

# Protect and Redirect: Measuring Equity and Results in Juvenile Diversion

Robust data collection and analysis are essential tools in any effort to expand and improve the use of diversion. Without accurate and timely demographic data, advocates cannot highlight disparities in the use of diversion and push effectively for reforms. Without information on which youth are succeeding in diversion, system leaders cannot revise and improve practices to improve outcomes.

Lasting progress in diversion from system involvement for youth requires state and local justice systems to set meaningful goals and carefully monitor results. If they are to understand and address disparities, states and localities must collect and analyze data, broken down by race and ethnicity, at every stage of the process. To hone their strategies and document diversion's benefits as compared to formal justice system involvement, they also must track results – not merely recidivism, but also other outcomes related to youth well-being and success and victim satisfaction with the justice process.

Ideally, justice systems should bring together stakeholder teams to review the available data, identify opportunities for expanded use of diversion, uncover decision points where disparities are occurring and their underlying causes, and then brainstorm and implement solutions to achieve equity.

Careful attention to data is necessary to answer questions about diversion on two key dimensions:

- **Diversion Opportunities:** How widely is diversion being utilized, and how sharply does diversion's use differ within states from one county or region to the next? How consistently are diversion opportunities being targeted in terms of young people's offenses and objectively measured risk to reoffend? How equitably are opportunities for diversion being offered to youth of different races and ethnicities and to other marginalized communities, such as LGBTQ youth and those with disabilities?
- **Diversion Impact:** How are youth who are offered diversion faring in the short term (entering diversion and completing successfully) and long term (avoiding subsequent involvement in the justice system, improving their well-being, and achieving other important life goals).

Where robust data are made available and advocates and youth justice system leaders can analyze data on both of these questions, they are in a far better position to build and sustain support for expanding the use of diversion, and to reduce disparities.

This issue brief is one piece in a five-part package of publications about youth diversion by The Sentencing Project in 2024. Click [here](#) to access all the diversion briefs and other resources on The Sentencing Project's youth diversion webpage.

## Current Gaps in Diversion Data and Analysis – and Why They’re Important

In many states, even basic information about the utilization and results of diversion is scarce, and data about diversion are seldom analyzed in a rigorous way. This inattention to data can hamper efforts to expand and improve the use of diversion and to reduce disparities.

In **Illinois**, a 2021 report noted that “Data on prosecutors’ decisions to divert a youth from formal justice system involvement or to file a delinquency petition is largely unavailable at a local or state level.” The report noted “incomplete reporting” of data from juvenile courts around Illinois, and it highlighted that the data is not typically digitized, making it difficult to disaggregate data by race and ethnicity (or gender, or other variables) and to perform sophisticated data analysis.<sup>1</sup>

In **Massachusetts**, a detailed 2019 state government study found that “lack of available data often impedes our ability to make data-informed decisions about policy and practice.”<sup>2</sup> Specifically, the study found Massachusetts lacked data to measure how often police, district attorneys, and courts offer diversion – and to measure differences by race and ethnicity in how often diversion is offered within local court jurisdictions and from one court jurisdiction to the next.<sup>3</sup> A 2022 update report found that – although efforts to improve data availability are ongoing – “critical data about decision-making in the juvenile justice process remains unavailable,” including data about the use of diversion by police, court clerks, and judges.<sup>4</sup>

In **Michigan**, a comprehensive review of the adult and youth justice systems in 2021 reported that the “total number of youth involved in the youth justice system is unknown because court caseload counts do not include youth who have been deflected from system involvement or diverted from court processing.”<sup>5</sup> The report also noted that “No statewide data have been collected that capture the total number of youths served in diversion programs, the effectiveness of the programs or the

recidivism of youth who participated in the wide variety of [diversion] programs offered throughout the state.”<sup>6</sup>

In **Indiana**, a 2021 review by the Council of State Governments (CSG) Justice Center found that Indiana’s youth justice system “has limited capacity to collect, track, and use juvenile justice data to evaluate and improve system performance and youth outcomes.”<sup>7</sup> CSG found that “Indiana is unable to track youth involved in the juvenile justice system ... [and] cannot answer key questions about how youth flow through the system, demographics and trends in system involvement, and where disparities exist.” In addition, most counties lack the capacity “to produce performance measure reports and analyze the limited outcome data that may exist.”<sup>8</sup> (Many of these problems were addressed in a 2022 reform law.<sup>9</sup>)

## Data Needed to Measure How Widely and Equitably Diversion Is Used

Every state should strive to compile the following diversion participation data by local jurisdiction. For every indicator, data should be broken down by race/ethnicity and gender, and ideally by disability status as well. Analysis should also control for young people’s risk scores and for offense severity and specific offenses:

- (a) number of youth arrested;
- (b) number of youth offered pre-arrest diversion through warnings, stationhouse adjustments, civil citations, and referral to pre-arrest diversion programs;
- (c) number and share of youth referred to juvenile courts who are offered diversion;
- (d) number and share of youth offered diversion who complete the enrollment process and are actually diverted;
- (e) number and share of diverted youth who complete diversion successfully; and
- (f) number and share of diverted cases that are referred back to court for rule violations.

