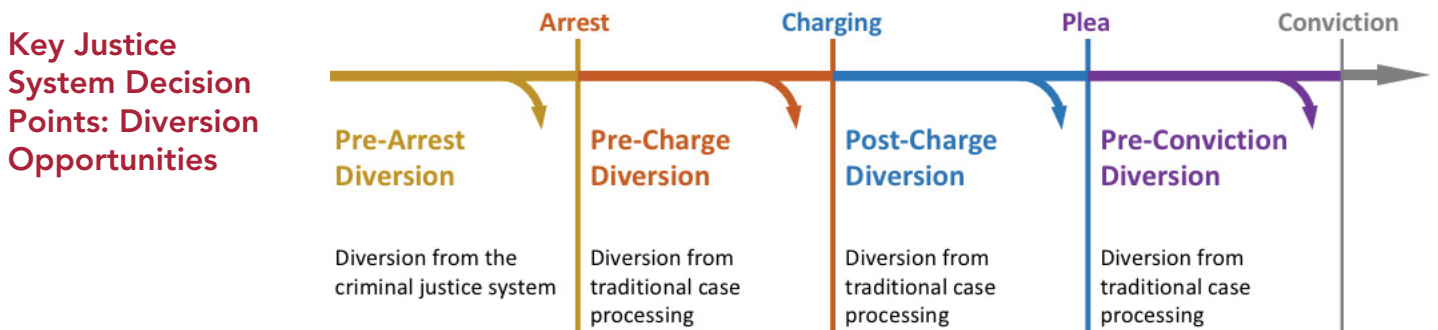


DIVERSION 101: THE PURPOSES OF DIVERSION

In the first article of this series, we examined what diversion is and what it is not. In this article, we turn our focus to the purposes of diversion.

At its most fundamental level, the purpose of diversion is to redirect justice-involved individuals from traditional case processing while still holding them accountable for their behavior. The graphic below depicts the most common exit points, or justice system decision points, where diversion might occur.



What the above does not satisfy, however, is a clear understanding of *why* diversion from traditional case processing is pursued. We offer four common, primary purposes:

1. Victim restoration: In some cases, the goal of diversion may be to address the harm caused to an individual victim(s) or to the broader community. Examples of diversion strategies might include community service performed as a result of vandalism of a public park, or financial restitution paid—or restorative services given (e.g., labor services provided)—to an identified victim. These strategies may also include other victim restoration measures such as a letter of apology or participation in a victim mediation session.

We offer four common, primary purposes for pursuing diversion instead of traditional case processing:

- 1. Victim restoration**
- 2. Cost efficiency**
- 3. Process efficiency**
- 4. Risk reduction.**

These four purposes are not mutually exclusive; in fact, a diversion strategy may aim to achieve multiple goals simultaneously.

2. Cost efficiency: The financial investment involved in processing criminal cases can be, and most often is, significant (Hunt, Anderson, & Saunders, 2016). A diversion option may be utilized to avoid the expense of traditional case processing, providing the opportunity to allocate scarce resources to more serious/higher risk cases. For example, an isolated behavior of driving on a suspended license may result in an agreement that the defendant demonstrate that they have taken the necessary steps to reestablish their driving privileges rather than proceeding through a lengthy and expensive court process to arrive at the same case conclusion.

3. Process efficiency: In circumstances where an appropriate case outcome is clear, a diversion option may be utilized to expedite that outcome. For instance, a criminal defendant in clear need of residential drug treatment may receive expedited placement in a treatment facility rather than being released to the community pending the outcome of their case, detained in jail, or required to wait for sentencing to establish a condition for treatment.

4. Risk reduction: Risk reduction—defined as reducing the likelihood of future criminal behavior—can occur in one of two ways:

- For most “low risk” individuals (those determined, on the basis of a validated actuarial tool, to be at low risk for future criminal behavior), research demonstrates that a low intervention approach produces the best outcomes, as defined by the absence of future criminal behavior (Ahlman, Kurtz, & Malvestuto, 2010; Barnes, Hyatt, Ahlman, & Kent, 2012; Cohen, Cook, & Lowenkamp, 2016). In fact, according to research, the risk to public safety may actually *increase* as a result of low risk individuals’ over-involvement with the criminal justice system (Bonta, 2007; Bonta & Andrews, 2017).

