminality, the learning function is the most important.

In the Conklin model (Figure 3.1) presented earlier, differential association is displayed as a specific item that interacts with labeling theory's pathways to secondary deviation. Specifically, when stigmatized and labeled, individuals are driven into a subculture, the change in self-concept that occurs happens through differential association with other deviants. Deviant peer contagion attempts to understand and describe the specific mechanisms by which the learning component of differential association takes place and subsequently affects self-concept.

The Group Nature of Juvenile Crime

One of the most robust and consistently documented observations in juvenile delinquency is the group nature of juvenile offending (Warr, 2002). Shaw and McKay (1931) found that more
than 80 percent of the juveniles appearing before the Chicago Juvenile Court in the late 1920's had accomplices. Similar findings drawn from official court data have been regularly reported through present day (c.f. Gold, 1970; Erickson and Jensen, 1977; Shannon, 1988; Warr, 1996). While delinquent groups vary in their overall rates of deviance, if one member of a group is deviant there is a very high probability that others will be as well (Cairns et al., 1988; Dishion and Crosby, 1995; Berndt and Keefe, 1995; Fergusson and Horwood, 1996; Keenen et al., 1995; Moffit, 1993; Moffit and Caspi, 2001; Simons, Wu, Conger and Lorenz, 1994). While much of the research regarding the group nature of juvenile crime focuses on naturally occurring groups, such as friend dyads and gangs, there is newer work that suggests that the group nature of delinquency may also occur in non-naturally occurring groups, particularly in areas where delinquents are aggregated for therapeutic treatment and/or detention (Dodge and Sherrill, 2006; Reinke and Walker, 2006; Lipsey, 2006). These findings are particularly troubling because they can undermine the pro-social goals of treatment programs.

Concern about separation, or conversely, aggregation of delinquent youth is not a new concept for juvenile justice in the United States. In fact, it is at the very heart of the Progressive Era reforms that created the juvenile court and a juvenile justice system in the United States. The founding of the juvenile justice system is generally accepted to have begun with the first Houses of Refuge in New York in 1825 (Osgood and Briddel, 2006). A primary rationale for the House of Refuge was to create an alternative to placing youth in prisons with adults. One of the reasons for this uneasiness was the assumption that adult criminals would adversely influence youth toward a life of crime (Schlossman, 1977). A report in 1819 of the group that established the first House of Refuge stated that the penitentiary serves as a college for the perfection of adepts in guilt (Bernard, 1992).
The concern that adult facilities exposed innocent juveniles to hardened criminals soon extended to the Houses of Refuge as well. By 1850, there was widespread criticism that conditions in the Houses were little better than prisons (Osgood and Bridell, 2006,). Among the negative critiques of the Houses was the idea that "incarceration provided a perfect setting for the instruction and reinforcement of the norms and techniques of criminal behavior" (Schlossman, 1977).

The response to this criticism was the development of the cottage system for use in juvenile institutions. The cottage system, developed in Europe, assembled small groups of delinquents together in a home-like setting with an adult couple acting as parent figures. A central part of the cottage system was to group the youth together with other youth of similar levels of delinquency in an effort to minimize the negative peer influence of more seriously delinquent youth on the more innocent (Schlossman, 1977). However, small cottages are expensive and inefficient to operate and were largely abandoned in favor of larger reformatories that mixed the innocent and the seriously delinquent, thereby facilitating the negative influence and association of the innocent and turning reformatories into schools for crime (Folk, 1892).

The goal of aggregating at-risk youth in programs and settings with other problem youth is to reduce their influence on mainstream youth and, while this may benefit the mainstream youth by removing problem behavior from their sphere, recent evidence suggests that deviancy spreads rapidly among adolescents when they associate with other deviant youth, especially in early adolescence (Rosch, 2006). When placing problem youth together, away from mainstream, non-delinquent youth, their group identity is their delinquency and problem behavior, which can serve to reinforce those negative behaviors through the same pathways that labeling works through to create secondary deviance.
Increasing Deviancy by Segregating and Aggregating Delinquent Youth

Unfortunately, what is routinely done in juvenile justice practice is to segregate and aggregate delinquent youth (Dodge, Lansford and Dishion, 2006). The irony of the policy of segregation and aggregation is one that every parent knows: gather a group of teenagers together in an unstructured environment, with little adult supervision, add in some delinquent friends, and either potential problems arise or existing problems get worse. This is the main tenet of deviant peer contagion theory. By definition, deviant peer contagion is a distinct form of peer influence in program settings that may arise when deviant youth are brought together for treatment or therapy (Dishion, McCord and Poulin, 1999). Deviant peer contagion entails a positive feedback loop whereby youth influence each other to become more delinquent or deviant than they would have been in the absence of the program. The deviant peer contagion effect can exacerbate delinquency rather than reduce it (Osgood and Briddell, 2006).

Deviant peer contagion is not an independent, stand-alone theory, but its effects can be distinguished from the effects of the label in this research. It should be thought of as a heuristic, or an approach of use in helping to untangle the intersecting levels of influence at work in deviant peer influence. Much like the labeling theory before it, deviant peer contagion is an orientation or a lens through which to view delinquency. It is arguable that researchers concerned with the development of deviant peer contagion as a discipline are more concerned with policy and practical antecedents of deviant peer contagion than theory building and testing (Dishion and Dodge, 2006).

Deviant peer contagion has grown directly out of psychological and sociological explorations of peer influence and delinquency. One of the most stable and well-established findings in delinquency research is that the delinquency behavior of an individual is positively
related to the actual or perceived delinquent behavior of that individual’s friends (Akers, et.al., 1979; Matsueda, 1982; Elliott, Huizinga and Ageton, 1985; Elliott, Huizinga and Menard, 1989; Elliott and Menard, 1996; Warr, 2002; Prinstein and Dodge, 2008; Dodge, Lansford, and Dishion, 2006.). Despite the well establish support, there is disagreement about the interpretation of the relationship between peers and delinquency behavior. Elliott and Menard (1996) group the dominant interpretation into three major theoretical explanations: 1) the suggestion that delinquent behavior and having delinquent friends are really just different measures of the same thing; 2) social learning theory explanations that exposure to delinquent friends leads to delinquent behavior; and, 3) social control theory explanations that delinquent behavior leads to the acquisition of delinquent friends. Disentangling which explanation is correct is an important question for researchers, but is not the focus of the research at hand. What is important to this research is the basic acceptance that peer influence can amplify subsequent deviance.

**Evidence of Deviant Peer Contagion**

In educational settings, research into effects of aggregating delinquent youth is limited and findings have been mixed. Initial results have indicated that aggregating at-risk youth in vocational education settings does not produce positive effects on later criminality (Ahlstrom and Havighurst, 1971; Arum and Beattie, 1999). Several studies of special education students suggest that students receiving special education services are more likely to be suspended and recommended for expulsion than non-special education students (Morrison and D’Incau, 1997). Additional evidence suggests that for students with conduct problems, special education tracking actually serves to increase the problem behavior, rather than reduce it (Dodge, Lansford and Dishion, 2006).
Meta-analyses of mental health interventions suggest that multiple effects may operate in therapy. First, therapies have a generally positive effect on children; however, similar therapies when administered in a group setting have less positive effects (Lipsey, 2006). Groups that assemble youth in all-deviant groups have even fewer positive effects than groups with a high proportion of well-adjusted children (Ang and Hughes, 2002). In a comprehensive meta-analysis of juvenile justice programming, Lipsey et al., (2009) reported positive effects in programs that often aggregate youth, such as group counseling. However, what Lipsey’s (2009) study does not detail is whether the programs included only delinquent youth or mixed groups of delinquent and non-delinquent youth and what seriousness levels of delinquency the youth involved in the treatment were. These factors are all moderators of deviant peer effects. It is as if the positive effect of therapy is partially (and sometimes wholly) offset in the deviant peer group setting by another, opposing effect (Dodge, Lansford and Dishion, 2006). In mental health treatment scenarios, Lipsey and colleagues (2009) find that restrictive out-of-home placements for mental health treatment are also effective and, in fact, inpatient treatment may do more harm than good in many cases.

Despite the history of concern about negative peer influence in justice program settings and the aggregation of deviant peers in so many programs, there would seem to be considerable potential for deviant peer influence in juvenile justice. Yet, research directly examining peer effects in programs is rare (Osgood and Briddell, 2006). A number of studies of the “Scared Straight” program for juvenile offenders have yielded uniform conclusions that the program is not effective and may actually exacerbate criminal offending (Sherman and Strang, 2004).

In a meta-analytic review of more than 500 crime prevention programs, Sherman et al., (1997) found that, with respect to delinquent and at-risk youth, the only prevention programs
with clearly positive results were those that treated youth individually and were aimed at family interaction. Several peer group crime prevention programs aimed at adolescents showed no effects or even potentially negative effects. Counseling, particularly peer group counseling, failed to reduce substance abuse or delinquency, and in some cases actually increased delinquency. A common element across all programs identified as ineffective is the aggregation of deviant youth.

Osgood and Briddell (2006, pg.160) after an extensive review of the available literature surrounding deviant peer influence in juvenile justice programs clearly state the need for this kind of study:

It is still not clear exactly how deviant peer influence operates, especially under the conditions of various juvenile justice programs and among groups of different types of juveniles. Our review of specific studies makes clear that research about peer processes in juvenile justice programs remains quite limited. There is also little, if any, available evidence about whether deviant peer contagion is equally applicable across lines for gender, race/ethnicity, and social class. Most importantly, we know very little about the effectiveness of different strategies for overcoming deviant peer influence.

**Policy Considerations**

Dishion et al., (2006) conclude that the majority of the negative effects documented result from an interaction between the prior characteristics of the participants and the dynamic of the group. Other research in this area indicated that the developmental status of the individual is also
relevant. Findings from the Duke Executive Sessions on Deviant Peer Contagion found that
deviant peer contagion effects appear to be the strongest for the following types of children
under the following types of conditions:

1. During early adolescence;
2. For youth who have experimented with deviant behavior but have not yet
   committed themselves to a deviant lifestyle;
3. For youth who are exposed to peers who are slightly more deviant than they
   are;
4. For youth who interact with deviant peers in unstructured, unsupervised
   settings;
5. For behaviors that are usually acquired through social processes (e.g.,
   delinquency, substance abuse, violence). (Dishion, Dodge and Lansford,
   2006; Rosch, 2006).

Based on these findings, the prestigious blue ribbon commission on deviant peer
contagion also suggested the following twelve types of programs and policies for juvenile justice
administration that should be “avoided at all costs” by juvenile justice authorities:

1. Group incarceration
2. Military-style boot camps and wilderness challenges;
3. Incarceration placement with other offenders who committed the same crime;
4. Custodial residential placement in training schools;
5. Three strikes mandated long prison terms;
6. Scared Straight;
7. Group counseling by probation officers;
8. Guided group interaction;
9. Positive peer culture;
10. Institutional or group foster care;
11. Bringing younger delinquents together in groups;
12. Vocational training

Even a cursory glance at these recommendations reveals programs and policies fraught with the possibility of negative deviant peer contagion effects. Particularly, the Commission recommends that at-risk, or moderately delinquent youth (like status offender, Becca youth), should never be aggregated, especially in an institutional correctional setting. The Commission members also note, however, that systematic research on aggregation and contagion effects in juvenile justice settings are scarce. Given that King County preventatively detains Becca youth in a secure facility, the question of whether or to what degree harm is inflicted on these youth is both timely and extremely important.

Conclusion

It is hypothesized that it is not the labeling process so much that affects future deviancy, but the interaction between the officially applied delinquent label and the iatrogenic effects of deviancy training while youth are aggregated for detention or programming. This research is sensitive to the idea that it is not simply the label that affects future action, but a learning process that the delinquent youth engage in while in official programming that also militates toward future deviant behavior. While the scope of this study will not include answering all these questions, it is clear that, based on the recent interest in this field and limited systematic research
findings, there is an obvious need for specific research about peer influence in juvenile residential and correctional settings.

Subsequent contact, by way of a state label coupled with preventative detention, will be examined using two sets of data including offenders and non-offenders (Becca youth); one where the non-offender youth are separated and one where they are co-mingled in King County. It is hypothesized that the non-offender youth will proceed into further delinquency at a rate similar to that of the offender youth in the sample due to their labeling, detention, and overall involvement with the juvenile justice system. The findings of this research will be significant for policymakers given the policy choice in Washington State to introduce non-offender youth to the justice system, and to process and ultimately institutionalize youth who, by definition, have not committed a criminal act.
Chapter Three References

Adolescence, 38: 149, 171-186.


CHAPTER FOUR
DATA AND METHODOLOGY

In remarks made to the International Society for the Reform of Criminal Law, Melodee Hanes of OJJDP stated, "Thirty-eight years of research and experience at OJJDP have taught us that the minute a youth sets foot in detention or lockup, he or she has a 50-percent chance of entering the criminal justice system again when they are adults." Further, "involvement with the juvenile justice system is the single greatest predictor of later criminality" (OJJDP, 2012). Given the possibility of those stark outcomes, introducing Becca youth (who have committed no criminal offense) to detention potentially sets them on a very destructive path to adulthood. The current study focuses on the subsequent re-offense rate and potential increase in subsequent lengths of stay in secure detention of Becca youth preventively detained in King County Juvenile Detention.

The focus of this analysis is to assess the effects of aggregating and co-mingling marginally delinquent youth in a preventive detention scenario in King County, Washington. Remedial detention for status offenders is allowed under Washington State statute, and is used as a form of preventive punishment. Youth detained under the Becca Bill have technically not committed a crime; they have been bootstrapped into a delinquent label so they can be detained legally, and they pose at most only a slight public safety threat. In the process of preventive confinement are we doing more harm to these youth than good? That question is of considerable importance, not only to King County and the state of Washington, but to juvenile justice policy and practice across the country.
Research Questions

This research is focused on addressing four questions aimed at measuring the long term effects of bootstrapping non-offender youth into detention, and the potentially harmful effects that co-mingling may have on non-offender youth. Specifically, the questions to be addressed are as follows:

1) Do the co-mingled non-offenders return to secure detention at a higher level than the separated non-offenders?

2) Do the co-mingled non-offenders return to secure detention more quickly than the separated non-offenders?

3) Do co-mingled non-offenders have higher numbers of referrals for prosecution than non-offenders who were housed separately from offenders?

4) Do co-mingled non-offenders contact law enforcement (evidenced by referrals for prosecution) more quickly than the separated non-offenders?

5) Do co-mingled non-offenders have higher levels of adult system contact than non-offenders who were housed separately from offenders?

Juvenile detention facilities are strongly encouraged to separate status offenders from offenders because prevailing research shows that the non-offenders are more likely to learn criminal behavior from the offender youth. The emerging research around deviant peer contagion suggests that both aggregating status offender youth in an unstructured, minimally supervised atmosphere and co-mingling them with more delinquent offender youth may produce multiple layers of harm on top of the harm that detention in and of itself causes (Osgood and Briddell, 2006).
In the 2003 sample, non-offender youth were completely sight and sound separated from the offender youth in the juvenile detention facility. As a result of this separation, the non-offender youth were primarily left to their own devices in their housing unit. The non-offender youth did not attend structured classes for education, instead having limited access to a tutor provided by the Seattle Public Schools. They recreated when time and staffing allowed, on a completely ad hoc basis, and did not have access to a full time Juvenile Detention Officer; instead the Detention Officer made rounds to the unit every 15 minutes.

In contrast, the offenders in the facility were provided a much more structured experience than the Becca youth. The offender youth attended school for the majority of the day, had structured and supervised recreation time, had scheduled time in the facility’s library, and participated in structured programming and activities in their living halls.

For the majority of the day, the Becca youth were largely left to their own devices with minimal adult interaction and supervision, giving them plenty of time and opportunity to engage in anti-social behavior and talk amongst themselves. According to the deviant peer contagion literature, this unstructured environment where marginally delinquent youth are brought together can be very dangerous and may ultimately deepen the youth's involvement in delinquent behavior.

While the literature on deviant peer contagion has successfully answered a number of questions about the influence of delinquent youth on each other, one question that still must be explored is how long youth must be exposed to other deviant youth before the effects of deviancy training become apparent? Is it possible that youth can spend a few days with each other in an unstructured detention setting without causing further harm? If so, it will be of
extreme importance to future policy decisions to understand the approximate amount of time required for effects to become apparent.

The literature, especially those studies completed by Dishion and colleagues (1999, 2000, 2006, 2006b), have begun to shed light on the individual characteristics that make youth more or less vulnerable to the phenomenon of deviancy training. Given that the literature on this topic is in its infancy, confirmation of those characteristics, especially under detention conditions, is of considerable importance. Dodge (2009) found that one of the factors that is likely to increase deviant peer effects in aggregate settings (conditions in which delinquent youth are separated from mainstream youth and programmed together with other delinquent youth) is being aggregated with peers that are slightly more deviant, such as the increment in deviance between a status offender and a low-level juvenile offender. It is also important to understand how these individual characteristics may contribute to deviancy training. For example, do some premorbid characteristics contribute more heavily to deviancy training and future offending activity? If they do, it is important that researchers and policy makers understand these characteristics so that intervention programs can be tailored to meet differing needs of youth at risk of adopting a criminal lifestyle.

There is theoretical indication in the literature that youth may learn their offender behavior principally from each other. The idea that deviancy training is highly specific as to form of deviance is also of great importance in a detention setting where classification of youth based on offense type and severity level lead directly to housing decisions. Most classifications of youth tend to put less serious offenders with other less serious offenders based on the classification of the crime committed. If it is true that youth learn from each other’s crimes while they are detained together, and that less criminal youth might have a positive effect on the more
serious offenders because they have more pro-social attitudes and behaviors, findings supportive of this effect might significantly change the way we classify and house our juvenile offenders.

**Population and Samples**

This research intends to be an exploratory first step to assessing if Becca youth are unduly harmed by being co-mingled with offender youth in secure detention in King County. If findings indicate that outcomes for co-mingled youth are significantly worse than those for non-offender youth who are housed completely sight and sound separated from offenders, the study should be expanded and replicated to expand the population to which the findings can be generalized.

The research questions for the present analysis are being evaluated using two cohort data samples drawn from King County’s Juvenile Information Management System (JIMS). JIMS is the administrative data control system for all of King County’s juvenile justice case processing needs. The JIMS system is a shared system of the King County’s Prosecuting Attorney’s Office Juvenile Division (PAO), the King County Superior Court Juvenile Division (Superior Court) and the King County Department of Adult and Juvenile Detention Juvenile Division (DAJD).

JIMS tracks and records information on all youth that come into contact with the County’s Superior Court-based juvenile justice system, beginning with arrest by law enforcement and presentation to detention, case disposition, and subsequent supervision. JIMS was implemented as the system of record for the three departments making up the juvenile justice system in King County in the spring of 2012 and has been enhanced regularly since implementation. Data from the County’s previous juvenile justice system of record (JJWEB) was cleaned and migrated to JIMS prior to implementation. It is generally accepted by King County officials that data included in JIMS is clean and complete, although data entered prior to 2003
(managed through yet another system of record (JJWAN)), included fewer variables and must be viewed and used with that knowledge.

Each department that is involved in the administration of juvenile justice in King County records their own data in JIMS. The DAJD is responsible for recording data about the youth's stay in the detention facility and alternative programs that are administered by the department. The DAJD also records disposition information and any sentence or supervision changes as ordered by the Superior Court. The Prosecuting Attorney's Office is responsible for managing the charges and decisions regarding the filing of offenses presented by law enforcement. The Superior Court is responsible for recording information about conditions ordered by the court, such as restitution and conditions related to the victims as well as community supervision subsequent to disposition. Finally, King County Information Technology (KCIT) maintains offense and agency tables that are used by all departments so that data is accurate, universal to all departments, and the most current legal standards are preserved.

In mid-2008, King County changed the way it housed non-offender youth, from a complete sight and sound separation from offenders, to co-mingling the offender and non-offender youth. By selecting data from 2003 (prior to the housing change) and 2009 (after the housing change) a quasi-experimental research design is possible. In addition, utilizing data from 2003 and 2009 allows for four full years of outcome measures for the youth in each of the samples, which allows the youth time to either age out of the system, desist from offending, or persist in offending. This robust amount of data will allow strong conclusions to be drawn, not about all youth processed in King County, but certainly about the youth processed in King County for these years.
For this research, including an indication of criminal justice system involvement for the youth in question necessitated a time intensive name and date of birth search in DAJD's SIP/SeaKing jail management system of record. Full name and date of birth were available for this search, which gives an accurate return on the presence of a criminal record in SIP/SeaKing, but that record alone is not an adequate measure of recidivism. A record in SIP/SeaKing indicates only that the person has at some point been processed through the King County Jail.

While having access to King County adult booking records greatly enhances this research, there is an important limitation of this measure that is important to point out. The King County Jail houses adult felons in the County, but only houses and processes misdemeanants for contract cities, meaning that not all adults arrested and processed in King County spend time in the King County Jail and therefore do not have records present in SIP/SeaKing. Additionally, not all adult offenders in King County are processed through the King County Superior Court. There are thirteen municipal courts in King County, as well as the District and Superior Courts, all of which process adult criminal justice matters in the county. Achieving an accurate and full measure of adult criminal justice involvement, even while confining it to one county in Washington State is incredibly difficult and, while interesting, it is not of central importance to this research. A search of King County Jail booking records therefore does not mean that a person has contacted the adult criminal justice system in King County; it is simply one important indication of contact. What can be concluded with this measure is that the individual processed through the King County Jail at some point after their inclusion in the 2003 or 2009 sample.

Two complete populations were drawn from JIMS for use in this analysis. The first includes every youth booked into the King County Juvenile Detention Facility between January 1, 2003 and December 31, 2003, and the second includes all youth booked in the facility between
January 1, 2009 and December 31, 2009. Records from 2003 were selected because it is one of the oldest years of data in JIMS that is deemed to be accurate and complete and allows a full four years of data to be collected prior to the housing change that co-mingled the non-offenders in 2008. Data from 2009 was included, as it is the first full year of data after the housing policy regarding the separation of Becca youth was changed, allowing Becca youth to be co-mingled with offender youth. The 2009 cohort is also five full years later than the very last booking that would determine inclusion in the 2003 group, which allowed youth to age out of the juvenile justice system and reduces the number of youth that appear in both cohorts. Finally, the use of 2009 as the second or experimental cohort allowed three full years past the final 2009 booking in which to assess the presence of an adult criminal record, which is an equal time period to the 2003 sample.

While King County is not representative of the entire state of Washington, it is the most populous county in the state, with an April 1, 2012 population estimate of 1,957,000 (Washington State Office of Financial Management). This represents approximately 20% of the state's population. By way of comparison, the next largest county, Pierce, has an April 1, 2012 estimated population of 808,200, or less than half the size of King County. Further, King County accounts for 13.6 percent of all statewide criminal dispositions (Washington State Caseload Forecast Council, 2013). Again, the next largest county, Pierce, accounts for about 11 percent of total number of dispositions in the state. Finally, King County is slightly more diverse\(^{16}\) than the state as a whole, which adds an extra explanatory factor to this analysis. King County is also

\[^{16}\text{King County's 2011 non-white population comprises 37.3\% of the total while Washington State's 2011 non-white population is 29.7\% of the whole (Washington State Office of Financial Management).}\]
wealthier\textsuperscript{17}, more educated\textsuperscript{18} and spends more money on public services and criminal justice services\textsuperscript{19} than other counties in the state.

The majority of the youth booked into the King County Juvenile Detention facility in any given year are offenders; youth who have committed an act defined as criminal. In 2003, a total of 2,527 discrete youth were booked into the facility; 154 were non-offender youth who were booked only for status offenses defined under the Becca statute. In 2009, a total of 1,980 discrete youth were booked into the facility; of those youth, 113 of them were booked only on status offenses under the Becca statute. Full details of the samples are presented in Table 4.1.


