A Practitioner's Guide to Evaluating Prosecutor-Led Diversion Programs

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Introduction

Diversion programs are key policy levers that prosecutors can use to minimize traditional criminal legal system contact while still holding individuals accountable. Expanding options beyond just pursuing convictions allows prosecutors to strike a balance between maintaining public safety, preserving scarce resources, and setting conditions that reduce future system involvement. Diversion initiatives can have a number of different effects on the systems they operate within, depending on their design and implementation. They can produce a *net-widening* effect—drawing those whose cases previously would have been dismissed into onerous diversion conditions. Conversely, diversion programs can facilitate a *net-narrowing* effect if they assist with the concealment or elimination of case records. The more recent iterations of diversion programs are highly conscious of collateral consequences.[1] Yet across the country, prosecutors are limited in their ability to collect the necessary data that would enable them to assess such impacts or identify what is most impactful in achieving their goals. [2] Although prosecutorial agencies have made significant strides in data and research at different system points, there is still much work to be done to enshrine data-driven prosecutorial culture. [3]

This report aims to provide researchers and prosecutors' offices with an overview of the key data elements and study designs that can produce meaningful findings to inform how diversion programs function. At a micro level, offices can use evaluation findings to prioritize which programs to invest in, determine how to scale diversion programs, or re-design diversion programs to be more beneficial. At a macro level, evaluation findings help build a stronger evidence base for specific diversion approaches, which can be used to inform policy conversations and additional research on "what works" in exploring alternatives to traditional criminal legal system responses.

Two Important Considerations In Evaluating Prosecutorial Diversion Programs

- *Does the program have a net-widening effect, bringing more people into the criminal legal system or creating more onerous conditions?*
- *Does the program have a net-narrowing effect, resulting in concealment or elimination of case records?*

Prosecutors must consider how policy and practice can balance these opposing effects.

The report is structured around two areas: data considerations and potential study designs. To situate the reader, we encourage offices to consider how both areas can help them answer key evaluation questions (below). Questions 1-3 gauge the first-order impact of diversion programs on the legal system. Questions 4-7 seek to identify the mechanisms or program features that make a diversion program effective. Examining these different dimensions can help juris-

dictions understand the efficacy of their diversion programs and inform the broader field about models that might be ripe for replication or adaptation. "We encourage researchers to consider nuances associated with diversion program data and how different evaluation designs may or may not answer the evaluation questions below. While this report focuses on quantitative approaches, evaluations should be responsive to the goals of the diversion program, and this may require qualitative research that captures information not contained in administrative data.

Key Evaluation Questions

1. What is the effect of the diversion program on public safety?
2. What is the effect of the diversion program on case dispositions?
3. What is the effect of the diversion program on criminal legal resources (e.g., the number of court hearings, correctional expenditures via sentencing)?
4. What are the net-widening and/or net-narrowing effects of the diversion program?
5. What diversion conditions (e.g., less supervision, more treatment, easier access to expunging cases) are conducive to better outcomes for participants?
6. What is the effect of the diversion program on participants' well-being, including reductions in the type of collateral consequences criminal legal system involvement typically carries?
7. What is the effect of the diversion program on disparities for different groups (e.g., by race/ethnicity, gender, age)?

Data Capacity Considerations

Answering these questions requires reliable data, and your office may need to start collecting new information. Offices should not expect to answer these questions immediately but can take incremental steps in data improvements to prepare for future evaluation. These beginning steps can focus on what data is collected and how it is maintained. For example, at a minimum, offices can capture metrics like the number of participants and their demographic information. In examining how data is tracked and stored, offices can ask that data collectors not overwrite information related to diversion decisions and completion and that text fields be minimized in favor of categorical variables (e.g., yes/no responses, "select all" checkboxes).

One potential solution offices may consider in improving data collection is creating or using a diversion unit to maintain accurate records and act as a clearinghouse for diversion-related activity. Should in-house staff be unavailable, offices can also consider research-practice partnerships where they collaborate with research organizations and universities to assist in assessing the quality of their data-tracking systems and areas for improvement. These steps in data improvement are imperative to preparing for evaluation. Such capacity-building will equip offices to engage in ongoing internal and external data reporting, enabling them to develop a comprehensive understanding of diversion programs. For example, offices that discover lower than anticipated referral numbers reflected in program data might respond by revising attorney training strategies; offices can also use programmatic data to improve transparency with legal system partners and communities, as jurisdictions consider ongoing criminal legal system improvements.

