



COMMONWEALTH of VIRGINIA  
DEPARTMENT OF SOCIAL SERVICES  
*Office of the Commissioner*

S. Duke Storen  
Commissioner

December 16, 2021

**MEMORANDUM**

**TO:** Honorable Ralph Northam  
Governor of Virginia

Honorable Janet D. Howell  
Chairman, Senate Finance

Honorable Luke E. Torian  
Chairman, House Appropriations

**FROM:** S. Duke Storen *S. Duke Storen*

**SUBJECT:** Report on Local Criminal Justice Diversion Programs

I am pleased to submit recommendations on implementing local criminal justice diversion programs. If you have questions or need additional information concerning this report, please contact me.

SDS:kc

Attachment

# Interagency Workgroup on Local Criminal Justice Diversion Programs

## Preface

Authority for the conduct of this Workgroup

Item 359 M. of the 2021 Appropriation Act

### Interagency Workgroup Participants:

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DCJS: Thomas Fitzpatrick, Kenneth Rose, Jennifer Macarthur

DOC: Lester Wingrove, Wendy Goodman

Office of DEI: Dr. Janice Underwood, Alaysia Hackett, Mona Siddiqui

DHCD: Kendall Cloeter

Virginia Community Action Network: Jim Schuyler (VACAP), Edith White (HRCAP), Annette Lewis (TAP), Rob Goldsmith (People, Inc.), Ann Fisher/Anthony West (Virginia CARES)

Prosecutors: James Hingeley, Amanda Howie, Jane Sherman Chambers

Public Defenders: William Efird

Acknowledgements: The Interagency Workgroup, listed above, for participating in meetings in May, June, and July 2021 that led to the included recommendations. These recommendations include necessary steps to development of local criminal justice diversion programs as alternatives to arrest, conviction or incarceration for lower-level offenses, through development and incorporation of human services (such as Whole Family/Two-Generation approaches) and locally-developed processes and programs.

Findings: Diversion programs and practices nationally occur on a continuum from pre-arrest to post-conviction. Locally planned and implemented diversion practices, utilizing national, state, and local evidence-base and expertise, can be developed as thoughtful alternatives to arrest, conviction, and incarceration. The process of planning and implementation must consider the concerns of all constituencies, and provide benefits to the community in multiple ways. The development of these practices requires intensive planning and implementation work, led and carried out by the locality with direction and support from the Commonwealth. Because these solutions require detailed agreements on policy and process, the planning will determine the implementation. To develop long-term solutions at the local level, the local community will need coordinated and targeted human services to support the needs of the constituencies and the objectives of the community diversion teams.

Methodology: The workgroup met four times throughout May, June, and July of 2021. The Department of Criminal Justice Services prepared and delivered a presentation at the first meeting on Diversion broadly, and relevant current initiatives within the Commonwealth. Community Action Agencies presented findings and thoughts from the work of their agencies in Diversion planning in three localities, and shared experiences with evolving comprehensive human service models, including Whole Family/Two-Generation approaches. The remainder of the four meetings was workgroup discussion.

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## Executive Summary

Item 359 M. of the 2021 Appropriation Act required the Department of Social Services to develop an Interagency Workgroup, to include the appropriate offices and agencies of the Health and Human Resources, Commerce and Trade, Public Safety and Homeland Security Secretariat, as well as the Governor's Chief Diversity, Equity and Inclusion Officer. The purpose of the workgroup was to develop recommendations for local Criminal Justice Diversion programs that would provide alternatives to arrest, conviction or incarceration for lower-level offenses. The workgroup was tasked with discussing and addressing the need for human services (such as whole family strategies) as appropriate interventions for diversion. The organizing language of the amendment included the exclusion of Behavioral Health and incorporation of two-generation (“Whole Family”) approaches as focuses for this workgroup.

As noted in the preface, this workgroup began with a detailed discussion of diversion broadly. Diversion occurs on a continuum, from pre-arrest to post-conviction. This workgroup was tasked with looking at diversion for adults, the inclusion of human services and whole family approaches in our recommendations, and the need to ensure diversity, equity, and inclusion in any efforts that would be recommended. To those ends, there was considerable conversation around existing diversion programs and methods, the various types of crimes that have been included for diversion in the past in state or national initiatives, and different models for intervention that occur at various points on the diversion continuum. The clear consensus from all of these conversations was that any of those practices or interventions is most successful when developed based on local needs, desired outcomes, perceptions of risk/benefit, and the input of stakeholders at the table in that locality. Therefore, we are not recommending any specific interventions or program designs to be used in every locality. The majority of our

recommendations are for pathways to additional planning and implementation that will allow localities to develop these interventions and processes themselves, with resources and direction to assist them.

