

## Innovation Brief

# Using Diversion Fairly, Consistently, and Effectively

Juvenile justice leaders in Pennsylvania wanted to create a model system to channel youths away from formal processing. **The idea was to hold young offenders accountable with less costly and more effective programs, while avoiding the negative consequences of a delinquency adjudication or conviction and a court record.** The group began with a focus on youths with mental and behavioral health problems, but soon expanded to include a much broader population. By involving a diverse array of stakeholders and working collaboratively to gain consensus, the group was able to draw up a set of diversion principles, write a statewide guide, and fund pilot projects to divert youths at critical justice system points. Building on this momentum, thirteen additional projects were launched in 2011. Diversion programs are now part of the fabric of juvenile justice reform in the state.

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### **The Issue**

Diversion—channeling youths away from the juvenile justice system and into an alternative program before formal court involvement—has been gaining support across the country. One reason is the growing body of evidence that for many youths, formal processing in the system may lead to higher rates of re-offending. Another is the disturbingly large number of court-involved youths who have mental and behavioral health disorders; these children pose significant challenges to the juvenile justice system, which has become the treatment system of last resort. Diversion could potentially be more effective in protecting the public, holding youths accountable, getting them the services they need, and making the system more efficient and cost-effective.

With this in mind, Pennsylvania set out in 2006 to create a model system for youths with mental health problems

who were on the precipice of involvement with the juvenile court. They envisioned a system that would prevent unnecessary court involvement, provide early identification of youths with mental health needs, and ensure these youths gain timely access to appropriate treatment.

Making this vision a reality requires support from a broad array of stakeholders: prosecutors, defense attorneys, juvenile probation officers, juvenile court judges, mental health providers, representatives of families and victims, state and county human services administrators, the state offices of children and youth, mental health and substance abuse services, and special education and disability rights advocates. With funding from Models for Change, a broadly representative diversion group was formed and began its work by researching current diversion practices in Pennsylvania.

The findings were illuminating. They showed that Pennsylvania faced a variety of challenges if diversion was to be used fairly, consistently, and effectively.

**The use of diversion varied widely among counties.** Examining data for the most recent five years available, the group found a wide variation in the use of diversion. The percentage of juvenile cases diverted in each county ranged from zero to 75 percent. Even within a given county, there were wide swings in the use of diversion over the five-year period. About a third of the counties showed a double-digit decrease in the percentage of cases diverted over that time span, while another third had a double-digit increase.

### Percent of Juvenile Court Referrals Diverted, 2005

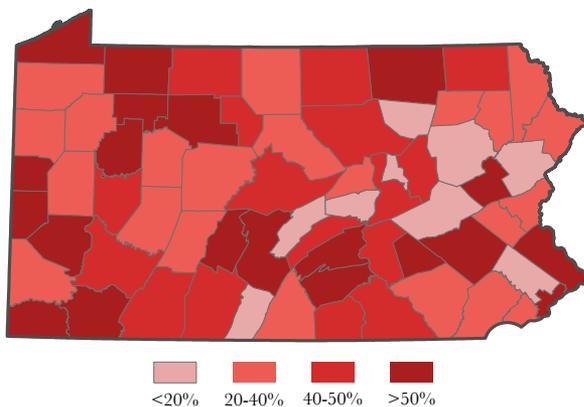


figure 1

**Most counties had no written diversion policies or protocols.** The vast majority of Pennsylvania counties did not have any written policies, agreed to by the major stakeholders, addressing the goals of diversion or the procedures to be followed when diversion was used. The group hypothesized that the lack of written policies and protocols might play a significant role in the large swings from year to year in the use of diversion within a county; without written guidelines, diversion practice could change dramatically with changes in leadership.

**There were no statewide standards governing diversion.** When asked about potential barriers to good diversion practice in their county, many

stakeholders cited a lack of statewide standards on the use of diversion. Some pointed out that there wasn't agreement on what counts as diversion, much less on the essential elements of any diversion program.

**The public perception of diversion was negative.** Another potential obstacle to diversion was the misconception held by some community members that diversion is simply a euphemism for letting youths off the hook and not holding them accountable for their actions.

### Innovations

The diversion group started with a focus on children with mental health disorders, substance abuse problems, and developmental disabilities. The members soon realized, though, that in order to enhance diversion for these special needs populations, they needed to address diversion policies and practices overall. Ultimately, they developed a number of initiatives aimed at enhancing diversion practices for all children involved, or on the brink of being involved, with the juvenile justice system. Youths with special needs remain a priority.

**Diversion principles.** The group began by drafting a set of fundamental principles that should underpin any pre-adjudication diversion protocol, whether at the state or county level. Members took that draft to their constituencies to get feedback and build support, and ultimately won endorsement by a diverse and powerful group of stakeholders. The principles address the goals of diversion, the circumstances and populations for which it is appropriate, and what points in processing it should target. They build on mechanisms already codified in Pennsylvania's statutes and court rules, and discuss further criteria for ensuring fairness, clarity, and accountability. They address the role of families and alternatives if the family is not involved. And they call for measures to track both youths and program outcomes to evaluate the effectiveness of the programs.

