

Minimizing Youth Involvement with the Courts: A Profile of Face Forward Grantees' Diversion Services

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Study background

Mathematica Policy Research and Social Policy Research Associates are conducting a study of DOL-funded grants targeting justice-involved youth to understand how well the grants are working, inform future funding, and promote knowledge sharing among current and prospective grantees.

Defining diversion

There is no single or standard definition of diversion, but diversion programs typically involve an intervention or services that the youth must complete instead of formal court processing or in exchange for a reduced charge or sentence.

In 2014, law enforcement agencies in the United States made nearly 1 million juvenile arrests.¹ Roughly half of the cases formally processed resulted in youth being adjudicated delinquent.² Youth with convictions face lasting collateral consequences such as decreased access to education, employment opportunities, and certain social welfare benefits, like Supplemental Nutrition Assistance Program or Temporary Assistance for Needy Families, aside from more direct consequences like fines, fees, or imprisonment. Recognizing this, the U.S. Department of Labor (DOL) awarded Face Forward grants to programs that give “youth a chance to succeed in the workplace and avoid the stigma of a juvenile record.”³ The grants fund education and workforce development services, diversion services, and supportive services—including assistance with expungement—for court-involved youth.

The Face Forward grants are emblematic of an increased interest in diversion as a way to reduce juvenile justice system costs, reduce recidivism, and improve the lives of young people and their communities. Diversion reduces juvenile justice system costs by limiting the number of youth detained and reducing burden on law enforcement, the courts, and community corrections. For youth, diversion can avert the collateral consequences associated with formal processing and subsequently increase their labor market prospects and decrease their chances of recidivism.

To understand more about the diversion services the Face Forward grantees are offering, the study team interviewed five grantees and conducted site visits to two grantees and their partners. This brief describes the Face Forward grantees' approaches to diversion, the challenges they encountered, and lessons they gleaned from their experiences.

Key Findings

- Face Forward grantees primarily diverted low-risk offenders before formal processing or adjudication.
- The majority of the programs did not obtain a formal designation as a diversion program by the juvenile justice system.
- Operating as a formal diversion program ensured a steady source of referrals and close collaboration with justice partners, but gaining formal status was a long process.
- Some programs provided diversion services without a formal designation. These programs had more flexibility in program design but some struggled to compete for referrals.
- Partnerships were crucial for successful diversion programs. Criminal justice partners were essential for referrals, and partnerships with community agencies expanded the range of services offered.

METHODS

This brief draws on data from multiple sources to explore the approaches that the third round of Face Forward grantees, known as Face Forward III grantees, adopted to deliver diversion services as well as the factors that enabled them to provide alternatives to formal processing. The study team reviewed the 13 Face Forward III grantees' applications and other program documents to learn about their recruitment and referral systems, as well as service designs and partnership arrangements. Based on this initial review, the study team selected 5 grantees for in-depth telephone interviews to gather more detailed information about their diversion services and programs. Subsequently, the study team selected two sites that appeared to offer well-developed diversion services, and conducted one-day site visits to each. The goal of the site visits was to document the diversion services and grantees' connections with justice partners in detail. The site visits also provided an opportunity to delve into the challenges and lessons learned in designing and delivering these services.

DEFINING DIVERSION

Although no standard definition of diversion exists, a common goal for diversion programs is to reduce a youth's interactions with the juvenile justice system or reduce the sanctions imposed on a youth.⁴ Diversion can result in the avoidance or dropping of a charge and the dismissal of a case or the reduction of a sentence, for example, from incarceration to community supervision.⁵ Yet, the means by which youth are diverted from formal processing or additional sanctions can differ depending on the local juvenile justice environment, coordinating agencies, and state and local laws.

DOL defined diversion for Face Forward grantees as ensuring that "court-involved youth receive referrals into Face Forward programs as a means of diverting them from juvenile detention."⁶ The department also requested that grantees "be designated by the JJS [Juvenile Justice System] as a diversion program."⁷

DIVERSION CAN OCCUR AT DIFFERENT STAGES

Diversion services can occur at different stages in the juvenile justice system. Early opportunities for diversion can minimize youth interaction with the justice system and offer a chance to avoid judicial handling entirely. For example, rather than filing a court petition, law enforcement can divert youth by issuing warnings or referrals to social services. Research has shown that involvement in the juvenile justice system is associated with an increased probability of further offending behavior, and that the further through the juvenile justice system a youth is processed, the greater likelihood that they will reoffend.⁸ Diversion at these early stages can be an opportunity to circumvent these adverse effects.

Juvenile probation and prosecutors can also offer opportunities for diversion before formal processing. Once a case has been referred to the juvenile court system, a prosecutor or juvenile probation officer maintains discretion and authority to move forward with pending charges. However, they might decide to handle the matter informally or dismiss it entirely. Probation services, under the direction of the court or as part of investigative units, can create recommendations for how the court should decide on a case. If the matter is handled informally, the youth will be required to meet certain conditions to prevent a formal petitioning to the court.

