

# Diversion, Pretrial Treatment, and Prevention

## CHAPTER

# 6

### OBJECTIVES

- Explore diversion as a way to provide treatment and alleviate crowding in the correctional system.
- Learn about the various types of diversion programs.
- Understand the effectiveness, strengths, and weaknesses of diversion programs.
- Identify major programs and policy initiatives devoted to the treatment and diversion of offenders with psychiatric problems.
- Recognize what works in the diversion of criminal offenders.
- Explore prevention as an approach to criminal justice treatment.
- Identify promising prevention programs.

### FEATURES

Corrections Focus: Diversion and Sentencing Alternatives in the Federal Courts

Corrections Brief: From Drug Use Forecasting to Arrestee Drug Abuse Monitoring

Corrections in the News: Prison as a Last Resort: The Global Goal of Diversion, Treatment, and Reintegration Programs

Corrections Focus: Mother-Child Programs

*Where pretrial diversion in the federal court system is offered, it generally works well.*

(Ulrich, 2002, p. 35)

*People have gone from being tax users to being taxpayers. It's an incredible turnaround, and the numbers are going to keep increasing.*

(Drug Policy Alliance, 2006, p. 17)

## Diversion

An innovative way that the correctional system controls the number of clients that it supervises is by refusing to admit many customers. Certain potential correctional clients, particularly persons who pose the least amount of risk, are not entered into the correctional process; they are diverted. **Diversion** broadly refers to any procedure that prevents official entry into the criminal justice process. In some circumstances, diversion is the suspension of criminal or juvenile proceedings. In other cases, diversion refers to (1) lesser supervision; (2) referral to a non-criminal justice agency, usually a social-service provider; or (3) any nonconfinement status when confinement would otherwise be used. In criminal justice usage, diversion is the official suspension of proceedings against an alleged offender at any point after a police contact or official justice system intake (e.g., booking into jail), but before the entering of a judgment and a decision whether to refer the person to a treatment or care program administered by a noncriminal justice, human services, or private agency (Rush, 2000, p. 111).

*A clear need exists, however, for more program development and evaluation related to the mechanisms by which systems agents and individuals alter their behavior as a result of diversion and treatment.*

(Sullivan, Veysey, Hamilton, & Grillo, 2007, p. 574)

Diversion is a multifaceted technique for law enforcement, the courts, and correctional entities to prudently deflect criminal defendants whose criminal transgressions are minor and do not need the full attention of the criminal justice system. In other words, diversion and programs that have a diversion-based function are the recognition by the correctional system that an individual offender is too minor of an offender to expend correctional resources on or that the potential noxious features of the correctional system (e.g., jail and prison), if applied to the said minor

offender, would cause more harm than good. Diversion has five major goals (Palmer & Lewis, 1980):

1. Avoidance of negative labeling of first-time or minor offenders
2. Reduction of unnecessary social control
3. Reduction of recidivism
4. Reduction of justice system costs
5. Provision of service and treatment

The last point is extremely important. Diversion is critical in providing appropriate treatment and other social services for subpopulations of offenders who need them. In other words, diversion is a humanistic and sensible way that the criminal justice system generally, and the correctional domain specifically, processes and serves persons accused of crimes. This chapter reviews the history and characteristics of diversion, the many types of programs and policies that serve to divert defendants from the justice system, and the effectiveness of these programs and policies.

## History

Diversion is one of the clearest examples of the criminal justice system borrowing a development that was first employed by the juvenile justice system. Throughout its history, the juvenile justice system has operated with the philosophy that persons charged with delinquent offenses should be treated as clients under the care of the system rather than criminals to be punished by the state. Since the founding of the juvenile court in 1899:

*The focus of the new juvenile courts was on youth rather than their offenses, on less formal processing and rehabilitation rather than punishment. Since the juvenile court was seeking rehabilitation and personalized justice for juveniles akin to a benevolent parent, it was believed that the formal, adversarial processes and sanctions employed in the criminal justice system were inappropriate for juvenile offenders.*

(Patenaud, 2003, p. 133)

*In drug-court areas without an existing TASC (Treatment Alternatives to Street Crime) program, judges and probation officials should consider developing one as a proven offender management structure.*

(Anglin, Longshore, & Turner, 1999, p. 193)

## CORRECTIONS FOCUS

### Diversion and Sentencing Alternatives in the Federal Courts

Although diversion is most commonly associated with juvenile offenders and first-time offenders, a variety of diversionary practices are used in other parts of the criminal justice system. In the federal system, numerous specialty or problem-solving courts attempt to divert federal offenders from traditional processing in the justice system, which involves a period of confinement in the Bureau of Prisons followed by a term of supervised release. Diversion is also used in the federal courts, but jurisdictions vary greatly in the degree with which U.S. Attorneys' offices agree to allow diversion. In some jurisdictions, federal clients with no criminal history who plead guilty to relatively nonserious offenses are placed on diversion where their conviction can be later expunged if they successfully comply with the terms of the court (effectively a deferred sentence). In other jurisdictions, fewer than 10 cases are diverted each year because the court expectation is that a more severe form of punishment is warranted.

A recent study of the entire population of correctional clients in a Midwestern U.S. jurisdiction revealed how dramatically low risk some federal defendants are. Matt DeLisi and his colleagues with U.S. Probation and Pretrial Services found that 2.7 percent of clients did not engage in any criminal activity until age 60 or older! This group, dubbed *de novo advanced adult-onset offenders*, had rather high socioeconomic status, good community ties, no official or self-reported criminal history, and nearly no use of drugs or alcohol. Most of their instant offenses were financial-related crimes such as Social Security fraud, bank fraud, mortgage fraud, and related regulatory offenses. Despite their low risk, these clients received prison terms and periods of supervised release. Their pristine criminal history portended their behavior while under federal custody. During Bureau of Prisons confinement, they had no misconduct, worked, and participated in classes and

counseling if needed. While on supervised release, they were fully compliant with their probation officers. Should they have been diverted?

Based on this finding, the jurisdiction created an "alternatives to incarceration" court that involved a federal judge, U.S. Attorney, federal public defender, and representatives from U.S. Probation to assess and score clients for their worthiness for different pathways through the federal justice system. Ideal candidates for this diversionary court were those whose instant offense occurred at age 60 or older, who had no criminal history and scored as low risk on the federal Pretrial Risk Assessment (PTRA), and who had no substance use history. Pilot data of pretrial clients in that jurisdiction revealed that offenders who had these characteristics had exceedingly low recidivism at 1, 2, and 5 years postintake. Indeed, at these three time intervals, 82 clients who were rated as being minimal risk totaled four arrests in total, equivalent to recidivism rates of 1.2 percent at 1 year, 2.5 percent at 2 years, and 1.2 percent at 5 years. Moreover, diverting these offenders from federal prison could potentially save \$14.6 million and the collateral consequences of confinement.

The program has received considerable attention around the country, and the hope is that all 94 federal jurisdictions will begin to or continue to divert the lowest-risk clients, not only to generate significant cost-savings, but also to provide a better, more humane type of justice for offenders who pose little to no threat to public safety.

**SOURCES:** M. DeLisi. (2017). *Pretrial recidivism study*. Report to United States Probation. Ames, IA: Author; M. DeLisi, K. N. Tahja, A. J. Drury, M. J. Elbert, D. E. Caropreso, & T. Heinrichs. (2017). De novo advanced adult-onset offending: New evidence from a population of federal correctional clients. *Journal of Forensic Sciences*, doi: 10.1111/1556-4029.

Diversion is rooted in the theoretical tradition of **labeling theory**, a school of thought that asserts that defining people as delinquent or criminal leads to social ostracism, solidifies a delinquent self-image, and increases antisocial behavior. In this way, the juvenile and criminal justice systems can actually make worse what they were designed to reduce: crime. By diverting nonserious offenders from the

system, the damaging, self-fulfilling effects of labeling are avoided; people do not develop an antisocial self-image; and offending is reduced. The ideas generated by labeling theory gained broad acceptance in the 1950s and 1960s, and ultimately informed policy. For instance, President Johnson's **Commission on Law Enforcement and the Administration of Justice**, established in 1965, declared a war on crime, and one



Labeling theory asserts that once a person is processed as a criminal offender, it is difficult to overcome the stigma and can lead to future criminal behavior. For this reason, diversion has been used throughout the history of the correctional system.

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of the policy initiatives to emerge from the commission was the creation of youth bureaus to divert juvenile offenders from confinement to community organizations.

The use of diversion in juvenile justice became more pronounced after the enactment of the **Juvenile Justice and Delinquency Prevention Act of 1974** and its subsequent updates in 1977 and 1980. The act provides federal funding to states and communities for prevention and treatment programs, especially diversion programs that deinstitutionalize adolescents convicted of status offenses or behaviors that are criminalized because of the age of the offender. **Status offenses** include behaviors such as running away, idleness, underage drinking, truancy, curfew violations, incorrigibility, and the like. In addition, the spirit of the Juvenile Justice and Delinquency Prevention Act of 1974 established that low-level offenders who are contacted for mostly trivial offenses should not be formally processed by the criminal justice system. This spirit continues today in both the juvenile and criminal justice systems. In fact, separate courts have been created to address the specialized treatment needs of groups of offenders who are perceived as less deserving of traditional sentencing procedures.

Although diversion is viewed as a positive development in the criminal justice system, it has not been without controversy. One of the main concerns about

diversion where juvenile and criminal justice agents have wide latitude whether to formally select persons for entry into the system centers on the procedural rights of defendants. Arnold Binder and Virginia Binder (1982) noted that it is unlikely that the same constitutional protections of due process that occur in formal interactions with police and court personnel will apply in more informal diversion decisions. Moreover, do juveniles have the same likelihood to be selected for diversion? If not, does this suggest that procedurally speaking, the use of diversion is unequal? A related concern is whether discrimination influences the decision to divert defendants by race. On this, the research is mixed, but studies overwhelmingly show that legally relevant factors, such as prior criminal record and situational factors, such as suspect demeanor, are stronger determinants of diversion than race or ethnicity (Tracy, 2002). Duran Bell and Kevin Lang (1985) found that minority youths were more likely than white youths to receive both harsh and lenient treatment as it relates to diversion. Michael Leiber and Jayne Stairs (1999) also found conflicting and at times counterintuitive race effects in the application of diversion in three Iowa juvenile courts.

Another concern about diversion programs relates to **net widening**, which is the growth of the correctional population caused by the monitoring of an increasing number of offenders in the community. Because offenders are either detained or outright released before the implementation of a diversion program, it could be viewed as a way for the state to control more of its citizens while stabilizing the confinement population. Edwin Lemert (1981) suggested that diversion programs will result in broader social control as long as law enforcement agencies play a role in the process. However, it is important to recognize that Lemert was one of the foremost labeling theorists; thus, from that academic perspective, any contact by the juvenile or criminal justice system was detrimental.

Herbert Covey and Scott Menard (1984) evaluated whether net widening was occurring among adult offenders in Colorado and found that it was, but only in some counties. In others, diversion was working precisely as designed by providing treatment instead of punishment and preventing many adults from having a possibly stigmatizing correctional status. Scott Decker (1985, 1987) examined the effects of a diversion program in Missouri over an 8-year period and found significant evidence of net widening, suggesting that diversion programs may not only



achieve their intended objectives but also unnecessarily burden the criminal justice system instead of providing relief. Diversion programs that employ sanction-oriented threats to enforce compliance have also been shown to widen the net of persons under correctional authority (Ezell, 1989).

At times, net widening of diversion programs stems from a disjunction between the intended goals of the programs, which are rooted in treatment and well intentioned, and the actual unfolding of the programs, which in practice can be less than ideal. Don Stemen and Andres Rengifo (2009) examined Kansas Senate Bill 123 (SB 123), which was a mandatory community-based drug treatment program for offenders convicted of first- or second-offense drug possession. Although the program diverted offenders from prison and provided needed drug treatment, offenders were cycled from one form of community supervision to the next, which ultimately resulted in longer sentences. Moreover, judges circumventing the program for offenders with more extensive criminal histories suggested that judges did not view them as amenable to treatment (Rengifo, Stemen, Dooley, Amidon, & Gendon, 2010).