\textsuperscript{18} 45.9\% of King County's adult population holds a Bachelor's Degree or higher, versus 31\% for the state of Washington as a whole. (King County Office of Performance, Strategy and Budget Benchmark Program).

\textsuperscript{19} King County 2013 Adopted budget spent $527 Million on Justice, Safety Health and Human Potential. (King County 2013 Adopted General Fund Budget).
Table 4.1: Descriptive and Bivariate Comparisons of Covariates in Non-Offender Samples

<table>
<thead>
<tr>
<th></th>
<th>Non-Offenders</th>
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</tr>
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<tbody>
<tr>
<td></td>
<td>Separated (n =154)</td>
<td>Co-Mingled (n =113)</td>
<td></td>
<td></td>
<td>( \chi^2 )</td>
<td>p-value</td>
</tr>
<tr>
<td>Gender</td>
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<tr>
<td>Female</td>
<td>89</td>
<td>57.8</td>
<td>75</td>
<td>66.4</td>
<td>2.03</td>
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<tr>
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<td>42.2</td>
<td>38</td>
<td>33.6</td>
<td></td>
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<tr>
<td>Race</td>
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<tr>
<td>White</td>
<td>96</td>
<td>62.3</td>
<td>61</td>
<td>54.0</td>
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<tr>
<td>Non-White</td>
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<td>37.7</td>
<td>52</td>
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<tr>
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<td></td>
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<td></td>
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<td></td>
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<tr>
<td>No</td>
<td>121</td>
<td>78.6</td>
<td>78</td>
<td>69.0</td>
<td>3.13</td>
<td>0.077</td>
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<td>21.4</td>
<td>35</td>
<td>31.0</td>
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<td></td>
<td></td>
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<tr>
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<td>108</td>
<td>70.1</td>
<td>79</td>
<td>69.9</td>
<td>0.001</td>
<td>0.969</td>
</tr>
<tr>
<td>Yes</td>
<td>46</td>
<td>29.9</td>
<td>34</td>
<td>30.1</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mean</td>
<td>s.d</td>
<td>Mean</td>
<td>s.d</td>
<td>t</td>
<td>p-value</td>
<td></td>
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<tr>
<td>Age at First Contact</td>
<td>14.78</td>
<td>1.67</td>
<td>14.59</td>
<td>1.58</td>
<td>0.94</td>
<td>0.35</td>
</tr>
<tr>
<td>Inclusion Booking Length of Stay</td>
<td>3.45</td>
<td>2.85</td>
<td>3.29</td>
<td>3.17</td>
<td>0.43</td>
<td>0.67</td>
</tr>
</tbody>
</table>
Measures

Dependent Measures

The primary purpose of this study is to evaluate the effects of co-mingling Becca youth in secure detention. To evaluate the outcomes, a number of dependent variables are offered:

- A dichotomous, yes/no indication of whether a youth is booked into the juvenile detention facility again;
- If they are booked again, the number of days between their inclusion booking and that additional booking;
- A dichotomous, yes/no indication of whether a youth is referred for prosecution again;
- If they are referred for prosecution, the number of days between their inclusion booking and that additional referral;
- A dichotomous, yes/no indication of whether the youth contacts the King County (adult) jail subsequent to their inclusion in this study.

The indication of adult criminal contact is a dichotomous variable indicating whether a youth in either sample has contacted the King County Jail after their inclusion in the sample. The importance of its inclusion as a dependent variable in this study is as an indication as persistence into adulthood. As research has shown, most youth do not continue their offending into the adult years (Shulman, Steinberg and Piquero, 2013; Models for Change, 2013), so noting those that do persist in offending is important. It also indicates that these individuals somehow differ from their counterparts that desist. It could be that they have a multitude of risk factors that outweigh life protective factors, or it could also be that they have been exposed to something (such as
detention) that adds a risk factor that would not otherwise exist, or that they may have been exposed a plethora of pro-deviant attitudes and behaviors while co-mingling with offenders that would prompt them to persist in their offending.

The dependent variables are a combination of nominal and ratio level data. The nominal data are all dichotomous yes/no variables, and the ratio level measures are all time measures indicating how many days between the youth's inclusion in the study (marked by the release date of their first secure booking in the year) and the date of their next system contact, whether a new referral for prosecution or a new secure booking. All of the ratio level dependent variables are positively skewed, indicating that most youth re-contact the system sooner rather than later, and that the youth who re-contact far into the future are the anomaly. Days to the next secure booking are more highly skewed than the referral data, which is expected because not all referrals result in a secure booking, but all secure bookings begin with a referral of a charge for prosecution. The booking outcome is also more leptokurtic than the referral data, also indicating that the youth group together in their re-contacting the system. The data in the co-mingled sample is both more skewed and more leptokurtic than the separated sample, which is likely due to the difference in sample sizes.

Independent Variables

Existing research over the past decades on adolescent development and delinquent behavior has shown that individual social and community level factors influence delinquent behavior. Additionally, institutionalization alone is a risk factor for further delinquency (Mulvey, 2011). There is general agreement that behavior, including antisocial and delinquent behavior, is the result of the complex interplay of individual biological and genetic factors and environmental factors (McCord, Widom and Crowell, 2001). As a result, several theoretically and empirically
relevant youth-level characteristics are included in the study for the purpose of isolating the effects of secure detention of non-offender youth on subsequent offense rates and severity.

Most youth reach adulthood without ever becoming involved in serious delinquent behavior, even in the face of numerous risk factors. Although risk factors can help identify which youth are most in need of intervention, they cannot identify which particular youth will become serious or chronic offenders. And, while it has long been known that most adult criminals were involved in delinquent behavior as a juvenile; most delinquent youth do not grow up to be adult offenders (Robins, 1978; Moffit, 1993; Piquero et al., 2012; Sweeten, Piquero and Steinberg, 2013). It is, however, widely accepted that the more risk factors that a youth has present, the higher their risk for delinquent behavior (Shader, 2003). These risk factors are therefore included in the present study for the purpose of isolating the potential effects of individual level factors on re-offense.

Six individual level measures are included in the study to account for differences in youth characteristics - gender, race, age at first contact, prior system contact (referrals for prosecution), whether the prior system contact was criminal or non-offender, and length of stay for the initial booking.

Gender is one of the strongest correlates of delinquent behavior (Mears, Ploeger and Warr, 1998). There are developmental differences between girls and boys, and the literature generally supports that girls have fewer opportunities for offending (Mazzerole, 1998). There is also general acceptance in juvenile justice research that young women's offending patterns differ significantly from their male counterparts (OJJDP, 1998). Some research even suggests that one of the first steps in female delinquency is status offending and is frequently exhibited in response to abusive situations, often in the home (Chesney-Lind and Shelden, 1998). Longitudinal
research demonstrates that males are arrested and adjudicated for more serious offenses than females. In one study, Tracy, Wolfgang, and Figlio (1985) found that the ratio for male/female arrests was almost 9:1 for index crimes and 14:1 for violent offenses. They further found that males are more likely to begin their crimes at an early age and extend their offending careers into adulthood. Gender is an important factor in predicting initial and subsequent offending behavior and is included as control in this study as a dichotomous variable coded 0 for female and 1 for male.

The influence of race on criminal justice outcomes has been examined in hundreds of prior studies and is oftentimes operationalized as a dichotomous white/non-white or white/black variable. However, other researchers have rejected this pure dichotomy suggesting that the simple white/black schema usually leads to the inclusion of other race and ethnicity categories, most notably Hispanic and Native American in the white category (Pratt, 1998; Zatz, 2000). More recent research suggests that Hispanic and Native American youth may be treated even more harshly by the Juvenile Justice system than Black youth (Hsia and Hamparian, 1998; McCord, Widom and Crowell, 2000). Despite the concern with mixing together all non-white races, the present study has operationalized race/ethnicity as a dichotomous white/non-white variable.

Studies of criminal activity by age consistently find that rates of offending begin to rise in pre- or early-adolescence, reach a peak in late-adolescence, and fall through adulthood (Piquero et al., 2012; Sweeten et al., 2013; Shulman et al., 2013; Models for Change, 2013). There have also been suggestions in the literature that early-onset delinquents are more likely than later-onset delinquents to be more serious and more persistent offenders (Moffit, 1993). Additionally, there is evidence to suggest that predictors associated with onset do not predict persistence
particularly well (Farrington and Hawkins, 1991). Those who persist in offending into adulthood may differ from those who desist in a number of key ways, including attachment to school, military, sex, or other social bonds, and especially incarceration in terms of this study (Sampson and Laub, 1996; Farrington and West, 1995; Sampson and Laub, 1990), all of which (aside from incarceration) are outside of the scope of this study. Because early onset of delinquency does have support as a risk factor of more serious and more persistent offending, it is included as a control. To account for this, the study includes a ratio measure of age. Age is operationalized as the age of the youth at first referral for prosecution.

A youth's prior system contact and the indication whether it was criminal or non-offender is included in the study to account for previous delinquent behavior because this activity could shape law enforcement's decision to arrest, the Prosecutor's decision to file a case, and the Court's decision to detain a youth. Previous research has pointed out that dichotomous measures of criminal history are less prone to bias as compared to ratio measure (Wooldredge, 1998; Geerken, 1994; Franklin, 2008). For example, it has been noted that the number of incidents on an individual's record may correlate to extra-legal factors such as age and race (Geerken, 1994). This is particularly true of a study involving youth, where because of the increased likelihood of small denominators the percentage change could exacerbate statistical problems. Thus, to minimize potential bias and correlation, this study will utilize a dichotomous variable (0 = no; 1 = yes) indicating whether the youth had referrals to prosecution prior to the control or experiment year. Additionally, a dichotomous variable (0 = non-criminal, 1 = criminal) indicating whether the prior contact was criminal contact is included.

Referrals for prosecution are included as a control in this research as a proxy for contact with law enforcement. While the charges referred by law enforcement may or may not be
officially filed, they provide a measure of contact. Repeat offenders account for the majority of official delinquency (Kauffman, 2001; Barrett, Katsiyannis and Zhang, 2006) and, in fact, it is estimated that ten percent of juveniles commit over two-thirds of juvenile crime (Steinberg, 2005). Prior research also shows that youth experience a greater likelihood of returning to court after each criminal referral they receive (Synder, 1988). Therefore, youth in the samples utilized in this research with multiple additional referrals for prosecution are likely to offend further and progress deeper into the system than the youth with either one or two referrals.

Finally, the length of the initial, or inclusion, booking (either in 2003 or 2009, depending on the sample), measured in days, is included as a control on the potential negative effects of a longer initial secure detention stay. As evidenced by the bivariate measures in Table 4.1, the initial lengths of stay do not differ significantly between the two years.

**Analysis Plan**

There are theoretical indications that co-mingling marginally delinquent youth with more seriously delinquent offender youth may be especially harmful to the marginally delinquent youth. Policy makers and practitioners in King County, and in Washington as a whole, have the option of both detaining non-offender youth, and certainly of co-mingling them. Understanding the harm that the practice of co-mingling has on the non-offender youth in the county is of great import. These ideas underlie all the questions posed in this research.

The first question to be answered is whether non-offenders that are co-mingled while in detention return to secure detention more often and secondly, more quickly, than the youth that were held separately from the offenders during their detention stay. These two questions can both be assessed using a survival analysis. To begin, life tables will be estimated comparing the separated and co-mingled samples, using the product-limit Kaplan-Meier method. This method is
preferred because it takes into account each failure (new secure booking) to draw them onto the survival curve. The actuarial model is preferable when constant intervals are important and in this data set intervals are arbitrary and, due to the small sample sizes, it's likely that there will be less than 10 youth failing at any one interval, urging the use of the Kaplan-Meier method.

