

Resource Guide for Mental Health Professionals Working with Youth Involved in the Juvenile Justice System

MODULE 6

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Module 6

ALTERNATIVES TO ARREST & INCARCERATION

This module and its contents are intended for educational purposes.

“I've been under house arrest for, like, over a year now. Even when I'm out if I leave the house, like, that's a violation of my probation, I can't. Even if I'm not doing anything bad, I still got to look over my shoulder.”

–Youth in Detention

The goal of this module is to expand upon the concepts and practices of diversion and restorative justice while also providing resources for further information.

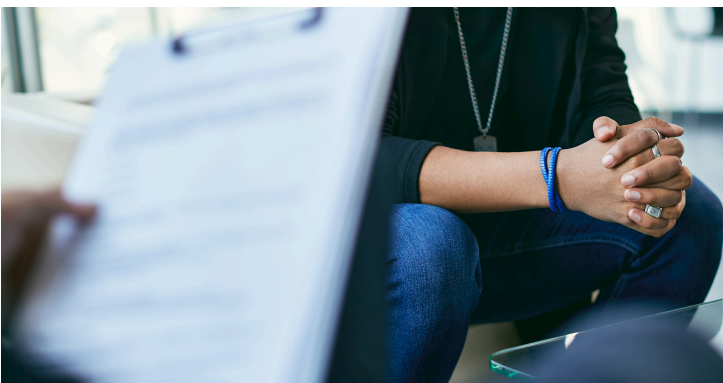
Diversion

“Bon Air specifically (youth detention facility) is so far removed from the communities the youth are coming from. Why we wouldn't consider placing what's needed in the communities where the youth are coming from that is beyond me.”

–Valerie Slater, Coordinator RISE Youth

“You're just stuck in a facility you can't call home, can't do nothing but just sleep.”

–Youth in Detention



Diversion programs offer an alternative to formal court processing while also holding youth accountable¹. Diversion is most commonly used for youth accused of non-violent offenses and it has demonstrated greater effectiveness at reducing recidivism than formal court processing and other more traditional juvenile justice interventions^{2,3}.

Options for diversion include warning and releasing a youth with no further action, mandated community service, community-based services, and restorative justice practices. Diversion can occur at multiple points across the continuum, including prior to or after a formal arrest. Depending upon the jurisdiction, the decision to divert youth can be made by the police, prosecutor, judge or probation department. In research studies, diversion has been associated with positive impacts on a variety of outcomes, including decreased risk for juvenile and adult offending.^{4,5}

RESOURCES

[What is Diversion in Juvenile Justice?](#)⁶ provides an overview of youth diversion practices and key outcomes.

[Reducing Youth Arrests: Prevention and Pre-Arrest Diversion](#)⁷ outlines the arguments and evidence supporting a national commitment to arrest prevention and diversion.

[Balancing Accountability and Support](#)⁸ features three leaders who launched and sustained pre-adjudication diversion programs in Philadelphia, Los Angeles County, California, and Memphis, Tennessee. Participants learn what motivated the leaders and their jurisdictions to increase diversion, how they implemented their pre-arrest diversion programs, and what data and outcomes they are tracking.

[How to Start a Diversion Program and Make it Work](#)⁹ continues the case studies in Philadelphia, Los Angeles County and Memphis. The panelists describe how they addressed common issues, such as: ensuring equity in access to diversion; enlisting law enforcement, prosecutors and others to try responses outside of court; securing funding; identifying and supporting grassroots community partners; and assessing and healing youth who have experienced trauma.

[The Essential Role of Juvenile Diversion](#)¹⁰ provides lessons learned from juvenile diversion improvement initiatives, including how to identify and expand the population of youth who can benefit most from diversion services while protecting public safety; what research shows are the key elements of effective juvenile diversion, including clear eligibility criteria, the use of validated risk and needs screening tools to guide diversion decisions, cross-systems collaboration, family engagement, and restorative justice; how to overcome challenges that states and counties often experience in adopting these best practices; and examples of innovative diversion programs and approaches, including Choose 180 in Washington State and the Juvenile Civil Citation Program in Delaware.

