



RESTORING KIDS, TRANSFORMING COMMUNITIES

Enhancing Michigan's Approach to
Juvenile Diversion

By Michigan Council on Crime
and Delinquency

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Methodology and Data Limitations

Using qualitative and quantitative data, the Michigan Council on Crime and Delinquency (MCCD) sought to understand better how early diversion practices in Michigan align with nationally recognized best practices. The scope of this report includes diversion programs initiated before juvenile court adjudication and excludes programs that divert adjudicated youth from deeper system involvement, such as mental health and drug courts and detention diversion programs.

Throughout 2016, MCCD conducted open-ended, voluntary surveys and interviews with diversion providers in 69 of Michigan's 83 counties, spanning 123 diversion programs. MCCD staff also interviewed local and state law enforcement, prosecutors, judges, employees from the Michigan Departments of Education (MDE) and Health and Human Services (MDHHS), Michigan State Court Administrative Office (SCAO), and the governor-appointed Michigan Committee on Juvenile Justice (MCJJ). The report's primary sources of quantitative data include the Michigan State Police's (MSP) youth arrest data and SCAO's Caseload Reports, which provide information related to delinquency case proceedings statewide. Both sources provide "one-year snapshots" documented within annual reports as well as multi-year trends.

There are some limitations to the data. Local, county-based juvenile courts maintain information for delinquency cases and self-report to the SCAO annually; however, due to local variability in data tracking, the aggregate data noted in the report should be considered an estimation. The SCAO Caseload Report data only reflects the number of cases diverted from the formal adjudicative process after the filing of a juvenile court petition—the total number of cases diverted "pre-petition" is unknown. The SCAO does not provide information for the types of offenses diverted versus formally processed, nor does it indicate the referral source for delinquency case petitions (e.g. schools, police, parents). The MSP youth arrest data excludes status offenses which may significantly increase the number of cases referred to juvenile court.

The qualitative data gathered through interviews reflect only individual perspectives, not agency positions. The recommendations in this report solely reflect MCCD's position as determined by our understanding of the collected data and interviews.

Executive Summary

Although young people engage in risky, impulsive and sometimes, even illegal behavior during their teen years, the majority will not continue criminal activity as adults. As research mounts showing the dangers of detention and incarceration, many communities are embracing diversion programs that redirect youth away from formal justice involvement, while still holding them accountable for their actions.¹

Nearly all counties in Michigan offer diversion, which is proven to cost less, reduce recidivism and avoid the harm that could result from justice involvement. In 2015 alone, 10,000 delinquency cases were diverted from the formal adjudication process.² However, the state does not track the types of offenses that are diverted from the formal system, making it impossible to know why so many kids are referred to court in the first place. Perhaps many of these cases could have been resolved at the point of arrest or even earlier.

The purpose of this report is to better understand the use of diversion in Michigan, with an emphasis on pre-arrest and pre-petition options. Given the decentralized nature of Michigan's juvenile justice system, diversion programs vary widely from county to county, as do their adherence to evidence-based practices. While diversion may be offered across the state, it is not the default option in every county. As a result, youth with similar offenses may be offered diversion vs. the traditional juvenile court process based on where they live. This disparate treatment also exacerbates the disproportionality of youth of color in Michigan's justice system as Black youth are offered diversion less frequently than White youth.³

Diversion programs can be implemented at any point - including before an arrest is made - and is ideally offered before youth ever go

to court. Unfortunately, the primary funding source, the Child Care Fund, restricts diversion programs until after a petition has been filed with the court, creating a financial disincentive for other youth-serving institutions (schools, mental health, child welfare and local law enforcement) from operating pre-arrest or pre-petition diversion programs. As a result, thousands of youth participate in diversion programs managed by the juvenile courts, with many experiencing much of the traditional judicial process that diversion is meant to help them avoid. Most of these diversion programs are not evaluated for effectiveness in reducing recidivism nor do they incorporate restorative practices that help repair the harm caused to victims.

Despite these concerns, communities across the state have successfully implemented highly effective, therapeutic and developmentally-appropriate diversion programs that encourage multi-system collaboration. In several counties, diversion programs have become integral components of the community-based treatment model for justice-involved youth, which has provided opportunities to dramatically cut juvenile court caseloads and reduce the use of costly out-of-home placements.

The findings draw out trends reported across 69 of Michigan's 83 counties, highlight numerous examples of best practice models, and offer policy recommendations to guide juvenile justice system administrators, state/local policymakers, and other stakeholders in their efforts to expand the use of diversion and promote second chances for youth.


Diversion is proven to cost less, reduce recidivism and avoid harm.

This report illuminates how to effectively understand and use diversion in Michigan.



Policy Recommendations

1. Stop criminalizing adolescent behavior and train professionals to de-escalate problem behaviors before arrest is necessary.
2. Impose civil infractions for some offenses rather than delinquent or criminal charges.
3. Consider diversion options for every youth, regardless of offense, history or personal characteristics.
4. Ensure youth of color and girls have equitable access to diversion services and that all programs incorporate culturally competent and gender responsive practices.
5. Amend the Michigan Juvenile Diversion Act to specifically define pre-arrest and pre-petition diversion and require these options in every county.
6. Increase funding options for pre-arrest/pre-petition diversion programs.
7. Reduce arrests in school by incorporating restorative practices into school discipline policies and limiting the presence of police in schools.
8. Require screening of all youth to determine if they are concurrently involved in the child welfare system and divert delinquency cases when possible.
9. Establish and support juvenile mental health diversion practice guidelines.
10. Ensure appropriate use of evidence-based screening and assessment tools at intake, if not earlier, to determine the appropriate diversion services for all court-petitioned youth.
11. Statutorily limit or eliminate fines and fees so that families in one county are not forced to pay for services that are freely available in neighboring counties.
12. Increase the use of family-centered treatment at all decision points.
13. Ensure restorative justice practices are a primary component of all diversion programs.
14. Strengthen oversight, monitoring and evaluation of diversion practices and stakeholders across the state.



A 16-year old boy was charged with felony theft for stealing a candy bar from a vending machine.

A 15-year old girl was charged with domestic violence when she and her sister got into a shoving match over which of them would be wearing a particular pair of blue jeans that day.

A 12-year old was charged with shoplifting some sporting apparel from a department store.

A 9-year old with autism was charged with several felonies for getting into a physical altercation with a paraprofessional at his school when his daily routine was changed and he had an emotional outburst.

**Isn't there a better
way to hold youth
accountable without
criminalizing them?**

Introduction

In Michigan, children as young as five years old are suspended, arrested, restrained and even detained for “breaking the law.” Over 90% of youth arrests in Michigan are for nonviolent offenses, with a disproportionate impact on youth of color, girls and students with disabilities.⁴ Far too often, these instances involve “status offenses,” or behaviors that would not be considered criminal for adults, like skipping school, running away, underage drinking, violating curfew or incorrigibility.⁵

Young people, as part of their normal development, are likely to participate in risky, impulsive and sometimes illegal behavior during their teen years—more than at any other point in their lives.⁶ It is also commonly accepted that the rapid physical, emotional and psychosocial development experienced by teens make them highly amenable to change and rehabilitation by participating in treatment programmings that address their needs.⁷ As such, the majority will “grow out” of problem behaviors and will not engage in criminal behaviors as adults.⁸

for their actions, it should be done in a way that builds upon their skills and potential rather than stunting their development, exposing them to trauma, and burdening them with a criminal record.

Diversion is an intervention strategy that redirects youth away from formal justice involvement in the juvenile justice system, while still holding them accountable for their actions.¹⁰

Nearly all of Michigan’s 83 counties and 57 circuit court systems offer at least one diversion option for young people in conflict with the law. In 2015, approximately 10,000 of the 34,000 delinquency cases, nearly one-third of all juvenile cases, were disposed of through some form of diversion.¹¹ Unfortunately, counties are not required to report to the State Court Administrative Office what types of offenses result in diversion or consent calendar.