The presentations and discussions of the workgroup resulted in five main themes, and five recommendations within those themes, all synopsized below and discussed in further detail in the closing section of the report: (1) diversion practices can produce multiple community benefits, and more pre-arrest diversion practices are needed; (2) local planning and implementation, with adequate support and resources but without pre-set requirements for interventions and methods, is key; (3) implementation of practices and interventions will include short-term and long-term strategies that should allow for innovation, and must be evaluated; (4) the evidence-based and risk/need/responsivity criteria, with an emphasis on risk-based rather than offense-based diversion, should be part of local planning; and (5) much like the makeup of this workgroup, diverse stakeholder participation at all levels (local planning and implementation, state support and leadership) will be required to create interest and outcomes that address community needs beyond public safety alone. These five themes are elaborated upon in Section 7 of the report.

Within the five themes introduced above, there are five recommendations from the workgroup, synopsized below and discussed in detail in Section 7 as well.

- 1) The General Assembly should consider funding to support resources (program designs, assessment tools, guidance/facilitation, direction) for community planning initiatives that can be pursued in any locality, with maximum flexibility and responsibility for the results of the planning work resting with the locality. As there are often dedicated sources of funding for some types of diversion (behavioral health, youth) already, this should be

dedicated funding to complete local planning that includes identification of human services objectives. This planning will assess readiness of communities to pursue diversion, readiness of community partners to provide support, services, and leadership, and will identify the areas in which human service entities and criminal justice entities need development of additional processes and resources to implement local diversion programs effectively and with outcomes that reduce impacts on the community and those diverted.

- 2) The General Assembly should consider funding implementation of diversion practices at short-term and long-term stages, to include (not exclusively) focus on pre-arrest interventions and development of human services approaches (such as whole family/two-generation approaches). As there are often dedicated sources of funding for other types of diversion (behavioral health, youth) already, this should be dedicated funding to pursue both innovative and evidence-based human services practices that develop interventions based on local planning. These implementation activities should also be directly tied to the assessment of readiness through planning already completed.
- 3) The Governor should consider creating an interagency task force to ensure state level support for the local diversion initiatives and coordinate interests of diverse stakeholder group. The task force should include representation from state agencies and offices whose work includes criminal justice/public safety; human services; community service and development; and diversity, equity and inclusion. This group would develop ongoing recommendations and complete additional work on coordinated tools for planning and implementation, coordinate on development and administration of innovative diversion

practices that bring human services, community needs, and public safety needs together, and identify barriers to the success of local initiatives that can be addressed at the state level (including pursuit of statutory framework changes, automatic expungement, etc).

- 4) The interagency task force should create small working groups to develop immediately necessary tools identified by this working group (more details included in Section 7). As all of the recommendations revolve around the work and decision-making occurring at the local level and the support/direction occurring at the state level, there are many resources that would need to be developed if opportunities for planning and implementation arise.
  
- 5) The General Assembly should consider funding set aside for two purposes: (1) the development of specific interventions at the local level, after planning is completed and implementation has begun. These interventions will require innovation and flexibility to meet the needs of the community, and particularly for pre-arrest diversion practices, will be interventions/services that likely do not currently exist in the locality; and (2) data collection, analysis, and evaluation with independent third-party evaluators as additional evidence-base is developed through implementations.



## Background

This workgroup is the result of work within the Virginia Community Action network to address issues of racial inequity and to advance development of Whole Family/Two-Generation strategies. Whole Family approaches have been building in several community action agencies across the state for years. In late 2019, the network began work on a Whole Family/Two-Generation Pilot Project that will advance the evidence-base for continued expansion of some of the tenets of Whole Family approach: breaking down organizational and community partner silos to serve all of the needs of an entire family; emphasizing the importance of building social capital as a means of developing resilience and self-sufficiency; providing short- and long-term coaching and intervention to move people/families to self-sufficiency; utilizing evidence-based needs/risk assessment and goal-setting to plan and track long-term success; and sharing expertise, data, and responsibility across many community partners to move people/families forward. While the network was working to advance these Whole Family approaches, the public health and social/racial justice issues of early 2020 became primary focuses. The Racial Equity committee of the Virginia Community Action Partnership (VACAP) developed goals and principles for the network in June of 2020, and one of those goals was to “**advocate for change in policies and systems that create racial and social disparities in the communities we serve**”. Within that framework, VACAP and its leadership identified an opportunity to focus on diversion from the criminal justice system. National and state statistics document wide disparities in the numbers of white and black citizens that are incarcerated. In Virginia, the rate of incarceration for black citizens far exceeds that of white citizens in both prisons and jails (4.2:1 in prisons, 3.2:1 in jails) (Vera Institute of Justice). Along with the obvious and well-

