Evidence-Based Practices Brief

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Perceptions of Youth on Juvenile Diversion

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Juvenile Diversion

The juvenile justice system was established under the belief that children who misbehave should be rehabilitated, but not subject to adult punishment. During the 1980s and 1990s, attitudes toward juveniles became more punitive and practices moved toward formally processing youth into the system;[1] however, research demonstrates that youth who are formally processed may have worse outcomes than youth who are not formally processed.[2] Juvenile diversion is one approach offered to reduce potential unintended consequences of juvenile court.[3]

The concept of diversion is based on Labeling Theory, which asserts that processing low-level youth through the system may have negative consequences because it stigmatizes them as "delinquents" despite committing relatively minor acts.[4] To address these concerns, the recommendations are that juvenile diversion programs meet the following goals: (1) reduce recidivism, (2) reduce the stigma of being labeled delinquent, (3) reduce coercion and social control, (4) provide services, and (5) reduce costs for the juvenile justice system.[5]

Studies have mostly investigated recidivism as an outcome, with fewer studies investigating the other goals of diversion.[6] Research on the effectiveness of reducing recidivism has been mixed. While some studies have found reduced rates of recidivism for diverted youth as compared to not-diverted youth, others have noted equal rates of recidivism.[7] Some have explained that these differences may be because programs vary widely, including how well the program balances providing services and reducing unintended consequences of participating in diversion, as well as the characteristics and attitudes of youth who participate in diversion. As noted by Osgood,[8]

> "Diversion programs cannot avoid stigma, coercion, and social control of formal dispositions if their clients were never at risk of receiving those dispositions. The programs may actually increase these phenomena if they serve as extensions of the justice system and expand its clientele... The essence of these criticisms is that the programs have failed precisely because they were *not diversion programs*" (p. 37).

Legal Socialization and Procedural Justice

Negative attitudes toward the legal system have been identified as a strong predictor of rule-violating behavior for both male and female adolescents. According to Legal Socialization, attitudes about the legal system transition through adolescence from compliance and cooperation in younger youth, to legal cynicism in older youth.[9] Because of the population juvenile diversion programs serve (younger and/or early system-involved), diversion can shape attitudes youth develop about the legal system.

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[1] Grisso & Schwartz, 2000
[2] Petrosino, Turpin-Petrosino, & Guckenburg, 2010; Hobbs et al., 2013
[3] Beck et al., 2006
[4] Lemert, 1951
[5] Palmer & Lewis, 1980
[6] see Granot & Tyler, 2019; Osgood, 1984; Potter & Kakar, 2002
[7] Wilson & Hoge, 2013, Patrick & Marsh, 2005; Schwalbe et al., 2012
[8] Osgood, 1984
[9] Cohn & Modecki, 2007; Tapp & Levine, 1974; Fagan & Tyler, 2005; Piquero et al., 2005

Procedural Justice theory postulates that when evaluating legal authorities, people are more concerned that the process is just and fair, rather than the perceived fairness of the outcome—even if the outcome is unfavorable.[10] Fair procedures signal to the person that they are a valued member of society who is afforded equal treatment. As such, one of the key components of procedural justice is the opportunity to express opinions about the situation prior to the authority figure's decision.[11] Within a criminal justice context, procedural justice has been linked to greater satisfaction with the legal system, positive perceptions of legal actors, and compliance with the law and authorities.[12]

Penner and colleagues (2014) found that perceived procedural justice and legitimacy of the juvenile justice system, predicted self-reported offending for youth on probation over and above well-established risk factors for offending, such as delinquent peers, substance abuse, psychopathy, and age at first contact with the law. Therefore, procedural justice is an important component to consider in the administration of juvenile justice.

Survey of Youth on Diversion

The current survey examined perceptions of being on diversion considering recommendations that diversion programs reduce the unintended consequences of system involvement, including perceived stigma, coercion, and social control while on diversion, as well as how these outcomes influence satisfaction with the program and services, and program engagement. In addition to examining whether any of these unintended consequences affect outcomes, the study also measured how procedural justice, a more therapeutic approach to the delivery of services within the legal system, and its related constructs legitimacy and legal cynicism, influence the same outcomes.

