Alternatives to Arrest

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The IACP Law Enforcement Policy Center creates four types of documents: Model Policies, Considerations Documents, Concepts & Issues Papers, and Need to Know one-page summaries. Typically, for each topic, either a Model Policy or a Considerations Document is created, supplemented with a Concepts & Issues Paper. This file contains the following documents:

- *Considerations Document*: Offered as an alternative to the bright-line directives found in a Model Policy. Instead of providing exact policy language, the Considerations Document outlines items that agencies should address and provides options that agencies should examine when developing their own policies on the topic.

- *Concepts & Issues Paper*: Designed to provide context and background information to support a Model Policy or Considerations Document for a deeper understanding of the topic.

- *Need to Know...*: Synthesizes the key points of the topic into a brief, one-page overview. This document is developed by Policy Center staff following the final approval of the policy and paper.

Considerations Document	Updated: September 2022

Alternatives to Arrest

I.   PURPOSE

This document is intended to provide agencies with items for consideration when developing programs, policies, and procedures for alternatives to arrest.

II.   POLICY

Agencies should develop a policy statement to concisely explain to agency personnel and the public, the agency's approach to arrest alternatives. This statement should identify the goals of the agency for providing alternatives to arrest.

Sample: This agency shall direct officers or provide officers with the discretion to utilize alternatives to arrest when interacting with individuals deemed more likely to benefit from available social services than from punitive enforcement.

III.   DEFINITION

Types of arrest alternative programs include those focused on *deflection*, where preventative services are offered for individuals thought to be at elevated risk of criminal justice system involvement, and pre-arrest *diversion*, where charges are held in abeyance or suspended without any prosecutorial or judicial involvement and subsequently not pursued once a prescribed treatment or program has been entered, started, or completed. The terms *deflection* and *diversion* are used interchangeably in this document and are collectively referred to as alternatives to arrest.

IV.   PROCEDURES

A. Planning Alternatives to Arrest

Prior to adopting a program that provides alternatives to arrest, agencies should:

1. Conduct a problem analysis using agency data to identify common offenses and offender populations specific to the jurisdiction that may experience the greatest benefits (to the individuals, agency, and community) from alternatives to arrest.

2. Based on the problem analysis, identify and articulate the intended/anticipated goals of the program. Goals may include affecting change through outcomes such as:

- Enhancing community trust in the criminal justice system,
- Lessening the collateral consequences of a criminal record, and
- Reducing recidivism, thereby increasing public safety.

3. Consult research on existing programs and resources to identify successful evidence-based practices.[1] Consider how others' successes could be used in the agency's program and how others' experiences could be improved upon.

4. Determine applicable laws and how these will affect program parameters. In some cases, established laws may require punitive sanctions for certain offenses, making certain offenders ineligible for alternatives to arrest. Prior to implementing a program, agencies should consult with legal advisors and ensure appropriate legal statutes authorize the program plans.

5. Identify and engage with potential stakeholders. Collaborate with community members—especially those who have lived experience with substance use disorders (SUDs), mental health conditions (MHCs), homelessness, and justice-system involvement—to understand the needs of the community and to establish programs to serve those needs. Stakeholder involvement can also help identify community-based organizations to better connect vulnerable individuals with appropriate services designed to target the root cause of the behavior that resulted in police contact.

6. Determine the intended populations for any interventions. This should be tailored according to the problem analysis conducted and the identified goals of the program. Populations for consideration may include:

- Individuals in crisis, for example, those who are
  - Affected by MHCs, or
  - Experiencing an event that overwhelms their normal coping mechanisms, causing an extreme emotional, physical, mental, and/or behavioral response.
- Individuals affected by SUDs.
- Youth/juveniles.[2]
- Young adults.[3]
- People with no prior criminal record who committed their first offense.
- People who are experiencing homelessness.
- Individuals engaged in sex work.
- Individuals with intellectual or developmental disabilities (IDDs).[4]
- Other vulnerable populations.

7. Identify offenses that will qualify or disqualify individuals.

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[1] For example case studies, see Bureau of Justice Assistance (BJA) Comprehensive Opioid, Stimulant, and Substance Abuse Program (COSSAP), Pathways to Diversion Case Studies Series: Law Enforcement and First Responder Diversion at https://www.cossapresources.org/Content/Documents/Articles/Pathways_to_Diversion_Case_Studies_Series_Officer_Intervention.pdf.

[2] Agencies should consult their legal advisor when determining what age ranges constitute a juvenile. The terms *minor*, *youth*, *juvenile*, and *child(ren)* are used interchangeably within this document. Police agencies may have other established definitions and distinctions.

[3] For the purposes of this document, young adults are defined as individuals between 18 and 25 years of age.

[4] For additional information, see the IACP Law Enforcement Policy Guidance on Interactions with Individuals with Intellectual and Developmental Disabilities at https://www.theiacp.org/resources/policy-center-resource/intellectual-and-developmental-disabilities and Academic Training to Inform Police Responses at https://www.theiacp.org/projects/academic-training-to-inform-police-responses.

- Potential offenses that may qualify for arrest alternatives include:
  - o Nonviolent offenses
  - o Possession of controlled substances
  - o Disorderly conduct
  - o Sex work
  - o Forced criminality
- Potential offenses that may disqualify include:[5]
  - o Felonies – While commission of a felony in and of itself should not be a disqualifier, considerations should be given to the contributing factors that led to the current offense(s).
  - o Acts involving dangerous weapons.
  - o Aggravated assaults and batteries.
  - o Domestic violence, including violations of domestic violence restraining/protection orders.

8. Identify evidence-based services available in the community that could be effective in addressing needs and modifying underlying criminal behavior while also holding an offender accountable.[6] These may include:

- Community service
- Treatment for SUDs
- Treatment for MHCs
- Restorative justice
- Other supportive services and treatment

9. Anticipate and address potential obstacles, such as:

- Community concerns
- Officer resistance
- Disparities and/or inequities
- Known and unknown costs
- Treatment capacity
- Judicial cooperation

10. Establish a method for measuring program success.[7] This may include evaluating and identifying changes in:

- Crime rates
- Rates of recidivism
- Disparities and inequities across program participants

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[5] Consult applicable laws. Further, exceptions may be made for situations of forced criminality.

[6] Also identify any specialized resources and/or support services available and for whom they are available (for example, some services are offered exclusively to veterans).

[7] Agencies are strongly encouraged to partner with researchers, including institutes of higher education, to assist with data collection and evaluation efforts.

- Referrals to diversion/deflection program (number and by source)
- Number of individuals successfully connected with treatment or other identified programs
- Number of individuals who have completed the program within a designated timeframe
- Barriers preventing individuals from completing the program
- Officers' knowledge, skills, attitudes, and behaviors toward the targeted populations and the diversion/deflection program
- Utilization of agency resources, such as
  - Officer time spent
  - Overtime savings
  - Lockup and/or county days saved
  - Volume of calls received by communications personnel
  - Hospitalization time

11. Develop officer training and community engagement materials that explain the purpose and potential benefits of the program(s) and provide information on topics such as MHCs, SUDs, IDDs, human trafficking, and juvenile development, and how these populations may benefit from alternatives to arrest (refer to **Section IV.D** for more information).

