

## DIVERSION 101: A SYNOPSIS OF PERTINENT RESEARCH

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, and the eight principles that should guide diversionary efforts. This article provides a brief review of the research pertinent to diversion, and its key limitations.

### Risk Reduction Research Overview

Decades of research and systematic analyses into “what works” demonstrate that public safety outcomes can be maximized, with between 10 and 30% reductions in recidivism, when interventions are based on the evidence-based principles of risk, need, responsivity (the RNR model), and effective treatment (see, e.g., Andrews, 2007; Bonta & Andrews, 2017; Latessa & Lowenkamp, 2006).

- The “risk principle” holds that programming should be matched to a person’s assessed level of risk to reoffend; those at higher risk require higher levels of intervention to reduce their likelihood of recidivism (see, e.g., Bonta & Andrews, 2017; Lowenkamp, Latessa, & Holsinger, 2006). Research has also shown that offering services to individuals without regard to risk level generally fails to reduce recidivism and, particularly for low risk individuals, may actually result in an increased risk to reoffend (see, e.g., Bonta & Andrews, 2017; Lowenkamp, Latessa, & Holsinger, 2006; Lowenkamp, Pealer, Smith, & Latessa, 2006).
- The “need principle” states that, to reduce the likelihood of future illegal behavior, interventions should focus on those changeable traits (i.e., antisocial thinking, antisocial personality/temperament [e.g., coping and problem solving skills, anger management], antisocial associates,

family/marital concerns, substance abuse) that influence criminal behavior. These crime-influencing risk factors are referred to as “criminogenic needs” (Andrews et al., 1990; Bonta & Andrews, 2017).

- The “responsivity principle” posits that the success of interventions depends on delivering them in ways that are most likely to engage people and facilitate meaningful change, and on matching the right program to the person based on their individual traits (see, e.g., Bonta & Andrews, 2017).
- The “treatment principle” is based on research that demonstrates that risk reduction outcomes are improved in terms of long-term attitude and behavior change when treatment is based on cognitive-behavioral and social learning approaches (Lipsey & Cullen, 2007), particularly those provided in the proper “dosage” and with skill-building components such as role-play (Sperber & Lowenkamp, 2017).

The risk-reducing effect of these principles is cumulative; recidivism decreases incrementally with increased adherence to these principles (i.e., the more principles adhered to, the lower the recidivism; see, e.g., Bonta & Andrews, 2017). Given the substantial and compelling empirical support underlying these principles, the Risk-Need-Responsivity model, combined with the treatment principle, has become a highly influential framework for

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risk reduction efforts and offers an important empirical foundation upon which diversion strategies should be based.

## **Diversionary Programs and Services Research Summary**

In contrast to the substantial body of risk reduction research—and despite the relatively longstanding use of diversion—research on diversion options is quite limited, and questions remain regarding the impact and effectiveness of these options. Our review of the available literature suggests the following:

- There is a tendency to refer to different forms of diversion similarly, reducing the opportunity to make accurate comparisons across programs and services. Even diversion programs that serve similar populations and report having similar goals can vary substantially in terms of the justice system decision point at which the program is provided, eligibility criteria for candidates (e.g., risk level, offense type), programmatic strategies employed, dosage of the program (when utilized), and fidelity to a program model.
- Many existing studies lack rigorous empirical design and methodology, resulting in findings that may not be reliable or generalizable. Common methodological limitations include small sample sizes, short follow-up periods, weak construction of comparison groups that are not necessarily well matched, limited statistical controls over confounding variables, and the absence of researcher independence.
- Although diversion strategies are generally intended for “low risk populations” (as opposed to low-level crimes, as was historically the case), few studies explicitly provide sufficient information regarding the ways in which risk is determined, and many do not report the use of empirically based assessment tools to ascertain an individual’s likelihood to reoffend. Since research has clearly demonstrated that risk to reoffend is determined based upon a variety of factors rather than the single factor of instant offense, it is difficult to understand with any precision the nature of the populations served by programs that do not use assessment tools.

- Details about the nature of the strategies employed (e.g., theoretical model, specific strategies, dosage, delivery methods) are lacking in some cases.
- In turn, the limited scientific rigor of these studies affects the findings of meta-analyses, which are designed to identify overall “effects.”
- Moreover, in a number of the existing systematic reviews, diversion strategies used at different justice system decision points, as well as varied options designed for different populations of interest, have been collapsed into a single “diversion” category. Consequently, these pooled analyses provide little clear guidance about which options are most effective, and under what circumstances.

## **Overview of the Most Commonly Reported Diversion Strategies**

The following is an overview of key research on the most commonly reported diversion strategies: for adults experiencing mental illness and for juveniles.

### **Diversion of Individuals with Mental Illness**

Diversion options for individuals with serious mental illness have been developed in response to the concern for, and high prevalence and over-representation of, these individuals in the justice system. Diversion options—at the pre-arrest, pre-charge, and post-charge stages—recognize that some criminal conduct may be a manifestation of, or may be strongly influenced by, acute mental health symptoms.

- **Pre-arrest strategies:** Primarily implemented by law enforcement officers with specialized training—often in partnership with mental health providers—pre-arrest strategies such as crisis intervention teams (CITs) and police-based specialized response models<sup>1</sup> are designed to approach some unlawful conduct from a behavioral health perspective rather than from an enforcement and control perspective. Using de-escalation techniques and directing individuals with mental illness to appropriate treatment services in lieu of arrest, a primary goal of these strategies is to divert these persons from entering the justice system. This approach is designed to reduce potentially unnecessary costs to the system. It also seeks to avoid the collateral

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consequences of justice system involvement to the perpetrator (particularly further deterioration of mental health conditions) and, finally, to diminish the likelihood of use of force and, by extension, the potential for injuries to officers and the individuals themselves.