Of course, it is possible that diversion programs achieve exactly what was intended—to divert offenders, provide services, and avoid widening the net of correctional control. Mark Pogrebin and his colleagues (1984) evaluated the Adams County (Colorado) Juvenile Diversion Project and found that it was a model program because it had adequate community and justice system resources to operate the program and established coordination between these agencies. By focusing on more serious offenders and not drawing low-risk candidates into the program, Pogrebin and his associates found that the appropriate clients received services while avoiding net widening by drawing trivial offenders into the system. Over an 18-month follow-up of nearly 900 offenders, youths who received diversionary programs had significantly lower recidivism rates than a control group of adolescents. Jennifer Wong and her colleagues (2016) conducted a meta-analysis of 21 studies of diversion programs for juvenile offenders and found an overall effect size that the programs were associated with a 28 percent reduction in recidivism. Not all diversion programs worked as intended, however. Of the 21 studies, 15 had positive effects in that the program was associated with a reduction in recidivism, but

six programs had negative effects in that the program was associated with increased recidivism.

The overarching philosophy of diversion has been extended to other parts of the correctional system, including specialized courts; correctional assessment; and specialized sentences, such as mental health probation. Furthermore, the logic of diversion is used in the psychiatric sciences where there is greater policy interplay between the criminal justice and correctional systems and mental health systems. Because these systems often share clients, practitioners are making greater efforts to divert offenders with special service and treatment needs to the most appropriate placements.

One example is the crisis intervention team. **Crisis intervention teams** are police-based interventions where specially trained officers identify suspects with clear mental health problems and bring them to mental health assessment facilities instead of traditional jail. Originally developed in Memphis, Tennessee, in 1988, today more than 300 law enforcement agencies utilize crisis intervention teams as a way to divert specific offenders to treatment-oriented placements. In this way, the spirit of diversion and pretrial treatment has spread across all aspects of the criminal justice process, including law enforcement. Although attempting to divert low-risk offenders from jail is an important correctional goal, it is critical for evaluators to recognize the many risk factors that jail inmates evince, including serious mental illness, often extensive drug history, and often equally extensive criminal history (Compton, Bahora, Watson, & Olivia, 2008; Morrissey, Fagan, & Cocazza, 2009; Skeem, Manchak, & Peterson, 2011). For instance, Annette Crisanti, Brian Case, Brian Isakson, and Henry Steadman (2014) evaluated 1,289 individuals who participated in a jail diversion program and found that after 1 year, 33 percent of those who participated in the program had dropped out. After 2 years, 52 percent of program participants had dropped from the program. The usual risk factors for offending and recidivism (e.g., male gender, drug use, criminal history) were also associated with dropping out of the program.

*An ounce of prevention is worth a pound of cure.*

(Quotation attributed to Benjamin Franklin  
and Proverbs 24:3)

### From Drug Use Forecasting to Arrestee Drug Abuse Monitoring

In 1988, the National Institute of Justice developed a program designed to determine drug use among arrestees housed in America's jail system. The Drug Use Forecasting (DUF) program was instrumental in determining the validity of self-reported drug use among individuals arrested for various crimes. Until its inception, no other objective measure had been used to validate this self-reported data. As a result, DUF is credited with providing lawmakers needed information from which to develop policies governing court-ordered treatment, diversion, and incarceration options of at-risk populations.

DUF was good, but only to a point. Researchers interested in the data on arrestees' drug use felt more scientific scrutiny was required if policy makers and practitioners were to continue to rely on findings from this program. As a result, the National Institute of Justice set new requirements for the program. First, steps were taken to improve sampling procedures. A probability-based sampling technique was employed. Second, efforts at standardizing data collection were taken. Third, the instrument used in the interview process was enhanced to solicit information on new areas of drug use. Fourth, information on behaviors related to drug use by arrestees was also obtained. Fifth, the size of the sample was increased. Sixth, the interview instrument was revised to include questions concerning alcohol use. Eventually, the Arrestee Drug Abuse Monitoring (ADAM) program was developed.

Not surprisingly, drug use was found to be common among adult male arrestees. Results from urinalysis involving 35 ADAM-reporting sites revealed that 64 percent or more of the adult male arrestees had used a variety of controlled substances. The list of illegal substances included cocaine, marijuana, opiates, methamphetamine, and PCP. Overall, data indicated that between 25 percent and 50 percent of those adult males interviewed at ADAM sites were at-risk drug users. The newly collected information on alcohol use and related behaviors was informative but not surprising. Data from ADAM revealed that 35 percent to 70 percent of adult male arrestees consumed five or more alcoholic drinks on at least one occasion within 30 days of their most recent arrest. Those admitting to five or more drinks within 13 days of

their most recent arrest ranged from 10 percent to nearly 25 percent of adult male arrestees.

One of the most innovative features about ADAM was in its design to capture information on drug markets. However, participation in this segment of the interview seemed to be related to the type of drug used by the adult male arrestee. For example, in 23 of the 35 sites analyzed, marijuana was the drug of choice. Those admitting to using other drugs such as crack cocaine, powder cocaine, heroin, and methamphetamine were less willing to share this information during the interview. ADAM data also revealed that, when measured in dollars, in high-volume sites such as Miami, Phoenix, Seattle, and Tucson, the crack cocaine market was 2 to 10 times larger than the market for powder cocaine and marijuana. Interestingly, data from ADAM showed that even though the number of at-risk population arrestees was a significant portion of all adult male arrestees, very few of those deemed at risk for chemical dependency sought or received treatment for their chemical substance use problem. Data revealed that between 4 percent and 17 percent had received inpatient treatment 1 year prior to their arrest. The figure dropped to between 2 percent and 15 percent for those who received outpatient treatment for drug use the year prior to their arrest.

In 2007, the Office of National Drug Control Policy assumed control of the program, and ADAM II is now active in 10 U.S. counties with plans for expansion. ADAM II includes the collection of a biological marker of recent drug use within 48 hours of arrest and interview data from the offender. Overall, between 56 percent and 82 percent of the arrestees across the United States tested positive for some illegal substance, most commonly marijuana or cocaine. Interesting differences emerge in terms of how honest arrestees are about their drug use. Roger Peters and his colleagues examined ADAM II data and found that persons who used marijuana or methamphetamine were more honest about their drug use than users of other substances. Whites, older adults, those with no criminal history, and those who had previously been in drug treatment were significantly more honest about their drug use than African Americans, youth and young adults, those with greater

*(continues)*

## From Drug Use Forecasting to Arrestee Drug Abuse Monitoring (continued)

criminal history, and those who had not been involved in treatment were more likely to lie about their drug use. This demonstrates the continued pressing need of drug treatment for many correctional clients.

**SOURCES:** National Institute of Justice. (2003). *Arrestee Drug Abuse Monitoring program (ADAM)*. Washington, DC: U.S. Department of Justice, Office of Justice Programs, National Institute of Justice; Office of National Drug Control Policy.

(2010). *ADAM II 2009 annual report*. Washington, DC: Executive Office of the President, Office of National Drug Control Policy; R. H. Peters, J. Kremling, & E. Hunt. (2015). Accuracy of self-reported drug use among offenders from the Arrestee Drug Abuse Monitoring-II Program. *Criminal Justice and Behavior*, 42(6), 623–643; C. P. Salas-Wright, M. G. Vaughn, & J. M. Reingle Gonzalez. (2017). *Drug abuse and antisocial behavior: A biosocial life course approach*. New York: Palgrave Macmillan.



Criminologists have found mixed evidence of whether diversion results in net widening or more persons under correctional control than is necessary.

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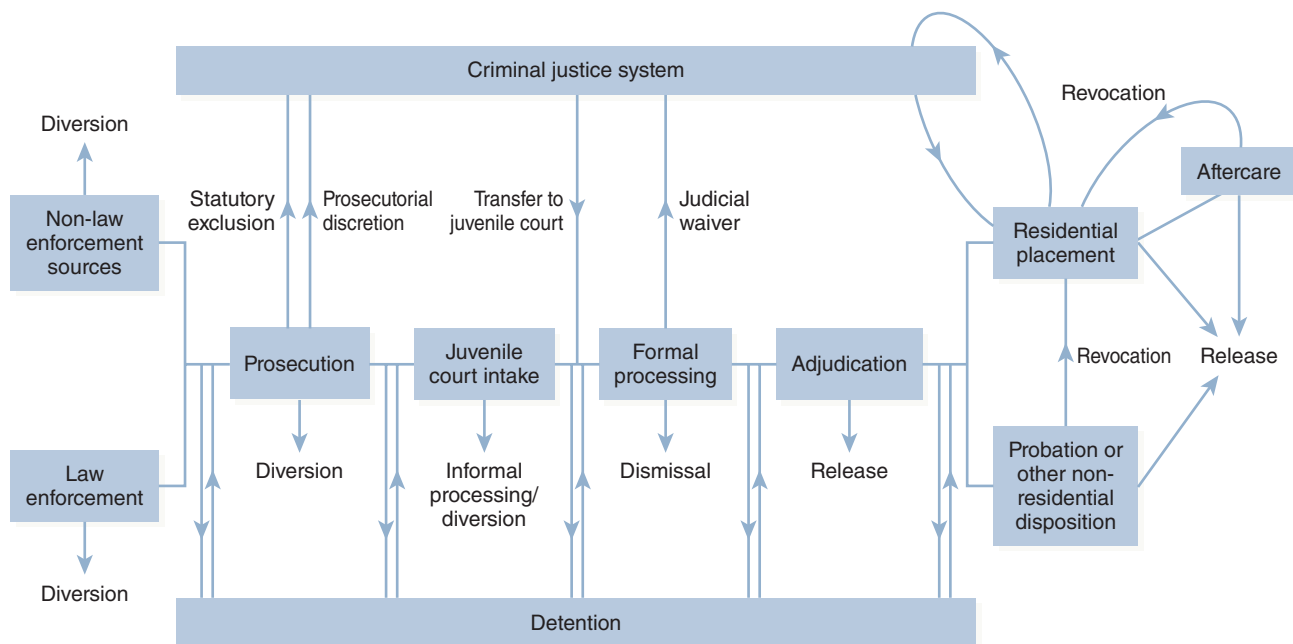
### Types of Diversion

As shown in **FIGURE 6-1**, diversion is used at several points in the juvenile justice system, including by law enforcement; non-law-enforcement referrals, such as parents and schools; prosecutors; and juvenile court judges. For adult offenders, diversion is also employed by several criminal justice practitioners. For instance, **police diversion** involves the use of officer discretion on a variety of tactics, resources, and community agencies to address the criminal behavior of defendants. Often, police diversion is extremely informal and part of the day-to-day use of discretion that officers exercise while on duty. There are many instances of police diversion. For example, upon contacting a juvenile for a delinquent violation, officers can refer the youth to his or her parents and a

community agency, such as a Boys and Girls Club that provides structured activities for youths. If the child is delinquent because of unstructured time, then getting connected to an organization that provides prosocial opportunities is likely to reduce delinquency. This is a preferable situation than officially entering the youth into the system.

A host of diversion options are available to prosecutors specifically and the courts generally. Three of the most common are **deferred prosecution**, **deferred judgment**, and **deferred sentences**. These types of diversionary outcomes are often used interchangeably and are a widely used and cost-effective way to control the correctional population by diverting first-time offenders or persons who have never been contacted for violent crimes. An early prosecutorial diversion program was the Night Prosecutor's Program in Columbus, Ohio, which was identified by the Law Enforcement Assistance Administration (which is today known as the National Institute of Justice) as an exemplary program. In the night court, criminal complaints involving interpersonal disputes were heard 1 week after the alleged crime, and all parties, such as the alleged offender, victim, witnesses, and other interested parties, participated in a formal hearing overseen by a city attorney. The hearings used mediation as a way to resolve the disputes, and it usually worked. Only 2 percent of complaints ultimately resulted in formal filing of charges and in only about 3 percent of cases did the complainant actually return to the night court to continue the charge from the original dispute (Palmer, 1975).