Table 1 outlines variables that can be used to evaluate diversion programs. Two critical pieces of information for diversion evaluations are the elements needed to determine who is eligible for the diversion program (e.g., criminal history, type of offense) and the level of diversion participation (regardless of whether they succeeded or failed to comply with the diversion conditions). Importantly, offices will need to consider ways they can match data using common identifiers across different agencies (i.e., state-issued identification number, name, date of birth, docket number, arrest tracking number). Take note that in many cases, diversion-related information will be housed in separate agencies and require MOUs, which can take considerable time to execute.

Table 1. Key/Critical Data to Inform Diversion Evaluations

Area	Variables Tracked at the Case Level (Examples)	Considerations
Resources	• Key dates (i.e., arrest, filing, and disposition) • Number of court hearings/case listings • Amount of fines & fees for people versus legal system	The length of time between key dates describes how cases are being processed and whether they expend more or less resources. Fines and fees provide insight into the resources used by the diversion program and outcomes related to diversion participants' reintegration, as criminal legal system debt creates barriers. Evaluators should examine whether fines and fees data are being overwritten as people make payments. If so, explore whether the data system can retain the original amount.
Diversion Eligibility	• Charge type and severity • Criminal history • Prior diversion cases • Demographics (e.g., for programs that may target young adults or women only) • Any other factors informing eligibility decisions (e.g., ability to pay)	Any variables needed to determine eligibility are critical. Understanding how cases are resolved for the eligible population will give jurisdictions a better idea of the program's performance and the population it serves. In addition, focusing on the eligible population will assist with designing an evaluation plan that addresses selection bias (more details below). Eligibility criteria can also provide programmatic insights into how criteria such as health coverage access, financial status, or ability to pay the associated costs influence referrals.
Diversion Participation	• Who entered the program • Who was found ineligible/why • Who opted out • Who was not able to be contacted • Participation status (e.g., active/open, absconded, successfully completed, terminated/unsuccessfully completed)	Offices should track variables used to identify dosage—that is, the level of diversion participation. Ideally, this includes whether participants started the program (regardless of completion), completed or failed the diversion program, the time to these events, and the number of diversion conditions fulfilled. Diversion programs typically have multiple conditions, and participants may only complete a subset of them (e.g., completing community service requirements but not completing restitution). Similarly, offices will want to continue tracking those who were unsuccessful to gain insight into program failure and identify potential policy/practice changes (e.g., if individuals fail to make restitution due to inability to pay, waiving that diversion component).

Area	Variables Tracked at the Case Level (Examples)	Considerations
Case Dispositions	• Case declined • Dismissal • Successful diversion completion • Conviction	*Net-widening effects* can be assessed by looking at the entire eligible population and measuring change in case dispositions before and after the creation of a diversion program. If fewer cases are dismissed or declined, then net-widening is occurring. If fewer cases are convicted, and dismissal rates stay the same, the diversion program did not produce a net-widening effect.
Net-Narrowing Variables	• Convictions • Concealments • Expungements • Petitions/court listings for concealments/expungements	States may specify time windows before individuals may petition to expunge or conceal a case record. In addition, the legal barriers and complexities can make it more difficult to clear past records. This policy environment contextualizes the net-narrowing effect of diversion compared to other traditional sanctions. In scenarios where case records are cleared, prosecutors can track petitions for concealments/expungements as an alternative measure of net-narrowing.
Recidivism	• Rearrest • Reconviction • Revocation • New jail booking • New diversion case • Combined measures of recidivism (e.g., reconviction and new diversion case)	Consider using a long-term recidivism window (e.g., 36 months) for diversion programs that tackle collateral consequences. It may take longer to see the benefits of these programs. When a new sanction is introduced, cases that would have previously ended in a conviction will get redistributed to the new sanction. Consider using a combined measure of recidivism (such as both reconviction and new diversion case) when systematic changes in enforcement occur. These robust measures prevent undercounting or overcounting recidivism (see Appendix A for more detail). When calculating recidivism for diversion cases, start the recidivism window at the time the diversion program starts. For cases sentenced to incarceration, start the recidivism window then they are released from custody. For cases without a conviction or that have a probation sentence, start the recidivism window on the case disposition date.
Outcomes Related to Reintegration	• Employment • Earnings • Education outcomes • Health outcomes • Housing outcomes	Other agencies may house this data; external data sources require time to negotiate and execute agreements to secure data access. More sensitive data may require additional data collection (e.g., surveys or interviews with diversion participants) to navigate HIPAA considerations.

