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Diversion as a Strategy for Working with Minors in an Open Environment

Abstract: The aim of this article is to present diversion as a pre-trial strategy for dealing with minors who commit minor offenses, based on the actions taken by police officers and other social services and institutions in an open environment. The specific role of this strategy in destigmatizing young people, as an alternative to typical court proceedings, was highlighted. Based on an analysis of the literature on the subject, the strategy in question was characterized in historical terms, drawing primarily on experiences from Anglo-Saxon countries. The text also discusses ways of defining diversion, pointing out its original specificity, which is working with people at risk of maladjustment, crime, and recidivism, as well as the broader context, which is part of social prevention implemented as a preventive strategy towards individuals and groups with an increased risk index. When analyzing the theoretical basis of the strategy in question, attention was drawn to the key role of labeling theory, while also taking into account other perspectives (social learning theories, goal-setting theory). Particular attention was paid to the implementation of diversion, indicating in particular ways of implementing extrajudicial measures based on restorative justice mechanisms, psychoeducational and therapeutic programs, and ways of monitoring young people at risk of maladjustment in order to minimize the risk of recidivism. The specific nature of working with minors with psychoactive substance addiction was also taken into account. In addition, the results of research indicating the strengths and weaknesses of the strategy in question are presented, which not only provides an opportunity to objectively familiarize oneself with diversion, but also provides a basis for its optimal implementation.

Keywords: diversion, juveniles, labeling, police cautioning, restorative justice.

Introduction

In recent decades, approaches advocating the minimization of justice system intervention have had a particular influence on thinking about responses to lawbreaking, extending beyond the walls of traditional resocialization institutions (Siegel, 2012, p. 256). According to this perspective, the greater the extent of state interference in citizens' lives, the more it shapes the antisocial behavior patterns they adopt. The stigma of being an outsider places such individuals – especially minors – at a disadvantage within family, peer, school, and labor market environments, undermines their social capital, and threatens their future achievements (Bushway, 1999). Advocates of this approach call for limiting state intervention in the lives of young people in conflict with the law and recommend strategies and solutions based on deinstitutionalization and destigmatization (Lemert, 1951). This is particularly relevant in cases of low social harm, where formal court proceedings can be replaced by informal methods of intervention. At the same time, scholars warn that criminalizing acts not previously subject to legal sanctions merely generates new categories of deviant stigma (Hemmens, Bennett, 1999). The essence of this process in the case of minors was aptly illustrated by Robert G. Schwartz (2001), who noted that “just as in basketball, where not every contact with an opponent is a foul, not every act provoking a police response is a punishable offense. Adolescence is a time of experimenting in areas of risk that could lead to the detention of almost anyone, were the law applied with full rigor” (Schwartz, 2001, p. 238).

Against this background, responses to juvenile offending increasingly involve practices designed to reduce stigmatization and enable the use of alternative forms of positive influence on offenders. These, in turn, help to strengthen reintegration and social cohesion, and are particularly embodied in the strategy of diversion (Dünkel, 2015). This concept has not yet been given a Polish equivalent and has received relatively little attention in the Polish academic literature (Muskala, 2012), where it is usually interpreted as “redirecting the case, refraining from referring a juvenile matter to the court, and – subject to the consent of the minor or their parents – allowing the relevant authority, police, or prosecutor to decide on alternative proceedings” (Muskala, 2012, p. 117). The aim of this article is to examine the diversion strategy by outlining its historical roots, theoretical foundations (particularly the process of social labeling), and preventive and resocialization methods. This makes it possible to address the following research problem: What is the specificity of interventions with minors under diversion, in terms of its theoretical assumptions, objectives, implementation, and effects in reducing problems arising from manifestations of demoralization and punishable acts? The study assumes that manifestations of demoralization and punishable acts

constitute deviant behaviors, with deviance defined as the meaning attributed to such behaviors through interactions between the individual and the social group (Krajewski, 1983, pp. 227–228). The consequence of this process is stigmatization, exposing the individual to further exclusion and marginalization, whereas the diversion strategy mitigates this socially harmful mechanism. The analyses presented here are based on literature reviews, completed research projects (Sawicki, 2018, 2019; Sawicki, Markowska-Manista, 2022), and the author’s long-term professional experience with residents of resocialization institutions. The findings provide a basis for reflection on the scope and feasibility of applying diversion in Poland.