In another example, prosecutors in the Kings County (Brooklyn) District Attorney's Office developed a program called Drug Treatment Alternative-to-Prison (DTAP), which offers an



**FIGURE 6-1** Prominence of diversion to juvenile justice.

Reproduced from: Snyder, H., & Sickmund, M. (2014). *Juvenile offenders and victims: 2014 national report*. Washington, DC: U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention, National Center for Juvenile Justice.

18- to 24-month treatment program for repeat drug offenders as a way to explore treatment and save prison space (Sung & Belenko, 2006). In most jurisdictions, chronic offenders are generally excluded from deferred prosecution efforts because of their multiple arrests, convictions, and prior incidents of noncompliance (Friday, Malzahn-Bass, & Harrington, 1981).

Here is how it works. Suppose a defendant, with minimal criminal history, is arrested for theft. He or she pleads guilty to the crime in exchange for a deferred judgment period, usually ranging from 6 months to 2 years. Unlike probation, deferred sentences entail no conditions and do not require the defendant to check in with correctional personnel. Instead, clients who receive a deferred sentence must simply not get arrested during the specified time period and theoretically abstain from committing crime. If the defendant remains crime free for the specified period, the guilty plea is voided and the entire event expunged from the defendant's record. The use of deferred prosecution as a means to divert nonserious offenders from the justice system was devised in 1936 by a juvenile probation officer named Conrad Printzlien. In the intervening years, thousands of youths have been spared the social, emotional, and economic disruptions that can occur

with having a justice system status, and the justice system has benefited from enormous savings (Rackmill, 1996).

In some jurisdictions, the criminal charge is held in **abeyance**, or suspended, until the person successfully completes the treatment protocol that was originally ordered. For example, in Iowa, deferred prosecutions were formerly used for persons arrested for domestic assault. If the person completed a batterer education program, the original charge would be dismissed. Deferred prosecution, judgments, and sentences are used for both misdemeanor and felony crimes. Deferred judgments, sentences, or suspended sentences are not an option if the crime involves a sexual assault of a child 12 years of age or younger, if the defendant has a previous felony conviction, or if the defendant has previously received a deferred judgment or similar court-ordered sanction. Jurisdictions vary as to whether the offense is expunged from the permanent record, whether the underlying arrest charge remains on the permanent record, and whether the entering of a deferred prosecution, judgment, or sentence appears as a disposition.

Because of the possibility of **expungement** in some jurisdictions, which is the complete removal of a criminal record from existence, deferred sentences offer one of the best incentives for offenders



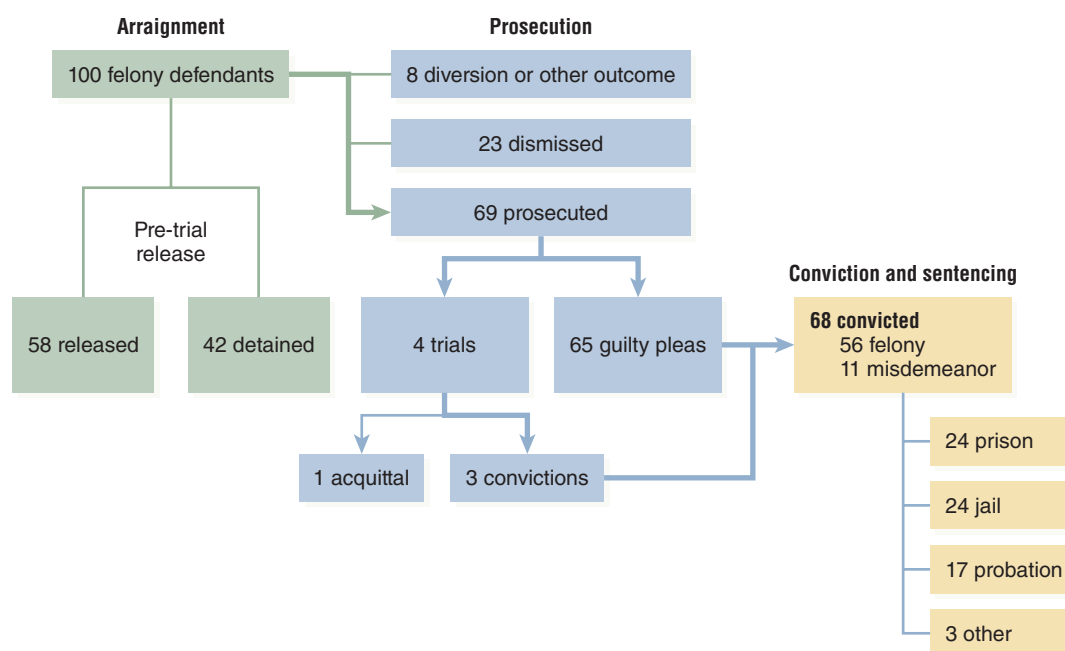
to reform their criminal ways. If defendants are rearrested during the deferred sentence, two courses of action are pursued. First, the deferred period is extended, for example, from 6 months to 1 year, and the defendant is provided another opportunity on the deferred sentence. Second, the deferred sentence is revoked and the client is placed on probation. Importantly, a guilty plea that results in probation will not be dismissed and expunged regardless of how well the client complies while under supervision.

## How Common Is Diversion?

The use of diversion or deferred prosecution is relatively common as a means to divert criminal defendants from the correctional system. About 7 percent (fewer than 5,000 felony cases each year) of cases adjudicated in the 75 largest counties in the United States are disposed of via diversion or deferred prosecution. Nationally, about 5 percent of cases involving serious violent crimes are disposed of by diversion. For instance, 2 percent of murder cases are adjudicated using diversion or deferred prosecution. The types of crimes that are most likely to be diverted are drug offenses. Eleven percent of drug

offenses, including 16 percent of non-trafficking-related drug crimes, are diverted or receive deferred prosecution. Six percent of property and 5 percent of public-order offenses are diverted annually. Overall, diversion and deferred prosecution are used to dispose of more cases each month than criminal trials (see **FIGURE 6-2**). For example, based on data from the 75 largest urban counties in the United States, about 30,000 cases are disposed of per month via pleas. Comparatively, about 10,000 cases are dismissed and about 3,000 cases are diverted or receive deferred adjudication. Only about 2,000 cases are taken to trial (Reaves, 2013).

Nearly 4 percent of federal crimes are diverted each year. In the federal system, pretrial diversion is an agreement between the defendant and the U.S. Attorney to defer and possibly drop prosecution conditioned on the defendant's good behavior and/or participation in programs (e.g., job training, counseling, education) during the specified period. As shown in **TABLE 6-1**, federal crimes such as embezzlement, forgery, violations of postal laws and other regulatory offenses, production or possession of obscene materials, and wildlife violations are commonly resolved with diversion (Smith & Motivans, 2006).



**FIGURE 6-2** Typical outcome of 100 felony defendants.

Reproduced from: Reaves, B. (2013). *Felony defendants in large urban counties, 2009*. Washington, DC: U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics.

TABLE 6-1

## The Use of Diversion in the Federal Criminal Justice System

| Most Serious Offense Investigated | Number of Suspects in Declined Matters |                                          |                                                                                 | Percent of Suspects in Declined Matters |       |                                          |                                                                                |       |
|-----------------------------------|----------------------------------------|------------------------------------------|---------------------------------------------------------------------------------|-----------------------------------------|-------|------------------------------------------|--------------------------------------------------------------------------------|-------|
|                                   | Total                                  | Referred or Handled in Other Prosecution | Resolved with Restitution, Civil/ Administrative Procedure, Pre-trial Diversion | Other                                   | Total | Referred or Handled in Other Prosecution | Resolved with Restitution, Civil/ Administrative Procedure, Pretrial Diversion | Other |
| All offenses                      | 31,866                                 | 6,584                                    | 1,142                                                                           | 23,608                                  | 100.0 | 21.0                                     | 3.6                                                                            | 75.3  |
| Violent offenses                  | 1,865                                  | 362                                      | 20                                                                              | 1,456                                   | 100.0 | 19.7                                     | 1.1                                                                            | 79.2  |
| Murder                            | 271                                    | 33                                       | 1                                                                               | 236                                     | 100.0 | 12.2                                     | 0.4                                                                            | 87.4  |
| Assault                           | 510                                    | 92                                       | 12                                                                              | 400                                     | 100.0 | 18.3                                     | 2.4                                                                            | 79.4  |
| Robbery                           | 476                                    | 163                                      | 3                                                                               | 293                                     | 100.0 | 35.5                                     | 0.7                                                                            | 63.8  |
| Sexual abuse                      | 380                                    | 23                                       | 3                                                                               | 351                                     | 100.0 | 6.1                                      | 0.8                                                                            | 93.1  |
| Kidnapping                        | 112                                    | 38                                       | 1                                                                               | 73                                      | 100.0 | 33.9                                     | 0.9                                                                            | 65.2  |
| Threats against the President     | 116                                    | 13                                       | 0                                                                               | 103                                     | 100.0 | 11.2                                     | 0.0                                                                            | 89.8  |
| Property offenses                 | 10,472                                 | 1,475                                    | 635                                                                             | 8,208                                   | 100.0 | 14.3                                     | 6.2                                                                            | 79.6  |
| Fraudulent                        | 9,437                                  | 1,294                                    | 596                                                                             | 7,407                                   | 100.0 | 13.9                                     | 6.4                                                                            | 79.7  |
| Embezzlement                      | 1,160                                  | 78                                       | 216                                                                             | 851                                     | 100.0 | 6.8                                      | 18.9                                                                           | 74.3  |
| Fraud                             | 7,703                                  | 1,079                                    | 347                                                                             | 6,161                                   | 100.0 | 14.2                                     | 4.6                                                                            | 81.2  |
| Forgery                           | 376                                    | 81                                       | 31                                                                              | 261                                     | 100.0 | 21.7                                     | 8.3                                                                            | 70.0  |
| Counterfeiting                    | 198                                    | 56                                       | 2                                                                               | 134                                     | 100.0 | 29.2                                     | 1.0                                                                            | 69.8  |
| Other                             | 1,035                                  | 181                                      | 39                                                                              | 801                                     | 100.0 | 17.7                                     | 3.8                                                                            | 78.5  |
| Burglary                          | 13                                     | 6                                        | 0                                                                               | 6                                       | 100.0 | 50.0                                     | 0.0                                                                            | 50.0  |
| Larceny                           | 396                                    | 76                                       | 25                                                                              | 291                                     | 100.0 | 19.4                                     | 6.4                                                                            | 74.2  |
| Motor vehicle theft               | 154                                    | 33                                       | 3                                                                               | 113                                     | 100.0 | 22.1                                     | 2.0                                                                            | 75.8  |
| Arson and explosives              | 365                                    | 42                                       | 4                                                                               | 315                                     | 100.0 | 11.6                                     | 1.1                                                                            | 87.3  |
| Transportation of stolen property | 32                                     | 5                                        | 0                                                                               | 27                                      | 100.0 | 15.6                                     | 0.0                                                                            | 84.4  |
| Other property offenses           | 75                                     | 19                                       | 7                                                                               | 49                                      | 100.0 | 25.3                                     | 9.3                                                                            | 65.3  |
| Drug offenses                     | 6,215                                  | 1,874                                    | 40                                                                              | 4,184                                   | 100.0 | 30.7                                     | 0.7                                                                            | 68.6  |
| Public-order offenses             | 8,617                                  | 1,588                                    | 307                                                                             | 6,582                                   | 100.0 | 18.7                                     | 3.6                                                                            | 77.6  |
| Regulatory                        | 3,122                                  | 258                                      | 165                                                                             | 2,655                                   | 100.0 | 8.4                                      | 5.4                                                                            | 86.3  |
| Agriculture                       | 3                                      | 0                                        | 0                                                                               | 3                                       | ^     | ^                                        | ^                                                                              | ^     |
| Antitrust                         | 2                                      | 0                                        | 0                                                                               | 2                                       | ^     | ^                                        | ^                                                                              | ^     |
| Food and drug                     | 83                                     | 6                                        | 4                                                                               | 71                                      | 100.0 | 7.4                                      | 4.9                                                                            | 87.7  |
| Public-order offenses             |                                        |                                          |                                                                                 |                                         |       |                                          |                                                                                |       |

