

COMMENTARY

Addressing Bioethical Implications of Implementing Diversion Programs in Resource-Constrained Service Environments

Josephine D. Korchmaros¹ and Kevin Hall²

1. UNIVERSITY OF ARIZONA, TUCSON, ARIZONA, USA. 2. TUCSON POLICE DEPARTMENT, TUCSON, ARIZONA, USA.

Keywords: Substance Abuse, Diversion, Community Responsive, Program Implementation

Abstract: The opioid epidemic demands the development, implementation, and evaluation of innovative, research-informed practices such as diversion programs. Aritürk et al. have articulated important bioethical considerations for implementing diversion programs in resource-constrained service environments. In this commentary, we expand and advance Aritürk et al.'s discussion by discussing existing resources that can be utilized to implement diversion programs that prevent or otherwise minimize the issues of autonomy, non-maleficence, beneficence, and justice identified by Aritürk et al.

Drug overdose deaths in the U.S. continue to increase at an alarming rate.¹ This epidemic demands developing, implementing, and evaluating innovative, research-informed practices such as diversion programs.² However, when advancing biomedical practice, it is critically important to consider bioethical implications. Aritürk et al. have articulated important considerations for implementing diversion programs in resource-constrained service environments.³ Like many popular initiatives requiring intentional systemic change, the theoretical

framework outpaces the operational framework by years, if not decades.

Aritürk et al.'s identification and explanation of essential considerations related to unavailable, inappropriate, and inaccessible resources guide practitioners, policy-makers, researchers, community members, and others working to innovate and advance practice aimed at addressing substance abuse and related issues of community health and safety. We expand and advance Aritürk et al.'s discussion of these important considerations by discussing existing resources that can be utilized to implement diversion programs that prevent or otherwise minimize, as much as possible given existing resources, the issues of autonomy, non-maleficence, beneficence, and justice identified by Aritürk et al.

Implementation Frameworks

As Aritürk et al. point out, implementing feasible and potentially effective police and justice system-led diversion programs to address substance abuse while avoiding undesired negative consequences is challenging. Implementation frameworks provide useful guidance for designing effective implementation plans. There are a multitude of useful implementation frameworks and related resources. For example, RE-AIM, or Reach Effectiveness Adoption Implementations Maintenance,⁴ is a commonly used planning and evaluation framework.⁵ RE-AIM provides guidance on translating research into action for sustainable implementation of effective evidence-based interventions in community and other settings. With the continuing development of the field of implementation science, there are also several reference books that provide guidance and expertise from leaders in the field of

Josephine D. Korchmaros, Ph.D., is the Director and a Research Professor of the Southwest Institute for Research on Women at the University of Arizona in Tucson, Arizona. **Kevin Hall, M.P.A.**, is an Assistant Chief at the Tucson Police Department in Tucson, Arizona.

implementation science related to addressing public health issues, such as Brownson et al.'s⁶ *Dissemination and Implementation Research in Health: Translating Science to Practice*. Practitioners and researchers can draw on these frameworks and resources to guide their planning and continued improvement of diversion programs while addressing bioethical considerations as identified by Aritürk et al.

Diversion Program Frameworks and Support

In addition to the general guidance provided by implementation frameworks, there are resources that provide specific guidance and support for the implementation of sustainable, research-informed,

issues and the connection of these individuals with treatment providers. As such, diversion programs provide the opportunity to holistically implement EBPs into multiple systems.

To prevent or address the challenges identified by Aritürk et al., the development and implementation of diversion programs should focus on the strategic, planned implementation of EBPs. Evidence-based and validated screening tools, such as the UNCOPE¹⁵ that identifies individuals at high risk for substance misuse who would benefit from treatment interventions, are relevant for police, courts, and treatment providers. Evidence-based, validated assessments, such as the Global Appraisal of Individual Needs (GAIN),¹⁶ are

Addressing substance abuse in the community via diversion programs necessitates the collaboration of police, courts, and treatment providers. These entities need to collaborate to facilitate the identification by police and the courts of people with substance abuse issues and the connection of these individuals with treatment providers. As such, diversion programs provide the opportunity to holistically implement EBPs into multiple systems.

and effective diversion programs. Entities such as the Police, Treatment, and Community Collaborative (PTACC);⁷ the Police Assisted Addiction & Recovery Initiative (PAARI);⁸ and TASC⁹ offer leadership, advocacy, and education to support diversion programs. They also provide supportive resources such as TASC's decision-making tool to guide the development of pre-arrest diversion programs.¹⁰ Emerging research to help guide practice, in general and in such a way to address challenges as identified by Aritürk et al., includes a national survey to assess diversion programs;¹¹ research examining outcomes of Seattle's pre-arrest law enforcement assisted diversion (LEAD) program;¹² a process evaluation of the development and implementation of the Tucson Police Department's pre-arrest diversion program;¹³ and research examining its feasibility, acceptability, and outcomes.¹⁴ Use of these resources can help avoid and/or address the challenges identified by Aritürk et al.

