



Juvenile Diversion in North Carolina



Division of Juvenile Justice
July 2013

Introduction

The juvenile justice system in North Carolina has made great gains in reducing the number of juveniles who go to court, detention and/or are committed to the Department of Public Safety, Division of Juvenile Justice (hereafter, the Division). A large part of this success is due to the positive outcomes found through the use of diversion. The Division sets out policy based on state law to maintain community safety and divert low risk offenders from court and confinement. The goal with every juvenile is to respond to negative behavior brought to the attention of the Division with the appropriate balance of public safety protection and the best interests of the juvenile. Diversion practices by the Division are meeting the goal of protecting public safety as the majority of juveniles served in diversion (76 percent in this study) did not acquire new juvenile complaints within two years.

Diversion is based on the knowledge that preventing low risk youth from being placed in secure custody results in better outcomes for the youth and provides for the safety of the community. If a juvenile is placed in a juvenile justice facility for committing only a minor offense, many experts suggest that this will unnecessarily label and stigmatize the juvenile, thus making the juvenile more susceptible to committing delinquent or undisciplined acts in the future. The idea of diversion is to intervene early and give the juvenile who has allegedly committed an illegal act an appropriate consequence and allow the juvenile to prove that, given the opportunity and the resources, the juvenile can develop into a stable and productive member of society.



Diversion Defined

In North Carolina, the Division evidences success by the juvenile crime rate decreasing, and reductions in the populations that go to court, detention and/or are committed to the Division. Various methods and options are available for a juvenile to be served outside of juvenile justice; some are measurable, and with others, data do not exist. Examples are:

- Through consultation with a Division juvenile court counselor, a person seeking a complaint or help may be directed to resources without a formal complaint being made. The juvenile's information is not entered into the state's online data system and oftentimes juvenile are referred to intervention programs. (Data on this practice of consultation is not collected at this time.)
- School personnel use school or community resources to address problem behavior instead of making a complaint. (Data on this practice is not collected at this time.)
- Mental health and social service entities provide services for youth as an alternative to complaints being made with the Division by providing counseling, in-home services and referrals to other non-juvenile justice programs. (Data on this practice is not collected at this time.)

¹ Delinquent acts are offenses that would be considered criminal if the juvenile was age 16 or older. Undisciplined "offenses" are acts that only apply to juveniles under the age of 18 (i.e., truancy, running away from home/placement, or being ungovernable).

The Division only has information on juveniles who come to the attention of court counseling offices to measure diversion from court in the state. **For the purposes of this report, the two *measurable* populations the Division has data for are examined:**

- 1) **Juveniles placed on diversion plans/contracts, and**
- 2) **Juveniles with complaints made to the Division and the decision by the court counselor is to close and not approve the complaint for court.**

Substantial costs are avoided by using diversion options in North Carolina. The Division funds, supports and monitors more than 500 community-based programs statewide via 100 county Juvenile Crime Prevention Councils². Although there are costs associated with community programs to serve a juvenile on diversion, they are much less than sending a juvenile to court, detention or to a Youth Development Center (YDC). The Division also recognizes that referring away from court-ordered supervision saves long-term costs associated with supervision of a juvenile.

Some qualitative benefits of diversion when compared to court processing or detention are:

- Voluntary and complete participation with the diversion plan – he or she is not forced;
- Cost savings by not engaging in court time, court processes or secure custody resources;
- Decreased likelihood of carrying a lifetime personal identification as a delinquent or as a criminal; and
- Provides an avenue for the juvenile to learn correct behaviors so they can become responsible members of society.

North Carolina's Diversion Practices

The practice of diversion began in North Carolina in the 1970s with the establishment of an intake evaluation process prior to a juvenile being referred to court. Based on these early statutes, and the North Carolina Administrative Code, diversion in juvenile justice has grown into the statewide practice that it is today. In 28NCAS 04A.0102 (b) the following are considered during the intake evaluation:

- “1) Protection of the community;
- 2) The seriousness of the offense;
- 3) The juvenile’s previous record of involvement in the legal system including previous diversions;
- 4) The ability of the juvenile and the juvenile’s family to use community resources;
- 5) Consideration of the victim;
- 6) The juvenile’s age; and
- 7) The juvenile’s culpability in the alleged complaint.”