documented disparities by race of incarcerated people, there were existing efforts at community action agencies to work on diversion already existing as well. These initiatives were at various stages of planning and discussion, and formed the basis of the interest for advancing local diversion efforts that addressed evolving human service models and the needs in disadvantaged communities. These conversations led to action by the General Assembly in support of furthering local diversion practices that include the use of Whole Family strategies and approaches, and this interagency work group was formed because of that action. Therefore, within the creation of this initiative, there is an interest in diversion as a means of furthering racial equity, and including the goal of improving chances for self-sufficiency of individuals/families in the conversation around outcomes of less interaction with the criminal justice system.

With these additional thoughts/direction in mind, this workgroup defined “diversion” as an array of formal and informal practices, developed at a local level through intensive planning and implementation efforts that benefit the community broadly by diverting cases from the criminal justice system and possibly to other community resources. Within this report, there will be references to existing diversion practices and to the whole of the diversion continuum, but it is important to note that this workgroup was unified in highlighting the need for diversion practices at the pre-arrest phase, which have less scholarship and evidence-base, but are developing much more within the last year.

One of the first actions of this workgroup was to look at existing diversion programs in Virginia. The examples that were given were:

- Southside Virginia Community College Alternative Sentencing Program (Brunswick, Greensville, Mecklenburg, and Lunenburg Counties)

- This is a collaborative effort between the Southside Virginia Community College, Commonwealth's Attorney Office, and Southside Community Corrections. The target population is youthful offenders that receive prosocial skills and job training in an effort to reduce recidivism. This is a youth program and not pre-arrest.
  
- Augusta County Commonwealth's Attorney's Office, Law Enforcement Assisted Diversion program (LEAD). This is a Department of Justice grant to help individuals with opioid and other substance use disorders, and does address pre-arrest.
  
- Albemarle County Commonwealth's Attorneys' Office restorative justice project, which targets property crime or neighborhood disputes at the pre-charge stage.

These three examples give an idea of the diversity of intervention, the point in time at which they occur, and the diversity of crime and population that can be the recipients of diversion intervention. They also represent the challenge of attempting to have any uniform set of interventions, practices, or processes that would be appropriate for different communities and circumstances. These examples informed the knowledge base of the group, and in some cases (after a locality has set a course through planning) could be pieces of the overall puzzle. They are included here just as examples of the types of things included in diversion broadly.

### Diversion as a Continuum

The workgroup received a comprehensive presentation on diversion from the Department of Criminal Justice Services, and unanimously agreed that properly planned and implemented

diversion practices should be considered in every locality. Diversion offers many possible benefits to a community. The four that are most often cited are:

1. Victim restoration (reducing harm to victims through the interventions)
2. Cost efficiency (achieving desired outcomes that reduce risk while avoiding costs of the process)
3. Process efficiency (reducing the burdens on all levels of the system that are needed in prosecuting and punishing)
4. Risk reduction (not entangling low-level offenders in the system to increase their risk of future crimes, reducing risk of higher-level offense through risk assessment)
5. The workgroup also discussed a fifth benefit to the community that directly relates to the purpose and importance of this specific project. There are numerous impacts from contact with the system (even arrest only), including employment obstacles, debts, housing refusal, public benefits (resource in appendices), that can be mitigated through diversion.