Pre-petition diversion occurs after a youth is arrested but before a petition has been filed with the juvenile court. The youth are often required to admit responsibility for breaking the law and voluntarily agree to comply with the requirements set forth by the diversion program. If successful, they avoid judicial processing altogether, and the charges are dismissed.¹³

Post-petition diversion occurs after a petition is filed with the juvenile court and involves the youth and family having contact with juvenile court staff but before the commencement of a formal hearing.¹⁴

Traditional justice involvement can be traumatic and harmful.

Research shows that getting arrested is often traumatic, especially for young people who have already endured abuse or neglect, violence at home or in school, or who have ongoing mental health and/or substance abuse needs.¹⁵ Traditional court processing can then exacerbate a vulnerable youth’s past traumatic experiences if the interventions are primarily based on surveillance, or punishment, and fail to address the underlying causes for a youth’s delinquent behavior.¹⁶ Ultimately, young people who are detained or confined may be separated from their families for months at a time and are more likely to experience physical violence, sexual victimization, isolation, and self-harm.¹⁷

When used appropriately, diversion programs can prevent young people from entering the formal justice system unnecessarily, freeing the juvenile courts to target their limited resources toward youth that require more intensive interventions.

Pre-arrest diversion occurs when a youth has contact with a law enforcement officer after committing an offense, but the youth is not arrested or detained. Typically, youth diverted before the point of arrest are warned and released, referred to community-based services, or issued a civil citation.¹²

Research shows that having even one arrest before age 18 increases one’s likelihood of subsequent justice involvement.⁹ While it is important to hold young people accountable



Diversion eliminates the stigma and labeling of justice involvement.

The use of diversion allows youth to avoid negative labels like “offender” or “delinquent” and the subsequent stigma of experiencing the formal juvenile court process (e.g. court supervision, having regular contact with juvenile court staff) for minor offenses. Research shows that this level of court interaction plays a negative role in the development of self-identity and increases the likelihood of future offending, especially for low-risk youth.¹⁸

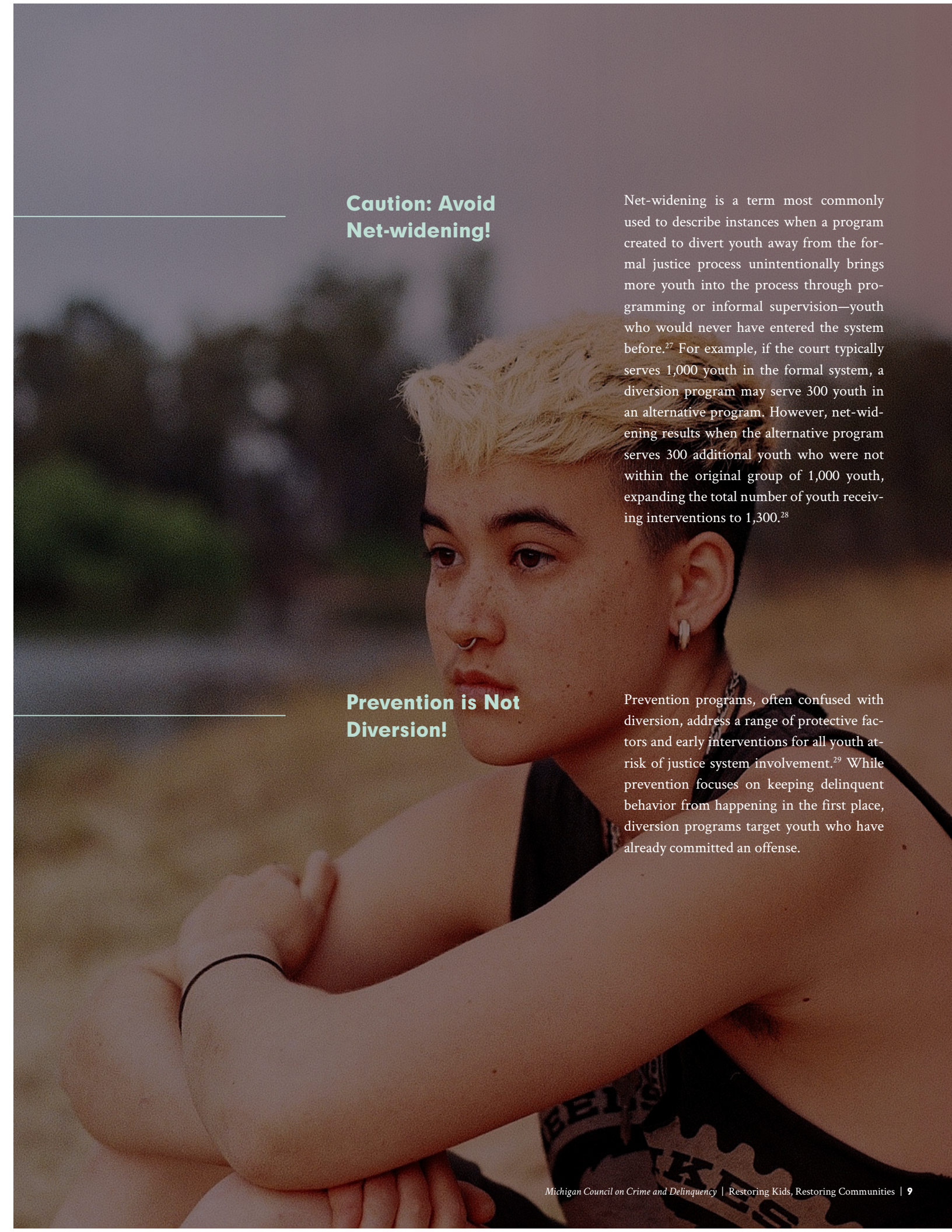
Diversion is highly effective at reducing recidivism and improving outcomes for youth.

Research studies have found that when a youth is referred to a diversion program with treatment and services offered, they are less likely to recidivate than if their case was processed in the traditional juvenile court systems. In fact, formal court supervision has been shown to be no more effective at reducing recidivism than diverting youth without offering any services.¹⁹ National data show that youth released from the juvenile justice system often have poor outcomes, including high recidivism rates, low graduation and low employment rates.²⁰

Even worse, it has the potential to interrupt critical developmental milestones—through school interruptions, difficulty obtaining employment, and interactions with negative peers associated with traditional court processing and supervision—placing these youth at a higher risk for future adult justice system involvement and increasingly serious or violent crimes.²¹

Diversion is far less expensive than formal court processing.

Diversion, on average, costs less than \$10 per day, compared with up to \$250 per day for out-of-home placement.²² Diverting youth from entering the formal justice system also avoids court costs associated with probation, detention and more intensive treatment services.²³ A cost-benefit analysis of MSU’s Adolescent Diversion Program (ADP), for example, found that ADP costs approximately \$1,020.83 per youth for an 18-week, informal intervention, while the local family court was spending \$13,466 for the average youth served.²⁴ Likewise, Wayne County spends \$1,838 on diversion per youth compared to \$6,845 for home-based probation and \$49,603 for 6 months in out-of-home placement per youth.²⁵ Because diversion is highly effective at reducing recidivism, communities will further benefit from cost-savings associated with less crime.²⁶



Caution: Avoid Net-widening!

Net-widening is a term most commonly used to describe instances when a program created to divert youth away from the formal justice process unintentionally brings more youth into the process through programming or informal supervision—youth who would never have entered the system before.²⁷ For example, if the court typically serves 1,000 youth in the formal system, a diversion program may serve 300 youth in an alternative program. However, net-widening results when the alternative program serves 300 additional youth who were not within the original group of 1,000 youth, expanding the total number of youth receiving interventions to 1,300.²⁸

Prevention is Not Diversion!

Prevention programs, often confused with diversion, address a range of protective factors and early interventions for all youth at-risk of justice system involvement.²⁹ While prevention focuses on keeping delinquent behavior from happening in the first place, diversion programs target youth who have already committed an offense.

What Philosophy and Policies Guide Juvenile Diversion in Michigan?

