

DIVERSION 101: USING THE “WHAT WORKS” RESEARCH TO DETERMINE WHO SHOULD BE CONSIDERED FOR DIVERSION

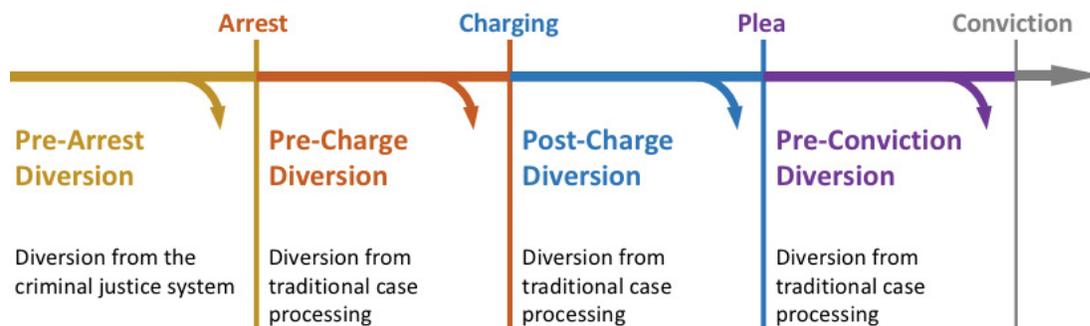
The previous articles in this series examined what diversion is and what it is not, the four primary purposes of diversion, and whether diversion contributes to public safety. This article explores how the “what works” research can be used to determine who should be considered for diversion.

A considerable body of research demonstrates that, under the proper conditions, justice system strategies can increase public safety through risk reduction, mitigate collateral consequences (i.e., harm reduction), and yield monetary and other benefits (see, e.g., Bonta & Andrews, 2017; Lipsey, 2009; MacKenzie, 2006; Washington State Institute for Public Policy, 2018a, 2018b). Arguably, the most important among these research findings is that the opportunity for recidivism reduction is greatest when the principles of “risk,” “need,” and “responsivity” are properly applied (see, e.g., Bonta & Andrews, 2017).

This is a fundamentally important finding as it relates to all criminal justice interventions, including—and perhaps especially—diversion options, or strategies that redirect justice-involved individuals from traditional case processing. Specifically, this means the following:

- Potential participants should be assessed to determine their level of recidivism risk. Reliable screenings and assessments are needed at individuals’ first point of contact with the system, as well as at subsequent points, to identify candidates’ suitability for diversion based on identified risk level, criminogenic needs, and other important conditions (e.g., protective and responsivity factors¹).
- Because of heightened potential for recidivism and harm to the community, individuals assessed to pose a high risk to recidivate may not be suitable for diversion.²
- Individuals determined to be at low risk to recidivate should receive minimal (“low touch”) intervention. That being said, some low risk individuals may still have intervention needs that warrant attention to strengthen protective factors, support desistance, and enhance overall stability. As such, the range of available diversion strategies must be evidence-based if these needs are to be effectively met.
- Individuals determined to be moderate risk must receive appropriate programming specifically designed to meet their criminogenic needs and reduce their risk of future law-breaking behavior.
- Low risk individuals with mental illness are over-represented in the justice system (Council of State Governments Justice Center, 2015; Steadman, Osher, Robbins, Case, & Samuels, 2009). For those whose criminal conduct is linked to their mental illness rather than antisocial or other criminogenic factors—which is more the exception than the rule (Peterson, Skeem, Kennealy, Bray, & Zvonkovic, 2014)—diversion, such as at the pre-arrest decision point, is particularly appropriate. Moderate risk individuals with mental illness may be more appropriate for post-charge diversion for purposes of addressing both criminogenic and mental health factors.

Key Justice System Decision Points: Diversion Opportunities



Taken together, the body of research regarding “what works” in reducing risk—and thereby increasing public safety—provides not only an evidence-informed *rationale* for diversion for some individuals but also an evidence-based *framework* for diversion.

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*.

Bonta, J., & Andrews, D. A. (2017). *The psychology of criminal conduct* (6th ed.). New York, NY: Routledge.

Council of State Governments Justice Center. (2015, Fall). *On the over-valuation of risk for people with mental illness*. Retrieved from <https://csgjusticecenter.org/mental-health/publications/on-the-over-valuation-of-risk-for-people-with-mental-illnesses/>

Lipsey, M. (2009). The primary factors that characterize effective interventions with juvenile offenders: A meta-analytic overview. *Victims & Offenders, 4*, 124–147. <https://doi.org/10.1080/15564880802612573>

MacKenzie, D. L. (2006, December). *What works in corrections: Reducing the criminal activities of offenders and delinquents*. Cambridge, UK: Cambridge University Press.

Peterson, J. K., Skeem, J., Kennealy, P., Bray, B., & Zvonkovic, A. (2014). How often and how consistently do symptoms directly precede criminal behavior among offenders with mental illness? *Law and Human Behavior, 38*, 439–449. <https://doi.org/10.1037/lhb0000075>

Steadman, H. J., Osher, F., Robbins, P. C., Case, B., & Samuels, S. (2009). Prevalence of serious mental illness among jail inmates. *Psychiatric Services, 60*, 761–765. <https://doi.org/10.1176/appi.ps.60.6.761>

Washington State Institute for Public Policy. (2018a). *Benefit-cost results: Adult criminal justice*. Retrieved from <http://www.wsipp.wa.gov/BenefitCost?topicId=2>

Washington State Institute for Public Policy. (2018b). *Benefit-cost results: Juvenile justice*. Retrieved from <http://www.wsipp.wa.gov/BenefitCost?topicId=1>

Notes

¹ Protective factors are conditions or attributes (e.g., skills, strengths, resources, or coping strategies) that help people deal more effectively with stressful events and that mitigate or eliminate risk. Responsivity factors are traits that differentiate one individual from another (e.g., culture, developmental age, gender, learning style and learning ability, mental health, motivation) and that can be barriers to learning if interventions are not properly matched to these factors.

² Likewise, defendants who commit serious and violent offenses, who may not necessarily pose a high risk to recidivate, may also be excluded from diversion consideration, given the harm that results from these offenses. However, this is a policy, rather than a research-based, decision.

About This Article Series

This is the fourth 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?

Author: Madeline M. Carter, Principal, Center for Effective Public Policy

© 2019 Bureau of Justice Assistance

The Bureau of Justice Assistance seeks to support criminal justice policymakers in the establishment of data- and policy-driven diversion options. This paper is one in a series designed to provide clarity around this important justice system issue.

This project was supported by Grant No. 2016-MU-BX-K047 awarded by the Bureau of Justice Assistance. The Bureau of Justice Assistance is a component of the Department of Justice's Office of Justice Programs, which also includes the Bureau of Justice Statistics, the National Institute of Justice, the Office of Juvenile Justice and Delinquency Prevention, the Office for Victims of Crime, and the SMART Office. Points of view or opinions in this document are those of the author and do not necessarily represent the official position or policies of the U.S. Department of Justice.