

# **Motion for Justice: Lessons from Building Equitable Prosecutor- Initiated Diversion Programs with Community Partners**

**Vera** INSTITUTE  
OF JUSTICE

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## From the Director

If the movement for prosecution reform were a child, she would be gearing up for the fourth grade. It kicked off in 2016, the year that Kim Foxx was elected to the position of state's attorney in Cook County, Illinois. In the past eight years, this growing community of prosecutors and community leaders have focused on solutions, increased their collaboration, reckoned with racial disparities in the criminal legal system, and built new models to address harm that promote safety and reduce mass incarceration. Prosecutors' offices have heeded community calls for greater transparency around how they choose priorities. They have also harnessed the power of data and research to better understand how prosecution contributes to racial disparities and mass incarceration and to measure the efficacy of more humane policies and practices in reducing them.

In 2021, the Vera Institute of Justice (Vera) issued a request for proposals launching its Motion for Justice campaign, an ongoing project by Vera's Reshaping Prosecution initiative that brings together prosecutors' offices and system-impacted communities to pilot or expand community-centered diversion programs that promote community safety by centering racial equity. Vera selected 10 partner jurisdictions to receive free technical assistance and data analysis from our team of researchers, community organizers, and former criminal trial attorneys, ultimately the cohort, encompassing nine prosecutors' offices and 10 community-based organizations (CBOs). CBO partners also received seed grants for their frontline diversion work. In this report, Vera shares summaries of these engagements and lessons learned. We hope that the communities that benefited from these partnerships will read on to learn more about how their prosecutors and community leaders are working to increase safety in their communities through a race equity lens. We also hope the report will inspire and empower communities across the country that are agitating for racial justice and criminal legal system reform.

The status quo is not serving us. The United States incarcerates too many people, and the criminal legal system has failed to deliver community safety or healing for survivors of crime. The prosecution reform movement has brought new and better models to achieve public safety that are driven by data and evidence, constant iteration, and a centering of voices of system-impacted communities that best understand what helps people thrive and stay out of the criminal legal system.

In this generational work, it can sometimes be difficult for our partners to see their progress when harm continues to befall the communities they hold dear. The media—and our memories—tend to favor the negative over the positive and the mistakes over the celebrations. From Vera's vantage point, we see firsthand how our bench of partners and allies, their accomplishments, and their boldness have increased year after year. The number of inquiries we get from advocates and prosecutors across the country interested in new solutions and the number of young people interested in using prosecutor's tools not to punish but to avoid punishment and, instead, promote healing have also steadily increased. The moral arc of the universe absolutely continues to bend in the right direction.

Vera's district attorney and CBO partners are on the front lines of the prosecution reform movement. Without them, this work would not exist. We thank them for their vision, leadership, and courage; for standing strong in the face of headwinds; and for allowing us to help their communities center our shared values of safety, equity, and justice.

A handwritten signature in black ink, appearing to read 'M. Sahaf', with a long horizontal flourish extending to the right.

Mona Sahaf  
Director, Reshaping Prosecution  
Vera Institute of Justice

# Introduction

Prosecutors hold immense power—they decide who will be charged, what charges will be brought, what plea will be offered, and whether to ask for incarceration upon a conviction. But for too long, prosecutors were left out of conversations about how to end mass incarceration and confront racial disparities within the criminal legal system. To end mass incarceration and dismantle unfair systems, prosecutors should have a seat at the table.

But prosecutors do not act alone. By the time they receive a case, the person charged has already been impacted by systemic injustices not only in policing but in education, employment, health care, and social services. From this country's history of redlining to the "War on Drugs," its systems were designed to perpetuate racially disparate outcomes. This means that before prosecutors make any decisions about how and whether to charge a particular case, they are receiving and reviewing cases rife with racially disparate arrests and practices. If prosecutors decline to adopt a race equity lens that factors in systemic inequities when they review cases and make charging decisions, they may contribute to and intensify these harms with the system tools of pretrial detention, conviction, and incarceration.

The good news is that more prosecutors than ever before have prioritized finding ways to address these issues before a case is ever charged. The Vera Institute of Justice's (Vera's) Motion for Justice project works with such prosecutors to find solutions that keep communities safe while also reducing racial disparities in prosecution. Indeed, it is through ridding our systems of racial disparities that we will increase safety and reduce violence across communities. Diversion programs offer this opportunity—they address people's unmet needs to help them thrive and avoid future contact with the criminal legal system. Diversion programs also create off-ramps from the criminal legal system that reduce the collateral harms of charging and incarceration that destabilize families and communities and have repeatedly been shown to hurt a person's ability to succeed in society.<sup>1</sup>

Beginning in September 2021, 10 jurisdictions—encompassing nine prosecutors and 10 community-based organizations (CBOs)—collaborated with Vera to embrace the challenge of addressing racial disparities in prosecution in their jurisdictions.<sup>2</sup> They were willing to search outside traditional prosecution for answers and to look to their communities as partners in their work of ensuring community safety. Although no single prosecutor can eliminate the inequities of the U.S. criminal legal system, this growing community is building a new paradigm of prosecution focused on reducing trauma and harm, ending cycles of violence, and centering restoration and rehabilitation. With the support of their communities, they are building a more equitable system for future generations.

# The Landscape of Prosecutorial Reform and the Promise of Diversion

The year 2020 saw catalyzing moments in the fight for racial justice and forced institutions to reckon with their roles in upholding systemic inequities, including in prosecution.<sup>3</sup> The COVID-19 pandemic heightened the visibility of racial and economic inequities in health care, employment, housing, education, and other areas of society.<sup>4</sup> The murders of George Floyd, Breonna Taylor, Tony McDade, and many other Black people by police sparked national protests against police brutality and systemic anti-Black racism.<sup>5</sup> As a result, communities pressed for police accountability, called for dismantling and defunding of police departments, and demanded new and concrete commitments to antiracism from civic and business leaders.<sup>6</sup> Prosecutors were not exempt from these demands, and many began to adopt policies aimed at reforming an unjust criminal legal system.<sup>7</sup>

The meaning of safety took on a different dimension. People voiced that community safety concerned not only crime and physical harm but also health, financial stability, and adequate resources to thrive. As the lens of safety expanded, so did the criminal legal system reform landscape, with a shift toward programs and policies that center this expanded definition of safety. The Motion for Justice model is premised on the belief that by centering racial equity in diversion, we can ensure fairer access to resources that tackle the root causes of crime, ultimately leading to safer communities.

Historically, prosecutors have pursued incarceration as the end result, which leads to damaging collateral consequences—loss of housing, loss of jobs, and family separation—that have lasting generational impacts.<sup>8</sup> Significantly, these consequences have largely been borne by communities of color and have led to their deep distrust of criminal legal system actors.<sup>9</sup> When communities no longer trust law enforcement, everyone is less safe. People do not report crimes, witnesses do not participate in investigations, and prosecutors cannot seek justice for victims and survivors of crime.<sup>10</sup>

In order to begin to heal these rifts, prosecutors should look beyond typical “tough-on-crime” approaches that favor punishment and incarceration and toward alternatives that achieve true public safety. They should focus on reducing and repairing harm caused by the system in ways that are directly responsive to the demands of the people and communities their offices have historically harmed. Offices should also consider changing their culture so that prosecutorial policies and practices address racial disparities and ensure respect for the inherent dignity of all people. Only through this transformational approach will prosecutors ever fulfill their mandate to protect every person in their community.

Diversion programs are an opportunity for prosecutors to begin this daunting work. These programs allow prosecutors to hold those who commit crimes accountable while also addressing the root causes of their contact with the criminal legal system. They allow people who are charged with offenses to remain in their communities while they receive services and resources that directly relate to the circumstances that led to their system involvement. Diversion programming also helps people who are charged avoid devastating collateral consequences and gives them the opportunity to grow and thrive in their communities instead of languishing behind bars. Lastly, diversion programs hold people accountable in deeper and more impactful ways than traditional prosecution by helping them confront or address the underlying causes of their conduct.

## About the Motion for Justice Program

Motion for Justice works in partnership with prosecutors' offices and communities to build diversion programs that enhance public safety. Through a first-of-its-kind partnership model, Vera worked with nine district attorney's (DA's) offices and 10 CBOs to build or expand diversion programs with the help of seed grants.<sup>11</sup> Vera began collecting qualitative and quantitative data from these jurisdictions in an early step to measure the scope of prosecution and its effects on communities. Vera will continue to collect and analyze data until 2026, when, after enough time has passed for a sufficient number of people to have passed through diversion, Vera will conduct an evaluation that builds on existing evidence that shows how diversion can lead to better outcomes.<sup>12</sup> At each site engagement, Vera researchers offered the DA's office and the partner CBO technical assistance with diversion program implementation, office culture change, quantitative and qualitative data collection and analysis, and community engagement. These formal partnerships with Vera lasted approximately two years, from 2021 to 2023. Vera continues to offer support to its past partners through a dedicated sustainability network.<sup>13</sup>

Engagements initially consisted of three primary categories of work:

- diversion program implementation,
- prosecutors' office culture change, and
- data analysis of cases within the prosecutors' office.