Michigan's juvenile justice system was created over a century ago, with the goal of providing rehabilitative services to youth, ages 16 and under, in conflict with the law. While the Michigan Department of Health and Human Services is responsible for establishing state-level policy, monitoring and joint funding, juvenile justice services are primarily delivered at the county level, with resources and programs varying significantly across Michigan's 83 counties.

Michigan's Balanced and Restorative Justice Philosophy

Michigan's juvenile justice system is influenced by the Balanced and Restorative Justice (BARJ) philosophy, which prioritizes the goals of community safety, youth account-

ability, and competency development. In the mid-1990s, Michigan was selected by the federal Office of Juvenile Justice and Delinquency Prevention as one of three states to serve as a BARJ demonstration site.³⁰ By 2001, Michigan, through its Department of Health and Human Services, had become the first state in the country to fully integrate the philosophy and tenets of BARJ into its strategic planning process. Although there are no practice guidelines for how BARJ is implemented in the field, the current state policy provides the following guiding principles:³¹

- Crime is injury.
- Crime hurts individual victims, communities and juvenile offenders and creates an obligation to make things right.
- All parties should be a part of the response to the crime, including the victim, if he or she wishes, the community, and the youth responsible.
- Accountability for the youth means accepting responsibility and acting to repair the harm done.
- The community is responsible for the well-being of all its members, including both victim and offender.
- All human beings have dignity and worth. Restoration - repairing the harm and rebuilding relationships in the community - is the primary goal of restorative juvenile justice.
- Crime control cannot be achieved without

active involvement of the community.

- The juvenile justice process is respectful of age, abilities, sexual orientation, family status, diverse cultures and backgrounds and all are given equal protection and due process.

The Michigan Juvenile Diversion Act

Implemented in 1988, the Michigan Juvenile Diversion Act codifies the policies and procedures that guide the state's diversion programming for youth. The Act grants juvenile courts and local law enforcement agencies the authority to create diversion programs within their jurisdictions to "prevent delinquency and/or to provide services to youth who have committed delinquent acts without formal court jurisdiction."³⁷ Several factors are considered when determining a youth's eligibility for diversion from formal court proceedings, including: the nature of the alleged offense, the youth's age, any history of problems that may have led to the alleged offense, the youth's behavior in school, with family, and in other group settings, and any prior diversion decisions for that youth.³⁸ Youth charged with "assaultive crimes" cannot have their case diverted under the Act.³⁹

SPOTLIGHT:

Restorative Justice in Diversion

Restorative Justice examines the impact that crime has on human relationships—the offender, victim(s), and the wider community—and seeks to restore the brokenness caused by a criminal act.³² Restorative justice has a long history of use as the traditional system of justice and conflict resolution in many indigenous communities around the world. This is unlike the more adversarial, retributive criminal justice model used in the United States, in which the primary "relationship" is defined as between the offender and the government. When using a restorative-based approach to resolve a delinquency matter, the victim or victims are encouraged to take an

active role in holding the youth accountable. Addressing and repairing the harm is the primary focus of the intervention.³³

Diversion programs that incorporate restorative justice principles reduce the likelihood of recidivism for youth, and are particularly effective to those with few or no prior offenses.³⁴ Both the youth and victims report greater satisfaction after participating in a restorative justice practice rather than going through the traditional justice process, or receiving monetary restitution without a restorative practice.³⁵ Examples of restorative justice practices often used in youth diversion programs include victim-offender mediation, community restorative boards, family group conferencing, and peacemaking circles.³⁶

SPOTLIGHT:

Benzie/Manistee Counties Points-Based Consent Calendar

The points-based consent calendar model used in Benzie/Manistee Counties serves as an alternative to formal court involvement for youth who have admitted responsibility for offenses such as underage drinking, truancy, or certain other misdemeanors (i.e., retail fraud 3rd degree). Rather than a typical probation model, the consent calendar encourages input from the youth and family to design a treatment plan and

agree on a contract that meets their goals. Youth are awarded higher points for activities within the plan to support positive youth development and skill building. Additional points are awarded for maintaining regular school attendance, abiding by an established curfew, and completing an apology letter to the victim(s). Once the youth scores 100 points, she/he has successfully completed the terms of the consent calendar contract and the case is dismissed without a formal court record. After one year of implementation, over 95% of participating youth successfully completed the program. The point system has also resulted in a 50-60% shorter length of time on the consent calendar docket.

The Michigan Juvenile Diversion Act has four basic requirements within the statute:

1. **Diversion Conference:** The entity responsible for diverting cases must hold a voluntary “diversion conference” with the youth and parent/legal guardian to discuss the alternative options for resolving a delinquency matter without filing and/or authorizing a court petition. The youth and their family have the right to refuse to participate in the diversion conference or any resulting treatment plan.
2. **Diversion Agreement/Contract:** A diversion agreement or contract outlines the conditions required for case dismissal and may include the completion of sanctions (e.g., apology letters community service, restitution), participation in educational or treatment programs (e.g., retail fraud prevention classes, alcohol awareness courses, or mental health counseling), and/or the requirement of abstention from any further delinquent behavior. If the youth successfully completes the conditions of the diversion agreement, the case is dismissed without a formal court record.⁴⁰
3. **Revoking Diversion:** If the youth fails to comply with the agreed-upon diversion contract, his/her diversion status

may be revoked, with the possibility of returning the case to the traditional juvenile court process.⁴¹

4. **Record-Keeping:** The juvenile courts or law enforcement agencies must keep diversion records separate, non-public, and destroy them 30 days after the diverted youth reaches age 17, which is the age of majority in Michigan. Any information shared by the youth during the diversion conference, or after participation in diversion activities, is agreed to by the youth and family and cannot be used against the youth.

Consent Calendar

Consent calendar is an informal process of court supervision, used as an alternative to formal delinquency proceedings.⁴² The decision to transfer a case from the formal court docket to the consent calendar/docket is typically made during preliminary or “pre-trial” hearings and may occur before or after a petition is authorized.

Similar to diversion, there is no formal plea filed for those youth on the consent calendar. Once it is determined that a case will be transferred, either a juvenile court judge or referee will create a consent case plan that is agreed upon and signed by all parties (i.e., court staff, youth, parent, prosecutor, de-

fense attorney, etc.). When a youth completes the requirements of her/his consent plan, the juvenile court must close the case and destroy the non-public court record upon the youth’s 17th birthday. If the youth fails to complete the conditions of their consent plan, the case could be placed on the regular calendar and can go to trial with a formal, recorded plea and adjudication.

Traditionally, youth charged with assaultive crimes were ineligible for all diversion, including consent calendar. However, recent changes to the law now allow youth charged with assaultive offenses to be placed on consent calendar, but only if the court complies with the requirements of the Crime Victims Right Act. To fulfill this requirement, the prosecutor must notify the victim of the date/time for the hearing to consider transferring the case to the consent calendar docket, in order to provide the victim with the opportunity to address the court. The prosecutor must also notify the victim once the case is transferred.⁴³

SPOTLIGHT:

Florida Juvenile Civil Citation Program

Florida law mandates local enforcement officers to issue civil citations in lieu of arrest for youth with first-time, nonviolent misdemeanors. In addition to the issuance of civil citations, police officers may refer eligible youth and their families to community-based Juvenile Assessment Centers (JAC) for assessments and targeted interventions based on their identified needs. Once an assessment is completed, a treatment plan is generated with

appropriate services—which may include mental health treatment, substance abuse treatment, mentoring, family counseling, educational assistance programs, and community service—and youth are assigned to a JAC case manager. The youth and family must sign a civil citation agreement to participate in this diversion process. Upon completing the requirements of the agreement, the case manager closes the case with no further action. A recent study of Florida's civil citation programs indicated that youth who were issued citations were 50% less likely to reoffend than those who were arrested for similar offenses.⁴⁷

Creating an Ideal System: Using Diversion Before Arrest

Best practice research indicates that diversion from the justice system should happen early and often. In order to reach this ideal, addressing problem behaviors should be the responsibility of all child-serving agencies. Pre-arrest and pre-petition diversion programs have greater success in reducing recidivism than the traditional juvenile court system.⁴⁴ The following examples showcase how law enforcement, schools, child welfare agencies, and behavioral health providers can engage in highly effective early diversion, before an issue escalates into the courtroom.

