

Non-Judicial Adjustment Study

Final Report

December 2021

Derek Mueller, M.S.
Christian Sarver, Ph.D.
Sarah Wright, M.S.W.
Mariah Cowell, M.S.W.
Karle Oxendine, B.A.



THE UNIVERSITY OF UTAH

Utah Criminal Justice Center

COLLEGE OF SOCIAL WORK
COLLEGE OF SOCIAL & BEHAVIORAL SCIENCES
UTAH COMMISSION ON CRIMINAL AND JUVENILE JUSTICE
S.J. QUINNEY COLLEGE OF LAW

Table of Contents

Introduction	1
Study Objectives	2
Qualitative Analysis	3
Evidence-based Programs	3
Evidence-based Practices	4
Qualitative Results	5
Evidence-based Programs	5
Evidence-based Practices	11
Summary of Qualitative Results	19
NJA Tracking and Data Elements	20
Overview	20
Findings	21
Potential Evaluation Ideas	24
JPO Survey on NJA Process/Practices	26
Recommendations	31
References	33
Appendix A: Data Elements Received from AOC	35

Executive Summary

The current report summarizes the second phase of the Utah Criminal Justice Center's (UCJC) examination of the Non-Judicial Adjustment (NJA) process in Utah. The study objectives were threefold:

1. Conduct an in-depth review of current NJA policies and procedures in the state of Utah, comparing current practices to those identified in the systematic review (phase one of the project). Data was gathered through interviews with Chief Probation Officers (CPOs) from each judicial region.
2. Develop a survey to be administered to JPOs to gain better insight into decision-making and practices related to NJAs.
3. Review available data elements to determine the current evaluability of the NJA process with respect to a range of relevant outcomes, including its impact on youth recidivism. This review was intended to: 1) identify current gaps in the data collection process, 2) devise a strategy for fidelity monitoring, and 3) provide recommendations related to NJA tracking and fidelity monitoring based on "best practices/programs" identified in the research.

Study results demonstrated that the NJA process as currently operating in the Utah Juvenile Courts incorporates many of the evidence-based programs and practices for juvenile diversion programs. There is strong evidence that decisions are informed by standardized risk assessments and the case planning process relies on social learning interventions to target criminogenic needs. The COVID-19 pandemic appears to have improved the process for low-risk youth, by further limiting contact with the court system, and increased accessibility for youth and families. The majority of CPOs felt that the current COVID-related practice—wherein low-risk youth do not come to the office at all but just check in virtually once a month—should become permanent. State statute, the Flowchart, and other processes for monitoring and structuring decision-making were perceived to contribute to better consistency across offices and cases in terms of who receives a NJA offer, case planning, and case resolution.

Where discretion does exist—such as the process for reviewing cases for some moderate- and high-risk youth with a prosecutor—data is not currently collected in a manner that would allow for tracking and monitoring those decisions: at the office level, no process exists to track and review case characteristics to determine if discretion is contributing to any disproportionality. Similarly, such data is not collected with respect to a youth and family's decision to decline a NJA. The specific processes and elements of the case plan—interventions recommended and completed, administration of incentives and sanctions—are not stored in a manner that allows for ongoing review to ensure program implementation is occurring as intended.

The collection of additional data will facilitate a formal outcome evaluation of the NJA process, which would allow the analysis to answer the following questions:

1. What impact does NJA participation have on subsequent youth outcomes?
2. For whom is the NJA process most impactful?

3. What elements of the NJA process are associated with the best outcomes?
4. What disproportionality exists in the NJA offer, case planning, and case resolution?

The following recommendations would increase the NJA's process adherence to the evidence base regarding effective diversion programs. In addition, the recommendations would facilitate an outcome evaluation to answer the preceding questions.

- Victim Offender Mediation (VOM) was described as beneficial but underutilized. It may be useful to include specific training on restorative justice principles. Restorative justice, in the form of VOM, is a component of the NJA process in Utah. One CPO suggested that low rates in VOM may stem, in part, from the fact that JPOs do not have sufficient training in, and familiarity with the principles of restorative justice. This particular concern is included as an item in the JPO survey included in this report. If the findings from the survey confirm that JPOs in fact do not have knowledge of the principles of restorative justice, it may be beneficial to have them trained or retrained on this practice.
- Assessment of impact of diversion may be improved by collection of data related to other outcomes such as: academic achievement, family functioning, social functioning, substance use). Some of these items could be captured if the youth is reassessed on the PRSA/PRA near the end of the NJA process. Staff could also conduct pre- and post-surveys to gather information related to these outcomes.
- The lack of a system wide definition of recidivism (e.g., arrest, referral, petition, adjudication) makes it difficult to understand the impact of the NJA process on recidivism. Identification of a single definition would facilitate better outcome evaluation to understand the impact of the program.
- Many elements of the case plan (including intervention name/type, dosage) exist only in case notes, which makes it more difficult to monitor intermediate and long-term outcomes. Tracking these elements is important for understanding if the program is being implemented as intended. For an outcome evaluation, it is valuable to understand which of these elements are associated with better outcomes.
- There was insufficient data to monitor the impact of issues related to cultural/language barriers, which has implications for an outcome evaluation. Data collection should include information on characteristics of families who cannot be located, do not show for the PI, and referred to the DA, to monitor potential contribution to disproportionate outcomes.
- Incentives and sanctions are inconsistently administered and the process for tracking incentives and sanctions was inconsistently used, with tangible sanctions more likely to be tracked than non-tangible. This lack of data makes it challenging to monitor and review the use of incentives and sanctions (e.g., preferred 4:1 ratio; type of incentives used) and also to conduct an outcome evaluation.
- For some youth, the move to virtual meetings and interventions has resulted in issues related to youth engagement. Use of a standardized assessment to assess motivation may facilitate more specific targeting of youth's problems with motivation and also allow for an evaluation of the impact of interventions intended to improve motivation.

- Youth who were not developmentally or cognitively able to understand the NJA process may be less likely to complete successfully/with substantial compliance. Even if a youth has a competency evaluation, that evaluation does not extend to the NJA. Because there is no discretion in terms of offering a NJA (as used to happen with the availability of a Counsel-Warn-Release response), the JPOs must conduct an interview and try to put an agreement in place. If that process fails—because the youth is not able to comprehend the conversation—the case must be sent to a prosecutor. While JPOs have discretion and can be creative in identifying goals that are developmentally appropriate, this type of case was described as “difficult.” A formal, standardized assessment could be used to assess for these issues and to assist JPOs in accommodating these needs. It is also important to identify and document an appropriate process for resolving these cases without entering them into an NJA but also not referring them to the DA (e.g., community-based referral, Counsel-Warn-Release).

Introduction

The juvenile diversion process in Utah, also known as a Non-Judicial Adjustment (hereafter NJA), is a formal and highly structured program. Utah's program operates in both the community and justice settings. The diversion process is initiated after the juvenile probation department receives a referral but prior to the petition (i.e., preadjudication diversion). After referral, the juvenile probation officer (JPO) collects relevant case information as part of a preliminary inquiry (PI) in order to determine whether the youth is eligible to be offered a NJA. NJAs are automatically offered to youth if they are: 1) referred for a misdemeanor, infraction, or status offense, 2) have no more than two prior adjudications, and 3) have no more than three prior unsuccessful NJA attempts. If the youth is referred to the court for multiple offenses from a single episode¹, the youth will be offered one NJA for all offenses arising from the single episode. If there are multiple episodes, a NJA is completed for each one.

As part of the PI, the youth's risk of recidivism is screened on a locally developed and validated tool called the Pre-Screen Risk Assessment (PSRA). A request can be made to have a prosecutor review the case to determine whether traditional justice processing is a more suitable option if: 1) the youth is assessed as high risk for recidivism, or 2) the youth is assessed as moderate risk for recidivism and the referral offense is a class A against person misdemeanor or a violation of miscellaneous provisions under Utah Code 76-9-7. Youth cannot be denied an offer of a NJA due to his/her or his/her family's inability to pay a financial penalty. The acceptance of the non-judicial offer cannot be predicated on an admission of guilt. Youth that enter into a NJA have 90 days to complete the requirements. Behavioral health treatment and other referrals, for youth and family, may be included as part of the NJA, as determined by the results of the PSRA/PRA. Utah has devised a matrix of responses and interventions for NJAs, which is based on the offense level and risk level. The matrix contains interventions that are required or recommended when considering these two factors. Youth may be asked to participate in a variety of interventions including but not limited to: check-ins with probation; meetings with probation; educational plans; truancy mediation; comprehensive case planning; community-based interventions to treat criminogenic needs; behavioral health assessments for substance abuse, mental health, and/or sex-specific behavior; no contact orders; victim-offender mediation; restitution; and fines/fees/community service hours. For example, a youth referred to the juvenile court for a driving under the influence offense and scoring moderate- or high-risk on the PSRA may be required to: pay restitution, complete a substance abuse screening and follow identified treatment recommendations, develop a case plan and meet with probation, actively engage in meeting case plan goals, and participate in an intervention based on criminogenic risk factors. If the youth had scored as low risk on the PSRA, s/he would only pay restitution (if applicable) and complete a substance abuse screening and follow the recommendations based on those results.

As previously mentioned, fines, fees, and restitution are based on sliding scales. With respect to fines, the requirements are based on the age of the youth and whether the youth's family falls below the poverty line or the youth is in Juvenile Justice Services (JJS) or Department of Child

¹ Episode is defined as: a single episode of conduct that is closely related in time and is incident to an attempt or an accomplishment of a single objective.

and Family Services (DCFS) custody. For youth above the age of 16, the presumption is that a fine is assessed (unless community service is more appropriate). For youth under the age of 16, it is presumed that community service hours be assessed (unless a fine is more appropriate). In the situation where a youth's family is below the poverty line or the youth is in JJS/DCFS custody, community service hours are assessed. Youth that complete 100% of the requirements in the agreement within the 90-day period are considered successful.² Youth that meet 100% of the terms of restitution, comply with no contact conditions, develop a case plan, attend at least 75% of meetings with probation, and have mostly complied with other terms in the agreement are considered substantially compliant. A youth may be considered both substantially compliant and still unsuccessful; in that instance, the case would be closed as unsuccessful but would not be referred to the prosecutor. If the youth is determined to be not substantially compliant with the NJA, the case is forwarded to the prosecutor for further screening. The prosecutor then determines whether the case should be dismissed, sent back to probation for another NJA attempt, or file a petition to initiate the formal justice process. The NJA legislation was last updated on July 1, 2020. Since HB 239 was signed into law³, there has been a marked increase in the number of NJAs that are offered to justice-involved youth and a dramatic decrease in petitions to juvenile court. In the year following HB 239, the number of NJAs increased by 35%, while the number of petitions to juvenile court decreased by approximately 39% (Valle & Thomas, 2020). In FY2019, 55% of youth were entered into a NJA agreement after a referral to Juvenile Court (9,672 of 17,354 referrals resulted in a NJA).