The term “risk,” as used in the context of this paper, refers to the likelihood of any type of future criminal behavior; it does not refer to the relative seriousness of the instant offense or to the likelihood of specific serious or violent behavior, nor does it refer to the risk of program or treatment failure.

- For “moderate risk” and “high risk” individuals, risk reduction is achieved when interventions are specifically designed to address the individual’s “criminogenic needs”—the specific risk factors that contribute to the individual’s engagement in antisocial, illegal behavior (Bonta & Andrews, 2007, 2017). Research demonstrates that when properly designed and administered, programs and services that are matched to an individual’s risk level and criminogenic needs can result in a reduction of recidivism rates between 10 and 30% (Andrews, 2007). Although still relatively rare, some diversion options are designed specifically to identify and address these factors in order to reduce the future risk of criminal behavior.¹

These four purposes are not mutually exclusive; in fact, a diversion strategy may aim to achieve multiple goals simultaneously. The key point is that, prior to the establishment of a diversion option, it is critical to determine the option’s purpose. From its purpose will flow its target population, its structure and content, and, importantly, the performance measures that will enable rigorous outcome evaluation.²

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*.

- Ahlman, L., Kurtz, E., & Malvestuto, R. (2010). The Philadelphia randomized controlled trial in low risk supervision: The effect of low risk supervision on rearrest. *Perspectives, 34*, 32–39.
- Andrews, D. A. (2007). Principles of effective correctional programs. In L. L. Motiuk & R. C. Serin (Eds.), *Compendium 2000 on effective correctional programming*. Retrieved from Correctional Service Canada website: https://www.csc-scc.gc.ca/research/com2000-chap_2-eng.shtml
- Barnes, G. C., Hyatt, J. M., Ahlman, L. C., & Kent, D. T. L. (2012). The effects of low-intensity supervision for lower-risk probationers: Updated results from a randomized controlled trial. *Journal of Crime & Justice, 35*, 200–220. <https://doi.org/10.1080/0735648x.2012.679874>

Bonta, J. (2007). Offender assessment: General issues and considerations. In L. L. Motiuk & R. C. Serin (Eds.), *Compendium 2000 on effective correctional programming*. Retrieved from Correctional Service Canada website: https://www.csc-scc.gc.ca/research/com2000-chap_4-eng.shtml

Bonta, J., & Andrews, D. A. (2007). *Risk-need-responsivity model for offender assessment and rehabilitation*. Retrieved from Public Safety Canada website: <http://www.publicsafety.gc.ca/cnt/rsrscs/pblctns/rsk-nd-rspnsvty/rsk-nd-rspnsvty-eng.pdf>

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

Cohen, T. H., Cook, D., & Lowenkamp, C. T. (2016). The supervision of low-risk federal offenders: How the low-risk policy has changed federal supervision practices without compromising community safety. *Federal Probation*, 80(1), 3–11. Retrieved from http://www.uscourts.gov/sites/default/files/federal_probation_journal_june_2016_0.pdf

Labriola, M., Reich, W. A., Davis, R. C., Hunt, P., Cherney, S., & Rempel, M. (2018, April). *Prosecutor-led pretrial diversion: Case studies in eleven jurisdictions*. Retrieved from Center for Court Innovation website: https://www.courtinnovation.org/sites/default/files/media/documents/2017-11/pretrial_diversion_case_study_report_final_provrel.pdf

Rempel, M., Labriola, M., Hunt, P., Davis, R. C., Reich, W. A., & Cheney, S. (2017). *NIJ's multisite evaluation of prosecutor-led diversion programs: Strategies, impacts, and cost-effectiveness*. Retrieved from https://www.courtinnovation.org/sites/default/files/media/document/2017/Pretrial_Diversion_Overview_ProvRel.pdf

Notes

¹ See, for example, the diversion and deferred prosecution programs in Milwaukee County, Wisconsin (Rempel et al., 2017).

² For more information on the purposes of diversion, see Labriola et al., 2018.

About This Article Series

This is the second 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?

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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.

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