Evidence-Based Practices (EBPs)

Addressing substance abuse in the community via diversion programs necessitates the collaboration of police, courts, and treatment providers. These entities need to collaborate to facilitate the identification by police and the courts of people with substance abuse

critical to identifying and responding appropriately to individual needs for substance misuse treatment and co-occurring needs. EBPs such as motivational interviewing¹⁷ and peer support models¹⁸ to encourage engagement in substance misuse treatment can be implemented by police, court personnel, and treatment providers. Other EBPs, particularly cognitive-behavioral therapy (CBT) and CBT-based treatment models like The Seven Challenges, are commonly used in substance abuse treatment to effectively address substance abuse and co-occurring issues.¹⁹

Memoranda of understanding (MOUs) indicating partnering entities' commitment to implementing EBPs and to agreed-upon processes of collaboration can help support ongoing diversion program implementation. MOUs between treatment providers and court-led supervised diversion programs can include negotiated limited reporting of program participant substance misuse from treatment providers to the courts to address bioethical considerations raised by Aritürk et al. as well as to facilitate self-disclosure in treatment²⁰ and, perhaps as a result, support client perception of trustworthy therapeutic relationships of all clients regardless of racial/ethnic minority status.²¹

Many professional entities and governmental funding initiatives support the implementation of EBPs and

direct resources to resource-limited settings. These professional entities include, for example, the American Society for Evidence-Based Policing (ASEBP),²² the Rx and Illicit Drug Summit,²³ and the Evidence-based Practices Resource Center of the Substance Abuse and Mental Health Services Administration (SAMHSA).²⁴ SAMHSA²⁵ and the Federal Office of Rural Health Policy under the Health Resources and Services Administration²⁶ offer several funding initiatives to support the expansion and enhancement of substance abuse treatment and related service programs in resource-limited settings. SAMHSA also provides funding initiatives to address behavioral health disparities experienced by racial and ethnic minoritized populations. In addition, Medicaid expansion states have considerably greater potential to shore up resource problems that address treatment availability and barriers to effective treatment, such as housing, co-occurring disorders, medical concerns, food insecurity, and other obstacles to successful treatment engagement.

Community Responsive Approach

Of primary importance, diversion programs should be informed by people with lived experience, as programs for people who have substance abuse disorder should be implemented with their active participation. Relevant to challenges identified by Ariturk et al., developers of diversion programs should engage in community-based participatory research²⁷ to identify substance abuse treatment and related needs of the community and to take a research-informed approach to direct culturally and population appropriate action to address health disparities related to access to affirming and effective substance abuse treatment and related services. The use of peer support models and the diversification of the police, justice system, and treatment provider workforce to reflect more accurately the demographic characteristics of the community population also ensure that diversion programs are informed by the community, not just a subset of it, as well as by people with lived experience, in a culturally respectful and relevant manner.

The importance of measurement and evaluation cannot be overstated. With multiple systems partners aligning and integrating common goals and outcomes, the risk of unintentionally causing harm or maleficence can be mitigated through thoughtful, cooperative, and consensual data capture and analysis of data through a lens of equity. Both process and impact evaluations should be developed to intentionally address historical concerns of disparity in healthcare and criminal justice institutions. Efficiency or cost-benefit evaluations can capture policymakers' atten-

tion system-wide, including legislators at the local, state, and federal levels, which can prove beneficial in propagating community-based diversion efforts with fiscal and statutory support.

Timeliness of Advancing Diversion Programs

Pre-arrest diversion represents a systemic change to deeply entrenched healthcare and criminal justice norms. As Aritürk et al. point out, ethical care for populations affected by substance abuse and mental illness cannot occur without changing these systems, a change that requires innovation, creativity, and courage. Social system infrastructure and governance are notorious for the inertia of the status quo, with few having the moral courage to push against conventional reasoning, settling for the same results that come with the same effort. Scalable efforts, with programs designed with the capacity at hand, can have an impact. Evaluation of the impact can elicit further change, with program success breeding interest and interest breeding greater capacity.

