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Police Perspectives On Police-Assisted Diversion
Programs For People Who Use Drugs

A Thesis in

Criminal Justice

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Abstract

Statement of the Issue: Police departments in Pennsylvania have struggled to manage persistent overdose rates and drug problems and an increase in interactions among police and people who use drugs (PWUD) (Wang & Quandt, 2021). Officers have limited tools, training or experience in effectively managing incidents with PWUD and linking individuals with needed care. New initiatives such as police diversion pose a particularly “progressive” police-initiated/assisted response to PWUD that also takes into account broader harms related to drug use – namely harms produced through police interactions and criminal justice involvement. While police decision-making has been studied in terms of the formal decision to arrest, it has yet to be explored fully in terms of non-formal decision-making (as posed by diversion decision-making).

Research Methods: This study sampled 23 officers among 10 agencies within 6 counties in South-Eastern/South-Central Pennsylvania. Data were collected using a semi-structured interview that looked to assess the process of diversion decision-making, officer self-efficacy in managing drug problems, police orientations towards diversion practices and finally, impact of diversion on officer decision-making. Interviews were coded with principles of reflexive thematic analysis (RTA) (Braun & Clarke, 2012). N-Vivo qualitative software was utilized to conduct the coding phase of data analysis. Initial themes were developed according to researcher orientation and refined through the process of inter-rater reliability.

Results: Findings are reported according to the research questions driving inquiry and the researcher’s perspectives and orientation. Respondents indicated a broad variety of

diversion practices – officers trying to manage diversion programs often did so under restrictive diversion practices with limited means of overcoming barrier to diversion. Officers for the most part, felt a sense of futility in managing drug problems with existing drug enforcement strategies that were admitted by respondents to be ineffective at dealing with the problems of drug crime and addiction. Overall, many officers felt that PWUD may need an element of coercion to be ‘compelled’ to seek treatment. Officers had emphasized the individual choice on the part of participants to engage in in diversion, often expressing strong skepticism as diversion implies little to no formal criminal justice action and is often accompanied by unclear administrative directives.

Conclusion: This study provides insight to police agencies on the implications of police culture, socialization, and the local influences on individual officers’ discretion (Murphy & Russell, 2020). Understanding decision-making allows agencies to develop diversion initiatives that can have a positive impact on police operations, officers and ultimately the community.

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Chapter 1: Introduction

Discretion is an essential facet of police work and is the source of significant controversy and debate (Wall and Linnemann, 2021). Drug war era policy is adequately conceptualized in “broken windows” policing (see Wilson and Kelling, 1982) as a means of fabricating a social order that encourages an aggressive police response to low-level offending and drug use (Beckett, 2016; Linnemann and Wall, 2020). Broken windows policing held that neighborhood disorganization invited criminal activity and weakened the community’s ability to prevent crime. Criminal justice administrations took this as justification for police, non-permanent actors within communities, to execute crackdowns enforcing increasingly harsh criminal sanctions. The effect the drug war had on local police agencies was pronounced, introducing carte blanche powers to interject in the lives of any subject or population deemed by police authority to be a threat to public order. Practices such as stop and frisk, drug courier profiles¹, use of confidential informants, investigatory traffic stops, and use of canine units for drug detection and suspect apprehension are some examples of the aggressive tactics used in service of the drug war (Bobo & Thompson, 2006; Mazerolle, Soole, & Rombouts, 2007; Parsons, 2017; as cited in Barberi and Taxman, 2019).

Due to continued federal support, many police departments prioritize drug enforcement – including those departments that are entertaining alternatives to crime control response that are more in line with community policing (Gant & Schaible, 2022). Overall, these practices contributed to what would later be termed ‘mass incarceration’ and had a considerable impact on community safety in terms of heightened recidivism rates, disproportionate impacts on communities of color, the homeless and the mentally ill – all while substantially increasing

¹ shared characteristics among drug couriers known to police.

criminal justice costs (Beckett et al., 2016). Today, nearly 2 million people are incarcerated in the United States, with nearly half a million in pre-trial detention. Furthermore, despite sanctions for drug possession being more lenient over time, as of 2020, federal agencies are still incarcerating over 350,000, and police agencies as a whole arresting 1 million people for drug possession (likely an underestimation due to unreliable crime data) (Sawyer and Wagner, 2023).

The present opioid problem is in part continuation of the same overt criminalization drug prohibition characteristics of the drug war. Now, policymakers have increased penalties for drug trafficking drug use and sale in the form of drug-induced homicide charging and instituted onerous restrictions on legal opioid medications as an attempt to curb today's drug problems (Beletsky, 2019; Kavanaugh and McLean 2020). Drug delivery resulting in death (DDRID) laws, while designed to punish dealers of deadly substances, in practice, have also punished users in that some dealers are users themselves (and vice versa). People with substance use disorder, who are often selling to support their addiction, can also be caught up in the justice system due to increased enforcement of drug laws – particularly as it relates to the prevalence of synthetic opioids which have been the focus of recent drug enforcement policy (Eric Sevigny, as quoted by Holden, 2018).

However, these attempts at curbing the drug supply have been ineffective in slowing the growth of drug markets. By 2014, drug markets continued to grow, and traffickers started supplementing with synthetics to meet rising demand (often brought on by crackdowns). Many users who were not seeking out fentanyl were also at risk. A 2018 Johns Hopkins study including interviews from people who use drugs (PWUD) and key informants from agencies that work with PWUD found that many drug users are unknowingly ingesting fentanyl, reporting that of the 256 survey respondents who believed they had ingested fentanyl, 1 in 4 said it was their drug

of preference (NACCHO, 2018). The distribution of fentanyl has dramatically increased since 2014 and so has its death toll. The CDC reports an estimated 107,622 drug overdose deaths in 2021 (a 15% increase from 2020) – 80,816 of which have been attributed to synthetic opioids (CDC, 2022).

Prosecutors were unsure of how to go about considering changes to sentencing guidelines for fentanyl – particularly given the considerable variance of fentanyl and its analogues in terms of chemical makeup and potency (Holden, 2018). In 2018, The U.S. Sentencing Commission updated its guidelines on offenses involving drugs and narco-terrorism to increase guideline scores by 4 levels if fentanyl was involved in the crime;

“If the defendant knowingly misrepresented or knowingly marketed as another substance a mixture or substance containing fentanyl (N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide) or a fentanyl analogue, increase [the Offense Gravity Score] by 4 levels”²

In 2018, nearly 40% of those convicted under fentanyl trafficking offenses had little to no prior history. Between 2014-2018, the number of fentanyl trafficking offenders has increased by 4,711.1%. Between 2017-2022, the number of fentanyl offenders increased from 166 to 2,511 (USC, 2022).

Further amendments to fentanyl guidelines (In effect November 1, 2023), will increase the OGS by 2 levels if the individual is shown to have acted with “willful blindness” or “conscious avoidance” in the manufacture or sale of a substance mixed with fentanyl (USC, 2023).