Without these data, advocates, system leaders, academics, and legislative staff will have no way to determine how widely diversion is being employed, or what share of young people complete diversion successfully. Also, without these data there will be no way to identify offenses for which youth of color are being disproportionately arrested and charged, and no way to determine the stages at which disparities are being exacerbated or eased for youth of different races and ethnicities.

## How to Measure Diversion Outcomes

On a regular basis, leaders of state and local youth justice systems should conduct or commission studies that compare outcomes for diverted youth to those of comparable youth who are formally processed in court – controlling for race and ethnicity, gender, as well as offense type, offense history, and risk score. Ideally, these studies also should examine results for LGBTQ youth and those with disabilities.

In terms of recidivism and future justice system involvement, states should calculate and report for every county the share of youth with successful and unsuccessful diversion cases who are rearrested, and the share who are subsequently adjudicated delinquent (in juvenile court) or convicted (in adult criminal court). To be meaningful, these recidivism analyses must be broken down by the young people's risk levels and prior offending histories, and by the frequency and severity of any new offenses. A simplistic yes or no measure of arrests or adjudications that doesn't take these factors into account can be misleading and offers little value.<sup>10</sup>

In addition to recidivism results, it is important to track other diversion outcomes related to young people's healthy development. Research shows that formal processing has many negative effects on young people's educational success and other facets of their well-being. Diversion, therefore, offers many potential benefits. Yet, as a recent evaluation of Utah's youth diversion programs noted, "Few studies as well as agencies have tracked

other youth outcomes (e.g., education, family relations, antisocial peer associations, risk reduction)."<sup>11</sup>

Youth justice systems can address this gap by collecting data and reporting on school outcomes such as continued attendance, grades, course completion, and school discipline (suspensions and expulsions), as well as progress in: reducing risk indicators,<sup>12</sup> addressing identified challenges with mental health and substance abuse, participating in employment and positive youth development activities outside of school; and connecting to mentors and other caring adults.<sup>13</sup>

Finally, youth justice systems should regularly survey victims, as well as accused youth and their family members, about their satisfaction with the justice process.<sup>14</sup> Victim surveys are especially important when diverted youth are engaged in restorative justice programs, given the research showing that restorative justice yields far greater victim satisfaction than the traditional court process.<sup>15</sup>

## Recent Progress to Improve the Use of Data in Diversion

Historically, few jurisdictions collected and reported comprehensive data on future arrests and court involvement for diverted youth, and fewer still collected and reported on victim and participant satisfaction or other success measures. However, this scarcity of data is beginning to change.

**Data dashboards:** A growing number of jurisdictions have developed statistical dashboards to make data about diversion and other facets of the justice system readily accessible to advocates, systems professionals, and the general public. Among the states that now maintain interactive dashboards are **Florida**,<sup>16</sup> **Georgia**,<sup>17</sup> **Iowa**,<sup>18</sup> **Kansas**,<sup>19</sup> and **Utah**.<sup>20</sup>

**Detailed annual data reports:** A number of states – including **Arizona**,<sup>21</sup> **Maryland**,<sup>22</sup> **New Mexico**,<sup>23</sup> **Oregon**,<sup>24</sup> and **Virginia**<sup>25</sup> – publish annual statistical reports that

include detailed data on the use of diversion statewide and county-by-county, including breakdowns by gender, race/ethnicity, referral offense, and more.

***New state-imposed data reporting requirements:*** Juvenile justice reform laws enacted in **Indiana**,<sup>26</sup> **Utah**,<sup>27</sup> and **Colorado**<sup>28</sup> in the past two years have added new data collection and reporting requirements related to diversion. Indiana’s 2022 reform law created a juvenile justice oversight board with responsibility to develop a plan for collecting and reporting juvenile justice data and to establish performance measures related to outcomes and equity.<sup>29</sup> In Colorado, juvenile justice legislation passed in 2023 requires district attorneys to submit a detailed report on their diversion programs every year.<sup>30</sup> In Iowa, a juvenile justice task force recommended several steps in 2023 to improve data collection as part of the state’s efforts to expand the use of diversion.<sup>31</sup> **Massachusetts** continues its multiyear initiative to improve the availability and effective use of data for diversion and other elements of the youth justice system.<sup>32</sup>

***Data-driven strategic planning to expand, improve, and reduce disparities in diversion.*** Ultimately, the impact of enhanced data collection on diversion utilization and outcomes hinges on system leaders’ determination and capacity to analyze the data and put it to good use. A number of jurisdictions in recent years, often with support from expert technical assistance providers, have convened local stakeholder teams to rigorously examine diversion data, identify problems in current policies and practices, and brainstorm opportunities. These initiatives show substantial promise to help foster progress on diversion.