Vera later added a fourth category of work to fill an important gap in its research approach, a qualitative evaluation of the effectiveness of diversion programs. The evaluation process was structured to involve diversion program participants, service providers, and prosecutors. Quantitative and qualitative analysis and evaluation are ongoing, and Vera's findings will be published in future reports.<sup>14</sup>

This report discusses both the promise of diversion and Vera's aspirations for diversion in these jurisdictions. It will cover the Motion for Justice process for selecting and working with the partnering sites and the values that inform our selection criteria and engagements. It will step through best practices and recommendations for diversion, highlighting some early successes, lessons learned, and research findings.

### Site selection

In May 2021, Vera released a request for proposals seeking DAs whose values aligned with the Motion for Justice framework—namely, a commitment to racially equitable reforms that lead to lower incarceration. Vera sought offices that were willing to work in partnership with community-based service providers to expand or launch diversion programs centering racial equity and public safety.

Vera weighed several core criteria in choosing prosecutors' offices and community organizations. For prosecutors' offices, Vera considered offices that were committed to reform through a racial equity lens, were amenable to working with both Vera and the community, and had the staff capacity to coordinate reform efforts. For community organizations, Vera considered organizations that were led or advised by people of color or system-impacted community members. Additionally, Vera sought

grassroots community organizations that had demonstrable experience in providing the needed services.

## Diversion program criteria

From 2021 to 2023, Vera engaged with nine DAs and 10 CBO partners across eight states. Each site partnership implemented diversion programs that aimed to improve race equity and public safety. Although each program is unique to its jurisdiction, all shared three common characteristics:

- **No automatic exclusions based on criminal history.** Excluding potential participants based on criminal history not only further exacerbates existing inequities in the criminal legal system, it also perpetuates racial disparities by excluding a disproportionate number of Black people and other marginalized groups who are more likely to be system-impacted. Communities of color are overpoliced, disproportionately convicted, and subjected to harsher sentences than white communities; as such, people of color—especially Black people—are more likely to have had prior contact with the criminal legal system than similarly situated white people.<sup>15</sup> Committing to programs that do not automatically exclude people with criminal legal system histories from diversion programs helps combat these racial disparities and increases diversion access for the people who stand to benefit the most.
- **Participants may enter diversion “pre-plea.”** Diversion programs seek to avoid both direct (such as incarceration) and collateral (such as an arrest that shows up on a potential employer’s background check) consequences associated with convictions. This can be accomplished if people are diverted before they enter a guilty plea. While some diversion programs use a post-plea model with subsequent case dismissal, a guilty plea alone can have serious consequences: background checks often reflect pleas and pending cases and may result in the loss of access to housing, education, employment, or legal immigration status.<sup>16</sup>
- **No fines and fees.** Much scholarship has focused on the negative impact of fines and fees attached to the criminal legal system, especially among communities of color, which experience poverty at a higher rate than white communities.<sup>17</sup> To promote equity, Motion for Justice’s partners ensured that entry to a diversion program did not rest on a person’s ability to pay.



## Overview of diversion programs

Figure 1 outlines an overview of the different programming that occurred during Vera’s partnership with nine DA’s offices and ten CBO site partners from 2021 to 2023.

**Figure 1**  
Programming overview by jurisdiction

Jurisdiction	DA Partner	CBO Partner	Diversion Program Overview
Arlington and Falls Church, VA	Office of the Commonwealth’s Attorney for Arlington and Falls Church	Offender Aid and Restoration (OAR)	OAR Diversion focuses on people who frequently come into contact with the criminal legal system and provides them with wraparound services from therapy to job training.
Athens-Oconee, GA	District Attorney’s Office Western Judicial Circuit	People Living in Recovery	People Living in Recovery is a substance use disorder diversion program that provides wraparound services including recovery support groups, job training/placement, in-house treatment fee assistance, transportation support, medication assistance, housing assistance, and food and clothing assistance.
Chatham County (Savannah), GA	District Attorney of Chatham County	Savannah Feed the Hungry Empowerment Center	“Show Us Your Guns” is a gun possession diversion program for youth and young adults ages 16–25 who face possible criminal charges for a firearm possession offense. In lieu of incarceration, participants go through programming and are provided resources specific to their needs, including job training, educational support, housing stability, health education, disaster relief, and conflict resolution.
Fairfax, VA	Office of the Fairfax Commonwealth’s Attorney	Opportunities, Alternatives, and Resources (OAR)	“Taking Root” offers wraparound services to community members who face more serious charges and are paired with OAR for services and/or their employment center for job opportunities.
Franklin County (Chambersburg), PA	Franklin County Office of the District Attorney	Noah’s House	“Get Back Up” is a substance use treatment program that diverts people from the criminal legal

			system at arrest. Noah's House focuses on taking an individualized approach to substance use recovery and providing multiple pathways to recovery.
Kaua'i, HI	Kaua'i Office of the Prosecuting Attorney	Hale ʻŌpio Kaua'i	"Teen Court" is a diversion program built on the restorative justice principles of repairing harm for youth ages 10–18. Participants engage in a peer-led "hearing" process, allowing them to be held accountable and repair the harm they have caused.
Marion County (Indianapolis), IN	Marion County Prosecutor's Office	Horizon House	The "Quality-of-Life Program" focuses on finding long-term solutions outside of the criminal legal system for people in Indianapolis experiencing homelessness. As the cycle of homelessness too often includes interactions with the criminal legal system, and system involvement creates extra barriers to success, the program works to address these realities.
St. Louis, MO	N/A	Freedom Community Center	The Freedom Community Center is a community-based diversion program working with community members affected by domestic violence using restorative justice processes. The program receives referrals from local hospitals and the community and works with both the survivor and the person who caused harm to reach accountability and healing.
Washtenaw, MI	Prosecutor's Office of Washtenaw County	Washtenaw My Brother's Keeper	"Formula 734" creates healing circles grounded in the arts that target boys and young men ages 16–25 in areas of Washtenaw County with high risk of criminal legal system involvement. Participants record and produce their own music, promoting a healthier alternative to navigate grief and trauma associated with criminal legal system contact.

Westchester, NY	Westchester County District Attorney	Youth Shelter Program of Westchester	The Mount Vernon Emerging Adult Justice Part program is a residential program for young men ages 18–25 who have been charged with an offense. The program connects young people with services, resources, and opportunities through a collaborative effort with public and private stakeholders.
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## Culture and organization change

Vera has also engaged with prosecutors’ offices to promote cultural or organizational changes that center equity, community safety, and transparency around the role of the prosecutor, with Vera’s staff facilitating conversations about these key topics in working groups composed of a cross-section of office staff—including paralegals, line attorneys, victim advocates, and supervisors. However, to better scale the occurrence of these important conversations and curate them to the needs and schedules of each office, Vera pivoted to a train-the-trainer model by creating a five-week course called “Champions for Change.” The curriculum guided credible messengers in each office on how to facilitate conversations about how prosecutors have contributed to mass incarceration and how they can use their positions to instead reduce incarceration and promote racial equity. Both CBO partners and DA’s office partners had staff attend these “Champions for Change” train-the-trainer sessions. Because this work was focused on the DA’s offices, at least one person from each office participated. Over 12 weeks, the cohorts met virtually to learn how to conduct their own trainings based on Vera’s curriculum facilitation guide.

## DA and CBO data analysis

Vera and other research organizations analyzed administrative data from the nine prosecutors’ case management systems to identify patterns of prosecution, such as the volume of cases referred, filed, and adjudicated.<sup>18</sup> The analysis further explored questions of racial disparities—measures of the increased likeliness of prosecution for people of color compared to white people—in cases and charges. These findings help stakeholders—such as community members and DA’s office staff—understand which categories of cases drive total case volume and racial disparities so they can target policies and programs to reduce them. Vera also requested information from the partner CBO diversion providers about people’s participation in their programs. This data sharing enables Vera to help DA’s offices and the communities they serve understand how charges connect not only to things like race and gender, but also other factors, like a defendant’s neighborhood or crime location. Such findings help generate discussions of new policies and recommendations.

