

Protect and Redirect: Effective Messaging to Promote Juvenile Diversion Reform

This brief provides recommendations for advocates on how best to understand and address the messaging challenge in order to build support for further progress expanding the use of diversion in youth justice.

The recent momentum to expand the use of diversion in youth justice is long overdue. However, to reach its potential, advocates must deliver clear, consistent messages to inform the public and persuade public officials.

This will require advocates to:

- Develop a clear and simple definition of diversion that makes effective community-based alternatives to the formal justice system understandable and appealing to policymakers and the public. (See Text Box on p.2 for a definition and sample elevator pitch to promote diversion.)
- Craft messages to promote youth diversion that are grounded in evidence of diversion's benefits and are compelling to persuadable voters as well as elected officials and other policymakers.
- Tailor messages to the political sensibilities and civic culture of the local community, and target messages to specific audiences.
- Develop effective strategies to combat sensationalized, alarmist, poorly contextualized news coverage and political rhetoric that stoke public fears of youth crime and subvert constructive reform efforts.

- Augment arguments and evidence with real-world stories illustrating the benefits of diversion and the harms of formal court processing. Involve youth, families, and community members with direct experience in the youth justice system to tell their stories and highlight the importance of diversion in human terms.

Background: How to Understand the Messaging Challenge

The youth justice field lacks a clear, widely shared, commonly understood definition of diversion. Few in the public are familiar with the term, and few are likely to support its widespread use without better language describing it.¹

Limited polling and communications research provide some messaging suggestions. However, these findings relate only to the general population – not to policymakers who make critical decisions on diversion and related youth justice issues.² The tentative lessons include:

- **Present diversion as an active, superior response to delinquent conduct.** Most in the public are skeptical of adolescent development arguments suggesting that youth should be left alone to grow out of their delinquent conduct; rather, most believe

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

Suggested Language for Advocates to Describe and Promote More and Better Use of Diversion in Youth Justice

What is diversion in youth justice? *Diversion is any decision to address alleged delinquent conduct through community-based responses that support youth success, rather than arresting or involving a young person formally in the court system.*

How to describe diversion's advantages briefly in clear and compelling language?

Though for some it might seem counterintuitive, overwhelming evidence finds that arresting youth and prosecuting them in court for delinquent behavior harms their futures and increases their likelihood of rearrest.

In most cases, youth should be diverted to community-based responses outside of the justice system that can better address the issues that caused the problem behavior and help youth learn from their mistakes, repair the harm they have caused, and avoid lawbreaking in the future. Youth should enter the justice system only when they are charged with serious crimes and pose a significant risk to the public.

It is especially important to increase the use of diversion for youth of color: Powerful research shows that youth of color are far more likely to face arrest and formal court processing than comparable white youth, and this unequal treatment in the early stages of the justice system is a major driver of disparities in confinement later.

that lawbreaking behavior requires a meaningful response.³ Therefore, except for youth who commit only petty crimes or noncriminal offenses such as truancy or underage drinking, advocates should promote diversion to something – an intervention that addresses needs, offers opportunities, or creates accountability, not just diversion away from the justice system.

- **Embrace the importance of accountability, but reframe discussions about its meaning to center on principles of restorative justice.** Most voters support rehabilitation over punishment for youth, and understand that the justice system often fails to provide effective responses to delinquency. When presented with options, most support alternative responses.⁴ Given these public attitudes, diversion alternatives employing restorative justice practices have particularly strong potential to capture public and political support. At present, polls find that few

in the public understand restorative justice.⁵ However, when explained, restorative justice's focus on addressing victims' needs, repairing harm, and helping young people achieve success is likely to meet public desires for meaningful and rehabilitative responses to adolescent lawbreaking. The case for expanding restorative justice is also bolstered by favorable outcomes in terms of recidivism, restitution, and satisfaction among participating victims, accused youth, and their families.⁶