- In **New York**, as part of a Policy Equity Academy specifically dedicated to reducing racial and ethnic disparities, leadership teams from five upstate counties have been working since 2021 to review data and assess their diversion policies and practices.<sup>33</sup> The teams have devised and implemented targeted strategies to increase participation and improve success rates for youth of color in diversion. In their plans, several of the counties have revised

the documents they send to youth and families eligible for diversion and taken other steps to reduce the share of families offered diversion who refuse to participate. Multiple sites also have begun to employ “credible messengers” – adults with personal history in the justice system or other experiences in common with many youth – to enhance the effectiveness of their diversion programs.<sup>34</sup>

- In **Pennsylvania**, teams from six of seven counties that participated in Georgetown University Center for Juvenile Justice Reform’s certificate program on Advancing Racial Justice and Equity in 2021 and 2022 chose to focus on expanding diversion opportunities and reducing disparities in diversion.<sup>35</sup> In the program, the teams analyzed data from their local systems and crafted plans for a “capstone project” to reduce disparities. Teams from Allegheny County (Pittsburgh) and Philadelphia focused on expanding existing pre-arrest diversion programs in the schools to also serve youth involved in problematic conduct in the community.<sup>36</sup> Other participating counties focused on reducing school-based referrals to juvenile court.<sup>37</sup>
- In **Los Angeles County**, a youth diversion subcommittee including court and government officials, as well as advocates and community leaders, included extensive data analysis in a 75-page report offering a roadmap for vastly expanding the use of pre-arrest diversion throughout the county.<sup>38</sup> Three years later, a public-private youth justice workgroup also employed extensive data analysis in a report titled *Youth Justice Reimagined*, which reaffirmed the importance of sharply expanding diversion as part of a larger reform vision for the county.<sup>39</sup>
- In **Kentucky**, the state’s Administrative Office of the Courts has partnered with an African American pastor and diversity trainer to develop a multipronged model for promoting racial equity in diversion and other stages of the juvenile justice system.<sup>40</sup> One key strategy has been to work with leaders in 10 counties with large disparities in diversion. The resulting local action plans identified opportunities to better

individualize services for youth of color, reduce barriers to participation, and increase the availability of culturally appropriate services.<sup>41</sup>

- In **Iowa**, teams from several counties used data extensively as part of a workshop on racial and ethnic disparities in 2012.<sup>42</sup> In Johnson County (Iowa City), a data analysis showed that police made more arrests of Black youth than white youth in 2012 – even though white youth in the county outnumbered Black youth by nearly 8 to 1.<sup>43</sup> The disparities were especially alarming in arrests for disorderly conduct: 57 arrests for Black youth versus 11 for white youth.<sup>44</sup> To begin addressing the disparities, local leaders developed a diversion program specifically for youth accused of disorderly conduct. Subsequently Johnson County added a diversion program for shoplifting,<sup>45</sup> and it recently began offering diversion for all simple misdemeanors.<sup>46</sup> Two other Iowa counties – Scott (Davenport) and Webster (Fort Dodge) also began offering diversion programs targeted to offenses with large disparities a decade ago.<sup>47</sup> Since then, the state has seen a growing number of targeted diversion programs.<sup>48</sup>
- As part of its work supporting a network of community-based restorative justice diversion programs across the country, Equal Justice USA facilitates a data-driven planning process<sup>49</sup> in which participating sites target their programs to reduce racial and ethnic disparities and to focus on youth accused of serious offenses in neighborhoods where many court-involved youth reside.<sup>50</sup> (See Text Box about this project’s recommended data elements for planning new restorative justice diversion programs.)

### **Data Elements for Planning New Restorative Justice Diversion Programs**

In determining where to locate new programs and which youth to target, Equal Justice USA recommends that local teams focus on three data questions:<sup>51</sup>

- What are the most common misdemeanors and felonies that have an identifiable person harmed, for which youth of color are arrested, charged, adjudicated (convicted) delinquent, detained, and placed on probation?
- What are the most common misdemeanors and felonies that have an identifiable person harmed, for which youth of color have the highest rate of recidivism?
- In which local zip codes are youth of color most frequently arrested, charged, adjudicated delinquent (convicted), detained, and placed on probation for crimes in which there is a clear, identifiable person harmed? (When sorting by zip code is not possible, consider other geographical distinctions such as neighborhood or city/county district.)

Whenever possible, all of these data should be disaggregated (sorted) by race, sex, race and sex, and zip code.

## ENDNOTES

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<sup>49</sup> Equal Justice USA (n.d.). A restorative justice toolkit for communities: Step 2C: Community Vision.

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