

Prosecutor-Led Gun Diversion Programs: *Implementation Guide*

Smart Decarceration Project

Crown Family School of Social Work, Policy,
& Practice

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THE UNIVERSITY OF
CHICAGO

**SMART
DECARCERATION
PROJECT**

Introduction

About us

The Smart Decarceration Project (SDP) at the University of Chicago's Crown Family School of Social Work, Policy, and Practice is bridging research and practice to reduce the country's over reliance on incarceration while addressing the racial and behavioral health disparities in the criminal legal system. Generating real-world evidence in close collaboration with local and national stakeholders, SDP seeks to reduce the use of incarceration by developing interventions that deliver tangible impact, informing the next generation of criminal legal policies and programs, and spearheading a cross-sector movement sustained by transdisciplinary dialogue.

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Introduction

Prosecutor-led diversion & smart decarceration

SDP has been studying prosecutor-led diversion for several years.¹ Over the last decade, prosecutors' use of discretion through diversion programs has received increased attention as an important site for driving change within the criminal legal system. A prosecutor's ability to dismiss, divert, or prosecute a charge plays a key role in accelerating or slowing the pace of racially disparate mass incarceration.² Diversion programs are an attempt to standardize alternatives to traditional criminal legal processing and incarceration. A nationwide survey of prosecutors' offices identified 121 diversion programs, pointing to a larger practice of diverting cases away from traditional prosecution.³

SDP recognizes the potential of prosecutor-led diversion as a smart decarceration strategy. Many sites have expressed a reluctance to launch a diversion program focused specifically on gun charges, even if the needs of participants may be the same as those charged with non-gun related offenses. In 2019 SDP learned of a novel diversion program for illegal gun possession charges, which launched in Minneapolis in 2017. Low-level gun charges may have been included in other diversion programs prior to 2017, though informally and inconsistently.

In the last five years, the interest and occurrence of prosecutor-led gun diversion programs (PLGDs) has grown. At the same time, the landscape of PLGDs has been complicated by the rise in gun violence driven, in part, by the negative economic, emotional, and social impacts of the COVID-19 pandemic.⁴ Still, some prosecutors' offices are motivated to launch PLGDs in the hopes to contribute to efforts to curtail current rates of gun violence.

SDP received funding from the Joyce Foundation in 2021 to launch a formative research project on PLGDs in four Midwestern U.S. jurisdictions. Early work entailed a national scan of PLGDs, their characteristics, and approaches.⁵ SDP also engaged in in-depth research with each PLGD site by conducting interviews with program developers, stakeholders, and clients, and reviewing an array of program materials. Quotes throughout this guide come from these interviews. In addition, SDP collaborated with the Joyce Foundation to facilitate a series of convenings of prosecutors, researchers, advocates, service providers, and people with lived experience to discuss the opportunities and challenges of emerging PLGDs.⁶ Our collaborative work on PLGDs has informed this guide.

Who is this guide for?

This implementation guide is designed for prosecutors' offices considering launching a PLGD, as well as their community partners and stakeholders that have a role in program implementation. We envision this document as a conversation starter and reference document for program actors, outlining: key considerations when launching a program; questions and program elements to consider during planning and implementation; and a framework for understanding program success and evaluation. This guide is rooted in our qualitative research and interviews with existing PLGDs, our consultation with prosecutors' offices looking to launch a program, and our research of prosecutor-led diversion programs more broadly as well as our initial findings from the first PLGD. As we will explore next, some prosecutors' offices are becoming motivated to launch a PLGD in the hopes that it can contribute to efforts to curtail current rates of gun violence.

Key Considerations

Motivations for launching a PLGDP

Prosecutors' offices must articulate their motivations for launching a PLGDP to ensure that their actions address the intended goal, and so that all the program actors have a shared understanding of the program's purpose. Prosecutors' offices might have a variety of reasons for pursuing diversion programming, such as: cost saving measures, more efficient use of resources, addressing root causes for offending behavior, reducing participant recidivism, and avoiding the collateral consequences of a criminal charge.⁷

“So some kids are getting guns, not because they want to commit crimes or they're part of a gang, but maybe they think they have to have a gun to be safe in their school. And if that child gets picked up with a gun, they get kind of funneled into the process with a label and a stigma about being a gun carrier... we wanted to be able to offer an olive branch to people and say, “We recognize that you're on the really outer peripheral of the major crime problem, the assault problem in our city, and if we can divert you and get you onto a better track sooner, now how do we do that?”