The language of “diversion” is sometimes relative. Many varied initiatives have been pursued over the last 20+ years in this field, and often they use terminology differently. In general, diversion is an attempt to divert individuals from the criminal justice system. However, some programs that occur later in the “diversion continuum” occur as late as post-conviction, and are attempts to reduce recidivism, thereby removing repeat contacts from the criminal justice system. And some initiatives over the last 10 years have included “deflection” in with discussions of diversion. Deflection primarily refers to programs/interventions that occur in circumstances where an arrest would not occur, regardless of encounter. The interagency workgroup and its recommendations would not preclude use of deflection as a result of local planning and

implementation, but there was clear discussion that the focus should be diversion (specifically pre-arrest). The importance of this distinction is that there is research to show that entangling individuals that would not be part of the criminal justice system (as deflection would), can lead to risk of additional interaction with the system (James, 2018). This is one of the reasons that the workgroup is prioritizing pre-arrest diversion as a key focus, as it would reduce the contact with the criminal justice system *and* not increase unintended, or collateral, consequences.

The diversion continuum the workgroup used for reference is represented in this graphic:



From The Center for Effective Public Policy

As noted earlier, there is also the possibility to have intervention/activities post-conviction that can be implemented as well, and could be considered in local planning and implementation. A short description of the points along the diversion continuum:

- Pre-arrest: diversion results in no arrest or referral for charges.

- Pre-charge: Satisfactory completion of pre-charge diversion typically results in charges not being issued.
- Post-charge/pre-conviction: Satisfactory completion of diversion at this stage typically results in the dismissal or reduction in level (felony to misdemeanor or forfeiture) of formal charges.
- Post-conviction (for this report, not prioritized)

For the continuum described, the workgroup strongly recommends that the decisions around point, method, and structure of diversion must be made through a comprehensive local planning process, followed by local implementation.

### Locally driven planning and implementation

As described throughout this report, the elements of diversion are all access points that require decisions by the people that will accept the responsibility for the implementation of all interventions, and will be impacted by the decisions that are made. Many different groups will be impacted, in different ways. The workgroup identified a list of categories (with examples) of groups that should be required to be part of a local planning and implementation team. This list includes:

- Prosecutors;
- Public defender/defense bar;
- Community Action agencies;
- Law enforcement (local);
- Faith leaders;
- Civil Rights organizations;

- Courts/Judges/Magistrate;
- Jail Administrators;
- Whole Family Service Providers;
- Trauma-informed Care;
- Local Department of Social Services;
- Healthcare Providers;
- Community Non-Profits (Housing, Employment, Family Supports);
- Office of the Executive Secretary of the Supreme Court (OES);
- A representative of local government (elected or appointed);
- Continuums of Care (if part of locality);
- Local community based probation and pretrial services;
- State probation and parole;
- Prisoner reentry services; and
- Victim's rights groups and-witness programs.

There are likely additional community partners that should be included, but the purpose is to have diverse stakeholder input and decision-making to create plans that include a full view of risk and need in the community. Locally driven planning and implementation should have a focus on evidence-based community solutions that consider roles of all relevant entities (prosecutor, community human service agencies, local government, etc.). The design of locally led planning tools should include assessments of risk tolerance. There is inevitably risk in any decision, and the development of strong assessment tools for risk both in the planning phase, and in the implementation phase, will be key. Recommendations of the workgroup on the creation of

further working groups and a state-level task force are directly related to developing tools and support for these local processes, once initiatives are developed. There will also be a need to advance the knowledge of risk assessment at both planning and implementation levels through pilot projects and early adopters, and the evaluation and dissemination of those results will require state-level leadership and support. But the work of completing planning can only be accomplished fully at the local level. Case processing is very different in each locality, the programming is different, the comfort level in specific localities will matter, and the acceptance of risk and the ability to provide or develop training and resources will vary widely by locality.

The diverse local planning team will need to address many things, including: target population; existence of or need for services/intervention: duration; outcomes; goals; community outcomes/goals; longer-term goals after initial services/intervention; acceptable risk; available/needed funding; available/needed tools; identification of opportunities for expanding the decriminalization of low-level crimes; identification of unintended/collateral consequences; and measurement of success/failure (as examples of the work to be done).

The diverse local implementation team will need to address: systems and process mapping ideas/criteria (first to last contact to intervention); local responses, processes, pilots, ideas that could provide services/interventions to enable evidence-based decision-making by all in chain of justice system; models with necessary information to assess risk (screeners) and provide assessment; identification of the places/ways funds are already spent post-arrest, and how funds at the pre-arrest phase could reduce need for those services/resources; development/implementation of specific interventions; development of data collection, analysis, and evaluation tools; available/needed funding; available/needed tools; systems oversight and



management at a community level, etc. (additional examples to be developed by local planning teams and state-level support groups).