Police-Based Diversion

Police officers are often the first point of contact a young person has with the justice system and, by extension, should also be the first point of diversion. Even before an arrest is made, officers are trained to use discretion to

determine if the behavior truly warrants justice involvement. Cities with pre-arrest diversion programs show fewer low-risk youth arrests, experience improved police-youth relationships, and believe that their police officers' time is being used more efficiently.⁴⁵ With this in mind, the International Association of Police Chiefs (IACP) recommends developing protocols to standardize the use of diversion options and citations in place of arrest, and ensure officers are familiar with the community resources and diversion options available to youth.⁴⁶

Behavioral Health Diversion

In 2004, the Michigan Mental Health Commission found that 61% of males and 74% of females entering Michigan's juvenile justice system have mental health needs, and warned that the justice system was an "inappropriate" venue in which to serve them.⁴⁸ They specifically noted the lack of pre-arrest and pre-petition diversion as a driving factor. Over a decade later, courts continue to see high rates of mental health needs among youth, and desperate parents may even be told by mental health professionals to file

charges of incorrigibility against their child in order to access more services.

In 2013, Governor Snyder issued Executive Order 2013-7 creating the Mental Health Diversion Council, which prioritized the need to "strengthen pre-booking diversion." Subsequently, the Juvenile Justice Diversion Council was formed as a subcommittee and charged with improving diversion for youth. Some of their action steps include promoting appropriate screening and assessment for youth entering the justice system; advocating for the expansion of mental health courts; and improving data collection and information-sharing among agencies that serve behaviorally challenged youth at risk of or experiencing detention/incarceration.⁴⁹

SPOTLIGHT:

Kalamazoo Police-Behavioral Health Partnership

Since 2008, the Kalamazoo Police Department (KPD) has trained hundreds of officers in Crisis Intervention Training (CIT), a 40-hour program preparing officers to identify mental health and substance use conditions that may manifest as delinquent behaviors. Officers learn how to de-escalate situations, and refer individuals to appropriate community-based services.⁵⁰ In 2015, KPD trained 90 officers in CIT for Youth, an additional 8-hour module that emphasizes how adolescent development impacts behavior.⁵¹

When more intensive intervention is necessary to address a behavioral health crisis, KPD can contact the Mobile Crisis Response team, an immediate community-based intervention operated by Family and Children Services and financially supported by the Kalamazoo Community Mental Health and Substance Abuse Services.⁵² Regardless of a family's Medicaid status or health insurance, the MCR teams are available around-the-clock to provide crisis intervention, conduct clinical assessments, develop crisis safety plans, and even coordinate short-term crisis placement, when needed. In 2015, Family and Children Services responded to 746 youth and family crises to address anxiety, psychosis, destruction of property, physical aggression, family conflict and self-harm. The agency was able to find appropriate community-based supports for over 60% of the 170 requests for inpatient treatment, allowing the youth to safely remain at home instead.⁵³

SPOTLIGHT:

The Philadelphia Police School Diversion Program

The Philadelphia Police School Diversion Program (SDP) is open to students who are at least ten years old, who have no previous delinquency adjudications and are not currently under juvenile probation supervision, and who are involved in low-level summary or misdemeanor delinquent offenses, such as marijuana possession, fighting, disruptions, graffiti, bullying, threats, or possession of certain

items that could be used as weapons. When there is an incident, the Philadelphia Police Department school officer reviews the case, talking to any adults involved. Within 72 hours, a social worker from the City's Department of Human Services visits the student's home and speaks with both the student and the parent/caregiver to help identify underlying issues that may be influencing the student's conduct. If needed, the youth and family are assigned a case manager for a year and scheduled for services, all on a voluntary basis. During its first year, the SDP saw a 54% reduction in the number of arrests within participating schools accompanied by a 75% reduction in expulsions and school disciplinary transfers.⁶³

SPOTLIGHT:

Muskegon S.T.A.Y. Program

Muskegon's S.T.A.Y. (Success Team Assisting Youth) Program serves 6th-12th grade students in the Muskegon Area Intermediate School District who have been suspended or expelled due to school disciplinary issues. Upon referral, the S.T.A.Y. team members (which includes Mediation & Restorative Services, Muskegon Area Intermediate School District, Muskegon County Family Court, and the Muskegon County Prosecutor's Office) collaborate with students and their families to develop an individualized action plan to help

students accept responsibility for their actions and recognize how those actions may have harmed themselves and others; learn how to repair that harm as fully as possible, and; develop skills and competencies to help them make better decisions in the future. Each student's action plan may include a family health assessment, a mediation session, a written or spoken apology, attendance at after-school tutoring or a substance-abuse seminar, and participation in a leadership camp. Upon successful completion of the action plan, the student is diverted from possible justice system involvement and the suspension/expulsion may be reduced/eliminated. During the 2014-2015 school year, students participating in the S.T.A.Y. program saw their overall suspension terms reduced by 550 days.

SPOTLIGHT:

Washtenaw County Sky Squad

Established in 2014, Sky Squad is a powerful, student-driven restorative practice to keep peace among the students at Ann Arbor's Skyline High School. Trained Sky Squad student volunteers have performed over 100 restorative circles, in which students in conflict and those at risk of suspension or expulsion are able to discuss their

own behavior, how the situation made them feel, what impact it may have had on the victim, and then work collaboratively to come to an agreement on how to move forward. The student volunteers also regularly meet with school administrators to discuss ways in which restorative justice circles can be used to reduce suspensions/expulsions for school discipline issues. Community partners, including the local Dispute Resolution Center, support the Sky Squad program by training the student volunteers in conflict resolution and providing public speaking workshops and diversity education.

Child Welfare Diversion

Youth with substantiated cases of abuse and neglect are up to 55% more likely to engage in delinquent behavior than children with no past maltreatment.⁵⁴ Commonly referred to as “crossover youth,” children who are dually involved with both the child welfare system, as a result of abuse or neglect, and the juvenile justice system, as a result of a delinquency charge, are more likely to remain in congregate care, experience numerous out-of-home placements, and have poor academic outcomes.⁵⁵ Crossover youth not only experience the trauma that brings them into contact with the child welfare system, but they also face biased treatment in the juvenile justice system. For example, youth with open child welfare cases are less likely to receive probation for a first time offense and more likely to be placed in out-of-home placements than youth who are not in the child welfare system.⁵⁶

The Crossover Youth Practice Model (CYPM), developed by Georgetown University’s Center for Juvenile Justice Reform, prevents or minimizes the involvement of abused or neglected youth in the juvenile justice system by improving coordination between child welfare and juvenile justice professionals. These professionals identify child welfare system-involved youth at the earliest point possible, and when appropriate, divert them from the formal justice system.⁵⁷ Diversion services for crossover youth often include coordination with schools to address special education needs, and treating issues such as substance abuse through the child welfare system resources.

Working in collaboration with the Michigan Department of Health and Human Services (MDHHS), Oakland County’s Circuit Court implemented the CYPM and utilized single-case service planning through the child welfare system as a diversion tool. As a result, the Oakland County Circuit Court reduced the number of youth dually-involved in the child welfare and juvenile justice systems by 50%.⁵⁸

School-Based Diversion

During the 2013-2014 school year, nearly 4,000 Michigan students experienced a school-based referral to law enforcement, and over 550 were arrested at their schools.⁵⁹ According to the U.S. Department of Education Office for Civil Rights, contact with law enforcement disproportionately impacts Black students and students with disabilities, accounting for over a quarter of all school-based arrests.⁶⁰ This trend may, in part, be linked to the fact that one in six Michigan schools now has an in-house police officer, often called a school “resource” officer (SRO). Students in schools with SROs were nearly 2.5 times more likely to be referred to law enforcement and nearly four times as likely to be arrested, compared with students in schools without SROs.⁶¹

Rather than defaulting to arrest, Michigan schools are beginning to use restorative practices such as peacemaking circles to address student misconduct. In 2011, 11 of 22 Michigan schools that received funding from the U.S. Department of Education’s Safe and Supportive Schools (S3) grant chose to implement and evaluate restorative practices that target students’ behavioral issues or school code violations that might otherwise result in court involvement. As a result of restorative practices, these schools saved a total of 23,340 instructional hours and 3,591 school days that would have been lost due to student suspension/expulsion.⁶²

Diversion Trends in Michigan

The majority of diversion programs in Michigan are offered through the juvenile courts. The Michigan State Court Administrative Office reports that nearly one in three new delinquency cases was diverted from the formal juvenile court system in 2015.⁶⁴ Of the 69 counties represented in the report's research, 94% reported having some type of diversion programming. The four counties without any diversion programs are rural and have very small youth populations.

