



## **Criminal Justice Diversion and the Importance of Program Retention**

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*The United States has among the highest recidivism rates globally, with at least 1 in 4 rearrested within the same year of their initial charge. Many of these individuals are significantly impacted by poverty, mental illness, and substance use disorders. Recidivism reduction has become a significant focus of criminal justice reform and is gaining attention nationwide. Current scholarly literature suggests evidence-based reentry policies and programs can improve individual-level outcomes. This paper introduces the concept of diversion programming and measures how one diversion program impacted recidivism rates in a mid-sized metropolitan area of the US. Researchers examined one year's worth of data from 757 individuals released from the local county jail (January 2021 - December 2021) and calculated the average one-year recidivism rate comparing that of program participants to those of the larger community. Findings revealed that only 3.70% of those who completed this specific diversion program were rearrested within a year after their completion date. In comparison, members of the local community, who were not part of the program, were rearrested at a rate of 28.4%. Moreover, when clients were not retained in the program, recidivism rates were significantly higher at 31.22%. The authors suggest justice navigation-based diversion programs can effectively reduce recidivism if, and when, those programs ensure retention. This study can be a resource for future researchers, stakeholders, policymakers, and practitioners to support diversionary programming to reduce recidivism.*

**Keywords:** Recidivism, diversion, diversion program, criminal justice, reform

## INTRODUCTION

Forensic social work leads and supports multidisciplinary teams that combine program treatment, rehabilitation, and support services for individuals subject to the criminal justice system (Bailey-Kloch et al., 2015; Kelly et al., 2017). Forensic social workers provide judges and other essential court personnel with biopsychosocial data and analysis throughout the adjudication process, influencing evidence-based interventions, mitigation, or rehabilitative or alternative sentencing (Canada & Albright, 2014; Jonson & Cullen, 2015; Maschi & Killian, 2011). In the context of recidivism, as defined below, forensic social work, as a specialized approach to practice, identifies and addresses offending behavior, to reduce the risk of re-offending (Holtzhausen, 2011; Liles et al., 2018; McCarter, 2016; Sheehan, 2012; Yukhnenko et al., 2020). Given the profound impact of convictions over a lifespan, especially for vulnerable minorities or those in poverty, forensic social workers may impact the trajectory of systemic injustice and its implications across generations and communities (Burton et al., 2014; McCarter et al., 2017).

### **Diversion Programs**

Along with others, forensic social workers have searched for more effective programs to reduce recidivism, finding policies that highlight rehabilitation and treatment are more likely to achieve that goal (Lipsey & Cullen, 2007; MacKenzie, 2006). Research indicates community-based diversion programs can effectively reduce recidivism (Hodgkinson et al., 2021). Often highly unique and individualized, diversion programs create alternative pathways for people involved in the criminal justice system to avoid incarceration (United Nations Office on Drugs and Crime [UNODC], 2018). Diversion programs are typically related to pre-trial programming in which an individual is provided rehabilitative, educational, mentoring, case management and supervision, and other supportive options in place of incarceration (UNODC, 2018).

Diversion programs trace their origin to the *President's Commission on Law Enforcement and Administration of Justice* (Gibbons & Blake, 1976). The concept grew in popularity in the US in the 1960s and 1970s, intending to divert specific targeted groups of people (such as adolescents, veterans, or people with substance abuse and mental health needs) away from the criminal justice system (Goetz & Mitchell, 2006; Klein, 1976; Nimmer, 1971; Treger, 1975). Since inception, programs have grown to be more widespread and inclusive. There are no national standards for diversion programs; they are often designed to fulfill specific individual and community needs (Rogers, 2015; UNODC, 2018). Diversion programs typically rely on the discretionary authority of criminal justice officials, such as judges and prosecutors, to route individuals with justice system involvement to appropriate programs as an alternative to carceral sanctions (UNODC, 2018).

These programs are a central component of what forensic practitioners call "smart" decarceration programs, which are proactive, transdisciplinary, and empirically driven. Rather than relying on incarceration to reduce recidivism, diversion programs utilize behavioral interventions and case management to address potential root causes of criminal behavior (Feucht & Holt, 2016; Pettus-Davis & Epperson, 2015). Diversion programs can provide stabilizing support services to equip individuals through community partnerships and offer an array of typically community-specific options.