B. Implementation

The following items should be considered when implementing any program providing alternatives to arrest:

1. **Policy.** Establish specific policies and procedures for the agency and its officers to follow. Soliciting input from officers of all ranks, community partners providing services to the program, and formerly system-involved individuals will strengthen the policy and develop buy-in.

2. **Training.** Educate the agency's officers on the intent of the program, how it will be implemented, and how to assess individuals that may qualify for an alternative to arrest (refer to **Section IV.D** for more information).

3. **Responsibilities.** Identify roles and responsibilities of employees involved in the program. Define the duties within the scope of the responding officer's responsibilities and when the responding officer should contact other appropriate personnel.

4. **Officer discretion and supervisory oversight.** Establish parameters for discretion. This may include developing criteria that must be met, clearly articulated limitations to officer discretion, and requirements for supervisory oversight.[8]

5. **Triage and transportation.** Identify where individuals will be directed to after police contact and designate who will be responsible for their transportation.

6. **Written agreement.** The conditions of program completion and the consequences of noncompliance should be documented and agreed upon by all involved parties.

7. **Consequences for noncompliance.** Determine whether or not there will be consequences to the individual if the individual does not satisfactorily participate in the program. Consequences should be carefully considered based on the seriousness of the alleged offense and both the needs and barriers to participation of the target population. Whether or not to impose consequences and what consequences are

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[8] In some cases, use of a validated actuarial screening tool can help inform an officer's discretionary decision. Examples include tools such as the Massachusetts Arrest Screening Tool for Law Enforcement (MASTLE) and the Youth Level of Service/Case Management Inventory (YLS/CMI).

appropriate will depend largely on the programmatic approach chosen by the agency and the program's stakeholders; thus, the most appropriate recommendation will vary.[9]

8. **Follow-up services.** Establish systems for ongoing coordination and collaboration between the agency and stakeholders through memorandums of understanding/letters of agreement.

9. **Records management.** Develop a tracking system, identify who is responsible for maintaining the data within it, and ensure confidentiality of the system.

C. Policy Considerations for Specific Populations

For readability purposes, this document is separated into sections based on specific target populations. However, in reality, these categories are not clearly separated and are not mutually exclusive. For instance, a person who is experiencing homelessness may be affected by MHCs and/or SUDs. There is often significant overlap between each of these groups. Where multiple programs exist, police and others involved in any program offering alternatives to arrest must prioritize—to the best of their ability—which issue deserves primary focus and should connect individuals to the proper resources, accordingly.

1. *Individuals Affected by MHCs* – In addition to the items listed in previous sections, when identifying or developing programs that are designed to assist individuals affected by MHCs by providing alternatives to arrest, agencies should consider:

    ● Conducting proactive outreach to individuals including referrals to available social services.

    ● Establishing procedures for initial contact with law enforcement for when the individual is compliant or noncompliant.

        o Procedures for interaction with someone who is compliant may include offering suggestions, transportation, and/or treatment options.

        o Procedures for interaction with someone who is noncompliant should include de-escalation techniques but may also include law enforcement caretaker responsibilities, such as protective custody.

    ● Establishing or identifying existing triage centers staffed by behavioral/mental health professionals where law enforcement officers can quickly transfer individuals affected by MHCs or in crisis, allowing the officer to return to their enforcement duties.

    ● Coordinating transportation of the individual to a designated treatment center.

    ● Developing a specialized response program such as:[10]

        o A crisis intervention team (CIT) staffed with sworn officers[11] who have received advanced training in responding to individuals affected by MHCs, IDDs, or in crisis and who provide the immediate response.

        o A co-response team, where a law enforcement officer is paired with a mental health professional who is usually dispatched to the call for service by first responders.

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[9] Consequences should be imposed only for severe violations, and termination from the program should be used only as a last resort. Moreover, noncompliance should not be confused with voluntary withdrawal. Programs should be voluntary, allowing participants to withdraw at any time without retaliation, additional charges, or harsher sentence (beyond those that would have been imposed for the initial behavior that led to police contact).

[10] These items are provided as general examples to provide a framework for consideration; each agency may name and define these differently and may be dictated by individual community dynamics.

[11] This may also include other first responders, such as emergency medical services personnel and/or firefighters.

      ○ A mobile response team (MRT) staffed with individuals from a variety of disciplines who may aid in immediate crisis response and/or provide proactive or ongoing services.

2. ***Individuals Affected by SUDs*** – In addition to the items listed in previous sections, when identifying or developing programs that are designed to assist individuals affected by SUDs by providing alternatives to arrest, agencies should consider options such as:

- Providing opportunities for self-referral where individuals affected by SUDs can seek help from the police without fear of prosecution or punishment for their drug use.
- Identifying or establishing sobering and/or detoxification centers in collaboration with other stakeholders.

3. ***Youth/Juveniles*** – In addition to the items listed in previous sections, when identifying or developing programs that are designed to assist youth, agencies should:

- Recognize that the treatment of youth is different than similarly situated adults and follow appropriate agency policies and procedures for interacting with youth.
- Identify other factors that may affect arrests decisions, such as:
   - IDDs
   - The youth's willingness and ability to accept services and participate in programs
   - Social support that may affect the success of program completion
- Ensure officers understand the discretionary parameters for status offenses
- Engage with the youth's legal guardian, to include:
   - Providing information regarding available resources
   - Using written agreements, clearly articulating the voluntary nature of the program and expectations of both the guardian and youth. The agreement might also include expected timelines and graduated sanctions for failing to meet objectives.

4. ***Young adults*** – Although legally differentiated from youth, research shows that brain development continues beyond 18 years.[12] Therefore, in addition to the items listed above for youth, agencies may wish to identify or develop separate responses for young adults. These programs may be modeled from youth-related arrest alternative programs.

5. ***Individuals charged with their first offense or nonviolent offenses*** – In addition to the items listed in previous sections, when identifying or developing procedures for these individuals, agencies should consider the underlying cause for the offense. If the incident appears to be exceptional rather than a pattern of pervasive behavior, consider restorative interventions (such as community service, academic support, clinical services), where possible.

6. ***People who are experiencing homelessness*** – In addition to the items listed in previous sections, when identifying or developing programs to assist people who are experiencing homelessness, agencies should focus on "quality of life" issues. To do so, agencies should consider:

- Fostering supportive relationships between members of the agency and individuals experiencing homelessness in the community.[13]

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[12] Typically considered the legal age of adulthood, though exact specifications may vary by jurisdiction.

[13] Lori Luhnow, "Restorative Policing: Enhancing Public Safety for All," U.S. Interagency Council on Homelessness, news release, April 11, 2018, https://www.usich.gov/news/restorative-policing-enhancing-public-safety-for-all.

- Connecting people who are experiencing homelessness with healthcare providers. This may include addressing general health issues, as well as MHCs and SUDs.
- Partnering with other stakeholders to identify the types (permanent/temporary) and quantity of housing available and/or needed.
- Identifying and collaborating with programs to prevent homelessness, to include addressing populations at risk of experiencing homelessness (e.g., veterans, low-income individuals in high-cost living areas).

7. *People engaged in sex work* – In addition to the items listed in previous sections, when identifying or developing programs that are designed to assist individuals engaged in sex work who may be potential human trafficking victims,[14] consider that such individuals may be under the control of a trafficker and might fear retaliation and/or punishment if they are seen talking to the police.