Diversion in Historical Perspective

The origins of diversion can be traced back to the nineteenth century, when juveniles were punished in much the same way as adults, though kept separate from older offenders. Over time, this approach came under criticism. Reformers began to argue for resocialization through moral re-education, which was intended both to deter and to prevent recidivism. Severe criminal sanctions against juveniles were gradually reduced, as they were recognized as harmful to both young people and society. With the emergence of juvenile courts in the nineteenth century, resocialization measures began to be introduced in place of traditional imprisonment. These included special programs delivered in community settings and placements in youth institutions – the early prototypes of modern correctional facilities (Griffin, 2010).

Diversion as a formalized strategy for working with minors appeared in Anglo-Saxon systems in the 1960s. The repressive model was criticized for its limited effectiveness and the rising number of juveniles referred to costly institutions (Cocozza et al., 2005). In response, alternative interventions were developed, such as community service under probation supervision and resocialization programs designed to build social skills and self-esteem (O’Brien, Yar, 2008, p. 112).

Over time, diversion procedures and related resocialization measures underwent significant modification. These changes influenced not only legal practice but also the perception of juveniles as a threat to public order. This, in turn, led to an expansion of the juvenile justice system – both through the definition of new forms of deviance and through the increased number of cases handled by juvenile institutions in community settings. Stan Cohen, in his work “The Punitive City” (Cohen, 1979), criticized this trend. He argued that diversion had lost its original purpose. Instead of promoting alternative methods of rehabilitation in an open environment (which were supposed to contribute to minimizing the undue influence of judicial institutions on the fate of juveniles), it has become a strategy for creating an even more elaborate system of social control,

often restricting civil liberties. Drawing on M. Foucault (2020), Cohen observed that diversion had become another tool of surveillance, serving the justice system by capturing ever more people in its “widening nets” (Cohen, 1979). In this way, diversion ceased to replace justice interventions and instead supplemented and expanded them, allowing decision-makers to impose penalties in cases that had previously carried no sanctions. Those subject to such measures, he noted, were marked by the system as criminals and deviants. Moreover, behaviors that could be criminalized were redefined, while the scope and intensity of diversion interventions increased, with a shift towards more individualized and long-term community-based programs (Cohen, 1979, pp. 346–347).

In the 1990s, juvenile sanctions were again tightened, sparking criticism. Analyzing these changes, John Pitts (1990) pointed out that isolating children and young people proved to be a costly failure, as research showed that resocialization institutions increased recidivism, fostered violence among previously non-aggressive individuals, contributed to unemployment, and weakened family bonds – ultimately raising the risk of reoffending (Pitts, 1990, p. 8). In response, juvenile justice policies were reformed, with academics, practitioners, and policymakers focusing on three central concepts: diversion, decriminalization, and decarceration. In the context of the strategy in question, it was assumed that minor offenses are typical of adolescence and that most young people desist from such behaviors with age. As such, institutional interventions by the justice system should be minimized in these cases (Rutherford, 2002, p. 42). Today, diversion in such a form is implemented not only in the United States, England, and Wales, but also in Ireland and many other European Union countries (United Nations Office on Drugs and Crime, 2018).

Theoretical Foundations of Diversion

Scholars identify several theoretical assumptions that underpin the understanding and implementation of diversion. The role of symbolic interactionism is particularly emphasized (Oyserman et al., 2012). According to this perspective, violations of social norms should be viewed not only in terms of individual behavior but also through society’s reaction to such behavior.

Edwin Lemert (1951) emphasized that sanction-based responses to juveniles often produce unintended consequences. He introduced the concepts of primary and secondary deviance. Primary deviance refers to minor infractions typically committed by individuals who are not inherently criminal. Secondary deviance, however, arises from negative social reactions – labeling and criminalization – that legitimize a criminal identity. In sum, Lemert argued that mechanisms of social control, whether intentionally or not, generate criminal status. Building on these assumptions, John Kitsuse (1962), Howard Becker (1966) and Kai Erikson (1966)

argued that deviance is best understood not by examining deviant acts themselves but by analyzing the mechanisms of social control. Interventionist measures, they noted, often backfire, deepening the very problems they are intended to resolve for young people.