Diversion planning can occur only if the complaint against the juvenile is not approved for filing as a petition with the juvenile court. If the juvenile court counselor determines that diversion is an appropriate option for the juvenile, a diversion plan/contract can be developed. A diversion plan is an agreement between the juvenile court counselor, the juvenile and the juvenile’s parent/guardian/custodian(s), frequently requiring participation in a program to address delinquent and undisciplined behaviors.

A variety of program types are available for juveniles who are court-referred; however, for those who are placed on a diversion plan/contract, appropriate programming generally falls into three broad categories: structured activities, restorative programs and clinical treatment.

² N.C. General Statute, Chapter 143B, Subpart F, <http://www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=143B>

Structured activities offer juveniles and their caregivers personal enrichment tools via mentoring, family skill-building, interpersonal skill building, experiential skill building, tutoring or academic enhancement, vocational development and supportive counseling. Restorative programs focus on the results of negative behaviors demonstrated by the juvenile with the goals of repairing the harm done to the victim(s) and deterring similar problem behaviors in the future. These goals are achieved by engaging the juvenile in mediation, conflict resolution, restitution (working to pay back victims for property damages), community service and youth court (referred to as Teen Court in North Carolina). Clinical treatment programs focus on offering professional help to the juvenile and his or her guardian to address therapeutically the problems leading to the delinquent and/or undisciplined acts. These offerings of individual, family and group counseling often use cognitive-behavior therapy and other evidence-based and research-supported approaches to treatment. These clinical programs can be implemented at the juvenile's home or within the community.

All or any of these aforementioned diversion programs can also be delivered as part of a juvenile structured day program that may also incorporate an alternative education experience for juveniles. These structured day programs as well as many of the offerings reported here may be available locally through state and local partnerships (e.g., Juvenile Crime Prevention Council funded programs) or private funding (e.g., mental health programs).

Who is Eligible to Complete a Diversion Plan?

The majority of juveniles are eligible for diversion planning, but not all juveniles can be diverted due to the requirements of §7B-1701, which defines who can be diverted. Less than 5 percent of complaints received each year are non-divertible. Juvenile court counselors are not permitted to divert juveniles who have been charged with any of the following offenses:

- “(1) Murder;
- (2) First degree rape or second degree rape;
- (3) First degree sexual offense or second degree sexual offense;
- (4) Arson;
- (5) Any violation of Article 5, Chapter 90 [drug offenses] of the General Statutes that would constitute a felony if committed by an adult;
- (6) First degree burglary;
- (7) Crime against nature; or
- (8) Any felony which involves the willful infliction of serious bodily injury upon another or which was committed by use of a deadly weapon.”

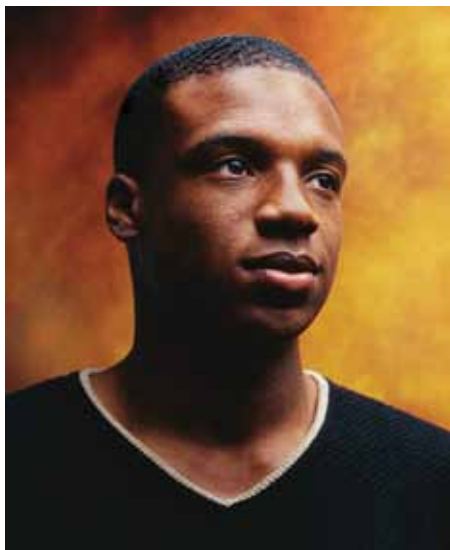
Any juvenile that has **not** been charged with one of the offenses listed directly above is eligible to be diverted from court. Evaluation of the complaint and determination of whether a juvenile can be diverted is the responsibility of the juvenile court counselor completing the intake process. The juvenile court counselor will also make sure that the complainant is aware of the decision to place the juvenile on a diversion plan or contract. If the complainant disagrees with this decision, the complainant can request review by the prosecutor. If the review request is made, the diversion plan is immediately suspended until completion of review by the prosecutor. Statutes §7B-1703, §7B-1706 and North Carolina Administrative