D. Training

Training is a critical component of the establishment and effective deployment of programs designed to provide alternatives to arrest. Agencies should consider:

1. Ensuring all agency members understand the potential benefits of alternatives to arrest and how anticipated outcomes relate to their role(s).
2. Providing all employees with training regarding:
   - Recognizing MHCs, SUDs, IDDs, human trafficking, and trauma.
   - Addressing stigma of discussing these and other conditions.
   - Trauma-informed approaches to interactions with community members.
   - The simultaneous presence of more than one condition (comorbidity).
3. Determining whether additional specialized training will be provided and identifying officers and other stakeholders who should receive it.
4. Tailoring training topics and curricula on the needs of and challenges of the agency's specific community.
5. Including all involved stakeholders in development and provision of training, whenever feasible.
6. Incorporating the perspectives of people with lived experiences from the target population(s) and program beneficiaries in training sessions.
7. Incorporating evidence-based research on the efficacy of these programs.

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[14] In the United States, any person under the age of 18 engaged in commercial sex is considered a victim of human trafficking, according to the Trafficking Victims Protection Act (H.R.4449, see https://www.congress.gov/bill/113th-congress/house-bill/4449) and should not be arrested under any circumstance for prostitution.

Every effort has been made by the IACP Law Enforcement Policy Center staff and advisory board to ensure that this document incorporates the most current information and contemporary professional judgment on this issue. However, law enforcement administrators should be cautioned that no model policy can meet all the needs of any given law enforcement agency. In addition, the formulation of specific agency policies must take into account local political and community perspectives and customs, prerogatives, and demands; often divergent law enforcement strategies and philosophies; and the impact of varied agency resource capabilities, among other factors. Readers outside of the United States should note that, while this document promotes procedures reflective of a democratic society, its legal basis follows United States Supreme Court rulings and other federal laws and statutes. Law enforcement administrators should be cautioned that each law enforcement agency operates in a unique environment of court rulings, state laws, local ordinances, regulations, judicial and administrative decisions, and collective bargaining agreements that must be considered and should therefore consult their agency's legal advisor before implementing any policy.

Concepts & Issues Paper

Updated: September 2022

Alternatives to Arrest

I. INTRODUCTION

A. Purpose of Document

Programs offering alternatives to arrest have the potential to positively alter the outcomes for individuals who come into contact with the criminal justice system. By providing alternatives to arrest through formalized programs, law enforcement agencies, in partnership with other community stakeholders, have the ability to decrease crime and recidivism by resolving underlying problems, thereby saving taxpayer funds, reducing repeat calls for service, improving individual health and quality of life outcomes, and enhancing community relationships and safety.

This paper is designed to accompany the Considerations Document on Alternatives to Arrest published by the IACP Law Enforcement Policy Center. This paper provides essential background material and supporting documentation for a greater understanding of the recommendations and guidance provided in the Considerations Document. This material may be of value to law enforcement executives in their efforts to develop their own policies that meet the requirements and circumstances of their communities and their agencies.

B. Background

Being arrested is often a significant experience in a person's life—one that can have profound social, legal, psychological, financial, and even physical effects. Particularly for individuals in crisis, being arrested can appear to be a short-term solution for a much larger problem but tends to have cascading effects. A gateway to justice involvement, arrest often leads to considerable collateral consequences in multiple aspects of an individual's life. For example, without necessarily being convicted of an offense, arrest can result in a person losing eligibility for public housing, becoming ineligible for certain jobs, and increasing the chances of a person becoming homeless.[1] Additionally, individuals with underlying conditions contributing to their criminal behavior may be less knowledgeable of or less prepared for the process of petitioning to have their criminal record(s) expunged. Likewise, arrests also affect agencies, officers, and communities in myriad ways. In the United States, approximately $80 billion is spent annually on corrections, including detention centers, prisons, jails, and the costs of parole and probation.[2] To provide proper services to individuals in need and reduce the cost of imprisonment for people who allegedly commit low-level or nonviolent offenses, alternatives to arrest may be appropriate.

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[1] Corinne A. Carey, "No Second Chance: People with Criminal Records Denied Access to Public Housing," *University of Toledo Law Review* 36 (2005): 545–594.

[2] Saneta DeVuono-Powell et al., *Who Pays? The True Cost of Incarceration on Families* (Oakland, CA: Ella Baker Center, 2015); Gary Fields and John R. Emshwiller, "As Arrest Records Rise, Americans Find Consequences Can Last a Lifetime," *The Wall Street Journal*, August 18, 2014, **https://www.wsj.com/articles/as-arrest-records-rise-americans-find-consequences-can-last-a-lifetime-1408415402**.

While arrest may be appropriate for people who commit violent offenses, arrest can sometimes do more harm than good for certain groups of people. Programs offering alternatives to arrest seek to better connect individuals to needed support and services and leverage police resources in a way that offers the most effective but least intrusive response to criminal behavior. Youth,[3] people affected by MHCs, people experiencing homelessness, people affected by substance use disorders (SUDs), and victims of human trafficking are a few groups of individuals to which pre-arrest diversion programs often cater because these individuals' unique vulnerabilities can be exacerbated by arrest. For example, juveniles who experience one or more arrests are 22 percent more likely to drop out of school compared to juveniles who are never arrested. Additionally, the likelihood of arrested juveniles enrolling in a four-year college is 16 percent lower than non-arrestees.[4] An arrest record—even without a conviction—can impact an individual's eligibility for public housing[5] and is associated with lower salaries.[6] Other collateral effects of arrest can include threats to officer and community safety, consumption of finite police resources, financial stress on offenders and the community, and severed social connections.[7]

When agencies consider community-based alternatives to arrest, officers often spend less time on writing reports and other time-consuming arrest-related tasks. Pre-arrest diversion is often cost-effective and resource efficient. Research shows that police can divert someone who allegedly committed a low-level or nonviolent offense in less than 30 minutes.[8] Research also indicates that community diversion programs may reduce the average length of an encounter from two to three hours to 76 minutes.[9] Moreover, community-police partnerships that foster alternatives to arrest have the potential to improve the public's trust in local police while also saving police departments time and money. Most importantly, through alternatives to arrest, underlying problems and unmet needs that lead to criminal activity and police contact can be resolved, creating better outcomes for individuals and safer communities.

Alternatives to arrest can help build safer communities, reduce recidivism, and improve community-police relations. For example, jurisdictions with populations of vulnerable individuals with unmet needs and/or reduced access to treatment services may find that local businesses and commerce are affected, leading them to lean on police for assistance. When individuals repeatedly commit the same offenses, it can create frustration for the public and for law enforcement. Police may feel like they are playing a role in the "revolving door" of criminal justice where they arrest and book the same individuals who are later released without treatment and bound to repeat the cycle of offending. If agencies and stakeholders can create programs that assist people who might otherwise be arrested in obtaining the resources they need, those individuals have a higher chance of success, thereby reducing recidivism.

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[3] Agencies should consult their legal advisor when determining what age ranges constitute a juvenile. The terms *minor*, *youth*, *juvenile*, and *child(ren)* are used interchangeably within this document. For the purposes of this document, young adults are defined as individuals between 18 and 25 years of age. Police agencies may have other established definitions and distinctions.

[4] David S. Kirk and Robert J. Sampson, "Juvenile Arrest and Collateral Educational Damage in the Transition to Adulthood," *Sociology of Education* 86, no. 1 (January 2013): 36–62.