Daniel Glaser (1975) identified two processes central to social mechanisms of stigmatization. The first relates to institutional responses to deviant behavior. As he observed, the “typical offenders” handled by the justice system are those for whom earlier interventions by the police, courts, or correctional services failed – cases that received the most sustained and intense attention. These are often individuals for whom a warning was the system’s only response, lacking any support, monitoring, or counseling – what Glaser called “the last action at all, or the only one for a long time”) (Glaser, 1975, p. 83). The second process, which he described as the criminalizing effect of labeling, stems from stereotypes, which are the main mechanism used to give an adolescent a juvenile stigma. People hold preconceived notions of what a lawbreaker is, and once someone is known to have broken the law, they are assumed to embody all of those traits, disregarding individual characteristics. As Glaser put it, “there are no time limits on these labels; if someone steals, there are no rules about when to stop calling them a thief; the same applies to all other lawbreakers”(Glaser, 1975, pp. 83–64).

Polish research offers further insight. Anita Gulczyńska (2013) highlighted the role of neighborhood context and schools in labeling children and youth, describing how “centripetal” labeling arises from interactions with social services in the community. Interventions triggered by minor behaviors – such as “hanging around in a doorway” – lead to stigmatization in schools, probation reports, and police actions, reinforcing negative labels. Similarly, Renata Szczepanik (2015) described how labeling a student as “demoralized” often resulted in exclusion from school and placement in a resocialization institution, which in many cases marked the beginning of a criminal trajectory. Agnieszka Jaros (2022) studying former residents of resocialization facilities, likewise showed how institutional responses shaped their later life paths. School failure or rule violations were often met with disproportionate sanctions, culminating in juvenile court involvement. Labeling theories thus underscore the role of social interpretation and evaluation in defining deviance. They caution against reducing the wide spectrum of deviant behaviors to a single category and provide a critical foundation for examining the negative consequences of social control on individuals.

Social learning theories provide another basis for diversion (Dodge et al., 2006). They suggest that juvenile involvement in court proceedings may foster antisocial attitudes. Young people encountering the justice system for the first time – particularly for minor offenses – may adopt antisocial behaviors from more deviant peers or reinforce their acceptance of such behaviors (Dodge et al., 2006). Institutional resocialization, therefore, can have outcomes contrary to the goals of the justice system (Cécile, Born, 2009).

This perspective informs the design of preventive and resocialization interventions. Nikolas Rose (2000) argued that in advanced liberal societies, social control increasingly targets individual subjectivity through psychological interventions, or what he called “ethical reconstruction”. The lawbreaker, he suggested, “is a responsible subject of a moral community, guided – or misled – by ethical self-regulatory mechanisms” (Rose, 2000, p. 321). Within this framework, exclusion becomes a subjective state rather than a “psychological condition shaped by social determinants, as in welfare systems” (Rose, 2000, p. 335). This rationality then requires specific technologies to solve the problem of the (potential) criminal. This “ethical reformulation opens the way for the use of a wide range of psychological techniques in programs managing ‘excluded’ individuals” (Rose, 2000, p. 334).

At the methodological level, goal-setting theory has particular relevance for diversion (Locke, Latham, 2002). It views goals as targets that guide actions of an individual. Four mechanisms explain how goals shape behavior: they direct attention and effort toward priorities while minimizing distractions; they motivate greater effort than secondary goals; they build persistence in planned activities while fostering faster work habits; and they facilitate learning of additional strategies and information relevant to task performance. As a result, individuals are able to develop knowledge directly and indirectly related to resocialization measures. In this way, goals encourage juveniles to engage in positive actions based on their strengths and skills, making goal-setting a vital element of diversion (Belciug et al., 2016). Research emphasizes the importance of ensuring that young people view these goals as personally meaningful rather than externally imposed (De Jong, Berg, 2008). When adolescents share responsibility for them, the goals become “personally significant and useful to the client” (Greene, Lee, 2011, p. 81).