Diversion can also occur after a charge has been filed, mainly at the discretion of a judge or magistrate. Diversion efforts in these later stages offer the chance for eventual dismissal of the charges if a youth successfully completes any agreed-upon conditions.

In most local jurisdictions, justice partners had discretion in determining which types of charges were eligible for Face Forward diversion services. Although the Face Forward grants allowed programs to serve youth facing mid-level delinquency complaints, such as misdemeanors, or high-level offenses, including felonies, Face Forward grantees typically served youth with low-level offenses, including, most commonly, status offenses, such as truancy.⁹



FORMAL DESIGNATION AS A DIVERSION PROGRAM

The Face Forward grantees we interviewed for this brief delivered diversion services in two distinct ways. Grantees either (1) sought to become a designated diversion program, through formal recognition by the juvenile justice system; or (2) created partnerships with local justice agencies to create paths from formal processing to services and programming without becoming a designated diversion program.

Programs that achieve official designation can benefit from a fixed stream of referrals by their justice partners, access to youth during their initial hearings, and the ability to obtain court documents and other pertinent system-involvement information that can help determine eligibility for services. Because grantees were expected to seek formal designation from their local juvenile justice system as a diversion program, they all explored the possibility. In doing so, they faced several challenges:

- A time-consuming and burdensome application process
- Needing to shape the diversion program to meet state requirements, including limits on the types of offenses the program could divert, the populations it could serve, the services it could offer, and how the services were funded
- Obtaining a sense of commitment from youth who were mandated to receive the diversion services in lieu of formal processing

Due to these and other challenges, the majority of Face Forward grantees provided diversion services without obtaining official designation. To gain a deeper understanding of the diversion services offered and the benefits and drawbacks of obtaining official designation, we conducted a one-day site visit to two programs—one that obtained official designation and the other that did not. The following sections describe the two sites and their distinct models, followed by a review of lessons learned of all Face Forward grantees included in this data collection effort.

PROGRAM A. INDIVIDUALIZED DIVERSION SERVICES OUTSIDE OF FORMAL DESIGNATION

Program A is part of a large organization that provides services ranging from fatherhood and parenting skills courses to operation of an American Job Center. In addition to the Face Forward grant, the organization has a DOL grant to serve justice-involved adults. The organization offered diversion services in collaboration with a number of justice partners, including the local juvenile review board (JRB)—a collaborative effort between justice agencies and community partners—to provide alternatives to formal processing. This Face Forward grantee was not a designated diversion program, but worked with the JRB to divert youth through Face Forward programming. The program sought to become a designated diversion program but was unsuccessful in this pursuit due to the complex procedures and challenges in its state.

Program A aims to reach youth early in the juvenile justice process. Following initial contact with law enforcement, youth are referred to the JRB by law enforcement or juvenile probation. In conversation with the youth and their families, including a review of the offense, the JRB determines what partners—including Program A—would best serve the youth and makes appropriate referrals. In addition to partnering with the JRB for referrals, Program A recruits youth from the local detention center and partners with a local gang prevention organization that recruits for the program. One of Program A's main challenges for recruitment is the confidentiality protections afforded to young offenders in its area. The agency reported that it cannot ask youth about their past justice involvement; youth must self-identify or be referred by someone who is aware of their criminal history. This challenge made Program A's relationship with the JRB important, as youth referred from the JRB have confirmed juvenile justice system involvement.

Program A's services include individualized educational and workforce services, case management, and mentoring. The duration of services is influenced by program staff who expect to work with youth through their short-term career and educational goals, recognizing that creating positive changes could potentially decrease a youth's chances of reoffending. Although Program A provides much of the educational and workforce development services in house, the grantee partners with juvenile probation services, whose probation officers work with program staff to serve shared participants. Additionally, Program A reported that its partnership with the local gang prevention organization has

helped it establish new relationships with justice agencies and to foster a positive reputation in the community, as the gang prevention unit is a well-known and respected program.

Youth continue with the program for the length that they and program staff determine to be beneficial. Satisfactory involvement in programming, as determined by the JRB, halts continued processing by law enforcement. If youth disengage from services, they are referred to another program that might better suit their needs. There is a concerted effort by justice partners to avoid formally charging youth; punitive measures are reserved only for youth who re-offend.

PROGRAM B. ACHIEVING A DESIGNATED DIVERSION PROGRAM STATUS

Program B is run by a large nonprofit that provides wraparound services as well as education and workforce training to individuals with barriers to employment, including people with disabilities. The agency has a history of serving young offenders and is leveraging the Face Forward grant to develop its efforts to divert in-school youth who are charged with truancy from the juvenile justice system.

