

Johnson County Pre-Charge Diversion Recommendations and Resources

Thank you for the opportunity to meet with you on September 13 to discuss Johnson County's pre-charge diversion work. I appreciated the opportunity to hear more from stakeholders regarding your current efforts as well as planned work to expand the use of early diversion as a strategy to reduce racial and ethnic disparities. I appreciated the fact that so many groups were represented in those discussions, including Juvenile Court Services; the judiciary, the County Attorney; the Iowa City Community School District; law enforcement agencies from Johnson County, Iowa City, Coralville, and North Liberty; Johnson County Social Services; and other youth justice system stakeholders.

This visit was part of a larger state-wide effort to promote the use of evidence-based diversion programs throughout the State of Iowa as a strategy to reduce racial and ethnic disparities in the youth justice system. This effort is looking to develop tools and resources, including model policies and protocols and data collection templates, to ensure that communities throughout Iowa are using diversion in an equitable and effective manner. We appreciated the chance to learn from you during this visit, as those conversations will help inform the state-level tools and resources that are created to help standardize diversion practices for all children in Iowa, regardless of geography. To that end, I was pleased to see the recent news coverage of the convening and your work on diversion.

This document is meant to capture recommendations from the review of the materials that you submitted and the discussions that occurred while on site. I have provided links to resources that may be helpful in pursuing the recommendations outlined below. You can also find an electronic copy of the PowerPoint presentation with data referenced during our discussion [here](#), as well as additional resources in our Reducing Racial and Ethnic Disparities Practice Manual, available [online on the CCLP website](#).

As you review these recommendations, I encourage team members to use the most current data available through CJJP, law enforcement, schools, and JCS to inform discussions about changes to or expansion of diversion in your jurisdiction. As a reminder, the CJJP data profiles (which include school suspension data) are available online [at this link](#).

Recommendations

1. Develop a Memorandum of Understanding among school, law enforcement, and youth justice officials that captures consensus points on pre-charge and early diversion efforts.

Given the strong working relationships that have been developed between youth justice system stakeholders and other child-serving systems, I strongly encourage Johnson County and Iowa City officials to codify current practices in a written Memorandum of Understanding (MOU). An MOU serves to outline shared values among parties and clearly outlines expectations regarding certain agreed-upon processes (such as pre-charge diversion protocols). MOUs can also create an infrastructure to sustain efforts to improve youth justice system practices by establishing a working group to regularly review data regarding current efforts and identify potential enhancements based on changing needs and trends. Finally, MOUs serve as a way of promoting the sustainability of past work through the inevitable changes in leadership that occur over time.

There may be some existing written agreements between some of the parties listed above, although it did not seem that these documents, if they do exist, were actively informing current diversion efforts. Existing written agreements could serve as the basis for a new document that captures shared values and agreements, and I encourage officials to identify whether such documents exist. However, I have also provided several examples of MOUs that could serve as a basis for such an agreement. These include a [model MOU recently developed by the Massachusetts Attorney General's Office](#) that is focused primarily on collaboration between school districts and law enforcement. I have also included [sample interdisciplinary MOUs](#) from the Advancement Project, as well as agreements from Clayton County, Georgia, and Broward County, Florida, that capture agreements among a broader group of stakeholders. I recommend presenting these sample agreements to officials and discussing which, if any, could serve as a starting point for an MOU in Johnson County.

2. Consider expansion of pre-charge diversion efforts to other charges for which youth of color are overrepresented and develop clear written eligibility and referral processes for any such expansion.

I was encouraged to hear about previous conversations regarding possible expansion of pre-charge diversion efforts, particularly given the positive outcomes associated with your existing efforts. As mentioned during our meetings, I encourage stakeholders to take a close look at law enforcement arrest and JCS referral data broken down by offense and race and ethnicity, as any expansion should be grounded in the offenses for which youth of color (and African American youth in particular) are overrepresented at each decision point. For example, some officials mentioned that marijuana and alcohol possession charges would be the next logical expansion point, but CJJP data from 2017 indicate that those would not be the most effective targets from the perspective of reducing racial and ethnic disparities.

I encourage team members to use the most current data available through CJJP, law enforcement, schools, and JCS to inform any such expansion decisions. As a reminder, the CJJP data profiles (which include school suspension data) are available online [at this link](#). Additionally, the

diversion fact sheet that our office prepared may include examples of other program models to review as officials consider possible expansion.

I was also pleased to hear about the possibility of expanding pre-charge diversion efforts to youth who had previously been referred for diversion, particularly where time has elapsed between a previous incident and a new incident, as well as situations where the subsequent incident was of a different nature than the previous incident. For any such expansion, I encourage stakeholders to be as specific as possible in writing regarding eligibility and referral processes to ensure that all youth have equal access to any such expansion of diversion.

Finally, I know there was discussion of victim impact when discussing expanding diversion to certain charges. As I mentioned, the National Center for Victims of Crime and the Justice Policy Institute released a report this month entitled [Smart, Safe, and Fair: Strategies to Prevent Youth Violence, Heal Victims of Crime, and Reduce Racial Inequality](#). I would encourage stakeholders to consult this report, which includes strategies for addressing victim impact through alternative responses to certain offenses.

3. Consider whether “true” diversion for certain charges is possible, particularly under recently passed changes to Iowa law.

I applaud the exceptional efforts that have been made to work with law enforcement regarding pre-charge diversion efforts. I understand that the issue of fingerprinting has served as a stumbling block when considering an expansion of pre-charge diversion to certain misdemeanor offenses. My understanding is that law enforcement requires fingerprinting at or immediately after a young person is arrested so that fingerprints would be available if needed were the case to be filed in the future.