[5] Corinne A. Carey, "No Second Chance: People with Criminal Records Denied Access to Public Housing," *University of Toledo Law Review* 36 (2005): 545–594.

[6] Gary Fields and John R. Emshwiller, "As Arrest Records Rise, Americans Find Consequences Can Last a Lifetime," *The Wall Street Journal*, August 18, 2014, https://www.wsj.com/articles/as-arrest-records-rise-americans-find-consequences-can-last-a-lifetime-1408415402.

[7] Magnus Lofstrom et al., *Key Factors in Arrest Trends and Differences in California's Counties* (San Francisco, CA: Public Policy Institute of California, September 2019), https://www.ppic.org/wp-content/uploads/key-factors-in-arrest-trends-and-differences-in-californias-counties.pdf.

[8] Josephine D. Korchmaros, *Tucson Police Department Deflection Program: 6 Month Evaluation Findings* (Tucson, AZ: University of Arizona Southwest Institute for Research on Women, 2019).

[9] Karen Tamis and Cymone Fuller, *It Takes a Village: Diversion Resources for Police and Families* (Vera Institute of Justice, 2016), https://www.vera.org/downloads/publications/it-takes-a-village-report.pdf.

Officers then have more time to devote to responding to and investigating offenses with greater risk to public safety instead of low-level crimes.

When implementing these programs, it is imperative that agencies make clear the authority, guidelines, and circumstances when sworn personnel may use their discretion to exercise alternatives to arrest.

II.   PROCEDURES

A. Goals

Agencies should clearly articulate the intended goals of the program. This may include developing programs designed to affect change by preventing collateral consequences such as future prosecution for the same offense, recidivism, and the effects of a criminal record. Additional goals may include improving community-police relations; reducing racial disparities in the justice system; reducing overdoses; disrupting the linkage between drug use and crime; keeping families intact; facilitating access to treatment, housing, and other services; removing or reducing the stigma and collateral consequences associated with arrest; avoiding escalation in police encounters; improving public safety; reducing the social burden placed on law enforcement and the greater criminal justice system; reducing trauma and exposure to the criminal justice system; and increasing efficiencies through cost and time savings (see **Section II.I**, below).

Programs must clearly delineate and articulate who their target populations are for meeting the goals of pre-arrest interventions. Considerations as to the most appropriate population to focus efforts toward may be impacted by agency or stakeholder resources and capabilities. Pre-arrest diversion programs may focus on populations such as first-time offenders, those who commit nonviolent or low-level crimes, those affected by MHCs or who experience an event that overwhelms their normal coping mechanisms, individuals affected by SUDs, individuals with IDDs, juveniles, young adults, individuals experiencing homelessness, veterans, victims of human trafficking engaged in sex work, and/or other vulnerable populations. See **Section II.E**, below, for further discussion on these specific populations.

B. Pathways of Arrest Alternatives

Although innovative approaches providing alternatives to arrest are continuously being developed, programs can generally be categorized into one of five models:[10]

- *Self-referral* – an individual voluntarily initiates contact with a first responder such as police, fire, or emergency medical services (EMS).
- *Active outreach* – first responders identify individuals in need of services and refer them to agencies that can provide treatment.
- *Naloxone-plus* – used specifically in response to drug overdoses, rehabilitative treatment is provided in addition to life-saving support.
- *Officer prevention* – police or other first responders engage with community members who have not demonstrated any need for treatment but who may show risk factors associated with vulnerability to certain conditions.
- *Officer intervention* – a police officer takes an individual into custody.

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[10] Jac A. Charlier and Jessica Reichert, "Introduction: Police-Led Responses to Behavioral Health Challenges," *Journal for Advancing Justice* III (2020): 1–13, https://www.nadcp.org/wp-content/uploads/2020/10/Journal-for-Advancing-Justice-Volume-III_final.pdf ; see also Comprehensive Opioid, Stimulant, and Substance Abuse Program, "Law Enforcement/First Responder Diversion and Referral Mentoring Initiative," https://www.cossapresources.org/Learning/PeerToPeer/Diversion.

Programs offering alternatives to arrest may incorporate one or more of these methods.

C. Planning a Pre-Arrest Diversion Program

Agencies that decide to develop a program that provides alternatives to arrest should consider a variety of factors. Some concepts and issues for consideration are described as follows.

1. *Legal Considerations* – In order to create an effective program supported by the community, agencies should first identify applicable federal, state/provincial, and local laws (such as 42 CFR,[11] Health Insurance Portability and Accountability Act [HIPAA],[12] and other privacy laws) and determine how these might affect program parameters and officer discretion. Prior to implementing a program, agencies should review all applicable laws to ensure that there are no restrictions on using pre-arrest diversion programs on a specific target group. It may be helpful for agencies to include legal advisors and local prosecutors in the planning process.

2. *Existing Evidence* – Agencies should examine available evidence of the effectiveness of existing diversion programs, especially those in similar jurisdictions[13] and consider the strengths and challenges of those programs and their similarities and differences to the program the agency will be implementing. Agencies can replicate existing programs or create hybrid programs to address concerns that are relevant to their community. Hybrid programs may also be able to address comorbid issues where a matrix of services may be needed or adjustments are necessary due to resource limitations. This is a new area of study, and there is limited research on the topic, although evidence is growing. While agencies should be cautious of programs that have not been evaluated, they may also want to consider the potentially detrimental impact of maintaining the status quo. Further, when adapting versions of existing programs that have been empirically tested and demonstrated to be effective, agencies should consider the extent to which they diverge from fidelity to program models and how any changes might impact program outcomes.

3. *Funding Availability* – Agencies must verify existing funding and forecast sustainability. Agencies should develop a plan for addressing any funding gaps, to include exploring cost-sharing with neighboring jurisdictions and/or seeking grant funding. Other potential funding sources could include local government, social services, public health services, business sponsors, philanthropic organizations, or fundraising events.[14] Whenever possible, the agency should be able to demonstrate through quantifiable metrics that investment in the program will cost less than the ultimate costs of arrest, thereby saving the community money in the long term (See **Section II.I**, below, for further discussion).

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[11] See 42 C.F.R. 1, Public Health (2022), https://www.ecfr.gov/cgi-bin/text-idx?gp=&SID=c3768be75b96935c3edfabfdea4c2ead&mc=true&tpl=/ecfrbrowse/Title42/42chapterI.tpl.

[12] See U.S. Department of Health & Human Services, "Summary of the HIPAA Privacy Rule.", https://www.hhs.gov/hipaa/for-professionals/privacy/laws-regulations/index.html.

[13] For examples, see Office of Juvenile Justice and Delinquency Prevention, "Evidence-Based Programs," https://ojjdp.ojp.gov/evidence-based-programs; Bureau of Justice Assistance, "Police-Mental Health Collaboration (PMHC) Toolkit," https://bja.ojp.gov/program/pmhc; Treatment Alternatives for Safe Communities, "Deflection and Pre-Arrest Diversion" https://www.centerforhealthandjustice.org/chjweb/tertiary_page.aspx?id=62&title=Law-Enforcement-&-Pre-arrest-Diversion; and National Association of Drug Court Professionals, *Journal for Advancing Justice, Emerging Best Practices in Law Enforcement Deflection and Community Supervision Programs*, vol. III (2020), https://www.nadcp.org/wp-content/uploads/2020/10/Journal-for-Advancing-Justice-Volume-III_final.pdf.