² US Sentencing Commission, 2023

“The new alternative 2-level enhancement reflects the increased culpability of an individual who acted with willful blindness or conscious avoidance of knowledge that the substance the individual represented or marketed as a legitimately manufactured drug contained fentanyl or a fentanyl analogue.”

A 2021 report by the US Sentencing Commission found that roughly 1/3 or more of fentanyl offenders were selling a different substance and just 5-9% were knowingly misrepresenting the drugs being sold during a transaction (USC, 2022). In this context, willful blindness holds that defendants who are involved in the distribution of fentanyl- knowingly or not- are just as culpable as those who knowingly commit the act given the circumstances (i.e. the general prevalence of synthetic substances in drug supplies) (USC,2022). It is not difficult then to see how doctrines like “willful blindness” are being used as tools to justify more punitive approaches to drug problems such as drug induced homicide (DIH)and DDRID – which despite being meant to target top-level distributors, have instead been shown to affect users as well as street-level dealers. Street-level dealers who may dilute their product with fentanyl, other substances or fillers (knowingly or not) would face harsher sentencing conditions than top-level distributors who are selling greater amounts of fentanyl (Holden, 2018).

Policy and legislation to prohibit the use of fentanyl or punish fentanyl-related offenses continue to be proposed and enjoy great support. In May of 2023, the US House of Representatives passed the Halt All Lethal Trafficking of Fentanyl Act (AKA HALT Fentanyl Act). If ratified into law, this bill will “permanently place(s) fentanyl-related substances as a class into schedule I of the Controlled Substances Act” (H.R. 467 2023). This scheduling is reserved for substances that have a 1) high potential for abuse and 2) have no currently accepted

medical value – even though fentanyl has been used safely in and out of hospitals as a pain management drug for decades.

The cumulative effect of these policy initiatives has expanded police duties to address everything from treating overdoses, crisis de-escalation, addressing homelessness, and as disciplinary authority in schools – costing US. taxpayers nearly \$150 billion in policing expenditures each year (Wang, 2021). Over the past several decades, the criminal justice system has implemented various strategies to address the crime occurring because of mental health or substance use disorders, poverty and homelessness, with the understanding that incarceration might exacerbate underlying causes (Bao, 2020; Jones and Sawyer, 2019). The overrepresentation of persons with these issues has overwhelmed the criminal justice system, prompting the federal government and private organizations to fund the Criminal Justice/Mental Health Consensus Project two decades ago (Jones and Sawyer, 2019; Bao, 2020), The cost-effectiveness of diversion programs was considered as deinstitutionalization in Pennsylvania (PA) had pushed people with drug and mental health issues, including many individuals with co-occurring substance use disorder and serious mental illness (SUD/SMI) back onto the street with limited to no services. Those individuals tracked to the justice system, which at the time was not equipped to handle such needs. Now, many county jails and state prisons across the country act as mental health and drug and alcohol treatment facilities, with most inmates meeting the criteria for some degree of mental illness or substance abuse disorder (Berndard et. al., 2020). Jails however do not have the capacity to function as a treatment center and are unable to meet their needs while in custody (Jones and Sawyer, 2019).

One of the more popular criminal justice diversion practices for individuals with substance use disorders was the drug court model – started in Miami, Florida, 1989. As of

December 31st, 2020, there are a total of 3,848 treatment courts in the United States (NDRC, 2021). These treatment courts are post-filing diversion strategies and vary from drug courts to mental health and veteran's courts, and more recently, opioid and reentry courts – this number also includes about 400 juvenile treatment courts (NDRC, 2021). One of the primary functions of a drug court is to foster compliance with a drug treatment plan which involves participation in clinical programs and regular case manager contacts as well as criminal justice supervision and urinalysis drug testing 3 times weekly. Compliance with the court's expectations of one's rehabilitation is required (Clancey & Howard, 2006).

These developments curated the backdrop of the kind of 'therapeutic policing' that would be adopted by law enforcement agencies, thereby expanding the police mandate (Wexler, 2000). In recent years, laws have been passed that provided for the distribution of naloxone (opioid overdose reversal agent) as well as good Samaritan laws that protect those that call for emergency services in overdose situations from criminalization. More recently, police diversion/deflection has been implemented by state legislatures and through county and local level statutes. The Legislative Analysis and Public Policy Association identified that 25 states and the District of Columbia had some form of law in place to enable the development of police diversion/deflection (Smith, 2022). The International Association of Chiefs of Police reports the use of diversion programs in approximately 850 sites across the country (NADCP, 2020).

Police-assisted diversion, naloxone distribution for first responders and community members, as well as stigma-reduction media campaigns and the distribution of tools and information for community-based organizations, represent some of the commonplace, supposedly progressive, practices that aim to mitigate drug harms (PERF, 2018; Government of PA, 2020; PASTOP.org, NFRP, 2021). Police are then involved in the acute predicament of

maintaining drug enforcement to eliminate drug use in their communities, while also serving a new public health mandate that aims to construct drug users not as criminals or subjects of law enforcement, but as people with a disorder who need health services and psychological support (Zgierska et al, 2021). Still, the reality of drug problems is a concern for community members and the police as property values and economic opportunity in a community decrease. The persistent, visible drug problems that affect the broader community (i.e., homelessness, open drug use, dilapidated housing) produces a “legal cynicism” in which the community no longer trusts the police or sees them as a legitimate solution to their problems – over time, this lowers a community’s collective efficacy in attracting investment, maintaining protective neighbor networks and mitigating residential mobility (Kirk and Papachristos, 2011).

While the directives associated with drug prohibition and harm reduction are vastly different, they are intermingled as part of a new, supposedly progressive response to contemporary drug problems. Thus, police contend with various definitions that are supportive of both mandates, and harm reduction strategies are often implemented piecemeal and can look quite different from jurisdiction to another. Moreover, implementation of some initiatives is more successful than others given the discretionary nature of the activity (i.e., naloxone administration is more likely to occur than referrals to treatment) (Murphy & Russell, 2020). One qualitative study (Goetz & Mitchell, 2006) built theory on police diversion and found that programs that attempt to do both police-led diversion and crackdowns on drug dealers struggle to succeed in their goal of mitigating drug harms due to significant conflicting perspectives between policymakers, line officers and the public over harm reduction and criminal justice interventions.

Chapter 2: Decision-making and Discretion

As a process, decision-making is a point in which an actor chooses when and how to intervene in each situation (Roberg et al. 2000), typically informed by individual character traits, social expectations, and organizational directives (Lough, 1998). Police subcultures can be characterized by secrecy, unity and isolation. This subculture develops traits in officers which can include skepticism, cynicism and a notion that the public cannot be trusted (Scaramella, 2011). However, outlooks on policing and officer views on discretion may vary along four different attitudinal dimensions; order maintenance, law enforcement, aggressive patrol or selective enforcement (Gant & Schaible, 2022).

Although police may find themselves involved in crisis situations, their primary function is in law enforcement, not as health responders, community aides, or counselors (Zakimi et al, 2022). That role however, is changing given the role of police in responding to today's drug problems in terms of overdose reversal, referral to treatment as well as traditional drug enforcement strategies. This new role also has the potential to break down some of the traditional components to police subculture and may provide an avenue for police to work in solidarity with one another without isolating one from the community (Scaramella, 2011).

