

Restoring Kids, Transforming Communities: Enhancing Michigan's Approach to Juvenile Diversion

MCCD is dedicated to transforming Michigan's approach to youth justice through promoting and expanding the use of diversion-to-arrest and diversion-to-adjudication options throughout the juvenile justice system.

We know that community-led approaches, founded on principles of youth well-being and restorative justice, can serve as successful alternatives to traditional court involvement. In fact, data collected by the Office of Juvenile Justice and Delinquency Prevention (OJJDP) shows that Michigan is shifting away from an over-reliance on formal court supervision (probation) and/or confinement as the primary methods for dealing with young people in trouble with the law, while embracing the use of diversion.¹ Nearly all of counties in Michigan offer diversion, which is proven to cost less, reduce recidivism and avoid the harm that could result from justice involvement. In 2015 alone, 10,000 youth, more than one-third of all juvenile cases, were disposed of using diversion.²

What does youth diversion look like in Michigan's juvenile justice system?

After an extensive survey of the field and countless interviews with juvenile justice, child welfare and education providers, MCCD's newest report, *"Restoring Kids, Restoring Communities: Transforming Michigan's Approach to Juvenile Diversion"* attempted to answer this basic question.

Some of the report's major findings include:

State Funding Guidelines Incentive Juvenile Court-Managed Diversion

- While Michigan law provides both law enforcement agencies and juvenile courts the authority to divert a youth from the formal justice system, diversion programs are eligible for reimbursement via the state-operated Child Care Fund *only if* a petition is filed/authorized by the court.
- Most of Michigan's diversion programs are managed by the juvenile courts, with many referrals occurring after a youth has been in contact with the formal juvenile court process-sometimes as late as when the youth is standing before a judge during a preliminary hearing.

¹ National Center for Juvenile Justice (2013). Easy access to the census of juveniles in residential placement 1997-2011, (online tool). Available at: <http://www.ojjdp.gov/ojstatbb/ezacjrp/asp/selection.asp>

² Michigan State Court Administrator's Office (2015) *Caseload Reports*. Lansing, MI: Michigan State Court Administrator's Office. Retrieved 9/20/2016 from: <http://courts.mi.gov/education/stats/caseload/Pages/default.aspx>

- Very few local law enforcement agencies offer pre-arrest diversion options that have proven to be effective in other states, such as civil citation programs.

Eligibility for diversion is haphazard across jurisdictions, as are the types of services or second chance options available.

- Diversion options are only offered to you who are under the age of 17 that have committed first time low level offenses.
- Youth of color, especially black youth, are less likely to receive diversion than white youth.
- While diversion may be offered across the state, it is not the default option in every county. Youth with similar offenses may be offered diversion vs. the traditional juvenile court process based on where they live.
- The use of screenings and assessments to determine risk levels, diversion eligibility, and inform treatment decisions, are inconsistent and sometimes non-existent across Michigan counties.

Most diversion programs do not include family centered treatment, yet may negatively impact families by levying court fines and fees.

- The amount that youth and families are required to pay to participate in diversion programming can vary from \$25 to \$350 and is often in addition to monetary restitution paid to crime victims.
- Only one-third of diversion programs have interventions that address the needs of parents and/or families as a unit, such as family counseling, parent education, and skill building aimed at improving family functioning and helping parents reduce their child's delinquent behavior.
- Most jurisdictions do not use restorative justice practices to engage victims, youth and their families in the healing process.

Lack of data and inconsistent use of evaluations leave Michigan counties unclear about whether diversion programs are actually working.

- While nearly all diversion providers reported positive anecdotes about their programs' successes, only 18% completed outcome evaluations.
- Among the programs that were evaluated, the majority reported high rates of successful program completion, with less than a 20% re-offense rates within one year of program participation.
- Most of Michigan's diversion providers do not systematically collect or report data on race or demographic information of any kind for their program's participants (e.g. race/ethnicity, gender identify, sexual orientation, etc.).

Recommendations to Improve and Expand Michigan's Youth Diversion Programs

The justice system must be the option of last resort when responding to youthful misbehavior and illegal actions. All communities should provide early restorative options that allow young people to learn from their mistakes, repair harm to victims, and move past youthful indiscretions. To do this appropriately, youth-serving systems must be designed in ways that acknowledge adolescent development research, and invest in front-end prevention and diversion. The following recommendations outline specific actions to prevent juvenile/criminal justice system involvement, ensure the "net" is not widened, and increase the chances of success for young people in Michigan.

- 1. Stop criminalizing adolescent behavior and train professionals to de-escalate problem behaviors before an arrest is necessary.**
- 2. Impose civil infractions for some offenses rather than delinquent or criminal charges.**
- 3. Consider diversion options for *every* youth, regardless of offense, history or personal characteristics.**
- 4. Ensure youth of color and girls have equitable access to diversion services and that all programs incorporate culturally competent and gender-responsive practices**
- 5. Amend the Michigan Juvenile Diversion Act to specifically define pre-arrest and pre-petition diversion and require these options in every county.**
- 6. Increase funding options for pre-arrest/pre-petition diversion programs.**
- 7. Reduce arrests in school by incorporating restorative practices into school discipline policies and limiting the presence of police in schools.**
- 8. Require screening of all youth to determine if they are concurrently involved in the child welfare system and divert delinquency cases when possible.**
- 9. Establish and support juvenile mental health diversion practice guidelines.**
- 10. Ensure appropriate use of evidence-based screening and assessment tools at intake, if not earlier, to determine the appropriate diversion services for all court-petitioned youth.**
- 11. Statutorily limit or eliminate fines and fees so that families in one county are not forced to pay for services that are freely available in neighboring counties.**
- 12. Increase the use of family-centered treatment at all decision points.**
- 13. Ensure restorative justice practices are a primary component of all diversion programs.**
- 14. Strengthen oversight, monitoring, and evaluation of diversion practices and stakeholders across the state.**