[14] In some cases, agencies may charge participants in their program for services received. While this should be considered when establishing an alternative program to arrest, the ability to pay for services should never impact the officer's decision to divert/deflect an individual.

4. *Stakeholder Involvement* – As front-line officers are often the ones referring individuals to alternatives to arrest, gaining the buy-in and support from these officers is important for the program to operate effectively. Providing meaningful feedback to officers who have made referrals is critical to the success of any program and results in better buy-in from officers. As officer perception is an important aspect of program success, routinely surveying officers about their thoughts and beliefs about the program can be a helpful outcome to measure.

Arrest alternatives also require the support of many stakeholder groups beyond the agency's officers. When creating a program, agencies should identify and engage with potential stakeholders who have a vested interest in the program to determine their willingness to participate. Agencies should work to build partnerships with community organizations to assist and to provide continuity of care to members of the community who are in need of services. Such partnerships are imperative for alternatives to arrest programs to be successful. If smaller agencies have limited personnel and resources, community partnerships can help close the gap between contacts with police and proper support for the individual.

As part of the stakeholder group, agencies should consider including representatives from groups such as social services; behavioral health providers; members of the medical community (e.g., emergency department or hospital staff); prosecutors, judges, and public defenders; community supervision providers including pretrial, probation, and parole staff; SUD treatment providers; public health representatives; coroners or medical examiners; members of the recovery community (e.g., AA/NA/PEERS) and people with lived experience; peer specialists; tribal partners; research partners; education faculty or staff; public transportation agencies; community and faith-based organizations; conflict resolution organizations or experts (e.g., voluntary mediators); law enforcement labor unions; public housing authority and affordable housing providers; libraries and community centers; local government officials; and veterans services organizations. If resources are available, programs might include triage centers staffed by behavioral/mental health professionals where law enforcement officers can quickly transfer individuals affected by MHCs or in crisis, allowing the officer to return to their enforcement duties. Programs that do not have the funding or space for a triage center should evaluate alternative options feasible with the resources available.

Other important considerations when developing a pre-arrest diversion program include how often stakeholders will meet, appropriate agenda topics/benchmarks, and required training or certifications program staff must have (see **Section II.H**, below). Agencies should consider if the program should be administered primarily by the agency or if officers will simply deliver eligible people to a community-based program.

5. *Qualification Standards – Programs must determine the criteria that will be used to identify whether an alleged* offender is a good candidate for a program. Questions to consider include—*Does the person who allegedly committed an offense have a previous criminal history and, if so, for which offenses have they been arrested or convicted? Have they previously participated in non-arrest interventions?*

Programs must also determine which potential offenses can qualify an individual for arrest alternatives. Examples might include nonviolent offenses, underage drinking, possession of certain substances under a specified amount, disorderly conduct, sex work, and offenses against individuals with consent from the victim. Offenses that may exclude a participant might include violent offenses and acts involving dangerous weapons. Additionally, while a candidate's criminal history should be considered in inclusion/exclusion criteria, a candidate for the program should not be excluded *solely* based on their criminal history. Officers should also assess to what extent the individual may or may not pose a risk to the safety of the diversion team or to immediate public safety (this also speaks to the individual's ability

to meaningfully engage in treatment). Though the decision whether to divert an individual or not should not be based solely on this factor, it should be considered.

In determining factors for eligibility, agencies should be cognizant of any disparate impacts that such standards or disqualifying factors may have on different populations. Qualification standards should not systematically exclude individuals based on factors such as race, ethnicity, sex, sexual orientation, religion, immigration status, socioeconomic status, age, disability status, or education. In some cases, disparities may result from unanticipated consequences of a seemingly neutral factor; thus, it is important for agencies to regularly conduct assessments of the program and reconsider the validity of eligibility factors if disparities are identified.

6. *Potential Obstacles* – Programs must anticipate and address potential obstacles, such as community resistance, known and unknown costs, lack of officer support, treatment capacity, and prosecutor and/or judicial cooperation. The solutions to these obstacles will vary for every situation, but the guidance that follows in this document can help.

D. Implementing a Pre-Arrest Diversion Program

Programs should provide effective support for long-term sustainability of the alternatives to arrest program, when possible and appropriate.

1. *Roles and Responsibilities* – Roles and responsibilities of all parties involved in the program should be clearly defined and delineated.

Police officers are responsible for using the agency's policies and guidelines to make a determination as to the eligibility of the offense in question, the individual's amenability to treatment and appropriateness for diversion,[15] and, if eligible, for contacting the appropriate personnel to get the individual enrolled in the program. Officers in different roles (especially in agencies using specialized response teams, for example), may have different responsibilities. Officers should be trained in the agency's policies and guidelines so that they are able to make an appropriate determination themselves and know when to leverage uniquely trained officers for making these assessments. In addition to this assessment, the officer additionally makes an assessment regarding the level of immediate danger that the diversion candidate presents.

While officers should understand the program's intentions, leadership must demonstrate commitment to those goals. This is important to changing departmental culture.[16] Further, supervisory oversight is essential to maintaining program integrity. Officers should document all instances of diversion, and supervisors should review and monitor the use of diversion practices. The level of appropriate oversight necessary may depend on the size of the agency and the resources available. Use of alternatives to arrest should also become part of officers' performance evaluations and criteria for promotions.

Programs offering alternatives to arrest often involve multiagency collaborations. Non-police case workers may be leveraged for ongoing follow-up with program participants. The boundaries of where the police agency's role begins and ends and the responsibilities for coordinating with other non-police parties should also be defined. If the police department is responsible for any ongoing case management, the program should consider creating a matrix of officers and caseworkers, proposed caseload caps,

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[15] Both risk factors and protective factors should be considered. Existing tools can be used to assist in this determination. Examples include tools such as the Massachusetts Arrest Screening Tool for Law Enforcement (MASTLE) and the Youth Level of Service/Case Management Inventory (YLS/CMI).

[16] Daniela Barberi and Faye S. Taxman, "Diversion and Alternatives to Arrest: A Qualitative Understanding of Police and Substance Users' Perspective," *Journal of Drug Issues* 49, no. 4 (October 2019): 703–717, https://doi.org/10.1177/0022042619861273.

schedule restrictions, and areas of expertise, in order to manage the assignment of cases. Specialized software solutions are also available to facilitate this task.

2. *Officer Discretion* – Depending on jurisdictional laws and statutes, officers should be empowered to use discretion when encountering potential candidates for diversion. However, agencies must develop parameters and/or criteria that must be met to guide officers' decisions and must clearly articulate limitations to discretion. For example, if an officer responds to a scene where the officer believes a person has an underlying MHC, to what extent will the agency allow the officer to make the decision between pre-arrest diversion enrollment and arrest? What criteria will be used to prevent disparities in how officers make these decisions and who is diverted?

   Officer discretion, within the parameters of program eligibility requirements, can lead to reduced calls for service in the future and better outcomes for the community. Decision-making parameters and expectations to limit officer discretion should be clearly communicated to officers through department training or other formal agency channels (see **Section II.G** for additional guidance). It is the agency's responsibility to define and educate officers on those parameters and expectations to divert and to encourage supervisors to provide support and to check that policy and parameters are being applied as intended. By equipping officers with the parameters to make good decisions, an understanding of why those parameters exist, and the knowledge of the consequences of their decisions, officers are better able and more willing to apply department policy and guidance related to arrest alternatives.