Code 28 NCAC 04A.0102 (b, c) apply specifically to the diversion of juveniles. N.C. General Statute §7B-1703 details the intake evaluation process used to decide which juveniles are the best candidates to enter into a diversion plan. This statute contains information relevant for the juvenile court counselor, the juvenile's caregiver and the juvenile by explaining the expectations of all involved parties in the diversion plan or contract. N.C. General Statute §7B-1706 discusses the differences and similarities between juvenile plans and contracts.

Plans and Contracts

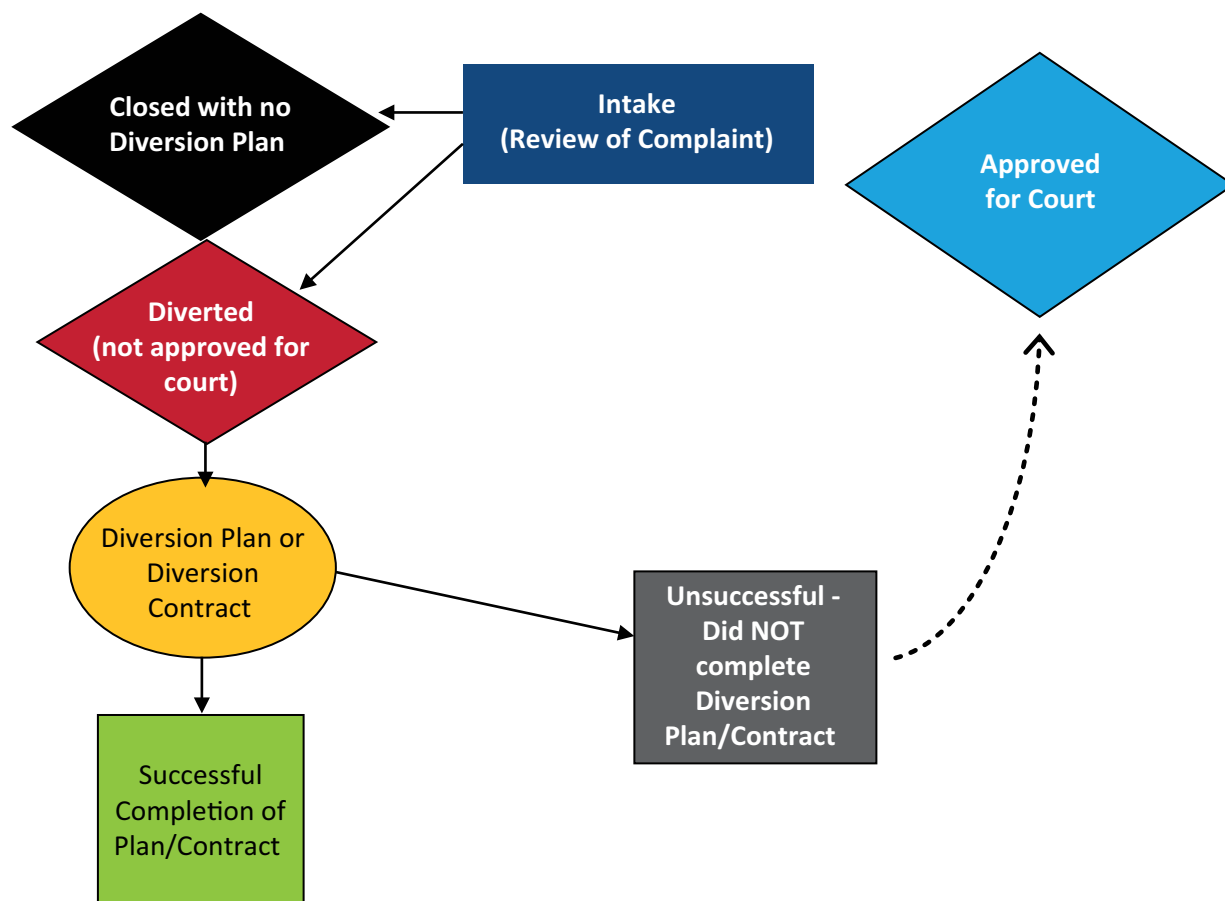
If after evaluation of the complaint the court counselor sees a need for follow-up, the juvenile, juvenile's parent/guardian/custodian(s), and the court counselor create a **diversion plan**. Diversion plans are designed to last no longer than six months from the date that the complaint was diverted. The juvenile court counselor is required to review the progress of the juvenile within 10 calendar days of the start date of the diversion plan to ensure that the juvenile is compliant with the agreed-upon diversion plan. Also per diversion policy, the juvenile court counselor and the chief court counselor must check at least every 30 calendar days to make sure that the juvenile remains in compliance with the diversion plan. The juvenile court counselor will also determine if the juvenile has been successful in the diversion program. If the juvenile has successfully completed the diversion plan as agreed upon, the juvenile court counselor will close the complaint against the juvenile. However, if the juvenile fails to successfully complete the diversion plan, the juvenile court counselor can file the complaint as a petition in the clerk of superior court's office. The term for filing a formal petition after an unsuccessful diversion is "post-diversion approval." This is discussed further on page 12.