Sample: The final sample included 273 youth who completed an intake in one of three juvenile diversion programs in Nebraska (three suburban counties, $n = 120$; $n = 86$; $n = 79$) who were 42.0% female with a mean age of 15.27 ($SD = 1.61$). Approximately 50.6% were White, 17.5% Hispanic, 15.9% Black, 9.6% multiple races, 2.4% Native American, 0.8% Asian, and 3.2% other or unspecified.

Procedure: During intake, the diversion officer gave each juvenile and guardian a permission to contact form during the data collection period from February 2018 to December 2019. Approximately four weeks after intake, research assistants contacted youth to complete an online survey via text, email or phone call (with the link sent via text or email), depending on their selected preference, with a $10 gift card as compensation. The time frame for administering the survey was selected so that youth would have some exposure to the diversion program and staff, but prior to being discharged. Overall, approximately 26.0% of youth who were approached completed the survey, 43.9% were approached and agreed to participate but then could not be reached or refused after contact, and 30.1% were approached and did not want to be contacted.

Materials: All of the following scales were measured on a 4-point Likert scale from strongly disagree (1) to strongly agree (4); items were averaged to create mean scores for each scale. To measure procedural justice, participants completed the 20-item Youth Justice System Procedural Justice Scale[13] adapted to measure youth's experience of procedural fairness within the juvenile diversion program. Participants completed additional measures hypothesized to be related to procedural justice including: legitimacy (13-items)[14] and legal cynicism (3-items)[15]. To measure potential unintended consequences of diversion, participants completed questions relating to perceived voluntariness and awareness of choice to enroll in diversion, including the MacArthur Perceived Coercion Scale (5-items)[16]; perceptions of stigmatization for participating in diversion[17]; and perceptions of social control while on diversion. In addition, youth answered several questions about the satisfaction with services and compliance with the diversion program. Lastly, we measured recidivism defined as any future law violation of status offense (excluding minor traffic offenses) filed on in either juvenile or adult court within one year of completing the survey.

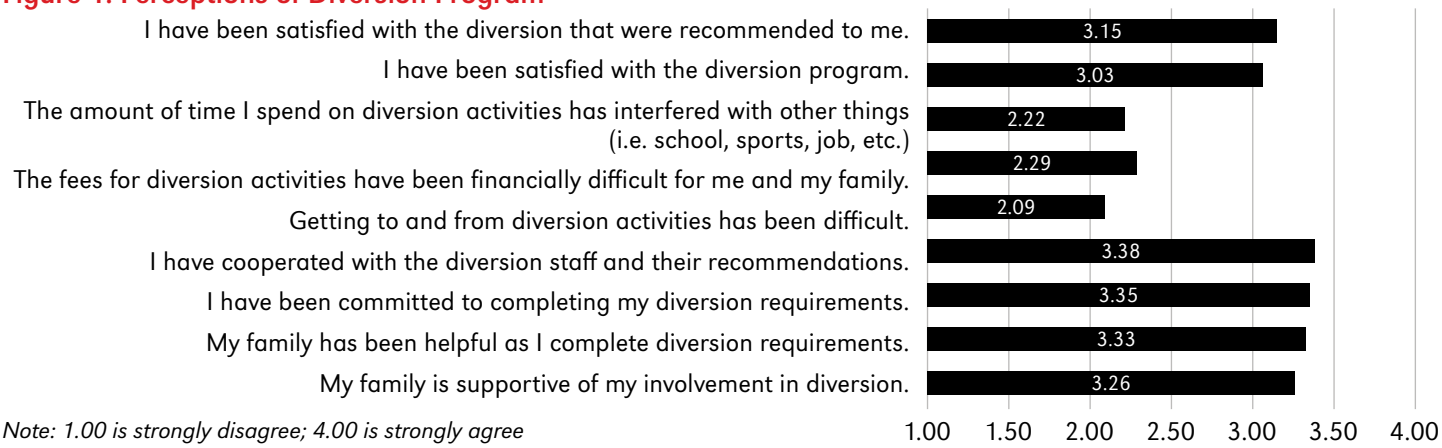
Results

Perceptions of Diversion Program

Figure 1 displays the average responses that youth gave regarding their perception of the diversion program from strongly disagree to strongly agree. Overall, youth agreed with being satisfied with the participating diversion programs and referred services, agreed that they complied well with the program staff, and agreed that their families have been helpful and supportive. They disagreed that the time spent on diversion interfered with other activities, that the fees were difficult, and that getting to the diversion activities was difficult.