Despite its widespread use, the state has no accounting of the types of diversion programs used or their outcomes. To understand what services are offered, their effectiveness, and whether they align with best practices, MCCD staff conducted statewide outreach, interviewing providers from 123 diversion programs across 69 of Michigan's 83 counties. Nine trends emerged from the findings that paint a picture of how diversion is viewed and used across the state. While these trends are not inclusive of every county and every program, they point to areas where policy makers and practitioners alike can take steps to further infuse best practices into services. County profiles of some of the most successful models have also been included to showcase various approaches that protect public safety, improve outcomes for young people, and limit formal involvement with the juvenile justice system.

Trend #1: Counties are incentivized to provide diversion only after a court petition is filed.

Best Practice: Diversion should occur early.

Research shows that the speed in which a youth begins to participate in diversion programming helps to reduce recidivism.⁶⁵ Conversely, delays in starting treatment likely result in the diversion program losing its effectiveness and increases the risk of re-offending or re-arrest.⁶⁶ Despite this research, 90% of all diversion programs in Michigan initiate services for youth only after a court petition has been filed, and the court manages almost all of the programs. In fact, approximately 50% of all diversion referrals occur after a youth has been in contact with the formal juvenile court process—sometimes as late as when the youth is standing before a judge during a preliminary hearing.

This strong prevalence toward court-run programs is very likely tied to funding. The largest and most commonly used revenue source for all juvenile diversion options comes from the MDHHS-operated County Child Care Fund (CCF), a 50-50 cost-sharing model between the county and the state. Court-run diversion programs are eligible for CCF reimbursement only if a petition is filed/authorized by the court and the program complies with other in-home care standards, such as weekly face-to-face contacts between the youth and a service provider.⁶⁷

While non-court agencies are authorized to provide diversion services under the Michigan Diversion Act, CCF regulations only permit funding to courts and local DHHS offices.⁶⁸ Unsurprisingly, only about 10% of diversion programs are managed by non-court entities like schools and law enforcement agencies that accept direct referrals before petitioning. Other non-court options have included teen courts, Youth Assistance

Programs, or other community-based programs that are often grant-funded or supported by county budgets outside of the CCF. Several diversion providers indicated that their police departments used to offer diversion programming, but CCF regulations and consistent budget cuts to municipalities have dramatically reduced their ability to provide any services beyond traditional police work.

Several court-employed diversion providers that were interviewed for this report shared a belief that the juvenile courts are the best-positioned agencies to offer effective diversion programming, citing ease of data management in a central department, a saturation of appropriately trained personnel on issues of youth development, and knowledge of community resources for youth and their families. Many also expressed concern about the inability to share information across agencies due to confidentiality or infrastructure issues. As a result, they worried that pre-arrest or pre-petition diversion would be uncoordinated since agencies would have no way to report the interventions used or their results.

However, the provider interviews also showed that the court-based diversion cases are often handled in a similar manner as formal probation, by either a dedicated diversion case worker employed by the juvenile court or juvenile probation officers that carry “blended caseloads” comprising both diversion youth and adjudicated youth. As such, having juvenile courts manage the majority of these programs may defeat the primary purpose of diversion—to provide opportunities for youth to address needs that contribute to delinquency while avoiding the potentially adverse consequences of formal juvenile justice system involvement. By the time diversion activities occur after the filing of a petition, the youth has likely had several interactions with juvenile court employees and other youth with more serious offenses and may have even been placed in detention before the decision to divert is made.⁶⁹

SPOTLIGHT:

Funding Options to Encourage Pre-arrest and Pre-petition Diversion

Any successful diversion effort requires flexible and sustainable funding. However, court-based funding alone does not encourage or even allow for effective pre-arrest and pre-petition diversion options to be developed as part of a complete continuum of services. Approximately 10% of the diversion programs are funded outside of the county budget or the Child Care Fund through private, state and federal grants, donations, local taxes and service fees.⁷⁰ While no single funding approach will work for every program, the following strategies highlight ways to invest in diversion before court involvement becomes necessary.

Municipal Funding: Several communities in Michigan have separated their diversion programs and services from the county-based juvenile court system, which are instead managed and funded by local municipal governments. Examples of Michigan's municipality-funded diversion programs include several of the state's community-based Youth Assistance Programs and teen courts.

Training Funds: Investment in training is one of the most cost-effective and sustainable ways to ensure effective diversion over the long-term. Several of Michigan's Community Dispute Resolution Programs use SCAO-

funding to provide mediation and restorative services to address youth behavior issues in the community and schools, but they also train community members to become restorative justice practitioners, such as a peacemaking circle facilitator, or a member on a community restorative justice board.⁷¹

Collaborative Funding: This is a mechanism for strategically leveraging dollars across systems, especially schools, child welfare, mental health, in which young people could greatly benefit from coordination of care. In Kalamazoo, for example, the local Community Mental Health agency blends Medicaid with general fund dollars to support their mobile crisis response teams. Likewise, in Midland County, their juvenile court partners with Midland CMH to fund crisis prevention/intervention services for youth who come in contact with the justice system.

Federal Funding: Federal dollars exist for school districts willing to handle behavioral concerns outside the justice system. Saginaw Public Schools is one of several school districts in Michigan to receive the U.S. Department of Education's Safe Schools Healthy Students grant. Saginaw's implementation plan emphasizes restorative justice practices to address aggressive and disruptive behavior.⁷²

Behavioral Health Funding: The Michigan Department of Health and Human Services (MDHHS) receives federal funding annually through the Substance Abuse and Mental Health Services Administration to support mental

health services for youth with serious emotional disturbances. These funds are typically utilized to create block grant contracts with county-based Community Mental Health Service Providers (CMHSP). However, they can also be used to partner with law enforcement and/or juvenile courts to work with delinquent youth who need mental health treatment.⁷³

In September 2016, MDHHS announced they would be accepting funding requests from the CMHSPs to fund collaboration between schools and juvenile court stakeholders. The grant awards will be used to develop screening protocols to identify children/youth with serious emotional disturbances and other mental health issues and prevent initial/further juvenile court involvement through referrals to mental health services in the community.

Prosecutor Funding: While prosecutorial diversion is typically initiated post-petition, the county prosecutor's office is another source of county dollars that communities can access to divert youth before court involvement.

Trend #2: Diversion is generally not offered to youth unless they have a first-time, low-level offense.

Best Practice: Diversion should occur often.

Diversion is proven to be effective for most youth, including those that are considered to be at a high risk to re-offend, when adequate resources and supports are provided.⁷⁴ In fact, meta-analysis research studies on the effectiveness of juvenile diversion programs have found no statistical difference in recidivism rates of diversion programs serving low- or medium/high-risk youth.⁷⁵

While the Michigan Juvenile Diversion Act does prohibit assaultive offenses, it does grant counties the flexibility to establish their own eligibility requirements. Even so, 83% of Michigan diversion programs limit eligibility to youth who are first-time offenders, typically charged with low-level misdemeanors. For the remaining 17% of programs, youth are only eligible to participate if they have committed specific offenses, such as truancy, substance abuse, and misdemeanor retail fraud or other low-level property crimes.