- **Make racial and ethnic equity in diversion a top priority,** and promote reforms to address inequities as aggressively as possible, taking into account the political context within the jurisdiction. Polling research finds that most Americans recognize that the justice system treats people of color more harshly than whites. However, the politics of racial equity have shifted since 2020. In some states and localities, leading elected officials have begun to reject any and all references to discrimination. Ad-

vocates should never shy away from promoting racial and ethnic fairness, but they must be mindful of the unique political environment of their states and localities: In some cases, it might be necessary to emphasize related variables that correlate closely with race and ethnicity, such as poverty rates, or measure and target diversion opportunities by zip code, to ensure that communities where young people who are disproportionately involved in the justice system receive diversion opportunities at rates comparable to youth living in less impacted communities.

- **For the general public, focus messages on pragmatic solutions and widely shared values – not cost savings.** Though diversion has proven far more cost-effective than formal involvement in the justice system both in terms of initial justice system costs and long-term benefits, communications research suggests that cost arguments are not likely to sway a large swath of the public.⁷ Policymakers, on the other hand, may be more open to cost arguments.
- **Storytelling is critical.** On their own, facts and figures are unlikely to win the hearts and minds of persuadable voters and public officials. It is also valuable to show audiences the real-world consequences of underutilization and disparities in diversion. Storytelling can be highly persuasive – especially when stories are told by youth who have benefited from diversion and those who have suffered from formal justice system involvement stemming from low-level misbehaviors. Storytelling by family members, and by community members who know and work with directly impacted youth, also can be highly effective.
- **Understand the political environment.** A spike in gun violence and some other offense categories since 2019 (when offending rates reached historic lows for most offenses)⁸ combined with sensational media coverage and opportunistic politicization of crime issues,⁹ have helped spark rising public concerns over crime.¹⁰ As a result, many sound justice reforms have been placed under a harsh spotlight.¹¹

- **Overcome inertia within state and local justice systems.** Nationwide, delinquency courts have done little to expand the use of diversion or address disparities in diversion. Many problematic policies and practices remain firmly entrenched.¹² This resistance to change heightens the challenge to improve diversion policies and practices in light of new evidence.

How to Describe Diversion

The term diversion in youth justice is imprecisely defined and poorly understood.

“Diversion needs a rebranding,” says Tiana Davis, the former policy director of equity and diversion at the Center for Children’s Law and Policy (CCLP). “The word diversion means a thousand different things to a thousand different people.”¹³

Diversion is commonly used to describe virtually any decision that allows a young person to avoid a deeper level of penetration into the justice system – whether or not they have a formal case in juvenile court. Alternatively, it is often used to describe a discrete set of programs or agreements that youth must follow to avoid formal adjudication in delinquency court or an arrest.¹⁴

The term diversion is also problematic because it carries a passive connotation: The emphasis is on moving away from something -- the formal justice system – rather than connoting an active response that addresses delinquent conduct in a positive, constructive, and effective way. The same problem bedevils the term “deflection,” which has received increasing attention recently as an alternative label to denote practices that avert arrests and formal justice system involvement for youth involved in low-level offenses.¹⁵

Thus, the first messaging challenges facing advocates seeking to promote greater use of diversion are to clearly define the concept and to describe it in ways that connote action and are easily understandable for a lay audience.

The Sentencing Project's 2022 report *Diversion: A Hidden Key to Combating Racial and Ethnic Disparities in Juvenile Justice* defines diversion as **“any decision to address delinquent conduct without involving a young person formally in the court system.”** A more effective description must also highlight the alternatives – active and positive responses to delinquent behavior led by community organizations in partnership with families, schools and communities. In other words, advocates must talk about diversion to something better, not just diversion away from the justice system.

In its 2022 messaging toolkit, the Annie E. Casey Foundation suggested “diversion from courts to community-based responses.”¹⁶ An even better definition for diversion would be: **“diversion from arrest and the courts to community-based responses that support youth success.”**

Messages to Promote Diversion

Many strong substantive arguments for more and better diversion are backed by compelling data and research evidence. How can advocates most effectively communicate the case for expanding diversion to policymakers and the public?