If a juvenile needs more structure than the diversion plan offers then the juvenile court counselor may choose to have the juvenile and his/her parent/guardian/custodian(s) enter into a **diversion contract**. A diversion contract is a signed agreement between the juvenile, their parent/guardian/custodian(s), and the juvenile court counselor. The diversion contract identifies the roles of the juvenile, their parent/guardian/custodian, and the juvenile court counselor as well as the possible consequences if the juvenile does not



comply with the diversion contract. Half of all juveniles on diversion are on plans and the other half are on diversion contracts. Some districts across the state only use diversion contracts. Figure 1 (next page) shows how the diversion process fits into the North Carolina juvenile justice system.

Figure 1: Diversion Process in North Carolina



To garner a better understanding of the relative size of the diversion population in North Carolina, it is useful to examine the average number of juveniles on diversion plans, on probation, on post-release supervision, in detention centers and in YDCs during FY 2011-12 in North Carolina. The table below provides this larger focus.

Table 1: Juveniles Served,* FY 2011-12

Location	Type	Average Number of Juveniles
Community	Diversion	7,766
	Probation	13,103
	Post-Release Supervision	562
Secure Custody	Detention Centers	3,299
	YDCs	579

**These populations may overlap. For example, a juvenile violating probation terms can result in a detention admission for the violation.*

The Division compiles data on two populations: 1) juveniles placed on diversion plans/contracts, and 2) juveniles with closed complaints. The outcomes will be discussed first for the diversion plan/contract population. Then, looking at a one year cohort, the recidivism of juveniles on diversion plans/contracts and juveniles with closed complaints will be analyzed separately.

Complaints Received and Complaints Diverted (Calendar Years 2008-2011)

Table 2 below shows the classes of offenses of juvenile complaints that were closed, diverted and all complaints received in North Carolina from 2008 through 2011. Of all complaints closed or diverted, misdemeanors were closed/diverted the most often. Status offenses were the next most common type being closed/diverted (4,382, 13.4 percent), and felonies were diverted the least often. The overall average of complaints received that are closed or diverted to plans or contracts at intake is 38.5 percent for the four-year period.

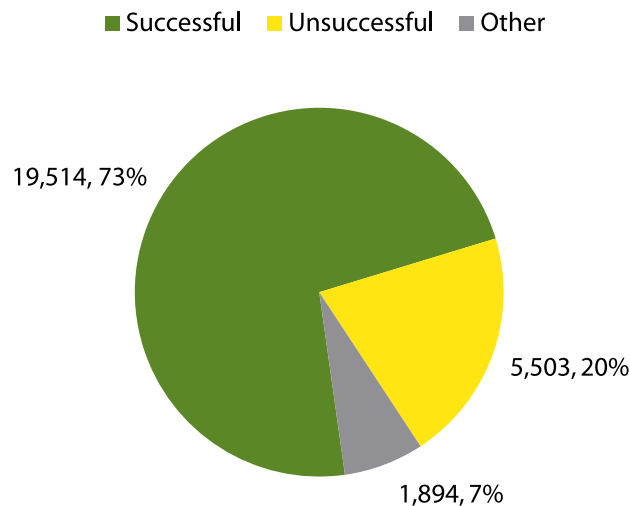
Table 2: CY 2008-2011 Complaints Received by Offense Class & Percent Diverted/Closed