Decision-making and discretion are two related, but distinct facets of police work. The accounting of decision-making is also impacted by age, years of service, education, rank, training, and ethnicity (Schulenberg and Warren 2009; Sherman 1980; Worden 1989). Discretion however is most referred to as a decision by police not to enact formal control measures, even when there are legal or circumstantial justifications for doing so (Schulenberg, 2004).

Officers exercising discretion typically consider the nature of the offense and characteristics of the offender (Wortley, 2003). An officer's use of discretion in different contexts will vary based on their particular style of policing. Wilson's (1968) foundational research identified 3 distinct styles of policing. The watchman style – or order maintenance approach – is characterized by prioritized enforcement of more serious crimes while informally addressing minor offenses. The legalistic policing style is more administrative and enforces all applicable offenses regardless of circumstance. Finally, service-oriented police work with the community to solve problems and address shared issues with a high emphasis on nonarrest resolutions to minor offenses (Wilson, 1968; Gant & Schaible, 2022). These variations in police orientation however do not describe department-level behavior as a whole – Wilson's research instead indicates that officers differ widely in approaches to their work (Wilson, 1968; Gant & Schaible, 2022). Further, it is difficult to ascertain how officer orientation to a particular policing style would influence diversion – departments may take on more community policing strategies and leaders may take on a more active role in field supervision to encourage police to embrace multiple approaches (NIJ, 2003). This situation points to the need for generative themes to understand how police officers behave and the strategies they employ (or do not employ) to respond to social problems they are not well-equipped to handle.

Given its vast discretion, police activity risks challenging community conceptions of police and the standards of safety expected by the public. This is accepted as “natural” in police work, as they are often reacting to complex scenarios. Until recently, discretion was only studied in the context of formal police action such as traffic stops and arrest, rarely regarding alternatives to arrest (Schulenberg, 2004; Bittner, 1967; McCarthy 1991). The police “dilemma” posed by diversion is embedded in the discretionary decision to arrest, wherein individuals are being

referred to a voluntary healthcare program in lieu of being charged for criminal acts – raising significant concerns with regards to constitutionality, rules of police administration and overall community safety. Police administrations cannot force treatment onto anyone, however there is some research showing that service-oriented officers are more likely to make referrals to treatment than those with a legalistic style of policing (Gant & Schaible, 2022).

Chapter 3: Policing Drug Problems

It is important to understand the differences between drug users, drug addicts and drug traffickers as criminal justice policy is being formed. Policy that may be intended for one group, may exacerbate the conditions of another. Police have frequent contact with drug addicts more than the recreational drug user, whether it be in the context of drug-related crime or an overdose. Police may also encounter recreational drug users in the context of an overdose, which may be fatal.

Recreational drug users are distinct in their experience from people with serious, long term use, in that their drug use is not compulsive and causes little harm. The American Society of Addiction Medicine defines addiction (particularly opioid use disorder) as a brain disease that develops through the complex relationships between an individual's brain chemistry, the environment and life experience – and such addiction causes people to engage in compulsive behavior which often leads to harmful consequences such as homelessness, poverty, illness, etc. (Wolf & Gold, 2020; ASAM, 2019). Additionally, people who suffer from drug/opiate addiction, especially those with serious long-term use, or those in economically precarious situations may engage in a variety of low-level crimes such as possession of paraphernalia, public urination,

petty theft, shoplifting and “quality of life” offenses associated with homelessness (Barberi & Taxman, 2019).

Persons with opioid use disorder may also be treatment resistant OUD (TROUD)- indicated by repeat relapse/overdose and further characterized by continuous resistance to existing treatment modalities (“failure”) (Wolf & Gold, 2020). It should be noted that this is not the fault of the individual, but a characteristic of the disorder itself – something that can be exacerbated by mental/physical health conditions such as depression or PTSD and other SUDs. While there is a plethora of research regarding the efficacy of behavioral interventions for OUD, there are still many who do not respond to existing treatments (Wolf & Gold, 2020).

Drug traffickers receive the brunt of punitive measures, however there is a continuum of using and dealing which exposes some users, who may also sell drugs to support their habit, to being prosecuted under stricter sentencing conditions and statutes like DDRID and DIH due to the presence of fentanyl. As mentioned previously, continued crackdowns and longer prison sentences for drug dealers have not meaningfully impacted current drug problems – now some of those same measures are also being used to target users as well.

Given the voluntary nature of healthcare, there is a belief among police that criminalization, and coercive approaches are necessary to compel individuals to seek treatment, particularly those who have experienced numerous overdoses or those who have struggled to maintain sobriety (particularly those with TROUD) (Wolf & Gold, 2020; Beletsky, 2019; Joudrey et. al, 2021). Police led diversion is not so different, it simply seeks to extend the opportunity for an individual to make a choice while maintaining a criminal justice “hook” on them.

As with much of drug policy over the last 50 years, the protocol on diversion is designed to interject in the lives of poorer individuals in disadvantaged communities (i.e., “high-drug,” “high crime” neighborhoods) and therefore enhances the risk of social harm and violence against marginalized communities posed by the potential for diversion protocols to widen the net of those exposed to police. The Center for American Progress reports that the widened scope of police responsibility exposes nearly 1 million people to police contact each year and produces a net widening effect which draws more people under the purview of police authority (Nguyen, 2022; Wang, 2021).

Criticisms of net-widening were made of drug courts, under the reasoning that lower operating costs allowed for more arrests and people under the supervision of the criminal justice system (Kaye, 2013). Austin and Krisberg’s (1981) study of diversion programs saw the capacity for net-widening, as community treatment providers would send the public to the police for access to treatment. The potential for net-widening varies depending on the focus of the program. For example, if the eligibility criteria for the program only focuses on low-level offenses, the system is potentially leaving out many people who might benefit from the diversion – in turn, this expands the range of prosecution for those who are unable to complete the program. On this note, it is the substance use disorder literature holds that a certain number of treatment failures is expected, particularly for those dealing with OUD or TROUD (Wolf & Gold, 2020). Furthermore, NIJ’s multi-site evaluation of prosecutor-led diversion programs found that study participants who did *not* participate in diversion ultimately had their charges dropped (Rempel et al., 2018). Diversion programs, conceptualized in this way, may pose an unnecessary burden on program participants.

Nevertheless, the advent of drug courts and now, police diversion strategies show an accelerating shift in criminal justice from previous punitive drug war tactics to a more rehabilitative tack (Kaye, 2013). Furthermore, police are doing so at a time where drug problems are disproportionately impacting those who are justice involved. Nearly 75% of those released from incarceration with opioid use disorder will suffer a relapse and have a 40-50% chance of reoffending (Soares et. al, 2019). Jail turnover means that a majority of those who do return to the community often have unmet needs and are at a higher risk of overdose (Berg, 2019; Binswanger et. al, 2007; Sung, 2011).