- PLGDP Interviewee, Law Enforcement

Increase efficiency

Diverting low-level, non-violent gun possession charges can be a way to address issues of efficiency and lack of resources within a prosecutor's office. In some states illegal gun possession constitutes a misdemeanor charge, and in other states, a felony. Especially in cities, illegal gun possession is one of the most prevalent types of criminal charge. When dealing with a high volume of cases, prosecutors must decide how to use their limited resources when dismissing, diverting, or charging criminalized behavior. Diversion may be seen as a strategy to reduce the burden on the court system.

Address root causes

Some prosecutors express a desire for PLGDPs to address the root causes of certain gun carrying and gun violence and divert people away from deeper criminal legal involvement. The underlying factors contributing to illegal gun carrying behavior are complex, underexamined, and connected to systemic as well as individual factors. For example, people charged with illegal gun possession in Illinois often cite difficulty

navigating the bureaucratic and financial process of legal gun possession. Prosecutors' offices must consider the charges they select for PLGDPs and, as much as possible, understand the contributing factors to this criminalized behavior, which may require additional research and input from participants.

Reduce racial disparities

Lastly, PLGDPs can be a strategy to rectify the racial disparity present in gun related charges. Young men of color, especially Black men, bear a disproportionate likelihood of being arrested for a gun related offense.⁸ The racial disparities among gun charges point to larger systemic issues of who is stopped, arrested, and funneled into the criminal legal system. Amidst the United States' culture of gun ownership, there is a growing conversation around racial inequity in who has access to legal gun ownership.⁹ This racial inequity needs to be addressed further upstream, prior to an individual being charged, but PLGDPs can serve to reduce the collateral consequences of a criminal charge on individuals of color.

Key Considerations

Differentiation

Through our qualitative interviews and discussions with prosecutors, we identified an awareness that not all gun charges are identical. Interviewees described a continuum of gun related charges, ranging from technical or bureaucratic violations and progressing in severity towards incidents where a gun is used in the commission of a violent act. Diversion has emerged as prosecutors recognized that gun offenses vary in terms of the circumstances of the charge, the impact on public safety, or needs of the individual charged.

Differentiation allows prosecutors' offices to develop different responses to charges or circumstances. Unlike a one-size-fits all prosecution model that is often reliant on incarceration, this approach has the potential to address the root cause of illegal gun carrying behavior. Prosecutors must identify where along the continuum of charges they are able to divert cases in order to have the most positive impact on eliminating unnecessary incarceration and reducing gun violence. Differentiation, therefore, becomes a tool to facilitate diversion opportunities. Factors that influence this decision include:

- the prosecutors' office's access to (or connections with) alternative resources or services;
- the volume of charges targeted for diversion;
- the local laws around gun carrying and which charges fall under the prosecutors' office's jurisdiction.

While differentiating, it is important that PLGDPs avoid net-widening, or expanding the reach of the criminal legal system, by including cases that would otherwise be quickly disposed or even dismissed. An example of such cases might be those technical, illegal possession charges that are low on the continuum of severity. Prosecutors must balance public safety needs with the importance of intervening with a population that would benefit from additional supportive services to avoid moving further along the continuum of gun violence. By aligning eligibility criteria, program goals, and the needs of the population, PLGDPs will be more streamlined in their focus and more likely to generate desired outcomes for the jurisdiction.

“For most of these individuals, they have experienced various levels of trauma. A young man has experienced his brother dying in his arms, gun shot wounds. People are feeling the need to even retaliate and not think clearly about that in issues that affect family and someone takes a life... and so trauma is compounded by more trauma.”

- PLGDP Interviewee, Service Provider

Key Considerations

Matching programming and participant needs

Another theme from our formative research on PLGDs is the importance of aligning participant characteristics, programming, and program outcomes. This means ensuring that PLGDP programming meets a participant's needs and strengths. Programming should not over-intervene or put unnecessary requirements on participants, and should address the root causes of illegal gun carrying. Programs must consider the contexts and environments of participants in order to identify and address potential needs and barriers at the individual, community, and structural levels. Research shows that many people who illegally possess guns have experienced trauma such as exposure to gun violence and often face community violence and other safety challenges.¹¹ When designing PLGDP programming, consider therapeutic modalities that can help address mental health needs of participants as well as structural challenges beyond the individual. Cultural competency within programming and among program staff is also necessary, especially if the participant population mirrors the broader racial disparity of the criminal legal system. As a program grows, the widening of eligibility criteria may require programs to reevaluate their programming and requirements. If program expansion results in an expanded participant profile, service needs should be reassessed and expanded accordingly.