### **Why should prosecutors aggregate their data by race, ethnicity, or zip code?**

Doing so can show how different races, ethnicities, or neighborhoods are prosecuted based on the share of each race or ethnicity in the underlying population. The results almost always show that Black people are prosecuted much more frequently than white people and that Latinx people or people experiencing poverty most often are too.<sup>a</sup> Zip codes situate people in neighborhoods, allowing researchers to associate them with average incomes for those neighborhoods from the census, providing an approximate measure of wealth or poverty. While these findings confirm researchers' intuition, they also provide numbers that can pinpoint the severity of racial disparities and provide benchmarks against which researchers can measure change. The findings can also serve as a roadmap to how targeted policies could reduce racial and economic disparities in prosecution. They can also help communities understand how prosecution perpetuates disparities in society's many systems—like policing, education, and housing—through the criminal legal system and to jails and prisons.

#### **Note**

a. Prosecution rates for Latinx people are often ambiguous due to miscoding Latinx ethnicity. Latinx people are often recorded as white because of either limitations of the case management software or bad practices of the officials entering the data. In some jurisdictions, Vera has used open-source machine learning models to recode people based on Hispanic surnames and location and found higher rates of Latinx prosecution than without recoding.

## **Building new tools to evaluate diversion programs**

Historically, recidivism—the occurrence of rearrest or reconviction—has been the dominant measure of the system's success in rehabilitating people. It has also been the primary way for the public to grade the effectiveness of programs like community-based diversion. But recidivism masks other important measures of program success. Over-reliance on measures of recidivism fails to account for the multifaceted reasons people may be rearrested or reconvicted, which include living in an overpoliced neighborhood, lacking access to needed resources, and being on lengthy probation or supervision periods during which technical violations—such as not apprising a probation officer of a change in one's home address—can lead to a person's rearrest or incarceration.

In response, Vera employed qualitative research to build jurisdiction-specific evaluation tools for partnering CBOs and DA's offices to assess the effectiveness of diversion programs in achieving outcomes that meet the needs and preferences of community members who are most impacted by the criminal legal system. To ensure relevant evaluation focus, Vera consulted with three main stakeholders throughout the evaluation process: (1) system-impacted community members (in other words, both people who have gone through the system, including former participants in diversion programs, and those adjacent to them, such as family members, friends, peers, and support people);

(2) staff from partnering CBOs; and (3) staff from partnering DA's offices. The goals of this multi-stakeholder engagement are to

- gain a better understanding of how system-impacted communities perceive public safety and assess to what extent diversion programs respond to community perceptions of public safety (for example, safety may mean feeling seen and heard, having a sense of purpose, or being surrounded by a healthy community);
- evaluate alignment of diversion programs with the needs of program recipients and program implementers in terms of program types, characteristics, and outcomes; and
- make appropriate recommendations to enable partners with program responsibility to improve or adjust their strategy to meet the needs of impacted communities.

## In Their Own Words

**“One of our participants [a 24-year-old] . . . was charged with fare evasion, failure to ID, three concealed weapons charges, and removing a serial number. . . . Very shortly after entering the [diversion] program, the participant asked for additional support and entered intensive outpatient treatment for substance use disorder. . . . The diversion program provided him the resources to look inward and then empowered him to seek the support he needed.”**

**—Diversion coordinator, Arlington, Virginia Commonwealth Attorney's Office**

# Recommendations

During Motion for Justice engagements, Vera learned many lessons about how to build successful and sustainable programs. This section highlights recommendations for best practices in building diversion programs.

They include

- fostering program buy-in with all system stakeholders, especially impacted communities,
- promoting cultural and organizational change within the DA's office,
  - delegating program support from the elected DA to staff,
  - appointing a diversion coordinator,
- eliminating charge-based barriers to diversion, and
- developing a data analysis and program evaluation plan.

## Foster program buy-in with all system stakeholders, especially impacted communities

At each site, criminal legal system stakeholders were at times hesitant to embrace diversion programming. Some examples include the following:

- **Distrust by defense attorneys.** Defense attorneys advise clients not to participate when they fear their clients will waive their right to remain silent during discussions in treatment.
- **Courthouse staff resistance.** Courthouse staff are already overtaxed and feel burdened by any extra administrative duties.
- **Judiciary resistance.** Judges resist adjourning cases for months at a time when they do not know what requirements will be placed on the person charged.
- **Community distrust.** People who are charged often distrust the system and are hesitant to engage with a diversion program that partners with criminal legal system actors.

Developing buy-in with these stakeholders—including the judiciary, local law enforcement, probation, and even the DA's own staff—became a large piece of the work. Many of these concerns can and should be addressed via transparency, communication, and early collaboration between local stakeholders and community members. Such opportunities include

- holding informational meetings;
- developing one-pagers, including in multiple languages for people with limited English proficiency, that outline the diversion program requirements and the benefit of diversion to the person charged;
- convening town halls to spread awareness about the diversion program and solicit feedback from the community;
- creating diversion agreements that enumerate the commitments the person charged should meet;
- organizing meet-and-greets with the community organization at which stakeholders can learn about the program, meet staff, and visit the space where the program is housed; and

- engaging with local media at meet-and-greets and other learning opportunities so that they have an accurate understanding of the program including relevant context and research about charging alternatives, as well as preparing press releases that the DA's office and community organization can use to ensure interested media report accurately about the program.

In Marion County, Indiana, the early buy-in and collaboration from the public defender's office greatly contributed to the program's success. The office actively participated not only by referring cases but also by holding expungement clinics at the partner CBO, which resulted in the highest volume of participants going through its Quality-of-Life Program. In contrast, in one of Vera's Virginia engagements, reluctance from the bench led to a slow start for the program. The judiciary's desire to have comprehensive oversight of programming and participants, coupled with its desire to "move their calendars" and resolve cases quickly, meant the DA's office spent outsize time negotiating logistics around how to launch the program. These circumstances can be particularly damaging if stakeholder engagement is time limited, for instance, if there is a memorandum of understanding with a university partner that only encompasses one year.

DAs' and their partner CBOs' ability to establish rapport with these stakeholders is critical to building program buy-in, which increases the speed of program launch and the volume of case referrals and other measures of program success. How to establish this rapport will be particular to each jurisdiction but may include

- the chief DA having a consistent presence at the courthouse,
- actively engaging bar associations or other legal groups, and
- creating experiential opportunities for criminal legal system stakeholders to understand the program.<sup>19</sup>

Another aspect of building buy-in is creating a feeling of accessibility around the program. This means outlining a clear referral process and providing resources that educate stakeholders about the program. Examples include developing print products like one-pagers and infographics that detail the services of the diversion program and creating collegiate spaces such as town halls, open houses, and meet-and-greets that allow relevant stakeholders to learn about the program in a low-stakes environment.

It is also important to build trust through transparency with potential participants in the program. Vera found that when a person is being considered for the diversion program, creating a diversion agreement between the participant and the prosecutors' office that laid out clear expectations for program participation helped establish trust (see Appendix: Sample Diversion Agreement on page 29). These agreements included listing the charges for which the person was entering diversion, the services the participant was expected to engage with and complete, and the expected outcome if they successfully completed (most often a dismissal of the charges).

## **Analysis of prosecutor data reveals what communities already know: The United States prosecutes far too many Black and Latinx people**

In Motion for Justice, Vera partners with prosecutors who hold themselves accountable to their constituents, not only in the pursuit of safety and justice for all communities, but also in understanding how the prosecutor's office and the greater criminal legal system impact the communities that the DA serves. Accountable prosecutors analyze and share their data findings. Doing so isolates trends in race and other metrics across which groups are being charged and how these groups are being charged. It also helps prosecutors, advocates, and communities understand how expanded access to diversion programs and other front-end reforms can help ameliorate inequities.

