

UNDERSTANDING DIVERSION



What is Diversion?

"Diversion" is a blanket term for a wide range of criminal justice interventions that try to address the root cause of what is driving criminal conduct and incentivize treatment and services. These programs are shown to help reduce future criminal conduct.

Diversion programs connect eligible defendants with treatment, employment, targeted programming, and court supervision to address underlying drivers of crime and "divert" them from the traditional approach of the legal system. Upon successful completion of diversion, defendants can avoid criminal convictions that may make it harder for them to stay on track.



The city and county of San Francisco have a long-standing commitment to both pretrial and post-filing diversion. SF began diverting people through the Pretrial Diversion Program in the 1970's. San Francisco Collaborative Courts have been operating since the 1990's.

Types of Diversion Programs

The term diversion is broadly used to describe a variety of different kinds of programs that are used in different kinds of cases at different stages. Some forms of diversion programs are pre-filing programs run by the District Attorney's Office. Some are run through collaborative courts and occur post-filing. And, starting in 2020, the California State Legislature established a series of diversion programs with specific established requirements.

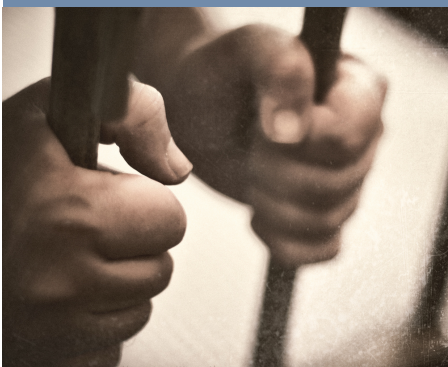
Diversion Promotes Public Safety



Incarceration is the least effective response to crime:

Research has conclusively demonstrated that people who are incarcerated are more likely to recidivate.

The [most recent data from the California Department of Corrections and Rehabilitation](#) shows that 68% of people are rearrested within 3 years.



Diversion reduces recidivism:

Diversion programs, by contrast, have been shown to reduce the likelihood of recidivism.

A [California Policy Lab evaluation](#) of San Francisco felony collaborative court diversion looked at recidivism for up to 5 years after an initial offense and found that felony defendants who participate in collaborative courts are almost 20% less likely to be convicted of a new crime than comparable defendants who proceed through traditional prosecution.

- *Diversion was found to be particularly effective for people charged with felony drug sales and violent crimes. People charged with drug sales were 19.9% less likely to recidivate and people charged with violent crimes were 17.5% less likely to recidivate after two years.*

A [randomized control trial evaluation](#) of the juvenile Make-it-Right felony diversion program found that young people who were diverted were 30% less likely to recidivate after 3 years than young people who were prosecuted.

- *Young people who completed the program were 66% less likely to recidivate after 3 years.*

Diversion also increases accountability:

Participation in collaborative courts increased time to case resolution by more than 200 days, highlighting the extensive engagement required by collaborative courts.

Specific Diversion Programs in SF



Collaborative Court Diversion Programs:

Collaborative courts in San Francisco are diversion programs established locally in partnership with the San Francisco Superior court and other local criminal justice stakeholders. Collaborative court programs involve intensive, lengthy, court-supervised engagement in treatment and services. In these cases, people are charged with criminal offenses and then, if a judge allows it, are given access to ongoing court-supervised treatment and services. Failure to comply with terms almost always results in a criminal conviction. According to an independent evaluation of SF felony collaborative courts, between 2009 and 2017, a total of 2,730 felony cases were diverted to SF collaborative courts. This was 20% of all felony cases, including 24% of violent felonies.

Behavioral Health Court

Serves individuals with serious and persistent mental illness in their efforts towards greater self-sufficiency.

Community Justice Center

Addresses underlying issues that have led to a participant's criminal justice involvement primarily in the Tenderloin, Civic Center, Union Square, and South of Market neighborhoods.

Drug Court

A program that focuses on individuals with substance use disorders and connects them to outpatient and/or residential treatment.

Young Adult Court

A groundbreaking model of rethinking how the developmental characteristics of young adults should inform the criminal justice system's response to this population. YAC works with transitional aged youth (ages 18-25) with a focus on education, employment, counseling, and peer mentorship to create new pathways that support positive life outcomes.