Study Objectives

The Utah Criminal Justice Center (hereafter UCJC) partnered with the Utah Commission on Criminal and Juvenile Justice to examine the NJA process in Utah. The first phase of this project involved conducting a systematic review to identify best practices/policies related to formal, preadjudication diversion programs. There are three main aims of the final phase of this project, which include the following:

1. Stakeholder interviews – conduct interviews with Chief Probation Officers from each judicial district as part of in-depth review of current NJA policies and procedures in the state of Utah. Interviews were conducted and recorded via Zoom (video conferencing software). Current NJA policies and practices were compared to “best practices/programs” identified in the systematic review and are used to generate a set of recommendations for improvement.
2. NJA data tracking and fidelity monitoring – determine the availability of data to examine NJA case variables (e.g., prior cases, offense severity, PSRA/PRA scores, youth demographics, treatment services received), outcomes (e.g., risk reduction, arrests/incidents, formal petitions, and technical violations), and fidelity tracking. The review of available data is used to identify gaps in current data sources identified in the systematic review. Additional data elements can be added to the existing data tracking

² It should be noted that for youth or their families who cannot pay the fine within 90 days, the probation officer may file to extend the NJA for an additional 90 days.

³ HB 239 was signed into law in 2017 with a two-phase implementation in both 2017 and 2018.

system to track adherence to NJA practices as well as youth experiences and outcomes. A summary of available data, recommendations to address current gaps in data sources, and a protocol to assess NJA fidelity are provided in this report.

3. Development of Juvenile Probation Officer (JPO) survey – develop survey questions to be administered by the Juvenile Court and/or CCJJ to JPOs from each judicial district throughout the state of Utah. The survey is designed to gain better insight into JPOs' decision making and practices related to NJAs.

Qualitative Analysis

The research team conducted interviews with 13 Chief Probation Officers from Juvenile Court Probation, representing all eight districts⁴. Interviews were conducted and recorded via Zoom and lasted approximately one hour. The interview guide was developed in collaboration with juvenile court administrators and comprised of open-ended questions regarding the process, perceived impact, and problems with, NJAs.

The recorded surveys were transcribed and coded by the research team. The analytic strategy included both inductive and deductive coding. A conceptual content analysis was conducted, wherein the research team coded the transcripts according to pre-defined codes (evidence-based programs and practices as identified in the systematic review of juvenile diversion program, see below). This coding sought to identify the prevalence (including absence) of identified programs and practices (the research team met weekly to discuss coding and ensure congruence across codes and coders). The coding was also relational, in order to determine whether concepts appeared more or less frequently at different points in the process (e.g., preliminary meeting, NJA offer, interventions, and determination of completion) or in different districts. At this stage of the analysis, the following evidence-based programs and practices were coded for:

Evidence-based Programs

- *Case management*: non-clinical services that focus on increasing access to and engagement in treatment. Look also for indicator that individual (e.g., juvenile probation officer) is assessing, planning, coordinating service delivery and monitoring and evaluating progress, and making adjustments, on the case plan.
- *Counseling-based interventions*: interventions (individual or group) provided by a licensed mental health professional and targeting feelings, cognitions, and behavior. Should be evidence-based and community-based.
- *Family-based treatment*: interventions that target family/family functioning (e.g., monitoring youth, communication, emotional needs of youth) with the goal of increasing the parent/guardian ability to influence anti-social behavior.
- *Skill building*: cognitive and cognitive-behavioral interventions that improve youths' ability to manage emotions, behaviors, and decision-making and problem-solving in order to avoid antisocial behaviors. Indicators include role playing, homework assignment and review, teaching and practicing behaviors, providing feedback.
- *Restorative justice*: interventions that provide an opportunity for the youth to repair harm to victim and community caused by delinquent behavior (vs focus on offender accountability). May include victim/offender mediation, victim/offender panels, intervention discussion/circles that include family and community members, victim assistance programs.
- *Wraparound services*: strengths-based and team-based approach to service delivery that works with youth and family to identify and address needs related to delinquency. Youth and family take the lead in identifying services and supports.

⁴ The following districts have more than one chief probation officer: Second, Third, and Fourth.

Evidence-based Practices

- *Target population*: indicators that the target population is clearly defined (look for processes for deciding who is eligible for the diversion program, such as eligibility or exclusionary criteria).
- *Use of standardized risk assessment*: indicators that a risk assessment is used to inform treatment type and dosage; indicator that assessment is standardized.
- *Network of partners/collaboration*: indicators that youth have access to a wide range of community partners to provide treatment and support (vs services provided primarily by probation or other justice-based agencies).
- *Written agreements*: objectives, expectations, completion criteria and possible sanctions/rewards are written and there is evidence that youth/family have reviewed and have access to this document (e.g., signature, approval, given paper or electronic copy).
- *Evaluate effectiveness*: indicators that program is monitoring fidelity (processes for observing and providing feedback on services provided; monitoring appropriateness of services relative to identified needs; monitoring changes in risk level, completion status, and relevant outcomes).
- *Ensure cultural competency*: indicators that staff are trained in cultural competency; processes for monitoring cultural competency and/or differential outcomes for youth/families according to race/ethnicity.

Responsivity

Prior research suggests that correctional interventions for moderate- and high-risk youth are more effective, in terms of recidivism reduction, when they are attendant to the principles of general and specific responsivity (Bonta & Andrews, 2017). General responsivity refers to research showing that programs are more effective when they apply behavioral interventions that use rewards/incentives and sanctions to shape behavior. Specific responsivity refers to the importance of assessing for, and addressing, any barriers to treatment engagement, including problems with transportation, mental health, language and culture, and cognitive ability.

- *Specific*: Indicators of processes for identifying and addressing barriers to treatment (e.g., developmental level, mental health symptoms, transportation, language/culture).
- *General*: indicators of behavioral interventions that focus on rewards and incentives over sanctions and punishments.

In addition, deductive coding was conducted to further refine the inductive codes and to identify additional relevant themes within the data (Clarke & Braun, 2016). Several inductive techniques were used to strengthen the internal validity of the analysis. The data was read multiple times to code passages and make notes based on preliminary observations; codes were sorted under themes, which were refined and renamed into a codebook (Braun & Clarke, 2006). Further, a constant comparative approach was used to develop and rework categories as the data was coded (Silverman, 2009). This allowed for further refinement or rejection of initial analytic patterns. The aim was to record and present the most common patterns in participant perceptions. Finally, each member of the research team (n=5) double-coded one transcript, after which the team met to review and finalize both inductive and deductive codes. The following themes were identified through deductive coding:

Discretion.

- Areas within the NJA process where stakeholders have discretion (or discretion is restricted)
- Mechanisms to structure decision-making

Role of relationships.

- Impact of relationships (between family, youth, juvenile probation officer, treatment providers, the juvenile and criminal justice system) on NJA process

Cultural and language barriers.

- Impact of cultural and language differences on the NJA process

Problems.

- General
- Due to COVID-10

Qualitative Results

Evidence-based Programs

Case management. Across all 13 interviews, there was strong evidence that juvenile probation officers (JPO) were providing case management services to youth and families referred for a NJA. In all eight districts, JPOs were described as: reaching out to youth and families to increase engagement with the process; conducting risk and need screening/assessment; creating case plans for moderate- and high-risk youth; employing interventions to motivate participation in treatment; monitoring intervention attendance and completion; and adjusting the NJA as problems or barriers are identified. All interviewees indicated that the process for reaching out to, and engaging with, families for a preliminary interview (PI) was actually improved as the result of the COVID-19 pandemic, largely because of increased flexibility in the timing and format of those meetings. Because the pandemic necessitated a move toward virtual meetings, attending the PI no longer requires the family travel to the probation office, which means they no longer have to miss school or work to participate. As such, there is a perception that the NJA process is now more accessible to families, particularly those whose may otherwise have been limited by resources such as transportation and lack of paid time off. For both the PI, and ongoing NJA meetings, JPOs are now encouraged/allowed to adopt flexible work schedules in order to meet with youth and families at times that do not conflict with other important, and pro-social, activities.

Interviewees also identified pandemic-related changes in the way that JPOs reach out to youth and families to set up a PI. Where families used to receive a letter, with a scheduled appointment, as the first contact, JPOs are now expected to make an initial phone call to introduce themselves and the process, identify possible barriers, and set a meeting at an agreed-upon time. This phone contact allows the JPO to identify resources—such as an interpreter—that may be needed to facilitate the PI. JPOs are also encouraged to make multiple and varied attempts to contact the youth/family before referring the case to a prosecutor for a possible petition. Multiple CPOs, in both rural and urban areas, felt that the number of youth/families who appeared at the PI had increased as a result of these efforts. Nonetheless, there was discrepancy across regions in terms of how many families fail to appear at the PI, with CPOs in rural areas tending to indicate that

very few youth missed the PI while some in more urban areas perceived this as a more frequent occurrence. Across districts, the failure to appear rate was estimated to range from 3% to 25% of referred cases. There were differences across districts in terms of how cases were resolved in instances where the JPO was unable to contact the family: some CPOs indicated those cases would be closed as ‘unable to locate’ while others indicated the case would be staffed with or referred to the prosecutor to determine a response, which could include no action or a petition. In cases where no action was taken, respondents consistently identified that the case would still be present in the system and would be addressed if the youth were referred for another case.

