

ILLINOIS JUVENILE JUSTICE LEADERSHIP COUNCIL

– PRINCIPLES¹ OF DIVERSION² IN ILLINOIS –

Substance of a Diversion Program

1. Diversion efforts should utilize the principles of restorative justice. This includes a conversation involving youth, their family, the victim, and other stakeholders in the offense, discussing the harm done, their needs, and their obligations to each other. This conversation forms the basis for developing the youth's feeling of accountability to the community for the youth's wrongdoing, the development of the community's support in building the youth's competency, and the creation of an environment of public safety for all.
2. Diversion is especially important for special needs populations – very young children, and those with mental health disorders, substance abuse treatment needs, or developmental disabilities. Certain stakeholders, particularly law enforcement and juvenile probation officers, should receive specialized training regarding these populations. Effective community-based services and programs should be identified and, when necessary, developed for these youth.
3. Many youth who come into contact with the justice system have themselves been victims of trauma and/or abuse, and diversion programs should be sensitive and responsive to the potential for past trauma and victimization. Certain stakeholders, particularly law enforcement and juvenile probation officers, should receive specialized training regarding this population. Effective community-based services and programs should be identified and, when necessary, developed for these youth.
4. Families should have access to sufficient information and supports in order to make informed decisions and to actively participate with juvenile justice authorities and other agencies that administer diversion programs in the planning and implementation of diversion plans. "Family" is defined broadly to include any positive adult in a youth's network of relationships that the youth has identified as a trusted adult or role model.
5. Schools should actively participate with juvenile justice authorities and other agencies that administer diversion programs to utilize in-school diversion opportunities rather than involving youth unnecessarily in the juvenile justice system.

Statutory Basis and Stakeholder Roles

6. Diversion as an alternative to formal processing in the justice system in appropriate cases can serve many desirable goals, including providing more effective and appropriate treatments to youth at risk of future delinquency, decreased rates of recidivism, and avoiding stigma and a permanent record for the youth. By enacting legislation and promulgating court rules that create several diversion mechanisms within the justice system, the Illinois General Assembly and Illinois Supreme Court, respectively, have endorsed the fundamental principle that pre-adjudication diversion is appropriate in certain circumstances.
7. Diversion policies and practices should build on the mechanisms already provided in Illinois statutes and court rules to divert youth away from formal processing within the justice system. These include formal and informal station adjustments (705 ILCS 405/5-301), probation adjustments (705 ILCS

¹ In this document, "diversion" refers to diversion as both the process (i.e., providing alternatives to adjudications for alleged juvenile offenders) and programs (i.e., the services the youth receives in place of a formal adjudication).

² The Juvenile Justice Leadership Council's Diversion & Alternatives to Detention/Incarceration Work Group adapted these principles from Pennsylvania's Mental Health/Juvenile Justice Diversion Subcommittee's "Principles of Pre-Adjudication Diversion in Pennsylvania" (January 2010).

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8. 405/5-305), state's attorneys referral to restorative justice programs (705 ILCS 405/5-310), and court continuance under supervision (705 ILCS 405/5-615).
9. Successful diversion programs depend on long- term involvement, commitment, and support from all key stakeholders, including youth, their communities, law enforcement, state's attorneys, and judges.

Youth Eligible for Diversion

10. Certain youth who would otherwise face a delinquency adjudication or conviction for a status offense should be considered for diversion. These include:
 - a. First time offenders;
 - b. Status offenders;
 - c. Youth charged with misdemeanor/non-violent felony offenses; and
 - d. Youth who are identified by juvenile justice stakeholders as appropriate for diversion.
11. Diversion policies and practices should incorporate safeguards to prevent "net-widening" – subjecting more youth to formal justice system intervention than would be the case in the absence of these initiatives. Diversion programs must therefore focus on those youth who would otherwise be subject to an adjudication of delinquency or conviction for a summary offense within the justice system but for an intervention.
12. Local jurisdictions should ensure that diversion is made available to all eligible youth no matter the youth's race, ethnicity, gender, sexual orientation, or legal representation; is fairly administered; and that youth participation in diversion is voluntary.

Administration

13. There must be clarity and accountability in the administration of diversion programs. Consequently, each county diversion policy should have written guidelines that set forth a formal referral process (including who is responsible for making referrals), the screening and assessment process, clearly articulated eligibility requirements, criteria for acceptance, procedures for non-compliance, and available community resources that can serve as alternatives to formal court processing.
14. The conditions of any diversion program should be clearly and completely reflected in a formal written agreement between the youth, parent(s)/legal guardian(s), and the diversion program. Each written agreement should be tailored to an individual youth's particular strengths and needs, to maximize his/her ability to successfully complete the program.
15. There must be written procedures if the conditions of the diversion agreement/program have not been successfully completed that are tailored to an individual youth. Any admission of guilt required for a diversion program should not be used against the youth in future proceedings.
16. As these written agreements are developed, victims should have the opportunity to provide input. Victim impact statements, if received, should be considered in any written agreement, and, whenever appropriate, participation in a Victim Awareness curriculum should be part of the written agreement. Making full restitution to the victims should be included in the written agreements whenever possible.
17. A youth must not be prosecuted for the original offense in the future if the conditions of the diversion agreement/program have been successfully completed.