Pennsylvania's Act 139 in 2014, established a protocol which required all officers to carry naloxone (while mandating online training) and to respect Good Samaritan laws that protect overdose survivors from criminalization (Beletsky, 2019; Murphy & Russell, 2020). Many police believed this approach (expanding the scope/availability of naloxone) condoned further drug use, along with an abiding belief that treatment was ineffective and not worthy of tax spending (Murphy & Russell, 2020). Police views and attitudes did not influence the use of naloxone (a matter of protocol), however the more police officers used naloxone, the more pessimistic their views on drug emergencies became (Murphy & Russell, 2020).

The ready availability of police enables them to quickly respond to overdose incidents, and therefore they typically make up a significant portion of naloxone administrations (Zozula, Neth, Hogan, Stolz, & McMullan, 2021). Police are often poorly trained in this regard or give higher than medically necessary doses not medical supervision, and so overdose patients become more prone to adverse effects such as hypoxia and precipitated withdrawal, often resulting in police use of pain compliance, or other punitive tactics (Kavanaugh, 2022; Thompson, et al., 2021). These experiences often produce feelings of stigma toward drug users among police and

is one of the most common barriers to implementation of programs that involve police-assisted connections to treatment (Langabeer, et al, 2020; Joudrey et al, 2021; Murphy & Russell, 2020).

The cultural knowledge of police is constantly shifting through the process of experiential learning and socialization (Bacon, 2022). Recent training programs for police-led diversion/deflection are an example of how police have understood that current approaches at drug enforcement for low-level drug-involved persons are not resulting in safer communities or having an impact on drug markets and better tools need to be developed (Zgierska et al, 2021; Langabeer et al, 2020; Barberi & Taxman, 2019; Bacon, 2022). Police receive an extensive amount of pseudo-military training, which acculturates them more so as warriors than social workers, despite much of their work being spent writing reports, conducting neighborhood patrol, and responding to non-criminal calls for service that are often related to behavioral health (Karma, 2020; Smith, 2022). Police receive little training on behavioral health interventions, making it difficult to identify appropriate targets for deflection. The fact is, police training is inconsistent with the nature of current police calls for service, and garners public critique when problems are mismanaged—breaking down cooperation with the community and reinforcing negative views of the public among police (Smith, 2022).

Policing today's opioid epidemic often places officers in hazardous situations which increases the likelihood for police to encounter various biohazards and drugs, particularly highly potent fentanyl (Goodison et al., 2019). However, it should be known that dermal contact with substances such as fentanyl does not pose a significant risk (NIOSH, 2020). Over time as these experiences compound, it can result in burnout, producing a state of “compassion fatigue”, wherein officers who are continuously exposed to trauma may become emotionally detached or numb to their work and may have a significant incapacitating impact on officer health, decision-

making ability, and overall job performance (Papazoglou et al., 2020). Also, police often feel a sense of futility as they are unable to help individuals break the cycle of addiction – particularly in some jurisdictions with limited access to a wide range of treatment services/resources (Goodison et al., 2019).

Researchers have urged police to engage in educational content regarding the science of addiction with the hopes of humanizing this population and their treatment, hoping to make an impression on the police officers they frequently interact with (Zgierska, 2021; Langabeer, 2021; Joudrey, 2021; Beletsky, 2019). For example, police who are trained on how to intervene in a mental health crisis using the Crisis Intervention Training Model (CIT) saw their overall use of force incidents involving people who are experiencing a mental health crisis drop and were found to have reduced stigma toward people with alcohol and cocaine use disorders (Shah, 2019; Murphy & Russell, 2020). However, mobile crisis is not always an available resource, particularly in rural jurisdictions.

Chapter 4: “Harm Reduction Policing”

The landscape of drug problems are changing, as police are becoming occupied with responding to a series of social service demands on top of drug related crime and overdose incidents (Wang, 2021). While it is increasingly mandated that police work to meet public health and social service goals, police often default to coercive authoritarian interventions with PWUD/those with drug addiction (Zakimi et al, 2022). In this, the culture of policing changes, and the ways in which they enforce the law adapt to the present circumstances (Bacon, 2022). Suggestions of increased training, empathy, decreased stigma as well as changes to the punitive practice associated with drug enforcement have created an opportunity for a cultural shift within police agencies nationwide, particularly those who choose to implement discretionary diversion

programs for people with substance use disorders (SUD) (Beckett, 2016; Erickson et. al, 1997; Lough, 1998; Morrissey et al, 2019; Joudrey, 2021; Langabeer et al, 2020; Zgierska, 2021).

Police arrest diversion programs have shown promising results across the US and abroad in some empirical studies. In a multi-site evaluation of diversion strategies, people with SUDs who were siphoned into diversion programs had a statistically significant reduction in 2-year recidivism post-program completion and increased overall referrals for medication-assisted treatments (such as buprenorphine) in their respective communities. Poor outcomes are expected when PWUD are untreated or undertreated in their interactions with the justice system (Barberi & Taxman, 2019; Langabeer et al, 2020; Collins, Lonczak, and Clifasefi, 2015).

Police-led diversion programs are structured to give police officers the discretion to refer individuals to drug treatment services (and other social services) in lieu of arrest— promising more effective intervention for nonviolent offenders that can reduce recidivism and enhance public safety without the deleterious experience of criminal justice processing (Schroeder et al., 2017; Smith, 2022). The idea is that police diversion programs are a way to prioritize treatment and hold individuals accountable without a conviction or incarceration (Wang, 2021). Police diversion programs are increasingly being implemented by jurisdictions that are looking to balance their budgets and prioritize police time and resources on more violent crime (Schroeder et al., 2017).

Seeking the ideal role that police can play in combatting the opioid crisis, a group of public health and law enforcement professionals developed a series of standards for local systems to follow as they work together to reduce overdose. The following strategies/initiatives included in the standards are as follows: Implementing data-driven overdose reduction strategies, police use/training on naloxone, supporting community education on addiction, stigma and good

Samaritan laws, advocating for “on demand” treatment access (including for those who are incarcerated or in community corrections), implementing syringe service programs, expanding efforts to provide drug users with fentanyl detection resources, exploring the possibility of placing a safe use site (to reduce overdose and connect to treatment), and finally – police assisted referrals to treatment (PERF, 2018). However, under-resourced rural agencies might struggle to meet these standards.

Police leadership has referred to police-assisted diversion as another “tool in the toolbox”, which refers to the cultural resources that construct different strategies of action (Montgomery County, 2021). These strategies are continuously adapting police practices, with leadership working to change their officers’ policing style to one that is more service oriented towards meeting the needs posed by drug problems (Beletsky, 2019; Barberi & Taxman, 2019; Wilson, 1968). Nationally, and particularly states in the regional Mid Atlantic that have been most heavily impacted the spiraling opioid crisis, the discourse around drug overdose has shifted to its recognition as a public health issue, and the increasing notion that “we can’t arrest our way out” of the opioid problem has featured in all levels of government (Beletsky, 2019; Davidson, 2016). Police are now sharing the goals of the public health model, that is, saving lives and mitigating the harmful consequences of drug use. (Goodison et. al, 2019). Police then serve as a conduit that can potentially facilitate the appropriate interventions for those struggling with drug addiction especially in times of crisis.