Offense Type	Offense Class	Total Complaints Closed at Intake	Total Complaints Diverted to Plans/Contracts	Total Complaints Received	% of Complaints Received that are Diverted or Closed
Felony	A	0	0	54	0.0%
	B1	3	0	899	0.3%
	B2	0	0	61	0.0%
	C	6	0	645	0.9%
	D	0	1	1,223	0.1%
	E	1	1	653	0.3%
	F	20	35	625	8.8%
	G	34	24	1,242	4.7%
	H	482	957	17,501	8.2%
	I	157	185	6,352	5.4%
Misdemeanor	A1	1,137	1,502	8,391	31.5%
	1	8,246	11,135	45,108	43.0%
	2	11,443	11,543	47,132	48.8%
	3	3,212	3,044	11,057	56.6%
Status	0	3,614	4,382	18,030	44.3%
Total		28,355	32,809	158,973	38.5%

Diversion Plan/Contract Juveniles in North Carolina (Calendar Years 2008 – 2011)

The North Carolina Juvenile Online Information Network (NC-JOIN) is a statewide client-based data tracking system. A juvenile court counselor can enter one of three options into NC-JOIN for outcome measures of juveniles who are diverted: Successful, Unsuccessful and Other. The “Other” category applies to juveniles who do not successfully complete their diversion program but their non-completion may not be due to any fault of their own (i.e., family moved and closure is appropriate, complainant does not want to pursue program completion, medical/mental health issues prevent completion). Figure 2 shows the percentages of juveniles that were considered to have each of the three outcome types during the calendar years 2008 – 2011, the majority of which were successful (73 percent).

Figure 2: CY 2008-2011 Outcome of Diversion Plan/Contract Youth:



Study of Success of Diversion in North Carolina (FY 09-10 cohort)

North Carolina's diversion options (closed complaints or plans/contracts) are successful in helping juveniles avoid committing further delinquent/undisciplined acts. With both groups, there are many possibilities as to actions already taken by the parent/guardian/custodian or the school system. There are also JCPC-supported programs, and mental health programs across the state to which court counselors can refer juveniles. Having multiple options allows some flexibility for juvenile court counselors to avoid processing the complaint further. Some examples of what is going on with the juvenile before or during the intake evaluation process ensues are as follows:

- The victim rescinds the complaint because they have changed their mind and do not see utility in further processing (i.e., victim does not want to have to go to court, was angry when the complaint was made and feels better afterward, etc.).
- There has already been a substantive intervention by the parent/guardian/custodian(s), such as grounding the juvenile, privileges taken away, restoration to the victim already, etc.

- The offense is quite minor, was a one-time event and the juvenile is otherwise a productive member of society with a value system that is resilient to delinquency (i.e., an honor student, someone who volunteers, etc.)
- The juvenile is bordering on age 16, and/or already has a case in the adult system pending (this is a rare instance).



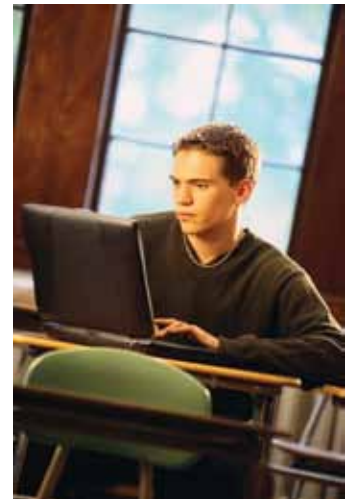
Juveniles are diverted with plans/contracts because the juvenile court counselor decides that the juvenile should have some follow up by the Division to ensure that restitution or community service occurs; or the juvenile gets a needed referral to a program to improve upon a skill that is weak, or to correct a problem behavior/delinquent mindset. Both closure and diversion plans are individualized decisions based on risk, needs and the other factors in the juvenile's life.