**Statewide guide.** To help counties craft protocols to shape their local practice, the diversion group wrote a

*Guide to Developing Pre-Adjudication Diversion Policy and Practice in Pennsylvania.* The Guide is a nuts-and-bolts checklist of operating procedures and practices, covering topics from who is eligible for diversion to what should be contained in written agreements. The principles noted above are included as an appendix.

**Funding of diversion pilot projects.** Three Pennsylvania counties received start-up funding for programs to divert youths from further formal processing at three critical entry points: at initial contact with law enforcement on the streets, when youths get into trouble at school, and at the initial probation intake.

- **Crisis Intervention Training for Youth (CIT-Y) in Allegheny County.** In 2009, Allegheny County was one of three sites in the Mental Health/Juvenile Justice Action Network to pilot a CIT-Y curriculum, which trains police officers in crisis response techniques specifically targeting youths. The one-day training module was designed for officers who previously completed the standard CIT training, which focuses more on responding to adults. In 2010 mental health experts and law enforcement agents from Allegheny, Bucks, and Cambria Counties attended CIT-Y Train-the-Trainer sessions; these counties, in turn, will train more law enforcement officials in CIT-Y.
- **School Justice Panels in Lehigh County.** In 2009, Lehigh County implemented Student Justice Panels in four Allentown middle schools to prevent adjudication of first-time offenders and to help schools provide accountability and guidance to offending youths. Youths referred to the panels immediately receive a mental and behavioral health assessment that is used to frame responses.

## Student Justice Panels, Lehigh County

Among 149 youths referred to panels and monitored during the program's first two years:

- **55%** were identified as having unmet mental or behavioral health needs
- **95 youths** met with panels and entered into a contract
- **65%** of these completed their contract
- **92%** of those who completed their contract did not re-offend
- **22%** of those who did not complete their contract did re-offend

figure 2

- **Juvenile Probation Intake Special Needs Diversion Project in Chester County.** Chester County launched an Intake Diversion Project in 2009, using informal adjustments and consent decrees to divert eligible youths from adjudication. The project also uses mental and behavioral health assessments to help identify appropriate responses, including referrals for treatment.

**Institutionalization.** As part of its sustainability plan, the diversion group sought, and ultimately found, a permanent home in Pennsylvania's Juvenile Justice and Delinquency Prevention Committee (JJDPDC), the advisory group responsible for distributing state and federal dollars to the counties for their juvenile justice systems. As an official subcommittee of JJDPDC, the group has direct access to decision-makers who can make funding available to enhance and expand diversion practice in Pennsylvania.

As one of its first pieces of business, the JJDPDC Diversion Subcommittee issued a request for proposals for county-based juvenile diversion projects based on the principles and the Guide. Thirteen projects were approved and launched in June 2011. The projects as a group target diversion at different points in the process and represent a variety of approaches to serving the diverted youths, reducing their risk of offending, and building their competencies in the community. The

projects include youth courts; panels of community volunteers; programs aimed at reducing referrals to juvenile court for school-based offenses and keeping children in their home schools; and probation-based diversion projects. The lead agencies for these projects range from the county district attorney to the local public defender's office, from the juvenile probation office to private, not-for-profit social services providers. All will collect data on programs to which youths are diverted and the outcomes.

### **Results and Lessons**

The work described above unfolded over four years; much of that time was devoted to developing the principles and obtaining buy-in from the key stakeholders. The presentations, feedback, and response to stakeholders' concerns was a major factor in winning endorsement from so many groups. Once this was achieved, the pace of reform picked up and the innovations moved relatively quickly.

That is not to say the path was simple. The funding announcement challenged applicants to give appropriate attention to all of the principles. While the group of applicants was strong, it was clear that all grantees would need assistance in one or more areas, and that each jurisdiction would need to be able to provide technical assistance to get the projects off the ground. In Pennsylvania, fortunately, local projects are able to call on the expertise offered by a state-supported program, the Quality Improvement Initiative. The efforts started under Models for Change have now become part of the fabric of juvenile justice work in Pennsylvania.

### **Looking Forward**

One of the tasks the diversion group undertook in its early days was to investigate effective diversion programs in other parts of the country. Some of these programs proved to have little or no evidence base.

Consequently, the group committed to requiring all its grantees to collect outcome data. In two years, Pennsylvania will have information on the efficacy of several different approaches to diversion, detailed descriptions of the programs for replication, and model policies that other counties and states can use.

There is still work to be done to improve the public perception of diversion. The group plans to highlight success stories from the diversion projects as part of a wider public education campaign.

### **Resources**

Guide to Developing Pre-Adjudication Diversion Policy and Practice in Pennsylvania (2010)

<http://www.modelsforchange.net/PA/DiversionGuide>

Diversion Subcommittee of the Juvenile Justice and Delinquency Prevention Committee

<http://www.modelsforchange.net/PA/DiversionSubcommittee>

Models for Change Juvenile Diversion Guidebook (2011)

<http://www.modelsforchange.net/NationalDiversionGuide>

The Quality Improvement Initiative

<http://www.paqii.org>

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This brief is one in a series describing new knowledge and innovations emerging from Models for Change, a multi-state juvenile justice initiative. Models for Change is accelerating movement toward a more effective, fair, and developmentally sound juvenile justice system by creating replicable models that protect community safety, use resources wisely, and improve outcomes for youths. The briefs are intended to inform professionals in juvenile justice and related fields, and to contribute to a new national wave of juvenile justice reform.