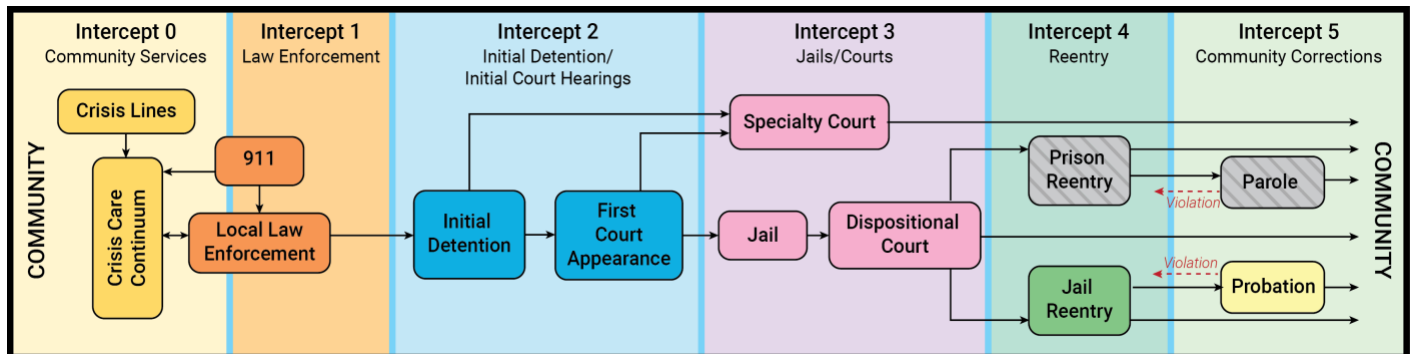
Police chiefs believed that arrest referrals were a positive way for police to deal with the opioid crisis (Murphy & Russell, 2020). Police administrators can heavily influence police behavior through active leadership and supervision (NIJ, 2003). The most important mediating

factor needed to facilitate diversion programs is for agencies to socialization towards a culture of deflection – one of the most difficult challenges for police leaders to face (Smith, 2022).

While Hayhurst and colleagues (2015) indicate a lack of standardization among diversion programs, there are some jurisdictions which have implemented the same diversion model and have produced evaluation studies to provide support for their efficacy. The Law Enforcement Assisted Diversion program of Seattle, Washington is the first alternative to arrest model for those with SUD/ODU to undergo experimental evaluation to determine the program's effect on recidivism (Collins, Lonczak, and Clifasefi, 2015). As a result of the diversion policy, Seattle's criminal justice system saw fewer jail bookings for program participants, fewer days in jail, and 87% lower odds of an incarceration after program entry. This can have varying effects on crime, depending on the diversion package available to an agency. The evaluation also found that those who went through drug treatment as a diversion to drug arrest reduced their likelihood of warrant arrests in the long-term (Collins, Lonczak, and Clifasefi, 2015). San Francisco is the second jurisdiction to adopt the LEAD model, with similar results. LEAD-SF participants were found to be less likely to be arrested for a misdemeanor offense but were more likely to receive citations 6-months post-completion. At the 12-month follow-up, LEAD participants had lower rates of misdemeanor and felony offenses, the initial increase in citations was also no longer observed. Evaluators found that this program both reduced criminal justice, recidivism, and improved health outcomes for its participants (Malm et al., 2020). It's also important to consider that, while police agencies operate diversion programs on their own, they are doing so under the purview of broader prosecutorial discretion.

Diversion programs come in 5 general types and occur at different stages in the criminal justice process. The sequential intercept model details each 'intercept' in the CJ process where

diversion programming (or other strategies) can be implemented, spanning multiple agencies³ (Griffin, 2015).



The five types of diversion and their associated intercept are as follows. The initial opportunity for diversion occurs at intercept 0; pre-police encounter or community-based deflection programs involve individual community members working with crisis or other to help facilitate access to treatment. Pre-arrest diversion is the particular focus of this study and describes the various strategies police use to connect individuals to treatment in lieu of arrest – some programs may record the incident to file charges later should the participant not meet the conditions of the diversion. This may come in the form of a warning or referral to a social service agency– emphasizing police discretion to use non-arrest options, avoiding unnecessary criminal justice contact for public order offenses (Gant & Schaible, 2022). Further diversion is implemented at the pre-charge/ prosecutor level (such as the Alternative Rehabilitative Disposition program) or treatment court programs at the pre-trial level. In pre-charge diversion, prosecutors postpone filing charges while the individual completes a set of requirements – charges do not appear on someone’s record however failure to complete the program requirements will result in formal charging and resume the court process (Wang & Quandt,

³ Figure 1: Sequential Intercept Model

2021). Treatment court programs and other post-filing diversion programs are available to defendants at any point prior to trial – charges may be dismissed entirely, but the arrest will remain on the individuals record (unless expungement is granted in the future). Lastly, there are traditional views of diversion which are the typical alternatives to arrest such as probation, house arrest and other restitution programs– however, these programs are not true diversion as offenders are still convicted and placed under correctional control for longer periods of time (Wang & Quandt, 2021). Overall, diversion programs, when possible, avoid the collateral consequences of a criminal record while reducing court caseloads and jail rosters in an already bloated criminal justice system.

Diversion programs at different stages have designated eligibility criteria, intended populations and operating procedures. Some agency policies will standardize diversion to minor infractions while others may allow a greater degree of officer discretion. More stringent requirements means that those who might potentially benefit from the alternative will continue through the justice system – conversely, more discretion would increase the scope of policing and may result in unnecessary arrests (Wang & Quandt, 2021).

Given that diversion programs are sparsely being implemented in jurisdictions across the country, and rely heavily of officer buy-in, it is important to understand the themes related to officer willingness to participate in these efforts. Officers are going to differ in their willingness to participate based on their individual orientation to policing. Officers police orientations will vary within an agency – larger agencies which may be more legalistic may face greater challenges in facilitating discretionary diversion programs. Police administrations can foster values that encourage officers towards service-oriented strategies, breaking down the bureaucratic barriers that are experienced along the way (Gant & Schaible, 2022). The

implementation of diversion (in varying forms), has been accompanied by a cultural shift in policing that has yet to be explored in research studies (Murphy & Russell, 2020; Joudrey, 2021, Barberi & Taxman, 2019; Langabeer et al, 2020; Zgierska et al, 2021). This study has the potential to help understand that experience, and to extend the findings of prior research and provide explanations for understandings of officer police officer behavior as they balance a public health initiative that requires intimate conversations with drug users while simultaneously trying to maintain traditional drug war demands (Barberi & Taxman, 2019). Greater understanding involved in police decision-making processes are needed, because discrepancies such as those detailed above exemplify the complexities of drugs policing and indicate that a multitude of cultural, organizational, and situational factors are involved in police decision-making processes (Bacon, 2022).