Several diversion providers reported a common perception among other Michigan's juvenile justice stakeholders (i.e., judges, prosecuting attorneys, court staff) that diversion is only effective for youth with low-level offenses. Many providers felt confident that in some situations youth with more serious charges, such as those with criminal sexual conduct charges, could be successfully diverted, as their offenses may not be indicative of a pattern of future criminal behavior. A few providers expressed frustration that their superiors or the county prosecutor's office limit the type of youth that they may serve.

Trend #3: Youth of color, especially black youth, are less likely to receive diversion than white youth.

Best Practice: Diversion should help drive down racial and ethnic disparities.

Black youth account for approximately 35% of all juvenile arrests in Michigan, despite comprising only 18% of the population.⁷⁶ Once contact with the justice system is made, Black youth are less likely to be offered diversion and are more likely to be, instead, arrested, have a petition filed, detained, and transferred to the adult system.⁷⁷ The federal Office of Juvenile Justice and Delinquency Prevention reports that in Michigan, Black youth are seven times more likely to be detained, and more than five times more likely to be sent to an out-of-home placement than White youth. Likewise, Latino youth are twice as likely and Native American youth are nearly four times as likely to be detained than White youth.⁷⁸

Nationally, Black girls are the fastest growing population in the juvenile justice system, often because of arrests for status offenses.⁷⁹ While girls account for only a third of all court cases, they represent 53% of all runaway court cases across the country.⁸⁰ Status offenses are a prime opportunity for diversion; however, girls of color have the highest rates of detention and confinement for technical violations of probation tied to a status offense.⁸¹

Unfortunately, the breakdown of race, ethnicity or gender of youth referred to informal or pre-petition diversion programming is unknown. Most of Michigan's diversion providers do not systematically collect or report data on race or demographic information of any kind for their program's partici-

pants (e.g. race/ethnicity, gender identity, sexual orientation, etc.).

Self-reported information from the diverted youth, such as race and gender, helps determine whether all youth who are diversion-eligible are being offered this option. Knowing the composition of race and gender for diverted youth also helps identify how diversion programs could be amended to effectively meet the needs of a variety of youth as well as how to more effectively respond to the issues and experiences of girls, who account for a significant number of diversion-eligible status offender cases that are petitioned to the juvenile court.⁸²

Trend #4: Court fines and fees levied against youth may negatively impact families.

Best Practice: Youth and families should not be charged fines and fees to participate in diversion programs.

Michigan imposes more fines and fees against youth involved in the justice system than nearly any other state in the country, despite the national best practice that urges courts not to charge fees for diversion activities.⁸³ Several diversion providers reported levying court fines or fees against youth and families, either to help cover the expenses related to managing the diversion program (especially programs that include a structured, educational course component) or as a sanction aimed at holding the youth participants accountable for their actions. One diversion provider commented that charging fines/fees ensures that youth/families have "skin in the game," and that they are more likely to participate and successfully complete diversion activities.

SPOTLIGHT:

Ingham County Teen Court

The Ingham Teen Court Intervention and Prevention program allows youth charged with first-time misdemeanors, as well as local students facing suspension/expulsion, to have their cases heard before a jury of their peers, rather than face formal court involvement. Student volunteers from local area high schools are trained to perform the duties of a peer jurist and cases are presided over by an Ingham County judicial officer, attorney or a professor from Cooley Law School. The Teen Court program is voluntary, confidential and requires that the youth admit responsibility for his/her actions during an accountability hearing. During the “final disposition” phase of the hearing, the peer jurors will issue sanctions that reflect the Teen Court program’s goal of

holding the offending youth accountable, while also repairing harm to the victim. Sanctions may include community service, victim apology letters and restitution, reflective essays, jail tours and the youth’s participation as a peer juror during future hearings. Teen Court participants also receive a behavioral health examination and case manager and are required to attend weekly skill-building workshops that focus on goal setting, conflict resolution, anger management, critical thinking, and problem solving. Upon the completion of all requirements, the youth’s court petition is dismissed, or the term of school suspension/expulsion is reduced. Over 90% of Teen Court participants successfully complete the program and fewer than 10% commit a second offense. Additionally, the program increases the youth’s and the student volunteers’ understanding of the functions of the justice system, the importance of addressing the needs of victims, and the principles of restorative justice.

SPOTLIGHT:

Wayne County Right TRAC Program

The Wayne County Prosecutor’s Office operates the Right TRAC (Taking Responsibility and Accepting Consequences) program, as a post-petition alternative to traditional juvenile court adjudication for first-time, low-risk youth. Upon referral, the Juvenile Assessment Center (JAC) assesses the youth and their caregivers to identify needs, create service plans, screen for mental health, substance abuse and potential physical health concerns, and then monitors the youth’s participation in services and tracks program outcomes. Youth and their families are referred to

a Youth Assistance Program located in their zip code for treatment and services, such as academic tutoring services, aggression replacement training, anti-bullying, substance abuse education, trauma counseling, mentoring, shoplifting prevention programming and community mental health services. Upon successful program completion, a youth’s case is dismissed. Since Right TRAC’s inception in 2007, approximately 90% of the youth successfully completed the one-year post measurement period and remained out of the formal justice system. In 2016, over 700 youth are projected to participate in Right TRAC, receiving timely assessments, access to the right services, and engagement in community activities that reduce juvenile justice involvement.

Without statewide guidelines, the amount that youth and families are required to pay varies from \$25 to \$350 and is often in addition to monetary restitution paid to crime victims. And even though most providers stated a willingness to work with youth and families who cannot cover the fines and fees, and no one indicated that a lack of payment would result in automatic failure to complete the diversion program, it was still reported as a required fee. Unfortunately, requiring diversion participants to pay for services can be a devastating burden on low-income families and can actually exacerbate the underlying issues contributing to the delinquent behavior that diversion is intending to resolve.⁸⁴

Trend #5: Screenings and assessments for diversion are inconsistent and sometimes non-existent across Michigan counties.

Best Practice: Diversion plans should be individualized and informed by standardized screening and assessments.

Because the factors that contribute to delinquent behavior can vary, it is important to tailor diversion options to address each youth's unique needs and circumstances. The use of standardized screening and assessment tools can increase consistency in identifying needs, risks and strengths, and serve as a foundation for a youth's diversion agreement and related treatment plan.⁸⁵

Over half of diversion programs, 56%, utilize at least one standardized, evidence-based screening and/or assessment tool at some point during the diversion process. Further assessments may be conducted after a referral to community-based treatment, particularly for substance use and/or mental

health needs. The most commonly reported assessment tools utilized by the diversion providers is the Michigan Juvenile Justice Assessment System (MJJAS), a structured decision-making assessment tool that can be used at various points in the system, including diversion, to determine risk levels and diversion program eligibility, and inform treatment decisions.⁸⁶

38% of respondents reported not using any assessment/screening tool during the diversion process. Some felt it was unnecessary given the short-term, informal nature of diversion, while others simply stated that they have never used assessments or that their program funding does not cover assessment-related expenses. A few providers stated that they were confident in their ability to assess a youth's risk of re-offending and treatment needs simply through having conversations with the youth, their families, and other identified community supports. One diversion provider commented that because of his long experience working in the field of juvenile justice, he could determine if a diversion is appropriate "by eyeballing a kid."

Less than 10% of the diversion programs, mostly located in rural counties, reported using assessment tools developed "in-house." Locally developed tools typically include a short questionnaire that is used to gather information from the youth and family about their perception of the arresting offense, any underlying issues that may be contributing to the youth's delinquent behavior, family dynamics, and academic history. Several diversion providers who use locally developed assessment tools felt that because they include many of the same questions as standardized tools, the effectiveness is essentially the same.

When evidence-based screening and assessment tools are not used or improperly administered during the diversion referral process, it can create unfair and unintentional barriers to meeting the needs of youth. Youth may be excluded from services, even when they would benefit from diversion; likewise,

youth may be assigned to a one-size-fits-all program that does not address their specific needs. By not using a reliable and consistent approach to determining youth's risks, needs, and strengths, jurisdictions face the risk of services being ineffective, which ultimately defeats the purpose of diversion.