Approaches to Program Evaluation

The nature and scope of an evaluation will be informed by the data considerations discussed above and the purpose of the evaluation. Recently implemented diversion programs or those that are small in scale may be best suited for *formative* evaluations, which use research findings to inform an understanding of current functioning and potential improvements. Established diversion programs that are large in scale may be positioned for *summative* evaluations, which use research findings to inform whether the diversion program produced the intended effect (e.g., reduced recidivism). Generally speaking, there are two approaches to program evaluation offices may wish to consider:

- Process evaluations are kinds of formative evaluations that examine program planning, operations, implementation, and service delivery. Such evaluations describe how the program works, characteristics of program participants (e.g., demographics, case characteristics, completion rates), and lessons learned from implementation. A comparison group is not typically necessary, but understanding business-as-usual practices relative to the diversion program helps frame the program model.
- Impact evaluations are kinds of summative evaluations that examine the outcomes of diversion participants (e.g., recidivism within 36 months of program start) relative to similar individuals who did not experience the diversion program.

This paper focuses on summative approaches to impact evaluations, as prosecutors often focus on understanding the effects of diversion programming relative to traditional prosecutorial practices. This is not to de-value process evaluations (often the first step in any evaluation plan). In fact, the two types of evaluation often work hand in hand, with the qualitative data derived via interviews, observations, and policy analysis providing a rich context for understanding quantitative findings derived from statistical analysis of administrative records. Depending on the data constraints and policy context, evaluators take multiple approaches to studying diversion programs, and each will vary in the type of answers they can provide. As with assessments of data capacity, research-practice partnerships can be particularly helpful for offices in figuring out the study design that may be most appropriate, should in-house staff lack the bandwidth or expertise to support formal research.

Impact Evaluation Designs

No amount of data or advanced statistics can correct a poorly designed research study. Impact evaluations will vary in their ability to account for alternative explanations to findings. Specific to the evaluation of diversion programs, evaluators need to consider two specific threats.

- **Selection Bias**: Selection bias occurs when the diversion group differs from the comparison group. Consequently, pre-existing differences between the two groups could drive differences in outcomes, which might be inaccurately attributed to the diversion program. To put it another way, people who are referred to a diversion program or who agree to participate in a diversion program tend to be different from people receiving a different sanction or disposition. For example, people referred to diversion programs generally pose lower public safety risks than those sentenced to prison. Similarly, people who complete diversion programs tend to have different traits than those who fail to comply with diversion conditions (e.g., higher socio-economic status and more family support). Evaluating diversion programs without taking these differences into account will lead to inflated estimates of their effectiveness.
- **Unobserved Cases**: Similarly, many diversion programs may have an expungement procedure that makes it difficult to draw upon official records for evaluations. This missing data impacts the research conclusions. If people who successfully complete the diversion program and expunge their case records are missing, the evaluation will underestimate the effectiveness of diversion programs, as these people likely have lower recidivism rates, better employment outcomes (that can be driven by minimized collateral consequences or more appropriate diversion conditions), and so forth. In some cases, prosecutors' case management systems will continue to track past diversion cases because they are used in screening for diversion eligibility. These data sources can be used as alternatives when diversion cases are missing from court records.

More rigorous methods focused on estimating causal effects (as opposed to associations) of diversion programs are generally concerned with selection bias. Below, we outline a few approaches to assess diversion programs that focus on mitigating concerns about selection bias. Each approach has different strengths and weaknesses and should only be used under the appropriate conditions.

1. **Randomized Controlled Trial**: Randomized controlled trials (often referred to as experiments or RCTs) are considered the gold standard of research due to their ability to control for alternative explanations. Through a random assignment process (i.e., some people are randomly offered diversion while concurrent individuals experience

standard case processing), evaluators can make pre-existing differences between participants negligible and isolate the causal effect of the diversion program on outcomes. One key challenge with this approach is securing stakeholder buy-in to *implement* and *maintain* random assignment throughout the study period due to difficulties incorporating random assignment in day-to-day practice. If random assignment is violated (e.g., the program is only being offered to individuals with felony drug charges instead of all eligible felony charges or a judge decides to reassign a significant share of the women to a different intervention), the two groups will no longer be comparable. Stakeholders may also have concerns about the fairness of random assignment and withholding programming expected to improve outcomes from some individuals. However, the stakes are high for all parties in criminal legal settings for myriad reasons, making a sound argument for understanding whether an intervention works before it is applied to everyone. This helps mitigate the possibility of the program causing more harm than good, especially when there is sufficient professional uncertainty. Offices also have limited resources and generally cannot serve everyone with a new program; an RCT would help offices advocate for more resources and figure out how to scale up a program most effectively. Some legal scholars have highlighted the need for practitioners to think critically about these considerations, rather than shy away from RCTs. [4]