As mentioned during our meetings, more and more jurisdictions are structuring pre-charge diversion to avoid the possibility of future court involvement altogether for a diverted offense, regardless of whether the young person successfully completes diversion or not. Those efforts are described by the Casey Foundation on page 29 of their recently published [report on probation transformation](#). Adopting this approach could help address the issues raised regarding fingerprinting. I would encourage stakeholders to consider this possibility, particularly along with the recent changes made to Iowa law regarding diversion in [HF 2443](#).

4. Identify reasons for higher recidivism rates for African American girls participating in the LADDERS program and test the effectiveness of adjustments that may address those reasons.

The County’s tracking of success rates from its diversion program is more sophisticated than that of many jurisdictions throughout the country. This data collection helps illustrate the benefits and positive outcomes associated with your current efforts. As we discussed, the one significant outlier in re-offense rates is the rate of re-offending for African American girls who participate in the LADDERS program. While the re-offense rate is still low, the fact that it differs markedly from other groups warrants a closer look. I would encourage officials to conduct a retrospective look at the circumstances surrounding the re-offending. It may also be worthwhile to conduct a

focus group to identify weaknesses or missing components of the LADDERS program that could help ensure the effectiveness of the program across race, ethnicity, and gender.

5. Consider whether an enhancement or addition to the LADDERS program based on social media use or cyberbullying could be appropriate.

During our discussion of differential re-offense rates from the LADDERS program, I mentioned work in other jurisdictions that focused on social media use and misuse as a cause of altercations and fights among girls in middle school and high school. I have provided a [fact sheet](#) that summarizes some of the available curricula designed to help address cyberbullying and harmful use of social media.

The Southern Poverty Law Center's Teaching Tolerance initiative has also prepared content designed to engage students on cyberbullying. These resources are [available for free](#) and include sample lesson plans. These resources could help inform an expansion of or modification to the LADDERS program to address incidents that stem from social media use.

6. Identify additional approaches and interventions that could address disparities in school suspensions.

As discussed during our conversations, data provided by CJPJ from the Iowa City CSD indicates a significant overrepresentation of African American youth at the point of in-school and out-of-school suspension. I recognize that work has been done to reduce the use of exclusionary discipline in the school system, which is to be commended. I would encourage a deeper dive into this data, however, to identify areas where an alternative intervention could serve as a response to an underlying issue.

In doing so, I caution against the potential for net-widening – for example, referring youth to the LADDERS program for an expanded list of minor school behavior. Any alternative responses should focus on non-justice system interventions, including a decision to refrain taking future action in lieu of a service referral. For example, many incidents seem to stem from altercations and interpersonal issues. Several jurisdictions have seen success reducing suspensions, arrests, and referrals to court for such issues in a way that has reduced racial and ethnic disparities. [This publication](#) describes work that was undertaken in Peoria, Illinois in high schools and an alternative school using a restorative justice approach.

7. Explore options to engage new organizations and agencies in pre-charge diversion efforts, particularly organizations that could enhance the cultural responsiveness of such services.

As we discussed, the cultural responsiveness of pre-charge diversion services can have a significant impact on program engagement and completion rates. There are several jurisdictions that have engaged in innovative efforts to recruit a more diverse array of organizations and individuals as part of efforts to connect youth with community-based services in lieu of formal juvenile court involvement. I have provided contact information for Damian Pratt, Director of Juvenile Justice and Detention Services in Onondaga County, New York to Judge Minot.

Damian has led successful efforts to do this in his jurisdiction and is an alum of the Georgetown RED Certificate Program. I am sure that he would be happy to share strategies from his efforts in Onondaga County.

8. Provide any suggestions and feedback on proposed diversion data collection elements and data presentation formats to CJJP.

During our discussions, we mentioned that the state will be looking to develop a standardized data collection protocol and system for pre-charge diversion efforts. In support of that effort, I encourage officials to provide any feedback on the [proposed data collection elements](#) that we presented during our meeting to CJJP as soon as possible. I noted that you recommended adding location of incident and whether the incident was a school-based incident.

Youth Information	Referral Information	Program Information
Age	Referral Date	Referral Accepted/Rejected (including reason for rejection)
Gender	Referral Reason (Offense/Reason)	Successful/Unsuccessful Engagement (including reason for unsuccessful engagement)
Race	Point of Referral (Pre-Arrest, Post-Arrest, Pre-JCS Referral, Post-JCS Referral)	Program Start and End Date
Ethnicity	Referring Agency/Party (including specific school)	Successful/Unsuccessful Completion (including reason for unsuccessful completion)
Home Zip Code		Longer-term Outcomes

Additionally, please share any suggestions for presentation of diversion data that would be helpful to you and your stakeholders, as CJJP will be developing standardized data visualizations for pre-charge diversion data. You can consider some of the presentations of data outlined in the [PowerPoint presentation](#) that was used during the meeting as a potential starting point.

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Thank you again for taking a leadership role on efforts to reduce racial and ethnic disparities in the youth justice system in Johnson County. I hope that the recommendations and resources outlined below can help advance the work that is underway around diversion. I expect that your efforts will do much to inform the creation of evidence-based state-wide policies and protocols around the use of early diversion throughout the State of Iowa. If you have difficulty accessing any of the resources or have questions about any of the resources or recommendations, please do not hesitate to contact me at 202-637-0377 ext. 108 or jszanyi@cclp.org.