

Scott County Pre-Charge Diversion Recommendations and Resources

Thank you for the opportunity to meet with you on October 29 to discuss Scott County's pre-charge diversion work. I appreciated the opportunity to hear more from stakeholders regarding your current efforts to use 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 Department of Human Services, law enforcement agencies in Scott County, 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.

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. Consider revisions to the outreach materials provided to family members that would promote engagement with the Scott County diversion program.

As discussed during our meeting, the number of referrals to the diversion program resulting in a “no show” is significant (37% in 2017), with referrals of African American youth having a higher “no show” rate than white youth (42% vs. 33%, respectively). We identified several possible reasons for failing to engage with the program, including a lack of trust in the justice system and a perception that the program would not be valuable to young people and families.

Given that you have been collecting quantitative and qualitative information from youth and family members regarding their experience in the program, I would encourage you to incorporate data on satisfaction rates and statements regarding the benefit of the program into the materials that you disseminate to family members. This could help encourage more family members to attend and receive the benefits of the program.

I would also recommend removing or modifying three aspects of the letter that is distributed to family members regarding the diversion program: (1) the statement that family members must contact JCS for an intake interview if they choose not to attend the program, and (2) the statement that failing to attend the program or calling to schedule an intake appointment may result in a charge and appearance before the Juvenile Court, and (3) the statement that youth must admit to the charge.

My understanding is that youth are not referred to JCS for failing to attend or complete the program. This is a best practice and should continue. However, including statements in the letter that are not accurate may lead family members to misinterpret any future communications that actually do require mandatory attendance or participation. Eliminating these statements would help avoid this unintended consequence and would be consistent with other efforts to build trust in the justice system. Moreover, by including the additional suggested content above regarding the benefits of the program, you will hopefully motivate parents and young people to attend in a more positive, incentive-focused way.

Relatedly, the stated requirement that youth admit to the charge may serve as a deterrent to participating in the program, particularly if youth and family members feel that the charge was unwarranted or a product of bias or discrimination. My understanding of your program suggests that you could eliminate this as a formal requirement, so long as young people are willing to engage in the group discussion with your diversion specialists.

Finally, we discussed the possibility of notifying and reminding parents to attend the program by text. Google Voice offers free phone numbers from which an intern or other staff member could text such reminders from a desktop or laptop computer. I would encourage you to explore this as an option to increase participation rates.

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

During our discussion, 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 diversion program to address incidents that stem from social media use.

3. Consider modifications to the diversion referral process that would provide the greatest chance of a young person avoiding formal system contact, such as an official arrest.

It was obvious to me during our meeting that Scott County has done a wonderful job of engaging law enforcement in early diversion efforts in the County. I was particularly impressed with the Davenport Police Department policy on juvenile diversion, which makes referral to diversion the presumption for eligible offenses. This type of clarity is not common in law enforcement policies and procedures, but it is the foundation of early diversion that is equitable and effective.

As mentioned during our meeting, many jurisdictions have identified processes that allow for law enforcement to make direct referrals to diversion in lieu of an official arrest and/or taking a young person in custody. These jurisdictions have developed such processes, in large part, due to the research that youth determined to be lower risk are more likely to be rearrested and less likely to complete school than similar youth “who are not arrested or are diverted from court (as is noted in the Council for State Government’s 2018 report, [Transforming Juvenile Justice Systems to Improve Public Safety Outcomes](#)).

I would encourage Scott County to consider the current referral process alongside the goal of using diversion to help avoid formal system contact at the earliest possible point. As mentioned during our meeting, jurisdictions such as the State of Connecticut, have created policies, procedures, and processes to do just that, including at the point of arrest. I would be happy to provide additional examples that could be helpful in considering enhancements that would allow for diversion at the earliest possible point and that would minimize potentially negative collateral consequences of justice system contact for youth determined to be low risk.

4. 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 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. I am also glad to hear that there have been subsequent conversations along those lines since the October visit. 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. Officials may also wish to consider whether expansion of current diversion efforts could extend to a

subset of indictable misdemeanors with agreement from relevant parties. As mentioned during our meeting, there are jurisdictions that choose to divert all misdemeanor offenses and some lower-level felony offenses. I would encourage stakeholders to consider this possibility, particularly along with the recent changes made to Iowa law regarding diversion in [HF 2443](#).