EXAMPLE

Diversion offered through the Manhattan Court Employment Project required completing group therapy and employment counseling for pending charges to be dismissed.[5] *Any person who met the eligibility criteria, agreed to participate, and whose diversion was approved by their counsel was randomly assigned to the diversion or control (i.e., traditional case processing) group. Researchers randomly selected time periods over eight months and set quotas for each period. Program personnel were unaware of these quotas and time periods. During these randomly selected time periods, individuals were assigned to the program until the quota was hit; every overflow case was assigned to the control group. The evaluation found no significant differences in rearrest rates for one-year and two-year recidivism windows.*

2. **Differences-in-Differences**:[6] If the random assignment of individuals is not possible, differences-in-differences is another design that can be used to estimate the effect of diversion. When a jurisdiction has implemented a new diversion program, this design compares the relative change in outcomes for eligible individuals versus ineligible individuals before and after the implementation of the diversion program. This approach accounts for pre-existing differences between the two groups (e.g., having a prior felony conviction that impacts diversion eligibility) and time-related changes that affect both groups, such as changes in enforcement and prosecution tactics.

EXAMPLE

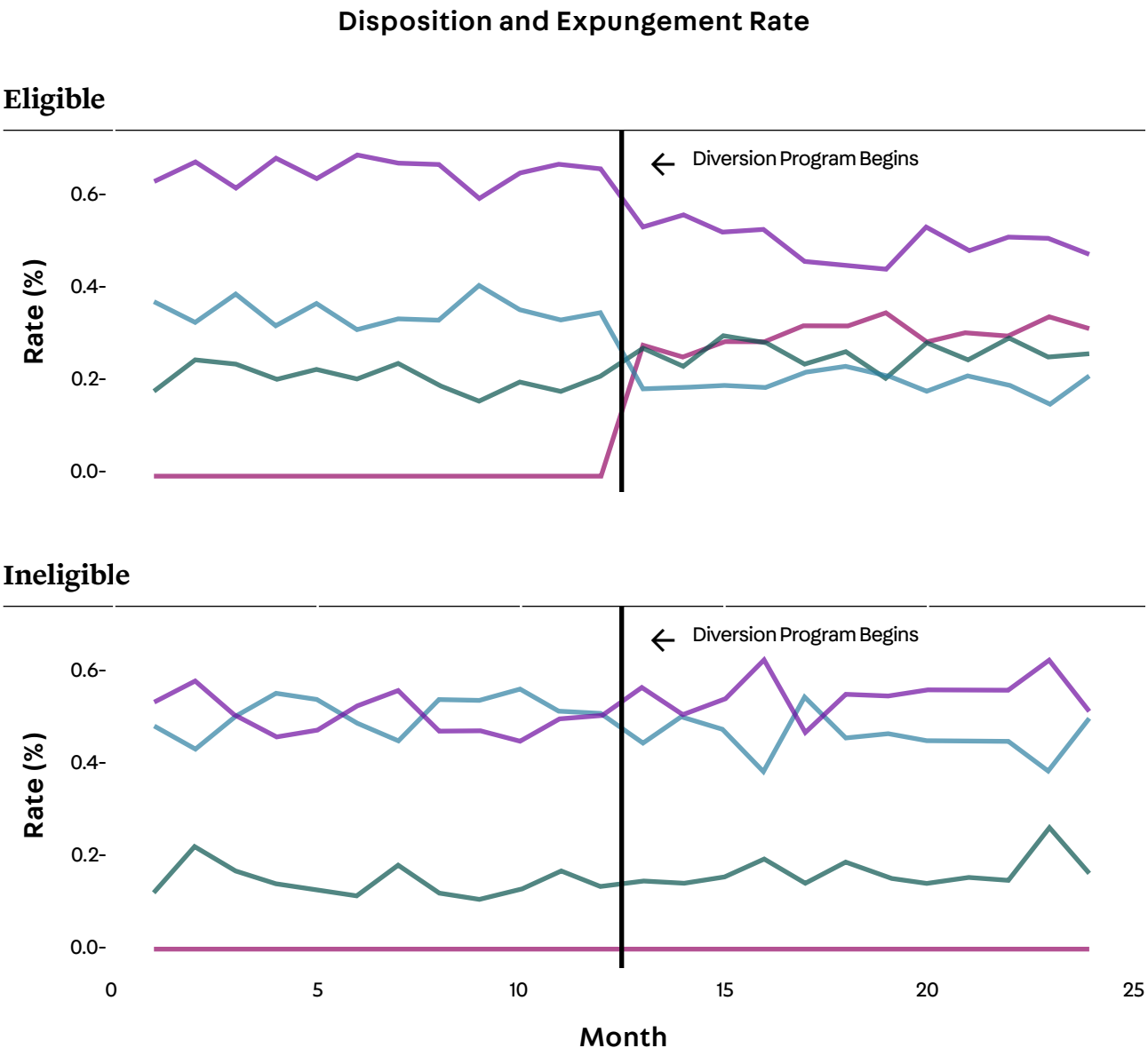
An evaluation of the Accelerated Misdemeanor Program in Philadelphia compared the relative change in case dispositions and recidivism for eligible diversion cases to ineligible misdemeanor cases based on their criminal history or lead offense before and after it was piloted in 2011.[7] *For successful cases, the prosecutor's office would automatically petition for expungement, requiring minimal work from the defendant. The analysis followed cases opened the year before and roughly a year after the program started. This approach allowed the study to estimate the net-widening and net-narrowing effects by assessing the change in dismissal rates and expungement rates. The study found that the diversion program decreased the dismissal rate by 13 percentage points (a net-widening effect), but it also increased the expungement rate by 18 percentage points (a net-narrowing effect). Table 2 and Figure 1 illustrate the net-widening/net-narrowing effect using simulated data and demonstrate how to calculate the two effects.*