Trend #6: Michigan provides inconsistent diversion services across county lines, despite youth having similar needs.

Best Practice: Diversion programs should use a wide network of community-based services to offer a menu of diversion options.

The Michigan Juvenile Diversion Act allows each county to choose the extent to which they use diversion and the types of programs they offer. Almost two-thirds of the county juvenile courts use consent calendar as a primary method of diversion and, for many smaller counties, it is often the only diversion option available to youth.

Thirty-six counties offer more than one diversion program; with six of these counties operating three or more programs. Michigan's urban and/or affluent counties typically have multiple, robustly resourced diversion programs that engage a range of community-based service providers, such as community mental health agencies, private treatment providers, and mentoring programs, and are capable of targeting the specific needs of a youthful offender. The majority of diversion programs (89) include a case management component, where a diversion caseworker refers the youth to treatment and services in the community, and monitors the treatment progression, offering support to the youth and their family as needed.

SPOTLIGHT:

Grand Traverse County Diversion Program

Grand Traverse County's diversion program serves low-risk youth who admit responsibility for offenses such as retail fraud, curfew violation, and Minor In Possession. Upon referral from the prosecutor's office, a citizen's panel of trained volunteers works with the youth and family to establish diversion requirements (i.e. "promises").

Promises may include mentoring, case management, learning partners for elementary youth, school/ home visits, community service, and apology letters. A volunteer monitor is then assigned for the 8-week-duration of the youth's promise period. The monitor meets with the youth a total of 2-3 times to make sure their promises are being completed, see how they're doing at home and in school, and assist the family with any issues that may arise during that time period. About 80% of participating youth successfully complete the diversion program.

Several of the diversion providers from resource-strapped, rural communities indicated that they often have to partner with organizations in other counties to provide needed services. One diversion provider reported that the retail fraud education program they utilize is located in an adjacent county. This makes it extremely difficult for impoverished youth and families to attend the program, as it involves a 45-minute drive each way—requiring both access to a working vehicle and fuel costs. Another provider shared that the only child-focused psychologist in their county recently retired, so the juvenile court now contracts with a psychologist that lives several hours away to come in only one day a week to conduct assessments and provide counseling services.

Several diversion programs (17) focus specifically on surveillance, which includes simple monitoring where no services are offered, and the case is closed after a period if there is no further contact with law enforcement or no further reports of delinquent behavior. While it is true that diversion without services can be effective for certain youth, surveillance-only diversion programs that are delivered by courts run the risk of mirroring formal probation. Further, intensively-monitored youth are also at greater risk of violating/revoking their diversion agreement (potentially returning them to the formal

court) for relatively minor actions, such as an unexcused absence from programming.⁸⁷ If surveillance-only options are used, they should be one of many options to ensure that youth are matched with the appropriate type and level of services to address their needs.

Trend 7: Very few diversion programs focus on families as an integral part of the solution.

Best Practice: Diversion programs should offer family-centered interventions.

Family members, whether biologically related or not, may prove vital to a youth's willingness and ability to successfully complete the requirements of a diversion program and avoid deeper penetration into the justice system. Research shows that dysfunctional family dynamics can greatly increase the risk of a youth engaging in delinquent behavior, regardless of other social or economic factors.⁸⁸ Including families in diversion programming allows them to guide the plan and identify their own strengths and needs, as well as helps avoid the shame often associated with traditional justice system interactions. It also

supports families in sharing responsibility for the success of their young, at-risk relative before he/she becomes system-involved.⁸⁹

While the Juvenile Diversion Act includes a requirement for parental involvement during the diversion conference, it does not specify the extent to which families should be engaged in treatment. Only one-third of diversion programs have interventions that address the needs of parents and/or families as a unit, such as family counseling, parenting education, and skill building aimed at improving family functioning and helping parents reduce their child's delinquent behavior. Most of the surveyed diversion providers recognized the importance of family-centered treatment and many make extra effort to involve families in the development of the diversion case plans. However, several providers pointed out that funding constraints prevent them from incorporating more programs to address the needs of a youth's family.

SPOTLIGHT:

Berrien County Community Restorative Boards

Berrien County's Community Restorative Board (CRB) is a diversion program grounded in restorative justice theory that provides an opportunity for youth to hear how their offense has harmed the victim and community, and partner with the impacted parties in the healing process.

The CRB's volunteer panel members meet with the youth, her/his parent(s), and often the victim, to discuss an agreement for making amends for any harm caused by the youth. Amends may include community service hours, writing letters of apology, writing essays on different topics, and/or paying restitution to the victim. Upon successful completion, the case is dismissed without any further action from the juvenile court. Over 90% of youth who participated in the CRB process has remained arrest-free for at least one year.

SPOTLIGHT:

Northville Youth Assistance Program

Youth participating in the diversion component of Northville's Youth Assistance Program are referred by several surrounding police departments, the courts, and in some cases, Northville High School. Once a youth is referred to the program—generally as a result of a first-time offense related to drugs or retail fraud, and occasionally for running away, assault, and weapons—they are required to complete six weekly individual sessions related to anger management, shoplifting, decision-making

and/or substance abuse education. These sessions are focused on a youth's specific offense and provide strategies for making better decisions in the future. Most youth are also required to do community service, with the number of hours determined by the severity of the infraction. From 2012-2014, 80% of the participants demonstrated a greater understanding of their behavior after participation, with over 50% completing the program. Funding for YAP is provided by Northville Township (70%), the City of Northville (13%), Wayne County (4%), and other participation and donation fees if applicable (4%).

Trend #8: Most jurisdictions do not use restorative justice practices to engage victims in the healing process.

Best Practice: Diversion should be restorative in nature.

Diversion providers across 39 programs reported incorporating restorative justice components into their diversion activities. These types of programs focus on helping youth understand how their actions cause harm and take accountability to make amends to victims and the community. Victim impact panels and victim/offender mediation - strategies that hear from the actual victim or victims of similar offenses - are the most frequently used restorative practices in diversion, typically for youth who have committed property crimes such as vandalism or retail fraud. Monetary restitution, apology letters, and/or requiring community service hours were also reported as regularly used restorative practices.

While community service and apology letters can be meaningful, and possibly restorative to the victim, it is often a requirement assigned to the youth by the diversion provider and may not truly embody restorative practices. For example, if required community service did not originate jointly from the youth and those harmed by their offense, it is easily viewed by the youth as punishment rather than a tool for healing, and by the victim(s) as an attempt to force forgiveness before they are ready.⁹⁰

Trend #9: Lack of data and inconsistent use of evaluations leave Michigan counties unclear about whether diversion programs are actually working.

Best Practice: Diversion should be evaluated regularly to gauge program effectiveness, informed by data

While nearly all diversion providers reported positive anecdotes about their programs' successes, only 18% completed outcome evaluations. Diversion providers suggested that staff capacity and funding were the primary reasons preventing them from conducting evaluations. Among the programs that were evaluated, the majority reported high rates of successful program completion, with less than a 20% re-offense rate within one year of program participation.

Collecting data and evaluating program outcomes are necessary to determine the effectiveness of diversion programs. If the outcomes are positive, the results can be used to push for continued funding and support for the program (and its replication elsewhere). Negative outcomes, on the other hand, may signal the need to modify the current diversion activities or invest resources into new, more effective programs. To measure effectiveness, both short and long-term program outcomes must be monitored. Short-term outcomes can include successful program completion; improved behaviors; an increase in life skills; better academic performance, and; more positive family/peer relationships for diverted youth. Long-term outcomes generally measure recidivism for diversion program participants.



Conclusion and Policy Recommendations

While Michigan's increased use of informal diversion programs is a promising development, there is still much to be improved. Contrary to best practice research, diversion is not the default option for addressing the youth crime in our juvenile justice system—only young people under age 17 who have committed “low-level” offenses are offered diversion. Eligibility for diversion is haphazard across jurisdictions, as are the types of services or second chance options available. Further, diversion programs are infrequently checked for effectiveness in reducing recidivism nor for their impact on racial disparity throughout the juvenile justice system, and the majority of Michigan's diversion options fail to correctly incorporate restorative practices into treatment planning, despite research indicating benefits to the community, victim and offender.