In this study I aim to extend this inquiry by focusing on the diversion practices of a group of police agencies who lead their county in pre-arrest diversion. This has the potential to provide a more detailed sketch of this approach to policing drug users and to better understand the decision-making processes of officers who regularly caught between the political demands of tough on crime/prohibition logics and the increasing calls for progressive, empathetic approaches to persons with SUD.

Chapter 5: Research design and Purpose.

Purpose statement

In this study I examined how police officers in Pennsylvania utilized Pre-arrest Diversion programs for PWUD, and how their discretion vacillates between informal, harm reduction controls and traditional, formal drug enforcement/prohibition practices. Discretion is defined as the opportunity for police officers to use their judgement to divert low-level drug offenders from the justice system and into substance use treatment services (Schulenberg, 2014). The aim of this study is to understand what drives police discretion in their authority over PWUD. By tapping into police perspectives on alternative to arrest strategies, this study has the potential to identify the various factors that bear on police discretion to either divert someone to drug treatment or invoke their power to arrest a drug-involved person. In a broader sense, it offers an opportunity to inquire whether officers buy into harm reduction practices in the context of the existing war on drugs.

Research Questions (and sub-questions)

The Central Question for this research study is:

- What are some of the commonly shared patterns of decision-making for police officers who practice diversion for PWUD?

Sub-questions that follow the central questions are:

- What is the process of decision-making in terms of pre-arrest alternatives for PWUD?
- What kind of orientations are police officers bringing into their experience with pre-arrest diversion?
- What is the degree of individual police officers' self-efficacy in managing incidents involving PWUD?
- How are police officers motivated to engage in diversion?
- How has diversion influenced or expanded officer decision-making?

Methods

This study draws on 23 interviews with police officers in various Pennsylvania police agencies that use an alternative to arrest strategy for drug-law offenders and PWUD. To meet the research goals of understanding police diversion of PWUD, I used structured interviews to elicit detailed accounts of their experiences with special attention to officer orientations as well as agency and role-specific police directives. 10 Police agencies across 6 Pennsylvania counties were sampled for this study. 19 men and 4 women were sampled for this study. Respondent ages ranged from 26-54 years old, with an average age of 37. Respondents had ranged widely in experience between 3-30 years. Responding officers had an average of 13.5 years spent as police (12.5 when controlling for outliers). Since many agencies did not provide follow-up information to police officers involved with making referrals, many respondents did not always know whether their diversion was ‘successful’ as such there is limited reporting on the actual number of referrals made by each agency. Use of diversion ranges widely by officers and agencies. It is common for an officer to have only utilized diversion a handful of times due to a lack of treatment options, ineligibility or an unreliable process. Overall, officers reported an average of about 10 diversions. Some individuals reported making connections with more than 50 people while others reported only utilizing diversion 1-5 times. The following sections indicate the responses and characteristics of participating sites by county.

Montgomery County

Four Agencies in Montgomery County were sampled for this study. Three of the Four sampled agencies were in suburban areas while one was in an urban jurisdiction. Agency A

yielded 5 interviews, Agency B yielded 4 interviews and Agencies C and D yielded one interview, respectively. The Urban site organized their diversion as a handoff to officers in the police station (station diversion). The remaining agencies utilized pre-charge or post-charge street diversion. Agency B utilized an Overdose Response team model and had two officers dedicated to this work full-time – both had responded to this study. All agencies sampled in Montgomery County operate under the Law Enforcement Treatment Initiative (LETI, 2023). This county had the highest number of referrals for diversion among counties participating in LETI (includes pre-arrest and pre-charge diversion).

Lancaster County

2 agencies in Lancaster County were sampled for this study. Agency A was in an Urban site and yielded 3 interviews. Agency B was in a Rural site and yielded 2 interviews. Agency A had used a mixture of active outreach activities in which police officers had partnered with drug treatment agencies, CRS' or other social workers to facilitate non-criminal deflection. Both agencies utilized pre-arrest and pre-charge diversion (based on officer discretion) as their diversion strategy. Agency B utilized the county-wide LETI program, whereas Agency A utilizes their own diversion initiative developed with local partner agencies. Officers utilizing the active outreach approach received greater engagement than those utilizing the pre-charge diversion.

Philadelphia County

One agency was sampled in Philadelphia county, using its own pre-arrest diversion policy. An urban site, this agency practiced strictly pre-arrest diversion. Charges were not leveraged against participants and individuals were offered more than one opportunity at diversion. This

policy was limited in scope however more expansive than most policies included in this study in that crimes against victims, particularly when it comes to theft from businesses, were also included into diversion so long as restitution agreements were put in place. This agency reported the highest engagement and enrollment in their diversion program than all sampled sites. This agency had also reported significant success in terms of less repeated overdose and emphasized offering diversion as a solution for long-term users.

While there were ample diversion activities taking place with numerous officers engaged in the work, only one officer was able to participate in the interview. This was largely due to red tape and barriers imposed by the law enforcement administration and not a response from individual respondents.

Cumberland County

One agency (a suburban site) was sampled in Cumberland County – yielding one interview with an Assistant Chief of Police. While there were other officers available and willing to participate in the study, the researcher was unable to schedule with officers due to scheduling conflicts, pending investigations, etc. This site operated on pre-charge and pre-arrest diversion practices, working with a local CRS agency that provides supportive services and case management for people with SUD. These individuals work in tandem, responding to police at the scene to facilitate diversion or offering a space for officers to take individuals who are interested in diversion that is not a police station.

While only one respondent was represented from this site, given that the individual was involved in police leadership, they were able to provide a complete picture of how the agency handles diversion, the partnerships and systems in place, as well as providing a glimpse into the

acculturation of officers by their administration to participate in diversion – an important facilitator for officer behavior and decision-making (NIJ, 2003).

Columbia County

4 respondents were sampled from one agency in Columbia County. This was a rural site and utilized both an Overdose response team strategy as well as a pre-charge diversion strategy. This agency had partnered with a local drug treatment/ case management agency to facilitate their diversion practices. Included in this study was the chief of the responding agency who was the only individual to operate the overdose response team. The chief had reported making contact with about 169 people over a period of two years, 83 of whom police were successful in making contact with and 19 of whom were engaged in treatment.

While he had significant success in engaging individuals through a non-criminal interaction, other officers were not involved. This Chief had not utilized his influence in leadership to acculturate officers into participating in diversion and instead emphasized their discretion and choice. An important lesson to be learned from this is the significant impact that leadership has in promoting, as well as hindering the use of diversion.

Delaware County

One officer from a rural agency in Delaware county was sampled. This agency had participated in their counties LETI initiative. Only one officer was sampled from this site, while there were other officers contacted for this study, many had declined. It should be noted that this was the only agency in the county which utilized the LETI initiative. Officers did report consistent engagement with their diversion program – the officer sampled had the unique

position of having a graduate education in counseling, who also manages a non-profit organization that provides counseling to police officers.

It is important to note that agencies who had partnerships with local agencies were more optimistic about the use of diversion and felt that it to be a more effective approach to drug problems than arrest. Agencies that had developed their own diversion strategies and networks also had greater engagement across their jurisdiction than agencies which utilized a county-wide strategy such as LETI.

