



PROBLEM-SOLVING JUSTICE

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.

This practitioner tool is one in a series to support the development of problem-solving justice initiatives. For other documents in the series, please visit courtinnovation.org.

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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This practitioner tool was produced as part of the Community-Based Problem-Solving Criminal Justice Initiative, a project of the Bureau of Justice Assistance that aims to broaden the scope of problem-solving courts by testing their approach to wider defendant populations and applying key problem-solving principles outside of the specialized court context. The Bureau of Justice Assistance supports law enforcement, courts, corrections, treatment, victim services, technology, and prevention initiatives that strengthen the nation's criminal justice system. The Center for Court Innovation is a non-profit think tank that works with criminal justice practitioners, community-based organizations, and ordinary citizens to develop creative responses to public safety problems, aid victims, reduce crime, and improve public confidence in justice.

- What kinds of cases are appropriate for diversion in your jurisdiction?
- What social services are available in your community that might be appropriate?
- What community service options exist in your community?
- What, if any, legal benefits would accrue to defendants who successfully complete all diversion program requirements?
- What, if any, legal consequences would there be for defendants who do not successfully complete all diversion program requirements?

ELIGIBILITY REQUIREMENTS: HAVE YOU DEVELOPED A PROCESS TO...

- Create a risk assessment tool to determine who's qualified for diversion, taking into account...
 - prior convictions?
 - current charges?
 - clinical factors like homelessness, physical or mental handicaps, disabling conditions, drug use, and mental health issues?

INTAKE: HAVE YOU DEVELOPED A PROCESS TO...

- Assess each defendant?

FURTHER READING

NAPSA Performance Standards & Goals for Pretrial Release and Diversion

<http://www.napsa.org/publications/NAPSAPretrialPracticeSurvey.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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- Develop a reasonable plan for each defendant based upon this assessment?
- Match defendants with appropriate services that fit not only the type of offense but the severity of the offense and other risk factors?
- Consider a community service component for inclusion in the diversion agreement?
- Inform the defendant of what will be required of him or her to fulfill the diversion agreement?

COMPLIANCE: DO YOU HAVE A STANDARD OPERATING PROCEDURE TO...

- Track all participants in the program?
- In cases of non-compliance, prosecute diverted cases or request the issuance of bench warrants in a timely manner?

ARE YOU MEASURING...

- Overall compliance rate (total number of participants who fulfill their diversion agreement as a percentage of total number of participants)?
- Drop-out rate (total number of participants who do not fulfill their diversion agreement as a percentage of total number of participants)?