Who's who

Stakeholders

A PLGDP is administered and overseen by a prosecutor's office. However, there are a number of other actors that are critical to its success. As a PLGDP develops, it is important for prosecutors and other stakeholders to be clear about who holds the primary responsibility for a program's operations, and what supporting roles others might play. Other program actors may include the judiciary, defense attorneys, and community service providers. Some programs also partner with law enforcement, who are beginning to examine the issue of racial disparity in gun-related arrests in some jurisdictions. Regardless of the program structure, it is important to foster community support and buy-in, and to educate the community about alternative ways to respond to gun carrying behavior. PLGDP prosecutors advise that stakeholders be engaged in a paced and intentional process so that feedback from multiple perspectives can be received and incorporated into PLGDP development.

Buy-in

While prosecutors have the ability to enroll a

participant into a PLGDP, it requires support from other criminal legal actors to ensure a program is sustainable and that a participant gains the maximum benefit. For example, defense attorney support for a PLGDP gives a program legitimacy and expands awareness. Buy-in from judges and other criminal legal administrators can help to facilitate a timely and smooth expungement/sealing process, the ultimate long-term benefit for program graduates. Programs must revisit their motivations for launching a PLGDP and engage the institutions or individuals that can help a program meet its intended outcome.

Participant engagement

Finally, the most important actor within a PLGDP is the participant. Through our interviews with PLGDP clients and in recent PLGDP convenings, participant voice, buy-in, and satisfaction were highlighted as integral components to program success and legitimacy.¹⁰ Ensuring that participants provide full informed consent before enrolling in a program, and have the opportunity to provide feedback during and after participating, will deepen the program's positive impact.

PLGDP Planning

Logic models

During the early stages of developing a prosecutor-led gun diversion program, investing time into creating a logic model can help to build the foundation for the program's success. A logic model is a visual representation of how a program works, linking short- and long-term outcomes with program activities. At the Smart Decarceration Project we have found that collaboratively developing a program logic model helps to bridge research and practice on a variety of interventions.¹² Creating a logic model builds consensus, develops a shared understanding among stakeholders regarding the program's goals and objectives, and provides a tool for monitoring and evaluation. It prompts program actors to make explicit their implicit assumptions about how the program should work, as well as identifying external factors that may be outside of the program stakeholders' control, but could affect the success of the program. Unpacking assumptions related to both gun possession and program components can help ensure that PLGDPs are guided by best practices and shared values, rather than individual or systemic biases, and that program elements reflect the problem they are trying to solve. Below we describe several of the key components of a logic model, as it relates to PLGDPs.¹

i For more information on logic models, please visit: <https://fyi.extension.wisc.edu/programdevelopment/logic-models/>

Problem statement

A well-articulated problem statement enables program actors to have a shared understanding of the motivation for the PLGDP. Clearly defining the problem directly impacts the activities and outcomes of the program. For example, one jurisdiction may center their problem statement around a need for more efficient case processing, while another may be more focused on strategies to prevent gun violence. Although there may be overlaps in PLGDPs, their respective and distinct goals should frame the subsequent development and implementation of each program.

In addition to articulating a problem statement and identifying relevant stakeholders, additional logic model components are the inputs (resources), outputs (activities), and outcomes for the program. Inputs are the resources required to implement the PLGDP, and these resources should be directly connected to the outputs, or activities, required to implement the PLGDP. Similarly, these outputs should be mapped onto the stated goals and outcomes in the short-term, medium-term, and long-term. Each jurisdiction can define these outcome timeframes based on their own capacities, program needs and goals. While developing these components, it is important to reflect back on the problem statement to ensure that all inputs, outputs, and outcomes are aligned.

PLGDP Planning

Resources

Identifying key resources, or “inputs,” necessary to implement a PLGDP is another fundamental aspect of program development. With many moving parts and stakeholders, PLGDPs often require a multitude of resources for initial development and implementation, as well as to scale up the program. Common resources required to implement these programs include:

- Funding
- Staff time
- Participant time
- Assessment tools (risk and needs assessments; mental health assessments)
- Program intervention and service provider
- Access to technology/wifi
- Access to office or community spaces
- Referral systems and partnerships with service providers
- Data systems and monitoring tools

Resources may vary based on each jurisdiction’s existing capacities, and it is up to program actors to identify feasible and realistic inputs to ensure the success of the program. Prosecutors’ offices may have control over some resources, such as staff and participant time, assessment tools, and data systems, but many resources may also be facilitated through strong partnerships with community-based service providers and additional stakeholder agencies.

Questions to Consider



- What existing resources can contribute to the implementation of the PLGDP?
- What resources will need to be acquired?
- How will resources be distributed?
- Will all stakeholders contribute funding streams? How much time will each stakeholder contribute to the program?
- What are the focal values and priorities for the PLGDP in choosing a program provider?
- In selecting a program provider, will the PLGDP team issue an RFP or rely on existing partnerships? Will there be one or multiple providers involved? Will the PLGDP require an MOU and data sharing agreements?