Despite including input from 10 different agencies across 6 counties, I was unable to reach a minimum goal of 25 participants in order to fully saturate research themes (Braun & Clarke, 2019). Numerous challenges were encountered during data collection that highlighted two important considerations for qualitative research that involves police officers who are practicing diversion.

For one, potential sample sites were limited to begin with, nearly 16 counties participated in the PA Attorney General's County-based police diversion strategy – the Law Enforcement Treatment Initiative (PAARI, 2018). 5 other agencies were listed with the PAARI network. While this study did incorporate many agencies across a wide region, engagement within each agency varied. An agency may have a diversion initiative in place however, only a handful of officers might actually use the strategy. While those who used diversion were eager to participate in the study, not all were able to volunteer their time given existing police duties, training, manpower, etc. When it comes to officer selection, agencies typically sent the request for participation to a select group of officers who have used diversion and allowed them the opportunity to respond. Not all officers that practiced diversion in a particular agency were referred to speak with me. In two separate urban sites and 3 suburban/rural sites, the agencies

involved had prescribed a list of officers who might be able to participate – one agency had only allowed one officer to respond. Even among officers selected by their agency, participation was minimal as the officers themselves were skeptical of the study. Qualitative research concerning police operations and strategies can often be met with skepticism from officers, as skepticism and secrecy are both part of acculturating people to the police role (Scaramella, 2011; Smith, 2022).

Researchers studying police assisted diversion should keep this context in mind as they navigate the research process. Identifying gatekeepers who are able to support the project and encourage police agencies to participate, bridging natural skepticism to diversion. The counties which yielded the greatest number of respondents involved prior communication and cooperation with the PA Attorney General’s office, a county District Attorney’s office and various police chiefs. This network provides the required guidance for researchers to be trusted by responding police officers. Despite these shortcomings, all of the themes presented in the results of this study were fully saturated and representative of respondent perspectives.

Data Collection

Sites were sampled based on their implementation of alternative to arrest programs for PWUD. This study used criterion-based sampling for initial recruitment (Patton, 1990). I selected participants who met the criterion of having diverted drug-involved subjects through an alternative to arrest strategy.

Along with access to the site(s) the sample consistently evolved as data collection progressed and different opportunities for inquiry emerged. Initial entry and coordination of research in study site(s) is organized with the support of a Statewide Drug Diversion coordinator

(gatekeeper) within the Pennsylvania State Attorney General's office. Not all sites involved the same gatekeeper, and permission to conduct research activities was sought from agency leadership. My role as researcher (primary data measurement instrument) in this study is impacted by my profession in criminal justice, particularly in working within law enforcement and the courts to address behavioral health issues of those who encounter the justice system. This position, along with my researcher orientation sensitized both the participants of the study and the eventual results of the research (Foley, 2021).

Interview techniques are the most common study instrument in qualitative research studies (Charmaz & Belgrave, 2012). In the field, this study will be portrayed to participants as one that is concerned with police officers' decision-making in the diversion of PWUD from traditional justice processing. The collection instrument (interview guide) is informed by literature on police diversion and alternative to arrest strategies for PWUD. This is done in an inductive manner based on the topic of inquiry (Police discretion, alternative to arrest) (Braun & Clarke, 2019). This study will view data collection as a co-constructive process. Interviews will continue until the point of theoretical saturation; wherein additional data collection does not yield significant results or have an impact on previously developed constructs made throughout the course of data collection and interpretation.

Data Analysis

Interpretation of data will occur at various stages in the data collection process and will occur concurrently. Data collection and analysis will be done using Qualitative data software: N-VIVO.

This study will analyse data using Reflexive thematic analysis; an interpretive approach to thematic analysis that is inductive, and occurs concurrently with data collection (Braun and Clarke, 2012). Under RTA analysis, themes produced constitute ‘domain summaries’ which define and familiarize the reader with the data and how it relates to the research questions at hand (Braun et al. 2019). Data indicators are coded according to relevance to the research questions, existing literature initially before codes begin to build on one another and become themes. The RTA approach also sees the researcher as playing an active role in data collection – indicating that developed themes are just as much a reflection of the data as they are a reflection of the researcher’s interpretations of that data (Braun and Clarke, 2019). Theme development is then flexible, produced by consolidating dimensions of themes with core commonalities, and subject to adjustments at any stage in the analysis or reporting of the results by the researcher – emphasizing a familiarity of the data on the part of the researcher that is essential in producing cogent themes (Byrne, 2022).

Chapter 6: Results

Results yielded 13 themes across 4 categories defined by the research questions and will be reported in the following order; Process of Diversion decision-making, Officer self-efficacy in managing drug problems and diversion, Police orientation in diversion and, the Impact of diversion on decision-making. Results are reported according to principles of reflexive thematic analysis, that prioritizes critical analysis over illustrative representation of themes.

Process of Diversion Decision-making (Research question 1)

The agencies that were included in this study all reported utilizing multiple types of diversion programs with various regulatory restrictions that were either defined by county law enforcement administrations or local agencies (or both). Regardless of the kind of process officers had available to them, respondents indicated numerous barriers in their ability to divert and/whether their programs have the ability to overcome those barriers.

Continuum of Diversion

The *Continuum of Diversion* refers to the various forms of diversion that are used by police agencies. Of the strategies identified by Wang & Qaundt (2021), this study was able to sample street-based, station-based pre-arrest/police led deflection as well as pre-charge/prosecutor led diversion programs that also included police in their models. While this

section is not comprised of themes, it does provide the necessary contextual information that is referenced in later sections of the analysis.

Within the continuum of diversion are: pre-arrest, pre-charge, and post-charge strategies. The main difference between pre-arrest and pre-charge is the leveraging of charges involved in diversion – i.e. participants need to meet the requirements of the diversion program in order to have their charges voided – pre-charge strategies leverage charges, while pre-arrest strategies do not. However, agencies and officers don't adhere to one strategy over another, but rather, apply them to their discretion. This means that, in the same agency, some officers may choose to leverage charges where others may not. Officers gave various reasons for this, which will be explored in detail later on. Only one agency (an urban site) had specifically adhered to a pre-arrest strategy – coincidentally this site reported the most frequent diversion utilization of all sampled sites. Pre-arrest/Pre-charge diversion programs are similar in that officers hold off on filing charges, and rather facilitate the diversion before any implements of the CJ system have been deployed. Pre-charge diversion typically occurs like this:

“So when we're when we're charging with the [diversion] program, we're logging the evidence type in the report up as an arrest and I'm putting a line at the very bottom of my report that says, 'so and so choses to be enrolled into the [diversion] Program. If failure to complete, charges pending.' So that's, that's how we do it for our area.” (Corporal John, 37)

All respondents also indicated participating in prosecutor-led, Post-charge diversion programs, which are far more involved than the pre-charge variety. Typically the arrest is made and charges are filed, with diversion and connection to services happening at the behest of the

prosecution, sometimes weeks to a month after the incident occurs, at the initial preliminary hearing. of all the sites that were sampled that were encountered, almost every diversion strategy leveraged charges pending program completion. however, when potential participants don't appear for their hearings – as is common among individuals who are houseless or are in active addiction – their cases continue through the system. Not only does this further involve these individuals in the system, it more specifically disqualifies the individual from an opportunity under the diversion program (and may affect officer discretion to divert in future interactions). Typically, programs that have been able to facilitate a connection to care sooner after the initial incident have had greater success getting individuals to treatment (more on this later).

