This practitioner tool is one

in a series to support the

development of problem-

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solving justice initiatives. For

PROBLEM-SOLVING JUS

USING DIVERSION AS PART OF A PROBLEM-SOLVING STRATEGY

At the heart of problem-solving justice is the idea of providing key justice system decision makers with expanded options with which to respond to criminal behavior. When used appropriately, diversion can be a valuable tool for justice officials, helping to take low-level or first-time offenders out of the court system and link them to supervised services, such as drug treatment, that address the issues underlying criminal behavior. Like problem-solving courts, diversion looks at a population of offenders who might be better served outside of a traditional court setting in an effort to reduce future criminality.

Diversion can work in a number of ways. For example:

- Charges are not pressed as long as the defendant fulfills the requirements of the diversion program (e.g., attends a set number of classes and/or performs a certain number of hours of community service).
- A charge is brought and suspended until the defendant fulfills program requirements.
- A defendant enters a guilty plea, which is then dismissed once he or she completes the program requirements.

Before starting a problem-solving criminal justice initiative, it would be useful to see if a diversion program already exists in your jurisdiction—and to look at which offenders it serves and the types of programs it offers them. If one does exist, it might make sense to link your problem-solving initiative with the existing program, or at least to see how the programs can benefit and support each other. If one doesn't, starting a diversion program can help offer a richer array of options for those offenders who could safely benefit.

Use the following checklist to plan and implement a diversion program.

PLANNING

Before starting a diversion program, you need to identify the problems you will be trying to address, as well as determine what resources are available to address them.

HAVE YOU IDENTIFIED...

■ What the political climate is in your jurisdiction, with respect to diverting cases from the traditional court process? Does the public understand the benefits of this approach? Do elected officials?

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■ What kinds of cases are appropriate for diversion in your jurisdiction?	Develop a reasonable plan for each defendant based upon this assessment?
■ What social services are available in your community that might be appropriate?	☐ Match defendants with appropriate services that fit not only the type of offense but the severity of
■ What community service options exist in your community?	the offense and other risk factors? Consider a community service component for
What, if any, legal benefits would accrue to	inclusion in the diversion agreement?
defendants who successfully complete all diversion program requirements?	☐ Inform the defendant of what will be required of him or her to fulfill the diversion agreement?
☐ What, if any, legal consequences would there be	
for defendants who do not successfully complete all diversion program requirements?	COMPLIANCE: DO YOU HAVE A STANDARD OPERATING PROCEDURE TO
ELIGIBILITY REQUIREMENTS: HAVE YOU	☐ Track all participants in the program?
DEVELOPED A PROCESS TO	☐ In cases of non-compliance, prosecute diverted cases or request the issuance of bench warrants
☐ Create a risk assessment tool to determine who's qualified for diversion, taking into account	in a timely manner?
 prior convictions? current charges? clinical factors like homelessness, physical or mental handicaps, disabling conditions, drug use, and mental health issues? 	ARE YOU MEASURING
	Overall compliance rate (total number of participants who fulfill their diversion agreement as a percentage of total number of participants)?
INTAKE: HAVE YOU DEVELOPED A PROCESS TO	☐ Drop-out rate (total number of participants who do not fulfill their diversion agreement as a
□ Assess each defendant?	percentage of total number of participants)?
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FURTHER READING	

NAPSA Performance Standards & Goals for Pretrial Release and Diversion

http://www.napsa.org/publications/NAPSAP retrial Practice Survey.pdf

A Short History of the Pretrial Diversion of Adult Defendants from Traditional Criminal Justice Processing Part One: The Early Years

http://www.napsa.org/publications/diversionhistory.pdf

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