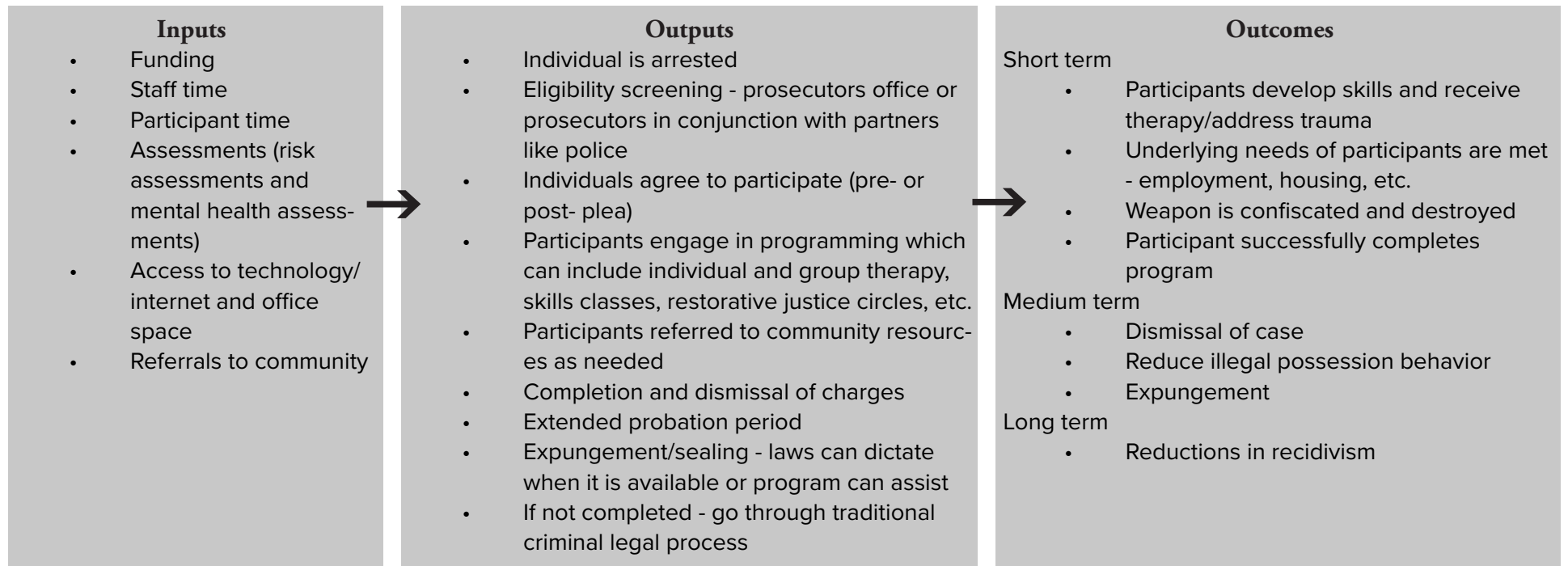
Logic model example

Below is an example logic model for a PLGDP. This is a general model, based on real-life logic models developed by the sites working with SDP. The general model below showcases some of the common themes across sites in thinking about the purpose, stakeholders, resources, activities, goals, assumptions, and external factors that impact the development of each program. This model should serve as an example for sites interested in developing their own PLGDP and using a logic model to guide the process. However, when developing a site-specific logic model, it is important that each site goes beyond the example below and creates a logic model that captures that unique aspects and nuances of their program, jurisdiction, and the ultimate goal(s) of the PLGDP.

Example of a General PLGDP Logic Model

Problem Statement: Young adults, black men in particular, are being harmed by guns in communities - overrepresentation of arrests and living in communities challenged by violence; Gun violence is a serious problem; Trauma and challenges in the community lead to gun violence; Traditional prosecution is not leading to positive outcomes - those arrested for gun possession end up with deeper and more extensive system involvement; There is a need for alternative, rehabilitative models to address underlying reasons for gun possession.

Stakeholders: Prosecutor's Office, Program Participants, Police Department, Public Defenders, Judges, Service Providers, Case Management Partner



Assumptions

- Assumptions about root cases that lead to illegal gun carrying - community needs, trauma, toxic stress, structural racism, lack of safety, lack of community resources
- CBT/other programming is effective for addressing mental health needs/trauma
- Important to focus on individuals with limited criminal history
- Length of programming
- Restorative justice and community engagement are beneficial

External Factors

Public perceptions of gun crime; local politics, laws, and political context; expungement process; protective and risk factors in individual's life.