For this study, "diversion client" is defined as a person in community-based services either in the pre-trial or probation phase of the criminal justice system. Though many diversion programs exist, this study focuses on justice navigation assistance and brokerage to outside services. Those services may include employment support, housing, education, substance abuse, mental health services, assistance with government benefits, and other family support services. However, traversing diversion programs is not easy, often requiring participants to overcome longstanding obstacles, such as experiences of trauma and substance abuse, that may have led to encounters with the criminal justice system (Hodgkinson et al., 2021). Thus, finding ways to successfully assist more individuals in the criminal justice system to navigate diversion programs has value to both individuals and society.

## **Recidivism**

Recidivism is defined by rearrest, reconviction, or return to jail or prison with or without a new sentence during the three years following an individual's release from a carceral space (National Institute of Justice, 2008). According to the Bureau of Justice Statistics (BJS), approximately 66% of prisoners released across 24 states in 2008 were arrested within three years and 82% were rearrested within 10 years (Antenangel & Matthew, 2021). Furthermore, research findings demonstrate that at least 1 in 4 people who go to jail will be rearrested again within the same year because of poverty, mental illness, and substance use disorders, which tend to worsen with incarceration (Prison Policy Initiative, 2020). With the increasing recognition of the health burden of violence and crime (World Health Organization, 2014), reducing recidivism can contribute to public safety and public health.

Existing literature suggests recently enacted evidence-based reentry policies and programs can improve outcomes for people released from carceral spaces (Gelb & Velazquez, 2018; Pettus-Davis et al., 2017). State-level data have shown significant reductions in returns to prison from parole, including decreases of 35% in Georgia from 2007 to 2016 and 43% in Michigan from 2006 to 2015 (Gelb & Velazquez, 2018). A 2014 report by the National Reentry Resource Center highlights eight states with reductions in recidivism, providing examples of the strategies and programs undertaken to achieve these results (Gelb & Velazquez, 2018). And in Virginia, the Department of Corrections released an analysis in 2017 that attributes the state's low recidivism rate to policymakers' focus on reentry programming and treatment (Gelb & Velazquez, 2018).

According to the Prison Policy Initiative (PPI) report, Oklahoma, where this study took place, had an incarceration rate of 993 per 100,000 in 2021 from jails, immigration detention, prison, and juvenile justice facilities. To put that in perspective, not only did Oklahoma systems incarcerate citizens at a rate dramatically higher than the US as a whole, but also incarcerated at a rate roughly twice as high as Russia, over seven times higher than Iraq or China, and approximately 12 times higher than Afghanistan (Widra & Herring, 2021). These rates are evident in Oklahoma's state and local-level carceral spaces. Just as at state and federal levels, reductions in county jail populations will require long-term efforts to divert individuals involved in the criminal justice system and create alternative pathways away from detention.

Recidivism measures can give policymakers information about the relative threat of various categories of offenders to public safety, as well as the success of

public safety programs in (1) deterring crime and (2) rehabilitating or incapacitating individuals (Butorac et al., 2017). Little empirical research exists, however, on how reentry programs assist in reducing the recidivism rates in individual states and even fewer studies document how diversion programs serve criminal justice system-involved adults. The current study contributes to this gap by investigating how diversion programs affect the recidivism rate in a mid-sized metropolitan state capital area.

The likelihood of recidivism is influenced by challenges people face post-release. For example, the literature has established those recently released from jail or prison often lack access to community resources; a reality that places them at higher risks for problematic relationships and behaviors (Crutchfield & Weeks, 2015; Pettus-Davis et al., 2017; Stojkovic, 2007; Visser & Mallik-Kane, 2007; Williams et al., 2019). Because of a criminal record, limited education, poor employment history, and the stigma of incarceration, recently released people may also have limited employment opportunities (Li, 2018; Petersilia, 2003).

Moreover, the impacts of mental illness and substance use problems have profound clinical and policy implications for those recently released. Formerly incarcerated individuals with mental health needs tend to recidivate at similar rates to those who do not experience them. In contrast, individuals with a history of substance abuse challenges have been found to recidivate at higher rates (Zgoba et al., 2020). Considering the connection between the two, it is essential to note people with co-occurring mental health needs and substance use disorders go back to prison at an even higher rate than those with one or none of those challenges (Baillargeon et al., 2010; Wilson & Wood, 2014). Furthermore, persons experiencing what would qualify as *serious mental health needs*, such as schizophrenia and bipolar disorder, tend to have higher recidivism rates than those with other psychiatric disorders (Baillargeon et al., 2010; Hawthorne et al., 2012; Nielssen et al., 2019). Evidence suggests treatment during the reentry process reduces the risk of committing a subsequent severe crime for people living with mental illness and substance abuse problems (McNiel et al., 2015).