(continues)

TABLE 6-1

**The Use of Diversion in the Federal Criminal Justice System** *(continued)*

| Most Serious Offense Investigated                            | Number of Suspects in Declined Matters |                                          |                                                                                 | Percent of Suspects in Declined Matters |       |                                          |                                                                                |       |
|--------------------------------------------------------------|----------------------------------------|------------------------------------------|---------------------------------------------------------------------------------|-----------------------------------------|-------|------------------------------------------|--------------------------------------------------------------------------------|-------|
|                                                              | Total                                  | Referred or Handled in Other Prosecution | Resolved with Restitution, Civil/ Administrative Procedure, Pre-trial Diversion | Other                                   | Total | Referred or Handled in Other Prosecution | Resolved with Restitution, Civil/ Administrative Procedure, Pretrial Diversion | Other |
| Transportation                                               | 144                                    | 14                                       | 11                                                                              | 117                                     | 100.0 | 9.9                                      | 7.7                                                                            | 82.4  |
| Civil rights                                                 | 1,375                                  | 52                                       | 28                                                                              | 1,285                                   | 100.0 | 9.9                                      | 7.7                                                                            | 82.4  |
| Communications                                               | 74                                     | 5                                        | 0                                                                               | 68                                      | 100.0 | 3.8                                      | 2.1                                                                            | 94.1  |
| Custom laws                                                  | 122                                    | 22                                       | 8                                                                               | 86                                      | 100.0 | 19.0                                     | 6.9                                                                            | 74.1  |
| Postal laws                                                  | 43                                     | 6                                        | 9                                                                               | 28                                      | 100.0 | 14.0                                     | 20.9                                                                           | 65.1  |
| Other regulatory offenses                                    | 1,276                                  | 153                                      | 105                                                                             | 995                                     | 100.0 | 12.2                                     | 8.4                                                                            | 79.4  |
| Other                                                        | 5,495                                  | 1,330                                    | 142                                                                             | 3,927                                   | 100.0 | 24.6                                     | 2.6                                                                            | 72.7  |
| Tax law violations                                           | 341                                    | 34                                       | 9                                                                               | 286                                     | 100.0 | 10.3                                     | 2.7                                                                            | 86.9  |
| Bribery                                                      | 146                                    | 19                                       | 5                                                                               | 122                                     | 100.0 | 13.0                                     | 3.4                                                                            | 83.6  |
| Perjury, contempt, and intimidation                          | 252                                    | 25                                       | 4                                                                               | 222                                     | 100.0 | 10.0                                     | 1.6                                                                            | 88.4  |
| National defense                                             | 351                                    | 23                                       | 15                                                                              | 305                                     | 100.0 | 6.7                                      | 4.4                                                                            | 88.9  |
| Escape                                                       | 587                                    | 308                                      | 2                                                                               | 234                                     | 100.0 | 54.2                                     | 4.6                                                                            | 41.2  |
| Racketeering and extortion                                   | 1,711                                  | 225                                      | 19                                                                              | 1,442                                   | 100.0 | 13.3                                     | 1.1                                                                            | 85.5  |
| Gambling                                                     | 92                                     | 13                                       | 1                                                                               | 78                                      | 100.0 | 14.1                                     | 1.1                                                                            | 84.8  |
| Liquor offenses                                              | 7                                      | 0                                        | 0                                                                               | 7                                       | ^     | ^                                        | ^                                                                              | ^     |
| Nonviolent sex offenses                                      | 1,098                                  | 223                                      | 12                                                                              | 843                                     | 100.0 | 20.7                                     | 1.1                                                                            | 78.2  |
| Obscene material                                             | 17                                     | 2                                        | 3                                                                               | 12                                      | 100.0 | 11.8                                     | 17.6                                                                           | 70.6  |
| Traffic                                                      | 1                                      | 0                                        | 0                                                                               | 1                                       | ^     | ^                                        | ^                                                                              | ^     |
| Wildlife                                                     | 132                                    | 37                                       | 20                                                                              | 74                                      | 100.0 | 26.6                                     | 15.6                                                                           | 57.8  |
| Environmental                                                | 6                                      | 0                                        | 1                                                                               | 5                                       | ^     | ^                                        | ^                                                                              | ^     |
| Conspiracy, aiding and abetting, and jurisdictional offenses | 179                                    | 35                                       | 10                                                                              | 132                                     | 100.0 | 19.8                                     | 5.6                                                                            | 74.6  |
| All other offenses                                           | 575                                    | 389                                      | 17                                                                              | 164                                     | 100.0 | 68.2                                     | 3.0                                                                            | 28.8  |
| Weapon offenses                                              | 3,713                                  | 1,158                                    | 22                                                                              | 2,489                                   | 100.0 | 31.6                                     | 0.6                                                                            | 67.8  |
| Immigration offenses                                         | 545                                    | 63                                       | 22                                                                              | 419                                     | 100.0 | 12.5                                     | 4.4                                                                            | 83.1  |

Smith, S. K., & Motivans, M. (2006). *Compendium of federal justice statistics, 2004*. Washington, DC: U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics.

Diversion is also used by local and state officials. Of more than 222,000 juvenile arrests in California, for example, 87 percent are referred by police to probation and 13 percent are released. The released juveniles could have been let go for legal reasons, such as insufficient evidence, or other subjective reasons, such as the officer did not feel that a police referral was warranted. In this sense, many of these cases were unofficially diverted. Among the 87 percent of cases that are referred, nearly half are adjudicated in juvenile court and half receive other dispositions. Seven percent of the latter involve cases where juveniles are sent to alternative diversion programs. For the 45 percent of cases that are heard in juvenile court, 7 percent result in alternative diversion programs or receive deferred judgments. In other words, cases are routinely diverted (officially or unofficially) from the juvenile justice system. Importantly, diversion is not just a juvenile justice practice. It is commonly used at the state- and federal-levels in the criminal justice system. Moreover, diversion is a practice that is generally viewed favorably by both the state (represented by the prosecution) and individual (represented by defense counsel) (Alarid & Montemayor, 2010; Zlatic, Wilkerson, & McAllister, 2010).

## Major Diversion Initiatives

As indicated earlier, the use of diversion or deferred sentences dates at least to the early decades of the 20th century. Programs that divert first-time, low-level, or generally non-serious offenders can save the justice system tremendous costs relating to prosecution, defense attorneys, judicial services, court personnel, filing fees, and detention. In addition, diversion and deferred sentences promote a sense of justice by addressing the social, medical, and personal factors associated with crime and recidivism and provide services that reduce the person's likelihood to reoffend. Some major diversion programs and policies are explored next.

## Treatment Alternatives to Street Crime

The Treatment Alternatives to Street Crime (TASC) program was created in 1970 by President Richard Nixon's Special Action Office for Drug Abuse Prevention in an effort to break the relationship between drug use and crime. The idea for the program came from analysis of recidivism among drug-using offenders who had been released from jail on bond. Although there were provisions for drug treatment and supervision after conviction, few

programs were in place to assist drug-dependent offenders while awaiting trial. The first TASC programs were implemented in Wilmington, Delaware; Cleveland, Ohio; and Philadelphia, Pennsylvania (Bureau of Justice Assistance, 1992).

The original TASC programs focused on three main goals: (1) reducing the drug use and crime among drug-using offenders, (2) shifting the emphasis from punishment to the treatment and rehabilitation of offenders, and (3) diverting offenders to community agencies that can provide needed services.

The Bureau of Justice Assistance (1992) identified 10 organizational and operational standards that were critical elements of TASC programs:

1. A broad base of support from the criminal justice system with a formal system for effective communication
2. A broad base of support from the treatment system with a formal system for effective communication
3. An independent TASC unit with a designated administrator
4. Required staff training according to TASC policies
5. A system of data collection for program management and evaluation
6. Explicit eligibility criteria for TASC participants
7. Screening procedures for the early identification of eligible offenders
8. Documented procedures for assessment and referral
9. Documented policies, procedures, and technology for drug testing
10. Procedures for offender monitoring with established success/failure criteria and constant reporting to criminal justice referral sources

Today, TASC is known as Treatment Alternatives for Safe Communities and includes programs that span the criminal justice system. For example, TASC programs in Illinois include (TASC, n.d.):

- *Adult criminal justice services:* These services are the original TASC model to divert substance-using offenders to treatment as an alternative to incarceration.
- *Domestic violence diversion program:* This is a deferred prosecution program where persons charged with domestic battery go through a



12-month batterer education program and substance abuse treatment if needed.

- *Drug courts*: Sentencing alternative for nonviolent drug offenders.
- *IMPACT (Integrated Multiphase Program of Assessment and Comprehensive Treatment)*: Delivers comprehensive treatment to offenders in Cook County Department of Corrections.
- *State Attorneys Drug Abuse Program*: Places eligible drug offenders in treatment.

Not all offenders are eligible for TASC programs. After arrest, offenders are screened for program eligibility with an assessment of their risk to public safety, severity of drug dependence, and appropriateness or amenability to treatment. After referral to treatment, the client signs a TASC contract or treatment agreement, and a TASC case manager monitors the client's compliance. Clients who fail to follow the terms of their treatment contract are referred to court and potentially processed in the traditional fashion.

## Federal Pretrial Diversion

Federal pretrial diversion is a voluntary program that provides an alternative to prosecution for persons selected for placement in a supervised program administered by a pretrial services or probation office. Federal diversion was first used in 1947 (and was then known as *deferred prosecution*) as a way to remove nonserious offenders from the correctional system. Throughout its history, federal diversion used the possibility of suspended prosecution to serve as an incentive to defendants to change their antisocial behavior and habits. If they did not, prosecution would occur.

Eligibility requirements for federal diversion appear in the *U.S. Attorneys' Manual*. A person is ineligible for pretrial diversion if he or she has two or more prior felony convictions, is an addict, is a current or former public official accused of violating a public trust, is accused of an offense relating to national security or foreign affairs, or has been charged with a crime that should be transferred to state courts for prosecution.

When federal diversion is used, a written agreement is made between the defendant, the U.S. Attorney, and the chief pretrial services or probation officer. Defendants have the right to consult with counsel before agreeing to the voluntary program. The median duration of federal diversion is 12 months. Some defendants receive just 1 month

and others receive as long as 5 years, depending on crime severity and other relevant risk factors. Usually, clients must also pay restitution and perform community service. Nearly 4 percent of federal crimes are adjudicated with diversion, mostly for crimes such as fraud, larceny, embezzlement, and violation of regulatory offenses. Thomas Ulrich (2002) studied the outcomes of federal diversion cases over a 5-year period and found that 88 percent of cases were successfully completed and the case never resulted in prosecution. In sum, diversion in the federal criminal justice system is a useful way to provide rehabilitation opportunities, reduce recidivism, and preserve court resources.

## Bazelon Center for Mental Health Law

The Bazelon Center for Mental Health Law was founded in 1972 and is the nation's leading advocate for children, adolescents, and adults with intellectual disabilities. The Bazelon Center has promoted litigation that has outlawed institutional abuse and has won protections against arbitrary confinement for persons with intellectual and developmental disabilities. The Bazelon Center for Mental Health Law (n.d.a) uses a coordinated approach of litigation, policy analysis, coalition building, public information, and technical support for local advocates in the following four broad areas:

1. *Advancing community membership*: The center enables people with intellectual disabilities to participate equally with others and utilize social, political, educational, and cultural services.
2. *Promoting self-determination*: The center supports the right to be independent, free from coercion, and protect against invasion of privacy from the state.
3. *Ending the punishment of people with mental illnesses*: The staff at the center believes that jailing people with mental illnesses is a poor substitute for adequate mental health care. This goal most directly addresses diversion.
4. *Preserving rights*: The center continues to defend the legal rights of people with intellectual disabilities.