PLGDPs in Action

Screening and eligibility criteria

Eligible charges

There are many aspects to consider within eligibility criteria and screening processes for PLGDPs, and much of these considerations will be directed by local and state legal contexts. For instance, programs must first determine which charges will be eligible for diversion, and with large variations in state-level gun possession laws throughout the country, each jurisdiction must identify charges and classifications that best align with their problem statement, goals, and targeted population. Program developers may choose to start with lower-level charges such as simple illegal gun possession, and once the program is more established, may scale-up by increasing eligibility to include more “serious” offenses. Additionally, most PLGDPs define what charges in a person’s history may disqualify them from entering the program (e.g., a prior “violent” conviction).

Screening and accepting

Once eligible charges have been identified, program stakeholders must decide the process for screening cases and accepting participants. There are many approaches to diversion – some programs utilize more holistic, ad hoc reviews, while some programs offer automatic diversion for certain charges, if the potential participant meets additional eligibility criteria. Some programs also

take an in-between approach, where prosecutors review potentially eligible cases along both hard and soft criteria, where they automatically divert cases that clearly meet the hard criteria while using discretion to divert some borderline cases due to mitigating factors. It is important to identify the stakeholders responsible for eligibility screening and processing. While prosecutors should always be involved in reviewing these cases, there are some instances where prosecutors may work with other system stakeholders to review cases in a collaborative manner.

Risk assessment tools

Some jurisdictions may choose to use risk assessment tools to assist with eligibility screenings, and there are pros and cons to this approach. The use of a standardized risk assessment offers screeners with consistent information for all potential participants, and access to standard and consistent information could help with the development of clearly articulated standards for program participation. However, risk assessment tools are well-established perpetrators of systemic racial biases and can ultimately decrease program equity, as potential participants who could receive the strongest benefits from program participation could be excluded without considering contextual and holistic factors.

Questions to Consider

- Are there local or state laws or statutes that impact individual participant eligibility for PLGDPs?
- What is the process for screening cases? Who will be involved in eligibility screenings?
- Will risk assessment tools be used? If yes, how will they be used?
- Will risk assessment tools be used to deny eligibility? Will they be used for program “dosage”?
- How will PLGDPs consider racial bias and disparities in determining eligibility?



PLGDPs in Action

Services offered

Rules and requirements

PLGDPs must strike a balance between uniform and individualized program rules and requirements. Some program administrators describe a baseline approach with flexibility to accommodate a participant's individual situation. Programs must balance accountability to the criminal legal system while also recognizing a therapeutic approach is often incongruent with traditional criminal legal models. Acknowledging this and the need for program flexibility to foster trust between practitioners and providers, some prosecutors' offices have decided to be relatively hands-off during implementation of services. (Also, if the program goal is to reduce case processing, minimizing intervention aligns with this goal).

Activities

It is important to consider what types of activities PLGDPs will engage in with participants, and how these activities align with the program problem statement. Consider how much structure will be used. Thus far, PLGDPs are highly structured and follow curriculum designed to expand participants' cognitive understanding of themselves and their behavior. Current PLGDPs offer a variety of services such as life-skills trainings, cognitive behavioral therapies or interventions, therapeutic services,

case management and service referrals, and mentorship. In some instances, PLGDPs offer direct assistance, like rent support or restitution, and use harm reduction and restorative justice strategies.¹

Structural barriers

When planning PLGDP services, it is important to consider factors beyond individual behavior change and address structural barriers in the lives of participants. This could mean including program elements that help address barriers within the community. For example, many participants face barriers accessing education, jobs, health care, food, transportation, etc., and it is critical to address both individual and environmental challenges. PLGDPs can help participants overcome barriers, particularly as it relates to achieving their individual goals (i.e., where they want to live, what job they want).

Staffing

When considering what services will be offered, also consider who will be administering these services. It is critical to have staff members who are relatable to program participants, including staff members who have formerly been incarcerated or are from the same communities as participants.¹³

¹ For more information on services provided within PLGDPs, visit: <https://cpb-us-w2.wpmucdn.com/voices.uchicago.edu/dist/2/1015/files/2017/01/SDP-PLGDP-Brief-Fall-2021-FINAL.pdf>

Questions to Consider



- What types of services do participants need? Are program activities rooted in evidence?
- How much flexibility do program staff have to individualize program elements and requirements?
- Do program activities go beyond changing individual thinking? Do they address structural barriers? What opportunities for community engagement exist within programming?
- Who is facilitating sessions? Are you partnered with community-based organizations that have a good reputation in the communities you serve?
- Can participants give feedback about their experience? How will you adjust based on that feedback?