Discretion in case management. CPOs consistently reported that, per statute, all low-risk youth (as defined by assessed risk level and offense type) are offered a NJA unless charged with a defined set of serious offenses. Within the statute, however, JPOs have more discretion when considering whether to offer a NJA to moderate- and high-risk youth, depending on the offense type. Youth and family characteristics that are considered in making that decision were said to vary, but commonly cited factors include: the youth’s and family’s risk and protective factors as well as their response to the incident and willingness to engage in the NJA process. In some districts, the decision whether or not to offer a NJA to high-risk youth is always staffed with the prosecutor: in some cases this was described as informal and stems from the close relationship between the prosecutor and the probation office. This staffing may also occur at the request of the prosecutor. In other districts, the decision to offer a NJA, or consult with the prosecutor, is first staffed with supervisors and/or the CPO. There was some perception that the decision whether or not to offer the NJA to higher risk youth creates stress for some JPOs, largely because they now have the discretion to make decisions regarding types of “charges that [the JPOs] didn’t deal with previously” and determine nonjudicial elements and obligations on cases where they used to “make recommendations.” The perception that “ownership” of the case can feel “burdensome” may explain the desire, for some JPOs or offices, to always consult prosecutors when making decisions regarding higher risk youth.

JPOs were described as having discretion in terms of developing the obligations in the NJA, including the case plan⁵. Interviewees consistently indicated that the PSRA/PRA, other assessments, and the Utah Juvenile Court Nonjudicial Adjustment Process Flowchart (hereafter referred to as the Flowchart) were used to develop those obligations, which would include treatment (if applicable). The Flowchart describes how an episode should be defined (e.g., whether the behavior will be covered with a single NJA or multiple agreements) and JPOs do not have discretion in making this determination. However, one CPO described possible inconsistencies in defining whether a behavior comprises multiple episodes, largely because new information may become available as the process unfolds. Several individuals said they wished they had additional discretion when developing case plans for moderate risk youth. In particular, there was a perception that some youth may score as moderate risk (which would require a certain dosage) but, due to the circumstances of the youth and family⁶, may not need the dosage of interventions provided to a moderate risk youth in order to maintain desistance. In such cases, JPOs may need more training or support in developing appropriate case plans and/or accessing an override process. Of note, there has been an override process for such cases since December 2020; however, the interview results suggest not all staff are aware of that process. JPOs were

⁵ The case plan consists of the risk items identified by the PSRA/PRA, skills the youth needs to acquire, and progress made acquiring those skills.

⁶ Such as supportive and involved parents, motivated youth

described as having broad discretion when making adjustments to the NJA. There is a sliding fee scale that determines both fines and restitution based on youth and family income. However, CPOs indicated that JPOs have discretion in terms of how a youth fulfills those requirements, primarily through converting payment of fines into community service hours or providing work crew opportunities to pay off restitution⁷. Common reasons the NJA would be adjusted would be in response to changed financial circumstances (e.g., the family income changes, which impacts fines via the sliding scale) or as a way to incentivize youth (e.g., giving credit for community service hours for participating in treatment, attending school, getting good grades). JPOs were also described as having the authority to amend/adjust elements of the NJA based on treatment providers' feedback, family requests, or lack of fit between youth/family and provider/intervention. Discretion exists in terms of how and to what degree an individual JPO makes adjustments to the NJA. Discretion also exists at the level of treatment providers: JPOs were described as generally accepting the treatment provider's belief that a youth has made sufficient progress in treatment, even if s/he has not attended all sessions:

Maybe they didn't meet the attendance requirement but they were active engaged and they've shown some progress outside of that. Absolutely. And so we just have them put that in a memo to us and indicate the progress they've made and that the therapist feels that they were successful, what they were asked to do, and if it takes three instead of five [sessions] then, you know, that's great.

Discretion in determining completion status. The Flowchart provides specific guidelines for determining whether a youth has been substantially compliant as well as successful or unsuccessful with completing the requirements of the NJA. CPOs consistently indicated that youth who were not substantially compliant with the terms and conditions of the NJA were referred to the prosecutor, who had discretion on future action. The majority of respondents indicated that prosecutors usually petition youth who are not substantially compliant with the NJA. However, CPOs expressed reluctance to resolve a case as not substantially compliant except when the youth was completely unwilling to engage in the requirements after multiple attempts on the part of the JPO to do so. Instead, JPOs are encouraged to work with youth to get them to a substantial compliance: this included use of motivational interviewing, incentives and sanctions to shape behavior, credit for community service hours for engagement and compliance, and adjustments to the NJA. As noted above, the discretion to amend the NJA means there is some variation across JPOs in terms of when and whether a youth is determined to be not substantially compliant or unsuccessful. For example, in cases where the youth has not completed all of the NJA requirements within the 90-day timeframe, JPOs can extend the NJA (for an additional 90 days). Several CPOs indicated that, so long as youth was making meaningful progress, they would try to extend the NJA "for as long as possible."

The primary area in which CPOs indicated that there was less discretion for JPOs, in terms of making adjustments to the NJA and the subsequent implications for determining whether a youth was not substantially compliant, was in the area of restitution. For example, if a youth has not completed restitution within 180 days, s/he will be referred to the prosecutor as not substantially compliant with the NJA (as noted above, there is more discretion in terms of compliance with other elements of the NJA). A youth may be substantially compliant with the NJA but still be unsuccessful, which means they have completed less than 100% of the terms of

⁷ Work crew opportunities have been limited during COVID-19 restrictions

the NJA. A main implication of this is that youth are no longer eligible for a NJA once they have had three unsuccessful NJAs. There were some differences, across interviews, as to when and whether unsuccessful NJAs would be reviewed with the prosecutor in and of themselves. For example, one interviewer described the following possible array of responses to youth who were substantially compliant (75% completion/participation) but unsuccessful:

If just fines and fees are not paid, it's just considered unsuccessful and not even referred to the prosecutor. If the youth is not compliant with restitution, the youth is referred to the prosecutor. If the family and youth are doing well at home, they are not referred to the prosecutor, even if they are considered unsuccessful with the NJA.

Counseling-based interventions. JPOs do provide interventions (National Curriculum and Training Institute (NCTI), Carey Guides and Brief Intervention Tools (BITS), and skills practice) as part of the NJA. In addition, CPOs from all eight districts indicated that counseling-based interventions, provided by community-based clinicians, were used to treat identified needs as part of a NJA. Specifically, those could include referrals to Aggression Replacement Training (ART), substance abuse treatment, therapy to address sex specific behaviors, and therapy to address other mental and behavioral health needs. For youth identified as moderate- or high-risk, those counseling interventions would be included as part of the NJA agreement⁸ and progress/completion would be monitored by the JPO. While the JPO makes the referral to counseling, and presents the youth's risk areas, the therapist determines the specific treatment plan (e.g., dosage, goals, and progress). Interviewees differed in terms of how the JPOs determined treatment progress: in some cases that was described as simply confirming attendance, while others indicated the JPO would check in regularly to collect information on engagement in services and progress developing new skills. In some cases, differential contact with, and information provided by, the treatment provider was attributed to the therapist rather than the JPO: particularly in rural areas, where there are fewer treatment providers, JPOs sometimes have a difficult time getting treatment providers to respond to calls and provide information.

Access to counseling-based interventions. CPOs consistently indicated that the Department of Human services contract had increased access to treatment for NJA youth and families. Despite this, CPOs from rural areas were more likely to identify problems accessing counseling-based interventions due to limitations in the number, variety, and specialization of treatment providers. These included problems accessing services due to provider wait lists and geographic distance between family and the provider. In some cases, the NJA process has to be extended to achieve indicated dosage because the therapist and/or the family cannot provide/attend treatment multiple times per week. In addition, CPOs from rural areas described difficulties locating a provider who could provide a specialized service and problems identifying an alternative provider if the youth/family was not a good fit with the initial referral. Youth and families in rural areas were described as more likely to receive a greater portion of treatment services from a JPO rather than a therapist, in part as the result of trying to meet treatment dosage guidelines within the NJA timeframe (e.g., to avoid prolonging time that youth spend with a NJA). Across all regions, CPOs indicated that the pandemic, which necessitated the provision of virtual services, had increased access to treatment for youth and families with a

⁸ Youth assessed as low-risk would be referred to services as indicated by assessments or parental concern, but those services are not included in the written agreement.

NJA. However, this was especially pronounced in rural areas, where some types of therapy that were previously unavailable had now become accessible.

Family-based treatment. Families were consistently identified as a primary factor influencing whether or not a youth would successfully complete the NJA and avoid future delinquency. Interventions targeting family functioning were provided in all eight districts. Most commonly, those included discussion and case planning with the family and the JPO, referrals to Families First, and referrals to wraparound services through the system of care. Several interviewees described limitations with respect to services targeting families, including long waitlists for system of care referrals. In addition, CPOs described that JPOs struggle to engage some families in the NJA and indicated that attendance rates for family services were sometimes as low as fifty percent. Perceived barriers to family participation included problems with scheduling, transportation, and access to technology; as noted earlier, some of those barriers have been alleviated with COVID-19 related changes to service delivery. In addition, some families were described as reluctant to participate in services due to prior negative experiences with the criminal or juvenile justice systems, parental tolerance for or engagement in antisocial behaviors, or a general aversion to therapy or treatment. Conversely, CPOs also described that some families wanted more intervention for the youth than was available and some wanted the JPOs to operate from a punitive and “Scared Straight” approach to behavior change.

Skill-building. Throughout the interviews, heavy emphasis was placed on the importance of skill-building interventions as a mechanism for preventing future antisocial behavior of moderate- and high-risk youth. The skills most commonly identified as important included consequential thinking, problem solving, anger management, and emotional regulation. CPOs consistently indicated that skill-building and behavior change was the primary purpose of case management. One CPO described the purpose of case management in these terms: “We are here for behavior change, we are not here for punitive reasons.” Across all districts, youth were referred to skill-building interventions such as ART (run by a therapist) and NCTI (run by JPOs). JPOs are additionally expected to teach skills through use of materials such as Carey Guides and BITs and are expected to assign and review homework and practice skills in regular meetings with youth.