To measure "success" one step further than the outcome entered at the end of the diversion plan (as discussed above), the Division studied a group of juveniles from FY 2009-10 and followed them for two years in the juvenile justice system to see how many re-offended. **The populations discussed below - diverted and closed - are of juveniles who had their first juvenile complaint ever made in FY 09-10 and the complaint was either 1) diverted with a plan/contract, or 2) closed.** These juveniles have no prior offending history, thus the examination of the diversion mechanism vs. closing a complaint is made amongst equally positioned juveniles.

As shown on page 7, the classes of offenses diverted can be a good indicator of the risk the juvenile may represent. However, more information is needed to do a proper assessment. Tools have been developed that help to determine the risk level and service needs of the juvenile, entitled the *North Carolina Assessment of Juvenile Risk of Future Offending* and the *North Carolina Assessment of Juvenile Needs*. During the intake evaluation process, the juvenile court counselor gathers information to complete the risk and needs assessment instruments. The items addressed in the risk and needs assessments help determine the presence of criminogenic risk factors and help the juvenile court counselor assess how much supervision and control is

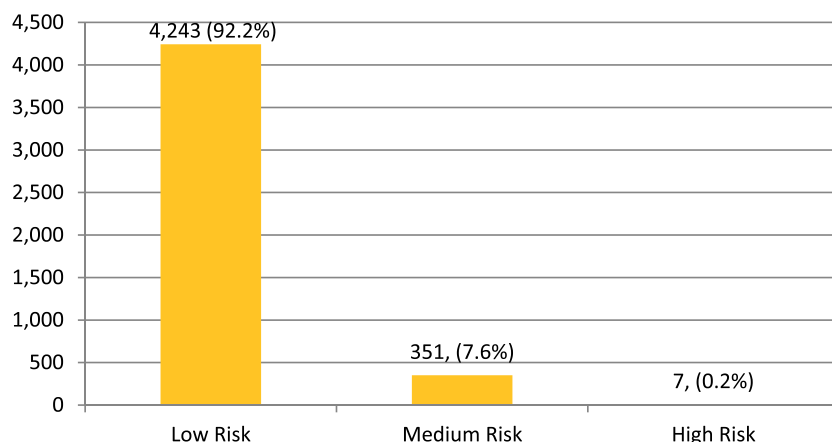


needed. Items on the assessments include but are not limited to: the juvenile's age when s/he was alleged to have committed their first offense, prior undisciplined or delinquent referrals, runaway history, use of alcohol or illegal drugs, behavior problems at school, peer relationships and parent/guardian/custodian relations. Each item has a point value. The scores of the items are then tallied to determine if the juvenile has a low risk, medium risk or high risk of future offending and low, moderate or high level of service needs.