   Agencies should monitor program referrals, track the number of individuals who are arrested when program participation could be a better option, and examine if diversion is being used with different populations disproportionately. Such data may help illuminate situations where an officer uses poor discretion or when negative consequences occur from an officer's choice to place an ineligible individual or to not place an eligible individual in a program. This can inform future training.

3. *Consequences for Noncompliance* – Agencies and stakeholders should adopt realistic standards for program completion. Programs should be voluntary, allowing participants to withdraw at any time without retaliation, additional charges, or harsher sentence (beyond those that would have been imposed for the initial behavior that led to police contact).[17] Program policies should delineate the consequences, if any, should a participant fail to meet program criteria, and who will be responsible for making that determination.[18] It can be appropriate in some programs to establish a written contract between participants and caseworkers to ensure requirements are clearly outlined. A contract would outline program expectations for the participant as well as list the objectives of the program.

   Any determination about whether the program will limit the number of intervention attempts an individual can receive before arrest alternatives are no longer offered should be made on a case-by-case basis. This decision should take into account the fact that many individuals require multiple interventions before a positive outcome is achieved. Many underlying conditions (including but not limited to MHCs and SUDs) can be very complex, involving a variety of participant needs. As such, successful completion of programs can take a substantial amount of time and are likely to include relapses.[19]

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[17] It often takes time to foster supportive relationships, and these relationships might be necessary before an individual is willing to voluntarily participate in an alternative to arrest program. In some cases, a decision regarding arrest and alternatives may not take place immediately but could be re-considered in the future.

[18] Consequences should be imposed only for severe violations, and termination from the program should be used only as a last resort.

[19] See John F. Kelly et al. "How Many Recovery Attempts Does It Take to Successfully Resolve an Alcohol or Drug Problem? Estimates and Correlates from a National Study of Recovering U.S. Adults," *Alcoholism: Clinical and Experimental Research* 43, no. 7 (2019): 1533-1544, https://pubmed.ncbi.nlm.nih.gov/31090945/.

However, the availability and depth of program resources may be limited. Programs must determine which types of services are available to fund and coordinate for participants. Different services can include counseling, community service, rehabilitation treatment, anger management, housing assistance, or job training. This should be a collaborative decision between the police department, treatment/service providers, participants, and their families, taking into account the needs of the community.

E. Specific Populations

Programs providing alternatives to arrest should define their target population(s) so that they can alter their strategy to most effectively meet the needs of individuals in that population. Not all intervention programs are effective or appropriate for every situation. For each individual, both risk factors and protective factors should be considered. Further, many individuals experience comorbid issues that cannot be easily separated.[20] For example, MHCs, substance use, and homelessness frequently occur together. In any case, agencies can connect with medical and behavioral health personnel to provide access to care related to physical health and wellness, MHCs, and SUDs. The sections that follow separate specific populations for clarity and simplicity, but, in reality, the distinction between these issues and which should be the primary target of treatment services may not always be clear.

1. *Individuals affected by MHCs* – Some considerations include:

   - *Individual amenability.* If an individual is amenable to treatment services, the officer can offer suggestions of help, transportation, and/or treatment. If an individual is not receptive to treatment services, or poses a threat to themselves or others, officers may need to use law enforcement caretaker powers such as protective custody so a more in-depth evaluation can be completed.

   - *Response teams.*[21] There are different types of response teams that programs may implement to assist responding officers in determining which course of action is best for the individuals they encounter. The type of program can vary and may depend on the size of the agency, the resources available, and the need for the team. Crisis Intervention Teams (CIT)[22] are staffed with sworn officers who have received advanced training in responding to individuals in crisis or who are affected by MHCs. These officers provide immediate response. Co-responder teams pair a law enforcement officer with a mental health professional who is usually referred to the scene by first responders. Mobile Response Teams (MRT, also known as Mobile Crisis Teams) are staffed with individuals from a variety of disciplines who may aid in immediate crisis response and/or provide proactive or ongoing services. Although these three models are the most common in the United States at the time of this writing, new models and innovative approaches for serving individuals affected by MHCs are continually being developed.[23]

2. *Individuals affected by SUDs* – The considerations described above for individuals affected by MHCs also apply to individuals affected by SUDs. In addition, programs should also consider providing opportunities for self-referral where law enforcement agencies can serve as a gateway to treatment for

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[20] For example, see National Coalition for the Homeless, *Substance Abuse and Homelessness* (2009), http://www.nationalhomeless.org/factsheets/addiction.pdf.

[21] These are provided as general examples to provide a framework for consideration—each agency may name and define these differently and may be dictated by individual community dynamics.

[22] This may also include other first responders, such as emergency medical services personnel and/or firefighters.

[23] For specific examples, see Crisis Assistance Helping Out On The Streets (CAHOOTS) at https://whitebirdclinic.org/cahoots/, Support Team Assisted Response (STAR) at https://www.denvergov.org/Government/Agencies-Departments-Offices/Agencies-Departments-Offices-Directory/Public-Health-Environment/Community-Behavioral-Health/Behavioral-Health-Strategies/Support-Team-Assisted-Response-STAR-Program; and the Homeless Outreach Team of the Wichita Police Department at https://www.wichita.gov/WPD/FieldServices/Pages/HOTTeam.aspx.

individuals who have engaged in illegal behavior due to SUDs. Agencies offering self-referral options must consider their community's needs, including attitude toward and feelings about law enforcement. Programs must clearly advertise to the community the parameters and services offered in the self-referral program. Program information should be placed in locations where individuals in need will most likely see the information. Even in instances where an individual is not yet ready to voluntarily participate in treatment, providing program information to the individual's family or support system can help ensure the individual has access to the information if/when they are ready. This approach may be used in conjunction with any of the other pathways listed in **Section II.B**. Programs can also establish sobering and/or detoxification center(s) in collaboration with other stakeholders.

3. *Juveniles and young adults* – Programs designed to assist juveniles must recognize that the treatment most appropriate for juveniles may be different from that of similarly situated adults. Research indicates that brain development continues beyond 18 years of age.[24] Thus, specific agency policies and procedures should be established for interacting with both juveniles and young adults, taking their cognitive development into consideration. Additionally, federal, state, and local laws may dictate specific procedures that must be followed when the juvenile has minor status, including notifying and working with a juvenile's parent(s) or legal guardian(s). Programs should consider providing parents or guardians with appropriate support and resources.

4. *People who are experiencing homelessness* – Homelessness affects many groups of individuals who may qualify for diversion programs, and agencies should aim to address homelessness as it pertains to quality of life. In order to do so, agencies should foster relationships between members of the agency and individuals experiencing homelessness in the community consisting of supportive, not punitive, interactions.[25] If the population of individuals experiencing homelessness recognizes a familiar face or otherwise feels it is safe to approach a law enforcement officer for help, they are more likely to seek or be amenable to services. Similar to the specialized response teams often used to serve individuals with MHCs, some agencies have implemented homeless outreach teams using a similar approach.

   Agencies and community partners are encouraged to build relationships with housing providers.[26] When partnering with stakeholders, identify the types (permanent/temporary) and quantity of housing needed and available. Programs should monitor feedback from participants on access to housing, property cleanliness, quality of housing, relationships, and interactions with property management.