The Elevator Pitch. Crafted with input from a workgroup of state-level advocates, reflecting available research on diversion and effective messaging, the following is a summary statement that The Sentencing Project has crafted to make the case for expanding the use of community-based alternatives to arrest and formal court involvement for youth. This statement, or some variation, can be used by advocates and by system leaders and other public officials seeking to win support for greater use of diversion in their discussions with legislators and other key decision makers, the media, and the general public.

(This language is only a suggestion: It has not been tested in surveys or focus groups.)

Though for some it might seem counterintuitive, overwhelming evidence finds that arresting youth and prosecuting them in court for delinquent behavior harms their futures and increases their likelihood of rearrest.

In most cases, youth should be diverted to community-based responses outside of the justice system that can better address the issues that caused the problem behavior and help youth learn from their mistakes, repair the harm they have caused, and avoid lawbreaking in the future. Youth should enter the justice system only when they are charged with serious crimes and pose a significant risk to the public as measured by an objective risk assessment instrument.

It is especially important to increase the use of diversion for youth of color: Powerful research shows that youth of color are far more likely to face arrest and formal court processing than comparable white youth, and this unequal treatment in the early stages of the justice system is a major driver of disparities in confinement later.

Complementary messages. Beyond this core message, the case for diversion can be enhanced with many compelling arguments and data points.

- **The evidence is overwhelming: Diversion works better than court.** In the most ambitious and carefully controlled study ever, published in 2020, youth who were diverted from court fared as well or better than comparable youth who were arrested and formally charged in court on all 19 outcomes measured. Diverted youth had fewer subsequent arrests and lower likelihood of future incarceration than youth processed in court. They also committed less violence, achieved more success in school, and associated less with delinquent peers.¹⁷
- **Young people need support, not court.** Troubled kids need coaches, counselors, mentors, and constructive activities. Communities are best equipped to address most adolescent behavioral problems.

- ***Criminalizing age-typical adolescent misbehavior is counterproductive.*** Some involvement in delinquent behavior is the norm during adolescence. Arresting youth and dragging them into the justice system for low-level offenses is overkill: It harms their well-being, jeopardizes their education, and increases the odds they will re-offend and return to the justice system on subsequent charges.
- ***Diversion programs often provide more accountability than courts.*** Community-based alternatives to court can and do provide meaningful accountability. Rather than locking youth in detention, placing them on probation, or making them follow extra rules and perform community service activities unrelated to the offense, community-based restorative justice programs give youth a chance to apologize to those they've harmed and take action to make amends. Diversion also shields youth from the harms associated with having a court record.
- ***Alternatives to arrest and prosecution that employ restorative justice practices are especially promising*** – with strong potential both to capture political and policy support for diversion and to improve youth and safety outcomes.
- ***Diversion is an important tool to address racial injustice.*** Expanding diversion – employing community-based alternatives to court – is key to addressing the unjust inequalities that pervade the youth justice system. White youth often engage in the same behaviors as kids of color but avoid the counterproductive consequences of involvement in the justice system because they don't live in neighborhoods targeted by police and the courts. All kids, not just white kids, deserve second chances.

What does real accountability look like?

“One thing we know from research is that punishment really shuts down young people’s ability to learn in a moment. It moves them from the logical connected part of their brain into a real reactive part of the brain that puts them on the defensive and this real inability to sit with what they’ve done and grow and connect with the emotional element of that in a positive way. This restorative approach is so much more effective because we’re actually accompanying people through this really hard process of learning what it means to be accountable.”¹⁸

Kara Beckman, University of Minnesota scholar specializing in restorative justice

- ***Diversion is a better answer for youth who have suffered trauma.*** Most youth who enter the justice system have suffered significant trauma¹⁹ and tragedy in their lives, and many face severe needs. The response to their behaviors needs to take their personal and family histories into account.
- ***Diversion saves money.*** Diverting young people from court and addressing misbehavior at school or in the community saves money both in the short term through lower legal costs (lawyers, judges, probation officers) and in the long term (less likelihood of future arrests, court appearances, and incarceration). (As noted above, this argument is more likely to resonate with public officials than with the general public.)
- ***Support for expanding youth diversion is increasing across the nation.*** Reforms to expand diversion have broad bipartisan support throughout much of the nation, and they are achieving results in red and purple states as well as blue states. For instance, some of the nation’s most ambitious efforts to expand and improve diversion are operated in **Kentucky, Utah, Iowa, Kansas, Nebraska, Florida, and Colorado.**

Which of these messages to employ? And with which audiences?

Messaging research by the Frameworks Institute²⁰ and the Annie E. Casey Foundation²¹ offer some insights into which messages appeal to the public. Focus on diversion as an active solution, for instance, not simply avoidance of the justice system. Don't put cost savings at the center of the message, at least with the broader public.

However, it's important to consider the local context and political environment and recognize that no single overriding message is likely to work with all political leaders and justice system officials – or with the public. Rather, several of the messages are likely to have salience for some audiences.

Therefore, the best advice is to adjust messaging based on local circumstances and sensibilities. In other words, test various messages with different audiences and employ those that seem to have the most influence with local decision-makers.

That is precisely the formula that Colorado has used to advance several pieces of legislation expanding state support for diversion and restorative justice in recent years. State Sen. Pete Lee, a key champion of youth diversion in Colorado, recently described how he found success by tailoring his message: “To the fiscal conservatives, I emphasized cost savings,” Lee said. “To the moral conservatives, I emphasized individual responsibility and accountability. To the law and order set, I spoke about enhanced public safety and reduced recidivism.

And to the victim advocates, I talked about respect and the beginning of healing.”²²

Focus on the Messengers, Not Just the Message

Success in promoting community alternatives to arrest and court prosecution requires not only strong messages, but also strong messengers. Advocates seeking to promote expanded and more equitable use of diversion must build cohesive coalitions that include influential policymakers and system stakeholders as well as community leaders, service providers, parents, and youth themselves. These coalitions must be energetic, enthusiastic, nimble and creative – taking every opportunity to influence policy debates and generate favorable news coverage for diversion.

In addition to mounting the kinds of strong arguments for diversion described in this issue brief, coalitions must also rely on storytelling to help policymakers, the press, and the public understand the issues on a human level. “Stories are essential to bringing your audience in and making an emotional connection,” explained the Annie E. Casey Foundation’s messaging toolkit for discussing youth probation, diversion, and restorative justice. “A story creates familiarity. When our brains hear stories, they tap into constructs and frameworks we already understand, like common values. Showing is more important than telling when it comes to the media. Lead with a story of a personal experience with the juvenile justice system, ideally a success story that shows even after making a mistake, young people can still pursue a brighter future.”²³

ENDNOTES

¹ Reviewing results of a nationwide poll of adults conducted in May 2021, the Annie E. Casey Foundation reported that many respondents had not previously heard the term diversion, and “it appears as if they needed/wanted more detail in the description, demonstrating a need for education about the concept.” The Casey Foundation recommended “clarifying diversion by better describing it” and noted that “As a new term for many, the term diversion requires education.” *Talking About Probation, Diversion, and Restorative Justice: A Messaging Toolkit* (2022). Annie Casey Foundation.

² The two most relevant sources of recent polling and messaging research on issues related to juvenile diversion are: the Annie E. Casey Foundation’s 2022 messaging toolkit (which showed results of a nationwide poll of >2,000 people in May 2021, plus online discussion groups), *Talking About Probation, Diversion and Restorative Justice* (2022), see note 1; and a 2015 publication by Frameworks Institute titled “Talking Juvenile Justice Reform” and an associated messaging toolkit.

³ *Talking About Probation, Diversion and Restorative Justice* (2022), see note 1.

⁴ *Talking About Probation, Diversion and Restorative Justice* (2022), see note 1; *New poll results on youth justice reform*. (2021). GBAO Strategies; *Polling on public attitudes: Treatment of youth in trouble with the law* [Factsheet]. (2016). National Juvenile Justice Network; *Public opinion on juvenile justice in America*. (2014). Pew Charitable Trusts.