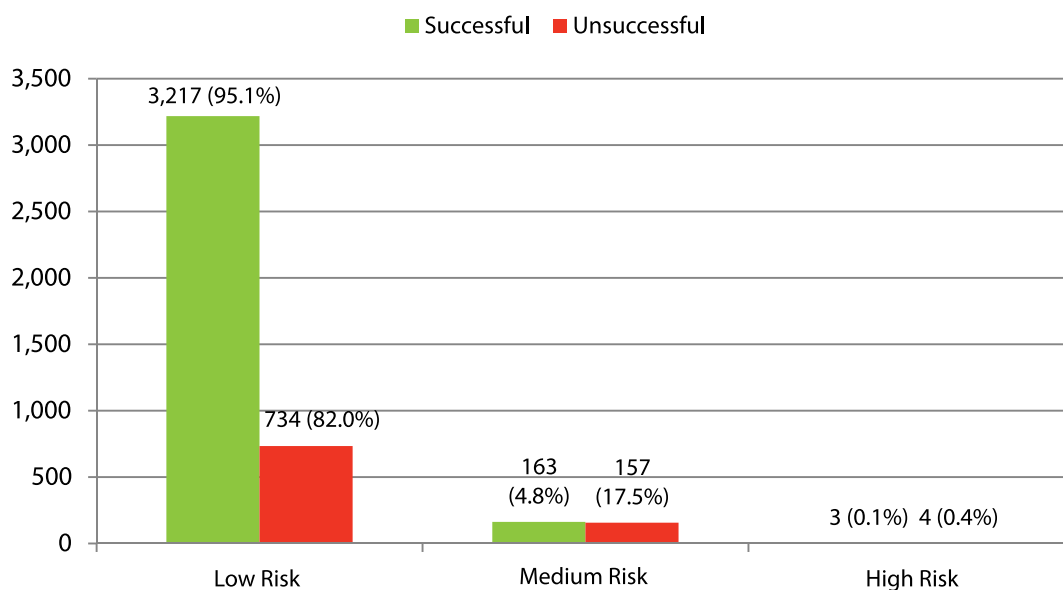
Note the seven juveniles who were identified as “high risk” in Figure 3 had: runaway history, lack of parental supervision, were identified as gang members or gang associates, substance abuse that needed further assessment and/or treatment, and serious school problems. Figure 3 shows the risk categories of juveniles diverted to plans/contracts in the FY 09-10 group, based on the projection of the risk assessment. Of the juveniles who were assessed and were placed on a diversion plan/contract, the majority (4,243, 92.2 percent) were considered to be low risk.

Figure 3: Risk Level of Juveniles Diverted with Plans/Contracts, FY 09-10



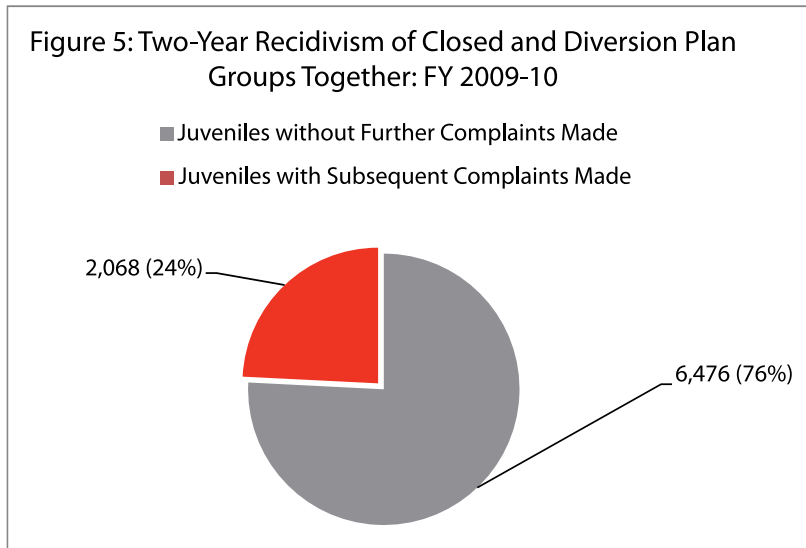
As seen in Figure 4, of all of the juveniles that were diverted in the FY 2009-10 cohort who were assessed, and had either an outcome of successful or unsuccessful, 79.1 percent (3,383) were shown to be successful in completing their diversion plans or contracts. In the same time period, only 20.9 percent (895) of the juveniles were categorized as unsuccessful. Furthermore, of the low risk youth diverted, 81.4 percent were successful. In the medium risk group diverted, half were successful (50.9 percent) and half were unsuccessful (49.1 percent). Only seven juveniles in the high risk group were diverted to a plan/contract.

Figure 4: Success of Diversion Plan by Risk Level, FY 2009-10



Recidivism of Diversion and Closed Groups Together

A total of 8,544 first-time offending juveniles went through the intake evaluation process in FY 2009-10. Of all juveniles who went through intake, only 24 percent were charged with a new offense within two years of having a diversion plan begin, or a complaint being closed.