Another significant challenge during reentry is securing housing for those recently released. This is often related to an inability to navigate legal requirements with a lack of available financial resources. People with prior justice system involvement are often ineligible for public housing and private market rental housing groups have regulations prohibiting them from renting to anyone with criminal histories (Cortes & Rogers, 2010; Dougherty et al., 2012). Individuals often become homeless soon after being released, which places additional strain on families and communities and forces recently released people to reenter high-risk relationships and situations (Fontaine, 2013). These complications can make reentry difficult without returning to criminal activity to meet individuals' daily needs. In addition, the stigma of a criminal conviction creates obstacles for reentering job candidates, as many employers are unwilling to hire those with criminal records even when they are qualified for the position (Berg & Huebner, 2011; Pager, 2003). Legal and gainful employment is a critical component of successful reentry which enables individuals to pay their bills and secure housing by reducing the economic incentive to engage in income-generating crimes (Petersilia, 2003; Rosenfeld et al., 2008; Shover, 1996; Visser & Courtney, 2006; Visser & Travis, 2003).

To further explore and understand how diversion programming participation can impact recidivism rates, the researchers utilized available data to ask the question: *How does justice navigation-based diversion program participation impact community-level brief (one-year) recidivism rates?*

## METHODS

### Sample

The sample includes  $n=757$  people, with  $n= 304$  respondents who self-identified as Black or African American,  $n= 289$  respondents who self-identified as white, and  $n=56$  respondents who self-identified as American Indian and/or Alaska Native. Of the sample,  $n= 517$  individuals identified as males,  $n= 234$  identified as females,  $n=2$  identified as non-binary. Demographic data were limited and not available for all clients, but from what was available, the mean age of the sample was 39 years.

### Procedures

The study is a secondary analysis of de-identified data and did not require human subject research review, as determined by a university institutional review board. Data were collected from the above-noted group of justice-involved individuals receiving qualifying services in a diversion program in a mid-sized metropolitan area of the US. The diversion program was designed to assist participants in maintaining compliance with pre-trial and/or probation criminal justice involvement. Services provided include:

- pre-trial bond compliance,
- court reminders,
- payment plans,
- service referral followthrough for education, employment, housing, and other service providers,
- assisting with other court-ordered conditions,
- advocating in court,
- guidance to the appropriate mental health and substance abuse treatment programs,
- connecting to pre-trial bond/release programs,
- warrant assistance,
- facilitating with public defender applications,
- and any other justice needs that arise.

Researchers defined "*diversion clients*" as people in either a pre-trial or probation phase of the criminal justice system and utilizing diversion services to avoid detainment and future involvement in the criminal justice system. Participants were all individuals over 18 years old and actively involved in the diversion program.

### Data Analysis

Researchers used the open-source statistical programming language R to match diversion client data to openly available county-level public court system data

using the clients' names and dates of birth. The county data used were from the same locality as the diversion programming. The diversion data included clients' start date or the date they first began participating in the diversion program and their end date when they left the program. Researchers combined one year of diversion data, including clients from January 1, 2021, to December 31, 2021, with one year of jail data, from the same timeframe. Firstly, researchers matched diversion clients with the jail bookings data to find their earliest and latest jail bookings. This allowed researchers to determine whether or not each client was booked into the jail again after contact with the diversion program. It also allowed for measurement of the relationship between diversion program participation and the occurrence of future bookings over one year.

Additionally, a baseline recidivism rate was calculated for the period and locality in question by removing all diversion clients from the jail data and then calculating the percent of individuals who had one or more jail bookings on record. This baseline recidivism rate is intended to provide a rough point of comparison for results. The recidivism analysis is based on additional bookings after the client's diversion program end date; non-clients booked into the jail have no diversion program end date (as they are not clients), so a directly comparable measure is unavailable.