Implementation of skill building interventions. CPOs consistently indicated that JPOs varied in their experience with, and comfort level, in terms of teaching and practicing new skills with youth. Particularly in rural districts, or rural offices in larger districts, the vast majority of NJA cases were described as low-risk, which meant the JPO may not be teaching skills on a regular basis (because low-risk youth do not have a case plan or regular interventions).

[Roleplaying] is a confidence thing. It is an expectation, they [JPOs] should be doing this, that is part of our contact. Our contact shouldn't be checking in, it should be skill development of things identified in the case plan.

One CPO attributed the difference in comfort level to the pandemic, which pushed the training of new JPOs to a virtual session that s/he felt made it harder for them to learn and practice those skills. Several other interviewees indicated that the focus on skill building—rather than monitoring or sanctions—was a change in the philosophy of probation, that required a new set of

skills on the part of the JPO, to which some long-term employees struggled to adjust. Mechanisms for addressing such concerns included supervisor coaching, additional training (optional), and pairing JPOs with another staff member for one-on-one mentorship. Several CPOs did allow for the possibility that there are some JPOs who focus less on skill building and spend more time “just lecturing.”

Restorative justice. The primary restorative justice program available within the NJA process is victim offender mediation (VOM), the results of which can be built into the NJA agreement (e.g., in terms of restitution amount). VOM is not conducted by JPOs and they were described as being “not very involved in the process.” Overall, CPOs described VOM as potentially beneficial for both youth and the victim, particularly in terms of conversations around restitution. A smaller number of CPOs also identified benefits in terms of providing opportunities for the youth to explain, and apologize for, his or her behavior and understand its impact on others. Especially in cases where restitution would not fully compensate the victim for damages, several CPOs indicated that the VOM helped victims by giving them a chance to explain to the youth how the behavior had impacted them. There was also general consensus that VOM was not common, even in cases where there was an identified victim. The majority of CPOs ascribed that to the fact that few victims respond when invited to submit a victim impact statement. One CPO indicated that low participation in rates for VOM may stem, in part, from the fact that JPOs do not have sufficient training in, and familiarity with, the principles of restorative justice in order to identify situations where the VOM may be something from which the victim and/or youth would benefit.

In addition to VOM, several of the CPOs indicated that the JPOs conducted victim impact classes for youth in cases where a victim had been identified. This could be used in cases where the youth or victim did not want to participate in mediation but the JPO felt the youth could benefit from the intervention.

Implementation of VOM. While JPOs do not conduct VOM, they are involved in some aspects of working with victims and will facilitate conversations about restitution. Due to the sliding fee scale that is imposed, by statute, on restitution, victims do not generally recoup the full cost of the harm that has been done (in terms of property damage, medical bills, etc.). While some probation offices have staff who specifically coordinate victim services, that outreach can also fall to the JPO and mostly consists of conversations around determining and explaining the amount of restitution that will be paid. Interviewees consistently described these conversations as “difficult” in cases where the victim would not be fully compensated for harm resulting from the delinquent behavior. These conversations were perceived to put JPOs in a difficult position in terms of trying to balance the needs of the referred youth/family and the victim. Several CPOs felt that it would make sense to allow JPOs to focus on treatment and behavior change with NJA youth and completely remove the “financial aspects” from the process.

Wraparound services. CPOs consistently indicated that the youth and family must agree to any planned interventions before they would become part of the NJA agreement. One CPO described the case planning process as a “conversation” with youth and families wherein the JPO presents the assessment results and helps “guide” goal setting. In cases where the youth may be

resistant to targeting areas identified as high risk, one CPO indicated that the JPOs would use motivational interviewing and also triage need areas to increase buy-in:

[t]hey may not be very open to working on the high risk ones [needs] but are willing to work on others. Constantly trying to get them to a place where they are willing to work on the highest risk areas, but they may be resistant and so we target [those] later.

This emphasis on youth and family autonomy and buy-in was clear throughout the interviews and included ongoing conversations to identify barriers to completing NJA requirements, motivational interviewing, and identifying a “hook” such that youth are working through the requirements in a way that allows them to “work on what they want to work on.” The risk assessment used for case planning (Protective and Risk Assessment (PRA)) identifies protective areas as well as strengths and CPOs consistently described efforts to create case plans that emphasized the youth and family’s strengths. For example, one CPO described a situation wherein the youth was allowed to continue receiving therapy from a current treatment provider under the NJA agreement (rather than switch to a new one). The parents’ awareness of the need for therapy was identified as a family strength and so the JPO worked with the current therapist to ensure that treatment focused on needs areas identified in the assessment. Another CPO indicated that an important component of reducing recidivism was for the youth to see the JPO as “someone who would work with me” rather than as law enforcement.

Problems providing wraparound services. The focus on youth- and family-driven treatment goals was described by a few CPOs as an ongoing conversation with some attorneys. As an example, one CPO described instances where prosecutors would send a NJA back to probation with the terms already spelled out (when those are intended to be set by the youth, family, and JPO as the result of assessment). In some cases, those included treatment interventions for youth who were assessed as low risk, which is counter to the NJA process. Another CPO indicated that defense attorneys had expressed concern that probation had “exceeded” its scope in terms of NJA-related case planning, even when probation staff were following the statute and the Flowchart.

While the increased availability of online treatment was widely perceived as a benefit, interviewees also felt there were attendant problems developing rapport with youth in a virtual setting, especially with those who were moderate- and high-risk. Those problems included both contacting youth, when they could not make in-person visits, and building rapport. One CPO described the problem:

Challenges are mod- and high-risk kids who you need to see in front of your face. They are harder to get to attend meetings and engage in treatment . . . we haven’t been allowed to visit them. All [probation] has been virtual—those who weren’t responding in person, really weren’t responding during the pandemic.

In addition to problems engaging high-risk youth through virtual means, there were other examples of technology negatively impacting development of rapport between JPOs and youth. In some cases this was ascribed to characteristics of the youth and family, who were not able to tolerate 45-minute online sessions and so the meetings had to be broken into more frequent but

shorter conversations. In other instances, problems developing rapport were described as a function of the JPOs, some of who were perceived as uncomfortable with providing virtual interventions. Interviewees also felt that, when providing services virtually, JPOs missed out on important information related to body language, mood, and dynamics between family members.

Evidence-based Practices

Target population. The target population for NJA is codified in state statute, which mandates the NJA be offered in specific cases (low-risk with low-level offense and no substantial history of prior adjudications or failed NJAs). Youth referred for more serious offenses (some person and weapon offenses) could also be offered a NJA, but the decision must be staffed with prosecutors.

Discretion in target population. By statute, JPOs have substantial discretion in terms of making NJA offers to any high-risk youth or to a moderate-risk youth who has committed a more serious person offense. There was variation across interviews in terms of how those ‘optional’ cases were handled, with some sites describing ongoing and regular contact with prosecutors such that those cases would always be reviewed. In other offices, the JPO would staff the case with supervisors or the CPO before making the decision to make an offer or refer to the prosecutor. Several CPOs were adamant about their preference to resolve cases through NJA, regardless of risk or offense, while others preferred, or felt the prosecutors preferred, to include prosecutors in the decision to make an offer in all discretionary cases.

Use of standardized risk assessments. The CPOs consistently indicated that youth are assessed on the Pre-screen Risk Assessment (PSRA) in order to make a decision regarding NJA eligibility. Prior to the pandemic, youth were also assessed on the MAYSI-2 to identify problems with mental health and substance abuse⁹. High- and moderate-risk youth are subsequently assessed on the PRA to determine the case plan, including: treatment targets, goals, and dosage. Low-risk youth may be referred to services but those are not entered into the NJA agreement; moderate- and high-risk youth receive relatively more hours of service. In order not to increase juvenile justice contact, JPOs will adjust the amount of time they meet with youth in order to accommodate treatment (e.g., in order not to exceed the specified hours per week per risk level). As noted earlier, some CPOs identified problems with providing services for assessed criminogenic needs because specialized providers were not locally available. However, the increased availability of online treatment was perceived to address that problem, at least in part.

Problems in use of standardized risk assessments. Two possible problems were identified in the use of risk assessments. First, in smaller offices, the JPOs may conduct the PRA infrequently (because there are fewer youth referred and most are low-risk and therefore only get assessed on the PSRA), which a few CPOs felt undermines confidence in administering the assessment and developing case plans from the results. In addition, one CPO identified some difficulties in the shift from offense-focused case planning to risk-focused planning. In

⁹ Because the MAYSI-2 is conducted in person, that assessment is not being completed so long as pandemic-related restrictions are in place.

particular, JPOs may struggle when putting together case plans for high-risk youth who have committed a minor offense. The respondent was clear that this struggle was not based on resistance to the concept of risk assessment:

I think they get it. I think they understand all the reasons why we look to risk level now. But it's still a bit hard to deal with some of those kids that have minor offenses that have high risk.

Network of partners/collaboration. There was widespread agreement among CPOs that treatment provided by community mental health providers was an integral part of reducing recidivism. While all CPOs endorsed the philosophical belief in the importance of treatment that is not provided by a justice-based agency, they also agreed that treatment services are more readily available in urban areas. Interviewees from rural areas did indicate strong collaboration with a range of treatment providers; however, those services were described as limited by the number, variety, and sometimes quality of existing treatment as well as geographical distance. This perception held true even with expanded services available through the DHS contract. From the perspective of rural CPOs, the biggest positive impact on treatment availability was the pandemic-related switch to virtual services. Even with that increased access, rural-based CPOs indicated that youth in rural areas were more likely than those in urban areas to receive a higher percentage of services from their JPO rather than a clinician and/or their NJA might be extended in order to reach the target dosage. Even in urban areas, some CPOs indicated a desire to have more types of interventions to better accommodate youths' individual needs (e.g., mentors, school-based programs that were open to youth served through probation offices, and more "creative" options that would engage youth).

