

DIVERSION 101: DEFINING PERFORMANCE MEASUREMENT CRITERIA FOR DIVERSIONARY PROGRAMS

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, and the importance of engaging community in diversion programs. Building on these previous articles, this article demonstrates the link between the purposes of diversion and related program outcomes that may be achieved.

As outlined previously in this series, a 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). A critical condition to achieving these outcomes is the clear articulation of the purposes that drive a particular strategy. This article explores the link between the desired outcomes of an intervention and the intervention’s measures.

The Link Between Outcomes and Measurement

In order to be meaningful and useful, performance measurement must be directly linked to an intervention or, stated differently, to a program’s design and features. For instance, a diversion program that seeks to reduce recidivism is more likely to be successful if: 1) its design features adhere to the “risk principle” (discussed in more detail below); 2) short-term performance measurement data are collected and assessed to determine fidelity to the model; and 3) long-term outcome data are evaluated to determine whether risk reduction is achieved. Similarly, a diversion program that seeks cost efficiency will

As noted earlier, this series draws from, and builds upon, seminal work in this field. Notable related to performance measurement is *Measuring for Results: Outcome and Performance Measures for Pretrial Diversion Field*, developed by the National Association of Pretrial Services Agencies (Kennedy & Klute, 2013). This resource includes, among other key information, proposed performance measures for diversionary programs and a number of recommended measures such as safety, success, placement, and response rates. Those engaged in diversion-related performance measurement are encouraged to explore this topic more thoroughly by reviewing <https://s3.amazonaws.com/static.nicic.gov/Library/029722.pdf>

measure the comparative costs of diversion to the costs of traditional case processing and demonstrate a reduction in overall justice system expenditures. Thus, performance measurement—both short-term and long-term—is deeply rooted in *why* the diversion program is implemented.

The Link Between the Purposes of Diversion, Types of Diversion, and Performance Measurement

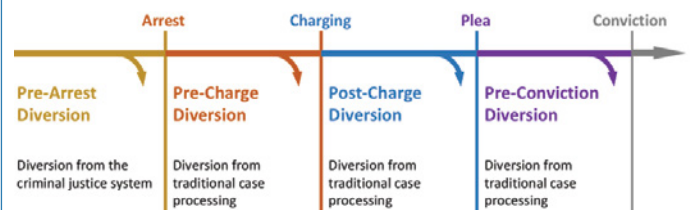
Below are the four primary purposes of diversion offered previously in this series:¹

- **Victim restoration:** Diversionary options may be appropriate to address the harm caused to an individual victim(s) or to the broader community.
- **Cost efficiency:** Diversionary options may be appropriate to avoid the expense of traditional case processing, providing the opportunity to allocate scarce resources to more serious/higher risk cases.
- **Process efficiency:** Diversionary options may be appropriate to expedite the outcome of a case.
- **Risk reduction:** Diversionary options may be appropriate to achieve risk reduction. Risk reduction is most likely achieved when diversionary options adhere to the principles of effective intervention.² Diversion may be used as a low intervention approach for “low risk” individuals (“low risk” to reoffend as assessed by a validated, actuarial tool). Diversion may also be used for individuals assessed as higher risk when the available diversionary services address the specific risk factors that contribute to an individual’s engagement in antisocial, illegal behavior (Andrews, 2007; Bonta & Andrews, 2007, 2017).

As these four purposes are not mutually exclusive, diversion strategies may aim to achieve multiple goals simultaneously.

Once the desired outcome(s) of a diversion program is determined, the next step is to determine the most appropriate justice system opportunity to accomplish the program’s goals: at pre-arrest, pre-charge, post-charge, or pre-conviction.³ For instance, if process and/or cost efficiency are the goals, the earlier the intervention occurs, the more likely the expected outcome will be achieved.

Key Justice System Decision Points: Diversion Opportunities



- **Pre-arrest diversion:** In cases where probable cause to arrest exists, law enforcement officers take an alternative course of action to arrest—such as “lecture and release” or referral to a program or service—to address the presumed underlying cause of the alleged criminal behavior (e.g., mental health concern, substance abuse, lack of safe, stable housing, etc.). Pre-arrest diversion results in no arrest or referral for charges.
- **Pre-charge diversion:** Following a referral for prosecution by law enforcement, prosecutors withhold filing charges and provide an alternative course of action (e.g., stipulate that an individual remain crime-free for a specified period of time, participate in education classes, conduct community service or other types of victim restoration). Satisfactory completion of pre-charge diversion typically results in charges not being issued.
- **Post-charge diversion:** Following the filing of formal charges, prosecutors may enter into a post-charge diversion agreement that stipulates one or more requirements that must be satisfied for successful termination of the case. Upon satisfactory completion of these requirements, the charges may be either reduced or dismissed.
- **Pre-conviction diversion:** Diversion options may be exercised up until the formal adjudication of the case by the court. Similar to post-charge diversion, satisfactory completion of the diversion requirements may result in charges being reduced or dismissed.