This grantee used its Face Forward funds to offer a designated diversion program for young offenders whose charges could be reduced or dismissed after successfully completing their service plan. The program obtained a designated status after familiarizing itself with the local area's process and requirements, connecting with attorney referees to introduce them to the program, observing truancy hearings where they familiarized themselves with the magistrate model and the truancy hearing process, and working with the court to become a designated diversionary program. In addition, the court required designated programs to be based in cognitive behavioral therapy (CBT), so Program B required its staff to undergo CBT training and based its diversion classes on CBT principles to receive a designated diversionary program status from the court. The designated status allowed it to start receiving referrals from the court and access to court documentation.

Program B is an example of diversion in later stages of the juvenile justice process, in which youth are offered alternatives to adjudication through the court after they have been formally charged. Young offenders are diverted to Face Forward programming at the recommendation of an attorney referee—a court-appointed attorney who conducts hearings for youth with low-level offenses—who reviews the truancy charges levied against youth. The attorney referee can recommend youth to Program B as part of the court's efforts to provide alternatives to formal adjudication.

Program B diverts youth through a 10-week structured training class based on principles of CBT designed to explore youth decision making. Youth can also participate in general Face Forward programming, which provides a mix of work readiness training, education services, and case management support. Program B developed several core partnerships to help deliver diversion services. For example, the program partners with the local fire department to recruit staff as mentors and a local state university to help provide expungement services.

The attorney referee determines successful participation in programming. Truancy charges are dropped completely if a youth successfully completes the court's conditions, though the court offers flexibility to youth who make progress on key milestones. If progress is unsatisfactory, the attorney referee formally adjudicates the case or sends the youth to a judge, if necessary.

LESSONS LEARNED

Interviews with Face Forward grantees surfaced several lessons in designing and delivering diversion services. They include the following:

- **Obtaining the designation as an official diversion program can be challenging.** In the case of Program A, becoming a designated program was a possibility, but it was challenging to realize. The agency reported that designation in its state was a cumbersome and lengthy process. Although achieving a designated status has its benefits, such as an easier recruitment process with a smoother, structured stream of referrals, grantees indicated that designation would limit their target population and ultimately the types of services they could provide.

- **Justice partners maintained discretion about when to refer youth to formal judicial processing.** This flexibility was grounded in the belief that diversion ought to limit a youth’s punitive contact with the juvenile justice system. Ultimately, the degree of flexibility varied by the local laws and general discretion available to justice partners, and might have been influenced by state guidelines around opportunities youth are given to divert offenses, as some states limit diversion to first-time offenders.
- **Partnerships with the justice system are essential to success.** Face Forward grantees reported that positive and mutually beneficial partnerships with justice partners, including law enforcement, probation departments, and the courts, were essential to the design and delivery of diversion services. These constructive relationships enabled programs to recruit youth and coordinate service planning and the duration of services. Establishing strong partnerships with justice system actors and the courts was also noted as essential in applying for state designation as an official diversion program.
- **Partnerships with other community agencies can expand the range of diversion services.** Grantees emphasized that partnerships with local school leaders, teachers, parents, or caregivers enhanced supports and promoted accountability for youth receiving diversion services. One program worked with teachers to better support participants’ learning goals by providing in-school tutoring services. Grantees underscored holistic approaches to serving justice-involved youth that were guided by the notion that youth need a variety of services and approaches for success.

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¹ Office of Juvenile Justice and Delinquency Prevention. “Statistical Briefing Book.” 2017. Available at http://www.ojjdp.gov/ojstatbb/court/JCSCF_Display.asp?ID=qa06601&year=2014&group=1&estimate=2.

² *ibid.*

³ U.S. Department of Labor (DOL). “Notice of Availability of Funds and Solicitation for Grant Applications for Face Forward—Serving Juvenile Offenders.” SGA/DFA PY-12-09. Washington, DC: U.S. DOL, 2009.

⁴ Center for Juvenile Justice Reform, National Center for Mental Health and Juvenile Justice, National Juvenile Defender Center, National Youth Screening and Assessment Project, and Robert F. Kennedy Children’s Action Corps. “Juvenile Diversion Guidebook.” 2011.

⁵ The Center for Health and Justice at TASC. “No Entry: A National Survey of Criminal Justice Diversion Programs and Initiatives.” 2013. Available at http://www2.centerforhealthandjustice.org/sites/www2.centerforhealthandjustice.org/files/publications/CHJ%20Diversion%20Report_web.pdf.

⁶ U.S. Department of Labor (DOL), Employment and Training Administration (ETA). “Notice of Availability of Funds and Funding Opportunity Announcement for FF 3-Intermediary and Community Grants.” FOA-ETA-15-04. Washington, DC: U.S. DOL, ETA, 2015

⁷ *ibid.*

⁸ Wilson, Holly A., and Hodge, Robert D. “The Effect of Youth Diversion Programs on Recidivism: A Meta-Analytic Review.” *Criminal Justice and Behavior*, vol. 40, no. 5, 2013, pp. 497–518.

⁹ A status offense involves conduct that is prohibited only to a certain class of people, such as minors, that would not be a crime if committed by an adult.