The Bazelon Center for Mental Health Law, named for famous federal appeals judge **David Bazelon**, whose rulings pioneered the field of mental health law, has made a wide impact in several areas of law affecting people who meet the profile of those who are often detained in jail because of mental health problems. The litigation efforts of the Bazelon Center

## CORRECTIONS IN THE NEWS

### Prison as a Last Resort: The Global Goal of Diversion, Treatment, and Reintegration Programs

Criminal justice and prison reform activists do not think that crime rates decrease as a direct result of an increase in prison populations. Justice Action, an Australian-based group composed of prisoners, former prisoners, attorneys, victims of crimes, community members, and academics, believes that the public has been purposely misled by political hopefuls touting “get tough on crime” slogans as a means of capturing votes. Consider for a moment that in Australia the prison population increased nearly 21 percent between 1995 and 2001. Also take into consideration that prison occupancy is currently at 98.9 percent of capacity. The crime rate, however, has remained constant, and 62 percent of prison inmates are repeat offenders.

Would a system less reliant on prison as the primary option for controlling convicted offenders better serve the community? Justice Action Australia suggests that the opportunity for decreasing crime rates exists in the alternatives to prison, not in mandatory sentencing. Prison sentences have been linked to the intergenerational propensity toward crime, homelessness, poverty, alienation, physical and mental health problems, substance use, and physical violence.

But there are barriers to alternative programs that essentially replace prison as a method of formal social control. From a political perspective, support for alternative programs gives voters the impression the candidate is soft on crime. Community members in support of such action appear to place the community in danger. But just as prison is not the answer for every convicted felon, alternative programs are not suited for every prisoner. The key is in the selection process. With a variety of programs and selection criteria, the likelihood of selecting inmates who will benefit from alternative programs increases.

Criminal justice systems all over the world use home detention as a confinement strategy for low-risk offenders with short sentences. Courts using this sanction exclude offenders who have been convicted of violent crimes or sex offenses. Offenders on home detention are limited to the confines of their homes but are allowed to leave the premises for work, school, counseling, medical appointments, and religious services or events. One restriction of home detention programs is that for convicted offenders to qualify for the program they must live within that particular district. Another restriction is that all offenders must comply with electronic monitoring, and because of this they must have a landline phone. All participants are assessed a fee that is based on their ability to pay.

In the United States, some prevention programs find their way into popular culture. For example, the “Buzzed Driving Is Drunk Driving” television ads that ran in prime time attempted to inform consumers that even low levels of alcohol consumption are above legal limits. Interestingly, a national evaluation found that the prevention program did not reduce personal perceptions of whether one would drive drunk or whether respondents actually had driven while drunk. Still, it is likely that creative efforts will continue to be made to reduce alcohol use and related criminal behaviors worldwide.

**SOURCES:** K. Evans. (2011). *Crime prevention: A critical introduction*. Thousand Oaks, CA: Sage; J. L. Flexon & R. T. Guerette. (2009). Differential effects of an offender-focused crime prevention media campaign. *Journal of Criminal Justice*, 37, 608–616; Justice Action. (n.d.). Retrieved June 11, 2017, from [www.justiceaction.org.au](http://www.justiceaction.org.au)

for Mental Health Law include: (1) the right to treatment; (2) the right to services in the most integrated, less-restrictive setting; (3) the right to live in the community and have access to housing; (4) the right to education, which culminated in what is today the Individuals with Disabilities Education Act; (5) the right to access federal entitlements; (6) the right to be protected against discrimination; (7) due process

protections in civil commitment; (8) access to advocacy; and (9) rights of self-determination and privacy.

### Proposition 36

Arguably the most important diversion-related criminal justice policy in recent years is **Proposition 36 (Prop 36)**. Formally known as the Substance

Abuse and Crime Prevention Act of 2000, Prop 36 was approved by California voters on November 7, 2000, and resulted in a change in the way the criminal justice system responds to drug-using offenders. Inspired by Arizona's Proposition 200, which was passed in 1996, Prop 36 proposed treating drug abuse as a public health issue rather than a criminal justice concern; as such, there was a shift in mandated treatment as opposed to incarceration for nonviolent drug possession offenders. Unlike many court-supervised treatment programs, Prop 36 prioritizes quality, licensed treatment and makes compassion a cornerstone of the state's rehabilitative approach. As shown in **TABLE 6-2**, Prop 36 is also able to serve many more drug-dependent clients than specialized drug courts.

In this way, Prop 36 is consistent with the juvenile justice system tradition of viewing offenders as persons in need of help, not persons to be punished. For instance, Prop 36 prohibits the courts from incarcerating offenders who relapse once or twice during their treatment period. Overall, the intent of Prop 36 is threefold (Drug Policy Alliance, 2006):

1. To divert from incarceration into community-based substance abuse treatment programs nonviolent defendants, probationers, and parolees charged with simple drug possession or drug use offenses;
2. To halt the wasteful expenditure of hundreds of millions of dollars on the incarceration and reincarceration of nonviolent drug users who would be better served by community-based treatment; and
3. To enhance public safety by reducing drug-related crime and preserving jails and prison cells for serious and violent offenders, and to improve public health by reducing drug abuse and drug dependence through proven and effective drug treatment strategies.

## Substance Abuse and Mental Health Services Administration

The Substance Abuse and Mental Health Services Administration (SAMHSA) is a public health agency within the Department of Health and Human Services. The agency is responsible for improving the accountability, capacity, and effectiveness of the nation's substance abuse prevention, addiction treatment, and mental health services delivery system. With an annual budget of nearly \$3.5 billion, SAMHSA seeks to help the 25 million Americans age 12 or older who have substance abuse problems, and 30 million adults who live with a serious psychiatric condition. SAMHSA provides a variety of programs that target the needs that many correctional clients have, including co-occurring disorders; substance abuse; mental health disorders; health factors, such as hepatitis C and HIV; suicide prevention; homelessness and housing; workforce development; and others (SAMHSA, n.d.).

SAMHSA (n.d.) has three centers and a supporting office that carry out its prevention, treatment, recovery, and resilience mission:

1. The Center for Mental Health Services (CMHS) provides national leadership to ensure the application of scientifically established findings and practice-based knowledge in the treatment and prevention of mental disorders. The CMHS improves access, reduces barriers, and promotes high-quality effective programs and services for persons affected by mental health disorders, and overall promotes the rehabilitation of people with mental disorders.
2. The Center for Substance Abuser Prevention (CSAP) builds resiliency and facilitates recovery by providing national leadership in the

**TABLE 6-2**

### Comparison of Proposition 36 to California Drug Courts

|                                 | Proposition 36                                         | Drug Courts          |
|---------------------------------|--------------------------------------------------------|----------------------|
| Eligibility                     | All nonviolent drug possession offenders               | Decision of courts   |
| Parole violators                | Eligible if nonviolent                                 | Not eligible         |
| Total participants over 4 years | 140,000                                                | Approximately 3,500  |
| Response to problems            | Treatment intensification                              | Jail                 |
| Benefits                        | Dismissal of charges/possible<br>Expungement of record | Dismissal of charges |

Modified from Drug Policy Alliance. (2006). *Proposition 36: Improving lives, delivering results*. Los Angeles: Drug Policy Alliance, p. 19.

development of programs and policies that prevent the onset of illegal drug, underage alcohol, and tobacco use. CSAP disseminates effective prevention practices and builds the capacity of criminal justice systems and social service providers to apply prevention knowledge effectively.

3. The Center for Substance Abuse Treatment (CSAT) aims to bring effective alcohol and drug treatment to every community by expanding the availability of effective treatment and recovery services for alcohol and drug problems. The CSAT also improves access, reduces barriers, and promotes high-quality effective treatment and recovery services for those affected by alcoholism and substance dependency.
4. The Office of Applied Studies (OAS) collects, analyzes, and distributes national data on behavioral health issues and publishes the *National Survey on Drug Use and Health*, the *Drug Abuse Warning Network*, and the *Drug and Alcohol Services Information System*.

## Evaluation of Diversion Programs

Diversion is a broad attempt to preclude the entry of low-level criminal offenders, drug abusers, and persons with mental illness into the correctional system. As this chapter has shown, many types of diversion programs and policies have been developed, and evaluations usually focus on a specific type of diversion program. This section examines scholarly evaluations of diversion programs to determine their effectiveness at providing services for vulnerable groups and populations in need, decreasing recidivism, and reducing criminal justice system costs.

### Juvenile Diversion Programs

As a criminal justice policy, diversion owes a debt of gratitude to the juvenile justice system, which almost by definition is committed to blocking offenders' entry into the justice system and instead providing needed treatment and services. Early evaluations of juvenile diversion programs tended to focus on whether the programs were able to adequately control the offender population or whether they widened the net and resulted in too much correctional control. The major determinant of their effectiveness related to how well they were implemented. Programs that were equipped to provide treatment in social service agencies outside of

the justice system were effective at meeting the goals of diversion. Treatment programs that were heavy-handed and controlling and basically extensions of the justice system were found to widen the net. For instance, a study by Wayne Osgood and Hart Weichselbaum (1984) indicated that adolescents perceived that diversion programs were coercive and based more on social control than treatment.

Early evaluations of juvenile diversion programs were also characterized by what appeared to be ideological disputes among some criminologists. For example, Arnold Binder and Gilbert Geis (1984) accused criminologists who were critical of diversion programs of being ideologically opposed to the rehabilitative, liberal ideals that diversion attempted to achieve. Unfortunately, Binder and Geis's criticism was rhetorical. In response, Kenneth Polk (1984) suggested that criticisms of juvenile diversion had nothing to do with ideological axes to grind and everything to do with the actual record of program evaluations, which indicated weak effectiveness or net widening. Daniel Curran (1988) suggested that a two-tiered system of juvenile diversion was being developed, whereby juvenile justice systems were providing services that were evidence of greater social control and private, social service agencies were providing treatment programs that were more likely to meet the original goals of diversion.

More contemporary evaluations of juvenile diversion programs have been conducted. Christopher Sullivan and his colleagues (2007) evaluated the Mental Health Juvenile Justice Diversion Project, which is a major initiative to address the needs of juvenile delinquents in New York State. The Mental Health Juvenile Justice Diversion Project uses a knowledge-based understanding of delinquency and operates to address three problems that many delinquent youths have. First, many adolescent offenders have overlapping problems with not only delinquency, but also substance abuse, school difficulties, and abuse histories. They are known as **multiple-problem youth** (Elliott, Huizinga, & Menard, 1989). Second, experts are increasingly recognizing that removing these children from the community via incarceration only serves to worsen their problems. Third, delinquent youths often come from families and neighborhoods that are characterized by risk factors that increase delinquency. The program sought to address these three areas of need by diverting youths to the most appropriate agency for services. Overall, the program has shown positive results. Diverted youths were less likely to be contacted by police and less likely to be



confined to an out-of-community facility as a result of their programming. However, certain characteristics of youths continued to predict recidivism, such as those with extensive prior records, prior placements in confinement, and significant mental health problems.

Many states have developed comprehensive diversionary programs as a major part of their juvenile justice systems. For example, Florida has an array of options in its diversion programs, including (Poythress, Dembo, Dudell, & Wareham, 2006):

- **Restitution** or repayment to the victim in the form of community service, direct restitution to the victim, and a personal apology letter
- Psychoeducational programs, such as teen court jury duty; Program YES, a shoplifting impact video; SHOCK, a 6-week program about risky behaviors; Urban League, a 12-week program on decision making, peer pressure, anger management, and conflict resolution; and Girls Can!, a program that addresses self-esteem, problem solving, and anger management among females
- Substance use/abuse education and classes
- Violence prevention and reduction, including Peace in Action, a 23-week program on alternatives to violence, and EVE (End Violence Early), a program specifically for youths contacted for domestic violence charges

Evaluations of the Florida programs have been mixed. Richard Dembo and his colleagues (2006a, 2006b, 2006c) evaluated the effectiveness of an intensive case management program that served youths with **psychopathic personality** (a personality disorder characterized by severe behavioral and interpersonal traits). The program had no positive effect on recidivism, as the psychopathic youths who received special diversion treatment or traditional services were actually more likely to continue to commit crime. This does not necessarily mean that these programs are generally ineffective, however. It is possible that psychopathic youths are simply so severe in their antisocial tendencies that diversion programs are hard-pressed to reduce their commitment to delinquency. Fortunately, the majority of offenders are not psychopathic and are thus more amenable to treatment. Dembo and his colleagues found that nonpsychopathic youths did benefit from diversion programs in terms of their social functioning and were more likely to complete programs than their psychopathic peers.