Models and Examples of Implementation

The application of diversion is conceptualized in various ways in the literature. Clemens Bartollas and Frank Schmalleger (2018) advocate a broad interpretation that encompasses not only work with juveniles exhibiting signs of demoralization or committing offenses but also preventive and educational programs delivered in high-risk environments. John Muncie (2014, p. 266), by contrast, identifies four perspectives on diversion, each tied to specific intervention goals. The first focuses on mobilizing social resources to provide assistance in problematic situations through networks of community-based prevention and resocialization programs. The second emphasizes adherence to legal rules, balancing law enforcement with the need to shield juveniles from the harmful consequences of court proceedings. The third reflects a risk-management orientation, involving early identification of

at-risk children and adolescents and engaging them in preventive and educational initiatives. The fourth perspective, highlighted by J. Muncie, indirectly aligned with diversion, centers on identifying and sanctioning offenders. This approach not only seeks to prevent demoralization and delinquent acts but also serves a deterrent function, discouraging children and youth from similar behaviors.

Two main approaches to implementing diversion can be distinguished (Lemert, 1981). The first involves primarily informal police actions directed at offenders, such as reprimands, warnings, cautions, advice, or counseling. These measures ensure that the juvenile avoids court proceedings. They also enable police officers to use community resources creatively to reduce the likelihood of reoffending. In practice, this approach provides an efficient way of responding to signs of demoralization and minor offenses while still holding offenders accountable through mechanisms such as warnings, restitution, or community service. Importantly, this model fosters preventive and resocialization efforts by involving offenders' families, victims, and community members in creating and developing mutual responsibility among those involved in the procedures applied (United Nations Office on Drugs and Crime, 2018, p. 77). The second approach is more formalized. Here, cases are reviewed by institutions – typically courts or youth justice offices – and proceedings are suspended while the offender agrees to undertake specific obligations (such as community service) or to participate in designated programs (therapeutic or educational). Both approaches share the aim of minimizing juveniles' involvement in court processes. Such interventions may include therapeutic measures for substance-abusing youth, providing opportunities to repair harm, develop social skills, continue education, or acquire vocational skills. Courts may suspend proceedings, defer cases, or suspend sentences to facilitate the implementation of agreed-upon measures. Conditional diversion is also possible: if the offender fulfills program requirements, formal proceedings are terminated. In turn, a breach of the conditions results in the court proceedings being reopened (United Nations Office on Drugs and Crime, 2018, p. 77).

Muncie, in turn, distinguishes three specific models of diversion practice (Muncie, 2014, pp. 145–147). The first – and most common – is cautioning, where police officers choose not to initiate formal proceedings against juveniles committing an offense for the first time (or subsequent minor infractions). Muskała (2012, pp. 101–102), in analyzing the use of pre-court diversion procedures for juveniles in England and Wales, highlights two additional terms: reprimand and warning. A reprimand involves a police officer, in the presence of the juvenile's parents, formally admonishing the young person at a police station. It is used when a juvenile commits a law violation for the first time. A warning, administered in a similar manner, is applied when the juvenile commits an offense for the second time (after receiving a reprimand for the first) or in certain cases as an initial response. In such instances, the juvenile is also referred to a diagnostic center for assessment and the development of an individualized intervention plan.

In some countries, warnings may be issued by interdisciplinary juvenile liaison panels, composed of police officers, social workers, and teachers. These advisory bodies determine whether a case should proceed to court or be resolved extrajudicially. If the latter is chosen, they may issue a reprimand or recommend restorative justice measures. One example is the Dutch HALT program, introduced in 1995, for juveniles aged 12–18 who commit offenses such as vandalism or petty shoplifting. HALT interventions may include restitution, apologies to the victim, or community service, and they provide grounds for discontinuing court proceedings (Dünkel, 2015).

Another form of diversion is intensive intermediate treatment, considered a non-stigmatizing alternative to placement in correctional facilities. These programs address both the emotional and social contexts of youth while raising awareness of the consequences of offending. They highlight victims' perspectives, often through restorative justice mechanisms such as community peace conferences – a collaborative model involving police and local communities. Juveniles who commit a non-violent offense for the first time are referred to such groups. Through joint meetings with victims, offenders, and their families, juveniles are encouraged to repair harm, demonstrate accountability, and thereby avoid formal court proceedings (Griffin, 2010). Intermediate programs also include intensive psychoeducational activities tailored to the juvenile's problems. These may involve anger management training, substance abuse education, or the promotion of constructive leisure activities.