Next, the question will be analyzed using the Cox proportional hazards model for predicting the survival time from the covariates noted above in the independent variable discussion. The Cox regression method is similar to logistic regression and can be tested using a number of statistical tests, including a log-rank and the Wald test. Each will be explored in the analysis chapter.

The third and fourth questions are similar to the first and second, only utilizing a closer to the source measure of system contact than bookings. The third and fourth questions use referrals for prosecution, a proxy for law enforcement contact, rather than secure bookings; otherwise, they are the same questions as above and can also be assessed using a survival analysis. To begin, life tables will be estimated that compare the separated and co-mingled samples using the product-limit Kaplan-Meier method. The question will then be further analyzed using the Cox proportional hazards model. The Kaplan-Meier and Cox regression models are similar in their display, but the Cox regression model allows the inclusion of independent variables to control for outcomes.

The final research question to be answered in this analysis is whether co-mingled, non-offender youth have a higher likelihood of subsequent contact with the adult criminal justice system. The outcome measure, adult system contact, is measured as a dichotomous, yes/no variable, therefore a chi-square test is appropriate and will be used. A logistic regression model will be used to assess the individual level characteristics that contribute to or protect against an
outcome of adult system contact. In addition, a simple chi-square will be utilized to assess the group differences. It is likely that effects will be seen at this level if they exist.

**Conclusion**

The way that non-offender youth are processed and detained in Washington State allows for a practical exploration of both deviance training and labeling theory. Also, due to a housing policy change in King County during the 2008 year which moved the non-offender youth from a housing situation in which they were completely physically separated from the offender youth to a housing location where they are co-mingled, an assessment of the relative harm of co-mingling can be accomplished.

The questions that are explored in this research relate directly to two policy level considerations surrounding Becca youth in Washington State. The first, and possibly most important consideration, is whether non-offender youth who have committed no criminal offense should even be detained. The second consideration follows if the state determines that they wish to continue to detain non-offender youth. This research will then add to the discussion of how they should be detained, whether separated from the offender youth or co-mingled. The questions underlying this study argue that detention is inherently harmful and should not be used for non-offenders and, that if non-offenders are to continue to be detained, the harm to them increases by co-mingling them.

These questions are assessed using two samples from King County, a baseline sample of non-offenders that are completely separated and a comparison sample of youth where the offenders and non-offenders are co-mingled in the same housing unit. The samples should be sufficiently comparable, whereby the experimental variable - how the youth are housed - should be the only significant difference in the samples. The comparisons of the two samples are visible
in Table 4.1 and will be further explored in Chapter Five where the data are presented and analysis provided.
Chapter Four References


King County Office of Performance, Strategy and Budget. 


Chapter Four presented introductory univariate data to examine the suitability of the two samples as comparable. As presented in Table 4.1, the samples are not statistically different, which allows for an appropriate comparison of the only known difference between the two: the co-mingling of Becca youth with offenders. This chapter presents the results of several levels of analysis supporting and testing the idea that co-mingling of non-offenders with offenders in secure detention is more harmful to the co-mingled non-offender youth.

The chapter is organized into three parts. Part one presents the univariate and bivariate statistics. Part two presents the correlation statistics regarding the independent variables in the model. And finally, part three provides the analysis for each of the five research questions that were presented in Chapter Four.

**Dependent Variables**

The bivariate measures meant to compare the separated and co-mingled samples were presented in Table 4.1. Table 4.1 included only the proposed independent variables that are theoretically related to justice system outcomes such as re-arrest, re-offense, and increased severity of re-offense. In this study, these variables are included as controls for isolating the effects of the housing status (either separated or co-mingled). None of the independent variables differed significantly between the separated and co-mingled samples. Of all the variables, prior system contact, a dichotomous yes/no indicator of whether the youth in question had ever contacted the juvenile justice system prior to the referral and booking that predicated their inclusion in this study, was the closest to being significantly different, ($\chi^2 = 3.13, p = .08$).
The univariate and bivariate comparisons in the dependent variables between the control and experimental sample are presented in Table 5.1. Three outcomes, a new secure booking, a new referral for prosecution, and contact with the adult criminal justice system, all utilize a dichotomous yes/no indication. The samples are also dichotomous (separated or co-mingled), meaning that a Pearson's chi-square estimation can be obtained, and because in this situation a 2 x 2 table is used, Fisher's exact test can also be utilized to compute the exact probability of the chi-square statistic (Field, 2013) providing a highly accurate measure for assessing the association of these variables.

Among the dichotomous, yes/no dependent variables, there is significant difference between the samples except in the new booking variable. This measure is a simple designation of whether a youth in the sample is booked into secure detention again after their release from the initial booking that included them in the sample. For the separated youth, over half (57.1%) are not booked again during the study period, which is four calendar years past their initial booking. Similarly, 58.4% of the youth in the co-mingled sample are never booked again during the study period. The chi-square comparison indicates that this is not a significant difference in the samples, $x^2(1) = 0.043, p = .84$ in regards to their return to secure detention. The dichotomous indicators of a new referral for prosecution and adult system contact differ significantly between the samples. In both cases, the separated youth exhibit appreciably higher levels of subsequent contact with the justice system.
### Table 5.1: Descriptive and Bivariate Statistics for Dependent Variables

<table>
<thead>
<tr>
<th></th>
<th>Separated (n=154)</th>
<th>Co-Mingled (n = 113)</th>
<th>$\chi^2$</th>
<th>p-value</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>New Secure Booking</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Yes</td>
<td>66</td>
<td>42.9</td>
<td>47</td>
<td>41.6</td>
</tr>
<tr>
<td>No</td>
<td>88</td>
<td>57.1</td>
<td>66</td>
<td>58.4</td>
</tr>
<tr>
<td><strong>New Referral for Prosecution</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Yes</td>
<td>76</td>
<td>49.4</td>
<td>37</td>
<td>32.7</td>
</tr>
<tr>
<td>No</td>
<td>78</td>
<td>50.6</td>
<td>76</td>
<td>67.3</td>
</tr>
<tr>
<td><strong>Adult System Contact</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Yes</td>
<td>65</td>
<td>42.2</td>
<td>27</td>
<td>23.9</td>
</tr>
<tr>
<td>No</td>
<td>89</td>
<td>57.8</td>
<td>86</td>
<td>76.1</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th>Mean</th>
<th>s.d</th>
<th>Mean</th>
<th>s.d</th>
<th>t</th>
<th>p-value</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Number of Weeks to New Secure Booking</strong></td>
<td>25.95</td>
<td>35.11</td>
<td>14.26</td>
<td>23.04</td>
<td>3.08</td>
<td>0.002</td>
</tr>
<tr>
<td><strong>Number of Weeks to New Referral for Prosecution</strong></td>
<td>22.46</td>
<td>30.21</td>
<td>42.03</td>
<td>41.27</td>
<td>4.47</td>
<td>0.001</td>
</tr>
</tbody>
</table>
The ratio level measures of time to new booking or new referral differ between the samples, but in opposite directions. The \( t \)-score measuring the difference in means between the separated and co-mingled samples indicates that on average the co-mingled youth return to secure detention (new booking) at a much faster rate (mean = 14.26) than the separated youth (mean = 25.95). The difference, 11.69 weeks, was significant, \( t \) (265) = 3.08, \( p = .002 \). In regards to a new referral for prosecution, the opposite case is true. The separated youth are referred for prosecution much faster (mean = 22.46 weeks) than the co-mingled youth (mean=42.03). The difference, 19.57 weeks, is highly significant, \( t \) (265) = 4.47, \( p = .001 \).

Outliers

Due to the large difference in the mean of the weeks to new referral between the separated and co-mingled samples, and that the direction of the difference is opposite to the underlying hypothesis, that the co-mingled youth will contact the system again more quickly than the separated youth, the data was more deeply examined for the presence of outliers that could be unduly influencing the means. Box and whisker plots were graphed in SPSS and the extreme cases and outlier cases identified. SPSS labels a case as extreme if the score is greater than three times the upper quartile and labels a case as an outlier if it is one and one-half times greater than the upper quartile. From the separated sample, fourteen cases were removed because they were labeled as outliers. From the co-mingled sample, two cases were removed because they are deemed by SPSS as outliers. With the outliers removed, the new bivariate statistics are displayed in Table 5.2.

The chi-square analysis in Table 5.2 that utilizes samples trimmed of outliers tells us that there is no significant difference between the number of youth that are securely detained again in either sample, \( \chi^2 \) (1) = 0.014, \( p = .91 \). In the separated sample, 83 youth (59.3%) "survive" in
regards to the Kaplan-Meier survival analysis, meaning they make it to the end of the four year analytic period without being booked into secure detention again. In the co-mingled sample, 65 youth (58.6%) survive the four year period. These differences are not significantly different, meaning the converse is also true; that the number and percentage of youth that "fail" or are booked again, are also insignificantly different between the two samples. The chi-square analysis also included an indication of effect size, Cramer's V, which in this case equals .007 (p=.91), which is a small effect size but helpful in confirming the chi-square value.

Removing the outliers does nothing to change the significance or the direction of the relationship in the dichotomous dependent variables. Limiting the outliers does appreciably change the significance level of the relationship between the mean weeks to new secure bookings. With the trimmed means, on average the co-mingled youth return to secure detention faster (mean = 13.52) than the separated youth (mean = 15.46). The difference, 1.94 weeks, is not significant, \( t \ (249) = 0.73, p=.47 \). In regards to new referrals for prosecution, the opposite case is true. The separated youth are referred for prosecution much faster (mean = 10.02 weeks) than the co-mingled youth (mean = 36.11). The difference, 26.09 weeks, is highly significant, \( t \ (249) = 8.69, p=.001 \).
Table 5.2: Descriptive and Bivariate Statistics for Dependent Variables

Outliers Removed

<table>
<thead>
<tr>
<th></th>
<th>Separated (n =140)</th>
<th>Co-Mingled (n = 111)</th>
<th>( \chi^2 )</th>
<th>p-value</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>New Secure Booking</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Yes</td>
<td>57</td>
<td>40.7</td>
<td>46</td>
<td>41.4</td>
</tr>
<tr>
<td>No</td>
<td>83</td>
<td>59.3</td>
<td>65</td>
<td>58.6</td>
</tr>
<tr>
<td><strong>New Referral for Prosecution</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Yes</td>
<td>62</td>
<td>44.3</td>
<td>35</td>
<td>31.5</td>
</tr>
<tr>
<td>No</td>
<td>78</td>
<td>55.7</td>
<td>76</td>
<td>68.5</td>
</tr>
<tr>
<td><strong>Adult System Contact</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Yes</td>
<td>60</td>
<td>42.9</td>
<td>27</td>
<td>24.3</td>
</tr>
<tr>
<td>No</td>
<td>80</td>
<td>57.1</td>
<td>84</td>
<td>75.7</td>
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</table>

<table>
<thead>
<tr>
<th></th>
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<th>s.d</th>
<th>Mean</th>
<th>s.d</th>
<th>t</th>
<th>p-value</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Number of Weeks to New Secure Booking</strong></td>
<td>15.46</td>
<td>19.24</td>
<td>13.52</td>
<td>22.73</td>
<td>0.73</td>
<td>0.47</td>
</tr>
<tr>
<td><strong>Number of Weeks to New Referral for Prosecution</strong></td>
<td>10.02</td>
<td>10.01</td>
<td>36.11</td>
<td>33.73</td>
<td>8.69</td>
<td>0.01</td>
</tr>
</tbody>
</table>
**Independent Variables**

In Chapter Four, the univariate and bivariate comparisons between the separated and co-mingled samples were displayed in Table 4.1. The samples are deemed comparable and not significantly different from each other in any of the independent variables; however, the independent variables should also be assessed for colinearity to determine if the control variables are truly assessing independent items. The dichotomous independent variables (gender, race, prior system contact, and criminal status of prior contact) are assessed using a point-biserial correlation. Point-biserial correlation is used when assessing correlations between dichotomous variables that are truly discrete dichotomies, meaning there is no underlying continuous variable. Table 5.3 displays the correlation coefficients for the dichotomous independent variables. The correlation between the two continuous ratio level variables (age at first contact, and length of inclusion booking) are assessed using Kendall's tau, because the sample sizes are relatively small, have multiple modes (tied ranks), and are not normally distributed, particularly the co-mingled sampled. Table 5.4 displays the correlation coefficients for the continuous dependent variables.
### Table 5.3: Bivariate Point-Biserial Correlations between Dichotomous Independent Variables  
*(Separated Sample)*