Written agreements. There was clear indication from all CPOs that families are given written information regarding their rights and the NJA process and that this is a document that is signed by the youth. Once a NJA is developed, the youth and family must agree to the document, which describes the requirements the youth will need to fulfill in order to successfully complete the NJA. Any adjustments to the NJA are updated by the JPO and the agreement, including updates, is stored within the CARE system. All of the CPOs indicated that the NJA forms were available in Spanish as well as English; however, there was concern expressed by some that non-English speaking families encountered some barriers within the NJA process, even with the availability of translated documents because the JPO still had to have a conversation with the youth and family regarding the form. In part, these problems stemmed from access to interpreters—conversations and meetings often had to be delayed in order to find an appropriate interpreter. However, this problem was somewhat allayed with the availability of telephone-based (rather than in-person) interpretive services (per pandemic-related restrictions). Several CPOs expressed concern that the initial documents sent to families included the court logo, and could therefore be intimidating to families unfamiliar with the U.S. juvenile justice system or families with prior negative experience with the juvenile or criminal court¹⁰. Several interviewees described the importance of clarifying to families and youth, during initial

¹⁰ Of note, these concerns were somewhat addressed by pandemic-related changes to notifying families of the referral, which is now a phone call rather than a letter.

conversations and in the PI, that the JPOs are not law enforcement. There was also concern expressed in terms of the “jargon” that is often characteristic of court documents, which can itself feel like a “foreign language.” As such, CPOs felt it was crucial that JPOs use simple, direct, and non-jargon language when reviewing forms and written agreements with families.

Evaluate effectiveness. CPOs reported several strategies for evaluating program effectiveness. Through regular contact with youth, families, and treatment providers, JPOs were constantly monitoring the goodness of fit between the youth’s assessed needs and services provided. Any amendments to the NJA based on such interactions would be documented in the NJA agreement; however, it is not clear that CPOs are able to easily access data to provide information on how many youth, and for what reasons, require a change of intervention or treatment provider. Goals related to case management (e.g., progress on goals, completion status) and reductions in risk level were described as easily accessible and reviewable; however, there was no evidence of widespread and consistent collection of data related to other outcomes that research suggests may be an important indicator of program success (e.g., academic achievement, family functioning, social functioning, substance use). Of note, JPOs were likely aware of these types of outcomes based on conversations with youth, families, or treatment providers; however, there was no indication that such information was collected in a way that would make it simple to review regularly (as was true for other aspects of case management). One CPO indicated concern with the lack of a system wide definition of recidivism, which made it difficult to understand the impact of the NJA process on recidivism (because the answer differed depending whether recidivism was characterized as any future contact, time to future contact, number of future contacts, changes in offense severity, etc.). Finally, the many of the elements of the case plan (including interventions, completion) existed only in case notes, which makes it more difficult to monitor intermediate and long-term outcomes.

In terms of fidelity monitoring, the Flowchart emerged, and was revised over time, as the result of ongoing conversations among CPOs and administration regarding the implementation of H. B. 239. Through those conversations, staff were able to identify problems in implementation and also develop processes for improving consistency across probation offices. Several CPOs indicated that a primary aspect of their job was to provide “observation and coaching” to staff; however, it is not clear how frequently staff are observed and given feedback on skills related to assessment, case planning, motivational interviewing, and skill-building. Several CPOs described the NJA process as having a positive impact on recidivism if it was implemented “to fidelity.” One CPO defined fidelity as ensuring that JPOs were focused on “teaching skills” and “engaging youth.” However, there was little detail on existing processes for monitoring fidelity in terms of staff skills for working with youth¹¹.

Ensure cultural competency, including identification of culture and language barriers. Across districts, CPOs indicated that they had access to interpreters, court documents that had been translated into Spanish, and, in some areas, interventions that were conducted in Spanish. There was broad agreement that pandemic-related adjustments to communicating and meeting

¹¹ Of note, there are structured observation guides that CPOs use when observing JPO service delivery (e.g., PI, case planning, service delivery).

with families had addressed many of the barriers that families faced related to transportation and flexible scheduling (though created new ones with respect to access to technology). Nonetheless, interviewees felt there were ongoing cultural and language barriers for youth and families¹², in terms of participating in a NJA. Those included family resistance to engaging with the juvenile court based on prior contact with the criminal or juvenile justice system, which resulted in trauma or the belief that the justice system would not treat them fairly. There was also a sense that families might be hesitant to participate based on community and cultural perceptions of the criminal justice system's interactions with marginalized communities and individuals. As noted earlier, there was also concern that the language used by juvenile justice stakeholders was itself foreign, and that terms like "probation" did not translate well, either as words or concepts. This gap in interpretation and communication was perceived to be particularly problematic for refugee families or those living on a reservation¹³. There was evidence of existing processes to address cultural and language concerns: within offices, CPOs assigned youth and families to Spanish-speaking staff and provided a stipend to those staff to enhance capacity¹⁴. CPOs encouraged JPOs to exert additional effort in order to make contact, build relationships, and communicate clearly with families, paying specific attention to concerns related to language, past system experience, and negative perceptions of the juvenile justice system. JPOs are also encouraged to identify the need for translation/interpretation prior to the PI, so the process is not delayed.

At an organizational level, several CPOs referenced participation in other initiatives, including a working group to reduce racial and ethnic disparities and a language access committee. Some of the pandemic-related reforms for increasing accessibility—enhanced outreach efforts, flexible meeting times, and interpreters available in virtual meetings—emerged out of those initiatives. While there was a strong sense that these were important and meaningful initiatives, the common perception amongst CPOs was that youth and families from minoritized identities still struggled in terms of understanding the process and developing rapport with probation staff. One CPO described this:

We have several Spanish-speaking officers but it's not their native language. In that situation, you do the best you can but it's just not there. It makes it difficult.

Another interviewee felt that Spanish-speaking staff were able to communicate well, but that conducting interviews and interventions through an interpreter results in a loss of "emotion and meaning" and makes it hard to establish a "personal connection." CPOs also identified problems in terms of the number and availability of interpreters, particularly in languages that are uncommonly requested. Of note, several respondents indicated there was insufficient data to monitor the impact of the aforementioned efforts. Multiple respondents also described ongoing concerns with racial/ethnic and gender disparity in terms of the number of youth who are

¹² A few interviewees felt that the described initiatives had substantially improved the process and cultural and language barriers were not as much of a concern as they had been previously.

¹³ Translation/interpretation with American Indian languages came up infrequently but was identified as a substantial problem when it did.

¹⁴ This stipend is available to all staff; however, they must pass a language test. Some offices did not have any/sufficient staff who were eligible for stipend to meet need.

referred to the court. There was also some mention of law enforcement charging cases such that they would not be eligible for a NJA, which interviewees interpreted as an attempt to circumvent the statute; however, this was not specifically connected to concerns with disproportionate minority contact.

Responsivity.

General responsivity. CPOs were clear that JPOs should be focusing on, and responding to, specific targeted behaviors and avoid lecturing or getting caught up with feelings about what the youth “should” be doing while ignoring incremental progress being made. Even when sanctioning youths’ behavior, CPOs emphasized the importance of teaching new, replacement skills rather than focusing on the negative behavior:

What you are doing is simply responding to their behavior that is negative, you might have to give them a sanction but you are also working on that behavior.

Within NJA, JPOs have access to both tangible and intangible incentives and sanctions (some of which have been limited by the pandemic, because JPOs are not seeing youth in person). They also use of an incentive and sanction matrix, which structures proportionality of the response in terms of the youth’s risk level and behavior. There was no indication that treatment was used as a sanction and there was strong acknowledgement of the need to identify specific and individualized responses that would be relevant in terms of encouraging or discouraging a youth from engaging in a specific behavior. One CPO identified increased compliance among youth, since the implementation of the matrix, and attributed this to the fact that the sanctioning process was now proportionate and fair. CPOs were also clear that the number of incentives should outweigh the number of sanctions. Furthermore, the CPOs identified the importance of making incentives and sanctions clear to youth, so they know what is expected of them:

The probation officer should be setting the incentive and sanction with the youth so they know exactly what’s expected of them. So if I meet with this kid once a week, we’re gonna come up with some action steps. We’re gonna have incentives and sanctions built into those action steps. So the kid knows exactly what’s expected of them.

Problems with general responsivity. Despite the matrix, CPOs consistently indicated that the use of incentives and sanctions varied among JPOs. In part this was attributed to differences in personality, with some staff having a greater comfort level in administering behavioral responses. Other CPOs identified potential concerns with training, wherein JPOs were not practiced in terms of identifying opportunities to incentivize a youth, as evident in the following quote:

I think sometimes they don’t realize when they have incentivized a youth, from verbal praise to telling them how awesome they are doing.

There was also some indication that staff who had previously worked under a more “compliance” oriented framework struggled to stop focusing on what youth “shouldn’t do” and instead focus on what youth “should do.” While the CPOs felt that staff should be doing more incentivizing than was currently happening, there was acknowledgement that some staff are

more likely to identify and respond to negative behavior with less attention to incentivizing positive behavior. In addition, CPOs felt the process for tracking incentives and sanctions was inconsistently used, with tangible sanctions more likely to be tracked than non-tangible. This lack of data would make it difficult to review use of sanctions and also to conduct an outcome evaluation.

A few respondents also indicated that there were times where the availability, or accessibility, of existing sanctions was not sufficient to create behavior change in some cases. One example provided was in truancy cases, where it was perceived that the NJA process now limits the use of immediate sanctions¹⁵. While the CPO fully endorsed the importance of incentives, s/he also felt that there was no meaningful way to change behavior for youth without at least the “perception of a consequence” and, as such, recommended that truancy cases not be handled through the juvenile court. A second CPO also indicated that the current structure for sanctioning youth, especially those who are currently engaging in big negative behaviors such as punching holes in the wall, does not allow for any immediate reaction on the part of JPOs. This interviewee was clear to endorse the research against widespread use of detention as a response to youth’s behavior; rather, s/he was concerned with the lack of any immediate and proportionate sanctions that could be used to respond to egregious behavior.

Specific responsivity. All CPOs consistently indicated that JPOs identify the following specific responsivity issues (barriers to treatment): language, culture, transportation, motivation, mental health, and technology. As noted throughout, pandemic-related changes to family outreach have largely mitigated problems with transportation. Barriers related to language and culture are addressed through the use of interpreters, translated documents, and several committees that monitor barriers and progress. While the MAYSI-2 is not currently being implemented, it does screen youth for mental health and substance abuse concerns; access to treatment is available through the DHS contract referrals. Incentives and sanctions, based on the matrix, are built into case plans and used to address problems with motivation. Furthermore, the CPOs indicated that staff were consistently working to identify incentives and sanctions that were specifically relevant to a given youth.