Restorative Justice

Restorative justice practices focus on accountability, collaboration, and healing. Such practices aim to hold young people accountable while providing an opportunity for individuals who have been harmed by youth to voice their needs.



The process typically involves the use of trained facilitators who bring the harmed party and the young person together in order to reach an agreeable outcome. Family and community members may also be involved. Everyone must first agree to participate in the process. Restorative justice practices have been associated with a reduction in the risk for further legal involvement, as well as greater satisfaction for the party harmed as compared to formal court processing¹¹.

According to Prison Fellowship International, restorative justice is based upon three main principles:

1. Repair: crime causes harm and justice requires repairing that harm;
2. Encounter: the best way to determine how to do that is to have the parties decide together; and
3. Transformation: this can cause fundamental changes in people, relationships and communities.

RESOURCES

[What is Restorative Justice?](#)¹² provides a brief introduction the concept of restorative justice.

[Why We Need Restorative Justice?](#)¹³, details the process of restorative justice and explains why it might be a better alternative to the current system.

[Restorative Justice Briefing Paper](#)¹⁴ provides an overview of the restorative justice process and highlights the various ways restorative justice is being integrated into mainstream justice models around the world.

[Juvenile Justice: Restorative Justice and Young People](#)¹⁵ provides additional information on restorative justice and young people, including a database for tracking state legislation initiatives in each state.

NOTE: Any responsible effective restorative justice work must still be planned and executed with the recognition that those considered “harm-doers” at the time of a restorative justice intervention have also survived personal traumas and intergenerational trauma. These factors, along with the inherent power imbalance juvenile offenders often face due to their youth as compared to all other actors in this process, must be actively and openly addressed to prevent re-traumatization.

Transformative Justice

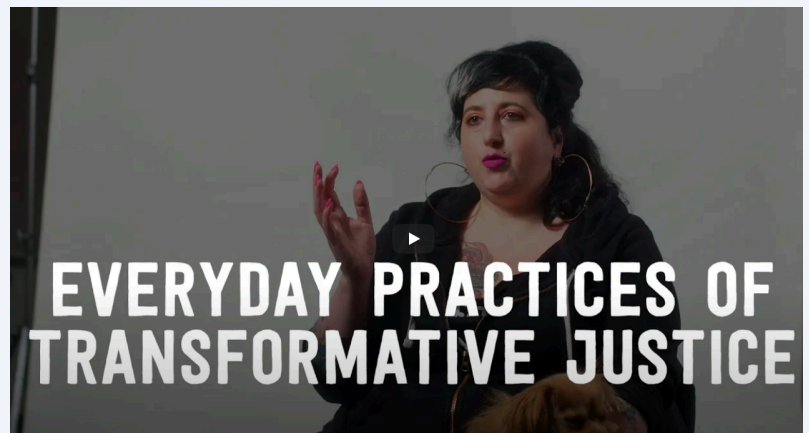


Like restorative justice, transformative justice seeks to address and repair the harms inflicted on individuals outside of the formal court process. However, transformative justice goes beyond restoration by focusing on transformation, improvement, and system change¹⁶.

RESOURCES

[What is Transformative Justice?](#)¹⁷, discusses the concept of transformative justice and asks the questions: How do we prevent and stop violence and harm without creating more violence and harm? How do we transform a society in which harm is endemic to build a culture where violence becomes unthinkable? How can small everyday acts of accountability and relationship building lead to a broad cultural shift away from harm? In this video, practitioners define the scope and potential of transformative justice.

[Everyday Practices of Transformative Justice](#)¹⁸, discusses is a vision and framework for preventing, intervening in, and transforming harm. There are a number of different practices that fall under that broader framework. In this video, longtime practitioners of restorative and transformative justice discuss the everyday skills that we need to develop to reduce violence and to address harm.



[How to Support Harm Doers in Being Accountable](#)¹⁹, people with years of experience facilitating processes between survivors of harm and people who have caused harm talk about what it really takes for people to embrace accountability.