[10] Leventhal, 1980; Lind & Tyler, 1988; Thibaut & Walker, 1975
[11] Lind et al., 1990
[12] Murphy, 2015; Tyler, 1990; Tyler & Huo, 2002
[13] Penner et al., 2014
[14] Penner et al., 2014
[15] Hamm et al., 2016
[16] Poythress et al., 2002; Redlich et al., 2010
[17] Kidd, 2007; McGrath, 2009

Figure 1: Perceptions of Diversion Program



Note: 1.00 is strongly disagree; 4.00 is strongly agree

When asked whether there was anything that could have helped them while on the diversion program (they could select all that applied), many youths indicated "none, I got all the help I needed". Some indicated wanting less time on diversion and some indicated having more contact with staff would be helpful. Fewer indicated wanting more or fewer services for parents, having more time on diversion, or having less contact with staff.

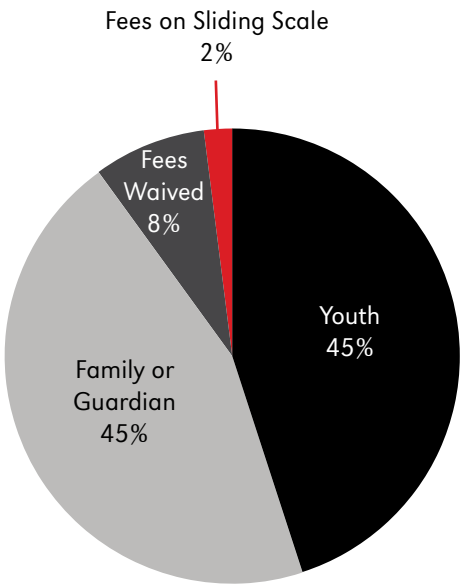
3.7%	16.8%	5.1%	5.1%	11.0%	3.3%	62.3%
More time on diversion	**Less time on diversion**	**More services for my parents**	**Fewer services for my parents**	**More contact with staff**	**Less contact with staff**	**None, I got all the help I needed**

Youth were also asked what diversion activity or service was the most helpful. Participants provided text responses that were recoded into the categories presented in Table 1. Overall, the most common response was community service, followed by a class (e.g., drug, shoplifting, empathy, other class).

Table 1: Most Helpful Diversion Activity

	Frequency	Percent
Community service	47	20.3%
A class	45	19.5%
None/Not sure	34	14.7%
Mental health service	18	7.8%
Diversion staff/Other supportive adult	16	6.9%
Personal growth (thinking/feelings)	13	5.6%
Writing paper/Letter	12	5.2%
Just started diversion (so not sure)	12	5.2%
Academic help	8	3.5%
Drug class/drug testing	8	3.5%
Prosocial activity	7	3.0%
Record sealing/not going to court	6	2.6%
Supervision/monitoring	5	2.2%
Missing	42	15.4%

Figure 2. How Did you Pay for Diversion?



Overall, youth paid for diversion themselves at the same rate that family or a guardian paid for diversion. Fewer indicated having the fees waived or having a sliding scale (Figure 2).

Coercion, Stigma, and Social Control

When asked who most influenced their decision to enroll, most youth perceived the decision to enroll in diversion as something they jointly decided with others or entirely/mostly what they wanted, with fewer indicating the decision to enroll was mostly/entirely what other people wanted (Figure 3). Most felt like they had moderate/a lot of control over enrolling, while others felt a little or no control at all (Figure 4).

Figure 3: Who influenced decision to enroll in diversion?

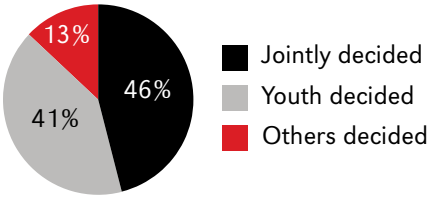
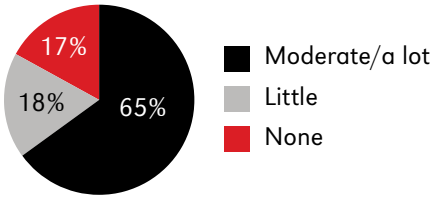


Figure 4: How much control in enrolling in diversion?



