


EXPLORING BEST PRACTICES IN PRETRIAL DIVERSION

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Introduction

- ◆ The BJA Community Based Problem Solving Criminal Justice Initiative Grant
- ◆ Three major projects were funded:
 - Pretrial Diversion Program survey
 - The revision of the Pretrial Diversion Standards
 - Monograph identifying the best and most promising practices in the field


The Process of Identifying the Best Practices

- ◆ Utilizing a clear definition of both pretrial diversion and best practices
- ◆ Sources used in the process:
 - Theory and Policy
 - Practical Experience
 - Empirical Data

The Challenges

- ◆ Broad definitions applied across the nation
- ◆ Widely varying enabling legislation
- ◆ Program designs vary greatly
- ◆ Location of programs and funding sources affect the nature of the programming

Finding Out What Works

- ◆ The findings from the program survey and the Standards revision were major contributors
 - ◆ Enabling Legislation
 - ◆ Performance Standards other than PTD
 - ◆ Case Law
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BEST PRACTICES

- ◆ Nine were identified
 1. Formalized cooperative agreements
 2. Access to defense counsel before entry
 3. Due process protections integrated
 4. Broad eligibility criteria, consistently applied at multiple points
 5. Uniform risk/needs assessment
 6. Plan tailored to participant
 7. Graduated sanctions and incentives
 8. Maximum privacy protections
 9. Independent program evaluations

Formalized cooperative agreements

- ◆ Agreements between the program and key stakeholders
- ◆ Long standing successful programs have such agreements
- ◆ Protects program continuity and consistency

Access to defense counsel before entry

- ◆ Status of the defendant – presumption of innocence
- ◆ Legal implications of the decision
- ◆ Collateral consequences of participation

Due process protections integrated

- ◆ Specific due process protections are built into the program
- ◆ Fundamental fairness of process
- ◆ Opportunities to challenge decisions made about participation and/or termination from the program

Broad eligibility criteria

- ◆ Broad, equitable, and objective eligibility criteria are applied consistently at multiple points of case processing
- ◆ A matter of equal justice
- ◆ Broad enough to cover all potential participants
- ◆ Supported in literature: Sequential Intercept Model/Drug Court Key Component

Uniform risk/needs assessment

- ◆ Uniform and validated risk and needs assessment is utilized to determine the level of supervision and types of services needed
- ◆ Beyond the PTR risk assessment – looking to reduce long term recidivism
- ◆ Works to identify the best level and type of services needed to address behaviors

Plan tailored to participant

- ◆ Intervention plans are tailored to individual risks and needs
- ◆ Developed with the participant
- ◆ Targeted interventions matched to those needs/risks
- ◆ Trauma, cultural and gender informed
- ◆ Realistic and avoids over conditioning


Graduated sanctions and incentives

- ◆ Graduated sanctions short of termination are utilized by the program
- ◆ All part of a thoughtful intervention individualized to the participant
- ◆ Used judiciously to respond to behaviors which are counterproductive to plan success
- ◆ Standards: New arrest in program not automatic dismissal

Maximum privacy protections

- ◆ Maximum privacy protections for both participations and their records are in place
- ◆ Challenges of the “information age”
- ◆ No less than 4 Standards address some aspect of this issue
- ◆ Case law is significant in area

Independent program evaluations

- ◆ Independent program evaluations are conducted
 - ◆ Need for empirical findings and research to support (or debunk) program practices
 - ◆ The wide variety of programs poses a challenge to compare
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PROMISING PRACTICES

- ◆ Three were identified which did not rise to the level of “Best Practice” due to the lack of research support
- ◆ #1 - Programs have written policies and procedures backed by a formal mission statement
- ◆ #2 - Programs have an automated management information system that supports performance measurement and evaluation
- ◆ #3 – The program audits the performance of the external programs it uses for participants

CONCLUSION

- ◆ PTD provides an effective, short term focused intervention which preserves jail and court time and reduces recidivism
- ◆ Challenges
 - Need more research and evaluations
 - Collaboration with the problem solving partners
 - Partnering more with pretrial release programs

NEXT STEPS?

- ◆ Follow up survey of as many of the identified pretrial diversion programs as possible
 - ◆ Find funding opportunities to support research and evaluation of pretrial diversion programs
 - ◆ Promote partnerships with community criminal justice stakeholders and problem solving initiatives
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