Table 2. Differences-in-Differences and Net-Widening/Net-Narrowing Effect Example

Outcome	Group	Pre-Policy	Post-Policy	Difference-In-Difference Estimate (Eligible Post – Eligible Pre) – (Ineligible Post – Ineligible Pre)
Diverted	Eligible Cases	0%	30%	+30%
	Ineligible Cases	0%	0%	
Dismissed	Eligible Cases	65%	50%	-18%
	Ineligible Cases	50%	53%	
Convicted	Eligible Cases	35%	20%	-12%
	Ineligible Cases	50%	47%	
Expunged	Eligible Cases	20%	30%	+10%
	Ineligible Cases	15%	15%	

Note: This table provides an example of differences-in-differences estimates and how to calculate net-widening and net-narrowing effects. The difference-in-difference estimate is the difference between the two groups for their relative change before and after the program started. In this example, the difference-in-difference estimates for dismissals is a decrease of 18 percentage points, reflecting a net-widening effect as many diverted cases would have been previously dismissed. The expungement rate increases by 10%, reflecting a net-narrowing effect. Net-narrowing effects can occur when diversion programs have a higher likelihood of expungement than dismissed cases.

Figure 1. Differences-in-Differences and Net-Widening/Net-Narrowing Effect Example



Note: This figure shows a visual representation of Table 2 and plots the change in disposition and expungement rates before and after a diversion program is introduced. The top panel shows the dispositions for individuals eligible for diversion. The bottom panel shows the dispositions for ineligible individuals. In the top panel, the dismissal rate and conviction rate decrease while the diversion and expungement rate increases. In the bottom panel, we see similar dispositions but a slight increase in dismissal rates.

3. **Regression Discontinuity**:[8] In contrast to differences-in-differences, this study design compares similar cases which experience substantial differences in diversion rates to due to a specific cut-off. For instance, if a diversion program is only eligible to first-time felony cases between the ages of 18 to 25, the study could focus on people who just missed the eligibility requirements (charged with a first-time felony who just turned 26) versus people who are close to the upper threshold of eligibility (charged with a first-time felony who are about to turn 26) and significantly more likely to be diverted due to program's eligibility. Cases are arbitrarily on the left (younger and eligible) or right (older and ineligible) of a specified eligibility threshold (age 26) but should be similar. One of the main drawbacks of this approach is that the estimates focus on a narrower population and thus reduce its generalizability.

EXAMPLE

In Harris County, Texas, a study focused on two policy changes that led to significant differences in diversion rates over time.[9] *The study compared cases opened right before and after the policy changes and showed that case attributes were similar across the date cut-offs, where the only key difference was diversion rates. The study found that diversion reduced future conviction rates and increased both employment rates and earnings.*

4. **Instrumental Variable**:[10] An instrumental variable design estimates the causal effect of diversion using a variable that induces changes in diversion rates but has no independent effect on the outcome variable (e.g., recidivism, employment rate). Identifying such a valid variable (instrument) is context-dependent and may not be feasible in every jurisdiction. One appropriate context for this study design is when cases are *randomly assigned* to judges or prosecutors with different propensities for offering diversion. This random assignment is different from what was previously described above about the random assignment of individuals to a diversion program. In this instance, the judges and prosecutors act as the instruments that induce independent change in the diversion rate.