Ultimately, 3 of 4 youth felt like they chose to enroll in diversion (Figure 5) and felt they had moderate to a lot of freedom in what they wanted about being in diversion (Figure 6).

Figure 5: Whose choice was it to enroll?

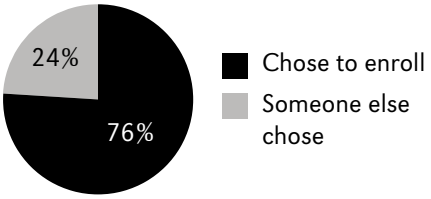
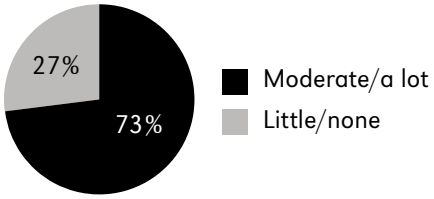
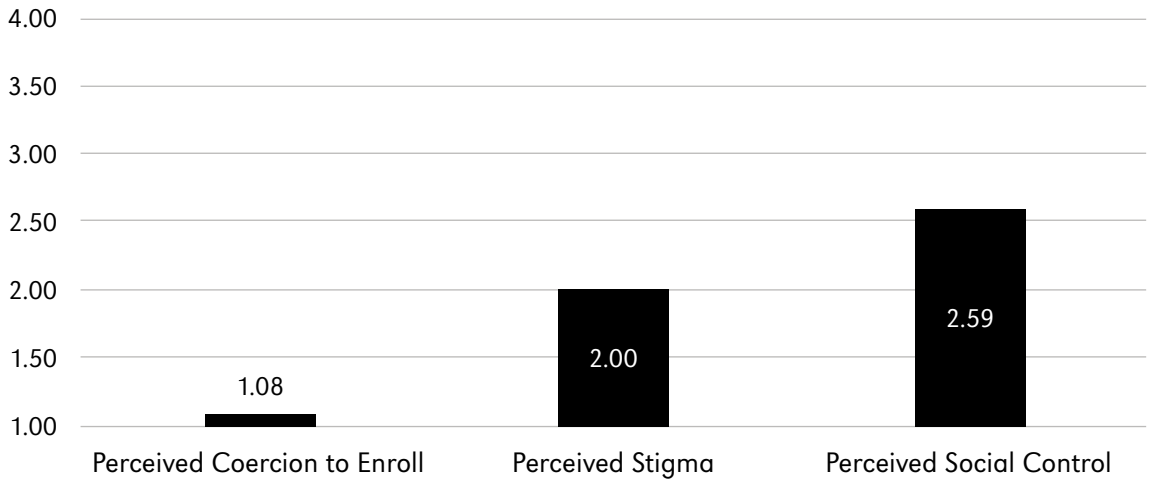


Figure 6: How much freedom did you have in enrolling?



As displayed in Figure 7, youth experienced a low level of perceived coercion to enroll in diversion (i.e., high voluntariness), $M = 1.08$, $SD = 1.33$. However, felt stigma was higher and at the mid-point $M = 2.00$ ($SD = 0.67$). Youth felt more socially controlled while on diversion, than the other two measures with $M = 2.59$ ($SD = 0.62$). There were no sex, racial/ethnic or age differences across all three measures.

Figure 7: Perceived Coercion to Enroll, Stigma, and Social Control



With respect to social control,

45.4%

indicated they felt like their whereabouts were being monitored by the program and