PLGDPs in Action

[When asked what they look for in a service provider]: "A really high degree of compassion and empathy and cultural understanding... in a community setting, taking the time to say, it can't be black and white, it can't be like, the rule is you must be here by 8:00 AM, if you're not here, doors are locked, you're out. But instead like, 'Hey Joe, you're late every day what's happening? Can we figure out a way that would work better with your schedule? Should we move the meeting time to 9:00?' Flexibility, maybe that's what I'm trying to get at."

- PLGDP Interviewee, Prosecutor

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Program access

Consider where activities will occur and the barriers participants may face reaching program sites (e.g., safety and transportation challenges).

Questions to Consider

- Where do participants live and where will programming take place?
- Do participants feel safe traveling to a program site?
- Do they have transportation (bus fare, gas money, etc.)?
- Are there multiple program sites for different communities?
- Should there be a remote option?
- Do participants have access to requisite internet and technology?
- Will a meal be served or childcare be provided to increase accessibility?

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Program duration and timing

Variable lengths

There is no specific length of time that has yet been proven as optimal for PLGDPs; program length has varied among existing PLGDPs ranging from four months to a year. Different program lengths come with tradeoffs. Longer programs could mean that participants are under surveillance for a longer period of time and have a greater risk of experiencing a technical violation of supervision. Further, the requirements of the program might interfere with participants' ability to hold a job, provide childcare, and meet other obligations. A long and arduous program might dissuade people from participating or lead them to be unsuccessful. However, programs that are shorter might lack the time to connect participants with needed resources. If participants continue on probation after program completion, they could experience a "benefits cliff" that may increase the risk of violating conditions of supervision.

Frequency and timing

There are many considerations specific to frequency and timing of programs. Hosting programming on a weekday during business hours may interfere with individuals' ability to work. If program sessions are less frequent and longer, such as a full day of programming, participants might struggle to maintain focus. However, offering shorter sessions with greater frequency might create undue transportation burdens and disruption to obligations.

Some PLGDPs have based timing and duration on individual risk and needs, recognizing that over-intervening in low-risk individuals has the potential to do more harm than good.¹⁴ Some programs use a staged approach and start with higher intensity and more requirements for everyone and then move to a lower-intensity maintenance phase. However, if sessions become very sporadic, there is a risk that attendance might drop.

PLGDPs in Action

Program duration and timing continued

Ongoing experience

It's important to consider the short- and long-term experience of participants as they move through a PLGDP. Consider what happens to participants once they are no longer in the program both in terms of access to services and permanent punishment associated with a criminal record. Once the program ends, will participants lose access to essential services? Consider mechanisms to refer participants to needed services and supports after completion.

"I guess I'm not sure what somebody's accomplishing by being in the criminal justice system for that year... what are we doing for a year with this person? There isn't.... So if you want someone to be out of this cycle, you have to keep them out of cycle. The sooner you can get them out of it, the better that somebody will do in the future and in life."

- PLGDP Interviewee, Service Provider

Questions to Consider

- Does length and intensity match risk profile of participants?
- Are there phases of programming that participants move through? Or is session frequency the same throughout the duration of the program?
- Would participants continue on probation after program completion or can participants be discharged from supervision once they complete?

Legal considerations

Case processing

It is important to consider where along the legal continuum that the PLGDP will occur, and the tradeoffs associated with timing of the program. For example, consider if the program will be offered pre plea or post plea. If the program is offered before a charge is formally processed, this could reduce the obstacles that an individual may face during and after participation.

Probation terms

Many PLGDPs will need to consider how minimum terms of probation align with program length. In some programs, an individual may technically be considered to be on probation or monitoring and the duration of supervision may align with

programming or extend beyond it. If participants are required to continue on supervision after program completion, consider the additional risks and burdens associated with ongoing surveillance.

Transparency

Regardless of when the program occurs, clients should be informed of what will happen with their case should they choose to participate or not. Further, consider the legal implications when an individual is successful versus unsuccessful in the program. In the majority of PLGDPs that we have studied, successful completion results in an immediate dismissal of the gun-related charge. Individuals who do not successfully complete the PLGDP may be subject to traditional prosecution of the case.

