

Diverting Young Adults from the Criminal Justice System

Diversion is a term used to describe intervention approaches that redirect youth away from formal processing in the juvenile justice system, while still holding them accountable for their actions. The goal of diversion is to remove youths as early in the juvenile justice process as possible to avoid later negative outcomes associated with formal processing, such as increased odds of recidivism, stigmatization/labeling, and increased criminal justice costs (for more information on the potential harm of further processing into the juvenile system. Research shows that using prevention and early intervention methods work better than formal system involvement regarding social, personal and financial outcomes. Identifying children that are most at risk of being arrested and improving the protective factors that address those risks will lessen the likelihood of delinquency of at-risk youth in Connecticut. If and when delinquency occurs despite these preventive efforts, Connecticut will reserve the formal justice system only for cases that cannot be appropriately served by alternative ways, such as community-based diversion programs.

By ensuring that only a small number of youth are processed in the juvenile justice system, Connecticut can prevent the trauma to youth and their families potentially caused by the experience of being involved in the justice system and will connect youth and their families to alternative and effective services in their own communities that they can access now and in the future. This will allow justice system officials to focus their efforts and limited resources to where they are needed most. Connecticut has already invested in innovative diversion procedures and programs at numerous stages of the system, such as the Juvenile Review Boards, schools, probation, the behavioral health system, and the police, with successful outcomes. At least one-third of all juvenile cases in Connecticut are handled and successfully resolved in a non-judicial manner. This highlights the importance of cross agency collaboration within and outside of the justice system to ensure youth are not inappropriately escalated into the justice system.

In creating informal channels to navigate youth (generally those who have committed first-time or status offenses) away from traditional processing, diversion programs serve as opportunities to correct antisocial behaviors with the assistance of their families and the community, rather than through the justice system (Kammer, Minor, and Wells 1997; Patrick and Marsh, 2005).

The concept of diversion originally arose from two theories. The first, labeling theory, suggests that the process and act of being labeled as a "delinquent" may cause the youth to then associate and internalize that label, increasing the likelihood of future negative behavior. Essentially, they are inclined to live up to what they believe society expects of them. The second, differential association theory, suggests that youth associate with and learn from other delinquent youth which further increases the likelihood of future negative behavior. Diverting youth from formal processing serves to avoid labeling and focuses solutions in the family and

community, avoiding the congregating of youth with similar behaviors in traditional delinquency program settings.

Diversion in Connecticut is applied more broadly along the juvenile justice pathway. The guiding principle that applies all along the pathway is to intervene with the least intensive, least restrictive response that is effective in addressing the behavior. Prevention services attempt to promote prosocial behaviors and resiliency so that youth do not engage in behaviors warranting system involvement. Minor behaviors may be ignored as most youth outgrow limit testing in adolescence. An array of school and community-based programs seek to identify at-risk youth and divert from system involvement. Youth engaging in minor offenses may avoid arrest or be diverted from juvenile court to avoid formal system processing. However, for those adjudicated as delinquent in juvenile court, the equivalent of conviction in the adult court, efforts are made to provide treatment services to youth in the least restrictive setting, focusing on resolution of underlying issues and prosocial skill development.

Crossover Youth

Youth in the care of DCF are at greater risk of juvenile justice involvement and less likely to receive the benefit of diversion opportunities. “Crossover youth” are defined as those youth who have been served by both the child welfare and juvenile justice systems, either simultaneously or crossing over from one of the systems to the other at different points in time. These youth often receive disjointed services and there is a lack of understanding of how this population differs from youth who are served by only one system in the state. (Randall, 2015). Crossover youth are disproportionately youth of color, often presenting with a history of trauma and an array of needs.

DCF's Crossover population

In 2012, the UCONN Center for Applied Research in Human Development (CAHRD), conducted a study of crossover, identifying Connecticut children involved with DCF who also were referred to juvenile court on a delinquency petition. They found the following characteristics: African American and Hispanic males were more likely to crossover than their white counterparts; children who entered out of home care were more likely than those served in the home, the likelihood of crossover increased with both repeat maltreatment and the length of time in placement. The vast majority of crossover youth were involved with child protection prior to juvenile court. However, there is a small subset of youth who become involved with DCF subsequent to juvenile court. This is often due to family discontinuity resulting from the adolescent's behaviors.

Adolescents in the care of DCF, and particularly those involved for longer periods of time, are at risk of referral to juvenile court and formal processing. Lacking advocacy of an intact family, the youth are more likely to receive formal system processing. Often, caregivers and DCF are at a

loss to address beyond-control behaviors and may feel that external restrictions that the juvenile court system offers will keep the youth safe. This is particularly true for girls. While this may seem like a quick solution, it may have long term negative effect on the youth's development. Additionally, diversion options are typically interventions designed to address the referring behaviors from a family systems perspective. Youth in out of home care, particularly those in congregate care, may be at a disadvantage and thus not afforded those opportunities for diversion.