Practitioners and researchers can capitalize on the growing awareness and acceptance of diversion programs, particularly pre-arrest, unconditional models of diversion that deflect those afflicted away from the criminal justice system and into the healthcare system, to advance positive systemic change. The acceptance of pre-arrest diversion programs has reached the highest level in the US—it is codified in the White House's National Drug Control Strategy²⁸ and SAMHSA's strategic plan.²⁹ Consequently, it is easier to advance pre-arrest diversion within the current political and social context than in previous contexts, a situation that should be exploited for the benefit of community health and safety.

Too many people are dying, too many people from marginalized communities in particular, and too many are going to jail and prison for simply suffering from an untreated illness. Diversion is an investment in these communities who have historically experienced disinvestment. Diversion, particularly pre-arrest diversion without supervision, is an alternative to traditional criminal justice responses that stigmatizes mental illness and substance abuse in a meaningful and intentional way while saving lives. Care should be taken to design and implement diversion programs that, as Aritürk et al. advocate for, “promote health and reduce harms while preserving the dignity and autonomy of justice-involved individuals with behavioral health needs.”

Note

The authors received funding from the Substance Abuse and Mental Health Services Administration Center for Substance Abuse Treatment (SAMHSA-CSAT; H79TI081559) and Arnold Ventures.

References

- See <<https://nida.nih.gov/research-topics/trends-statistics/overdose-death-rates>> (last visited February 1, 2024).
- M. Pelan, "Re-visioning Drug Use: A Shift Away from Criminal Justice and Abstinence-based Approaches," *Social Work and Society* 13, no. 2 (2015): 1-18; TASC, Center for Health & Justice, "Excerpt Pre-arrest Diversion/deflection Frameworks: A Decision Making Tool for Police Leaders," (2017), available at <https://www.centerforhealthandjustice.org/tascblog/Images/documents/Publications/DeflectionFramework-excerpt_Final.pdf> (Last visited March 1, 2024).
- D. Aritürk, M. M. Easter, J. W. Swanson, and M. S. Swartz, "Diversion to Treatment when Treatment is Scarce: Bioethical Implications of the U.S. Resource Gap for Criminal Diversion Programs," *Journal of Law, Medicine & Ethics* 52, no. 1 (2024): 65-75.
- See <<https://re-aim.org/>> (last visited February 1, 2024).
- R.E. Glasgow, S.M. Harden, B. Gaglio, B. Rabin, M.L. Smith, G.C. Porter, M.G. Ory, and P.A. Estabrooks, "RE-AIM Planning and Evaluation Framework: Adapting to New Science and Practice with a 20-year Review," *Frontiers in Public Health* 7 (2019): 1-9.
- R.C. Brownson, G.A. Colditz, and E.K. Proctor, eds., *Dissemination and Implementation Research in Health: Translating Science to Practice* (New York: Oxford University Press, 2023).
- See <<https://ptaccollaborative.org/>> (last visited February 1, 2024).
- See <<https://paariusia.org/>> (last visited February 1, 2024).
- See <www.tasc.org> (last visited February 1, 2024).
- TASC, Center for Health & Justice, *Excerpt Pre-arrest Diversion/Deflection Frameworks: A Decision Making Tool for Police Leaders* (2017), available at <https://www.centerforhealthandjustice.org/tascblog/Images/documents/Publications/DeflectionFramework-excerpt_Final.pdf> (Last visited March 1, 2024).
- NORC, Center for Health & Justice at TASC, and Bureau of Justice Assistance's Comprehensive Opioid, Stimulant, and Substance Abuse Program, *Report of the National Survey to Address First Responder Deflection Programs in Response to the Opioid Crisis: Final report* (2021) available at <https://www.cossup.org/Content/Documents/Articles/CHJ-TASC_Nation_Survey_Report.pdf> (Last visited March 1, 2024).
- S.E. Collins, H.S. Lonczak, and S.L. Clifasefi, "Law Enforcement Assisted Diversion (LEAD): Program Effects on Recidivism Outcomes," *Evaluation and Program Planning* 64 (2017): 49-56.; S.E. Collins, H.S. Lonczak, and S.L. Clifasefi, "Seattle's Law Enforcement Assisted Diversion (LEAD): Program Effects on Criminal Justice and Legal System Utilization and Costs," *Journal of Experimental Criminology* 15 (2019): 201-211.; S.L. Clifasefi, H.S. Lonczak, and S.E. Collins, "Seattle's Police Assisted Diversion (LEAD) Program: Within-subjects Changes on Housing, Employment, and Income/benefits Outcomes and Associations with Recidivism," *Crime & Delinquency* 63 (2017): 1-17.