Expungement

18. As part of their diversion policies and protocols, counties should assist youth in getting their delinquency records expunged, preferably at minimal or no cost to the youth.

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Outcome Measurement

19. Counties should include in their diversion policies and protocols an outcome measurement component to track both youth and program outcomes in order to evaluate the effectiveness of their diversion policies and practices. Including in program outcomes should be measures of positive youth outcomes (education, employment, civic engagement, and positive social relationships). Counties should also measure and evaluate victims, communities, and juvenile justice stakeholders' satisfaction with the diversion programs.

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– PRINCIPLES OF DIVERSION IN ILLINOIS CHECKLIST –

This checklist is meant to serve as a tool that can be utilized by juvenile justice councils to ensure that diversion programs are being utilized in accordance to the Principles of Diversion.

Checklist for a Successful Diversion Program:

- Do your diversion efforts currently utilize the **principles of restorative justice**?

Notes/Comments:

Services / Training

- Diversion is especially important for **special needs** populations – very young children, and those with mental health disorders, substance abuse treatment needs, or developmental disabilities. Do you have programs in place for these categories of youth?

Notes/Comments:

- Many youth who come into contact with the justice system have themselves been victims of **trauma and/or abuse**, and diversion programs should be sensitive and responsive to the potential for past trauma and victimization. Do you have programs that address this concern?

Notes/Comments:

- Families** should have access to sufficient information and supports in order to make informed decisions and to actively participate with juvenile justice authorities and other agencies that administer diversion programs in the planning and implementation of diversion plans. Is there an opportunity for families to be actively engaged in your jurisdiction?

Notes/Comments:

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Collaboration

- Schools** should actively participate with juvenile justice authorities and other agencies that administer diversion programs to utilize in-school diversion opportunities rather than involving youth unnecessarily in the juvenile justice system. Are the schools in your jurisdiction actively engaged in diversion efforts?

Notes/Comments:

Risk Assessment

- Certain youth who would otherwise face a delinquency adjudication or conviction for a status offense should be considered for diversion. These include:
 - a. First time offenders;
 - b. Status offenders;
 - c. Youth charged with misdemeanor/non-violent felony offenses; and
 - d. Youth who are identified by juvenile justice stakeholders as appropriate for diversion.

Is there a risk assessment tool in place to assess risk, need and protective factors for youth when considering diversion?

Notes/Comments:

“Right-Sizing” the Juvenile Justice System

- Diversion policies and practices should incorporate safeguards to prevent “net-widening” – subjecting more youth to formal justice system intervention than would be the case in the absence of these initiatives.

Notes/Comments:

- Local jurisdictions should ensure that diversion is made available to every eligible youth no matter the youth’s race, ethnicity, gender, sexual orientation, or legal representation; is fairly administered; and that youth participation in diversion is voluntary. Has your jurisdiction implemented new policies, practices or training to address disproportionate minority contact?

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Notes/Comments:

Administration

- There must be clarity and accountability in the administration of diversion programs. Consequently, each county diversion policy should have written guidelines that set forth a formal referral process (including who is responsible for making referrals), the screening and assessment process, clearly articulated eligibility requirements, criteria for acceptance, procedures for non-compliance, and available community resources that can serve as alternatives to formal court processing. Does your jurisdiction have written guidelines in place for a formal referral process?

Notes/Comments:

- The conditions of any diversion program should be clearly and completely reflected in a formal written agreement between the youth, parent(s)/legal guardian(s), and the diversion program. Each written agreement should be tailored to an individual youth's particular strengths and needs, to maximize his/her ability to successfully complete the program. Does your jurisdiction utilize such written agreements?

Notes/Comments:

- There must be written procedures if the conditions of the diversion agreement/program have not been successfully completed that are tailored to an individual youth. Does your jurisdiction utilize this practice when conditions of diversion have not been met?

Notes/Comments:

- As these written agreements are developed, victims should have the opportunity to provide input. Does your jurisdiction provide victims the opportunity to have a voice in the diversion process?

Notes/Comments:

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Policies

- A youth must **not be prosecuted** for the original offense in the future if the conditions of the diversion agreement/program have been successfully completed. Is this a philosophy that your jurisdiction follows?

Notes/Comments:

- As part of their diversion policies and protocols, counties should assist youth in getting their delinquency records **expunged**, preferably at minimal or no cost to the youth. Is this a service that is available to youth in your jurisdiction?

Notes/Comments:

Evaluation

- Counties should include in their diversion policies and protocols an **outcome measurement** component to track both youth and program outcomes in order to evaluate the effectiveness of their diversion policies and practices. Program outcomes should include measures of positive youth outcomes (education, employment, civic engagement, and positive social relationships). Does your jurisdiction track positive youth outcome measures?

Notes/Comments:
