Presentation Overview

• Youth Diversion: what is it and why is it used?
• Research and Outcomes
What is diversion?

- An intervention strategy that redirects youth away from formal system processing, while still holding them accountable for their actions
- Diversion is both a **process** and a **program**

Types of Diversion

- Caution/warning programs
  - Least invasive
  - Divert youth with no further action
  - Warnings or formal caution about future consequences
- Formal diversion programs
  - Generally involve conditions and set time period
  - Some require admission of guilt
Who can divert youth and when does it happen?

Why divert youth?

- Diverted youth typically have better outcomes than similarly situated youth who experience formal system involvement
- Over-involvement in the system can increase the likelihood of reoffending among youth who might otherwise desist from future delinquent behavior
- Often means there is no juvenile record
Why divert youth?

• Procedural fairness (perceived and real) promotes positive outcomes for youth
• Diversion is an evidence-based practices, grounded in the principles of effective intervention to reduce recidivism

Why divert youth?

• Avoid potential negative impacts of formal system involvement
  • Increased likelihood of recidivism
  • Increased likelihood of incarceration as an adult
  • Higher school dropout rates
  • Decreased educational achievement
  • Decreased likelihood of future employment
  • Decreased earning potential
Why divert youth?

• System benefits:
  • Cost efficiency
  • Reduce probation caseloads
  • Reduce juvenile court dockets
  • Shift resources to youth identified as high risk

Be aware of net-widening

• Net widening is when the number of youth encountering the justice system inadvertently increases
• May occur if youth who otherwise would not have had contact with the system are referred to diversion
Short-term outcomes for diverted youth

• Beardslee et al. (2019):
  • Compared boys arrested for the first time vs. boys who were never arrested
  • Justice system involved youth were more likely to be arrested than the youth who were not formally processed (6 month follow-up)
  • Those with the lightest sanctions had the best outcomes
  • As the severity of the sanction increased, so did the likelihood of re-arrest
Long-term outcomes

• Cauffman et al. (2020):
  • Tracked more than 1,200 boys over five years who were arrested for “moderate severity” offenses like assault and theft
  • Assessed the impact of the initial decision to process youth formally versus informally

Long-term outcomes (diversion compared to formal processing)

• Youth who were formally processed during adolescence were more likely to be:
  • re-arrested
  • incarcerated
  • engaged in more violence

*Cauffman et al. (2020)*
Long-term outcomes (diversion compared to formal processing)

- Youth who were formally processed during adolescence:
  - reported a greater affiliation with delinquent peers
  - reported lower school enrollment
  - were less likely to graduate high school within 5 years
  - reported less ability to suppress aggression
  - had lower perceptions of opportunities than informally processed youth

_Cauffman et al. (2020)_

The study concluded “formally processing youth not only is costly, but it can reduce public safety and reduce the adolescent’s later potential contributions to society.”

_Cauffman et al. (2020)_
Long-term outcomes

- Peticlerc et al. (2013): Longitudinal study of juvenile court impact in Canada
  - Followed youth with juvenile court exposure between ages 6 and 17
  - Examined subsequent criminal court involvement between ages 18 and 25
- Outcomes:
  - Court-processed participants were convicted in criminal court at a rate of 50%, compared to a rate of 24.3% for matched counterparts

Outcomes for different diversion types

- Wilson and Hoge’s (2013) meta-analysis:
  - Included 73 diversion programs: 13 caution programs and 60 formal diversion programs
  - Overall recidivism: 31.5% diverted youth vs. 41.3% for youth formally processed
  - Caution programs recidivism: 26.8% cautioned youth vs. 39.5% for youth formally processed
  - Intervention programs recidivism: 33.1% diverted youth vs. 41% for youth formally processed
Summary

• Diversion is an important tool in the youth justice process
• Diversion can occur before and after the filing of charges; ideally occur at the earliest point possible
• Empirical research indicates that diversion has both short-term and long-term positive outcomes for youth and public safety
A young person with less involvement in the juvenile justice system:

- has increased educational and employment opportunities
- interacts with fewer peers who have antisocial behaviors
- is less likely to commit another offense
- is more likely to maintain positive community supports

DIVERTING YOUNG PEOPLE DEMONSTRATES BELIEF IN THEIR POTENTIAL

Diverting Youth from the Justice System
The Administrative Office of the Courts (AOC) is the operational arm of Kentucky’s Court of Justice. The AOC carries out duties that are mandated by the Kentucky Constitution, including administering the Judicial Branch budget, building and maintaining court facilities, maintaining court statistics through a statewide case management database, administering personnel policies and payroll for court personnel, and providing educational programs for judges, circuit court clerks and support staff. The AOC supports court facilities and programs in all of Kentucky’s 120 counties, with its main campus in Frankfort.
Family & Juvenile Services (FJS) is dedicated to improving the lives of Kentucky’s children and families by driving cultural changes, improving practice and policy, and implementing necessary systemic changes in order to ensure long-term program fidelity. We do this through strength-based, pro-social, and individualized practices and supports to improve outcomes for youth and families.

Out of home placement should only be utilized when there is an immediate safety threat for the youth, family, or community. When youth remain in their community, youth and families are stronger, healthier, and more likely to succeed.
Actions, attitudes, and/or programs designed to ensure equity for all populations is anti-racist. As a department that purposely identifies and challenges racial inequity, bias and/or discrimination, we will intentionally strive to achieve racial equity and justice for all youth and families we serve.

CDW Program: Pre-Adjudication Role

- Custody Situations
- or Eligibility Criteria
- Diversion
- FAIR Team
- Diversion
- One-on-One Case Management
- Court (post-adjudication)
  Department of Juvenile Justice
Court Designated Worker Program: Diversion Overview

- Juveniles voluntarily agree to diversion with terms monitored by a Court Designated Worker.
- A child may be eligible for 3 diversions with graduated sanctions.
- The goal of diversion is the reduction of recidivism.
- This is done through case management and coordination of services addressing issues of education, accountability, and treatment.

Kentucky Juvenile Justice Reform

Senate Bill 200 is a piece of legislation that brought reform to Kentucky’s juvenile justice system in 2014. The legislation seeks to improve outcomes in the juvenile justice system by expanding access to timely, quality treatment and supervision in the community, focusing the most intensive resources on serious offenders, enhancing data collection and oversight mechanisms to ensure policies are working.
Positive Impact of Senate Bill 200

**High number** of low risk youth entering the juvenile justice system

Mandatory diversion **reduces the number** of low-risk youth entering the court system

**Few opportunities** to exit due to lengthy probation and commitment times

**More youth** are able to exit the justice system, opening opportunities for agencies to focus on those with highest risk

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**Complaint Filings were Steadily Decreasing Prior to the Pandemic**

Complaints Filed by Calendar Year

<table>
<thead>
<tr>
<th>Year</th>
<th>Complaints Filed</th>
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<tr>
<td>CY 2016</td>
<td>22,229</td>
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<tr>
<td>CY 2017</td>
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<tr>
<td>CY 2018</td>
<td>18,477</td>
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<td>CY 2019</td>
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<td>9,238</td>
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<tr>
<td>CY 2021</td>
<td>10,390</td>
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</tbody>
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31

32
African American Overrepresentation Has Decreased but is Still Double Their Population Representation

Complaints Filed by Race and Ethnicity

- CY 2016 (n=22,229)
  - Non-Hispanic African American: 65%
  - Non-Hispanic Other: 4%
  - Hispanic: 5%
  - Non-Hispanic Caucasian: 27%

- CY 2017 (n=21,326)
  - Non-Hispanic African American: 66%
  - Non-Hispanic Other: 5%
  - Hispanic: 6%
  - Non-Hispanic Caucasian: 24%

- CY 2018 (n=18,477)
  - Non-Hispanic African American: 67%
  - Non-Hispanic Other: 5%
  - Hispanic: 6%
  - Non-Hispanic Caucasian: 22%

- CY 2019 (n=18,343)
  - Non-Hispanic African American: 66%
  - Non-Hispanic Other: 6%
  - Hispanic: 6%
  - Non-Hispanic Caucasian: 24%

- CY 2020 (n=9,238)
  - Non-Hispanic African American: 63%
  - Non-Hispanic Other: 8%
  - Hispanic: 6%
  - Non-Hispanic Caucasian: 22%

- CY 2021 (n=10,390)
  - Non-Hispanic African American: 65%
  - Non-Hispanic Other: 7%
  - Hispanic: 7%
  - Non-Hispanic Caucasian: 22%

Per Annie E. Casey Foundation, African Americans are 11% of Kentucky’s youth population.

African American Youth Experience Greater Disproportionality in the Community than in School

School-Related Complaints vs. Not School-Related
By Race and Ethnicity, CY 2021

- Population (n = 1,008,829)
  - Non-Hispanic African American: 80%
  - Non-Hispanic Other: 11%
  - Hispanic: 6%

- School (n = 3,855)
  - Non-Hispanic African American: 74%
  - Non-Hispanic Other: 13%
  - Hispanic: 7%

- Community (n = 6,535)
  - Non-Hispanic African American: 61%
  - Non-Hispanic Other: 28%
  - Hispanic: 6%

Population data taken from the Annie E. Casey Foundation, KIDS COUNT Data Center, https://datacenter.kidscount.org
**At the Positive Contact of Diversion, African American Youth are Underrepresented**

Complaints Closed, Diverted and Not Diverted by Race and Ethnicity, CY 2021

- **Complaints (n = 8,205)**: 62% Non-Hispanic African American, 7% Non-Hispanic Other, 25% Hispanic, 8% Non-Hispanic Caucasian
- **Diverted (n = 3,645)**: 70% Non-Hispanic African American, 7% Non-Hispanic Other, 17% Hispanic, 8% Non-Hispanic Caucasian
- **Not Diverted (n = 4,560)**: 56% Non-Hispanic African American, 8% Non-Hispanic Other, 31% Hispanic, 5% Non-Hispanic Caucasian

**African American and Hispanic Youth Overrepresented Among Unsuccessful Diversions**

Successful and Unsuccessful Diversion by Race and Ethnicity, CY 2021

- **Diversions (n = 3,645)**: 70% Non-Hispanic African American, 6% Non-Hispanic Other, 17% Hispanic, 8% Non-Hispanic Caucasian
- **Successful (n = 3,317)**: 71% Non-Hispanic African American, 6% Non-Hispanic Other, 16% Hispanic, 8% Non-Hispanic Caucasian
- **Unsuccessful (n = 202)**: 58% Non-Hispanic African American, 12% Non-Hispanic Other, 22% Hispanic, 8% Non-Hispanic Caucasian
County Attorney and Judicial Overrides Are Consistent With Complaints

County Attorney and Judicial Overrides by Race and Ethnicity, CY 2021

- Non-Hispanic African American
- Non-Hispanic Other
- Hispanic
- Non-Hispanic Caucasian

Complaints (n = 8,205) County Attorney (n = 1,042) Judge (n = 766)

African American Youth Detained at a Rate Over Three Times Their Representation in the Population

Detention at Intake by Race and Ethnicity, CY 2021

- Non-Hispanic African American
- Non-Hispanic Other
- Hispanic
- Non-Hispanic Caucasian
Among Youthful Offender Referrals, African Americans are Represented Five Times Their Representation in the Population

Youthful Offender Referrals by Race and Ethnicity, CY 2021

Population (n = 1,008,829) Complaints (n = 8,205) YO Referrals (n = 504)

- Non-Hispanic African American: 80%, 62%, 27%
- Non-Hispanic Other: 6%, 3%, 5%
- Hispanic: 11%, 25%, 61%
- Non-Hispanic Caucasian: 2%, 8%, 6%

As Youth Move Through the System Towards its Harshest Outcomes, the Minority Becomes the Majority

Percentage of Youth at System Contact Points by Race, CY 21

- African American Youth: 11%, 26%, 27%, 36%, 61%
- White Youth: 80%, 61%, 60%, 53%, 27%
Although SB 20 did not pass, Senator Westerfield requested child serving agencies to address racial and ethnic disparities even without legislative mandates through:

- Education;
- Data collection and analysis;
- Local Action Planning; and
- Ongoing assessment and improvement
**Successful Outcomes**

- In CY 2014 the diversion success rate was 88% - by CY 2021 that rate had improved to 94%. The number of successful diversions closed in CY 2021 was 3,332.
- This increase in success came even as the percentage of youth eligible for diversion remained the same, showing that the increase in success was not simply a result of expanding diversion.
- The first full year of FAIR Team implementation was FY 2016, during which 50% of complaints referred to FAIR were kept out of court. By FY 2021, that amount had increased to 75%.
- During the 2021 legislative session, SB 10 was passed. This formed the Commission on Race and Access to Opportunity and will provide a collaborative space for key stakeholders to understand and discuss disproportionality at the statewide level.
- A recidivism analysis performed as part of the 2018 CDW Annual Report found that 57% of the youth who were diverted in 2014 had no subsequent complaints filed by the end of 2018.

**Celebrating Success**

- Since the implementation of the phone call policy in 2017, cases closed as FTA have dropped from 5.3% of all closures to just 2.4% in 2021. This includes a 79% decrease in FTA's among black youth.
- Black youth have greatly reduced presence among county attorney overrides, dropping from 41% of overrides in 2016 to 27% of overrides in 2019.
- Disproportionality among judicial overrides decreased just as dramatically as county attorney overrides. In 2016 Black youth made up 40% of judicial overrides; in 2021 that was down to 27%. These are some of the few negative contact points where the rate for Black youth is consistent with their representation among complaint filings/closings.
- Since 2014 statewide juvenile justice reforms there has been a 53% decrease in detention for black youth, a 67% decrease in complaints filed on black youth, and a 60% decrease in failure to appear (FTA) appointments for black youth.
For more information:

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