Short- and Long-Term Performance Measurement

Once the purpose and justice system decision point of a diversion option is determined, the identification of appropriate performance measures is possible. *Short-term outputs* are the quantifiable (e.g., a number, percentage, average) practices within a program that provide descriptive data about the program’s operations. Short-term outputs provide early feedback about whether long-term impacts will be achieved. In the table below, for example, a diversion option that seeks to achieve victim restoration may have a programmatic focus on the collection of restitution payments. The accompanying short-term outputs might be *the number of individuals making victim restitution payments, the percentage of victim restitution paid, the total amount of victim restitution collected, and/or the length of time between judgment and full satisfaction of the restitution order*. If these short-term outputs are not favorable, the likelihood that the program will achieve its purpose is low. If these short-term outputs are favorable, presuming the measures are appropriately linked to the program’s goal, indications are that the program is on track to reach its goal.

While *long-term impacts* are also quantifiable, they focus on the extent to which the results of a program correspond with its primary, intended purpose, thus representing the program’s ultimate purpose. If, for example, payment of restitution is a measure of short-term performance, then, in determining how impactful the program has been in victim restoration, the long-term measure that follows may be *victims’ level of satisfaction with the criminal justice process*.

The table below further illustrates the relationship between programmatic purposes, short-term outputs, and long-term impacts.

Short- and Long-Term Performance Measures: Linkage with the Purpose(s) of Diversion

If the purpose of diversion is . . .	The short-term outputs, among others, might be . . .	The long-term impacts, among others, might be . . .
Victim restoration	<ul style="list-style-type: none"> The percentage of ordered victim restitution paid The number of victim mediation sessions conducted The percentage of assigned community service hours performed 	<ul style="list-style-type: none"> Level of victim satisfaction with the criminal justice process
Cost efficiency	<ul style="list-style-type: none"> The number/percentage of individuals diverted from traditional criminal justice processing The number/percentage of diverted individuals who maintain employment and provide ongoing family support 	<ul style="list-style-type: none"> Avoidance costs of traditional case processing (e.g., personnel and ancillary costs for bailiffs, lawyers, court reporters, judges) Favorable cost–benefit analysis⁴
Process efficiency	<ul style="list-style-type: none"> The number/percentage of individuals diverted from traditional criminal justice processing 	<ul style="list-style-type: none"> Reduction in the time lapse between law enforcement service call and return to duty Reduction in the time lapse between initial criminal justice contact and appropriate intervention placement
Risk reduction	<ul style="list-style-type: none"> The number/percentage of low risk individuals receiving appropriate services The number/percentage of moderate risk individuals receiving appropriate criminogenic need-specific services in the proper dosage The number/percentage of individuals whose assessed risk level decreases as a result of diversionary interventions 	<ul style="list-style-type: none"> Per case cost avoidance due to the reduction in criminal arrests (e.g., law enforcement calls for service, jail bed use, court processing time, post-disposition services such as probation) Recidivism reduction among persons with prior criminal justice involvement

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 These primary purposes are discussed in more detail in the second article in this series, *The Purposes of Diversion*.

² In brief, these principles are known as the “risk principle,” “need principle,” “responsivity principle,” and “treatment principle.” These principles are further expanded upon in the fourth article in this series, *Using the “What Works” Research to Determine Who Should Be Considered for Diversion*, and the seventh article in this series, *A Synopsis of Pertinent Research*. When properly designed and administered, research demonstrates that programs and services matched to these principles can result in a reduction of recidivism between 10 and 30% (Andrews, 2007).

³ The key justice system decision points at which diversion may occur are discussed in the fifth article of the series, *Diversion Opportunities at Key Justice System Decision Points*.

⁴ A cost–benefit analysis is a rigorous approach to determining the cost of a program compared with its benefits to taxpayers. Program outcomes are predicted and assigned a projected cost (dollars and cents), and then they are compared to the actual cost of the program. The result is typically a cost–benefit ratio indicating the net positive value of the program for taxpayers relative to every dollar in funding. Cost–benefit analyses ultimately enable policymakers to determine whether the benefits of a program are likely to outweigh its costs, as well as whether continued funding is justified (Pew-MacArthur Results First Initiative, 2013). More information can be found at the Washington State Institute for Public Policy website: <https://www.wsipp.wa.gov/>.

About This Article Series

This is the tenth 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

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