5. *Victims of human trafficking* – In the United States, any person under the age of 18 engaged in commercial sex is considered a victim of human trafficking, according to the Trafficking Victims Protection Act[27] and should not be arrested under any circumstance for prostitution. In such cases, there is no requirement of police to prove these victims were subjected to any type of force, fraud, or coercion to be considered victims of human trafficking. Regardless of age, any individual under the control of a trafficker may not believe they are free to speak or make decisions. They might fear retaliation and/or punishment if they are seen talking to the police, and they might become even more dependent on their

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[24] Elizabeth Cauffman and Laurence Steinberg, "Emerging Findings from Research on Adolescent Development and Juvenile Justice," *Victims & Offenders* 7, no. 4 (2012): 428–449, https://doi.org/10.1080/15564886.2012.713901.

[25] Lori Luhnow, "Restorative Policing: Enhancing Public Safety for All" *Chronic* (blog, U.S. Interagency Council on Homelessness), April 11, 2018, https://www.usich.gov/news/restorative-policing-enhancing-public-safety-for-all.

[26] In the United States, important housing sources to contact and build relationships with include landlords or housing communities that take Section 8 vouchers. See also the National Alliance to End Homelessness factsheet, *Housing First* (2022), at https://endhomelessness.org/resource/housing-first.

[27] See Human Trafficking Prevention Act, H.R.4449, 113th Cong. (2014), https://www.congress.gov/bill/113th-congress/house-bill/4449.

trafficker as a result of involvement in the justice system. Partnering with advocates in the community that have knowledge, training, and the ability to build rapport with victims of human trafficking can help police navigate these situations.

F. Records Management

Programs should develop and formalize a tracking system for cases and designate who is responsible for maintaining the data and system. Program requirements should be tracked, with program staff documenting (including signature and date) when individuals complete program steps and integrating updates into existing agency systems.

The confidentiality of sensitive information, including mental health records and personally identifiable information (PII), should be a top priority for participating agencies. This includes determining which staff should have access to client records.[28] Appropriate protections such as a firewall should be used to protect sensitive information about individuals. Maintenance of digital records can be shared piecemeal or in full between program partners, and different levels of access to different kinds of information may be necessary for police officers and other program staff. Agencies may also consider storing records and data anonymously and discussing data in the aggregate.

G. Communication

Transparent communication with the agency, with community partners, with program participants, and with the public is important. Internally, all employees within the agency should be knowledgeable of the agency's policies related to alternatives to arrest, how to implement those policies, and how to communicate those policies to the public. It is especially important for leadership to properly communicate to their agency the successes achieved by implementing alternatives to arrest programs. Agency employees and officers may initially be skeptical of such programs—but, if leadership is transparent and communicative about program outcomes and about the expectations to use alternatives to arrest, employee and officer buy-in may increase.

Program communication should include regular meetings to discuss current caseloads. Depending on caseload size, program staff may be unable to discuss each client at every meeting but can identify high-risk cases, those needing additional support, and those where good progress is being made. Regular review of caseload progress is necessary to determine whether individuals are receiving appropriate services and for tracking program success. Agencies should formalize communication requirements for system coordination and follow-ups with clients while considering HIPAA limitations.

If the police agency is responsible for follow-up services,[29] agencies should establish standards for frequency of contact with clients, including how often contacts should be face-to-face versus by phone or video conference, where available. Even with a set goal, considerations should be made when complications arise. For example, people who are experiencing homelessness or those who experience housing insecurity may move often, making it difficult to maintain contact. It is also possible that juveniles may live with parents or caregivers who are not interested in communicating with officers or caseworkers. Regardless of the hardship, officers should make every effort to contact program participants and document all attempts made, including successful contacts.

In order to gain buy-in from the public and to ensure targeted populations are aware of the program, agencies and stakeholders implementing the program must engage the community. Agencies should consider developing community education materials that explain the purpose and potential benefits of the program(s) and provide

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[28] It may be possible for partnering social services agencies to maintain client records confidentially or to share information as needed so that police do not need access to the full records. This will vary depending on how the program is structured and the relationships established between participating agencies.

[29] In many cases, these responsibilities may be delegated to a case worker independent of the police agency.

information on topics such as MHCs, SUDs, IDDs, human trafficking, and juvenile development. Agencies and partners should be prepared to discuss with community members realistic expectations for the length of time an individual may take to complete the program. In addition, programs should articulate what steps community members can take to report concerning behavior or interactions in order to help individuals best receive the services and care they need.

H. Training

Training is critical to the establishment and effective deployment of programs designed to provide alternatives to arrest. Agencies should consider, based on the goals of the program and its target population, what kind of training is necessary for effective program management, assistance to individuals, and longevity. Such training may include an officer-focused program orientation, CIT training,[30] Mental Health First Aid,[31] Motivational Interviewing,[32] the science of addiction,[33] human trafficking awareness/identification, and trauma-informed care.[34] Refresher training should provide educational updates as well as achieved outcomes of the program. Sessions that refresh officers on a topic they have previously been trained on should be concise and should reiterate the most important information.

Topics and curricula should be developed in collaboration with the community and tailored for specific challenges faced in the community to improve officer and caseworker effectiveness. All stakeholders should be involved in the development and provision of training to include individuals with lived experience. This includes emergency communications personnel and dispatch, whenever possible, to ensure that call information involving prospective clients is understood and communicated clearly.

While formalized training in many topics may not always be possible, hosting guest speakers at roll call or other agency events can offer officers critical information on homelessness, working with juveniles, cultural sensitivity and diversity, legal constraints, trauma, comorbidity, and other relevant topics. The more information and knowledge officers have about target populations, the more effective they can be in their use of discretion to provide individuals with the help they need.

I.   Continual Evaluation and Improvement

Evaluating the success and shortcomings of programs offering alternatives to arrest is key to ensuring future success. Police departments and program stakeholders should anticipate that by implementing alternatives to arrest programs, communities will expect transparency surrounding program outcomes. If evidence exists that interventions and alternatives are successful, those programs will garner further support from the community. If evidence exists that interventions are not successful, potential improvements to the program can be identified and implemented. This should be a continual process, with adjustments made accordingly, across the life of the program.

Whether formally or informally, agencies are encouraged to track outputs and outcomes of diverted individuals. Agencies should establish a method for measuring program success, which may include evaluating and identifying changes in crime rates, rates of recidivism, the number of individuals successfully completing treatment or other

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[30] For more information, see the National Alliance on Mental Illness, Crisis Intervention Team (CIT) Programs at https://www.nami.org/Advocacy/Crisis-Intervention/Crisis-Intervention-Team-(CIT)-Programs or CIT International at https://www.citinternational.org/Learn-About-CIT.

[31] For more information, see Mental Health First Aid from the National Council for Mental Wellbeing at https://www.mentalhealthfirstaid.org.

[32] For more information, see the Motivational Interviewing Network of Trainers at https://www.mentalhealthfirstaid.org.

[33] For more information, see the National Institute on Drug Abuse, Addiction Science at https://www.drugabuse.gov/drug-topics/addiction-science.