Meta-analyses generally indicate that these strategies are effective in facilitating access to behavioral health services, reducing the use of force during initial law enforcement encounters, and reducing the use of jail bed days and hospital stays (Heilbrun et al., 2012; Sirotich, 2009). However, findings are mixed with respect to the impact that such approaches have on subsequent arrests (Dewa, Loong, Trujillo, & Bonato, 2018; Heilbrun et al., 2012; Sirotich, 2009) and may vary depending upon the decision point (i.e., pre-arrest, pre-charge, post-charge; Heilbrun et al., 2012). Some studies offer less promising results. For example, in a national multi-site examination of the effects of diversion on more than 1,300 adults with co-occurring mental health and substance use disorders, Broner, Lattimore, Cowell, and Schlenger (2004) identified no differences among those diverted and those eligible for diversion in terms of mental illness symptoms, substance use, quality of life, or recidivism at follow-up.

- **Post-charge strategies:** Post-charge diversion programs for adults experiencing significant mental health difficulties may be jail-based—operated by jail or pretrial personnel—or court-based, including the utilization of mental health practitioners at court facilities and specialized pre-conviction mental health courts (Sirotich, 2009). Research indicates that these programs, like their pre-charge counterparts, can increase access to and participation in appropriate mental health and behavioral health services (Heilbrun et al., 2012) and reduce jail placements (Heilbrun et al., 2012; Sirotich, 2009), length of time spent in jail (Heilbrun et al., 2012; Sirotich, 2009), and system costs relative to traditional processing (Washington State Institute for Public Policy, 2018a). However, ultimately, compelling data on long-term impacts are largely absent (Broner et al., 2004; Sirotich, 2009).

## Diversion of Justice-Involved Youth

Although this article series focuses on the management of justice-involved adults, a review of the diversion research would not be complete without mention of diversion strategies for juveniles, particularly since their use is more widely established in the research literature. Some well-designed and well-implemented models of pre-arrest and pre- and post-charge diversion for juveniles have been found to be effective not only for reducing recidivism but also for reducing justice system costs and collateral consequences to youth (see, e.g., Aos, Lieb, Mayfield, Miller, & Pennucci, 2004; Fumia, Drake, & He, 2015; Petrosino, Turpin-Petrosino, & Guckenburg, 2010; Smith, Wolf, Cantillon, Thomas, & Davidson, 2004; Sturza & Davidson, 2006; Wilson & Hogue, 2013; Washington State Institute for Public Policy, 2018b).

Researchers have conducted meta-analyses to identify whether, for juveniles, diversion strategies on the whole are more effective in reducing recidivism than traditional processing. One meta-analysis (Petrosino et al., 2010) considered 29 diversion studies. Approximately half of the diversion strategies in these studies were cautionary in nature: youth received warnings and/or were simply released to their caregivers, with no programs or services provided (i.e., “doing nothing” diversion approaches, as defined by the researchers). The other half were post-arrest, pre-adjudication programs (e.g., educational sessions, family therapy, counseling, restorative justice conferencing), categorized as “doing something” strategies. Comparison groups were comprised of juveniles who were charged and processed traditionally. According to the meta-analysis, diverted youth—regardless of the category of diversion (i.e., “doing nothing” or “doing something”)—were significantly less likely to engage in further delinquency than those who had been processed traditionally. Diversion with no services (“doing nothing”) had a slight effect on reducing recidivism, whereas the effect size was significantly more pronounced for the “doing something” approach.

Wilson & Hoge (2013) conducted a meta-analysis examining 45 studies of 73 programs to determine the overall impact of diversion relative to traditional processing of youth. In general, diversion programs were found to

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be more effective than traditional processing in reducing recidivism, with cautionary and intervention programs being equally effective. The researchers concluded that diversionary programs for youth are “significantly more effective in reducing recidivism than the traditional justice system.” Specific meta-analytic findings included the following:

- Pre-charge (vs. post-charge) cautionary programs were most effective in reducing recidivism among low risk youth.
- Pre-charge and post-charge intervention programs were equally effective for medium–high risk youth.
- Intervention programs that adhered to the risk, need, and responsivity principles demonstrated greater effectiveness in reducing recidivism than intervention programs that did not.
- Intervention programs that provided cognitive-behavioral therapy were demonstrated effective and were found to have a more powerful impact when delivered in a diversion setting as compared to a probation/parole or in-custody context.

A more recent meta-analysis (Wilson, Brennan, & Olaghere, 2018) of 19 studies investigated the effectiveness of low risk youth diversion that occurred either before or after arrest but before the filing of formal charges as compared to traditional court processing. Of the 31 diversion interventions examined, well over half were “police caution,” in which police explained consequences of the continued delinquent behavior and then released the youth with or without referral to services. The remaining four interventions were “restorative caution”: a formal warning accompanied by restorative conditions such as participating in a structured conference with the victim. The meta-analysis concluded that, relative to traditional processing, these police-initiated diversion strategies significantly reduced the likelihood of continued police contacts or arrests among low risk youth. In comparing the strategies, each was equally effective in reducing future delinquency.

## References

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## Notes

<sup>1</sup> In police-based specialized response models—also referred to as “police-mental health collaborations”—mental health professionals consult with law enforcement on site or through telephone consultation. More information about police-mental health collaboration programs can be found at <https://pmhctoolkit.bja.gov>.

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## About This Article Series

This is the seventh 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*

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