### Role of community human service organizations

Key elements to be addressed in the planning and implementation at the local level are risk, need, and responsivity. Assessing risk, identifying the needs related to risk, and responding with proper interventions should be primary objectives for each locality. All of these elements can be directly benefitted by the work of local human service organizations. The role of human service organizations in the planning and implementation of diversion practices at the local level is crucial to the recommendations of this workgroup. The Community Action agencies that presented to, and participated in, this workgroup are all engaged in community-level planning in their communities currently, and are all agencies that are pursuing whole family approaches. With regard to risk assessment and identifying needs related to risk, these agencies all employ individual and family assessments currently in whole family programs. The cornerstones of whole family approach that could directly benefit the diversion work in localities include: coaching models that prioritize the understanding of needs and work holistically with smaller caseloads to identify comprehensive services within the agency and at partner agencies that address the goals set (in this case, goals that could include diversion goals); use of data internally and with partner agencies to determine progress towards goals and to allow for evaluation after interventions; short- to long-term outputs and outcomes based on the structured goal-setting; reduction of program silos that restrict the ability for innovation in intervention; coaching that includes long-term follow-up beyond individual service delivery; and working with partners to develop partnerships and linkages that coordinate diverse funding streams and communications

to enable collection of stories, measurement of outcomes/indicators, and tracking of specific diversion goals. Whole family approaches work with all members of a family, and in cases of diversion there are often multiple family-members impacted by the events that create the need for diversion, and need to support the interventions that will be implemented.

Human services organizations, including community action agencies and other community non-profits and social services providers, have been developing trauma-informed care principles and practices for years. Some of the crimes that would be diverted in local programs can be identified as crimes of trauma. There is substantive research that shows the connection of trauma at the individual and systemic level to disadvantaged communities, particularly communities of color. Human services organizations are involved in primary and secondary prevention measures, meaning measures that deal with the large, systemic causes/conditions of poverty and trauma, and the individual and family needs created by poverty and trauma. Human services organizations should play a key role, particularly in the risk, need, and responsivity solutions planned and implemented by the locality. The recommendations of this workgroup strongly make that correlation for the type of work prioritized here (adult diversion, prioritized at the pre-arrest level but along the continuum).

### Main themes and recommendations of the workgroup

The Executive Summary discussed the five themes and five recommendations of the Interagency Workgroup. In this section, additional detail on the themes and recommendations is provided. The five themes brought together by the workgroup are:

- Diversion practices can produce multiple community benefits. These include victim restoration, cost efficiency, process efficiency, risk reduction, and improved self-sufficiency through reduced impact of arrest/criminal record. And although diversion along the entire continuum can have impact, there is a need for pre-arrest diversion practices to reduce risk/entanglement for low-level offenders;
- Local planning and implementation, with adequate support and resources but without pre-set requirements for interventions and methods, is key. The assessment and acceptance of risk, setting of community goals/outcomes, development of systems and process mapping, development of interventions, identification of issues of diversity, equity, and inclusion, and the success of implementation are all directly tied to the work of a diverse team of stakeholders at the local level;
- Implementation of practices and interventions will include short-term and long-term strategies that should allow for innovation, and must be evaluated. These practices and interventions can be informed greatly by whole family approaches, and the importance of ensuring long-term tracking and evaluation is key;
- The evidence-based and risk/need/responsivity criteria, with an emphasis on risk-based rather than offense-based diversion, should be part of local planning. Risk acceptance and assessment is different in each locality. Case processing, law enforcement training, availability of resources/interventions, capacity of partners at all levels are all different in each locality; and
- Diverse stakeholder participation at all levels (local planning and implementation, state support and leadership) will be required to create interest and outcomes that address community needs beyond public safety alone. Having the views of

organizations/individuals with different perspectives on community goals and different roles in the community functions are key to having solutions that come from an equity lens.