<table>
<thead>
<tr>
<th></th>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
<th>5</th>
<th>6</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Gender</td>
<td>1.000</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2. Race</td>
<td>-0.081</td>
<td>1.000</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3. Age at first contact</td>
<td>-0.017</td>
<td>0.026</td>
<td>1.000</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4. Prior system contact</td>
<td>-0.005</td>
<td>-0.114</td>
<td>-0.340</td>
<td>1.000</td>
<td></td>
<td></td>
</tr>
<tr>
<td>5. Contact criminal or status</td>
<td>0.031</td>
<td>-0.138</td>
<td>-0.310</td>
<td>0.418</td>
<td>1.000</td>
<td></td>
</tr>
<tr>
<td>6. Length of inclusion booking</td>
<td>-0.005</td>
<td>-0.085</td>
<td>-0.139</td>
<td>0.088</td>
<td>0.026</td>
<td>1.000</td>
</tr>
</tbody>
</table>

### Bivariate Point-Biserial Correlations between Dichotomous Independent Variables  
*(Co-Mingled Sample)*

<table>
<thead>
<tr>
<th></th>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
<th>5</th>
<th>6</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Gender</td>
<td>1.000</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2. Race</td>
<td>-0.072</td>
<td>1.000</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3. Age at first contact</td>
<td>-0.006</td>
<td>0.101</td>
<td>1.000</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4. Prior system contact</td>
<td>-0.041</td>
<td>0.041</td>
<td>-0.167</td>
<td>1.000</td>
<td></td>
<td></td>
</tr>
<tr>
<td>5. Contact criminal or status</td>
<td>-0.097</td>
<td>0.130</td>
<td>-0.295</td>
<td>0.081</td>
<td>1.000</td>
<td></td>
</tr>
<tr>
<td>6. Length of inclusion booking</td>
<td>-0.138</td>
<td>-0.011</td>
<td>0.023</td>
<td>0.001</td>
<td>-0.064</td>
<td>1.000</td>
</tr>
</tbody>
</table>

The independent variables exhibit no troubling levels of multi-collinearity. In both samples, age at first contact with the system is the most highly correlated variable, with prior system contact in the separated sample, and criminal contact as the prior type of contact in the co-mingled sample, both of which are as expected. The literature is clear that earlier contact with the system is a risk factor for all matter of poor criminal outcomes later in life, including more and more persistent contact.
Table 5.4: Bivariate Kendall’s tau Correlations between Continuous Independent Variables
(Separated Sample)

<table>
<thead>
<tr>
<th></th>
<th>1</th>
<th>2</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Age at first contact</td>
<td>1.000</td>
<td></td>
</tr>
<tr>
<td>2. Length of inclusion booking</td>
<td>-0.139</td>
<td>1.000</td>
</tr>
</tbody>
</table>

Table 5.4: Bivariate Kendall’s tau Correlations between Continuous Independent Variables
(Co-Mingled Sample)

<table>
<thead>
<tr>
<th></th>
<th>1</th>
<th>2</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Age at first contact</td>
<td>1.000</td>
<td></td>
</tr>
<tr>
<td>2. Length of inclusion booking</td>
<td>0.023</td>
<td>1.000</td>
</tr>
</tbody>
</table>

New Secure Booking

The first research question that this analysis hopes to address is whether non-offenders who were co-mingled in secure detention return to secure detention at a higher level, and more quickly than the non-offenders who were housed separately from the offender youth. This question is addressed using a survival analysis methodology. To begin, life tables that estimate survival using the Kaplan-Meier method are displayed. The Kaplan-Meier method utilizes no explanatory variables and simply compares the two samples. It is often used as an initial explanatory method prior to estimating a regression model (Allison, 2014).

The null hypothesis underlying the Kaplan-Meier method of survival analysis is that the two groups, in this case the separated and co-mingled samples, will not differ in their survival functions. To assess the null hypothesis, the log-rank and Breslow tests are applied. The log rank test does not take into account where in the survival curve the difference is; it simply assesses the overall survival curve. In other words, it does not matter to the log-rank test that the differences in the survival curves may occur over time. The Breslow statistic gives more weight to earlier
changes in the survival curve. The means medians, confidence intervals, log rank, and Breslow coefficients are displayed below in Table 5.5. Figure 5.1 shows the survival curve for both the separated and co-mingled samples.

<table>
<thead>
<tr>
<th></th>
<th>Estimate</th>
<th>S.E.</th>
<th>95% Confidence Interval</th>
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<tr>
<td></td>
<td></td>
<td></td>
<td>Lower Bound</td>
<td>Upper Bound</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Separated Sample</td>
<td>15.46</td>
<td>2.55</td>
<td>10.46</td>
<td>20.45</td>
<td></td>
<td></td>
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<tr>
<td>Co-Mingled Sample</td>
<td>13.52</td>
<td>3.35</td>
<td>6.95</td>
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</tbody>
</table>

The regression model is completed using the forced entry method. The hierarchical method was also explored, as well as models with interactional effects between control variables, but it appears that only age at first contact with the system is a significant control on the outcomes of weeks to new secure booking, regardless of model. The coefficients for the Cox regression model, utilizing forced entry are presented in Table 5.5. The hazard curve for a new secure booking is displayed in Figure 5.2.
Table 5.5 reported both the means and the medians of weeks of survival time for the separated and co-mingled samples. Using both the mean and the median, the co-mingled youth return to secure detention sooner than the separated youth, but not to a significant level.
Figure 5.1: Kaplan Meier Survival Curve Showing Weeks to Next Secure Booking
Figure 5.1 displays the Kaplan-Meier survival curve indicating number of weeks until a new secure detention booking. The survival of the youth in the co-mingled curve can be seen to fail slightly more quickly, as evidenced by their initial fall off of survival rate. The youth in the separated sample have all failed by around 80 weeks post release, whereas even after the statistical outliers were removed, the last co-mingled youth survives to approximately 120 weeks. Only a few youth in either sample survive past approximately 40 weeks.

The differences in the survival curves of the two samples are not considerable, as evidenced by the survival curves in Figure 5.1, and the Log-rank, \( \chi^2 (1) = .33, p = .057 \) and Breslow tests, \( \chi^2 (1) = 2.18, p = .014 \) confirm the visual data. The log-rank test takes into account the entire slope of the survival curve, while Breslow’s test relies more heavily on the earlier differences in the data set (Rich et al., 2010). On the whole, with no independent variables to control for the youth’s individual differences, the null hypothesis is confirmed.

The next step in assessing whether the co-mingled non-offenders are securely booked again at a higher rate, or more quickly, than those youth who were separated during their detention stay, is to follow up the Kaplan-Meier survival analysis with a Cox Regression, which is also referred to as a relative hazards model. While the Kaplan-Meier model predicts survival, or in this case, how many weeks a youth makes it without being booked into secure detention again, the Cox Regression model considers the hazard function as the predicted value. In this case, the likelihood that the youth is booked into secure detention again.

Cox regression is one of several approaches that attempts to evaluate survival curves while controlling for other variables that may affect survival (Beaumont, 2010), such as age, gender, race, and prior system contact. In the Cox regression model the betas represent the relative hazards, or hazard ratios, that correspond to a one unit change in the associated
independent variable where the greater the number, the more likely the "death" or failure rate; in this case the likelihood that a youth will be booked into secure detention again.

Cox Regression is a non-parametric method for analyzing event history data and, while it is generally referred to as the proportional hazards method, it is simply a generalization of parametric proportional hazards methods (Allison, 2014). The Cox regression model has a number of advantages to the parametric model. First, it does not require the researcher to choose between several parametric methods, and second, unlike most parametric methods, it allows for the additional of explanatory, or control variables. Nonparametric methods would not be appropriate if there were interval or left censoring in the data, but in the data utilized for this analyses the exact dates of new bookings are known, so left and interval censoring are not an issue.

Table 5.6 provides the coefficients for the Cox Regression model as well as the Log-Likelihood model fit statistic. The Log-likelihood statistic is analogous to the sum of squares in multiple regression, in that it indicates how much unexplained variance remains after the model is fit (Tabachnick and Fidell, 2001). It follows then that the larger the Log-likelihood number, the worse the model fits. In this case, the Log-likelihood statistic equals 754.09 ($\chi^2 (7) = 8.32, p = .31$), indicating that the independent variables do little to explain the variance.
The Wald statistic, also presented in Table 5.6 is used to assess the individual contributions of the independent variables. In this model, none of the independent variables are significant contributors at the \( p > 0.05 \) level. The only predictor that is contributing significantly to the model is age at first contact. What is most important to interpreting a logistic regression model (which is what a Cox regression model ultimately is) is the odds ratio, or the \( \exp(B) \) (exponential of the beta). In Cox regression it is referred to as the hazard ratio, indicating the change in odds resulting from a unit change in the predictor.

Figure 5.2 displays the Cox Regression hazard curve including all known controls in this study. As discussed above, the controls do little to add explanatory power to the model, but what can be seen in the hazard curve is the difference in the median weeks of survival for the two groups. This again indicates that the co-mingled youth reach a new secure booking more quickly than the separated youth, but not to a significant level.

### Table 5.6: Cox Regression Estimates for New Secure Booking

<table>
<thead>
<tr>
<th>Control Variables</th>
<th>( b )</th>
<th>SE</th>
<th>Wald</th>
<th>( p-value )</th>
<th>( \exp(b) )</th>
</tr>
</thead>
<tbody>
<tr>
<td>Age at first contact</td>
<td>0.159</td>
<td>0.090</td>
<td>3.140</td>
<td>0.08</td>
<td>1.17</td>
</tr>
<tr>
<td>Race</td>
<td>0.292</td>
<td>0.213</td>
<td>1.890</td>
<td>0.17</td>
<td>1.34</td>
</tr>
<tr>
<td>Gender</td>
<td>-0.233</td>
<td>0.232</td>
<td>1.010</td>
<td>0.32</td>
<td>0.79</td>
</tr>
<tr>
<td>Prior system contact</td>
<td>-0.123</td>
<td>0.252</td>
<td>0.239</td>
<td>0.63</td>
<td>0.88</td>
</tr>
<tr>
<td>Prior criminal contact</td>
<td>-0.001</td>
<td>0.256</td>
<td>0.000</td>
<td>1.00</td>
<td>0.99</td>
</tr>
<tr>
<td>Length of stay of inclusion booking</td>
<td>-0.034</td>
<td>0.041</td>
<td>0.694</td>
<td>0.41</td>
<td>0.97</td>
</tr>
<tr>
<td>Housing Status</td>
<td>-0.180</td>
<td>0.228</td>
<td>0.611</td>
<td>0.43</td>
<td>0.84</td>
</tr>
</tbody>
</table>

Log-likelihood: 754.090

\( x^2 \): 8.32, \( p = 0.31 \)
Figure 5.2: Cox Regression Hazard Curve Showing Weeks to Next Secure Booking
New Referral for Prosecution

The second research question is whether co-mingled non-offender youth contact law enforcement at a higher rate, or more quickly, than non-offender youth who were housed separately from the offenders during their stay in secure detention. The question is assessed in the same fashion at the secure booking question. The difference in this question is that contact with law enforcement, as evidenced by a new referral for prosecution is an upstream outcome from a new booking. A new booking requires a referral for prosecution, but a new referral for prosecution does not necessarily mean a youth is booked into secure detention. Like the booking question above, the referral research question is assessed using a Kaplan-Meier survival analysis, followed by a Cox regression proportional hazards regression model that uses the independent measures to control for the outcomes.