The justice system must be the option of last resort when responding to youthful misbehavior and illegal actions. All communities should provide early restorative options that allow young people to learn from their mistakes, repair harm to victims, and move past childish indiscretions. To do this appropriately, youth-serving systems must be designed in ways that acknowledge adolescent development research, and invest in front-end prevention and diversion.

The following recommendations outline specific actions to prevent juvenile/criminal justice system involvement, ensure the “net” is not widened, and increase the chances of success for young people in Michigan.

1. Stop criminalizing adolescent behavior and train professionals to de-escalate problem behaviors before arrest is necessary.

Too often, youth enter the court system for the crime of simply being a child—throwing a temper tantrum, expressing frustration, pushing boundaries. This is especially true for status offenses, where a youth's home or school life is chaotic or threatening and the behavior is a cry for help. Acting out may also be a sign of an undiagnosed behavioral health condition. By addressing the underlying causes of problem behaviors and teaching teens how to deal with emotions in healthy ways, parents and professionals will have greater success curbing delinquency. To do this, all stakeholders who engage with youth, especially educators, child welfare and behavioral health caseworkers, law enforcement and school resource officers, need to participate in ongoing trainings to increase cultural competency, reduce bias and understand youth development, mental health symptoms, de-escalation techniques, and restorative practices. Effective approaches like CIT-Y and Mobile Crisis Units must be expanded, with all stakeholders aware of community resources designed to support the needs of youth and families.

2. Impose civil infractions for some offenses rather than delinquent or criminal charges.

Because the police are often the first point of contact for diversion, they should be equipped with the training, tools and strategies to limit youth arrests. Florida's innovative civil citation program offers one model for Michigan to consider that would save taxpayer dollars and strengthen the system's commitment to diversion. Encouraging the use of civil citation programs among law enforcement agencies will ensure young people are held responsible, reduce future re-offending and improve relationships among police, youth, and communities.

3. Consider diversion options for every youth, regardless of offense, history or personal characteristics.

Diversion should not be limited to youth with first-time, low-level offenses, as it has proven to be effective for most youth, including many that are considered to be at high risk to re-offend.⁹¹ Youth charged with status offenses, in particular, should always be eligible for

diversion and should never be placed in detention or confined, even as a result of violating probation or a court order. In line with recent changes to consent calendar policies, the Michigan Juvenile Diversion Act should be amended so that all offenses are eligible for diversion.





4. Ensure youth of color and girls have equitable access to diversion services and that all programs incorporate culturally competent and gender responsive practices.

In order to monitor and eliminate disparities, all jurisdictions should be required to feed data into a statewide data management system that effectively tracks the demographic and offense characteristics of all the youth they serve. The demographic information collected should include a youth's self-identified race, ethnicity, and gender and should be analyzed with the goal of identifying trends and disparities.

Further, common definitions must be developed across various decision points (e.g., arrest, diversion, detention, etc.) and jurisdictions should have the ability to disaggregate data to ensure that youth with multi-racial, tribal, or ethnic

backgrounds are not undercounted.⁹²

By understanding demographic trends, communities can then design culturally competent and gender-responsive programs that better meet the needs of their populations. Likewise, diversion providers should be intentional in their hiring practices and strive to employ a diverse staff that reflects the cultural backgrounds of the communities they serve.

5. Amend the Michigan Juvenile Diversion Act to specifically define pre-arrest and pre-petition diversion and require these options in every county.

A youth's zip code cannot continue to determine whether or not he/she is offered diversion services. Instead, every county must have a full menu of options, including pre-arrest and pre-petition diversion in addition to traditional court-level diversion.

Defining these terms in statute will ensure that additional stakeholders, beyond law enforcement and court personnel, have a clear understanding of their role in providing diversion activities. Developing a comprehensive, continuum of diversion services requires partnership and collaboration among all systems that engage with youth, including schools, child welfare and behavioral health services, law enforcement and the courts. While this process can be daunting, the benefits to youth and families, as well as potential new cross-system funding opportunities, greatly outweigh the costs.

6. Increase funding options for pre-arrest/pre-petition diversion programs.

While there are a variety of funding sources available for diversion providers, the largest and most well-known is the Child

Care Fund. Unfortunately, its current rules do not support best practices for increasing youth well-being because they severely limit the possibility for pre-petition diversion and the expansion of cross-system partnerships. Therefore, the parameters of the Child Care Fund need to be expanded to include pre-petition diversion as an eligible service. Additionally, multi-system funding sources must be continually identified, encouraging partnerships across systems to leverage dollars. Lastly, incentives for law enforcement must be created, so police-based diversion options are available at the earliest point of contact.

7. Reduce arrests in school by incorporating restorative practices into school discipline policies and limiting the presence of police in schools. Schools have increasingly become an entry point for the arrest of many young people. Rather than relying on school-based police to manage problem behaviors, schools should be supported in expanding restorative practices for resolving conflicts and reducing suspensions, expulsions, and arrests. Ongoing training in these techniques sustained funding, and legislative changes that require restorative practices be used in schools before suspension, expulsion, and arrests are strategies that successfully keep kids out of the juvenile justice system.⁹³

8. Require screening of all youth to determine if they are concurrently involved in the child welfare system and divert delinquency cases when possible. Too many young people “cross over” from the child welfare system into the delinquency system without any tracking or coordination of services. If at any point in the delinquency court process it is determined that a diversion-eligible youth has an open foster care or child protective services case, all treatment and services should be provided through the child welfare system and not the juvenile justice system.

9. Establish and support juvenile mental health diversion practice guidelines.

The majority of justice-involved youth have a mental health diagnosis, yet few receive appropriate treatment before entering the court system.⁹⁴ It is important to ensure that parents, police, schools and child welfare stakeholders are aware of local mental health resources and that local mental health systems have the tools, training, and partnerships in place necessary to effectively serve youth in conflict with the law.

10. Ensure appropriate use of evidence-based screening and assessment tools at intake, if not earlier, to determine the appropriate diversion services for all court-petitioned youth. Assessment results must then help guide decision-making about the types of services best suited to meet a youth’s needs. The appropriate tools can prevent a youth from being put into services that don’t match his/her needs or risk-level. Standardized use of screening and assessment tools also helps counties to maintain consistency in decision-making and monitor for disparities. Because youth of color are overrepresented in the juvenile justice system, it is important to watch for bias in the assessment questions, which may unfairly characterize certain populations as higher risk.⁹⁵

11. Statutorily limit or eliminate fines and fees so that families in one county are not forced to pay for services that are freely available in neighboring counties. The best practice is for services to be offered at no cost to families. If the state decides that fees are necessary, then, a) the various fines and fees that are levied in juvenile court—specifically in diversion programs—should be reviewed for consistency across counties, b) a sliding fee scale should be established that supports the implementation of effective programs, but is not cost-prohibitive for families to participate, and c) no youth should be denied participation or re-

moved from a program for an inability to pay.

12. Increase the use of family-centered treatment at all decision points. Family and home life problems are often the core issue for many youth in the justice system. Including treatment options that both focus on root causes of inappropriate behavior and involves family members can create long-lasting change.⁹⁶ The state needs to develop practice guidelines that include specific strategies for engaging and empowering families in the treatment process.

13. Ensure restorative justice practices are a primary component of all diversion programs. Despite the long-standing state policy that outlines Balanced and Restorative Justice principles, few jurisdictions fully integrate restorative justice as a defining feature of their programs. By developing practice guidelines, the state could specify how local jurisdictions can effectively implement restorative justice practices pre-arrest, both pre-petition and post-petition.

14. Strengthen oversight, monitoring and evaluation of diversion practices and stakeholders across the state. This includes collecting, analyzing and reporting data to track diversion practices statewide and monitoring for disparities; establishing evidence-based standards; providing training opportunities on evidence-based diversion practices; monitoring compliance; requiring evaluations of all CCF-funded diversion programs, and publishing results.

Endnotes

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