EXAMPLE

In San Francisco, cases are randomly assigned to arraignment judges; arraignment judges vary in how frequently they refer cases for judicial diversion referral.[11] *Using this variation in referral rates across judges, this study found that diversion increased the time to disposition while also decreasing the probability of a new conviction up to five years following case arraignment.*

5. **Matching**:[12] Where the research designs above are not feasible, researchers may construct a comparison group through a matching process. Matching approaches estimate the effect of diversion by finding cases with similar or identical attributes to diverted cases and applying statistical techniques to control for any *observed* attributes. This technique can produce more credible findings when the jurisdiction has extensive information

to match on beyond criminal history, offense type, and demographics. For instance, evaluations can match diverted cases based on information gleaned in pretrial interviews, such as employment, family support, and education. These research designs are flexible and can be used in most contexts; however, they still leave large concerns regarding selection bias compared to the other research designs described above due to the possibility of unmeasured differences.

EXAMPLE

In a multisite evaluation across three counties, researchers matched diversion participants to comparison groups composed of similar but non-participating individuals. [13] *After matching diversion participants to non-diversion cases on characteristics like demographics, charge, criminal history, and risk assessment scores, the study found that diversion and comparison cases did not vary significantly on these characteristics. They found that diversion cases had lower rearrest rates than comparison cases.*

An Illustrative Example of Different Designs Impacting Findings

Table 3 highlights how critical it is to consider the ways selection bias can affect our understanding of the efficacy of diversion programs and how different research designs may alleviate this issue. We create a simulated data example where diversion has no impact on recidivism outcomes. Panel A shows the general population of 600 individuals, where 500 are low-risk and 100 are high-risk, with recidivism rates in the high risk-group that almost double the low-risk population.

Panel B shows a naïve analysis comparing the average recidivism rates of diverted and non-diverted individuals in which selection bias is unaccounted for. In this scenario, the prosecutor's office refers more low-risk individuals (who represent a larger portion of the general population) to the diversion program and sends most high-risk individuals to non-diversion. If the evaluator simply compares diverted cases to non-diverted cases, they will incorrectly conclude that diversion reduces rearrest rates. The characteristics between the two groups are significantly different. Therefore, it is difficult to determine whether the reduction in rearrest rates is attributable to pre-existing differences or to the diversion program.

Panel C uses matching to ensure that diverted and non-diverted cases have the same *observable* case attributes. Each comparison case is matched to a similar diverted case; this may force the researcher to drop cases if a match cannot be made. Almost every observable trait is identical between the two groups, but there are differences in the *unobserved* characteristics (items that are not recorded and cannot be seen by the evaluator). This approach also comes to the wrong conclusion that diversion reduced rearrest rates because the two groups are still inherently different, as the diverted cases have higher rates of unobserved attributes associated with a lower risk of recidivism (stable housing and family support). Matching designs are generally problematic for evaluating diversion programs because eligible cases already have limited criminal histories and thus make it challenging to distinguish low and high-risk cases with the information at hand. Although the realities of data and practice may often make matching designs the only feasible option, researchers should be cognizant of the impact of unobserved variables when framing their findings as there will be the potential for poor matches or biased results.

Panel D shows an analysis using a randomized controlled trial where half of the general population is randomly assigned to diversion and the other half to traditional court processing. The observed case attributes and unobserved characteristics are very similar because random assignment has helped spread them out across groups. Therefore, any differences in rearrest outcomes are unlikely to be driven by pre-existing differences between the diversion and control group. The analysis comes to the right conclusion and finds that diversion has no effect on rearrest outcomes.

Table 3. Demonstration of How Randomized Control Trials Account for Selection Bias Compared to Matching or a Naïve Comparison

	PANEL A General Population Eligible for Diversion		PANEL B Naïve Comparison		PANEL C Matched Comparison		PANEL D Randomized Controlled Trial	
Variable	High Risk	Low Risk	Diverted	Not Diverted	Diverted	Not Diverted	Treatment (Diverted)	Control (Not Diverted)
Count	100	500	449	151	134	134	300	300
Observed Case Attributes								
Age	23.9	36.0	35.4	29.6	35.0	30.4	34.4	33.6
Race/Ethnicity/Sex								
White (%)	74	58	58	68	71	71	59	62
Non-White (%)	26	42	42	32	29	29	41	38
Male (%)	90	80	80	85	87	87	82	81
Top Charge								
Drug (%)	26	43	43	34	39	39	42	39
Property (%)	42	28	30	31	27	27	29	32
Public Order (%)	32	28	27	34	34	34	29	29
Priors	1.4	0.5	0.5	1.0	0.8	0.8	0.6	0.7

Table 3. Demonstration of How Randomized Control Trials Account for Selection Bias Compared to Matching or a Naïve Comparison (continued)