The chi-square analysis displayed in Table 5.1 indicates that there is a significant association between the housing status and whether a youth "survives" by not contacting the system again, $\chi^2 (1) = 4.25, p = .04$. In this case, the co-mingled sample is referred for prosecution at a higher rate than the separated youth. In the separated sample, 78 youth (55.7%) survive, compared to 76 youth (68.5%) in the co-mingled sample.
Table 5.7: New Referral for Prosecution
Contingency Table

<table>
<thead>
<tr>
<th></th>
<th>New Referral</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>No</td>
</tr>
<tr>
<td>Count</td>
<td>78</td>
</tr>
<tr>
<td>Expected Count</td>
<td>85.9</td>
</tr>
<tr>
<td>% of Total</td>
<td>31.1%</td>
</tr>
<tr>
<td>Std. Residual</td>
<td>-0.9</td>
</tr>
<tr>
<td>Count</td>
<td>76</td>
</tr>
<tr>
<td>Expected Count</td>
<td>68.1</td>
</tr>
<tr>
<td>% of Total</td>
<td>30.3%</td>
</tr>
<tr>
<td>Std. Residual</td>
<td>1</td>
</tr>
</tbody>
</table>

Further breaking down the significant chi-square, an effect size was calculated using the odds ratio. Field (2013) explains that an odds ratio is useful and easily interpretable for a 2 x 2 contingency table. An odds ratio is calculated by dividing the number of separated youth that had a new referred charge, by the number of separated youth that did not have a new referred charge, repeating the calculation for the co-mingled youth, and then dividing the odds of a new charge after being housed separately by the odds of a new charge after being co-mingled. The result provides the odds ratio for the chi-square. Table 5.7 provides the chi-square contingency table for easy of calculation. The odds ratio = .9, telling us that the odds of a separated youth having a new referral for prosecution is less than one time greater than the odds of a co-mingled youth having a new referral for prosecution. This helps in understanding the significance of the chi-square as significant, but of not a large amount of import.

Table 5.8 presents the means and medians of the survival time that underlie the Kaplan-Meier survival curve which is displayed in Figure 5.3. The medians, which moderate the effects of remaining outliers in the samples, also indicate a very significant difference between the
separated and co-mingled samples. Unlike the booking analysis, in this analysis there is a highly significant difference in survival time between the separated and co-mingled samples. The Log-rank, \( (x^2 (1) = 27.9, p = .001) \) and Breslow, \( (x^2 (1) = 16.84, p = .001) \) statistics confirm that there is a significant difference in the number of weeks to a new referral.

<table>
<thead>
<tr>
<th>Separated Sample</th>
<th>Mean</th>
<th>95% Confidence Interval</th>
<th>Median</th>
<th>95% Confidence Interval</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Estimate</td>
<td>S.E.</td>
<td>Lower Bound</td>
<td>Upper Bound</td>
</tr>
<tr>
<td></td>
<td>10.02</td>
<td>1.27</td>
<td>7.52</td>
<td>12.51</td>
</tr>
<tr>
<td>Co-Mingled Sample</td>
<td>36.11</td>
<td>5.7</td>
<td>24.94</td>
<td>47.29</td>
</tr>
</tbody>
</table>

The survival curve in Figure 5.3 indicates that the separated youth "fail" much more quickly than the co-mingled youth. The last separated youth fails around 50 weeks, while the co-mingled youth continue to fail in a much more gradual fashion through to 120 weeks.
Table 5.8 contains the Cox Regression estimates for the hazard ratio analysis that is graphically displayed in Figure 5.4. The Log-likelihood statistic equals 671.51 ($x^2 (7) = 30.99, p = .001$). The hazard ratio indicates that, controlling for all other factors, housing status is a highly significant predictor of weeks to a new referral. In fact, housing status is the only significant predictor.

The Wald statistic, also presented in Table 5.8 is used to assess the individual contributions of the independent variables. In the referrals for prosecution model, the only variable that is contributing significantly is the housing status (separated or co-mingled). The hazard ratio indicates that for every unit increase in housing status the odds of a new referral for prosecution increases by 3.61.

The hazard curve displayed in Figure 5.4 illustrates the large divergence of the two groups, and where it occurs. The groups diverge early, with the cumulative hazard for the separated youth climbing over the time course, while the co-mingled youth’s hazard rate remains relatively flat.

**Table 5.9: Cox Regression Estimates for New Referral for Prosecution**

<table>
<thead>
<tr>
<th>Control Variables</th>
<th>$b$</th>
<th>SE</th>
<th>Wald</th>
<th>$p$-value</th>
<th>Exp(b)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Age at first contact</td>
<td>0.025</td>
<td>0.094</td>
<td>0.069</td>
<td>0.79</td>
<td>1.03</td>
</tr>
<tr>
<td>Race</td>
<td>0.277</td>
<td>0.220</td>
<td>1.584</td>
<td>0.21</td>
<td>1.32</td>
</tr>
<tr>
<td>Gender</td>
<td>0.093</td>
<td>0.222</td>
<td>0.175</td>
<td>0.68</td>
<td>1.10</td>
</tr>
<tr>
<td>Prior system contact</td>
<td>-0.039</td>
<td>0.285</td>
<td>0.019</td>
<td>0.89</td>
<td>0.96</td>
</tr>
<tr>
<td>Prior criminal contact</td>
<td>0.290</td>
<td>0.296</td>
<td>0.956</td>
<td>0.33</td>
<td>1.34</td>
</tr>
<tr>
<td>Length of stay of inclusion booking</td>
<td>-0.017</td>
<td>0.047</td>
<td>0.134</td>
<td>0.71</td>
<td>0.98</td>
</tr>
<tr>
<td>Housing Status</td>
<td>1.290</td>
<td>0.269</td>
<td>22.785</td>
<td>0.00</td>
<td>3.61</td>
</tr>
<tr>
<td>Log-likelihood</td>
<td>671.510</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>$x^2$</td>
<td>30.99</td>
<td></td>
<td></td>
<td>0.001</td>
<td></td>
</tr>
</tbody>
</table>
Figure 5.4: Cox Regression Hazard Curve Showing Weeks to Next Referral for Prosecution
Adult System Contact

The final question to be addressed in this analysis is whether the non-offender youth who are co-mingled with offenders during their stays in secure detention contact the adult system at a higher rate than the non-offender youth who are housed completely separately. This outcome is assessed in two ways: first, with a simple 2 x 2 chi square analysis comparing the housing status of the non-offenders with their ultimate yes/no contacts with the adult justice system in King County and, second, with a logistic regression model that adds the independent variables as controls for the system contact.

Table 5.10: Adult System Contact Contingency Table

<table>
<thead>
<tr>
<th></th>
<th>Adult System Contact</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>No</td>
<td>Yes</td>
</tr>
<tr>
<td>Separate</td>
<td>80</td>
<td>60</td>
</tr>
<tr>
<td>Expected Count</td>
<td>91.5</td>
<td>48.5</td>
</tr>
<tr>
<td>% of Total</td>
<td>31.9%</td>
<td>23.9%</td>
</tr>
<tr>
<td>Std. Residual</td>
<td>-1.2</td>
<td>1.6</td>
</tr>
<tr>
<td>Co-Mingled</td>
<td>84</td>
<td>27</td>
</tr>
<tr>
<td>Expected Count</td>
<td>72.5</td>
<td>38.5</td>
</tr>
<tr>
<td>% of Total</td>
<td>33.5%</td>
<td>10.8%</td>
</tr>
<tr>
<td>Std. Residual</td>
<td>1.3</td>
<td>-1.8</td>
</tr>
</tbody>
</table>

Further breaking down the significant chi-square, an effect size was calculated using the odds ratio. The odds ratio = 2.33, telling us that the odds of a separated youth having subsequent contact with the adult justice system are 2.3 times higher than the odds of a co-mingled youth having subsequent adult system contact.

A logistic regression model was used to assess the independent variables and their influence on the outcome of adult system contact. A logistic regression model is similar to the Cox Regression hazard analysis that was used to assess the time to new booking and time to new
referral outcomes, except that the outcome variable in a Cox regression is time, and time is not a factor in logistic regression. The other key difference is that in a Cox regression the model yields hazard rates and in logistic regression the model produces an odds ratio.

Only three variables were found to significantly contribute to the model fit: gender, housing status (either separated or co-mingled) and whether the youth had prior contact with the juvenile justice system. The other independent variables: whether the prior contact was criminal, age at first contact, race, and length of stay of inclusion booking, were insignificant. Table 5.10 provides the logistic regression coefficients for the model.

<table>
<thead>
<tr>
<th>Control Variables</th>
<th>$b$</th>
<th>SE</th>
<th>Wald</th>
<th>$p$-value</th>
<th>Exp($b$)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Constant</td>
<td>0.469</td>
<td>1.331</td>
<td>0.12</td>
<td>0.725</td>
<td>1.60</td>
</tr>
<tr>
<td>Gender</td>
<td>0.878</td>
<td>0.278</td>
<td>10.00</td>
<td>0.002</td>
<td>2.41</td>
</tr>
<tr>
<td>Race</td>
<td>0.207</td>
<td>0.285</td>
<td>0.53</td>
<td>0.466</td>
<td>1.23</td>
</tr>
<tr>
<td>Prior system contact</td>
<td>-0.671</td>
<td>0.334</td>
<td>4.03</td>
<td>0.045</td>
<td>0.511</td>
</tr>
<tr>
<td>Prior criminal contact</td>
<td>-0.35</td>
<td>0.321</td>
<td>1.19</td>
<td>0.276</td>
<td>0.71</td>
</tr>
<tr>
<td>Co-mingled</td>
<td>-0.897</td>
<td>0.290</td>
<td>9.56</td>
<td>0.002</td>
<td>0.41</td>
</tr>
<tr>
<td>Age at first contact</td>
<td>-0.031</td>
<td>0.095</td>
<td>0.10</td>
<td>0.747</td>
<td>0.97</td>
</tr>
<tr>
<td>Inclusion booking length of stay</td>
<td>-0.022</td>
<td>0.047</td>
<td>0.22</td>
<td>0.641</td>
<td>0.98</td>
</tr>
<tr>
<td>Log-likelihood</td>
<td>313.840</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>$X^2$</td>
<td>4.138</td>
<td></td>
<td></td>
<td>0.844</td>
<td></td>
</tr>
<tr>
<td>Nagelkerke R Square</td>
<td>0.147</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

The logistic regression model discussed here indicates that there is still much unexplained variance in the model. The Log-likelihood coefficient is large, 313.84 ($X^2 (7) = 4.14, p = .85$), but is not significant. The model also has a small to moderate effect size ($R = .216$). The odds ratio
figures for gender, prior contact and housing status variables are significant. Particularly important is the significance of the housing status variable, which confirms that housing status does influence the outcome of an adult system contact. The odds ratios = .41; \( p = .002 \) does not indicate a large increase, but nonetheless is significant and is the largest predictor of a change to adult contact available in this model. Gender is also a significant predictor Odds ratio = 2.41; \( p = .002 \) indicating that the females in the sample are more likely than the males of having adult system contact. Finally, while odds ratio does not increase much, the model suggests that for youth with prior system contact (no prior contact = 0, prior contact =1), the odds of adult system contact actually decrease, Odds ratio = .51; \( p = .045 \).

**Summary**

The findings of the time to booking and time to new referral survival analysis are not conclusive and will require care in interpretation. After the removal of the clear outliers in the two samples, the booking outcome favors the separation of non-offender youth, in that the co-mingled youth return to secure detention faster than the separated youth, but the survival time is not significantly different (Log Rank \( p=.57 \), and Breslow \( p = .14 \)). The Breslow coefficient, which more heavily weights what happens in the early parts of the survival curve, is close to a .10 significance, and Figure 5.1 graphically shows that the co-mingled youth do begin to fail more quickly than the separated youth, but the curves ultimately approach similar levels of failure.