Family-based interventions are another important component of diversion. Functional family therapy and multisystemic therapy are two models characterized by a significant impact on changing their behavior. Functional therapy focuses on improving family relationships and interaction styles, helping parents develop strategies for managing misbehavior. Multisystemic therapy expands this scope to include peer relationships and external environments such as schools (Rocque, 2017, p. 207).

Muncie also emphasizes multi-agency collaboration as a cornerstone of diversion. This systemic model involves cooperation among social services, probation officers, police, schools, local authorities, and NGOs. For example, in New York, a risk assessment tool is used to predict a juvenile's likelihood of failing to appear in court, with a three-level scale (low, medium, high) (Fratello et al., 2011). At the same time, appropriate alternative procedures based on local community resources were developed for each category, enabling the monitoring of minors and their participation in resocialization programs.

Within this framework, police officers play a particularly central role in diversion. Their effectiveness is reflected not only in law enforcement but also in community trust and cooperation (Hinds, 2009). These relationships are shaped by both formal and informal interactions and by officers' reputation (Antrobus et al., 2015; Tyler, 2003), all of which affect rates of lawbreaking and victimization. Police actions are also influenced by both instrumental and normative factors

(Hinds, 2009). Instrumental factors refer to effectiveness in detecting and preventing violations, while normative factors relate to community perceptions of police legitimacy, transparency, and fairness. Diversion, therefore, equips police with the ability to implement individualized interventions that reduce recidivism, while efficiently addressing minor infractions through warnings, restitution, or community service. At the same time, it fosters preventive and resocialization approaches by involving families, victims, and community members in reinforcing juveniles' accountability for their actions.

Possibilities and Limitations of Diversion in Poland

Experience with diversion invites reflection on its potential adoption within the Polish juvenile resocialization system. The legal basis for such considerations can be found in the Act on Supporting and Resocializing Juveniles (2022). The preamble highlights the Act's role in strengthening juveniles' responsibility for their actions, its preventive function in counteracting demoralization and delinquency, and its aim of creating conditions for reintegration of young people in conflict with the law or social norms. These principles are to be implemented in line with the best interests of the child, and interventions should focus not only on changing the juvenile's behavior but also on improving the functioning of their immediate family, namely parents or guardians (Article 3.1). These provisions align closely with the philosophy of diversion, both in terms of intervention goals and in emphasizing community context.

From the perspective of diversion, however, the identification of signs of demoralization in juveniles is critical. Article 4.1 explicitly defines these as: committing a prohibited act, violating social norms, truancy or evasion of compulsory education, using alcohol, drugs, psychotropic substances, precursors, substitutes or new psychoactive substances, and engaging in prostitution.

At the same time, the Act increases the risk of labeling juveniles by requiring, in Article 4.2, that family courts or police be notified whenever such signs are detected. This limits the use of diversion in two ways. First, it prioritizes court involvement, effectively narrowing the scope for out-of-court interventions. Second, it overlooks the potential contributions of other local services and institutions capable of addressing these problems effectively. Although Article 4.4 assigns schools a special role in responding to signs of demoralization or offenses occurring on school grounds – without immediately notifying the court – the provision is vague and limited to school settings. The Act contains few references to preventive or intervention measures outside of schools that bypass the mandatory reporting obligations of Article 4.2.

This Act also outlines measures consistent with diversion. Article 5.5, for example, allows for admonitions, warnings, or restitution. Article 7 lists, among

educational measures (detailed later in the analyzed legal act), reprimands and obligations to undertake specific conduct, specifying the types of activities required. Provisions for restorative justice measures also appear (e.g., Article 10.1), but these are framed in general terms. Importantly, because their application depends on a court decision, they contradict the very idea of diversion, which seeks to avoid formal judicial intervention.