This methodology required matching the jail data to the diversion program data to identify which jail bookings were associated with diversion clients. Researchers compared the two datasets based on the clients' names and dates of birth. Due to minor irregularities between the two data sources, a fuzzy matching process was used to combine the two datasets. *Fuzzy Matching* is a method that improves the ability to process word-based matching queries to find matching phrases or sentences from a database or table, even when the two sources differ slightly (Chen et al., 2001). This process allowed us to match the vast majority of the diversion clients (669 out of 757, or 88.37%) to at least one jail booking from the county data. Not all diversion clients get booked into the jail, so a match rate approaching 90% was deemed appropriate. A new variable (*bookings\_after\_end\_date*) was coded "TRUE" if the person had any jail bookings after their diversion program end date. This allowed researchers to calculate the level of diversion program participation as related to additional jail bookings after ending a client's program involvement.

The secondary data came pre-coded with justice navigation service outcomes divided into four categories. *Successful completion* was the term used to describe those clients who maintained contact with their justice navigators and completed any pre-trial bond requirements and probation conditions, such as employment and treatment requirements mandated by the court. Cases labeled as *Emergency needs assessment* represented clients who had immediate needs taken care of at intake but did not return for further services or maintain any other interaction with their justice navigation case managers marked as *Disengaged* represented clients who stopped working with the justice navigator for any reason of their own accord or outside program control. Additionally, *Discharged* described clients removed from the agency, by staff, for safety or other significant reasons.

## RESULTS

The research question for this assessment explores the effectiveness of diversion program participation on brief (one-year) recidivism rates in a mid-sized

metropolitan area of the US. Researchers used participation level data related to justice navigation diversion services and compared recidivism rates to the larger population who did not receive the diversion program.

Results indicate that those who completed the diversion program were substantially less likely to be booked back into jail. Of the 81 people who completed the program, just three were booked back into the jail after their completion date (3.7%). Recidivism rates were comparatively higher among those who received only emergency services (29 of 109, or 26.6% were re-booked after their end-date), those who disengaged from the program (172 of 551, or 31.22% re-booked), or those who were discharged from the program before completing it (5 of 16, or 31.25% re-booked).

To compare these findings to a "baseline" level of recidivism for the jail, recidivism was measured by looking for new bookings after each person's diversion program end date; non-clients booked into the jail have no program end date for comparison. According to the data, 28.4% of all people in the larger community booked into the jail were rearrested within one year. An analysis of variance (ANOVA) was used to assess statistical significance. With this test, the dependent variable was the presence of rearrest within one year. This was coded as 1 for "no rearrest" and 0 for "rearrest." The factor variable was constructed numerically to represent the level of participation in diversion programming with "successful completion" coded as 1, "disengaged" coded as 2, "emergency only" coded as 3, and "discharged" coded as 4. The ANOVA returned a statistically significant  $p < .001$  ( $F = 6.102$ ). Additionally, post-hoc *LSD* tests demonstrate strong statistical significance when comparing successful completion to all other potential outcomes. The ANOVA model is represented in Table 1.

Table 1: *ANOVA results comparing participation levels by rearrest*

Participation level	<i>M</i>	<i>SD</i>	1	2	3
1. Successful Completion	.98	.156			
2. Disengaged	.85	.358	.126** [.04, .21]		
3. Emergency Only	.76	.426	.211*** [.11, .31]	.08* [.02, .15]	
4. Discharged	.75	.447	.225* [.03, .42]	.10 [-.08, .28]	.01 [-.17, .20]
Total	.85	.360			

*Note: ANOVA results demonstrate successful completion to have a statistically significant influence on reducing rearrest  $p < .001$  ( $F = 6.102$ ). Mean differences and 95% confidence intervals are represented in columns 1, 2, and 3. Statistical significance is represented at the  $p < .05$  with \*,  $p < .01$  with \*\*, and  $p < .001$  with \*\*\**

## DISCUSSION

The purpose of the evaluation was to assess how justice navigation-based diversion programming participation influenced rearrest within one year. The findings



suggest if clients completed the justice navigation diversion program, they were far less likely to be rearrested (3.7%) than those who did not complete the diversion program. Further, the results suggest that if a client does not complete the justice navigation diversion program, the outcomes do not vary considerably from those who had no contact with justice navigation assistance. The recidivism rate for all diversion clients, regardless of completion status, in this study was 27.61%, compared to a baseline (28.4%) among all people booked into the jail during the study period for the larger community. The negligible difference between the two amplifies the need to understand how interaction with the program impacts recidivism likelihood.