The recidivism rate based on the diversion plan/contract outcome is discussed next. Table 3 summarizes this information. The data represents a tracking period of two years per juvenile from the decision to divert the complaint. Only 20.9 percent of juveniles were charged with one or more subsequent *offense(s)* after successfully completing a diversion plan; and only 11.7 percent of successful juveniles were subsequently *adjudicated* after they completed their diversion plan. In contrast, 51.3 percent of juveniles that did not successfully complete their diversion plan were charged with one or more subsequent *offense(s)*, and 38.9 percent of juveniles that did not successfully complete a diversion plan were subsequently adjudicated. This information clearly shows that those who are successful completing the diversion are much less likely to have a subsequent complaint made against them.

Table 3: Recidivism of Juveniles Diverted to Plan/Contract, FY 2009-10 Cohort Followed for Two Years

Measure	Successful Diversion	Unsuccessful Diversion
Distinct Juveniles	3,641	917
Distinct Juveniles with Subsequent Complaint(s)	760	470
% Distinct Juveniles with Subsequent Complaint(s)	20.9%	51.3%
Distinct Juveniles with Subsequent Adjudication(s)	427	357
% Distinct Juveniles with Subsequent Adjudication(s)	11.7%	38.9%

The rate of complaints made on juveniles who had the first complaint closed is as follows: 21 percent had one or more subsequent complaints in the two-year time period, and 10.8 percent of the entire closed group was adjudicated for subsequent offense(s). This finding further supports the notion that juvenile court counselors are appropriately diverting juveniles at the point of the intake evaluation.

Table 4: Recidivism of Juveniles with Closed Complaints, FY 2009-10 Cohort Followed for Two Years

Measure	
Distinct Juveniles	3,986
Distinct Juveniles with Subsequent Complaint(s)	838
% Distinct Juveniles with Subsequent Complaint(s)	21.0%
Distinct Juveniles with Subsequent Adjudication(s)	432
% Distinct Juveniles with Subsequent Adjudication(s)	10.8%

Post-Diversion Approval

To be as comprehensive as possible in analyzing the group diverted from court and comparing with an equal population, we take one more step in this study. The research question posed is: What is the eventual outcome of the complaints for juveniles who are placed on a diversion plan? At the conclusion of the diversion plan, none of the complaints related to the juveniles diverted with a successful outcome were approved for court (as expected). A large portion of the complaints related to juveniles diverted with an unsuccessful outcome (695 complaints) were subsequently approved for court, and of the 695 complaints, 476 (68.4 percent) were adjudicated. The group of diversion plan juveniles with “other” as an outcome is not considered here because of the various reasons out of the juvenile’s control causing the diversion plan to end.

Conclusion

Diversion options have clearly helped many previously troubled juveniles to lead successful lives. Whether the juvenile court counselors are choosing to close complaints or divert with a plan or contract,



the overall finding is that they are choosing the right juveniles. This decision-making process and the results of the juveniles served is directly in line with the mission of the Division: “To reduce and prevent juvenile delinquency by effectively intervening, educating, and treating youth in order to strengthen families and increase public safety.” By providing lower-risk juveniles who have



been charged with non-serious offenses an appropriate consequence, these juveniles are afforded hope and the expectation and assistance in still being able to have a bright future despite their past mistake. Of the juveniles who completed diversion plans, 79.1 percent of successful juveniles did not have further juvenile complaints made with Division offices in two years (Table 3). Similarly, 79 percent of the juveniles with closed complaints did not have further complaints made with Division offices either (Table 4). Putting it all together, of all juveniles with closed or diverted complaints 76 percent had zero complaints made with Division court counseling offices in two years’ time (Figure 5). Since the Division is already funneling the appropriate juveniles away from court and secure custody, the next step is to incorporate the following action items: increase public awareness of diversion mechanisms and the benefits of the outcomes of those diverted; identify which services and strategies are most effective for diverted juveniles; and conduct further study on diverted juveniles compared to others in the juvenile justice system.

Statewide, diversion saves the state money since detaining non-violent juveniles in detention centers exceeds the costs of alternatives to confinement such as diversion programs. Simply put, diversion offered to the right juveniles is a means of preventing and reducing juvenile delinquency.

Community Program



Vs.

Secure Custody Facility