Juvenile Justice Specific Initiatives

Organization	Initiatives	Website/Contact
Justice Policy Institute (JPI)	Smart, Safe, and Fair Initiative	https://justicepolicy.org/research/reports-2018-smart-safe-and-fair-strategies-to-prevent-youth-violence-heal-victims-of-crime-and-reduce-racial-inequality/
Justice Policy Institute (JPI)	Defining Violence Initiative	https://justicepolicy.org/research/reports-2016-defining-violence-reducing-incarceration-by-rethinking-americas-approach-to-violence/
Various states	Sentencing Project	www.sentencingproject.org

References

1. Annie E. Casey Foundation (2020). What is diversion in juvenile justice? <https://www.aecf.org/blog/what-is-juvenile-diversion>
2. Cauffman, E., Beardslee, J., Fine, A., Frick, P. J., & Steinberg, L. (2021). Crossroads in juvenile justice: The impact of initial processing decision on youth 5 years after first arrest. *Development and Psychopathology*, 33(2), 700–713. <https://doi.org/10.1017/S095457942000200X>
3. Wilson, H. A., & Hoge, R. D. (2012). The effect of youth diversion programs on recidivism: A meta-analytic review. *Criminal Justice and Behavior*, 40(5), 497–518. <https://doi.org/10.1177/0093854812451089>
4. Kretchmar, J. M., Tossone, K., Butcher, F., & Marsh, B. (2018). Examining the impact of a juvenile justice diversion program for youth with behavioral health concerns on early adulthood recidivism. *Children and Youth Services Review*, 91, 168–176. <https://doi.org/10.1016/j.childyouth.2018.06.010>
5. Cueller, A. E., McReynolds, L. S., & Wasserman, G. A. (2006). A cure for crime: Can mental health treatment diversion reduce crime among youth? *Journal of Policy Analysis and Management*, 25(1), 197–214.
6. Annie E. Casey Foundation. (2020, October 22)
7. National Youth Justice Network (2020, January 14)
8. Annie E. Casey Foundation (2020, January 6). [Video]. YouTube. <https://www.youtube.com/watch?v=o6lDbFyEPTU> (Running time: 59 min 50 sec).
9. Annie E. Casey Foundation (2020, Jan 6). [Video]. YouTube. <https://www.youtube.com/watch?v=HKHf8CL9dFQ> (Running time: 59 mins 50 sec).
10. The Council of State Governments Justice Center (2019, September 26). [Video]. YouTube. <https://www.youtube.com/watch?v=Uo6mP9pwDz4> (Running time: 1 hr 36 mins).
11. Annie E. Casey Foundation (2022). What is restorative justice for young people? <https://www.aecf.org/blog/what-is-restorative-justice-for-young-people#:~:text=How%20Does%20Restorative%20Justice%20Work,%2C%20if%20possible%2C%20repair%20involved.>
12. Camp Stomping Ground (2017, February 17). [Video]. YouTube. <https://www.youtube.com/watch?v=Iq554Oxc8js> (Running time: 1 min 33 sec)
13. Brave New Films (2016, September 13). [Video]. YouTube. <https://www.youtube.com/watch?v=8N3LihLvfa0&feature=youtu.be> (Running time: 3min 1 sec).
14. Centre for Justice & Reconciliation at Prison Fellowship International (2005, May).
15. National Conference of State Legislatures (2022, October 12).
16. Sociology Lens (2013, March 5). Restorative justice and transformative justice: Definitions and debates <https://www.sociologylens.net/topics/crime-and-deviance/restorative-justice-and-transformative-justice-definitions-and-debates/11521>
17. Barnard Center for Research in Women (2020, March 11). [Video]. YouTube. https://www.youtube.com/watch?v=U-_BOFz5TXo (Running time 10 min 29 sec).
18. Barnard Center for Research in Women (2020, October 13). [Video]. YouTube. <https://www.youtube.com/watch?v=F-UE8wwXEtc> (Running time: 14 min 23 sec).

19. Barnard Center for Research in Women (2019, October 10). [Video]. YouTube.
<https://www.youtube.com/watch?v=AhANo6wzBAA> (Running time 15 min 48 sec).