Informed by these five themes, the five recommendations from the workgroup are:

- Develop multiple-source, sustained support (funding) and processes (program designs, assessment tools, criminogenic needs tools, guidance/facilitation, direction) for community planning initiatives that can be pursued in any locality, with maximum flexibility and responsibility for the results of the planning work resting with the locality. As there are often dedicated sources of funding for other types of diversion (behavioral health, youth) already, this should be dedicated funding to complete local planning that includes identification of human services objectives. This planning will assess readiness of communities to pursue diversion, readiness of community partners to provide support, services, and leadership, and will identify the areas in which human service entities and criminal justice entities need development of additional processes and resources to implement local diversion programs effectively and with outcomes that reduce impacts on the community and those diverted. Readiness assessments of communities and criteria for completion of, and assessment of, successful planning that will allow implementation will require guidance from a state interagency task force (recommendation 3 below).
- Develop multiple-source, sustained support (funding, resources) and process (systems mapping tools, statutory framework, guidance on interventions, direction) for implementation of Diversion practices at short-term and long-term stages, to include (not exclusively) focus on pre-arrest interventions and development of human services

approaches (such as whole family/two-generation approaches). As there are often dedicated sources of funding for other types of diversion (behavioral health, youth) already, this should be dedicated funding to pursue both innovative and evidence-based human services practices that develop interventions based on local planning. These implementation activities should also be directly tied to the assessment of readiness through planning already completed. Tools to assist in implementation should be designed through the interagency task force, some prior to the beginning of community planning and some as a result of community planning and pilot projects. In communities/localities in which sufficient planning has occurred, utilize pilot projects and targeted initiatives to build evidence-base for:

- Types of services needed to meet objectives of local Diversion Teams
- Types of crimes to be diverted at various places along the Diversion continuum (including pre-arrest)
- Whole Family model with comprehensive case management as a tool for Diversion
- Long-term service delivery, coaching, support
- Roles of community non-profits (community action agencies, primary human service and community development providers), local government, public safety/criminal justice
- Development and use of tools that can inform the planning and implementation in other communities/localities (assessment tools for risk and needs of diverted individuals, policies/processes templates)

- In order to ensure state level support for the local initiatives and to coordinate interests of diverse stakeholder groups, create/develop an interagency task force that includes agencies representing: criminal justice/public safety; human services; community service and development; and diversity, equity and inclusion. This group would develop ongoing recommendations and complete additional work on coordinated tools for planning and implementation, coordinate on development and administration of innovative Diversion practices that bring human services, community needs, and public safety needs together, and identify barriers to the success of local initiatives that can be addressed at the state level (including pursuit of statutory framework changes, automatic expungement, etc). This task force could develop program designs, logic models, theories of change, and required outcomes for planning and implementation initiatives requiring support and administration.
  
- Develop small working groups to develop immediately necessary tools identified by this interagency working group. As all of the recommendations revolve around the work and decision-making occurring at the local level and the support/direction occurring at the state level, many resources would need to be developed if opportunities for planning and implementation arise. Some of these include: risk assessment tools; statutory framework recommendations; local planning team resource guides; templates for development of local goals/indicators/outcomes; whole family goal-setting tools; any tools/resources identified by additional workgroups or the interagency task force.

- Develop set-asides/resources/funding for two purposes: one, the development of specific interventions at the local level, after planning is completed and implementation has begun. These interventions will require innovation and flexibility to meet the needs of the community, and particularly for pre-arrest Diversion practices, will be interventions/services that likely do not currently exist in the locality. There will be a need for coaching resources, flexible intervention resources, and resources to track the diversion participants for often longer than one year. There will be a need for data collection, analysis, and evaluation, and more rigorous evaluation with independent third-party evaluators as additional evidence-base is developed through implementations. Substantive evaluation efforts will require technology investment, training and technical assistance to ensure proper development of indicators/data sources/measurement tools, and evaluators at all stages of project planning and implementation.

## **Appendix 1: Works Cited and Additional Resources**

Works cited/used in this report include:

[Center for Effective Public Policy: 12 papers on pre-conviction diversion options](#)

Bonta, J., & Andrews, D. A. (2007). *Risk-need-responsivity model for offender assessment and rehabilitation*.

James, N. (2018, July 10). *Risk and needs assessment in the federal prison system*. Retrieved from <https://fas.org/sgp/crs/misc/R44087.pdf>

[Vera Institute of Justice State Incarceration Trends](#)

Additional resources to inform future work of an interagency task force:



[Trauma-Informed Community Building and Engagement](#)

[Offending behavior: the role of trauma and PTSD](#)

[DIVERSION AND DEFLECTION IN THE DISTRICT OF COLUMBIA](#)

[Pre-Arrest Diversion/Deflection Frameworks: A Decision Making Tool for Police Leaders](#)

[Building Healthier Communities through Pre-Arrest Diversion](#)

[Impacts of a criminal record and the case for expungement](#)