	PANEL A General Population Eligible for Diversion		PANEL B Naïve Comparison		PANEL C Matched Comparison		PANEL D Randomized Controlled Trial	
Variable	High Risk	Low Risk	Diverted	Not Diverted	Diverted	Not Diverted	Treatment (Diverted)	Control (Not Diverted)
Count	100	500	449	151	134	134	300	300
Unobserved Characteristics								
Family Support (%)	19	52	50	37	46	39	45	48
Stable Housing (%)	51	70	68	62	66	60	68	65
Recidivism								
Rearrest (%)	59	31	32	47	30	46	37	34

Notes: This table shows different analyses using the same simulated data. The simulated data contains a low-risk and high-risk population where diversion is specified to have no effect on recidivism outcomes. In other words, an appropriate analysis with this simulated data should find that diversion has no effect on rearrest rates. Panel A shows the attributes of the simulated cases. Panels B – C demonstrate how a naïve comparison or matching approach lead to incorrect findings. Panel D shows how an RCT addresses selection bias and comes to the correct conclusion.

Additional Considerations in Planning an Evaluation

Assessing Disparities

Across all approaches, evaluations can assess the effect of diversion programs on disparities between populations (e.g., by race/ethnicity, gender). There are different approaches to assessing disparities, but this can generally be done by conducting subgroup analyses focusing on a particular set of cases or examining how an effect changes at each level of a demographic variable (known as an interaction term). However, prosecutors' offices need to collect reliable information on race, ethnicity, and gender to support such analysis. Analyses on disparities may not be feasible due to small sample sizes.

Applying a Multimethod Approach

Although this brief has focused on quantitative approaches to evaluation, interviews and observations of diversion programming can contextualize findings and help jurisdictions understand the mechanisms or procedures that lead to different outcomes. Moreover, such data can also inform changes to programming. Evaluators might gain better understanding of programming and findings with questions such as:

1. What conditions do practitioners think lead to better outcomes?
2. Are programs being implemented with fidelity to the diversion policy? In other words, is there wide discretion regarding referrals and programming?
3. What are the perspectives of criminal legal system actors on the diversion program? Does this influence their willingness to refer cases to the program?
4. What are the decision criteria for revoking diversion? Is revocation based on strict rules or an assessment of effort?
5. What is the impact of diversion availability on plea bargaining?

Additionally, program evaluation provides an opportunity to gain insight into the experiences of program participants and community members. Evaluators may conduct interviews or focus groups with select individuals or administer surveys to reach more individuals. Evaluators can gain a better understanding of the experiences of participants and community members with questions such as:

1. What prevents people from completing the diversion program (e.g., Is it difficult to manage fines and fees; are the supported services overburdened, leading to poor treatment)?
2. How do diversion program participants view the program (e.g., motivation for opting into the program, perceptions of

fairness and system legitimacy, linkage to service needs)?

3. How do different communities view the diversion program (e.g., victims, impacted communities)?

Funding and Staffing Evaluation

Funding evaluations and carving out the staff time to conduct, or even support, them can be challenging. Where feasible, using in-house analytical staff who understand the jurisdictional context and are familiar with the data systems may be a good first step. This approach can help offices build internal capacity and hone their skills for future research projects. When staff bandwidth is limited or internal staff do not have the necessary skills, offices can turn to external research partners through universities or other research institutions. External evaluators may also be perceived as less biased, which can be helpful both in eliciting honest opinions and in convincing external stakeholders to constructively respond to research findings. While external partners help offset some resource restraints, they require time to execute data use agreements and be brought up to speed on data systems that may be unfamiliar to them. During periods when evaluations are not feasible, offices should maintain accurate data collection efforts, particularly for diversion-related variables. This will reduce future costs and shorten the time needed to complete an evaluation. In addition, offices can apply for local and federal grants for research funding.

Responding to Disappointing Results

Offices may find that their evaluations yield disappointing results. Rather than referenda on the merit of the underlying programmatic goals, these are often opportunities for offices to adjust their diversion programs, which might include changing diversion conditions, reconfiguring the eligibility criteria, or updating the diversion referral process. If results indicate that the diversion program is ineffective across the board, offices can divert their resources to other programs or interventions with more promise. Ultimately, these evaluations help offices learn and improve their services. Offices engaged in evaluation demonstrate a commitment to trying to identify what works best. Moreover, lessons learned from one jurisdiction can help other offices learn and develop or hone their own programs. Each evaluation brings value to the broader field.[14]