## **In Their Own Words**

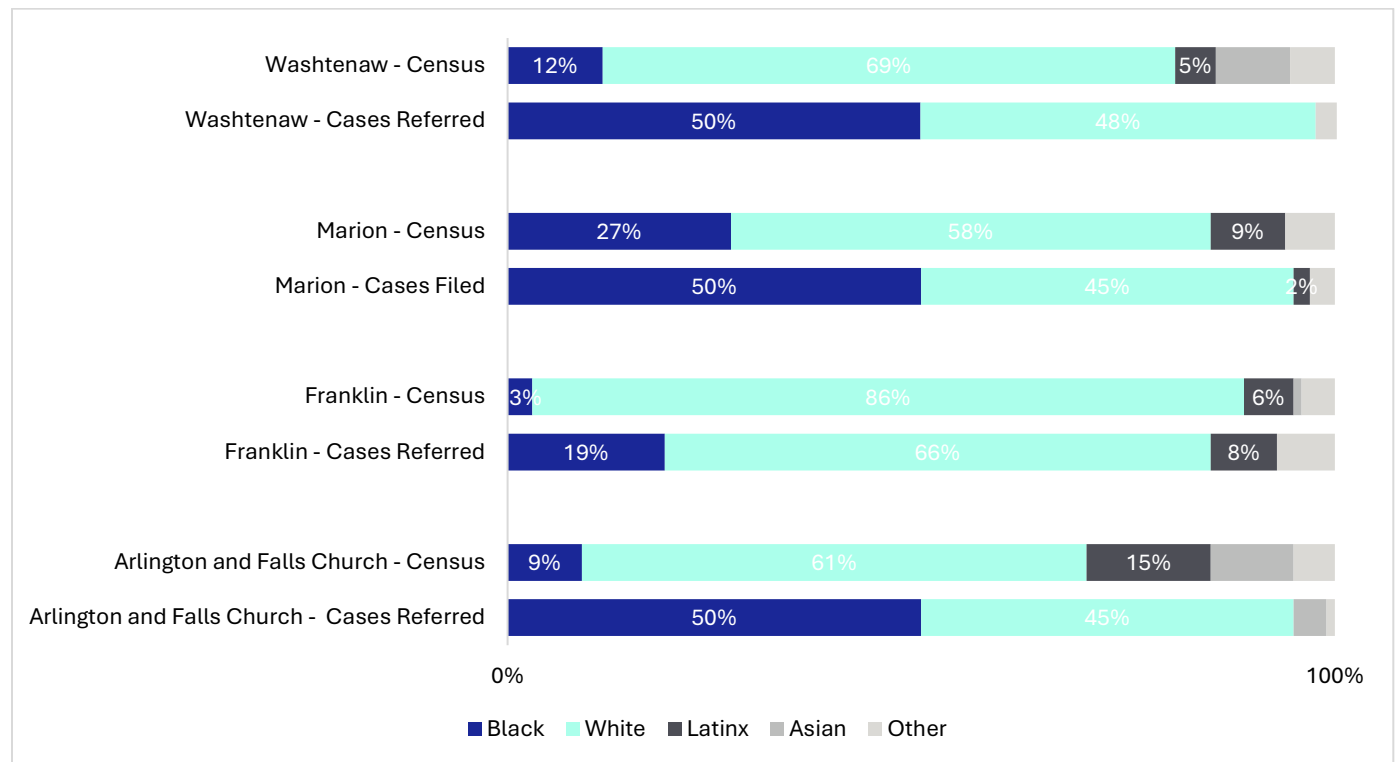
**“Recently, we received a call from a young man who had attended our program in the past and who was involved in an ongoing conflict that he felt was going to escalate to gun violence. Our outreach team connected with this young man . . . [and] the other parties involved. . . . Ultimately, we brought together the parties . . . [for] a restorative justice process. . . . Each party created written agreements to repair for the harm that was done in the past and agreements to continue to deescalate the conflict moving forward. Together, [we] were able to . . . create a pathway for reconciliation and repair without using the criminal legal system.”**

**—Director of operations and finance, Freedom Community Center, St. Louis, Missouri**



**Figure 2**

**Proportion of cases by race versus U.S. Census demographics**



Note: For Washtenaw County, Michigan, defendant demographics are for all cases referred from 2017 to 2022 because of the way results were presented in the publication data source. For Marion County, Indiana, defendant demographics are for all cases filed from January 1, 2017, to August 23, 2022. Arlington County, Virginia and Franklin County, Pennsylvania are for only 2022.

Data sources: Washtenaw County, Michigan: Grady Bridges and J. J. Prescott, *Prosecutor Transparency Project: Racial Disparities Study (Washtenaw County, Michigan)*, (Rochester, NY: SSRN, 2023), <https://doi.org/10.2139/ssrn.4680695>. Marion County, Indiana: Jay Colbert, Matt Dietrich, and SAVI, *Equity in Criminal Prosecutions: Analyzing Case Filings from the Marion County Prosecutor's Office* (Indianapolis, IN: The Polis Center, 2022), [https://www.savi.org/feature\\_report/equity-in-criminal-prosecutions-analyzing-case-filings-from-the-marion-county-prosecutors-office/](https://www.savi.org/feature_report/equity-in-criminal-prosecutions-analyzing-case-filings-from-the-marion-county-prosecutors-office/). Franklin County, Pennsylvania: Vera calculations based on case data from the Franklin prosecutor's office's case management system as of December 2022. Arlington County, Virginia: Vera calculations based on case data from the Arlington prosecutor's office's case management system as of May 2022. Census data: U.S. Census Bureau, "American Community Survey 5-Year Estimates (2021)," 2023, <https://www.census.gov/data/developers/data-sets/acs-5year.html>.

### **Washtenaw County, Michigan demographics**

In Washtenaw County, Black people make up just **12 percent** of the county's population. But from 2017 through 2022, Black people made up **52 percent** of people with a domestic violence case referred, while white people made up 46 percent. Black people also made up **74 percent** of all people with a weapons case referred, while white people made up 23 percent.<sup>a</sup>

### **Marion County, Indiana demographics**

In Marion County, Black people make up **27 percent** of the county's population. But from January 2017 to mid-August 2022, Black people made up **57 percent** of all people prosecuted for violent crimes, while white people made up 33 percent. Black people also made up **34 percent** of all people prosecuted for drug possession, while white people made up 65 percent.<sup>b</sup>

#### **Notes**

a. Bridges and Prescott, Prosecutor Transparency Project, 2023. Data extrapolated and calculated by Vera researchers from Table 3 and Figure TX in the source and census data. Full calculations on file with Vera.

b. Colbert, Dietrich, and SAVI, Equity in Criminal Prosecutions, 2022. Data extrapolated and calculated by Vera researchers from analysis by Polis Center in the source. Data are from January 1, 2015, to August 23, 2022. Full calculations on file with Vera.

### **Consulting with impacted communities builds more effective diversion programs**

The people closest to the problems are closest to the solutions. Understanding the lived experience of people from neighborhoods that experience less safety or are most impacted by the criminal legal system can guide prosecutors in delivering safety and justice. The best advisors to prosecutors around how they can help—and where their practices are harming safety and pulling more people toward the criminal legal system—are the people who feel the brunt of the system's impacts and live in zip codes where the most crime is reported.<sup>20</sup>

To aid in this important practice of community consultation, Vera researchers met with system-impacted communities and other stakeholders to build new measures of safety that center the voices of impacted community members. Vera conducted its first phase of qualitative research in Kaua'i County, Hawai'i, and Marion County, Indiana, in 2023. Vera researchers consulted with multiple stakeholders to identify which features, processes, and outcomes should be considered when measuring the success of diversion programs for program participants and their communities.

Vera researchers developed 18 community-informed metrics that reflect the perspectives and experiences of system-impacted community members. (See Figure 3.) Early research highlighted a preference for diversion programs that not only address basic needs like housing and employment but also meet program participants' emotional and cultural needs and preferences.

**Figure 3**  
Community-informed metrics and submetrics

<b>Metric</b>	<b>Submetric</b>	<b>Metric</b>	<b>Submetric</b>
Having a support network	<i>Family/ʻohana family,<sup>21</sup> parents, hānai family,<sup>22</sup> counselor</i>	Importance of second/third chances	
Acquiring life skills	<i>Classes/certificates, vocational training, communication skills, financial literacy training, parenting classes</i>	Need for incentives	
Receiving resources for a stabilized life	<i>Housing, employment/job placement, schooling, financial support</i>	Need for deterrence	
Programs run by experts with lived experience		Need for change of environment	
Existence of clear steps toward program completion		Activities to keep program participants engaged	<i>Culturally responsive activities, activities with cohort, activities with families</i>
Availability of wrap-around services (during/after program)	<i>Substance use care/treatment, food/clothing, therapy/counseling, transportation, medical care</i>	Feeling valued/seen/heard by program staff	
Opportunity for social and emotional learning	<i>Willingness for personal change/change of perspective, hope/thriving, healing, developing goals/a sense of purpose, coping skills</i>	Need for follow-up	<i>Follow-up during program, follow-up after program</i>
Ability to complete program and desist		Support groups post-completion	
Ability to complete program and not recidivate		Leading by example/giving back	

Vera plans to continue this qualitative research with DA and CBO partners with the goal of building jurisdiction-specific evaluation surveys. The surveys will allow diversion implementers to assess whether their program meets local-level needs.<sup>23</sup> Vera will publish the findings of these evaluations in a future report describing the effectiveness of diversion programs and what changes prosecutors and CBOs should incorporate to center the needs and preferences of system-impacted people and increase community safety.

### **Diversion programs should be run by people with direct experience**

Qualitative research on diversion programs in Kaua'i County, Hawai'i, and Marion County, Indiana, uplifted the need for programs led by people who had lived through similar experiences or had loved ones with such experiences. According to one focus group participant from Marion County, "You can't understand it, if you've never been through it." A system-impacted community member from Kaua'i County thought it was crucial that diversion programs are run by "people that have been there," and not by "people who are just book-smart and book-learned."