[34] For more information, see the IACP Trauma Informed Sexual Assault Investigation Training Curriculum at https://www.theiacp.org/resources/trauma-informed-sexual-assault-investigation-training-curriculum.

identified programs, and rate of program completion within the designated timeframe. Other measurable items could include how officer time is spent, cost savings related to overtime, number of days in holding facilities that are avoided, and volume of calls received by communications personnel. Qualitative evidence such as testimonies from participants who have successfully completed the program can also provide insight. In addition to these metrics, agencies should ensure that various demographic groups all have an equal opportunity to participate in programs offering alternatives to arrest. If evaluations indicate that the program has resulted in disparate impacts, agencies should conduct additional research to identify the reasons for such disparities and, if appropriate, should consider adjustments to program implementation, accordingly. Partnering with researchers and/or institutes of higher education, if possible, could assist with data collection and evaluation efforts.

Offering metrics and measurable effects of the arrest alternatives can reinforce the importance of the program, leading to further support from officers enacting the program as well as from community partners and stakeholders. Agencies might also consider including relevant metrics related to arrest alternatives in officers' performance assessments, similar to the way some agencies report arrests. Agencies should be cognizant of the fact that officers can be doing a better job of serving community safety by diverting individuals rather than through arresting them, and both actions can be laudable in different situations.

ADDITIONAL RESOURCES:

- Bureau of Justice Assistance (BJA) Comprehensive Opioid, Stimulant, and Substance Abuse Program (COSSAP), Pathways to Diversion Case Studies Series:
  - *Self-Referral:* https://www.cossapresources.org/Content/Documents/Articles/CHJ_Pathways_to_Diversion_Self-Referral.pdf
  - *Naloxone Plus*: https://www.cossapresources.org/Content/Documents/Articles/Pathways_to_Diversion_Case_Studies_Series_Naloxone_Plus.pdf
  - *Officer Intervention:* https://www.cossapresources.org/Content/Documents/Articles/Pathways_to_Diversion_Case_Studies_Series_Officer_Intervention.pdf
- Bureau of Justice Assistance (BJA) Comprehensive Opioid, Stimulant, and Substance Abuse Program (COSSAP), Report of the National Survey to Assess First Responder Deflection Programs in Response to the Opioid Crisis: https://bja.ojp.gov/library/publications/report-national-survey-assess-first-responder-deflection-programs-response.
- Bureau of Justice Assistance, Police-Mental Health Collaboration (PMHC) Toolkit: https://bja.ojp.gov/program/pmhc.

- IACP Anti-Human Trafficking Training and Technical Assistance: https://www.theiacp.org/projects/anti-human-trafficking-training-and-technical-assistance
- IACP Building Healthier Communities through Pre-Arrest Diversion: https://www.theiacp.org/sites/default/files/243806_IACP_CPE_Building_Healthier_Communities_p2.pdf
- IACP Citation in Lieu of Arrest: https://www.theiacp.org/projects/citation-in-lieu-of-arrest
- IACP Pre-Trial Justice Reform Initiative: https://www.theiacp.org/resources/document/iacp-pre-trial-justice-reform-initiative
- IACP Safety and Justice Challenge: https://www.theiacp.org/projects/iacp-safety-and-justice-challenge
- IACP/UC Research Center, Alternatives to Arrest: https://www.theiacp.org/alternatives-to-arrest
- National Association of Drug Court Professionals, Emerging Best Practices in Law Enforcement Deflection and Community Supervision Programs, *Journal for Advancing Justice*, Volume III: https://www.nadcp.org/wp-content/uploads/2020/10/Journal-for-Advancing-Justice-Volume-III_final.pdf
- National Council for Mental Wellbeing, Deflection and Pre-Arrest Diversion: Integrating Peer Support Services: https://www.thenationalcouncil.org/wp-content/uploads/2022/02/NC_3_DPAD_IntegratingPeerSupportServices.pdf
- National Youth Screening and Assessment Partners (NYSAP): http://www.nysap.us
- Office of Juvenile Justice and Delinquency Prevention, Evidence-Based Programs: https://ojjdp.ojp.gov/evidence-based-programs
- Policy Research Associates, Juvenile Diversion Guidebook: https://www.prainc.com/resources/juvenile-diversion-guidebook-resource
- Policy Research Associates, Practical Advice on Jail Diversion: https://www.prainc.com/resources/practical-advice-jail-diversion
- Serpas, Ronal W., "A Smarter Public Safety Model: Addressing Crises Related to Mental Health, Substance Abuse, and Chronic Homelessness," *Police Chief* 88, no. 1 (January 2021): 30-35, https://www.policechiefmagazine.org/smarter-public-safety-model/?ref=0eb5910188ea35203cc6154331cd15b6

- Stop the Addiction Fatality Epidemic (SAFE) Project, Law Enforcement Pre-Arrest Diversion Resource Guide: https://www.opioidlibrary.org/wp-content/uploads/2019/10/SAFE-Pre-Arrest-Guide_final.pdf
- Treatment Alternatives for Safe Communities (TASC): Center for Health and Justice: https://www.centerforhealthandjustice.org/chjweb/home_chj.aspx
- Youth Level of Service/Case Management Inventory (YLS/CMI): https://storefront.mhs.com/collections/yls-cmi-2-0#:~:text=The%20Youth%20Level%20of%20Service,male%20and%20female%20juvenile%20populations

International Association of Chiefs of Police

Need to Know…

Updated: September 2022

Alternatives to Arrest

Alternatives to arrest allow individuals to receive services treating the root cause of their offense, thereby reducing the risk of recidivism and enhancing public safety. Law enforcement agencies should develop policies and procedures governing the use of alternatives to arrest specific to their community.

- **Alternatives to arrest**, also referred to as diversion or deflection, are programs whereby individuals are redirected from the criminal justice system to other programs or services that attempt to better address the root causes of unlawful actions. Program completion may result in dismissed charges, while noncompliance or refusal to participate in such programs may result in prosecution.

- Agencies should conduct a **problem analysis** to identify the needs of the community and set goals for programs offering alternatives to arrest. Seek evidence-based practices that are viable within the scope of applicable laws and community needs and resources, as well as in the interest of key stakeholders.

- Agencies should identify specific **populations** of interest for arrest alternatives and any unique considerations for serving those populations. Populations amenable to alternatives to arrest may include individuals affected by MHCs and/or SUDs, juveniles, first-time offenders, individuals experiencing homelessness, or other vulnerable populations.

- **Eligibility standards** and **disqualifying factors** must be established. Often, risk and protective factors should be considered in totality to evaluate both to what extent the individual may or may not pose a risk to public safety and the individual's ability to meaningfully engage in treatment.

- Parameters for officer **discretion** must be defined.

- Agencies should identify potential **obstacles** in their jurisdiction—such as officer support, cost, and prosecutorial and/or judicial cooperation—and plan ways to potentially mitigate such obstacles.

- Agencies should identify multiple **metrics** to measure the success of programs, such as recidivism rates, program completion, or connection to referrals. Agencies should also consider potential disparities in program application and should continually adjust and reevaluate approaches, if necessary.

- Agencies must develop procedures for **records management**, including documenting and tracking cases and confidentiality of information.

- Agencies should update officer **training** in accordance with implemented arrest alternative programs. Training might include topics such as recognizing health conditions and comorbidities and applying trauma-informed approaches.

- **Community outreach** and **transparent communication** are vital for the success of arrest alternative programs. Both agency personnel and members of the community should be informed of the purpose and potential benefits of alternatives to arrest.