



Mapping Prosecutor-Led Diversion

RESTORATIVE JUSTICE REPORT

SEPTEMBER 2023



Special thanks to our partners at the Urban Institute.

Restorative Justice Approaches in Prosecutor-Led Diversion

Key Statistics From the Prosecutor-Led Diversion Map

Starting in 2021, the National District Attorneys Association (NDAA) and the Urban Institute surveyed prosecutors' offices across the country about prosecutor-led diversion programs they currently run. The results of the survey are available at diversion.ndaa.org and displayed as a national map of prosecutor-led diversion programs. Since the survey closed, prosecutors' offices have continued to submit information about their programs to the map through the Mapping Prosecutor-led Diversion [website](#).

As of September 30, 2023, responding offices had submitted information on 496 programs. About 38 percent of those programs use a restorative justice approach with their diversion programming, though few indicated that they use restorative justice alone.

FIGURE 1

What approach, method, or goal best describes the diversion program?

Percentage of respondents

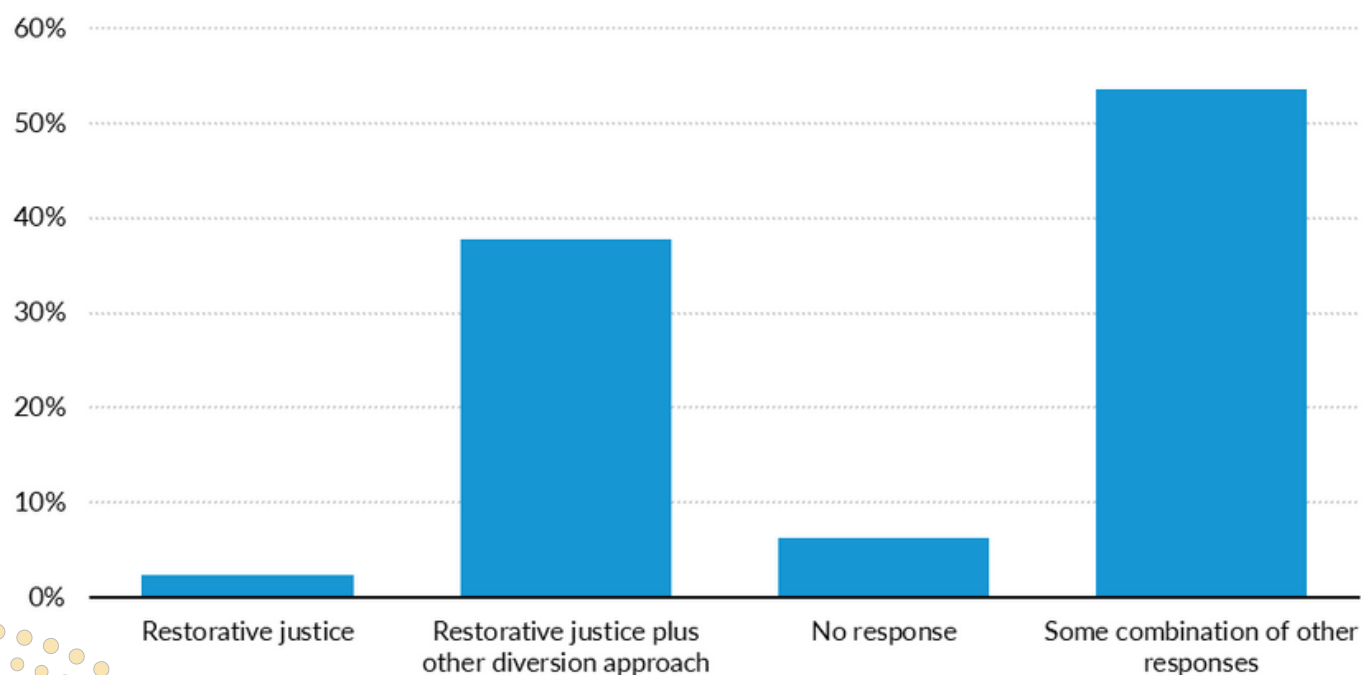


TABLE 1

What approach, method, or goal best describes the diversion program?

	Number of Programs	Percentage of Programs
Restorative Justice	11	2%
Restorative Justice Plus Other Diversion Approach	187	38%
No Response to this Question	30	6%
Some Combination of Other Responses	268	54%
Total	496	100%

Source: Prosecutor-led diversion national survey, 2021-2022.

Notes: Respondents could pick multiple answers for each program. Other responses to this question were: Addressing substance use; Addressing mental health needs; Addressing domestic violence; Reducing contact with formal court processing; Intervening early with young people; Addressing traffic or DUI related issues; Addressing sex trafficking or prostitution; Other (please describe).

Background Information

Restorative justice is a theory of justice that prioritizes repairing harm. Restorative justice is based on the beliefs that crime causes harm, repairing harm should be the focus of the justice effort, and that people most closely impacted by crime should share in how it is resolved.

Restorative justice has been found to be very effective for repairing harm and changing behavior in certain situations. This [2020 study](#) catalogues several forms that restorative justice can take in the legal system –such as prosecution, probation, and prison - and synthesizes systematic reviews and meta-analyses on restorative justice programs. All research reviewed in the 2020 study found that people charged with an offense who participated in restorative justice had significantly lower recidivism rates than their counterparts who did not do so. In one [meta-analysis](#) of 10 studies, researchers found slightly larger recidivism reductions for adults compared to youth, which is counter to the common assumption that restorative justice is a better fit for youth than adults. Along with this evidence of success, restorative justice is becoming more common across the country. As [this Utah Law Review article](#) notes, legislation that promotes the use of restorative justice in formal legal processes has been passed in 45 states.



Lessons Learned from the Prosecutor-Led Diversion Project

Prosecutors should consider including a restorative justice program in their diversion options. However, it's important to note that traditional prosecution and some forms of prosecutorial diversion may not align with the restorative justice principles of repairing harm and involving people most closely impacted in the resolution of the crime. Prosecutors can navigate any tension between these approaches by relying on experts in the field.

Some lessons learned from people interviewed as part of this project include:

- Be mindful of the inherent conflicts between restorative principles and traditional prosecution, which can often be focused more on punishment than repair. Separation of the restorative process from the prosecutorial process is important to ensure that participants are voluntarily engaging, and any information shared will be kept confidential and not shared outside the program, including with prosecutors. In contrast with programs led by community providers, prosecutors' offices leading restorative processes may encounter skepticism or distrust from participants who have a negative view of the legal system.
- Avoid using restorative justice for offenses with no identifiable victim or low-level offenses that your office would not charge, as this can lead to net-widening and cause adverse outcomes such as more exposure to the legal system and higher recidivism.
- Consider being more inclusive in programmatic eligibility, given the success of restorative justice interventions for people accused of more serious offenses and/or with longer criminal histories. Exclusionary eligibility criteria can also contribute to racial and ethnic disparities, since communities of color are subject to higher levels of surveillance, policing, and imprisonment.