

PROMISING PRACTICES:**Pre-Arrestment Diversion for Emerging Adults**

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SUMMARY & FACT SHEET

Research and experience show that diversion – providing a response to criminal behavior outside of the formal justice system – is effective and reduces costs. An increasing number of juvenile justice systems have been implementing diversion programs across the country and, in response, a growing number of reports have been produced to guide jurisdictions in using best practices. But to-date, there has been little guidance provided to jurisdictions that wish to target older youth or emerging adults (ages 18 – 25), whose distinct developmental stage is rarely recognized in our justice system. Hopefully, this missed opportunity will end, as emerging adults have the worst outcomes and suffer the highest racial disparities of any age group in the justice system. Their malleability and responsiveness to positive incentives make this age group particularly great candidates for diversion.

Because there have been so few diversion programs developed specifically for emerging adults that include rigorous outcome evaluations, guidance needs to be presented as “promising practices,” rather than best practices, and must flow from a mixture of research and experiences. Benefitting from group discussions with the Suffolk County Emerging Adult Justice Working Group, which included More Than Words (youth and staff), the Suffolk County District Attorney’s Office, and the Committee for Public Counsel Services (public defender office in Massachusetts), the authors have identified the following list of factors as promising practices for specialized diversion of emerging adults:

- 1) Focus on emerging adults (ages 18 through 25)** who would otherwise be formally prosecuted by providing pre-arrestment.
- 2) Make diversion the default approach** and, if deviating from the default, ensure that there is a process for review within the prosecutor’s office and that the reasons for deviation from the default are clearly articulated and transparent.
- 3) Allow more than one episode or incident to be diverted.** Young people’s law-breaking behavior is often episodic, and the timing should not exclude young people from participating in diversion programming.

- 4) Protect statements during diversion from being used against youths later and provide opportunities to consult with an attorney.** For youth to fully participate without fear of legal consequences, their statements during the diversion process should not be used against them if prosecuted later. Emerging adults should be provided with the opportunity to consult with an attorney to help decide whether to accept diversion and to resolve issues that might arise.
- 5) Preclude future prosecution of the offense upon diversion completion.**
- 6) Implement developmentally sensitive diversion program terms and conditions.** Expect that young people will continue to make mistakes and find proportional and thoughtful responses to both failures and successes.
- 7) Refer cases to an accessible network of community-based providers** with expertise and experience working with emerging adults for engaging and developmentally appropriate programming.
- 8) Tailor program choice to the unique needs and interests** of each emerging adult.
- 9) Guarantee proper training** for staff to ensure that *all* youth feel safe and are appropriately supported. Staff should be proficient in the Positive Youth Development framework and should also be trained in useful skills (e.g., motivational interviewing).
- 10) Empower the expert community service provider** to support the emerging adult and develop a plan for programming in collaboration with the emerging adult.
- 11) Defer to short program lengths.** Research has shown that over-supervising people is counterproductive.
- 12) Review the written diversion agreement before completion** to provide the emerging adult with closure and to ensure that the scope of the diversion program remains within the agreed upon terms.
- 13) Expunge record of system involvement (e.g., arrest) upon completion.**