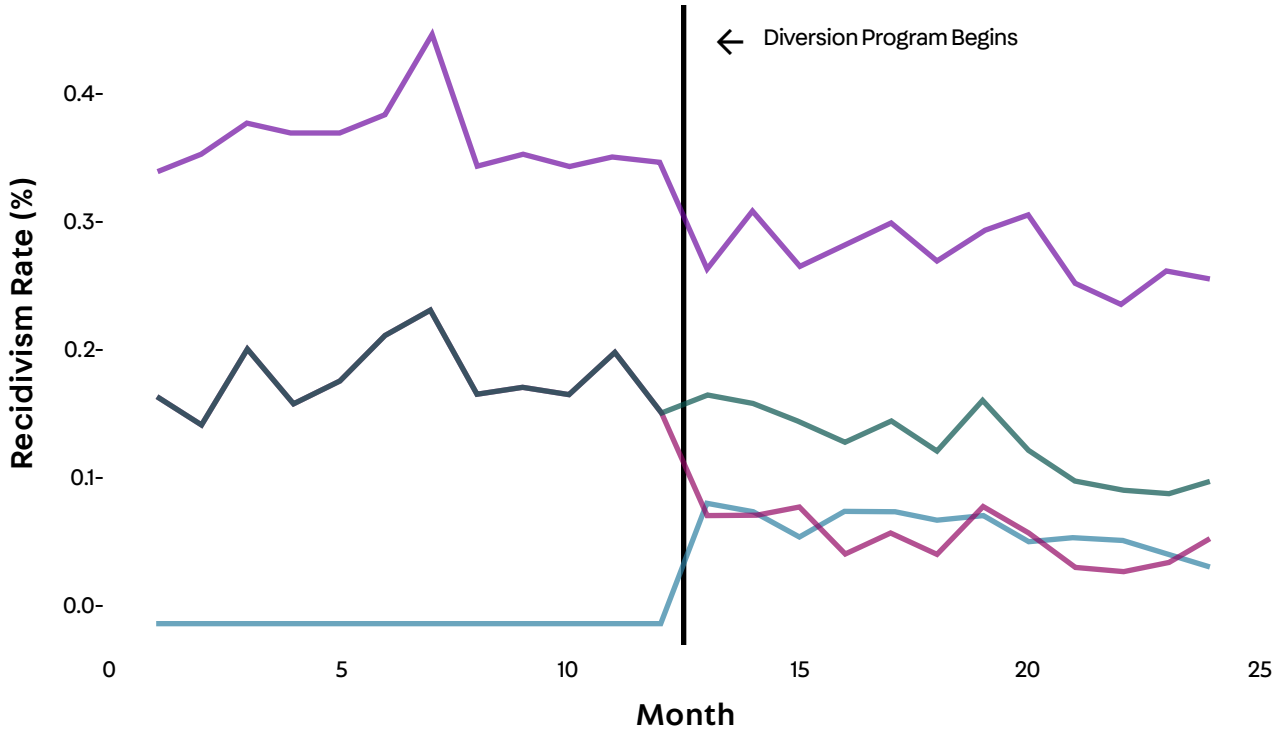
A PRACTITIONER'S GUIDE TO EVALUATING PROSECUTOR-LED DIVERSION PROGRAMS

Appendix

Appendix A. Recidivism Analysis Example

Below is an illustration depicting the importance of using robust recidivism measures to account for systematic changes in enforcement that can occur after the introduction of a new sanctioning option, such as diversion. Focusing on just one measure can lead to overestimates or underestimates of recidivism. Figure A1 shows the recidivism rates for individuals eligible for diversion before and after a new diversion program is introduced. Four measures of recidivism are plotted: rearrest, reconviction, new diversion case, and a combined measure of reconviction or new diversion case. In the example below, using only the reconviction rate would lead to overestimates in reducing recidivism because prosecutors are using diversion in lieu of more convictions when someone is arrested. The average reconviction rate goes from 19% in the period before the diversion program to 7% in the period with the diversion program. Conversely, the new diversion case recidivism measure goes from 0% in the period before the diversion program to 7% in the post-period. Using the more robust measure, the combined measure of reconviction or a new diversion case, we would find a recidivism reduction from 19% to 14%, half of the impact suggested if looking exclusively at reconviction rates. Having more recidivism measures, particularly those robust to systematic changes, will provide a more accurate understanding of the diversion program's efficacy.

Figure A1. Recidivism Measures Accounting for System Changes to Enforcement



Disposition

- New Case Diversion
- Rearrest
- Reconviction
- Reconviction or New Diverison Case

Note: This figure demonstrates the importance of using recidivism measures that are robust to systematic changes in enforcement. When a diversion program is introduced, it can reduce the likelihood that individuals are reconvicted because prosecutors are more likely to refer people to diversion programs when they are rearrested. Focusing on just reconvictions would overestimate the efficacy of diversion programs. Evaluators can account for this issue by using rearrest (assuming law enforcement patterns are the same) or a combined measure of reconviction or a new diversion case.

Endnotes

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