Problems with specific responsivity: As noted elsewhere, interviewees felt staff worked hard to address barriers related to culture and language, but those issues nonetheless continued to exist and may account for disproportionate contact of minority youth¹⁶. Prior to the pandemic, staff had access to bus tokens and collaboration with DJJS service providers to address transportation issues; the perception, especially in rural areas, is that those issues remain a problem for families. Use of a standardized assessment to assess motivation may facilitate more specific targeting of youth’s problems with motivation and also allow for an evaluation of the impact of interventions intended to improve engagement.

¹⁵ The statute (78-A060602(2)(e)(iii) states that: “Although limited community service hours are allowed, nonjudicial agreements for Habitual Truancy referrals should focus on remedies to attendance issues, as opposed to consequences.”

¹⁶ As noted earlier, there also some perception that disproportionate contact was also function of law enforcement behavior.

A small number of CPOs identified problems when trying to complete a NJA with youth who were not developmentally or cognitively able to understand the process. Even if a youth has a competency evaluation, that evaluation does not extend to the NJA. Because there is no discretion in terms of offering a NJA (as used to happen with the availability of a Counsel-Warn-Release response¹⁷), the JPOs must conduct an interview and try to put an agreement in place. If that process fails—because the youth is not able to comprehend the conversation—the case must be sent to a prosecutor. While JPOs have discretion, and can be creative in identifying goals that are developmentally appropriate, this type of case was described as “difficult.”

Role of relationships. The two relationships described as central to a successful NJA, especially for moderate- and high-risk youth, were between the youth and his/her family and the youth and the JPO. Families were described as pivotal in terms of the decision to accept the NJA (although the actual decision is up to the youth, who can accept even if the parents would rather not), providing transportation, demonstrating buy-in to the process, modeling pro-social skills and attitudes, and following up with incentives and sanctions in coordination with the JPO. The following quote exemplifies this:

That’s [family functioning] probably the main factor. Can the family do this? And, can they help the youth be successful getting it done, whether it’s fines or counseling or a class or community service hours, and assessment. If we determine the family can be a help then we are pretty certain the kid can be successful.

As noted earlier, families may be resistant to the process, due to concerns about the juvenile justice system, cultural barriers, and family tolerance for antisocial behaviors. Families may also struggle to meet the requirements of the NJA, in terms of time, transportation, finances, and impact on other family members. The relationship between youth and family could also be impacted by the presence of counsel (who may advise the family not to accept the NJA) and families of co-defendants, some of whom may receive different financial sanctions for the same episode based on differences in income and the sliding fee scale. This latter circumstance, in particular, could undermine the youth and family perception that the process was fair.

CPOs also indicated that the relationship between the youth and the JPO was an important component of successful behavior change. This included the ability on the part of probation staff to develop rapport with the youth, focus on progress and positive behavior rather than negative behavior, exhibit skills in terms of providing interventions, practice skills through role play, and administer incentives and sanctions effectively. Rather than simply checking-in with youth to monitor compliance, JPOs were expected to actively engage youth and families and act as an agent of change. Many respondents felt the success of the NJA was dependent on probation staff’s ability to engage, teach and practice skills, and incentivize and sanction behavior:

Some commonalities among youth that tend to be a little more successful in the NJA are youth that have and engaging probation officer that isn’t so focused on meeting criteria

¹⁷ While bringing this up, interviewees did acknowledge problems with inconsistency in terms of CWR and were not specifically recommending a return to that process.

and is willing to work with the juveniles on things, giving youth opportunities and chances to succeed.

Problems in implementation. Overwhelmingly, CPOs indicated the reforms that started with H.B. 239 have greatly improved consistency in terms of offering, staffing, and resolving NJA cases. Two primary issues emerged with respect to how the process currently functions. First, there was a perception that some families refuse the NJA offer because they feel they can go to court and get a lower fine than what is being offered under the NJA agreement¹⁸. The differential discretion allocated to probation vs the courts was perceived to incentivize the court process, at least for some youth and families.

The second issue, which was briefly mentioned earlier, was a perceived lack of buy-in from other stakeholders involved in the process (e.g., law enforcement and prosecutors). There was a perception—depending on the leadership at the agency as well as the will of the individual—that stakeholders were attempting to circumvent NJA. For law enforcement, this came in the form of overcharging an episode so the case would not be eligible for a mandatory NJA offer. For prosecutors, this came in the form of returning cases to probation with the terms dictated (e.g., a particular type of treatment, whether not it was indicated by the risk level and criminogenic need). In other instances, interviewees felt prosecutors were very supportive of the NJA process and were collaborative in terms of keeping youth from receiving a formal petition. However, the prosecutors were perceived to have far more discretion than probation staff, which was problematic when they were not as familiar with the statute.

Summary of Qualitative Results

Interviews demonstrated that the NJA process as currently operating in the Utah Juvenile Courts incorporates many of the evidence-based programs and practices for juvenile diversion programs. There is strong evidence that decisions are informed by standardized risk assessments and the case planning process relies on social learning interventions to target criminogenic needs. The COVID-19 pandemic appears to have improved the process for low-risk youth, by further limiting contact with the court system, and increased accessibility for youth and families. The majority of CPOs felt that the current COVID-related practice—wherein low-risk youth do not come to the office at all but just check in virtually once a month—should become permanent. State statute, the Flowchart, and other processes for monitoring and structuring decision-making were perceived to contribute to better consistency across offices and cases in terms of who receives a NJA offer, case planning, and case resolution.

Where discretion does exist—such as the process for reviewing an optional case with a prosecutor—data is not currently collected in a manner that would allow for tracking and monitoring those decisions: at the office level, no process exists to track and review case characteristics to determine if discretion is contributing to any disproportionality. Similarly, such data is not collected with respect to a youth and family’s decision to decline a NJA. The specific processes and elements of the case plan—interventions recommended and completed,

¹⁸ As of 2021, the fine amounts for NJA now align with those for petitioned cases

administration of incentives and sanctions—are also not stored in a manner that allows for ongoing review to ensure program implementation is occurring as intended. The current system does appear to allow for differences in terms of skill level on the part of JPOs; introduction of formal fidelity monitoring measures may improve this. Finally, the collection of additional data (as noted above and in the following section) will allow for a formal outcome evaluation of the NJA process.

NJA Tracking and Data Elements

Overview

Agencies striving to implement “best practices/programs” in juvenile diversions should collect as much data as possible on the diversion process. Evaluation research on juvenile diversion has been limited because many diversion programs are never evaluated (Mears, 2012). As discussed in the systematic review for this study, evaluation research on diversion programs has produced mixed findings with respect to recidivism outcomes (Mueller et al, 2021). There are several limitations with evaluations of juvenile diversion that are worth noting. First, diversion programs are often diverse in terms of the populations they serve, the point of contact in the justice system, the setting, and the services available/provided to youth, which make comparison across diversion programs difficult (Farrell et al., 2018). The process of evaluating individual diversion programs also becomes murkier when considering the fact that diversion programs often report on different study characteristics and that the evaluations vary considerably in their rigor (Mears et al., 2016). Research on juvenile diversion has, however, demonstrated that importance of program implementation with respect to model fidelity. Programs with higher levels of fidelity produced larger effects on recidivism (see Wilson & Hoge, 2013; Schwalbe et al., 2012).

It is important to consider the intended outcomes and benefits of diversion as well as the potential harms of diversion when developing a data tracking system. The main intended outcome of diversion is to prevent youth from deeper involvement in the juvenile justice system and reducing the likelihood of recidivism (Farrell et al., 2018). There are also other important benefits associated with juvenile diversion such as preventing association with delinquent peers; holding youth accountable for their behavior; providing proportionate responses to delinquent behavior; addressing criminogenic risk/needs; providing youth with community-based treatment options (if appropriate); reducing court caseloads and costs, as well as detentions and out-of-home placements; and improving relationships between youth, community, and the juvenile justice system. The potential harms of diversion include net widening, increased recidivism, and disproportionality in the access and use of diversion.

The purpose of this review is three-fold: 1) identify current gaps in the data collection process, 2) devise a strategy for fidelity monitoring, and 3) provide recommendations related to NJA tracking and fidelity monitoring based on “best practices/programs” identified in the research. UCJC requested data from the Administrative Office of the Courts to examine the scope of the information collected on NJA cases and outcomes. These data were provided to UCJC in August 2020. These data were expansive and covered much of the NJA process including: incident description, youth demographics, NJA completion status, elements the obligations included in the NJA, PSRA/PRA results, recidivism (subsequent petitions), and service hours and fines/fees/restitution amounts. Based on a thorough review of these data, UCJC devised a set of recommendations to enhance the current data tracking system to strengthen the Juvenile Courts ability to conduct future evaluations and monitor fidelity to “best practices/programs.”

Findings

The findings described below were derived from the review of the NJA-related data from the Administrative Office of the Courts (see Appendix A). UCJC also developed recommendations based on the findings from the interviews with the CPOs.

