

DIVERSION 101: A STEP-BY-STEP GUIDE TO POLICY-DRIVEN, RESEARCH-INFORMED DIVERSIONARY OPTIONS

In this series, we have examined what diversion is and what it is not, the four primary purposes of diversion, whether diversion contributes to public safety, how the “what works” research can be used to determine who should be considered for diversion, the key justice system decision points at which diversion can take place, the eight principles that should guide diversionary efforts, the research pertinent to diversion, the role of victims and victim service providers in establishing diversion options, the importance of engaging community in diversion programs, and performance measurement criteria for diversionary programs. Weaving together these key concepts, this article focuses on establishing diversionary practices that are driven by research-informed policy.

The 8-Step Policy Development Process

Whether developing a new diversion program or evaluating and improving an existing one, we suggest the following 8-step process to maximize the potential of diversionary programs and services.

Step 1: Build a Multidisciplinary Policy Team

Collaboration in the criminal justice system seeks to overcome the limitations of traditional and non-systemic approaches to criminal justice problem solving and solution development by bringing together stakeholders to share information, work toward the development of common goals, and jointly create policies to support those goals. Stakeholders are defined as those who influence and have an investment in the justice system’s outcomes. These systemwide stakeholders are referred to as “policy teams” and include both system-based partners (e.g., judges, prosecutors, defenders, police chiefs, sheriffs, and others) and community-based partners (e.g., victim service providers, community leaders, service organization representatives, and consumers of justice system services and/or their loved ones).^{1,2} Experience demonstrates that including all of these perspectives around the policy table will garner the most support and net the most positive results.

Step 2: Understand the Purposes of Diversion and Their Decision Point Options

This series has previously articulated the four potential purposes of diversionary programs³ and the four decision points that offer opportunities for diversion.⁴ Once assembled, policy teams should review these carefully to ensure clarity around both purposes and decision point options.

Step 3: Understand Diversionary Efforts Already in Place

Equipped with an understanding of the different purposes and decision points at which diversion may occur, the policy team should next discuss local efforts currently underway. A decision point by decision point analysis is likely to reveal a variety of practices, some formally established and others informally conducted. Some teams may choose to develop a “system map”⁵ to describe their criminal justice system process and interventions from the point an individual first has contact with law enforcement to final adjudication of a case. In so doing, policy teams might discuss the formal and informal policies and practices that guide diversionary efforts, the persons responsible for decision-making at each intervention point, the stated purposes and programmatic features

of each available diversion option, the populations they serve, and the data around their short- and long-term performance.⁶

Step 4: Set Goals for Improvement

With a complete understanding of existing diversion practices—coupled with clarity around decision points and the purposes of diversion—policy teams can next consider strategies to improve their array of diversionary options. In so doing, it is strongly recommended that teams review the eight principles that have been suggested to guide all diversion practices:⁷

Principle 1: Diversion options promote fair and equitable justice; that is, they are designed specifically to provide equal access to participants regardless of race, faith, gender, sexuality, or socioeconomic status.

Principle 2: Diversion options are transparent.

Principle 3: Diversion options establish non-traditional ways to manage cases with prosecutorial merit.

Principle 4: Diversion options are governed by state statute.

Principle 5: Diversion options are designed to ensure that, in those cases where criminal penalties are potentially involved, participants are offered representation by counsel and give informed consent.

Principle 6: Diversion options include structured processes for victim input.

Principle 7: Diversion options are designed with clearly articulated goals.

Principle 8: Diversion options are informed by social science research and local data.

Step 5: Review the Research on Risk Reduction

Risk reduction results from the successful application of principles and techniques that have been demonstrated to reduce the likelihood, frequency, or severity of reoffense by known defendants/offenders.⁸ A growing body of science provides justice system professionals with the

information and tools to estimate the level of risk an individual poses and provides principles for intervention to reduce the likelihood, severity, and/or frequency of future risk. Presuming risk reduction is among the goals sought, the next step in this process, then, necessitates familiarization with the risk reduction literature and a careful eye toward the interventions that reduce—and those that exacerbate—future crime.⁹ Likewise, other goals (e.g., victim restoration, cost and process efficiency) have equally important bodies of research-informed knowledge. Depending upon the goals being pursued, policy teams should carefully examine the associated research.

Step 6: Design and Build (or Redesign and Rebuild)

Appreciation for the lessons of implementation leads to a recognition that incubating a good idea is not sufficient to produce intended results. Instead, careful formulation (or reformulation) of programs, services, and their accompanying policies and procedures is essential. It is strongly recommended that logic models¹⁰ be developed for each and every program and service. Logic models are built upon a clearly articulated goal or desired outcome. They are informed by a careful analysis of current policy and practice in the context of evidence-based research. Logic models describe currently available resources, activities that will be retained and those that will be changed or added, the short-term outputs that these activities and changes will produce, and their intended long-term impacts. The result of building a logic model is a picture that describes a theory of change—a roadmap of the steps that need to be taken in order to produce the outcomes the policy team seeks to achieve. A logic model also provides a tool for managing the implementation process and evaluating how effectively it is carried out.

Step 7: Understand the Science of Implementation¹¹

Public and private sector agencies alike are turning more and more to evidence-based solutions to improve processes in medicine, education, social services, and criminal justice administration. Innovators have found, however, that the translation of tested theories to specific environments often does not succeed as anticipated. The reason, researchers identify, is a lack of understanding of a robust implementation process. Implementation remains,

as some researchers have called it, the “black box” (Woolsey & Biebel, 2007) between research and practice. Others have referred to it as the “science to service gap” (Ogden & Fixsen, 2014).