### **Support organizational and cultural changes within the DA's office**

Buy-in from the DA was the most important factor in the success of the train-the-trainer course, "Champions for Change," in which at least one staff member from a participating DA's office was trained to be a "Champion"—a credible messenger to train their coworkers about the role prosecution plays in mass incarceration and spark a culture change within the office. Leadership's prioritization of culture change translated to consistent involvement from the Champions in that office. When leadership was not engaged, Vera saw lower attendance, and in-office Champions had difficulty getting support to implement training sessions.

To ensure engagement from the entire staff, DAs should model commitment for the entire office. The DA's engagement also serves to alleviate the strains of power dynamics within the office: often Champions were younger attorneys and staff who did not feel they had the political capital to require colleagues to attend workshops or trainings. To emphasize that culture change is a priority, the DA should commit to holding regular culture change workshops or trainings, making attendance mandatory across the office, and personally attending sessions.

One challenge faced during the "Champions for Change" course was the undue burden placed on women or staff of color (or women staff of color) to lead culture change. Often the business of prosecution is intimately intertwined with the systems of oppression built into the U.S. criminal legal system. Thus, culture within prosecutors' offices may include instances of implicit biases and microaggressions that are largely borne by women staff of color. Notably, Champions were largely women, staff and attorneys of color, and system-impacted staff and attorneys. They were heavily impacted by the traditional prosecution culture and felt passionately about galvanizing change in their offices. Nevertheless, Champions reported that their morale was negatively impacted by the emotional labor attached to leading this charge.

Because of this, staff and attorneys of color, women, and system-impacted staff within prosecutors' offices cannot do culture change work alone. Their white and non-system-impacted colleagues, as well as men, should support and engage with the work to achieve successful culture change. Although this work should continue to be led by those most impacted, whenever possible, it should also include tangible supports for culture change leaders as needed to alleviate the burden. This approach could also result in higher retention of staff who are part of these marginalized communities.

## **In Their Own Words**

**“We have a young female client. . . . She entered Get Back Up [diversion] program and became noncompliant by receiving new charges three months into the program. DA offered the opportunity to delay the charges as long as she was participating in the program and making restitution to the victims of the new charges. Client followed through and . . . is living on her own. . . . It is hopeful that her charges will be cleared completely in the near future!”**

**—Staff member, Noah's House, Franklin County, Pennsylvania**

**Diversion is an individual and social responsibility**

Research participants in both Kaua'i County, Hawai'i, and Marion County, Indiana, also mentioned a person's willingness to undergo social and emotional learning as an important measure of the success of diversion programs. For recipients of diversion programs, the goal should be to try "to learn as much as you can about yourself," as a focus group participant in Marion County suggested.

Research participants described emotional learning in terms of personal growth or change, for example, as program participants' "willpower and courage to make that . . . change in their mindset and say, okay, I think I'm going to change my lifestyle." As system-impacted community members in Kaua'i described it, this learning process might involve healing, thriving, having hope, and feeling a sense of purpose. Emotional learning has happened if program participants feel able to "contribute to their own life in a positive way."

**Delegate program support from the elected DA to staff**

Although Vera recommends support and buy-in from the elected DA to establish the diversion program and assist with changing the culture of the office, DAs should also thoughtfully delegate tasks to equally engaged and passionate staff members. Vera observed elected DAs struggle with the tension of being deeply committed to launching their diversion program but lacking the capacity to personally oversee the program. By distributing these responsibilities, DAs can ensure that these critical areas receive the focused attention they deserve without compromising their overall mission. This approach not only alleviates the burden on the DA, allowing them to concentrate on high-level strategy and oversight, but also empowers other team members by bringing them into the fold of transformative work. It creates an environment of shared responsibility in which diverse perspectives can contribute to more innovative and effective solutions.

Most frequently, Vera saw the benefits of delegation in offices where DAs designated a diversion coordinator or team. In Arlington County and the City of Falls Church, Virginia, for instance, low capacity in the office and a need for deeper engagement with the CBO impeded the program's launch and progress. However, once prosecutors hired a grant-funded diversion coordinator, the program gained momentum and began seeing consistent referrals. Additionally, this allowed the DA to ensure their vision for the diversion program was honored while not taxing their personal capacity. Additional benefits of designating a diversion coordinator are discussed next.

### **Appoint a diversion coordinator**

Given the number of line staff in DA's offices driving individual case decisions, relying on individual prosecutors' discretion to decide whom to refer to diversion programs will inevitably lead to disparate results across race, gender, charge, criminal history, or any number of other factors. For example, one prosecutor may believe that a felony case in which the person charged has mental health issues is a perfect candidate for diversion, while another may believe that only misdemeanor cases belong in diversion programs. Many of the recommendations noted in the previous sections serve to address this incongruence by changing the office's culture around reform. However, to ensure that referrals to the programs follow consistent criteria, offices should designate a diversion coordinator or create a diversion team. Ideally, a diversion team would screen every case as it comes in for diversion eligibility.

Unfortunately, in many offices, capacity constraints prevent this type of structure. One alternative is to designate a single diversion coordinator to screen cases for eligibility. The DA, in partnership with the coordinator, should establish eligibility criteria, and the coordinator can ensure that any cases meeting those criteria are referred to diversion. Notably, for the diversion coordinator framework to be efficient, Vera strongly recommends establishing administrative functions that flag cases for the coordinator to review. For instance, an office with a restorative justice diversion program can create a system in which administrative staff flag each case involving identified crime survivors, and the diversion coordinator can then screen those cases for any other eligibility criteria.

### **In Their Own Words**

**“Our employment readiness program, RISE, has developed and strengthened/re-activated a variety of training and employment partnerships in the post-COVID period, allowing us to secure 120 jobs for [homeless people] in the past year.”**

**—Staff member, Horizon House, Marion County, Indiana**

## Thoughtfully structure entry into diversion

Each Motion for Justice diversion program structured its entry process differently. While some partner organizations accepted diversion program participants on a rolling basis through referrals from the DA's office, others used a cohort or "group" model with a fixed schedule. In cohort models, organizations accepted participants only during specific periods, requiring new referrals to wait until the next entry period, so that a "cohort" of participants can begin programming together. Vera observed that **cohort-based programs that did not accept participants on a rolling basis created significant entry barriers**. For instance, one diversion program in the Midwest was based on a cohort that lasted 12 weeks and prohibited rolling entry. Thus, unless potential participants had a charge pending when the cohort was starting, they missed the opportunity for diversion. Cohort models also run the risk of ensnaring people in the criminal legal system longer than necessary because eligible participants may have to delay entry if a cohort is in progress, sometimes waiting months for the next opportunity to be diverted. Consequently, **cohort model programs in the Motion for Justice engagement tended to have fewer participants than those with rolling admissions**.

Diversion program staff should carefully consider their entry-into-diversion structure. Ideally, organizations interested in operating a diversion program should allow for ongoing entry, but this should be balanced with the organization's capacity. This ongoing entry model ensures flexibility and responsiveness to individual needs and offers timely intervention. However, if cohort models are deemed necessary, organizations should minimize wait times. Staggering cohort start dates or **having overlapping cohorts could be beneficial**, reducing the delay for eligible participants. This approach allows more frequent opportunities for entry, potentially increasing overall participation in and effectiveness of the diversion program.

## In Their Own Words

**"[A participant] enrolled in the Mount Vernon Emerging Adult Justice Part in December of 2022 . . . [received] supportive services as he attempted to get back on track by obtaining his High School Equivalency and enrolling in college. . . . Currently, [he] is enrolled at Westchester Community College where he is studying Criminal Justice [and] his case was recently reduced to a violation in which he had to pay a surcharge and there will be no collateral consequences of this offense on his record moving forward."**

**—Staff member, Youth Shelter Program of Westchester, Inc., Westchester, New York**



## **Eliminate charge-based barriers to diversion**

Many of Vera's Motion for Justice partners structured their diversion programs so that eligibility was based on the person's charge—for example, only allowing people with drug possession charges to enter a substance use disorder program. Although these programs were very successful in serving the people who entered diversion and saw many graduations, they could increase impact and expand access if eligibility were based on unmet needs rather than charges. One program in particular, the Quality-of-Life Program in Marion County, Indiana, identified eligible people based not on the person's charge but on whether they were unhoused. Once this criterion was flagged, the case was reviewed for diversion eligibility. This allowed the program to serve a higher number of people facing a variety of charges. Approaching diversion through a needs-based lens—focusing not on specific charges but rather on systemic issues such as poverty, homelessness, youth, substance use, mental health, and interpersonal violence—creates more opportunities for people to receive services and have their needs met and more opportunities for DA's offices to reduce caseloads and address racial disparities.