The Act does little to enable the use of resources available to local institutions and non-governmental organizations working with minors. While Article 18.1 refers to youth sociotherapy centers, their limited availability and residential nature make them unsuitable as broadly accessible community-based solutions. Another option – outlined in Section 7 – allows referral to organizations or institutions, but this requires the appointment of a representative to report to the court, creating additional procedural burdens.

Substance use represents a particularly significant manifestation of juvenile demoralization. Interventions in this area are addressed in Chapter 5 of the Act, which focuses on institutional treatment while neglecting community-based therapeutic options. Here too, as in Section 7, the court is the decision-making authority, a solution at odds with the diversion philosophy.

Conclusions

As James V. Ray and Kristina Childs observe (2015), diversion is a highly heterogeneous strategy for working with juveniles – an attribute that can be viewed both positively and negatively. On the positive side, diversion's flexibility allows for the creation of individualized intervention programs tailored to the specific needs of juveniles while also addressing the interests of local communities. On the negative side, this same flexibility and individualized implementation limit the ability to frame diversion within a unified research model, resulting in inconsistent findings on its effectiveness. To sum up, it is worth analyzing the identified doubts and good practices in its application.

Critics raise several concerns. They argue that labeling – the very phenomenon diversion is designed to minimize – is not eliminated but merely modified. For instance, participation in addiction treatment programs may label participants as “ill” or “addicted”. They also point to diversion's limited scope, which typically excludes repeat offenders and violent individuals (Wilson, Hoge, 2013) (though these groups were never its intended focus). Another concern is that some juveniles may interpret diversion as leniency on the part of courts and social services, encouraging further offending (Schwalbe et al., 2012).

Moreover, recidivism rates among diversion participants often mirror those of juveniles processed through formal court procedures. Lipsey's studies, for example, found that diversion was no more effective than standard probation

(Lipsey, 2009), while Schwalbe and colleagues (2012) reported no significant differences between warnings or reprimands and formal judicial processing. These challenges stem largely from diversion's inherent heterogeneity and individualized implementation, which constrain the reliability of evaluation research.

Nevertheless, the literature highlights numerous advantages, even acknowledged by critics. At the societal level, diversion promotes conflict resolution, enhances community involvement in justice processes, draws attention to local problems, and provides restitution to victims (United Nations Office on Drugs and Crime, 2018, p. 77). It also reduces the costs of the juvenile justice system, as community-based interventions are significantly less expensive than detention (Osgood, 1983). Importantly, diversion practices help lower rates of suicide attempts among juveniles, often triggered by the stress of institutional confinement (Hayes, 2009).

As indicated above, the task of reducing excessive social control is based on a criminal law perspective, which aims to ensure respect for civil rights and freedoms. Proponents of this approach believe that the justice system should not impose sanctions on individuals that go beyond what is necessary to ensure public safety. Applying custodial measures to juveniles for minor offenses is disproportionate to the actual threat they pose, whereas diversion provides a means of minimizing such excesses.

Labeling theory further underscores diversion's value in reducing perceptions of young people as threats to public order. It addresses this problem through networks of therapeutic and educational services, which have a positive impact on juveniles' educational attainment and psychosocial development compared with those processed through the courts (Schwalbe et al., 2012).

Studies further show that diversion positively influences vocational training outcomes and increases employment opportunities (Hodges et al., 2011). Lipsey's (2009) findings are particularly noteworthy according to which diversion programs centered on warnings but supplemented with psychoeducational elements – such as skills training, cognitive-behavioral therapy, and educational support – significantly reduce recidivism. In turn, Schwalbe and colleagues (2012) similarly noted that incorporating family therapy strengthens diversion's effectiveness, while Wilson and Hoge (2013) demonstrated that community-based programs used prior to formal judicial proceedings are highly effective. For higher-risk juveniles, individualized interventions incorporating cognitive-behavioral therapy yielded the best outcomes. In sum, diversion is a multifaceted strategy for working with juveniles in community settings. By minimizing the negative effects of social labeling, reducing reliance on custodial measures, and fostering positive adaptation of at-risk youth, diversion can serve as a key element of the resocialization system. More broadly, it contributes to efficient, out-of-court problem resolution and to strengthening social cohesion.

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