Existing literature supports that diversion programs can be effective in reducing recidivism rates. In a 2007 report by the Washington State Institute for Public Policy (WSIPP), scholars found out of 20 diversion programs, recidivism was reduced by 2.7% compared to regular court participation (Drake, 2007). The present study adds to the literature by demonstrating the importance of program retention until completion. The findings suggest lower-level interaction with diversion programming may not be enough to facilitate extensive differences from the larger population. The outcome measures of this study demonstrate how when clients disengaged, only engaged in emergency services, or were discharged from the program for behavioral reasons, they were only slightly less likely to be rearrested than those who did not participate at all. Remaining engaged in the program, however, significantly reduced as rearrest rates within the year compared to the larger population. This would suggest a dosing or hard reduction type effect was not present and that success is primarily related to program completion.

This type of information is essential for burgeoning and long-established diversion programs alike. With the recognition of finite resources in this space of diversion services, the best use of those resources is crucial to program sustainability. Further, an acceptance that disengaged clients will likely not bear the fruits of diversion programming is a reality. These findings can be extrapolated that failure to maintain consistent client engagement could draw on system resources without much likelihood of successful outcomes. On the contrary, highly engaged clients have a significant chance of criminal justice system avoidance in the future. These findings suggest that specific program engagement and retention policies are central to diversion programming success.

The US criminal justice system is complex and challenging to navigate. Once individuals are released, they are often met with challenges that make it difficult to succeed in the community (Griffiths et al., 2007; Petersilia, 2003). In this diversion program, justice navigation services are designed to help clients walk through the process with support and advocacy. Effective intervention is likely influenced by how professionals guide clients and provide specific plans to meet client needs, considering professional interactions can significantly impact program participant outcomes (Chandler et al., 2010). The data from this study show that when service providers maintain engagement with diversion clients until program completion; those clients are far less likely to be rearrested in the year following their initial charge. This demonstrates the importance of program retention for community-based organizations to be effective in decreasing recidivism rates. The study also suggests the absence of a dosing or harm reduction effect regarding diversion programming. Those who began services but later lost engagement *for any reason* were more likely than the larger control group to be rearrested within one year.



## **Implications**

The implications of this research are threefold. Firstly, the current research suggests diversion programs can be effective if the client completes the program. Secondly, this study brings awareness to the importance of diversion programming retention. Thirdly, this study can be a resource for future researchers, stakeholders, policymakers, and practitioners to improve the efficacy of diversion-related services, specifically as they are applied to brief recidivism.

## **Limitations and Future Study Suggestions**

The study contains several potential limitations. Diversion programming can be highly contextual to communities and provide services such as employment, substance abuse treatment, case management, housing, etc. However, this study only assessed a program based on the justice navigation model. Further research should investigate specific contributions of other types of diversion-related services and the degree to which they improve outcomes on their own. This project did not analyze differences in recidivism rates by gender, race, or age, so researchers could not provide information on how demographic features impact program success or retention.

Moreover, the study was based on a newer community organization launching only two years ago and during the COVID-19 pandemic, so the research is limited to examining one-year recidivism rates rather than the more traditional three-year markers. Future research is needed to examine tangible changes in the community after decreasing recidivism rates and initiating programs such as this one. Longitudinal analysis is also necessary to assess the impacts of this type of programming on participants across their lives. Perhaps the most significant limitation of the study is that no data were available which could assist in assessing client motivation to stay engaged in the program, service providers' commitment to client retention, or structurally explicit and implicit barriers and biases. Future research should evaluate how these phenomena influence program retention and success in diversion.

## **CONCLUSION**

The existing literature demonstrates evidence-based interventions, reentry programs, diversion programs, and community service programs can effectively reduce recidivism. Despite limitations, the current study contains promise. Findings suggest the importance of retention in diversion programming. When clients maintain their connections to services and successfully finish the program, they have profoundly different outcomes than those who do not. Findings also detail how there appears to be an absence of a dosing effect. In short, this suggests there is no significant reduction in potential rearrest risk unless the program is completed. When programs lose contact with clients and see declines in engagement in program activities, this negates opportunities for minimized risk. This is important from the client's perspective and the nonprofit and other government intervention agencies working towards diversion as a solution for incarceration. The recognition that making the best use of resources is connected to maintaining people in the program is essential. Moving forward, decarceration will remain an important goal of forensic social work and the broader criminal justice reform community. The findings of this study will help move the conversation forward by providing context and suggestions to improve program efficacy and inspire future questions in need of investigation.

## NOTE

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2. On behalf of all the authors, the corresponding author states that there is no conflict of interest.

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