### **In Their Own Words**

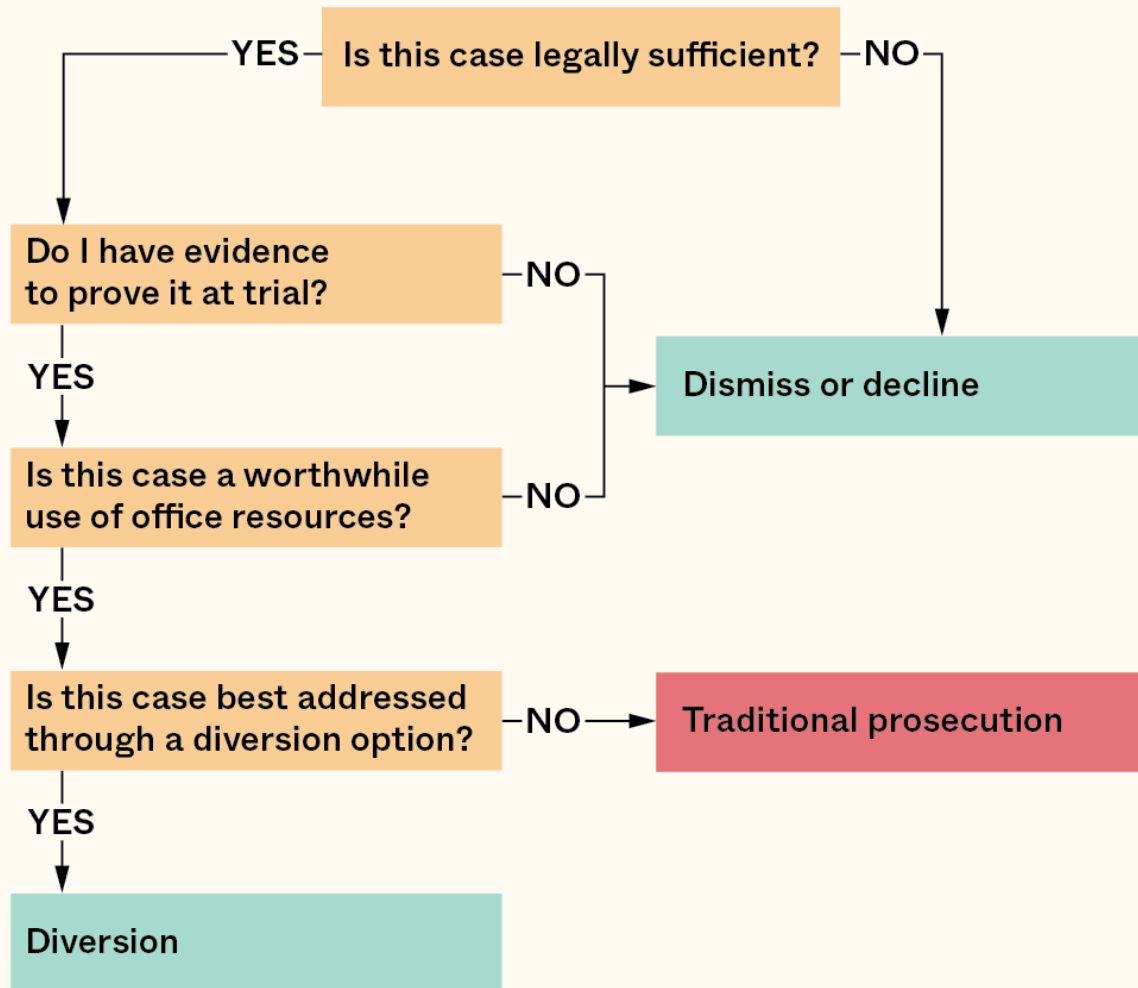
**“There’s one young lady that went through an obstacle of her house being burned down. . . . She still continues to press the way to the program. She still continues to press her way to work [and] we were able to get her with another employer and give her references and assistance with clothing and housing.”**

**—Staff member, Savannah Feed the Hungry, Chatham County (Savannah), Georgia**

**Figure 4**

## **Best Practices for Diversion Screening: How Prosecutors Can Guard Against Net Widening**

When deciding whether to divert a case, prosecutors should follow this sequence of questions.



Note: Architects of diversion programs should be aware of the risks of net widening. This refers to the phenomenon of unintentionally sweeping people into the system after introducing policies or programs explicitly intended to reduce the footprint of the criminal legal system. Introducing diversion programs carries a risk of net widening; when a new program is introduced, well-meaning prosecutors may refer cases that they otherwise would have dismissed. It can be the result of the instinct to “do something” when a case would otherwise be dismissed if the program did not exist.

## **Develop a data analysis and evaluation plan**

Even basic metrics—such as the number of people being referred to diversion, whether they complete the program they are referred to, and whether they have new cases filed during or after their participation in the program—can go a long way to assess whether the program is working as

intended. Below are guidelines DA's offices and CBOs should consider when starting a diversion program.

- **Plan for analysis and evaluation as soon as possible.** The office should develop this plan prior to any referrals to the program. It should make explicit which metrics the office or CBO wants to see, what data they need to collect to calculate these, and how they are going to collect it. This planning can help identify priorities for what to track with limited resources and help determine whether more serious investment in data entry procedures will be required.
- **Consider a partnership with outside agencies for evaluation.** An outside agency can be effective in evaluating a program for many reasons: the office may lack internal capacity to perform data analysis beyond preexisting database reports; the office may need assistance developing new data collection instruments and distributing them to participants; or CBO partners or others may not be comfortable sharing data with the office but may be willing to do so with a third party.
- **Analyze data early and often to ensure data hygiene.** Data entry is often burdensome to staff who have competing priorities, so the possibility for unintentional error is high. Analyzing data throughout the process allows for correcting missing or inaccurate data in more manageable pieces that will better position the office or CBO for evaluation in the long run.
- **Collect qualitative data.** Important qualitative measures of success that speak to the preferences and needs of both program recipients and program implementers add nuance to quantitative measures. These measures can be identified through qualitative research that includes the observations of stakeholders and uplifts voices of impacted communities.

Another common hurdle to launching diversion programs across all sites was bureaucracy. From judges who will not agree to create a holding docket for cases—adjourning cases going to diversion for up to a year while the process is completed—to challenges in changing case management systems that make it difficult to flag eligibility criteria, hurdles abound.

Opportunities for these stakeholders and community members to learn in depth about the programs being offered are essential in building trust and ensuring success. Many of these concerns can and should be addressed via transparency, communication, and early collaboration between local stakeholders and community members. Such opportunities include

- holding informational meetings;
- developing one-pagers, including in multiple languages for people with limited English proficiency, that outline the diversion program requirements and the benefit of diversion to the person charged;
- convening town halls to spread awareness about the diversion program and solicit feedback from the community;
- creating diversion agreements that enumerate the commitments the person charged must meet;
- organizing meet-and-greets with the community organization at which stakeholders can learn about the program, meet staff, and visit the space where the program is housed;

- engaging with local media at meet-and-greets and other learning opportunities so that they have an accurate understanding of the program including relevant context and research about charging alternatives; and
- preparing press releases that the DA's office and community organization can use to ensure interested media report accurately about the program.

## Conclusion

The Motion for Justice campaign demonstrates the vital role of committed collaboration between prosecutors' offices and community-based service providers in creating safer communities and achieving racial equity. The lessons from our visionary partners offer a roadmap for other DA's offices committed to forging pathways to public safety that eschew overreliance on draconian and ineffective tools like surveillance, supervision, and incarceration. Diversion programs are more than just off-ramps from the criminal legal system; they are also better pathways to safety and justice. These programs tackle the root causes of crime, offering holistic support that empowers individuals and reduces incarceration, particularly for Black and brown communities. The success stories and data collected throughout this project show that by centering racial equity, prosecutors can increase equitable access to diversion programming and resources, ultimately leading to safer communities.

Despite some challenges, proactive communication, early stakeholder engagement, and a commitment to continuous iteration and improvement paved the way for Motion for Justice's CBO and DA partners' success. The emphasis on organization and culture change within DA's offices, effective task delegation, and, where possible, the appointment of dedicated diversion coordinators ensures consistent and equitable program implementation. These structural changes, coupled with comprehensive data analysis, position leaders to continuously improve and adapt programs to better serve community needs. Future research is planned to curate evaluation tools for any jurisdiction seeking deeper understanding of community perceptions of public safety and better alignment of their diversion programs with community needs and preferences.

Expanding the Motion for Justice model for community-based off-ramps from traditional prosecution is essential to driving a greater paradigm shift toward systems and practices that promote healing, hope, long-term community well-being, and a more equitable future for all. By centering the voices of those impacted and continuously analyzing and refining approaches, communities thrive.