Other jurisdictions have developed specialized diversion programs to target specific groups. For example, the Hamilton County (Cincinnati, Ohio) Juvenile Court developed an Afrocentric diversion program designed to address the presumed specific needs of African American youths. The program paired African American youths with African American staff who imparted prosocial and culturally specific lessons based on the idea that youths would be more receptive to racially matched diversion officers. Unfortunately, the program was found to be ineffective. William King and his colleagues (2001) reported that on 11 of 15 measures of adolescent and adult offending, youths who participated in the Afrocentric diversion program performed no better than ordinary probationers who did not participate in the diversion program. Overall, juvenile diversion is a worldwide phenomenon, as Australia, China, Hong Kong, New Zealand, and Singapore have also developed programs to divert youths from the justice system in favor of a commitment to treatment and rehabilitation (Lo, Maxwell, & Wong, 2006).

## Diversion for Mentally Ill Persons

Despite the now decades old commitment to deinstitutionalizing mentally ill offenders, surveys indicate that only a small number of U.S. jails have diversion programs for mentally ill detainees. In 1994, Henry Steadman and his colleagues published the results of a national survey that indicated that only 34 percent of jails had a formal diversion program for jail inmates with mental illnesses. In a follow-up investigation by phone interviews, it was discovered that just 18 percent of jail facilities actually had a specific diversion program in place that met the guidelines of protocol for mentally ill persons. In other words, 82 percent of jail facilities did not have a formal diversion program in place for mentally ill defendants.

Among jails that did have programs, Steadman and colleagues (1994) found that all served misdemeanor offenders, about 60 percent served felons, and slightly more than 50 percent served mentally ill persons accused of violent felonies. Most programs were funded by the state and country mental health department. Program directors' ratings of the diversion programs suggested mixed effectiveness. About 30 percent of programs were rated as somewhat effective, 35 percent were rated as moderately effective, and 35 percent were rated as very effective. The two main reasons for reduced effectiveness were high recidivism rates among clients and difficulties in

creating a diversion strategy within the jail. Interestingly, telephone interviews with program directors produced polarized opinions of the program's effectiveness. Nearly 37 percent of directors reported that their diversion program was not at all effective and 40 percent of directors described their program as very effective.

Beginning in 2002, the SAMHSA's Center for Mental Health Services funded 20 jail diversion programs, and the Bureau of Justice Assistance funded 37 mental health courts, which are conceptually similar to the philosophy of diversion. As part of these initiatives, Henry Steadman and Michelle Naples (2005) compared diversion programs selected from Memphis, Tennessee; Montgomery County, Pennsylvania; Multnomah County, Oregon; Phoenix, Arizona; Hartford, Connecticut; and Lane County, Oregon. They discovered four key findings: (1) jail diversion works at reducing time spent in jail, as persons with psychiatric problems spent on average 2 more months in the community as opposed to confinement; (2) jail diversion does not jeopardize public safety based on recidivism data; (3) jail diversion links clients to appropriate community-based service organizations; and (4) in general, jail diversion results in lower criminal justice system costs and higher treatment costs.

A review of the literature similarly produced mixed and somewhat disappointing outcomes among diversion programs that targeted defendants with serious mental illnesses. David Loveland and Michael Boyle (2007) examined 35 programs and found that 19 programs rarely led to reductions in jail or arrest rates over time. Eight programs showed modest but statistically insignificant reductions in recidivism, and eight programs showed significant reductions.

A SAMHSA-funded initiative found that two core elements of successful programs are aggressive linkage to an array of community services, especially for clients who have co-occurring mental health and substance abuse disorders, and nontraditional case managers who are interested in rehabilitation and treatment as opposed to punishment-oriented supervision (Steadman et al., 1999). Similarly, Kathleen Hartford and her colleagues (2007) identified three additional practices that improve diversion programs for mentally ill defendants: (1) having formal case procedures in place is important for early identification of those most in need of services, (2) having stable housing to help diverted offenders comply with treatment, and (3) having active case managers to improve compliance and reduce the likelihood of recidivism.

A reason for the disparate findings in the diversion literature stems from the stark differences in offender groups within various programs. For instance, Jeffrey Draine and his colleagues (2005) contrasted populations that received jail diversion and those that received intensive psychiatric and substance abuse treatment as part of an in-jail program. Clients who were diverted had significantly worse profiles in terms of their mental health diagnoses. For example, the prevalence of schizophrenia was twice as high among the diversion group. The prevalence of psychosis was nearly 20 times higher among the diversion group. In fact, a diagnosis of psychosis increased the odds of being diverted by more than 13. This is promising in the sense that persons with severe psychiatric needs are not being jailed and can instead seek mental health treatment. On the other hand, these data show how severely disturbed the diversion population is. Ultimately, diversion of mentally ill persons from the criminal courts will necessitate a greater integration of the criminal justice and mental health service systems (Grudzinskas, Clayfield, Roy-Bujnowski, Fisher, & Richardson, 2005).

## Prop 36

Because it is such a large-scale criminal justice policy, Prop 36 has received considerable research attention as to its effectiveness and cost savings. The Drug Policy Alliance's (2006) assessment of Prop 36 was overwhelmingly positive. In the first 4 years after the implementation of Prop 36:

- More than 140,000 people were diverted to treatment—approximately 10 times the number of people served each year in California's drug courts.
- More than 700 new drug treatment programs were licensed in California, an increase of 66 percent.
- Nearly 48,000 people completed their treatment program.
- Among persons who completed Prop 36 programs, drug use dropped 71 percent.
- Employment among Prop 36 clients doubled after completing treatment.
- The number of California prisoners serving time for simple drug possession between 2000 and 2005 decreased by 32 percent.
- Overall, the 140,000 people diverted from prison saved taxpayers approximately \$31,000 in treatment-to-incarceration costs.

In addition, the annual net savings from Prop 36 have been estimated at \$140 to \$190 million (Appel, Backes, & Robbins, 2004).

Other evaluations have produced mixed results. Yihing Hser and her colleagues (2003) reported that treatment admissions increased in several California counties after the implementation of Prop 36. For instance, treatment admissions increased 27 percent in Kern County, 21 percent in Riverside County, 17 percent in Sacramento County, and 16 percent in San Diego County, mostly in outpatient drug-free programs. The typical profile of Prop 36 patients was male, employed full time, first-time offender, and user of methamphetamine or marijuana. Prop 36 patients were significantly more likely to use these drugs but less likely to use heroin. However, the treatment demand created by Prop 36 patients displaced treatment opportunities for people who voluntarily attempted to enter drug treatment. In fact, voluntary clients decreased by 8,000 each year after Prop 36 went into effect (Hser et al., 2006).

David Farabee and his associates (2004) compared the recidivism rates of three treatment groups: 688 Prop 36 patients; 1,178 patients who were not part of Prop 36 but were referred by the criminal justice system; and 1,882 clients who entered drug treatment without any criminal justice status or referral. The groups were studied across 43 treatment programs in 13 California counties. The findings were not supportive of Prop 36 goals. Prop 36 patients with severe drug problems were significantly less likely to be treated in a residential facility than persons with similar addiction problems in the voluntary treatment group. Moreover, Prop 36 patients were significantly *more likely* than either of the control groups to be arrested for a drug crime in the 12 months after treatment admission. Similarly, Elizabeth Evans and her colleagues (2014) used statewide administrative data and compared all Prop 36 participants and drug court offenders with official records of arrest and drug treatment and examined their recidivism 1 year after they began treatment. Both Prop 36 and drug court offenders showed behavioral improvements, but Prop 36 clients were more likely to recidivate than drug court clients.

James Inciardi (2004) suggests that although the spirit of diversion programs like Prop 36 is good, the infrastructure of drug treatment is not up to the challenge of meeting the increased demands that such policies create. Citing information from a national sample of treatment programs, Inciardi noted that: (1) 15 percent of facilities had either closed or stopped

addiction treatment; (2) 29 percent of facilities had reorganized under a different agency; (3) the turnover rate among program directors and counselors was 53 percent; (4) only 50 percent of programs had even a part-time physician on staff; (5) less than 15 percent of programs had a nurse; and (6) very few programs had a social worker. Instead, most treatment programs across the country relied on abstinence-oriented group counseling as the predominant form of treatment.

## General Criminal Justice Programs

Due to its longstanding commitment to diversion, the Bazelon Center for Mental Health Law has taken a leading role at disseminating information about the effectiveness of diversion programs in place in criminal justice systems across the country. Indeed, a host of quality diversion programs are available that successfully preclude offenders from entering the correctional system while providing appropriate resources and saving taxpayer expenses. The following are just a few of the diversion programs that have demonstrable positive outcomes:

- *Thresholds Jail Program:* This psychiatric rehabilitation program in the Cook County (Chicago) jail for offenders with a history of arrests, serious mental illness, and drug problems provides an array of intensive case management services. The 30 clients who completed a 1-year program had an 82 percent reduction in days spent in jail and a 52 percent reduction in arrests; these reductions resulted in criminal justice savings of nearly \$158,000. Days spent in the hospital fell by 86 percent, and the number of hospitalizations decreased by 83 percent; these reductions produced savings of nearly \$917,000 (Dincin, Lurigio, Fallon, & Clay, 2008).
- *Bernalillo County Jail Diversion Program:* This program in New Mexico uses **prebooking diversion**, in which law enforcement transports offenders to mental health agencies for evaluation and treatment, and **postbooking diversion**, in which defendants are connected with appropriate services in lieu of prosecution. Many of the clients of the Bernalillo County program have overlapping drug and psychiatric problems, and nearly half are contacted for felony offenses. A 1-year evaluation of the program found that 67 percent of diversion clients had not returned to jail, resulting in nearly 5,000 fewer jail bed days and a facility savings of \$355,500 (Bazelon Center for Mental Health Law, n.d.b).



- *Project Link*: This Rochester University-led program features a psychiatric team that provides around-the-clock services and information for offenders with a range of social and behavioral problems, including helping them secure viable housing. An evaluation of the program found that Project Link produced a significant reduction in the number of incarcerations. Average days spent in jail declined from 107 to 46 per year. Hospitalizations and number of days spent in hospital care also declined, resulting in more than \$150,000 in mental health service cost savings and nearly \$500 per client jail cost savings (Weisman, 2003).
- *Multnomah County STOP Drug Diversion Program*: This program in Oregon aimed to reduce substance abuse by improving treatment and increasing accessibility to treatment among first-time offenders. STOP features court oversight and active judicial case management, immediate access to dedicated treatment resources, drug testing, and a range of sanctions if diverted clients are not compliant. Evaluations found that clients who participated, completed, and graduated from STOP fared significantly better than offenders who did not participate in the program. In a 2-year follow-up study, STOP graduates had 76 percent fewer arrests, 80 percent fewer felony arrests, 74 percent fewer convictions, 85 percent fewer drug arrests, 76 percent fewer property arrests, 100 percent fewer violent arrests, and 80 percent fewer parole violation arrests than a control group. The STOP program saved the Multnomah County criminal justice system nearly \$2.5 million and diverted more than \$10 million in collateral social costs (Finigan, 2000).
- *Cerro Gordo County ALERT Program*: This Iowa program uses a multidisciplinary, early response team to reduce drug use among adolescent offenders by providing outpatient treatment. Clients receive after-school drug treatment, individual counseling, family services, and participate in motivational enhancement groups. Of 189 clients, only 12 required out-of-home placements after completing the program, 80 percent reduced or eliminated their drug use, and fewer than 17 percent reentered the juvenile justice system (Bureau of Justice Assistance, 2006).