PLGDPs in Action

Expungement and sealing

Although successfully completing a PLGDP can result in dismissal of the charge, the original arrest record and criminal charges often remain intact, and may need to be expunged. PLGDPs are constrained by state legislative contexts such as statutes that determine expungement eligibility. Consider how and when participants can clear their gun offense record. If expungement/sealing is needed, consider the length of time and effort participants must go through to achieve it, and what support is needed for participants to access expungement. Barriers and long wait times for expungement might be a disincentive to participation as individuals might perceive it as not worth the time and program intensity. Consider how your office can facilitate the process of expungement, including making these processes automatic and waiving associated fees.

“So if your case is dismissed, you're eligible to have your record sealed immediately. There's no waiting period. Whereas if you're convicted, you have to wait a year. But a dismissal, there's no mandatory waiting period...That's something we learned from our Diversion is that we would give people information and then just it's hard to come back. You get busy. And at that point, that's not your priority because your case has been dismissed. You've done everything you need to do, but it still is a barrier, right? So why not make it easier for people when they're already here? Let's get you the paperwork. Let's get it filled out, let's get it submitted with the court. If you're eligible, you don't even have to come back for the hearing. The court will just seal it and grant it. So you don't ever have to come back.”

- PLGDP Interviewee, Prosecutor

Questions to Consider

- What are state laws around expungement?
- Are records automatically expunged/sealed or do participants need to apply?
- How much time must elapse before expungement/sealing?
- Are there fees associated with expungement/sealing? Can they be waived?
- How will your program support participants throughout the process?
- Does the charge need to be formally processed before an individual can be referred to the program?
- If keeping someone on legal supervision status beyond program completion, what are clear rationales for doing so?
- Does success result in dismissal of their case or eligibility for expungement/sealing?

Defining Success

Beyond recidivism

It is important to consider how PLGDP success will be defined and measured. It is crucial to develop a set of success metrics that provide a holistic understanding of the program's outcomes, rather than focusing solely on recidivism rates. While recidivism is an important metric, alone it is not indicative of a program's total impact on participants. For instance, if a PLGDP has a low recidivism rate but has a low program completion rate, this may indicate that the program is not making a large impact on diverting cases from the criminal legal system and may require modification to improve participant experiences and completion rates.

Program completion

Consider using completion rates as an initial outcome for PLGDPs. Research shows that individuals who participate in and complete diversion programs have overall better outcomes than those who do not – program completers will likely have lower rates of recidivism as well the dismissal of their case, which minimizes continued involvement in the criminal legal system. By striving

for high completion rates, program developers can focus on creating meaningful, feasible programs that lead to positive outcomes for participants and shrink the size of the criminal legal system.

Measures of success

Within a PLDGP logic model, it is important to define a range of short-, medium-, and long-term outcomes, which can be considered measures of success. The conceptualization of “success” will vary greatly by program, as metrics of success should directly align with stated program goals. For example, if a program focuses on employment training as a strategy to reduce gun violence, then employment status should be a measured outcome. If the goal is to help participants avoid future criminal legal involvement, metrics may include program completion, recidivism, and expungement rates, participant satisfaction, and whether participant needs are being met. Consider using qualitative and quantitative data to assess these outcomes and provide participants and other stakeholders opportunities to share their feedback.

Questions to Consider

- What is the program's definition of success based on its stated goals?
- What metrics can be used to measure whether the program is “successful”?
- How will these metrics be defined? E.g., recidivism – arrest or charges? Expungement/sealing?
- Can participant feedback be elicited and used to define success metrics?
- How can qualitative data complement quantitative data?
- How will the program measure participant needs and/or experiences? (i.e., housing, treatment, food, education, benefits, transit, etc.)
- Based on your target population, what is the right balance of the intensity and range of programming that will result in high completion rates and meaningful service provision?



Evaluation

Research and evidence

Emerging evidence

Research on PLGDPs is quite limited: many PLGDPs have been in operation for less than two years and have not been established long enough to make robust outcome evaluation feasible. It is critical that this first generation of PLGDPs establish procedures for evaluation early on, so that the field can learn from emerging evidence in real time. Even in the early stages of program planning and implementation, research activities can contribute to program adaptation and success. For example, SDP has conducted qualitative interviews with a range of PLGDP stakeholders, including participants, to gain insights into the experiences within the programs and perspectives on their impact. Tools such as logic models can serve as a framework to guide program evaluation.

Feedback loops

Emerging research findings should be discussed with PLGDP stakeholders as early as possible. These real time feedback loops between researchers and stakeholders will further inform the ongoing development and expansion of PLGDP programming.

Phases of Research Partnership with PLGDPs

● Planning

Support site with program planning by discussing PLGDP trends and providing technical assistance around data management, data collection, and future evaluation needs. Connect site to other prosecutors' offices doing similar work.

● Implementation

Develop insight into program functions by interviewing stakeholders, analyzing program materials, and observing programming. Begin to analyze the program through logic models and disseminate information through publications such as implementation guides.