- K. Hall, "Pre-arrest Deflection Programs: A Lesson in Leadership, Reform, and Compassion," *Police Chief* 88 no. 12 (2021): 28-33.
- J.D. Korchmaros, K.G. Bentele, B. Granillo, and K. McCollister, "Costs, Cost Savings, and Effectiveness of a Police-led Pre-arrest Deflection Program," (December 2022), available at <https://sirow.arizona.edu/sites/sirow.arizona.edu/files/DefProg_Outcomes_Report_2022_final.pdf> (Last visited March 1, 2024); J.D. Korchmaros and K. Hall, "Feasibility and Acceptability of a Police Pre-arrest Deflection Program," (December 2022), available at <https://sirow.arizona.edu/sites/sirow.arizona.edu/files/DefProg_FeasAccept_Report_2022_final.pdf> (Last visited March 1, 2024).
- N.G. Hoffman, D.E. Hunt, W.M. Rhodes, and K.J. Riley, "UNCOPE: A Screen for Use with Arrestees," *Journal of Drug Issues* 33 (2003): 29-44.
- M.L. Dennis, M. White, J.C. Titus, and J. Unsicker, *Global Appraisal of Individual Needs: Administration Guide for the GAIN and Related Measures*, Version 5 (Bloomington, IL: Chestnut Health Systems, 2008), available at <<https://chestnut.app.box.com/v/GAIN-I-Materials/file/63671257181>> (Last visited March 1, 2024).
- W.R. Miller and S. Rollnick, *Motivational Interviewing: Preparing People to Change Addictive Behavior* (New York: Guilford Press, 1991).
- Center for Peer Support & Mental Health America, *Peer Support in Behavioral Health: The Evidence is In!* (n.d.), available at <<https://www.mhanational.org/sites/default/files/Evidence%20for%20Peer%20Support.pdf>> (Last visited March 1, 2024).
- A.M. Epp and K.S. Dobson, *The Evidence Base for Cognitive Behavioral Therapy* (New York: Guilford Press, 2010); J.D. Korchmaros, "The Seven Challenges Comprehensive Counseling Program: Effectiveness for Adults with Substance Use Problems," *Journal of Drug Issues* 48 (2018): 590-607.; J.D. Korchmaros, S. Murphy, and A. Greene, "Effectiveness of The Seven Challenges for Adults: It's Not Just Because of Self-Disclosure," *Journal of Social Work Practice in the Addictions* 24 (2024), doi: 10.1080/1533256X.2023.2301706.; M. Magill, B.D. Kiluk, and L.A. Ray, "Efficacy of Cognitive Behavioral Therapy for Alcohol and Other Drug Use Disorders: Is a One-size-fits-all Approach Appropriate?" *Substance Abuse and Rehabilitation* 14 (2023): 1-11.
- See <<https://www.samhsa.gov/grants>> (last visited February 1, 2024).
- J.R. Gallagher and A. Nordberg, "Comparing and Contrasting White and African American Participants' Lived Experiences in Drug Court," *Journal of Ethnicity in Criminal Justice* 14 (2016): 100-119.
- See <<https://www.americansebp.org/>> (last visited February 1, 2024).
- See <<https://www.hmpglobalevents.com/rx-summit>> (last visited February 1, 2024).
- See <<https://www.samhsa.gov/resource-search/ebp>> (last visited February 1, 2024).
- See <<https://www.samhsa.gov/grants>> (last visited February 1, 2024).
- See <<https://www.hrsa.gov/rural-health>> (last visited February 1, 2024).
- B.A. Israel, A.J. Schulz, E.A. Parker, and A.B. Becker, "Review of Community-Based Research: Assessing Partnership Approaches to Improve Public Health," *Annual Review of Public Health* 19 (1998): 173-202.; B.A. Israel, C.M. Coombe, and R.R. Cheezum, "Community-Based Participatory Research: A Capacity-building Approach for Policy Advocacy Aimed at Eliminating Health Disparities," *American Journal of Public Health* 100 (2010): 2094-2102.; M. Minkler, V.B. Vásquez, M. Tajik, and D. Petersen, "Promoting Environmental Justice through Community-based Participatory Research: The Role of Community and Partnership Capacity," *Health Education & Behavior* 35 (2008): 119-137.
- The White House, Executive Office of the President, Office of National Drug Control Policy, *National Drug Control Strategy* (2022), available at <<https://www.whitehouse.gov/wp-content/uploads/2022/04/National-Drug-Control-2022Strategy.pdf>> (Last visited March 1, 2024).
- Substance Abuse and Mental Health Services Administration, *Strategic Plan: Fiscal Year 2023-2026*, Publication No. PEP23-06-00-002 MD (2023), available at <<https://www.samhsa.gov/sites/default/files/samhsa-strategic-plan.pdf>> (Last visited March 1, 2024).