Intensive Supervision Court

Provides high-risk high-needs probationers with intensive court and community supervision as an alternative to state prison.

Juvenile Reentry Court

Provides comprehensive case planning and aftercare services for high needs youth returning from long-term commitments and out-of-home placements.

Veterans Justice Court

A program that addresses the specialized needs of veterans by connecting them to counseling, housing, educational and vocational supports they need to lead productive and independent lives.

Specific Diversion Programs in SF

District Attorney Initiated Pre-Filing Diversion Programs:

These programs were created by the San Francisco District Attorney's Office in partnership with community and justice system stakeholders and limit court involvement as they allow an accused person to avoid criminal charges.



Make it Right:

The Make-it-Right (MIR) restorative justice conferencing program serves youth ages 13 to 17 who would have otherwise faced relatively serious felony charges (e.g., burglary, assault, unlawful taking of a vehicle). Following extensive preparation, participating youth meet with the people they have harmed or a surrogate, accept responsibility for the impact of their actions, and come to an agreement for how the youth can repair to the greatest extent possible the harm they caused. If the youth follow through with the repair actions outlined in the agreement, charges against them are never filed. If they do not, they face traditional juvenile felony prosecution.

- *In 2021, an independent evaluation by the California Policy Lab found that young people referred to MiR were 44% less likely to be rearrested than youth who were not referred to the program.*

Neighborhood Courts

Cases are diverted to ten venues across the City where trained volunteer "neighborhood adjudicators" resolve matters and issue directives using restorative principles. Participants must take accountability for their actions and complete the directives to avoid having their case filed.

Supportive Release and Reentry Program

Mental Health Association of San Francisco (MHASF) provides supportive peer counseling, case management services, and more for recently released incarcerated individuals who experience mental health and co-occurring substance use challenges with the goal of connecting participants to ongoing support in the community.

Unaccompanied Children Assistance Program (UCAP)

UCAP diverts youth out of the juvenile justice system and into a program tailored to meet the needs of unaccompanied minors fleeing violence and poverty. UCAP focuses on linkage to trauma-informed, culturally rooted healing practices, and bicultural/bilingual interventions to meet the youth's basic, educational, vocational, and mental health needs. UCAP also provides legal representation for children in immigration court.

Imagining Justice: Arts as Diversion

Spearheaded by Stanford University's Center for the Comparative Study of Race & Ethnicity and with support from Stanford Arts Institute and the Stanford Criminal Justice Center, Imagining Justice is an innovative program that pioneers concrete transformations in the terrain of criminal justice.

Healing Justice Initiative

This builds on the success of the Make It Right program by expanding restorative justice practices to cases involving Transitional Age Youth and older adults. Restorative practices will be considered at every decision point – from charging a case to sentencing and resentencing, shifting from an "alternative program" to a primary intervention utilizing restorative community conferencing, life coaching and partnering with stakeholders to build capacity for restorative justice options in the community.

Specific Diversion Programs in SF



Statutory Diversion Programs

These are programs created by the California State Legislature and they prescribe specific conditions for who can be included in them. A judge must approve of a defendant's participation in any of these forms of diversion.

Mental Health Diversion

Which allows individuals with diagnosed mental health disorders, such as bipolar disorder, schizophrenia, schizoaffective disorder, or post-traumatic stress disorder, to participate in a mental health program for up to two years in lieu of criminal prosecution.



Military Diversion

A program for current or former members of the United States Military who suffer from sexual trauma, traumatic brain injury, post-traumatic stress disorder, substance use, or mental illness as a result of their military service.

Pretrial Diversion

Which went into effect in January 2021 and gives judges the discretion to place individuals charged with all misdemeanors into pretrial diversion, unless they are charged with crimes that require sex offender registration, abandonment and neglect of child/ren; domestic violence or stalking/harassing crimes.



Primary Caregiver Diversion

Which attempts to reduce the negative effect of parental incarceration on families and children by diverting primary caregivers out of the traditional criminal process.

In 2021, the 109 parents completed Primary Caregiver Diversion. Of those, 97 people --or 89%-- completed the program successfully.