**DCJS**

Virginia Department of Criminal Justice Services

## Pretrial Diversion Overview

### Broad Scope of “Diversion”

- Alternative to arrest
- Referral to education programs in lieu of traditional case processing (drug, shoplifting, drunk driving, etc.)
- Referrals to complete community service work, restitution, victim mediation in lieu of traditional case processing
- Specialty court or dockets involving cognitive-based risk reduction programming

### Purpose of Diversion

- Victim restoration
- Cost efficiency
- Process efficiency
- Risk reduction

## Pretrial Diversion Decision Points

1. Pre-arrest diversion (sometimes referred to as deflection)
  - Pre-arrest diversion from the criminal justice system
  - Examples: Law Enforcement Assisted Diversion / Let Everyone Advance with Dignity (LEAD)
2. Pre-charge diversion
  - Pre-charge diversion from traditional case processing
  - Examples: Prosecutor led diversion in lieu of charging
3. Post-charge diversion
  - Post-charge or pre-conviction diversion from traditional case processing
  - Example: Early or expedited plea agreement to defer prosecution

## Risk, Needs, Responsivity - RNR

- Individuals assessed to be at high risk of recidivism may not be suitable
- Individuals assessed to be at low risk of recidivism may require the least restrictive type of intervention
- Individuals assessed to be at moderate risk of recidivism need appropriate programming to address criminogenic needs

### Program Development Caution:

- Avoid net widening
  - Over programming or interventions that are not targeted to the wrong population may cause harm or reduce efficiency and increase costs
  - Net widening may result in some defendants staying under conditional control longer than they would have otherwise

## Potential Pretrial Diversion Outcomes

- Victim restoration
  - Level of victim satisfaction with the criminal justice process
- Cost efficiency
  - Avoidance of costs of traditional prosecution (personnel costs for bailiffs, lawyers, court clerks, judges, etc.)
- Process Efficiency
  - 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
  - Recidivism reduction among persons with prior criminal justice involvement

## System Mapping

- Describes the steps and process of an individual moving through the criminal justice system, beginning at arrest until the case concludes

- Purpose:
  - Awareness of how the system really works and provides clarity to how decisions are made
  - Identifies inefficiencies or areas that could be improved
- Mapping process
  - Develop systems map involving policy makers and agency staff
  - Conduct policy and practice analysis
  - Create a resource inventory
  - Gather baseline data
  - Prioritize targets for change while balancing local risk tolerance

## Research on Prosecutor Led Pretrial Diversion

NIJ's Multisite Evaluation of Prosecutor-Led Diversion Programs: Strategies, Impacts, and Cost-Effectiveness

([https://www.courtinnovation.org/sites/default/files/media/document/2017/Pretrial\\_Diversion\\_Overview\\_Prov\\_Rel.pdf](https://www.courtinnovation.org/sites/default/files/media/document/2017/Pretrial_Diversion_Overview_Prov_Rel.pdf))

- Re-arrest: Reduced likelihood of arrest for at least 2 years from program enrollment
- Cost: Sizable cost and resource savings, especially in the pre-filing programs, but also from less use of probation and jail sentences

## Examples in Virginia

Southside Virginia Community College Alternative Sentencing Program (Brunswick, Greensville, Mecklenburg, and Lunenburg Counties)

- Collaborative effort between the Southside Virginia Community College, Commonwealth's Attorney Office, and Southside Community Corrections
- Target population is youthful offenders
- Participants are provided with prosocial skills and job training in an effort to reduce recidivism
- 8 week program followed by either obtaining their GED or a new job skill
- At the end of the two-year period if they have remained charge free and drug free their charges are dismissed

Augusta County Commonwealth's Attorney's Office Law Enforcement Assisted Diversion program (LEAD)

- \$600,000 Department of Justice grant to help individuals with opioid and other substance use

disorders Albemarle County Commonwealth's Attorneys' Office

- Exploring restorative justice conferencing via \$10,000 BAMA Works Grant
- Targets Property crime or neighborhood disputes at the pre-charge stage

## Additional Pretrial Diversion Resources

## National Membership Associations for Diversion

National Association of Pretrial Services Agencies (NAPSA):

<https://napsa.org/eweb/StartPage.aspx?Site=NAPSA&WebCode=HomePage>

Professionals in Pretrial Services Association (PIPS): <http://pipsassociation.com/index.html>