Researchers have identified a set of “implementation drivers” that form the foundation of a best practices approach to implementation. These include a deliberate focus on: 1) *competency drivers*, defined as “mechanisms to develop, improve, and sustain one’s ability to implement an intervention as intended in order to benefit children, families, and communities”; 2) *organization drivers*, defined as “mechanisms to create and sustain hospitable organizational and system environments for effective services”; and 3) *leadership drivers*, which focus on providing the right leadership strategies for different types of leadership challenges (Fixsen, Blase, Naoom, & Duda, 2015). Understanding these drivers of implementation success (and failure), and focusing intently on them, will increase the likelihood of positive diversionary outcomes.

Step 8: Collect and Analyze Data; Engage in Continuous Quality Improvement; Monitor and Refine

Efforts to improve performance are not new to professional industries. In fact, they are ubiquitous. For example, Walmart and Old Navy use “secret shoppers,” employees or contracted individuals who are unknown to the local store’s staff who pose as customers. Secret shoppers engage in the everyday shopping experience, all the while taking note of how they were greeted, the demeanor and helpfulness of staff, the condition of the store, and merchandise displays. They identify gradients of customer service, provide direct feedback to the corporate office on the scores, and recommend steps to improve operations. NASA conducts rocket launch and space travel simulations, mirroring conditions in an effort to perfect procedures before putting the operation to a live test. The auto industry performs hundreds of tests to ensure that auto parts are durable and meet safety standards. Doctors in residency perform hands-on duties and receive ongoing feedback from mentors on their skills and techniques. Major League Baseball’s coaches and proficiency experts examine pitches thrown and bats swung, scrutinize post-game footage, and carefully analyze players’ mechanics to detect even the slightest deviation from perfect form and technique.

Criminal justice should be no different. The justice system’s actors perform a function that arguably has an impact of greater import than baseball players or Walmart store clerks. Indeed, the stakes are high in a system where individuals can lose their freedom, victims can lose the opportunity for input and a just outcome, innocent citizens can be victimized, disparities can be exacerbated, and the potential for long-term risk reduction is lost when the system falters in the consistent delivery of research-based knowledge and techniques.

Research and practice have repeatedly demonstrated that implementation of effective tools and practices falls far short of its potential when sufficient quality assurance techniques are not put in place. Agencies and systems that provide adequate preparation of and training to specialized and nonspecialized staff alike, and that successfully implement proper procedures, often find that, nonetheless, programs are not implemented as designed and critical practices erode over time. This unwelcome discovery can be mitigated by establishing an intentional and structured process of collecting and analyzing data; conducting continuous quality improvement reviews designed to reinforce desired practices and expose and redirect those that are out of alignment; and flexing, adapting, and refining structures, supports, and resources to increase the likelihood that expected outcomes are achieved.

References

- The following resources were cited in this paper. For resources pertinent to the entire series, see the last article in the series, *Additional Diversion Resources*.
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Notes

¹ Information about the engagement of community partners can be found in the ninth article in this series, *The Importance of Community Engagement to Diversionary Programs*.

² Information regarding the role of victims and victim service providers in the diversionary process can be found in the eighth article in this series, *The Role of Victims and Victim Service Providers in Establishing Diversion Options*.

³ Information about the four primary purposes of diversion can be found in the second article in this series, *The Purposes of Diversion*.

⁴ Information about the key decision points for diversion opportunities can be found in the fifth article in this series, *Diversion Opportunities at Key Justice System Decision Points*.

⁵ Resources for developing a “system map” can be found in the final article in this series, *Additional Diversion Resources*.

⁶ Information pertaining to performance measurement for diversion options can be found in the tenth article in this series, *Defining Performance Measurement Criteria for Diversionary Programs*.

⁷ More information about the eight guiding principles can be found in the sixth article in this series, *The Guiding Principles of Diversion*.

⁸ More information about the research on risk reduction can be found in the fourth article in this series, *Using the “What Works” Research to Determine Who Should Be Considered for Diversion*, as well as the seventh article, *A Synopsis of Pertinent Research*.

⁹ A snapshot review of the major research findings, their implications, and relevant decision points for the pretrial stage can be found in *A Framework for Evidence-Based Decision Making in State and Local Criminal Justice Systems* (4th ed.) at <https://ebdmoneless.org/framework/>.

¹⁰ Resources for developing logic models can be found in the final article in this series, *Additional Diversion Resources*.

¹¹ One public health implementation study has suggested that without careful attention to implementation strategies, it can take an average of 17 years for 14% of evidence-based interventions to be integrated into practice (Balas, 1998). However, the National Implementation Research Network (NIRN) has suggested that implementation strategies, including implementation teams, can have a significant impact on that timeline. In a study by Fixsen, Blasé, Timbers, and Wolf (2001), the team determined that the impact of having an implementation team in place and the effective use of implementation science and practice can significantly decrease the time it takes for implementation (3 years versus 17 years) and increase the percentage of successful implementation outcomes (80% versus 14%).

About This Article Series

This is the eleventh in a series of papers that examine pre-conviction diversion options, provide clarity around their purposes, propose guiding principles, and explore their public safety and other benefits. The articles, which build upon one another, honor the foundational work that has been done by others and continue to advance our thinking and work in this area.

Previous Articles in This Series

What Is Diversion?

The Purposes of Diversion

Do Diversion Options Put Public Safety at Risk?

Using the “What Works” Research to Determine Who Should Be Considered for Diversion

Diversion Opportunities at Key Justice System Decision Points

The Guiding Principles of Diversion

A Synopsis of Pertinent Research

The Role of Victims and Victim Service Providers in Establishing Diversion Options

The Importance of Community Engagement to Diversionary Programs

Defining Performance Measurement Criteria for Diversionary Programs

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