# Appendix: Sample Diversion Agreement

## Program Participation Agreement PRE-PLEA

The [Jurisdiction], by her attorney, and the Defendant, \_\_\_\_\_, hereinafter called Participant, by their attorney, hereby enters into this Pre-Plea Diversion Agreement.

Participant voluntarily enters into this agreement and agrees to its terms. With the successful completion of the programs agreed to herein, and/or recommended by the service provider, [Community-Based Service Provider], the [Jurisdiction] will dismiss all charges listed in the above-entitled cause of action. This agreement respects the relationship and trust [Community-Based Service Provider] holds with the participants and acknowledges that time spent working with the provider is equivalent to and more constructive than time spent in custody. The diversion program aims to help participants address the circumstances that resulted in their contact with the legal system, help participants avoid the potential consequences of a criminal plea or conviction, and reduce the chances that participants will be engaged with the criminal legal system in the future.

### Terms:

1. \_\_\_\_\_ Participant agrees to work with [Community-Based Service Provider] and any other partner agencies they suggest to identify and overcome the circumstances that have led to their contact with the criminal legal system. Participant shall participate in the program(s) that [Community-Based Service Provider] determines will best meet Participant's needs. The goal is to help Participant address the underlying circumstances that may have led to their contact with the criminal legal system, so that they may remain self-sufficient and out of the criminal legal system.
2. \_\_\_\_\_ [Community-Based Service Provider] will provide a list of services they offer for participants, including but not limited to safe housing alternatives, mental health services, substance use disorder counseling and treatment, and other services. Participant shall complete all services recommended by [Community-Based Service Provider].
3. \_\_\_\_\_ Participant specifically waives their rights under [appropriate speedy trial statute].
4. \_\_\_\_\_ Participant acknowledges that failure to comply with any term of this agreement may result in [Jurisdiction] withdrawing from this agreement and proceeding with traditional prosecution of the offense(s).
5. \_\_\_\_\_ Participant further understands that if they are discharged from the program or voluntarily withdraw, their case will be set for a pretrial hearing, where the court may revisit their bond conditions, modify or revoke them, and set their case for trial or preliminary hearing.
6. \_\_\_\_\_ Participant acknowledges that under traditional prosecution they would face the charges enumerated below.

Charge	Maximum Possible Sentence
_____	_____
_____	_____
_____	_____
_____	_____
Total Exposure	_____ _____ _____
	_____ _____ _____
	_____ _____ _____

7. \_\_\_\_\_ Participant agrees to participate in and successfully complete one or more of the following listed services:

____ Intensive Case Management	____ Criminogenic Risk/Needs Evaluation
____ Employment Program	____ Basic Emergency Needs
____ Housing Assistance	____ Education Assessment
____ Mental Health Evaluation	____ Educational Tutoring
____ Substance Abuse Disorder Evaluation	____ Educational Financial Assistance
____ Peer Support Specialist Mentoring	____ Other _____

8. \_\_\_\_\_ Participant agrees to maintain consistent communication with [Community-Based Service Provider] staff and notify them of any difficulties while striving to complete the program goals and requirements. Participant understands the goals and requirements of the program are subject to change as Participant progresses and will be determined by continuing assessments by [Community-Based Service Provider] staff.
9. \_\_\_\_\_ Participant agrees to sign a waiver allowing [Community-Based Service Provider] to release information to the [Jurisdiction] and Participant's attorney solely for the purpose of compliance with program initiatives. Information received will not be used in the prosecution of Participant if Participant should ultimately not complete program services.
10. \_\_\_\_\_ Participant acknowledges that participation in this program is voluntary. Participant can withdraw from this agreement at any time by written notification to Participant's counsel.
11. \_\_\_\_\_ If Participant chooses to withdraw from the program, or is discharged from the program, resumption of traditional prosecution will proceed with all constitutional rights afforded to Participant.
12. \_\_\_\_\_ Any admission regarding the above-captioned matters Participant makes during their participation in the diversion program will not be used against Participant in trial, should they not successfully complete the program.
13. Participant agrees to the following additional terms (if any):

\_\_\_\_\_

\_\_\_\_\_

14. Participant further agrees and promises to appear for compliance hearings on the following dates and times:

\_\_\_\_\_

\_\_\_\_\_

15. Participant shall complete all terms of this agreement on or before \_\_\_\_\_, unless an extension is agreed upon by all parties.
16. If Participant completes the terms of the agreement by the end of the allotted time frame, the [Jurisdiction] agrees to dismiss the above case(s).

So agreed this \_\_\_\_\_ of \_\_\_\_\_, 202\_\_\_\_.

\_\_\_\_\_  
Participant

\_\_\_\_\_  
Defense Attorney

\_\_\_\_\_  
[Jurisdiction] Representative

\_\_\_\_\_  
[Community-Based Service Provider]  
Representative

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## Endnotes

- <sup>1</sup> Akhi Johnson and Mustafa Ali-Smith, “Diversion Programs, Explained,” Vera Institute of Justice, April 28, 2022, <https://www.vera.org/diversion-programs-explained>. See also Michael Mueller-Smith, “The Criminal and Labor Market Impacts of Incarceration,” Working Paper (Department of Economics, University of Michigan, August 18, 2015), <https://perma.cc/6BW2-HBUL>.
- <sup>2</sup> Nine jurisdictions saw local prosecutors’ offices partner with a community-based organization (CBO). In one jurisdiction, the community-based partner did not receive referrals from the prosecutor’s office, but rather through hospital referrals and from the community.
- <sup>3</sup> See for example Larry Buchanan, Quoc Trung Bui, and Jugal K. Patel, “Black Lives Matter May Be the Largest Movement in U.S. History,” *New York Times*, July 3, 2020, <https://www.nytimes.com/interactive/2020/07/03/us/george-floyd-protests-crowd-size.html>; and Laurin-Whitney Gottbrath, “In 2020, the Black Lives Matter Movement Shook the World,” Al Jazeera, December 31, 2020, <https://perma.cc/T47N-DJXV>.
- <sup>4</sup> See generally Francisco H. G. Ferreira, “Inequality in the Time of COVID-19,” International Monetary Fund, Summer 2021, <https://perma.cc/BR7F-X7C6>; and Brea L. Perry, Brian Aronson, and Bernice A. Pescosolido, “Pandemic Precarity: COVID-19 Is Exposing and Exacerbating Inequalities in the American Heartland,” *PNAS* 118, no. 8 (2021), <https://www.pnas.org/doi/10.1073/pnas.2020685118>.
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- <sup>6</sup> Madison Pauly and Samantha Michaels, “BLM Activists Demanded Police Accountability. In City After City, Voters Agreed,” *Mother Jones*, November 6, 2020, <https://perma.cc/6BHT-SKRS>.
- <sup>7</sup> Staff, “Prosecutors Confront Ugly Repercussions of Bias,” American Bar Association (ABA), February 3, 2023, <https://www.americanbar.org/news/abanews/aba-news-archives/2023/02/prosecutors-confront-bias/>; and Roger Fairfax, “Prosecutors, Ethics, and the Pursuit of Racial Justice,” *Ohio State Journal of Criminal Law* 19, no. 1 (2021), 25–37, [https://digitalcommons.wcl.american.edu/facsch\\_lawrev/2082](https://digitalcommons.wcl.american.edu/facsch_lawrev/2082). See also Rachel Cicurel, “Opinion: Don’t Stop with the Police: Check Racism in Prosecutor’s Office,” *Washington Post*, July 9, 2020, <https://www.washingtonpost.com/opinions/2020/07/09/dont-stop-with-police-check-racism-prosecutors-office/>.
- <sup>8</sup> Sam McCann, “How ‘Collateral Consequences’ Keep People Trapped in the Legal System,” Vera Institute of Justice, November 29, 2023, <https://www.vera.org/news/how-collateral-consequences-keep-people-trapped-in-the-legal-system>.
- <sup>9</sup> Ashley Nellis, *The Color of Justice: Racial and Ethnic Disparity in State Prisons* (Washington, DC: Sentencing Project, 2021), <https://perma.cc/H7SJ-SK78>. See also Rick Jervis, “Who Are Police Protecting and Serving? Law Enforcement Has History of Violence Against Many Minority Groups,” *USA Today*, June 13, 2020, updated June 15, 2020, <https://www.usatoday.com/story/news/nation/2020/06/13/mistrust-police-minority-communities-hesitant-call-police-george-floyd/5347878002/>.
- <sup>10</sup> See for example Jervis, “Who Are Police Protecting and Serving?” *USA Today*, June 13, 2020, updated June 15, 2020, <https://www.usatoday.com/story/news/nation/2020/06/13/mistrust-police-minority-communities-hesitant-call-police-george-floyd/5347878002/>.
- <sup>11</sup> Across jurisdictions, the chief elected or appointed prosecutor may be called a district attorney, commonwealth’s attorney, state’s attorney, city attorney, or yet another title. For reader ease, this report uses the term district attorney and the abbreviation DA to refer to the chief elected prosecutor in a given jurisdiction.
- <sup>12</sup> Kalani C. Johnson, Robert C. Davis, Melissa Labriola, et al., “An Overview of Prosecutor-Led Diversion Programs: A New Incarnation of an Old Idea,” *Justice System Journal* 41, no. 1 (2020), 63–78, <https://www.tandfonline.com/doi/full/10.1080/0098261X.2019.1707136>. This study reviewed program operations and goals from 15 prosecutor-led diversion programs across eight states. The goals targeted by these programs include not only recidivism but also a reduction of collateral consequences for defendants and cost savings for the criminal legal system. Although this study does not specifically assess the outcomes listed here, it provides context for the wide range of outcomes to consider in the criminal legal system. See also Michael Rempel, Melissa Labriola, Priscilla Hunt, et al., *NIJ’s Multisite Evaluation of Prosecutor-Led Diversion Programs: Strategies, Impacts, and Cost-Effectiveness* (New York: Center for Court Innovation, 2018), <https://perma.cc/4M77-UYPJ>. This is a related study of the same of prosecutor-led diversion programs, which also provides analysis confirming that, in most of the sites where data could be sufficiently analyzed with quasi-experimental methods, participation in prosecutor-led pretrial diversion led to reduced rearrest rates, while defendants benefited from a reduced likelihood of conviction and incarceration. Similarly, for sites where a cost evaluation was conducted, diversion cases involved less resource investment than comparison cases.
- <sup>13</sup> Launched in 2023, the Collaborative Justice Network was built to support Vera’s past prosecutor and CBO partners to continue their diversion programs, explore other reforms, and sustain programming and reform work into the future. Learn more about the network at <https://www.vera.org/ending-mass-incarceration/criminalization-racial-disparities/prosecution-reform/reshaping-prosecution-initiative/collaborative-justice-network>.