The referral outcomes are clear that the separated youth contact law enforcement more quickly than the co-mingled youth. Both the Log Rank coefficient \( (x^2 = 27.9, p = .001) \) and the Breslow coefficient \( (x^2 = 16.84, p = .001) \) are highly significant, indicating that contrary to the
hypothesis the separated youth contact law enforcement considerably faster than the co-mingled youth.

The adult system contact analysis also suggests that co-mingling youth may lead to unfavorable outcomes further into a youth’s life. The chi-square analysis finds that the co-mingled youth are more likely to contact the adult system than the separated youth, based on the odds ratio.

Finally, the regression models for the referrals for prosecution survival analysis and the adult system contact outcome suggest that housing status, either separated or co-mingled, is a significant explanatory variable, while controlling for other independent variables that theoretically influence negative justice system outcomes have little to no influence on the particular outcomes utilized in this analysis. These findings will be discussed further in the following chapter.
Chapter Five References


CHAPTER SIX
DISCUSSION AND CONCLUSION

King County, as with all counties in the State of Washington, has a choice in detaining Becca youth. King County also has a choice in co-mingling the non-offenders that it does chose to detain. There is a financial cost associated with completely separating the non-offenders and, in a time of increasingly tight budgets, it is a very real problem. However, what also needs to be addressed are the very real costs to the youth that are detained for status offenses, and the increased harm that may occur from co-mingling youth who have committed no criminal act. This study employed survival analysis comparing a group of non-offenders that were housed separately and compared that group to a similar group of non-offenders that were co-mingled with offender youth. The study serves as an initial exploratory analysis into the very real policy questions of whether to detain Becca youth and how to house them if the counties do chose to detain.

This chapter presents the findings of the subsequent secure booking and subsequent referral survival analyses are presented. While the analyses discuss different outcomes, they are meant to assess a similar phenomenon, that of subsequent juvenile system contact; therefore they are discussed together. Next, the adult system contact outcomes are discussed. This discussion also includes the logistic regression model findings assessing the adult system contact outcome. Finally, the policy implications of this initial exploration are discussed. Limitations of the current study are noted, as well as recommendations for further research.
Discussion

Three outcome measures were explored in this research in an effort to understand whether co-mingling of non-offender youth with offender youth increases negative outcomes for the non-offender youth. The outcomes are a new secure booking, new referrals for prosecution, and subsequent contact with the adult justice system. The analysis for new secure bookings indicates that the co-mingled youth return to a secure booking no faster or sooner than the separated youth. The analysis for new referrals indicate that the separated youth begin to contact the system again much more quickly than the co-mingled youth. While only the survival analysis for new referrals for prosecution is significant, the regression coefficients that include the control variables are not, providing little illumination into the predictors of the significant outcomes. Finally, the analysis for adult system contact suggests that the separated youth are slightly more likely to contact the adult system than the co-mingled youth.

The findings are therefore mixed, providing no clear indication of the presence of deviant peer contagion, at least among the Becca offenders in these two samples. Of the two significant findings that 1) co-mingled youth are not referred for prosecution at a higher rate or more quickly than the separated youth, and 2) that co-mingled youth do not contact the adult system at a higher rate than the separated youth, the idea of deviant peer contagion is neither supported nor refuted.

In regards to the insignificant findings surrounding a new secure booking, there is also no support for deviant peer contagion, but does provide some theoretical support for the presence of a labeling effect. The way these data are structured, the labeling process occurs when the non-offender youth is bootstrapped into secure detention, which is present in both samples. The deviant peer contagion effect only affects the co-mingled youth, who are left in a semi-structured
environment, free to mingle and mix with the more serious offender youth. The booking analyses shows no difference in the survival time between the housing groups, and also no significant difference between the subsequent rate of re-booking, which lends support to the idea that the initial detention of these youth leads to a delinquent label which can further lead to myriad bad outcomes. In each sample, 41% of the youth are re-booked; that is a significant percentage of youth that could be struggling with being labeled as a juvenile delinquent by one of the most powerful labelers in society - the Superior Court. The goal of this study was not to test either labeling theory or deviant peer contagion, rather to explore the impacts of a public policy and housing policy choice on the non-offender youth that are caught in its implications; but there is some inkling of support for both underlying theories.

In all the analysis included in this initial explanatory study, housing status is found to be one of the only significant predictors, meaning that there is something intrinsically different about these two groups that impacts their outcomes. The static factors that are available as independent variables in this study, such as race, gender, age, and prior system contact do not significantly differ between the two groups, so there is some other factor or factors that are influencing the differences in outcomes.

The hypothesis underlying this research would indicate that co-mingling non-offender youth who are deemed only marginally delinquent with more system involved youth (the offenders) would cause more harm to the non-offenders, but there is no indication that this is true. On average, the co-mingled youth do return to secure detention more quickly than the separated youth, but the difference is not statistically significant. The null hypothesis that there is no difference between the two groups is therefore confirmed.
The finding is interesting in particular because changes in policy over the 2003 to 2012 timeframe would tend to favor the youth in the separated sample returning more quickly. Due to severe overcrowding in the late 1990's and early 2000's, King County instituted a number of policy changes including strict intake criteria controlling the front door of the detention facility, which limited entrance to youth who had committed serious and violent offenses or were likely to walk away from community sanctions such as electronic home detention. (The full list of detention intake criteria is included in Appendix A). The effect that intake criteria has had is to limit the number of secure bookings and push the detention population down to a level where only the youth that policy makers deemed a public safety risk are detained. Interestingly, this policy did not extend to Becca youth; one of the criteria that allows secure detention of a youth is number III (A)(3) which allows secure detention for any Becca warrant. Accordingly, while the detention criteria have significantly limited the number of youth that can be securely booked, the co-mingled non-offenders return to secure detention at a slightly faster pace (mean weeks to new booking = 13.5) than those youth that were housed separately (mean weeks to new booking = 15.5). The insignificance of this finding is in itself important, because it leads to the rejection of one of the main hypothesis in this study.

While the co-mingled youth do not return to secure detention more quickly, they are also not referred for prosecution more quickly. In fact, the separated youth are referred for prosecution much more quickly. A booking to secure detention requires an associated referral for prosecution, but a referral for prosecution does not require either a legal filing or a secure booking. Therefore, the referral for prosecution measure is a more upstream indication of system contact and penetration than a secure booking. There are many decision points in the process through the justice system, and being referred from law enforcement for prosecution on a charge
or charges is one of the very first steps in the process; whereas the decision to securely detain or not is a decision point that happens further into the justice system. What a higher rate of bookings may indicate is a more severe offending pattern. The finding that separated youth contact are referred for prosecution at a higher rate and much sooner after release from detention as the co-mingled youth does not shed light on the severity of the case. The finding that the co-mingled youth are not significantly different from the separated youth in their re-booking to secure detention in light of their significantly lower level of contact with law enforcement (as evidenced by the referral for prosecution) should be further explored, as it may indicate that the co-mingled youth's new offenses are more severe than their original non-offender Becca booking.

**Limitations**

There are a number of serious limitations to this study, driven primarily by the access to and structure of the underlying data set. First, due to the source of the data, the number of available variables was limited. Second, and also due to the source(s) of the data, making connections that could have illuminated charge severity and ordering of incidents over time was problematic. Finally, the number of youth affected by the bootstrapping of Becca youth into detention is small, even in the largest county in the state, which limits the statistical power of the analysis.

The data used for this sample were sourced from the King County Department of Adult and Juvenile Detention (DAJD), which is responsible for the juvenile detention facility and its management, as well as management of the county's adult jails. The DAJD is responsible for entering booking information and some juvenile specific information (such as race and date of birth) into the juvenile data management system. The DAJD is not responsible for post detention
supervision, nor is it responsible for charge or sentencing information, drug and alcohol addiction, or school information. In fact, a lot of the rich risk and protective information that could have further informed this study is not available electronically in aggregate databases; it is still managed in hard copy paper forms that are maintained by the Juvenile Court. Most juvenile court information was not available for this study.

The lack of availability of data elements limited the number of independent variables that could be controlled for in this study, which led to a gap in understanding exactly what factors could be influencing the outcomes, and led to large levels of unexplained variance in the regression models. Also, the lack of the more rich data elements such as drug and alcohol abuse history, mental health issue, learning disabilities, or parental education and support are missing from this analysis, and may have a much larger influence on the outcomes than the measures that are included, such as gender, race, and age.

The unique management of the jails and juvenile detention facility in King County also contributes a significant limitation to the data underlying this study. King County is the only county in the state where the jail is managed by the County Executive, not the Sheriff. It is also the only county where the juvenile detention facility is managed by the same entity as the adult jails, rather than the Juvenile Court. For this study, what this means is that some information was available to a researcher working under the auspices of the detention facility and some was not. Charging information, for example, was available but is not carefully connected to the detention information. Therefore, ascertaining what charges were involved in which referral or filing, and whether those specific referrals or filing were connected to a specific detention, is nearly impossible to do with a high degree of accuracy. Due to a detention specific flag that indicates whether a youth is a Becca youth or not, that information could be determined for use in this
study. What could not be determined with any accuracy was what charges, and therefore what severity level, new referrals were. Identifying whether a Becca youth was being re-referred or re-booked for more serious offenses would have been an important variable for this analysis.

The detention facility staff must include at least one charge in order to book a youth to the facility, but do not always include all charges and warrants at the time of booking, making it difficult to determine what a youth was booked to detention for and what charges may have been added at a later date during their detention stay. Additionally, the charge which ultimately holds a youth in secure detention is determined solely by the Superior Court, and therefore changes when the youth appears in court and can continue to change as the youth remains in detention. Knowing with a high degree of accuracy what charges were new charges versus warrant charges, would have explained the offending patterns for the Becca youth in these samples.

Finally, when youth are being held in secure detention, filing decisions must be made within 72 hours of charges being referred to the prosecutor. The same does not hold true if the youth is out of custody. Therefore, if a youth (Becca or otherwise) is booked into secure detention and released within the first 72 hours, it could be a significant period of time before referred charges are entered into the JIMS database, making it hard to determine whether a booking occurred before a charge was referred to the prosecutor or at a contiguous time.

These data management practices also made it difficult to determine if a Becca youth remained a purely Becca youth, meaning being re-booked, or being re-referred for non-offender matters only. Knowing if, and when, a youth changed status from being held only on Becca matters, versus starting to commit criminal offenses would also contribute to more explanatory power.
Finally, one advantage to the structure of the juvenile detention facility is that a measure of adult system contact was available for inclusion in this research. What was used was an indication of whether the youth had ever had contact with the King County Jail. The limitation to the use of this measure is that there is no date included along with it, which does not allow the researcher to know when the youth ultimately made contact with the adult system. This is a problem in that the separated youth will have aged into the adult system earlier than the separated sample. The data for adult contact was drawn in early 2013, giving some of separated youth ten years to contact the adult system, as compared with only four years for the youth included in the co-mingled sample, which began in 2009. It is unknown as to what level, but the adult contact outcome should be viewed with this knowledge.

**Suggestions for Refinement**

As a first look into the effects of detention and co-mingling on non-offenders, this study points to a need for further and more specific research. The analyses find no conclusive evidence that co-mingling is harmful to the youth; it also finds little evidence that it is not. Given what is at stake for these youth, the conclusive evidence one way or another needs to be sought. A number of refinements and enhancements to this study could be undertaken to sharpen that focus.

First, the study should be repeated, also using a pre- and post- housing policy change model, but more youth specific information should be utilized if available. This study utilized data that was available to King County Adult and Juvenile Detention staff only, but the County as a whole through the use of hard copy "social files" has more risk and protective factor information on the youth in question. This information includes risk and protective factors such as living situation, schooling information, more complete statewide system contact information,
as well as drug and alcohol abuse and treatment, mental health treatment, and parental information. Given some indication in this study that there are differences in the two groups, but having no specific information about what individual factors are influencing the outcomes, any and all risk and protective factors that are known in the literature should be sought and included as controls. Understanding more deeply what individual characteristics, as well as macro level risk and protective factors, influence justice system outcomes such as those included in this study would help policymakers to make better decisions about detention decisions, especially in preventative detention situations like those affecting Becca youth.