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.

Finally, there was discussion of victim impact when discussing expanding diversion. 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.

5. Track recidivism rates for shorter, standardized time periods.

You should be applauded for your data collection efforts for your diversion program, including your efforts to disaggregate referrals, engagement rates, and outcomes by race and ethnicity. My understanding is that you measure recidivism by looking at whether a young person receives a subsequent referral up to the age of 18. In addition to this measure, I would encourage officials to consider adopting other recidivism measures, such as six month and one year recidivism rates, which would provide a more standardized measure of recidivism given that the age of a young person at the time of referral will alter the amount of time over which recidivism is captured using your current measure. This type of standardized measurement using fixed time periods is consistent with national best practices. I have been informed that CJJP would be happy to work with you to address tracking of recidivism for young people if the measurement period extends past the age of juvenile court jurisdiction.

6. Develop a school discipline/code of conduct policy that provides clear and graduated responses to particular kinds of behavior.

I had the opportunity to review the Davenport CSD discipline policy prior to our discussions. While the policy does discuss alternatives to suspension, expulsion, and referral of students to law enforcement, the policy does not provide a clear, graduated structure for responding to incidents. Indeed, the policy itself states that *“The District does not require progressive discipline and any of the following can be imposed for discipline, without working from least punitive to most.”*

A structured and clear school discipline policy is one of the most important written documents to ensure fair and equitable treatment of youth. I encourage the development of a school discipline policy that reflects the shared values of youth-serving systems and agencies in Davenport. There are model policies to work from available from the Advancement Project. This [School Discipline Toolkit](#) contains a tip sheet for examining codes of conduct, two model policies, and five sample policies from jurisdictions around the country. Stakeholders should review these materials,

particularly the tip sheet and model policies, before engaging in a discussion about whether one of the model policies or policies from other jurisdictions could serve as a basis for developing a new policy.

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

As discussed during our conversations, data provided by CJPJ from the Davenport CSD indicates a significant overrepresentation of African American youth at the point of in-school and out-of-school suspension. I would encourage a deeper dive into this data 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 your current diversion program for minor school behavior that currently would not result in a referral to juvenile court.

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.

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

I strongly encourage officials from JCS, the Davenport Community School District, and the Davenport Police Department to codify agreements regarding the role of diversion in responding to incidents could otherwise result in a referral to juvenile court 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. 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 Scott County.

I recognize that the change in leadership of the Davenport CSD may make it difficult to pursue an MOU at this time, but I would encourage officials to pursue these activities once a new Superintendent is in place. It may be beneficial to make progress on the recommendations above before developing an MOU, as an MOU would ideally reference identified alternatives to suspension, expulsion, and referral of students to juvenile court.

9. Continue diversion data collection separate and apart from the ICIS system, and consider standard graphs and charts that can easily illustrate key trends in diversion data.

I was impressed with the level of detail that you are collecting regarding referrals to diversion, engagement with services, and outcomes of youth who participate in the diversion program. I understand that you are maintaining these data in a spreadsheet separate and apart from the Judicial Branch Case Management System. I encourage you to continue this practice, as it protects against diversion data inadvertently being used to count against a young person on instruments such as the Detention Screening Tool.

There is a CJIS exchange in development, with an estimated completion date of 2020, that would electronically submit all juvenile TraCS complaints and referrals to the Judicial Branch Case Management System. As officials are developing that exchange, they are taking proactive steps to ensure that diversion referrals remain in a separate silo of the Judicial Branch Case Management System and are also taking separate measures to ensure that neither the Detention Screening Tool nor Iowa Delinquency Assessment would be coded to pull data from that diversion section. Once this exchange is developed, it may make it possible to maintain data in the Judicial Branch Case Management System without the unintended collateral consequence of negatively impacting youth who are in future contact with the system.

I would encourage you to consider developing some standardized ways of presenting diversion data in chart format if you have not already. The data provided as part of our meeting were certainly useful, but it is more difficult to discern trends and discrepancies among various groups when data are presented in a table as opposed to pie or bar charts. 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 Scott 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.