Although examination of select individual programs suggests that diversion is working, the overall

record of diversion programming indicates mixed effectiveness. The national Treatment Alternatives to Street Crime (now known as Treatment Alternatives for Safe Communities) initiative has received considerable research attention. Some of the concern for TASC programs centers on the substantial costs of substance abuse treatment, which can rival the costs posed by criminal justice interventions.

Douglas Anglin and his colleagues (1999) conducted a national evaluation of more than 2,000 offenders participating in TASC programs in Birmingham, Alabama; Canton, Ohio; Chicago, Illinois; Orlando, Florida; and Portland, Oregon. They found that TASC participants received significantly more treatment services, including drug counseling, urinalysis to detect drug use, and AIDS education. TASC participants also had lower rates of drug use after entering the program; however, this occurred in only three of the five sites, suggesting an effectiveness that was modestly better than 50 percent. In fact, TASC participants had *higher* recidivism rates in three of the five cities. Interestingly, TASC programs appeared to be most effective among the most serious, drug-addicted offenders, which is precisely the group that should be targeted for intensive treatment. Evaluations of TASC programs in Wisconsin, however, showed that the costs of drug treatment are worth the investment, as diverted offenders had significantly lower recidivism rates than nondiverted offenders over an 18-month period (Mausser, Van Stelle, & Moberg, 1994; Van Stelle, Mausser, & Moberg, 1994).

Despite evaluations that indicated positive aspects of TASC programs, a review of what works in corrections typified TASC programs as ineffective. Doris Layton MacKenzie (2000) suggested that programs that offer referrals of offenders to community agencies coupled with increased monitoring and management are ultimately not effective at reducing recidivism. Instead, Douglas Young (2002) indicated that TASC programs that stress the conditions of program participation and the risks of noncompliance are more effective forms of legal pressure than tight monitoring and use of heavy penalties for failure at treatment. Similarly, Sheila Royo Maxwell (2000) found that diversion clients who *perceive* greater legal pressure or threats to complete the terms of their program are in fact more likely to comply with court orders, stay in treatment, and complete their treatment program.

A major reason for the perceived ineffectiveness of diversion programs centers on whether offenders



## CORRECTIONS FOCUS

### Mother-Child Programs

Women who are arrested are much more likely to be primary caregivers for minor children than are men. In a typical year, more than 3 million women are involved in a criminal activity that results in them being arrested for the crime. Female offenders with children pose a significant social problem. Society's response has been to divert as many mothers from incarceration as possible. This is accomplished through the use of mother-child community corrections (MCCC) programs. MCCC programs serve nearly a million female criminal offenders and their children. The programs are often community specific in that they are designed to work with available community resources; they do, however, share similar goals. Designed for moms who have committed various criminal offenses, MCCC programs operate in much the same manner as halfway houses, providing mothers with aftercare, drug and/or mental health treatment, general health care, education, job placement, and social services.

The number of children in the United States who have a parent in prison is approaching 2 million, affecting about 400,000 households. As a result of incarceration, the mother-child bond is broken, or at least adversely affected, and the mother's interest in rehabilitation reflects the emotional strain of the separation. Another consequence of incarceration is the lack of support afforded a child with an intact parent-child relationship. Studies have found that children lacking this parental bond are more likely to have greater difficulties developing meaningful interpersonal relationships as well as have problems in school.

As a result of diversion programs like MCCC projects, and the courts' willingness to divert mothers from a stay in a correctional facility, more than 85 percent of mothers under court supervision will remain in the community for the duration of their sentence. The idea began as an extension of prison nursery programs. Typically, women in MCCC programs are diverted from serving a sentence of 1 year or less in a county or state facility and are instead court ordered to the program as a condition of their probation or parole. Programs that focus on women with substance use problems are operated in conjunction with the office of the local prosecutor, drug courts, community-based substance use treatment centers, and social services. Depending on the focus of the program, community corrections programs are sometimes affiliated with churches and religious organizations in a faith-based effort to assist female offenders with children.

**SOURCES:** S. Schirmer, A. Nellis, & M. Mauer. (2009). *Incarcerated parents and their children: Trends 1991–2007*. Washington, DC: The Sentencing Project; M. K. Shilton. (2000). *Resources for mother-child community corrections: The Mother-Child Community Corrections Project International Community Corrections Association*. Washington, DC: U.S. Department of Justice, Office of Justice Programs, National Institute of Justice; J. Travis, E. C. McBride, & A. L. Solomon. (2005). *Families left behind: The hidden costs of incarceration and reentry*. Washington, DC: The Urban Institute.

genuinely volunteer for participation in these programs or feel some degree of legal pressure to enter treatment. The argument is that offenders who truly volunteer and want to stop using drugs and desist from crime have a better chance at completing treatment programs than offenders who were essentially ordered into treatment or selected diversion programs because they were better options than jail. For instance, Nahama Broner and her colleagues (2005) studied 175 mentally ill, substance-using adult jail detainees in New York City to assess the effect of diversion, treatment, and individual characteristics on criminal justice, mental health, substance use, and life satisfaction outcomes. The intervention group included nonmandated and mandated diversion

tracks. The comparison participants met diversion acceptance criteria but underwent standard criminal justice processes. They found that mandated diversion clients were less likely to spend as much time in prison and more likely to spend time in the community. They also had greater linkages to residential and outpatient treatment, received more treatment, and decreased their drug use. Interestingly, those who did not perceive themselves as coerced and had insight into their mental illness received more treatment regardless of their diversion status.

In sum, the overall record of diversion programs is mixed, with some programs showing dramatically positive results, others showing unexpectedly negative results, and still others showing that diversion is



Under programs that stem from Prop 36, drug-abusing, nonviolent offenders are diverted to treatment instead of clogging jail and prison space.

no more or less effective than normal criminal justice intervention. At the very least, diversion offers two big advantages over other correctional sanctions: (1) it provides the opportunity for offenders to get needed treatment and avoid the pitfalls of being a correctional client; and (2) it provides the correctional system with a release valve to control the number of clients who enter and, in turn, manage the costs of the administration of justice. The final section of this chapter focuses on prevention programs that attempt to provide services so early in the lives of at-risk persons and delinquents that involvement in the correctional system is bypassed.

## Prevention

**Prevention** is the provision of social resources to at-risk groups early in life to enhance their prosocial development while buffering their risk factors for crime. Prevention is an area that is receiving increasing amounts of scholarly and justice system attention although it is funded at significantly lower levels than

law enforcement and corrections. As a correctional policy, prevention is still in its early stages, and much of the knowledge base on prevention programs comes from the fields of pediatrics and human development.

## Risk and Protective Factors

Prevention is rooted in several principles relating to the ways that various risk factors, protective factors, and environmental contexts interact to influence antisocial behavior. A variety of factors are important to understand the basic logic of prevention. A **risk factor** is a variable that is associated with an increased likelihood of involvement in antisocial behavior, or in the case of correctional clients, an increased likelihood of recidivism. The effects of risk factors are generally additive and cumulative; thus, an offender who has many risk factors is significantly more likely to commit crime or resume criminal offending after release from criminal justice system custody than an offender who has fewer or zero risk factors. A **protective factor** is a variable that is associated with a decreased likelihood of involvement in antisocial behavior or recidivism. Protective factors can buffer an individual from harm. A related concept is an **interactive protective factor**, which is a variable that interacts with a risk factor to reduce or overcome its effect.

Risk and protective factors interact in complex ways to increase the likelihood of criminal offending, and this interaction often depends on the characteristics of the individual offender. For instance, negative parenting characterized by low monitoring and supervision, low warmth, low engagement, inconsistent rules and expectations, and inconsistent and coercive punishment is one of the key areas that prevention programs target because parenting dysfunction sets into motion a cascade of behaviors that have been linked to poor self-regulation, low attachment to school, aggression, substance use, and other forms of social deviance. This brief list of traits and behaviors generally comports with the background characteristics of the average correctional client. When successful, a prevention program can preclude the onset of a risk factor or set of risk factors or overcome it with positive, prosocial behaviors (Coie et al, 1993; Hawkins, Catalano, & Miller, 1992; Ttofi, Farrington, Piquero, & DeLisi, 2016).

## The Nurse-Family Partnership Program

The most famous prevention study to demonstrate the long-term effects of early life interventions on a high-risk sample is the Nurse-Family Partnership

program supervised by David Olds and his colleagues (1998) using a sample of 400 women and 315 infants born in upstate New York between April 1978 and September 1980. The women in the sample posed a variety of risk factors for their children adopting delinquency. All were unmarried, 48 percent were younger than 15 years of age, and 59 percent of the mothers lived in poverty. Using random assignment to four groups receiving various social services, the comprehensive experimental group received 9 home visits during pregnancy and 23 home nurse visits from birth until the child's second birthday. Control subjects received standard, but less comprehensive, prenatal care. All groups were followed up 15 years later and showed impressive reductions of a variety of problem behaviors associated with chronic delinquency and correctional involvement. For instance, compared to control groups, boys in the treatment groups had:

- A lower incidence of running away
- Significantly fewer arrests and convictions
- Fewer probationary sentences and subsequent violations
- Fewer lifetime sexual partners
- A lower prevalence of smoking, alcoholism, and casual alcohol use

In short, the experiment offered compelling evidence that early life interventions that teach parents the skills they need to raise healthy children were achievable.

The Nurse–Family Partnership program is one of the model prevention programs in the country and is part of the **Blueprints for Healthy Youth Development** program (formerly the Blueprints for Violence Prevention program) at the Center for the Study and Prevention of Violence at the University of Colorado at Boulder. The Blueprints program is a national violence prevention initiative that identifies programs that meet the most scientifically rigorous standards of program effectiveness. The Blueprints program found that the nurse visits in the Olds' study resulted in 79 percent fewer verified reports of child abuse and neglect; 31 percent fewer subsequent births and increased intervals between births; a 30-month reduction in the receipt of Aid to Families with Dependent Children, a social welfare subsidy; 44 percent fewer maternal behavioral problems due to substance abuse; 69 percent fewer maternal arrests; and 56 percent fewer children arrested. Most impressively from a policy perspective, the costs of the

program, approximately \$3,200 per family annually, were recouped by the child's fourth birthday (Olds, Hill, Mihalic, & O'Brien, 1998).

## Multisystemic Therapy

Multisystemic therapy (MST) is a family and community-based treatment program that seeks to address the multiple-problem needs of seriously antisocial youth ages 12 to 17. MST views individuals as being nested within a complex network of interconnected systems that encompass family, peer, school, and neighborhood domains. The major objective of MST is to empower parents and youth with the skills and resources needed to surmount risk factors and capitalize on protective opportunities. These empowerments include strategic family therapy, structural family therapy, behavioral parent training, and cognitive behavior therapies over a 4-month period. Despite the difficulties inherent in treating seriously antisocial people, preliminary evaluations of MST have shown 25 percent to 70 percent reductions in rearrest and 47 percent to 64 percent reductions in out-of-home placements. Additionally, serious juvenile offenders often experience fewer mental health problems, which contribute to substance abuse problems, and their families increase their functioning. At a cost of a mere \$4,500 per youth, MST has been ranked as the most cost-effective program in the country that targets serious juvenile offenders (Henggeler, Mihalic, Rone, Thomas, & Timmons-Mitchell, 1998).

Michael Baglivio and his colleagues (2014) examined MST and Functional Family Therapy (FFT), a nationally recognized program that also addresses youth behavioral problems, and found that the programs were generally similar in their effects, although MST participants had more recidivism than youth involved in FFT. Trudy van der Stouwe and her colleagues (2014) conducted a meta-analysis of 22 studies that included more than 4,000 juveniles and found that MST had relatively small but significant treatment effects in terms of reducing delinquency, psychopathology, substance use, family dysfunction, negative peer relations, and out of home placements. They also found that MST was most effective for youth ages 15 and younger who had severe behavioral backgrounds.