- Additional data related to recidivism may improve ability to consider whether there are patterns/changes (e.g., escalation) in subsequent delinquent behavior (i.e., offense code, offense type, offense severity).
- Evidence-based correctional practices indicate the importance of monitoring for adverse/negative/unintended experiences associated with any treatment-related services or interventions. These issues can be observed if, for example, a pattern emerges where a subgroup of youth recidivate at a higher rate than other youth who receive an NJA. Adverse experiences can also be detected in self-report surveys administered to youth and their families.
- Data elements related to the case plan (e.g., goals, action steps, program/intervention type, program/intervention criminogenic need target area, dates, priority criminogenic need areas) can be beneficial to examine alignment with risk/needs assessment results.
- Related to the previous finding, it is also informative to capture the domain scores related criminogenic needs. These data are essential if there is interested in examining case plan and risk assessment alignment as well as whether there was a risk reduction. In order to examine risk reduction as an outcome, youth must be reassessed near completion of the NJA agreement. Capturing domain scores will also enable research staff to assess for changes in risk domains if subsequent referrals are made for youth. Given that the PSRA and PRA do not provide domain scores, it is recommended that the Juvenile Courts adopt a tool that does in order to align with best practices in correctional treatment.
- While information pertaining to additional assessments and treatment referrals are captured in the data, additional details related to these data could be used for evaluation purposes. The importance of dosage has been increasingly evaluated in the correctional treatment literature (Makarios et al., 2014). Dosage is ideally captured in active minutes spent in an intervention. In some instances, agencies have also used proxies to capture dosage (e.g., start date and end date). Although the Juvenile Courts has dosage targets, recording time spent in treatment (albeit JPOs and/or providers) and also the quality of that engagement (e.g., attentive, motivated) would allow for monitoring if dosage is implemented as intended and if dosage is related to outcomes by risk level.
- As previously discussed, there are numerous intended outcomes and perceived benefits of diversion. Few studies as well as agencies have tracked other youth outcomes (e.g., education, family relations, antisocial peer associations, risk reduction). It is possible to assess for changes across these domains by conducting pre- and post-surveys with youth. In few instances, juvenile justice agencies have collaborated with boards of education to obtain education records for justice-involved youth.

- NJA amendments were often mentioned among the CPOs. Any amendments to the NJA based on such interactions would be documented in the agreement; however, it is not clear that CPOs are able to easily access data to provide information on how many youth, and for what reasons, require a change of intervention or treatment provider. It may be beneficial to track these amendments and have JPOs or CPOs provide a rationale. The reasoning behind adjustments could be captured in open-ended text or by using fixed-answer choices. These are important factors to consider for program evaluation.
- Data elements related to staff characteristics and experience, as well as staff decision making can also be useful for evaluative purposes. CPOs referenced that staff have been trained in the NJA process as well as the incentive and sanction matrix. Collecting data on training (e.g., training target, dosage, dates) can help inform when staff may need refreshers. These data can also be used to inform outcomes related to staff decision making (e.g., request for action from prosecutor) and use of evidence-based practices (e.g., incentives for compliant behavior and responses for non-compliant behavior).
- In several instances throughout the CPO interviews, references were made to the handling of cases for youth who JPOs were unable to locate. Monitoring characteristics of cases that are referred to the prosecutor vs. those that are closed as unable to locate may help identify any disproportionality.
- For youth/families that do not respond to JPO outreach regarding the preliminary inquiry or NJA agreement, it may be beneficial to monitor/review characteristics of families who do not respond to identify any patterns/consistencies among these youth/families.
- Tracking factors considered when making the decision to refer a case for a moderate- or high-risk youth to the prosecutor's office for review. In some instances, CPOs indicated that JPOs weigh the decision based on the youth and family's risk and protective factors as well as their response to the incident and willingness to engage in the NJA process. In other districts, the decision to offer an NJA to a high-risk youth is always staffed with the prosecutor. May also consider examining characteristics of moderate- and high-risk youth who are not offered an NJA vs those who are.
- Several of the CPOs indicated that the JPOs conducted victim impact classes for youth in cases where a victim had been identified. This could be used in cases where the youth or victim did not want to participate in mediation, but the JPO felt the youth could benefit from the intervention. Outcomes related to this class could be informative for evaluative purposes. It may also be informative to consider the success of this intervention as well as what specific need area(s) this intervention targets.
- Even with increased access of services, rural-based CPOs indicated that youth in rural areas were more likely than those in urban areas to receive a higher percentage of services from their JPO rather than a clinician and/or their NJA might be extended in order to reach the target dosage. Given the potential implications of these geographic differences, it may be useful to monitor percent of dosage provided by different providers (e.g., PO or treatment provider) monitoring and examine geographic differences in service delivery as well as youth outcomes related to these differences.

- There was a perception among CPOs that some families refuse the NJA offer because they feel they can go to court and get a lower fine than what is being offered under the NJA agreement. The differential discretion allocated to probation vs the courts was perceived to incentivize the court process, at least for some youth and families. If available, these data may help identify discrepancies in fines/fees between the court and NJA routes.

The other aim of this objective is to identify a protocol for fidelity monitoring related to the NJA process in Utah. Drawing from the work of Farrell and colleagues (2018), the National Implementation Research Network, the Office of Juvenile Justice and Delinquency Prevention, and Models for Change, several key considerations for successful program implementation have been identified.

Implementation Team

It is important to establish an implementation team who is involved in the planning and monitoring of the program implementation. They assist with the development, support, and oversight of the program's implementation plan. The implementation team is also responsible for championing the change effort and securing resources need to ensure that the program is implemented appropriately. Third, they are readily available to address any implementation barriers and opportunities. Lastly, the implementation team uses data to monitor the progress of the program and uses this information to inform program-related decisions.

Continuous Quality Improvement and Fidelity Monitoring

As with any program, data should be collected and regularly analyzed to monitor program utilization, fidelity to the model, and related outcomes. As previously discussed, diversion programs run the risk of net widening, unintended outcomes, and disparate use. The following items provide some guidance in establishing a continuous quality improvement process:

- Develop a program logic model;
- Create a data dictionary;
- Create a protocol for data collection and access;
- Establish reporting templates; and
- Establish Memoranda of Understanding forms, if needed

Program fidelity is the principle of effective intervention that is most often overlooked by agencies.¹⁹ Program design is an important aspect of fidelity and can be represented by four phases: 1) Program design; 2) Training; 3) Implementation/Coaching; and 4) Quality improvement. One way to increase fidelity is by utilizing coaching. Coaching opportunities can increase staff effectiveness in the delivery of services/interventions. Opportunities of growth can be identified, modeled, practiced, and implemented by monitoring the assessment process and intervention strategies. This can enhance staff skill sets and address some barriers to effective

¹⁹ For a local example of a program fidelity assessment, see Mueller and Prince (2021). The researchers analyzed data from a fidelity monitoring tool used by Utah Department of Corrections to assess for changes in LS/RNR quality assurance scores associated with the Second Chance Act initiative.

implementation. Furthermore, Dane and Schneider (1998; pg. 45) identified five aspects of program fidelity that should be assessed for:

- Adherence – program components are delivered as prescribed.
- Exposure – amount of program content received by participants.
- Quality of delivery – theory-based ideal in terms of processes and content (e.g., implementor enthusiasm; leader preparedness; global estimates of session effectiveness, and leader attitudes toward program).
- Participant responsiveness – engagement of the participants (e.g., indicators of participation and enthusiasm).
- Program differentiation – unique features of the intervention are distinguishable from other programs. Acts as a safeguard against the diffusion of treatments (i.e., participants received only planned interventions).

According to Cordray (2007) there are three primary types of program fidelity evaluation:

- Monitoring and retraining/refreshers
- Implementation check – based on small sample observations
- Integration of fidelity measures into outcome analysis (i.e., mediator or moderator)

Potential Evaluation Ideas

- Consider potential differences in outcomes by district, race/ethnicity, and gender.
- Patterns in NJ outcomes (successful) by demographics and offense characteristics.
- Examine whether there are differences in time to outcome (e.g., NJA completion, recidivism) by district, race/ethnicity, and gender.
- Examine the intersectionality between race and gender in predicting intermediate and recidivism outcomes for NJA cases by conducting a series of cohort analyses or discontinuous growth models.
- Assess whether there were significant changes in intermediate and recidivism outcomes based on the implementation of juvenile justice reform in 2017 using a series of cohort analyses or discontinuous growth models.
 - For example, conduct a cohort analysis to examine whether there has been a statistically significant reduction in the rate of recidivism across the cohorts (e.g., pre-H.B. 239; short-term post-H.B. 239; long-term post-H.B. 239).
- Examine whether there are patterns in data on prosecuting severity and actual referrals to prosecutor and/or formal petition to juvenile court.
- Evaluate how well case plans align with risk assessments along with documentation of improvements in alignment over time. Drawing from recent research in corrections, service matching to criminogenic need areas can be measured by capturing whether there was a need area present and then whether services were a good match, overprescribed, or

under prescribed (see Mueller & Prince, 2021; Drawbridge et al., 2020; Nelson & Vincent, 2018).

- Evaluate whether treatment dosage aligns with the risk principle (see Makarios et al., 2014).

JPO Survey on NJA Process/Practices

Based on the findings from the interviews with the CPOs, UCJC created a draft survey to disseminate to JPOs throughout the state. The survey covers a variety of topics related to the NJA process which include: risk assessments, evidence-based practices, trainings, decision making, and perceptions of other juvenile justice stakeholders. Results from this survey could be used to improve the NJA process.

Case Processing

1. When a youth is assessed is moderate/high risk on the PRA, what factors do you consider when determining whether to request a case review from the prosecutor's office? (check all that apply)

- Does not apply: Always refer moderate/high risk cases to prosecutor
- Criminal history
- Severity of current offense
- Number of prior NJA attempts
- Youth attitude/demeanor
- Substance use issues
- Family/living arrangement issues
- Family/youth response and engagement
- PRA results
- Availability/variety of NJA interventions
- Feedback from supervisor and/or Chief Probation Officer
- Other: _____

2. For what reasons do families/youth typically decline a NJA?

3. How has the increased use of Non-Judicial Adjustments since H.B. 239 impacted recidivism?

- Increased
- Stayed the same
- Decreased
- Unsure / Don't Know

4. Have you participated in any other initiatives or working groups related to the Non-Judicial Adjustment process?

- Yes
- No

5. If yes, please describe the initiative(s)/working group(s) and whether any changes were made to the Non-Judicial Adjustment process as a result.