## National Standards for Diversion

Performance Standards and Goals for Pretrial Diversion/Intervention, National Association of Pretrial Services Agencies, 2008

<https://netforumpro.com/public/temp/ClientImages/NAPSA/2bf61b50-6b7d-4292-8837-e6b48a1b2a7a.pdf>

## Diversion 101, Center for Effective Public Policy

What is Diversion: [https://drive.google.com/file/d/14lBuYF9lazA\\_HNqmqMzgvYCgZ\\_rO-bsn/view](https://drive.google.com/file/d/14lBuYF9lazA_HNqmqMzgvYCgZ_rO-bsn/view)

The Purpose of Diversion:

[https://drive.google.com/file/d/1cfvWtlExVjFD671GTyVb\\_vcegenQwiC5/view](https://drive.google.com/file/d/1cfvWtlExVjFD671GTyVb_vcegenQwiC5/view)

Do Diversion Options Put Public Safety at Risk:

<https://drive.google.com/file/d/1xe13v7A9AJlBe2povTvqEQak4DiYuUKJ/view>

Using “What Works” Research to Determine Who Should be Considered for Diversion:

[https://drive.google.com/file/d/1AAWh0ycGWclJTloTbGYXOJpsKd\\_JWnqB/view](https://drive.google.com/file/d/1AAWh0ycGWclJTloTbGYXOJpsKd_JWnqB/view)

Diversion Opportunities at Key Justice System Decision Points:

<https://drive.google.com/file/d/19FL6Olxzs68QsVICsjPSWxux9ldrPUpt/view>

The Guiding Principles of Diversion: <https://drive.google.com/file/d/1P6iEx-pbf9I3UP7C7BqjTwCaH5YCDDeD/view>

A Synopsys of Pertinent Research:

[https://drive.google.com/file/d/1prvF02sCutvxVLbMrH\\_OWjSxZLvGHWNk/view](https://drive.google.com/file/d/1prvF02sCutvxVLbMrH_OWjSxZLvGHWNk/view)

The Role of Victims and Victim Service in Establishing Diversion

Options: <https://drive.google.com/file/d/1-EAHN3ITOCxUkGBiXVaKP-53rVxbi09b/view>

The Importance of Community Engagement to Diversionary Programs:  
[https://drive.google.com/file/d/1zrUcAq3L7EncpjyzLj0T1LDV-S\\_DPu7V/view](https://drive.google.com/file/d/1zrUcAq3L7EncpjyzLj0T1LDV-S_DPu7V/view)

Defining Performance Measurement Criteria for Diversionary Programs:  
<https://drive.google.com/file/d/1qPauRIZXHDgQj7vzcDMPK9JD4APxR3h/view>

A Step-by-Step to Policy-Driven, Research-Informed Diversionary Options:  
[https://drive.google.com/file/d/15nnKs\\_KDmmnljPL8cWYZ1ByeR-mmqbyU/view](https://drive.google.com/file/d/15nnKs_KDmmnljPL8cWYZ1ByeR-mmqbyU/view)

## Other Pretrial Diversion Resources

Using Front End Interventions to Achieve Public Safety and Healthy Communities: Challenges and Opportunities for Advancement:

<https://drive.google.com/file/d/1PI6A51peZ6LWhjpnqoxpbCp7GiOdhgAt/view>

Promising Practices in Pretrial Diversion:

<https://netforumpro.com/public/temp/ClientImages/NAPSA/20b9d126-60bd-421a-bcbf-1d12da015947.pdf>

Pretrial Diversion in the 21<sup>st</sup> Century: A National Survey of Pretrial Diversion Programs and Practices: <https://netforumpro.com/public/temp/ClientImages/NAPSA/18262ec2-a77b-410c-ad9b-c6e8f74ddd5b.pdf>

Measuring for Results: Outcomes and Performance Measures for the Pretrial Diversion Field: <https://netforumpro.com/public/temp/ClientImages/NAPSA/ef95bf6d-dbc4-4075-8cf4-492862f919d3.pdf>

Pretrial Diversion and the Law: A Sampling of Four Decades of Appellate Court Rulings: <https://netforumpro.com/public/temp/ClientImages/NAPSA/aee0bacd-a70d-4783-ba9c-e8f1970b168e.pdf>

A Framework for Pretrial Justice: Essential Elements of an Effective Pretrial System and Agency: <https://s3.amazonaws.com/static.nicic.gov/Library/032831.pdf>