What can I help when a young adult gets into trouble?

- Request RRG Consult
- Teaming: Support and advocate. Rally the other adults
- Recognize that some of the risk factors for juvenile justice involvement were beyond the youth's control
- Request diversionary opportunities
- Ensure "family participation" whatever the placement setting
- Contact the Transitional Supports and Success Division for brainstorming
- When youth are arrested and detained pre-trial access a consult through the Legal Division
- Talk to the Systems Program Directors about supports and resources
- Engage services to address underlying issues that may be drivers of behaviors (e.g., health, substance abuse, anger management, etc.)

Diversion Networks in Addition to the Full Array of Behavioral Health System:

Youth Service Bureau (YSB)- YSBs provide prevention and intervention programs for delinquent, pre-delinquent, pregnant, parenting and troubled youths referred by schools, police, juvenile courts, adult courts, local youth serving agencies, parents and self-referrals. 2017 legislation removed FWSN, those youth truant or defiant of school rules and beyond the control of their parents, from juvenile court jurisdiction. Legislation identifies YSBs as the responsible entity to coordinate interventions for youth exhibiting these behaviors, known as status offenses.

Juvenile Review Board (JRB)- A JRB is a community-based collaborative diversion network for children and youth who might otherwise be referred to the Juvenile Court. JRBs are most often used for first-time non-felony juvenile offenders, as well as for status offenders (referrals resulting from FWSN behaviors such as truancy, runaway, beyond control, etc.). The JRB is designed to assist children, youth and their families with a strength-based approach and uses a restorative model. Depending on the community, schools or police may refer directly to the JRB, avoiding arrest. JRB referral may also follow arrest, avoiding referral to the court. Juvenile

court, having received a delinquency referral, may instead divert a youth to JRB, avoiding processing in court.

Definitions

Diversion- Intervention approaches that redirect youths away from formal processing in the juvenile justice system, while still holding them accountable for their actions.

Recidivism: Refers to a re-arrest or reconviction, after having received intervention for previous criminal behavior.

Racial and Ethnic Disparity (RED)- Racial and ethnic disparity refers to unequal treatment of youth of color in the juvenile justice system. RED results in disparate outcomes for similarly situated youth.

Disproportionate minority contact (DMC)- Disproportionate minority contact (DMC) refers to the disproportionate representation of ethnic, racial and linguistic minority youth in the juvenile court system.

Services found that may be effective in addressing behaviors leading to juvenile justice involvement include the following (this is a partial list that can be used as a springboard for conversations on additional supports available in the Connecticut array):

FFT- Family Functional Therapy

MST- Multisystemic Therapy

Emergency Mobile Psychiatric Services (EMPS) – EMPS provides assessment, crisis stabilization, short-term intervention, linkage to therapeutic crisis respite/stabilization services and long-term care. This is an effective response to avoid police response to a mental health crisis which may result in arrest.

Care Coordination – For children and youth with serious and complex behavioral health needs are frequently involved with and receive services from one or more public systems. Provides assistance with navigating services across multiple systems with different eligibility criteria, funding streams and treatment options, including Medicaid, behavioral health, juvenile justice, and special education.

Behavioral Health and Substance Use/Misuse Services

School Based Diversion Initiative (SBDI)- The Connecticut School-based Diversion initiative is designed to prevent in-school arrests and reduce out-of-school suspensions and expulsions for youth experiencing emotional or behavioral health challenges. SBDI is a school-level initiative that engages teachers, staff, administrators and school resource officers through consultation, expert training, and capacity building activities. SBDI is an effective strategy to increase access

for students and families to mental health prevention supports and treatment services in the school and local community.

Local Implementation Service Teams (L.I.S.T.)

Please feel free to contact Transitional Supports and Success for more information on diversion opportunities.

Resources

Kammer, J., Minor, K., & Wells, J. (1997). An Outcome Study of the Diversion Plus Program for Juvenile Offenders. *Federal Probation* 61(2): 51–56.

Patrick, S. & R. Marsh. (2005). Juvenile Diversion: Results of a 3-Year Experimental Study. *Criminal Justice Policy Review* 16(1): 59–73.

Randall, K.G. (2015). Crossover Youth: Person-Centered Approaches to Understanding Youth Involved in the Child Welfare and Juvenile Justice Systems. Doctoral Dissertations. 742.

<https://opencommons.uconn.edu/dissertations/742>