Given the nature of these risk and protective factors, their status as HIPPA protected information, and the fact that this is a juvenile population, a repeated study would likely need to be conducted either by the DAJD or the Superior Court. However, it is very important research that affects a fair number of youth in the county each year and should be undertaken.

The second thing that could be done to enhance this research and bring more clarity is to look more deeply into the youth’s offending history as well as their re-offense patterns going forward. This study includes a dichotomous indicator of whether the youth had prior juvenile justice system contact, and another dichotomous measure of whether or not that prior contact was offender or Becca-related. The rate of that prior contact and a measure of how severe it was is an important control that could help illuminate some of the outcomes in this study, especially the booking outcome.

Washington State's sentencing guidelines and King County's detention intake criteria penalize, by longer sentences, or simply allowing entrance to secure detention, youth with more severe charges. Severity of the referred and booked charges in this study was not included, and could therefore not be controlled for. If the co-mingled group are contacting the system again at
the same rate as the separated youth, but for more serious charges, it would be a significant finding. It would also tend to lend support to contagion theory; indicating that the co-mingled youth could be learning delinquent behavior from the youth they are housed with in detention.

Likewise, the individual youth's re-offense patterns should be assessed for the same things. This study included a dichotomous measure of whether or not the youth was subsequently referred for prosecution on a new charge and when, and another dichotomous measure of whether the youth was booked into secure detention again. More information regarding the rate of re-offense and the severity of the re-offense would provide more precision in assessing outcomes.

Third, the scope of the research could and should be expanded to include a statewide assessment of prior contact and re-offense patterns. The current study included system contact information only from within King County and it is not hard to assume that the youth in the study can and do move about the state, or least to the immediately surrounding counties. This is more likely to affect a sample of offender youth, because recall that Becca petitions are initiated by the youth's school district, but it is likely that some of the Becca youth may have parents or family in other areas of the state where they also may contact the system. This is information that is missing from this sample.

This is also true of the adult system contact measure. This study includes only a measure of whether the youth contacted the King County jail as an adult and, while it is likely that the youth in the sample also move around the state, it is even more likely that after they turn 18, complete their schooling and begin working, they will become even more mobile. In addition to a statewide indication of contact with the adult criminal justice system, a statewide search of
criminal filings and convictions to provide information on rate and severity of the adult contact would also be extremely useful in assessing long term outcomes.

Finally, a cost-benefit analysis indicating the benefits to the youth of Becca processing that serves to curb truancy and keep the youth progressing toward high school completion versus the costs of labeling and the harms of detention would go a long way to help policy makers find their way through the needs and harms associated with Becca youth. The WSIPP has done an excellent job of showing the benefits of the Becca bill (2000, 2002, 2009), but has not accomplished the corresponding costs analysis. The hope is that this research takes a first step in revealing the need for that kind of policy analysis.

Conclusion

The goal of this research was to open a conversation amongst researchers, practitioners, and policy makers in Washington State regarding the costs of detaining non-offender youth in secure detention, and particularly in co-mingling non-offender youth with offenders. While the results of this study are inconclusive as to the extent of this harm based on housing assignment, it is a first step toward better understanding. There are actual monetary costs to processing and housing Becca youth in detention and they are very real costs to counties that are faced with growing costs and shrinking revenues. However, the real long term costs are to the youth that are detained.

Recent research into the costs of confinement on youth development (Steinberg, Chung and Little, 2004; Monahan, Steinberg, Cauffman and Mulvey, 2013), the collateral consequences of court processing (Models for Change, 2013), and overall increased recidivism (Lipsey, 1992; Fendrich and Archer, 1998; Benda and Tollet, 1999), all point to detrimental long term effects from even relatively short stays in confinement. Which begs the question of Washington State
public policy-makers, why should non-offenders be detained at all when the potential costs to them are so very high? Also, given recent research into the effects of peer influence in unstructured settings meant to treat youth (Dishion and Dodge, 2005; Osgood and Briddell, 2006; Cecile and Born, 2009; Mennis and Harris, 2011), the additional question to policy makers in King County is why would we risk co-mingling non-offenders who have committed no crime?

The fact that the results of this study are inconclusive as to the long term harm of co-mingling non-offenders should not dissuade researchers and practitioners from continuing to delve into this topic. A number of suggestions for further research meant to clarify the harms were provided and should be undertaken.

The state and the counties have the option of detaining these youth, or sanctioning with other, non-secure options such as electronic home detention, work crews, or many other creative non-secure programs. Also, the Courts could choose not to process the youth. The state has not upheld its end of the Becca policy by providing adequate secure crisis residential space around the state for youth that are truly in crisis, like Becca Hedman was. It is time to re-evaluate the goals of the initial policy, the problems with the implementation of the law, the needs of the youth of the state and the potential harm wrought by a policy intended to help.
Chapter Six References


I. Juveniles under the age of 8 years cannot be found guilty of offenses under RCW 9A.04.050 and will not be detained.

II. Alleged New Offense:

Juveniles presented on the following charges will be detained for judicial review:

A. Offenses listed in Addendum 1.

B. Any offense involving possession of a Firearm.

C. Youth age sixteen (16) years or older who are presented on a domestic violence charge as defined in RCW 10.31.100 and RCW 10.99.020 (see Addendum 2). For youth under age 16 presented on a domestic violence offense not in Addendum 1 see Section VI- E if applicable.

D. Any assault on a school staff person, administrator, or teacher.

III. Warrants:

All Juveniles with an active warrant may be presented to Juvenile Detention Intake for Screening.

A. Juveniles presented on the following active warrants will be detained for judicial review:

1. Any warrant issued for an Addendum 1 offense or any Tier-1 warrant.

2. Violation of Conditions of Release, Material witness, or Probable Cause warrants.

3. Warrants issued for At-Risk Youth, Child in Need of Services (CHINS), Truancy, or Dependency cases.

4. Out of Jurisdiction, Parole, Federal Detainer or Municipal/District Court warrant.
B. To determine if any other King County Superior Court warrant will be detained for judicial review, the criteria referenced in General Order 07-2-12050-5 SEA (Tier 2 Warrants) will be applied.

IV. History:

Juveniles presented on any new offense who meet the following criteria will be detained for judicial review. History criteria are limited to information available through JJWEB (King County Juvenile Justice Web-Based data system).

A. Pending Matter:
   1. Committed a new offense with a pending offender matter. Pending is defined as filed on to disposition.

B. Detention History:
   1. Juvenile is known to have been released from juvenile detention within the previous thirty (30) days.

C. Criminal History:
   1. Prior adjudication (finding of guilt) for any felony within the previous three (3) months based on date pled/found guilty.

V. Other Criteria:

Juveniles who meet the following criteria will be detained for judicial review or transport:

A. Administrative Holds.
   1. Juveniles presented for court from the Juvenile Rehabilitation Administration (JRA), in transit, parole hold/revocation.
   2. Court holds from other jurisdictions

B. When the identification of a juvenile is uncertain.
1. The juvenile's identity is not verifiable.

2. The juvenile refuses to give necessary current information regarding name and age.

VI. Detain Override:

Under the following circumstances a youth who does not meet any criteria in Sections I through V may be detained for judicial review:

A. The juvenile is likely to interfere with administration of justice.
   1. The juvenile has demonstrated a serious intent to intimidate witnesses or others involved with pending matter.
   2. There is reason to believe that the juvenile is likely to destroy evidence and the opportunity exists to do so.

B. Danger to Self
   1. When there is reason to believe that a juvenile is a danger to self for mental health and/or substance abuse reasons, and does not fit other detention criteria, a mental health professional or recognized expert in the appropriate area is to be called immediately for an evaluation. The juvenile will be released to other resources as soon as possible, or when the condition is no longer present.

C. Fear of Harm
   1. Upon a finding that members of the community have threatened the health of a juvenile taken into custody, at the juvenile's request the youth may be detained pending further order of the court

D. The juvenile will likely fail to appear for further proceedings.
1. There is a clear intent on the part of the juvenile not to appear in court based on a statement to that effect or actions.

E. Special Circumstances:

1. The youth’s behavior demonstrates imminent threat to other person(s) and/or the youth is involved in a volatile and escalating situation that is likely to result in physical harm to other person(s) or significant damage to property.

NOTE: When an override to detain a youth who does not meet the Detention Intake Criteria (Section VI. A-E) is requested, specific circumstances must be cited that directly support the reason for the override.
Addendum 1: Detainable Offenses

Juveniles presented on the following charges will be detained for judicial review:

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Addendum 2: Domestic Violence

Youth age sixteen (16) years or older who are presented on a domestic violence charge will be detained for judicial review.

**RCW 10.31.100 Arrest without warrant (excerpt).**

(2)(c) The person is sixteen years or older and within the preceding four hours has assaulted a family or household member as defined in RCW 10.99.020 and the officer believes: (i) A felonious assault has occurred; (ii) an assault has occurred which has resulted in bodily injury to the victim, whether the injury is observable by the responding officer or not; or (iii) that any physical action has occurred which was intended to cause another person reasonably to fear imminent serious bodily injury or death. Bodily injury means physical pain, illness, or an impairment of physical condition. When the officer has probable cause to believe that family or household members have assaulted each other, the officer is not required to arrest both persons. The officer shall arrest the person whom the officer believes to be the primary physical aggressor. In making this determination, the officer shall make every reasonable effort to consider: (i) The intent to protect victims of domestic violence under RCW 10.99.010; (ii) the comparative extent of injuries inflicted or serious threats creating fear of physical injury; and (iii) the history of domestic violence between the persons involved.
RCW 10.99.020 Definitions (excerpt).

(3) "Family or household members" means spouses, former spouses, persons who have a child in common regardless of whether they have been married or have lived together at any time, adult persons related by blood or marriage, adult persons who are presently residing together or who have resided together in the past, persons sixteen years of age or older who are presently residing together or who have resided together in the past and who have or have had a dating relationship, persons sixteen years of age or older with whom a person sixteen years of age or older has or has had a dating relationship, and persons who have a biological or legal parent-child relationship, including stepparents and stepchildren and grandparents and grandchildren.

(5) "Domestic violence" includes but is not limited to any of the following crimes when committed by one family or household member against another:

(a) Assault in the first degree (RCW 9A.36.011);
(b) Assault in the second degree (RCW 9A.36.021);
(c) Assault in the third degree (RCW 9A.36.031);
(d) Assault in the fourth degree (RCW 9A.36.041);
(e) Drive-by shooting (RCW 9A.36.045);
(f) Reckless endangerment (RCW 9A.36.050);
(g) Coercion (RCW 9A.36.070);
(h) Burglary in the first degree (RCW 9A.52.020);
(i) Burglary in the second degree (RCW 9A.52.030);
(j) Criminal trespass in the first degree (RCW 9A.52.070);
(k) Criminal trespass in the second degree (RCW 9A.52.080);
(l) Malicious mischief in the first degree (RCW 9A.48.070);
(m) Malicious mischief in the second degree (RCW 9A.48.080);
(n) Malicious mischief in the third degree (RCW 9A.48.090);
(o) Kidnapping in the first degree (RCW 9A.40.020);
(p) Kidnapping in the second degree (RCW 9A.40.030);
(q) Unlawful imprisonment (RCW 9A.40.040);
(r) Violation of the provisions of a restraining order, no-contact order, or protection order (RCW 10.99.040, 10.99.050, 26.09.300, 26.10.220, 26.26.138, 26.44.063, 26.44.150, 26.50.060, 26.50.070, 26.50.130, 26.52.070, or 74.34.145);
(s) Rape in the first degree (RCW 9A.44.040);
(t) Rape in the second degree (RCW 9A.44.050);
(u) Residential burglary (RCW 9A.52.025);
(v) Stalking (RCW 9A.46.110); and
(w) Interference with the reporting of domestic violence (RCW 9A.36.150).