⁵ *Talking About Probation, Diversion and Restorative Justice* (2022), see note 1.

⁶ Seacrest, L. (September, 2023). *Justice for All: How Restorative Justice Mutually Benefits Victims and Youth*. R Street Institute.

⁷ *Talking About Probation, Diversion and Restorative Justice* (2022), see note 1.

⁸ *Crime data explorer*. (n.d.). Federal Bureau of Investigation; Rosenfeld, R., Abt, T. & Lopez, E. (2021). *Pandemic, Social Unrest, and Crime in U.S. Cities: 2020 Year-End Update*. Council on Criminal Justice; Lopez, E., Rosenfeld, R. & Boxerman, B. (2023). *Crime Trends in U.S. Cities: Mid-Year 2023 Update*. Council on Criminal Justice.

⁹ For example: Frosch, D. & Elinson, Z. (2023, Jan. 23). *Juvenile Crime Surges, Reversing Long Decline. ‘It’s Just Kids Killing Kids.’* Wall Street Journal; Casiano, L. (2022, Oct. 27). *Crimes committed by kids on the rise as expert warns harsher consequences needed: The penalties aren’t scary’: Violent crime in America spiked during pandemic and some of the most brazen acts have involved underage offenders.* Fox News Channel; Johnson, J. (2023, June 15). *Maryland’s broken juvenile justice system abets crime.* Washington Examiner.

¹⁰ Saad, L. (2023, Nov. 16). *Personal Safety Fears at Three-Decade High in U.S.* Gallup Media Center; Mangual, R.A. (2023, July 19). *‘Raise the Age’ laws are making youth crime worse.* *New York Post*.

¹¹ Collins, G. & Streicher, M (2023, July 12). *Maryland prosecutors slam General Assembly for lax juvenile crime laws, stress need for special session.* Fox 45 News (Baltimore); Mangual, R.A. (2023, July 19). *‘Raise the Age’ laws are making youth crime worse.* *New York Post*.

¹² Mendel, R. (2022). *Diversion: A Hidden Key to Combating Racial and Ethnic Disparities in Juvenile Justice*. The Sentencing Project.

¹³ T. Davis, personal communication, September 22, 2023.

¹⁴ Mendel (2022), see note 12.

¹⁵ Seacrest, L. (2023). *Data-Driven Deflection: A Systems Approach to Reducing Juvenile Arrests*. R Street Institute; Anderson, S., Petis, L. & Snoder, J. (2022). *Overview of Juvenile Deflection in the United States: A State-by-State Comparison*. R Street Institute.

¹⁶ *Talking About Probation, Diversion and Restorative Justice* (2022), see note 1.

¹⁷ Cauffman, E., Beardslee, J., Fine, A., Frick, P., & Steinberg, L. (2020). *Crossroads in juvenile justice: The impact of initial processing decision on youth 5 years after first arrest.* *Development and Psychopathology*, 1-14.

¹⁸ Ramsey County. (2023, April 26). *RJY overview* [Video]. YouTube.

¹⁹ Baglivio, M., Epps, N., Swartz, K., Huq, M., Sheer, A. (2014). *The prevalence of adverse childhood experiences (ACE) in the lives of juvenile offenders.* *Journal of Juvenile Justice* 3(2), 1-23.

²⁰ Bales, S., Sweetland, J., O’Neil, M., & Wald, J. (2015). *Talking juvenile justice reform*. Frameworks Institute; *Talking juvenile justice reform: Using strategic frame analysis can shift public discourse*. (n.d.). Framework Institute: Turning Talk Into Action.

²¹ *Talking about youth probation, diversion and restorative justice* (2022), see note 1.

²² Sawyer, L. & Serres, C. (2022, December 9). *Laying down the law for troubled youths: Minnesota’s juvenile justice system is broken. Colorado shows how it could be better.* *StarTribune*.

²³ *Talking about youth probation, diversion and restorative justice* (2022), see note 1.