● Evaluation

Analyze program outcomes through participant interviews, analysis of comparison group and participant data, and presentations of data summaries to site. Engage with academic audience through publications.

Evaluation

Data management

Data collection

The planning and early stages of PLGDP implementation are optimal times to establish consistent and reliable data collection and management protocols. It is important to take realistic stock of all PLGDP stakeholders' capacity to track and analyze data to ensure sustainable and manageable processes. Using the logic model as a guide, efforts should be made to capture a range of short- to long-term outcomes, as well as various aspects of the program's services. Robust evaluation is not a matter of determining simply whether the program "works" or not, but understanding for whom the program works and through what mechanisms. While recidivism is often the primary outcome of interest, developing a nuanced approach to measuring recidivism is important. The types of charges should be considered (e.g., misdemeanor vs. felony, gun-related charges), as well as whether a person was arrested or also convicted.

Data protections

In addition to criminal legal outcomes related to subsequent criminal charges, data from PLGDP service providers can help to determine the dosage of the intervention and types of services received. It is important to consider the ethics and security implications of collecting participant data. Although information about many criminal legal cases is publicly available, PLGDP evaluations should ensure that any identifiable participant information is protected. PLGDPs should also develop plans to securely house data to limit who can access datasets with participant information. While stakeholders should plan to collect data that is crucial to the operation and evaluation of PLGDPs, any data collected should be focused and limited in scope to the goals of the PLGDP.

Questions to Consider



- What metrics will the program staff be responsible for reporting to probation/prosecutors' office and how often will they communicate?
- How will data be housed and shared securely to PLGDP partners?
- Which agency will be in charge of housing the data?
- Who will be in charge of data management at this agency? What might be the role of outside research support?
- What systems can be used to manage datasets? (Consider Excel and pre-existing case management systems)
- Do these systems allow for the data to be analyzed in a meaningful way?

Conclusion

Looking ahead

Ongoing learning

Whether and how PLGDPs evolve and expand depends on this first phase of development. As mentioned, early research findings should be utilized to inform ongoing adaptation. For example, if a PLGDP is demonstrating lower rates of successful program completion, the duration and intensity of programming should be re-evaluated. Similarly, promising initial findings from early PLGDP participants could provide a justification for expanding PLGDPs. Many early adopters of PLGDPs note that their first phase of implementation has focused on relatively lower risk participants. However, these stakeholders also recognize that PLGDPs will have a greater impact on public safety if participants who are further along a trajectory toward using a gun are provided opportunities to participate in gun violence reduction interventions.

Sustainability

As with any new intervention, sustainability is critical for the future of PLGDPs. Not every PLGDP participant will be successful; prosecutors' offices and other PLGDP stakeholders must therefore be prepared to navigate both successful and unsuccessful cases. This underscores the importance of engaging in research and evaluation activities early on, so that data on overall PLGDP participant trends can be leveraged to counteract negative perceptions of gun diversion programming. In nearly all of the PLGDPs that we have studied, services are provided by a community-based social service agency. At present, each PLGDP is working to garner resources to support meaningful services. In order for PLGDPs to have potential for broader expansion and impact, funding structures will need to be cultivated so participants have access to quality supports. And finally, as PLGDPs are only one component of an overall community violence prevention framework, it is essential for PLGDPs to

partner with broader violence prevention efforts to ensure success.

Final thoughts

While PLGDPs may deliver many benefits, they also may face challenges in implementation. For example, stakeholders at current PLGDPs express concerns about political pushback, public misinformation, and cultivating buy-in from the multitude of system stakeholders. There may also be challenges with evaluation, such as difficulties collecting qualitative data from individuals who did not complete the program. Challenges will vary based on jurisdiction but are important to navigate.

Even with these challenges, PLGDPs are an important tool within the movement toward decarceration. By serving as an off-ramp from traditional prosecution, PLGDPs can disrupt the negative impacts of the criminal legal system early in the life of an individual's case and ultimately lead to more positive outcomes for participants than historically punitive approaches. Although significant reforms of the criminal legal system often encounter pushback, misinformation campaigns, and resistance from various system actors, there is an overarching desire and political mandate from communities across the country to radically transform the criminal legal system. PLGDPs offer prosecutors an opportunity to expand their gun violence prevention strategies to directly target the root causes of community violence without ensnaring community members in the cycle of mass incarceration. Prosecutor's offices interested in enhancing equity and justice for those involved in the system should seize on this political and community will for systemic change and consider creating and expanding diversion programming focused on firearm possession and community safety.

Endnotes

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