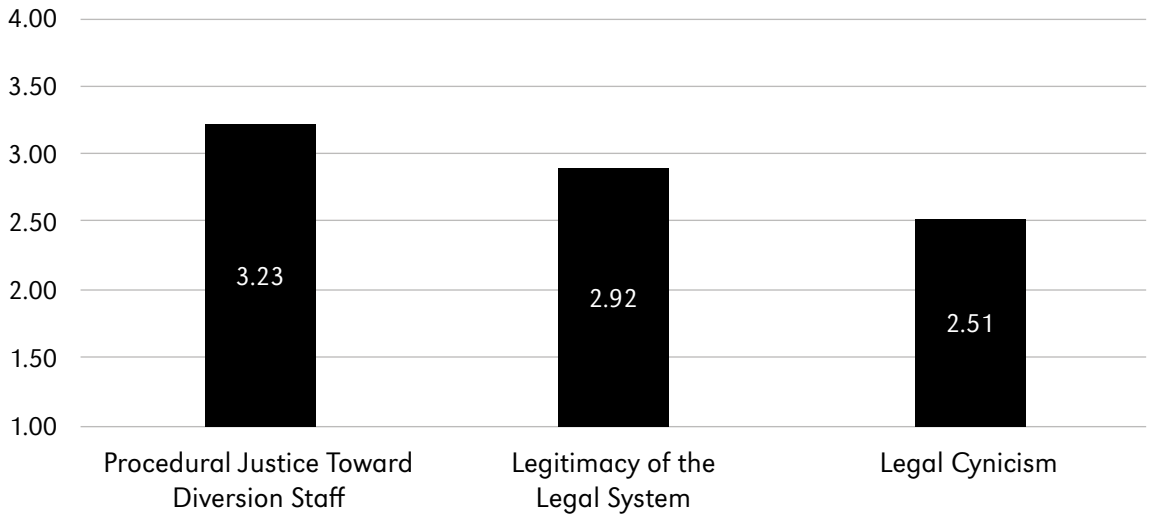
72.7%

felt like they were completing activities as a consequence for their actions.

Procedural Justice, Legitimacy, and Legal Cynicism

As displayed in Figure 8, the sample indicated high perceptions of procedural justice toward the diversion program and staff ($M = 3.23$, $SD = 0.49$), moderately high levels of perceived legitimacy of the legal system generally ($M = 2.92$, $SD = 0.52$), and moderate cynicism toward the legal system generally ($M = 2.51$, $SD = 0.63$). There were no sex or racial/ethnic differences across all three measures; however, there was a relationship for age. As hypothesized, younger youth perceived the legal system as more legitimate than older youth $r(256) = -.17$, $p<.01$.

Figure 8: Perceptions of Diversion Staff and Legal System



Diversion Satisfaction and Compliance

As displayed in Figure 9, juveniles in the diversion program were satisfied with the program and referred services (M = 3.08, SD = 0.59) and reported high levels of complying with the program and staff (M = 3.36, SD = 0.54). There were no sex or racial/ethnic differences for diversion satisfaction and program compliance; however, there was a relationship for age. Specifically, younger youth were more satisfied with the program than older youth $r(253) = -.13$, $p<.05$.

Figure 9: Satisfaction with Diversion Program and Self-report Program Compliance

Bivariate Correlation Analysis

Table 2 displays the bivariate correlations for the independent variables measuring any unintended consequences of being on diversion and procedural justice. In general, there were no significant correlations between coercion and stigma, and social control. There was a significant correlation between social control and stigma, such that those who felt greater social control, also felt greater stigmatization for being in a diversion program.

As hypothesized, perceived stigma was significantly correlated with all three procedural justice variables. More specifically, youth with lower perceptions of procedural justice toward the diversion staff and program were more likely to feel stigmatized. Similarly, when youth had lower perceived legal system legitimacy and higher perceived legal system cynicism, they had higher felt stigmatization for being on diversion. As hypothesized, perceptions of procedural justice were positively correlated with perceived legitimacy of the legal system, such that youth with greater perceived procedural justice toward the diversion program and staff, also had greater perceptions of legal system legitimacy. Similarly, as hypothesized, procedural justice was negatively correlated with legal cynicism, such that youth with greater perceived procedural justice toward the diversion program and staff, had lower perceptions of legal cynicism.

In examining diversion outcomes such as program satisfaction and self-report compliance with the program requirements and staff, there were several significant relationships. Youth with lower perceived coercion to enroll and lower felt stigma for being on diversion, felt more satisfied with the program; however, perceived social control was not related to program satisfaction. Moreover, youth with greater perceived procedural justice by diversion staff, higher perceived legal system legitimacy, and lower legal cynicism were more satisfied with the program.

In terms of self-report program compliance, youth who felt less stigmatized reported more compliance, while coercion and social control did not have a relationship with program compliance. A similar pattern emerged for the procedural justice variables, such that youth with greater perceived procedural justice by diversion staff and higher perceived legal system legitimacy reported greater compliance for the program. There was not a relationship for legal cynicism, however, with program compliance. Lastly, youth with greater satisfaction with the program were also more likely to report complying with the program requirements and staff.