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<sup>14</sup> To best measure outcomes of diversion programs, Vera analyzes measures of program success over months and years post-program completion and, when possible, compares such quantitative and qualitative findings against those resulting from traditional prosecution and incarceration.

<sup>15</sup> See generally Elizabeth Kai Hinton, LeShae Henderson, and Cindy Reed, *An Unjust Burden: The Disparate Treatment of Black Americans in the Criminal Justice System* (New York: Vera Institute of Justice, 2018), <https://www.vera.org/publications/for-the-record-unjust-burden>.

<sup>16</sup> For more on how housing applications may be affected, see Legal Aid DC, “Housing with a Criminal Record,” <https://www.legalaiddc.org/legal-info/housing-criminal-record>. For more on the effect of arrests on education, see Center for Community Alternatives, *Boxed Out: Criminal History Screening and College Application Attrition* (New York: Center for Community Alternatives, 2015), [https://cdn.prod.website-files.com/653a6678c181ae248fb616f9/653a844447355006020419ea\\_boxed-out.pdf](https://cdn.prod.website-files.com/653a6678c181ae248fb616f9/653a844447355006020419ea_boxed-out.pdf); and the American Association of Collegiate Registrars and Admissions Officers, *Criminal and Disciplinary History in College Admissions* (Washington, DC: AACRAO, 2019), [https://www.aacrao.org/docs/default-source/signature-initiative-docs/trending-topic-docs/criminal-history--college-admissions/criminal-history-report\\_12172019\\_release.pdf](https://www.aacrao.org/docs/default-source/signature-initiative-docs/trending-topic-docs/criminal-history--college-admissions/criminal-history-report_12172019_release.pdf). For more on how background checks affect employment, see Rachel M. Klein and Sandhya Kajeeptha, *Barred from Work: The Discriminatory Impacts of Criminal Background Checks in Employment* (New York: Thurgood Marshall Institute, 2023), <https://tminstituteldf.org/criminal-background-checks-employment/>. For more on how convictions affect immigration status, see Kathy Brady, *What Qualifies as a Conviction for Immigration Purposes?* (San Francisco: Immigrant Legal Resource Center, 2019), 2, <https://perma.cc/F8FS-U3E2>.

<sup>17</sup> National Consumer Law Center (NCLC) and Collateral Consequences Resource Center (CCRC), *The High Cost of a Fresh Start: A State-by-State Analysis of Court Debt as a Bar to Record Clearing* (Boston: NCLC and CCRC, 2022), 3–4, 9, <https://perma.cc/DH6Z-54LZ>; and American Bar Association (ABA), Criminal Justice Section, *Collateral Consequences of Criminal Convictions: Judicial Bench Book* (Chicago: ABA, 2018), 4, <https://perma.cc/59AH-QQP2>. See also Lauren-Brooke Eisen and Haley Reimbold, “Criminal Justice Debt and Collateral Consequences,” Vera Institute of Justice, September 28, 2012, <https://www.vera.org/news/criminal-justice-debt-and-collateral-consequences-issues-and-innovations>.

<sup>18</sup> The prosecutor’s office in Washtenaw County, Michigan, provided data to a research team at the University of Michigan. Results for Washtenaw County are taken directly from the University of Michigan report and cover cases referred from 2017 to 2022. See Grady Bridges and J.J. Prescott, *Prosecutor Transparency Project: Racial Disparities Study (Washtenaw County, Michigan)* (Rochester, NY: SSRN, 2023), <https://doi.org/10.2139/ssrn.4680695>. The prosecutor’s office in Marion County, Indiana, provided data to the Polis Center at the Indiana University Luddy School of Informatics, Computing and Engineering at Indianapolis. Results for Marion County are taken directly from the Polis Center report available online and cover cases filed from January 1, 2017, to August 21, 2022. See Jay Colbert, Matt Dietrich, and SAVI, *Equity in Criminal Prosecutions: Analyzing Case Filings from the Marion County Prosecutor’s Office* (Indianapolis, IN: SAVI, 2023), <https://perma.cc/3UXE-SJHR>.

<sup>19</sup> For example, in Kaua’i County, Hawai’i, the Teen Court welcomes local legal practitioners, such as defense attorneys and judges, to volunteer and participate in “chambers,” a process during which peers act as advocates for accountability and determine how participants can address the harm they have caused in their community. This experience allows practitioners to see the firsthand impact of the diversion program.

<sup>20</sup> Maresi Starzmann and Andrew Taylor, *Envisioning Safety: Community-Driven Prosecution Reform in Wyandotte County* (New York: Vera Institute of Justice, 2023), <https://www.vera.org/publications/envisioning-safety-community-driven-prosecution-reform-in-wyandotte-county>; and I.M. Guijt, *Participatory Approaches: Methodological Briefs—Impact Evaluation No. 5* (Florence, Italy: UNICEF, 2014), 2, [https://www.researchgate.net/publication/274712852\\_Participatory\\_Approaches\\_Methodological\\_Briefs\\_Impact\\_Evaluation\\_No\\_5\\_UNICEF\\_Office\\_of\\_Research\\_Florence](https://www.researchgate.net/publication/274712852_Participatory_Approaches_Methodological_Briefs_Impact_Evaluation_No_5_UNICEF_Office_of_Research_Florence).

<sup>21</sup> It is significant to recognize that in the context of Hawai’i, the notion of family differs from that of a nuclear, biologically defined family. “*Ohana* refers to the extended family—a “collective that gives life, nourishment, and support for the growth and prosperity of blood relatives as extended family, those joined in marriage, adopted children or adults, and ancestors living and deceased.” Valli Kalei Kanuha, “*Nā`Ohana: Native Hawaiian Families*,” in *Ethnicity and Family Therapy*, edited by Monica McGoldrick, Joe Giordano, and Nydia Garcia-Preto (New York and London: The Guilford Press, 2005), 64–74, 66.

<sup>22</sup> The Native Hawai’ian term *hanai* refers to “a child who is reared, educated, and loved by someone other than the natural parents,” and quite often the *hanai* relationship occurs “within the family, so the child is rarely raised by strangers. Traditionally, the permanent quality of the *hanai* relationship made it a near equivalent of legal adoption.” Hawai’i HB 2097, § 1 (2002), [https://www.capitol.hawaii.gov/sessions/session2002/bills/HB2097\\_.htm](https://www.capitol.hawaii.gov/sessions/session2002/bills/HB2097_.htm).

<sup>23</sup> Partner CBOs will be asked to survey program participants at least twice—during intake and discharge—but will be encouraged to collect additional data points throughout the program, for example, at the midpoint. When evaluation results indicate ineffective program features, Vera will assist partnering CBOs and prosecutors’ offices to develop strategies to adapt or improve diversion programs to meet the needs of system-impacted communities.