## The Behavioral Monitoring and Reinforcement Program

The Behavioral Monitoring and Reinforcement Program (BMRP), formerly called Preventive Intervention, is a school-based intervention that helps





**Criminologists are increasingly advocating prevention programs to forestall problem behaviors and criminal lifestyles from developing. If the United States were to invest heavily in prevention, there would be less reliance on the correctional system.**

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prevent juvenile delinquency, substance use, and school failure for high-risk adolescents who fit the profile of incarcerated youth. It targets juvenile cynicism about the world and the accompanying lack of efficacy to deal with problems. BMRP provides a school environment that allows students to realize that their actions can bring about desired consequences, and it reinforces this belief by eliciting participation from teachers, parents, and individuals (Blueprints for Violence Prevention, 2006).

The 2-year intervention begins when participants are in seventh grade and includes monitoring student actions; rewarding appropriate behavior; and increasing communication between teachers, students, and parents. School records are checked for participants' daily attendance, tardiness, and official disciplinary actions, and parents are informed of their children's progress. Teachers submit weekly reports assessing students' punctuality, preparedness, and behavior in the classroom, and students are rewarded for good evaluations. Each week, three to five students meet with a staff member to discuss their recent behaviors, learn the relationship between actions and their consequences, and role-play prosocial alternatives to problem behaviors. They are also rewarded for refraining from disruptive behavior during these meetings.

Evaluations of BMRP have demonstrated short- and long-term positive effects. At the end of the program, program students showed higher grades and better attendance compared to control students. A 1-year follow-up study showed that intervention students, compared to control students, had less self-reported delinquency; a lower incidence of drug

abuse; fewer school-based problems, such as suspension, absenteeism, tardiness, and academic failure; and lower unemployment rates. BMRP clients also were less likely to be referred to juvenile court for delinquency (Blueprints for Violence Prevention, 2006).

## Multidimensional Treatment Foster Care

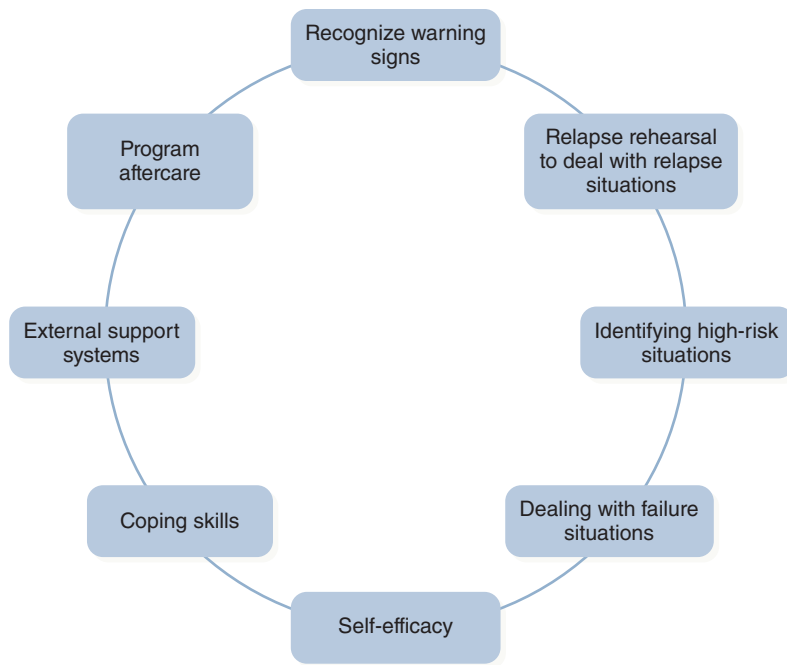
Multidimensional Treatment Foster Care (MTFC) is a cost-effective alternative to residential treatment, incarceration, and hospitalization for adolescents who have problems with chronic antisocial behavior, emotional disturbance, and delinquency. Community families are recruited, trained, and closely supervised to provide MTFC-placed adolescents with treatment and intensive supervision at home, in school, and in the community. Youths are instructed with clear and consistent limits with follow through on consequences and positive reinforcement for appropriate behavior. They also develop a relationship with a mentoring adult and are separated from delinquent peers. MTFC targets adolescents with histories of chronic and severe criminal behavior who are likely to be incarcerated, as well as those with severe mental health problems at risk for psychiatric hospitalization.

In other words, prevention programs like MTFC target essentially the same population as diversion programs. Evaluations of MTFC have demonstrated that program youth compared to control group youth found that the program youth (Chamberlain, Leve, & DeGarmo, 2007; Chamberlain & Mihalic, 2007):

- Spent 60 percent fewer days incarcerated at 1-year follow-up
- Had significantly fewer subsequent arrests
- Ran away from their programs, on average, three times less often
- Had significantly less hard drug use in the follow-up period
- Had quicker community placement from more restrictive settings
- Had better school attendance and homework completion at 2-year follow up

The correctional system is increasingly using prevention principles to prevent offenders from relapsing into substance abuse and crime (see **FIGURE 6-3**). Relapse prevention programs are centered on the following principles: (1) offense or cognitive behavioral chain to recognize warning signs of drug use; (2) relapse rehearsal to deal with potential relapse situations and





**FIGURE 6-3** Relapse prevention principles.

advanced relapse rehearsal; (3) identifying high-risk situations; (4) dealing with failure situations; (5) self-efficacy; (6) coping skills; (7) external support systems; and (8) program aftercare. Craig Dowden and his colleagues (2003) conducted a meta-analysis of 40 tests of relapse prevention programs and found that they were modestly successful at preventing relapse.

## Cognitive Behavioral Therapy

Finally, one of the most promising modalities in the world of prevention and correctional treatment is cognitive behavioral therapy (Clark, 2010; Cox, Allen, Hanser, & Conrad, 2011; Vaske, Galyean, & Cullen, 2011). **Cognitive behavioral therapy** is a form of psychotherapy that focuses on patterns of thinking and behavior and the values, beliefs, and attitudes that underlie it with the goal of converting antisocial behavior to prosocial behavior. It is assumed that people can become conscious of their thoughts and behaviors and the ways that their own life experiences mold those thoughts and behaviors. By becoming an analyst of their own thinking patterns, people can make proactive changes to alter the ways that they think, and in turn, the ways that they act.

Generally, cognitive behavioral therapy focuses on the lifestyle patterns and deviant thinking styles that give rise to recurrent substance use and delinquency. Most cognitive behavioral therapy programs include

target areas relating to moral reasoning, cognitive style, impulse control and management, self-control, self-efficacy, decision making, problem solving, and social skills. The therapy encourages and promotes the ability of the offender or person at risk to slow down, assess their conduct and circumstances, and make the right choice. These are skills that prosocial individuals do countless times a day and take for granted.

Evaluation studies demonstrate the value of cognitive behavioral therapy for juveniles, adults, substance abusers, and clients from across the correctional system. Nana Landenberger and Mark Lipsey (2005) examined 58 studies published from 1965 to 2005 and found that cognitive behavioral therapy was an effective intervention at reducing recidivism. In a separate study, Lipsey (2009) analyzed 548 studies published between 1958 and 2002, and again found that cognitive behavioral therapy was the most effective intervention for helping offenders transition from antisocial to prosocial. Finally, Christine Litschge and her colleagues (2010) conducted an overview of 26 meta-analytic reviews of treatments for conduct problems among children and adolescents. They found that cognitive behavioral therapy had the largest effect size for the reduction of delinquent behaviors. In this way, cognitive behavioral therapy is a guiding light for prevention and treatment in the correctional system.

## Chapter Summary

- Diversion is a way that the correctional system controls its numbers while providing treatment in lieu of punishment.
- The goals of diversion are avoidance of negative labels for first-time offenders, reduction of social control and recidivism, reduction of justice system costs, and provision of service and treatment.
- Diversion is done by police, prosecutors, and legislative policies, such as Proposition 36.
- The overall effectiveness of diversionary programs is mixed and ranges from great successes to counterproductive effects, such as net widening.
- Diversion programs were borrowed from the juvenile justice system and generally target drug-using offenders and persons with mental illnesses.
- Prevention attempts to preclude antisocial behavior by providing social services at early ages to enhance prosocial development.
- A variety of effective prevention programs have shown demonstrable positive outcomes.

## Key Terms

**abeyance** Suspended charges until the defendant successfully completes the treatment protocol that was originally ordered.

**Bazelon Center for Mental Health Law** The nation's leading advocate for children, adolescents, and adults with intellectual disabilities.

**Bazelon, David** Federal appeals judge whose rulings pioneered the field of mental health law.

**Blueprints for Healthy Youth Development** A national violence-prevention initiative that identifies programs that meet the most scientifically rigorous standards of program effectiveness.

**cognitive behavioral therapy** A form of psychotherapy that focuses on patterns of thinking and behavior and the values, beliefs, and attitudes that underlie it with the goal of converting antisocial behavior to prosocial behavior.

**Commission on Law Enforcement and the Administration of Justice** Part of President Johnson's 1965 war on crime, which created youth bureaus to divert juvenile offenders from confinement to community organizations.

**crisis intervention teams** Police-based interventions whereby specially trained officers identify suspects with clear mental health problems and bring them to mental health assessment facilities instead of traditional jail.

**deferred judgment** See deferred prosecution.

**deferred prosecution** Widely used and cost-effective way for the courts to control the correctional population by diverting first-time offenders or persons who have never been contacted for violent crimes.

**deferred sentences** See deferred prosecution.

**diversion** Any procedure that prevents official entry into the criminal justice process.

**expungement** The complete removal of a criminal record from existence.

**interactive protective factor** A variable that interacts with a risk factor to reduce or overcome its effect.

**Juvenile Justice and Delinquency Prevention Act of 1974**

Act that provides federal funding to states and communities for prevention and treatment programs, especially diversion programs, that deinstitutionalize adolescents convicted of status offenses.

**labeling theory** A school of thought that asserts that defining people as delinquent or criminal leads to social ostracism, solidifies a delinquent self-image, and leads to increased antisocial behavior.

**multiple-problem youth** Youth offenders with overlapping problems relating to crime, substance use, and mental illness.

**net widening** The growing of the correctional population by supervising increasing number of offenders in the community.

**police diversion** Officer discretion to use a variety of tactics, resources, and community agencies to address the criminal behavior of defendants.

**postbooking diversion** Program in which defendants are connected with appropriate services in lieu of prosecution.

**prebooking diversion** Program in which law enforcement transports offenders to mental health agencies for evaluation and treatment.

**prevention** The provision of social resources to at-risk groups early in life to enhance their prosocial development while buffering their risk factors for crime.

**Proposition 36 (Prop 36)** California policy that diverts drug offenders by framing drug use as a public health rather than criminal justice issue.

**protective factor** A variable that is associated with a decreased likelihood of involvement in antisocial behavior or recidivism.

**psychopathic personality** A personality disorder characterized by severe behavioral and interpersonal traits.

**restitution** Money paid to the crime victim to recoup some of the harm caused by the offender's wrongful acts.

**risk factor** A variable that is associated with an increased likelihood of involvement in antisocial behavior, or in the case of correctional clients, an increased likelihood of recidivism.

**status offenses** Violations of criminal law that only apply to children and adolescents.

### **Substance Abuse and Mental Health Services**

**Administration (SAMHSA)** A public health agency within the Department of Health and Human Services responsible for improving the accountability, capacity, and effectiveness of the nation's substance abuse prevention, addictions treatment, and mental health services delivery system.

**Treatment Alternatives to Street Crime (TASC)** A national diversion program devoted to providing substance abuse treatment for offenders.

## Critical Thinking Questions

1. Are drug offenders victims of the correctional system? Why does the media minimize the criminal activity of drug offenders?
2. Given the potentially devastating labeling implications of arrest, should only persons charged with violent crimes be formally entered into the system? Should everyone else be given one or more chances on diversion?
3. Prevention can preclude criminal careers while saving much money on victimization and correctional costs. Is there any downside to prevention? Is it ethical to identify at-risk people to target for prevention services?
4. Is the correctional system ambivalent about offenders with mental illnesses? In which ways are such offenders treated better? In which ways is their treatment worse?

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