Table 2. Descriptives and Bivariate Correlations Between Unintended Consequences and Procedural Justice Independent Variables

	M (SD)	Range	1	2	3	4	5	6	7
1. Coercion	1.08 (1.33)	0 to 5	–						
2. Stigma	2.00 (0.67)	1 to 4	.09	–					
3. Social Control	2.59 (0.62)	1 to 4	.06	.31**	–				
4. Proc. Justice	3.23 (0.49)	1 to 4	-.15*	-.31**	-.05	–			
5. Legitimacy	2.92 (0.52)	1 to 4	-.07	-.18**	-.03	.50**	–		
6. Cynicism	2.51 (0.63)	1 to 4	.10	.31**	.23**	-.14*	-.19**		
7. Satisfaction	3.08 (0.59)	1 to 4	-.17**	-.28**	-.11	.49**	.48**	-.24**	
8. Compliance	3.36 (0.54)	1 to 4	-.06	-.28*	.03	.49**	.45**	-.09	.47**

*Note: * indicates p<.05; ** indicates p<.01*

Limitations

There are some limitations to the current research that should be noted. First, youth self-selected into taking the survey and, as such, may not be representative of all youth in diversion programs. Second, although all youth responded that they were honest or mostly honest on the survey, data are self-report and could reflect response bias. Although we did examine recidivism for youth who completed the survey, because the base rate was lower ($n = 20$; 7%) than is typically found in our research, we did not present these results or make conclusions about the relationship between recidivism and responses because we think the self-selection into the survey contributed to a lower risk sample.

Conclusions

Juvenile diversion programs aim to (1) reduce recidivism, (2) reduce the stigma of being labeled delinquent, (3) reduce coercion and social control, (4) provide services, and (5) reduce costs for the juvenile justice system.[18]

- We did not report on recidivism, because we did not feel it was a reliable measure (see limitations).
- In terms of the second and third goals, youth in participating diversion programs reported relatively low coercion to enroll, some felt stigma, and some day-to-day social control while on diversion—which did not differ by sample demographics. There were some notable relationships. Youth who felt greater stigmatization for being on diversion, also felt greater social control, lower procedural justice, lower legal system legitimacy, and higher legal cynicism. Furthermore, youth with lower perceived coercion to enroll, felt lower stigma for being on diversion, greater procedural justice, higher legal system legitimacy and lower legal cynicism, and felt more satisfied with the program. Youth with lower felt stigma, and greater procedural justice and higher perceived legal system legitimacy reported greater compliance for the program.
- With respect to the fourth goal, providing services, youth in this sample were satisfied with the diversion program and reported that the requirements, time, and referred services were satisfactory. Many reported finding community service and classes they took as part of their diversion plan as most helpful. On average, they did not report difficulty with fees and about half of the sample paid for diversion themselves.
- Although important to examine, this project did not examine whether diversion reduced the costs for the juvenile justice system, as this was beyond the scope of the project.

Recommendations

- Youth reported that one of the most helpful aspects of the diversion program was having a supportive adult (e.g., diversion staff, mentor, another person). As such, diversion programs should continue building relationships with youth and connecting them to supportive adults.
- Youth reported that a helpful aspect of diversion was expressing their side of the incident (either their feelings/thoughts or through written letters). In line with procedural justice, which was a strong predictor of stigma, program satisfaction and compliance, diversion programs should ensure youth are given the opportunity to express their thoughts/feelings/perspective to increase voice and ensure the process and procedures are fair.
- As about half of youth reported some level of stigma for being on diversion or labeled delinquent, and felt stigma was a strong predictor of several key variables, programs should think about methods for reducing perceptions of stigma. One evidence-based approach is psychoeducation interventions that attempt to alter stigmatizing beliefs and attitudes of the individual and interventions that enhance skills for coping with self-stigma through improvements in self-esteem, empowerment, and help-seeking behavior.[19]
- Youth reported low levels of coercion to enroll in diversion. As such, programs should continue practices to ensure diversion feels voluntary to youth and families.
- There was a higher level of reported social control while on diversion than the other two measures. Diversion programs should ensure youth do not feely overly monitored, as the goal of diversion is to feel like one has been "diverted" from the juvenile justice system.

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[18] Palmer & Lewis, 1980
[19] Mittal et al., 2012

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