6. In what cases are you required to staff your case with your supervisor or Chief Probation Officer?

- None
- Moderate- or high-risk youth
- More serious offenses against persons

- Other: _____

Case Planning

7. What has been the impact of working with youth/families virtually rather than in-person?

8. What are the challenges, if any, when creating case plans for youth that is focused on criminogenic risk/needs?

9. Rate your level of comfort in identifying a behavior to incentivize?

- Very Comfortable
- Comfortable
- Neutral
- Uncomfortable
- Very Uncomfortable

10. Please describe your response?

11. Rate your level of comfort in identifying an appropriate response for non-compliant behavior?

- Very Comfortable
- Comfortable
- Neutral
- Uncomfortable
- Very Uncomfortable

12. Please describe your response?

13. Rate the level of adequacy of responses (i.e., incentives/sanctions) to create short- and long-term behavior change.

- Very Adequate
- Somewhat Adequate
- Neutral
- Somewhat Inadequate
- Very Inadequate

14. Please describe your response?

15. Rate your level of comfort conducting virtual check-ins and interventions with NJA youth?

- Very Comfortable
- Comfortable
- Neutral
- Uncomfortable
- Very Uncomfortable

16. Please describe your response?

17. How has the Covid-19 pandemic impacted your role in the NJA process?

- Positively
- No difference
- Negatively

18. Please describe what areas of the process the pandemic have been impacted (e.g., changes in service availability/delivery; accessibility of interpreters; flexible work hours; changes to engagement of youth/families).

Training

19. Have you received training or a refresher course on the incentive and sanction matrix within the past year?

- Yes
- No

20. Have you received training or a refresher course on the Non-Judicial Adjustment process within the past year?

- Yes
- No

21. Rate your familiarity with the principles of restorative justice?

- Very Familiar
- Somewhat Familiar
- Neutral
- Somewhat Unfamiliar
- Very Unfamiliar

Financial Sanctions

22. Rate your level of agreement with the following statement: Financial aspects should be removed from the probation agent's role in the NJA process?

- Strongly Agree
- Agree
- Neutral
- Disagree
- Strongly Disagree

23. Rate the impact of monitoring financial sanctions on your relationship with youth/family?

- Positively

- No difference
- Negatively

24. How does monitoring the financial aspects of the NJA process affect your ability to focus on treatment and behavior change?

Other

25. Please describe your experience working with other stakeholders (law enforcement, prosecutors) on NJAs?

26. What factors do you believe contributes to racial/ethnic disparities in the NJA process?

27. What recommendations would you make to improve the NJA process?

Recommendations

This study and reviewed identified many evidence-based programs and practices with the NJA process. The impact of those interventions would be easier to measure with the addition of data collection processes that allow the analysis to answer the following questions:

What impact does NJA participation have on subsequent youth outcomes?

For whom is the NJA process most impactful?

What elements of the NJA process are associated with the best outcomes?

What disproportionality exists in the NJA offer, case planning, and case resolution?

The following suggestions are intended to increase the NJA's process adherence to the evidence base regarding effective diversion programs. In addition, the recommendations would facilitate an outcome evaluation to answer the preceding questions.

- Many of the CPOs felt that VOM was very beneficial but not clear staff were familiar/trained/conversant in it. It may be useful to include specific training on restorative justice principles. Restorative justice, in the form of VOM, is a component of the NJA process in Utah. One CPO suggested that low rates in VOM may stem, in part, from the fact that JPOs do not have sufficient training in, and familiarity with the principles of restorative justice. This particular concern is included as an item in the JPO survey included in this report. If the findings from the survey confirm that JPOs in fact do not have knowledge of the principles of restorative justice, it may be beneficial to have them trained or retrained on this practice.
- Assessment of impact of diversion may be improved by collection of data related to other outcomes such as: academic achievement, family functioning, social functioning, substance use). Some of these items could be captured if the youth is reassessed on the PRSA/PRA near the end of the NJA process. Staff could also conduct pre- and post-surveys to gather information related to these outcomes.
- One CPO indicated concern with the lack of a system wide definition of recidivism (e.g., arrest, referral, petition, adjudication), which has made it difficult for JPOs to understand the impact of the NJA process on recidivism. Identification of a single definition would facilitate better outcome evaluation to understand the impact of the program.
- Many elements of the case plan (including intervention name/type, dosage) exist only in case notes, which makes it more difficult to monitor intermediate and long-term outcomes. Tracking these elements is important for understanding if the program is being implemented as intended. For an outcome evaluation, it is valuable to understand which of these elements are associated with better outcomes.
- Several respondents indicated that there was insufficient data to monitor the impact of issues related to cultural/language barriers, which has implications for an outcome evaluation. Data collection should include information on characteristics of families who

they cannot locate, do not show for the PI, cases referred to the DA to monitor potential contribution to disproportionate outcomes.

- Several CPOs indicated that incentives and sanctions were inconsistently administered amongst JPOs and the process for tracking incentives and sanctions was inconsistently used, with tangible sanctions more likely to be tracked than non-tangible. This lack of data makes it challenging to monitor and review the use of incentives and sanctions (e.g., 4:1 ratio; type of incentives used) and also to conduct an outcome evaluation.
- Several respondents indicated issues related to youth engagement, particularly when all meetings and interventions were conducted virtually. Use of a standardized assessment to assess motivation may facilitate more specific targeting of youth's problems with motivation and also allow for an evaluation of the impact of interventions intended to improve motivation.
- A small number of CPOs identified problems when trying to complete a NJA with youth who were not developmentally or cognitively able to understand the process. Even if a youth has a competency evaluation, that evaluation does not extend to the NJA. Because there is no discretion in terms of offering a NJA (as used to happen with the availability of a Counsel-Warn-Release response), the JPOs must conduct an interview and try to put an agreement in place. If that process fails—because the youth is not able to comprehend the conversation—the case must be sent to a prosecutor. While JPOs have discretion, and can be creative in identifying goals that are developmentally appropriate, this type of case was described as “difficult.” A formal, standardized assessment could be used to assess for these issues and to assist JPOs in accommodating these needs. It is also important to identify and document an appropriate process for resolving these cases without entering them into an NJA but also not referring them to the DA (e.g., community-based referral, Counsel-Warn-Release).

References

- Bonta, J., & Andrews, D. A. (2017). *The psychology of criminal conduct* (5th ed.). Cincinnati: Anderson.
- Braun, V., & Clarke, V. (2006). Using thematic analysis in psychology. *Qualitative Research in Psychology*, 3(2), 77-101.
- Cordray, D. S. (2007). Fidelity of intervention implementation. *Presentation prepared for The IES Summer Training Institute on Cluster Randomized Control Trials in Nashville, TN*.
- Dane, A. V., & Schneider, B. H. (1998). Program integrity in primary and early secondary prevention: Are implementation effects out of control? *Clinical Psychology Review*, 18(1), 23-45.
- Drawbridge, D. C., Truong, D., Nguyen, N. T., Lorenti, V. L., & Vincent, G. M. (2020). Risk-need-responsivity: Evaluating need-to-service matching with reach, effectiveness, adoption, implementation, maintenance. *Behavioral Sciences and the Law*, 39, 106-122.
- Farrell, J., Betsinger, A., & Hammond, P. (2018). *Best practices in youth diversion*. The Institute for Innovation and Implementation: University of Maryland School of Social Work.
- Markarios, M., Sperber, K. G., & Latessa, E. J. (2014). Treatment dosage and the risk principle: A refinement and extension. *Journal of Offender Rehabilitation*, 53, 334-350.
- Mears, D. P. (2012). *The front end of the juvenile court: Intake and informal vs. formal processing*. In Barry C. Feld and Donna M. Bishop (eds.). *The Oxford Handbook of Juvenile Crime and Juvenile Justice*. New York: Oxford University Press.
- Mears, D. P., Kuch, J. J., Lindsey, A. M., Siennick, S. E., Pesta, G. B., Greenwald, M. A., & Blomberg, T. G. (2016). Juvenile court and contemporary diversion: helpful, harmful, or both?. *Criminology & Public Policy*, 15(3), 953-981.
- Mueller, D. J., & Prince, K. (2021). Changes in LS/RNR quality assurance scores associated with Second Chance Act initiatives (SCA) within the Utah Department of Corrections. *Paper presented at the annual meeting for the American Society of Criminology in Chicago, IL*.
- Nelson, R. J., & Vincent, G. M. (2018). Matching services to criminogenic needs following comprehensive risk assessment implementation in juvenile probation. *Criminal Justice and Behavior*, 45(8), 1136-1153.
- Schwalbe, C. S., Gearing, R. E., MacKenzie, M. J., Brewer, K. B., & Ibrahim, R. W. (2012). A meta-analysis of experimental studies of diversion programs for juvenile offenders. *Clinical Psychology Review* 32:26–33.
- Silverman, D. (2009). *Doing Qualitative Research* (3rd ed). Thousand Oaks, CA: Sage Publications.

- Wilson, H. A., & Hoge, R. D. (2012). The effect of youth diversion programs on recidivism: A meta-analytic review." *Criminal Justice and Behavior*, 40(5): 497-518.
- Valle, C. A., & Thomas, A. (2020). *Striving for equity in Utah's juvenile justice system*. Salt Lake City, UT: Voices for Utah Children.

Appendix A: Data Elements Received from AOC

<i>Data Elements</i>	<i>Data Type</i>
childwelfareflag	Y/N
deletedflag	Y/N
casenumber	free text
district	numeric
districtoffice	categorical
shortname	free text
name	categorical
county	categorical
incidentid	numeric
referralnum	free text
episodeid	free text
intake fiscal year	date
dob	date
age at intake	numeric
age	categorical
intakedecision	categorical
shortdescription intake	categorical
statuteid	numeric
shortdescription statute	free text
prosecutingseverityid	numeric
prosecutingseverity description	categorical
case type	categorical
category	categorical
shortdescription race	categorical
shortdescription ethnicity	categorical
gender	categorical
mailcity	free text
mailzip	numeric
intakedecisiondate	date
FY	date
unsuccessful	categorical
updatetimestamp	date
outcome	categorical
dispositioncode	categorical
shortdescription disposition	categorical
dispostiondate	date
assessmenttitle	free text
assessmentdate	date
risklevel	categorical
episodeid petitions (recidivism)	numeric

intakedate petitions (recidivism)	date
short description (recidivism)	categorical
due date (hours and amounts)	date
amount	numeric
balance	numeric
adjtodate	numeric
receivedtodate	numeric
orderaccountid	numeric
orderitemdefid	numeric
description (hours and amounts)	categorical
orderitemdefclassid	numeric