“.....So at that point, he got charged with possession of drugs and drug paraphernalia. When it came to the preliminary hearing, he's a user he's not he's not a dealer, so I was more so okay with these [charges] getting withdrawn if he completes the program. He agreed to the program, would have been a 30 day Inpatient with an intensive outpatient program. Unfortunately, he didn't complete that. So the charges then had gone through, but I gave him the option to try and correct himself.” (Patrol Officer Jim, 27)

The location the diversion is being attempted is also important to consider. Respondents indicated facilitating diversion in the street or in a police station. In order for street diversion to be successful, officers need to have strong associations or joint activities with social service agencies. Programs that lack highly responsive resources or structures that facilitate diversion at the police station are able to bridge this barrier of coordinating resources in a safe environment, but more importantly, they free up an officer's time and, to one officer's view, allow an

opportunity to build the rapport and motivation that is necessary (and often lacking) when trying to engage individuals in drug treatment, particularly those with long-term use trajectories:

“I truly believe it starts when they arrive here, as you can see, this is our uniform, we wear a softer uniform so the individuals can feel more at ease when speaking to an officer, making that warm connection to them, letting them know we’re not here to arrest you, that would have happened out there, we’re here to help you. And I honestly and truly believe that when you can relay that message and you can feel it, you’re going to get the person wanting services, because this is something they don’t see often” (Police-Assisted Diversion Ofc. Paul, 38)

Also, while not explicitly considered ‘diversion’ – there were two different street-based police-led Active outreach initiatives included in this study. The first was an active outreach strategy being used in an urban site which paired police officers with Certified Recovery Specialists (CRS) to go into various high-drug neighborhoods or areas where there are high concentrations of homelessness and offer any drug treatment services. Social workers are there to do the work of encouraging individuals to seek treatment while the officer is available for transport or other logistics.

“And then they're like, well, how are we going to get up there? I'm going to take you, you know, we're going to take you right now, up to LG (Local hospital). You're gonna go in the back of the police cruiser..... they were a couple. But, um, I think that they were shocked that that happened.” (Patrol Officer Juan, 45)

The second is an overdose response team (ORT) strategy was discussed in two different jurisdictions. The ORT model is a police strategy which involves police-initiated follow-up for overdoses. 48-72 hours after the point of an overdose, an officer will make contact and attempt to help an individual get access to treatment services.

“They will come out after a person OD’s. If we find someone passed out in their car or something like that, we can refer someone to them. Like a mobile crisis, we don’t have charges, but it’s been an initial resources that’s been pretty cool to have.” (Patrol Officer Abigail, 30)

Both agencies reported wide utility of the ORT model, but it was typically limited to one or two officers making the outreach, not as part of an agency-wide strategy. Operating more versatile diversion programs that offer different avenues for police to link individuals with treatment are essential for more well-rounded diversion practices. One approach is not necessarily more effective than another, it’s more a matter of having more tools available for people with SUD to obtain treatment to avoid the need for arrest.

Stringent diversion practices

The second theme associated with the process of diversion decision-making, *stringent diversion practices*, identifies that officers often have very narrow discretion under diversion policies, and typically operate according to a strict procedural framework. Outside of that framework however, officers have various motivations in the course of action they are inclined to take when they interact with PWUD, particularly in terms of who gets selected for diversion.

Diversion policies typically specify two levels of eligibility – prior criminal history and the severity of the charge that initiated the police contact. The criminal history eligibility was often limited to those with only one or two prior offenses while the eligible charges were often limited to minor drug possession or other summary offenses (public drunkenness, etc.). However, this too was subject to officer discretion.

“For the LETI program, it’s two offenses that they’re able to have to where we’re able to offer LETI however us as officers we do have some discretion to that to where if the offenses were 10-15 years ago, I will still offer someone the LETI program to complete that because I understand people make mistakes, they can slip up here and there to where I’m speaking to individuals who said they were 10 years clean and just had a bad day, I’m like “listen man, get some help” (Patrol Officer Steven, 28)

Ultimately, so long as the options are available to them, officers apply one strategy over another at their discretion.

“So sometimes, you know, sometimes we can charge and we just don't. Okay, for numerous reasons. But then that referral still goes. And it's I vaguely remember part of the screening process, being could there be criminal charges involved. And yeah, there could be, but we're not going that route. So I know they don't always require charges to be a thing” (Patrol Officer Daniel, 30)

Most respondents believed that leveraging charges gave them a way to encourage individuals to seek treatment.

“Okay. Yeah. Or at least like, kind of hold it as a little bit of leverage, and try and encourage the individual say, like, Hey, if you don't complete this, I'm going to follow through on the charges. And I don't want to do that, because I want to see you get right and succeed.”
(Patrol Officer William, 26)

Some officers found these policies limiting considering the type and frequency of interactions that are common with drug users and the kind of crime that is often associated with those interactions.

“So a lot of that related incidents are all going to be revolving around narcotics users trying to find their funds to support their next fix. It's one of those quick deals, you walk into a smoke shop, ‘give me your money’ and off they go. And we're finding obviously, that money right away they're utilizing to go purchase narcotics. So 85% of the drug crime, or even the major crimes here in the area is all going to be enhanced by narcotics use.” (Patrol Officer Greg, 37)

Officers largely indicated that the homeless population were persistent offenders, as well as the common DUI.

“The homeless population or it could be somebody slumped over in a car okay. You We got, we got a few calls where people are slumped over to the steering wheel. So there, and then we drive and of course, they couldn't wait to get to their to use heroin right in traffic.” (Patrol Officer Robert, 52)

Despite the frequency of interactions and the criminal extent of drug problems, diversion limits officers from referring individuals who commit felonies (primarily, possession with intent), who perhaps may be those who are most vulnerable and in need of services/diversion. Some in particular who are charged as dealers are often seen by officers as users themselves who are often selling to friends to support their habit or simply using in larger quantities.

“think it's a limitation. I mean, I've also had people, you can't refer anybody who's committed like a felony, like a, like possession with intent. I've also arrested people with a quite a bit of heroin on them, they could probably, you could probably make a case for possession with intent. But all the elements weren't there, they just had a lot of heroin, and they may have been, you know, thrown a bag or two to their friends. But you know, you need a lot more than that. That could have been a user amount for them for a week. And they were coming from Allentown and go to Philly, they bought it for a week, and then they go back up. I don't know if it would last a week. Yeah. Because they're the more the merrier. And they probably just do it until they die.”(Sergeant Adam, 37)

Officer motives to divert vary within the same department – some are more or less inclined to use the strategy than others. When it comes to drug policing, officers are coming into contact with a variety of subjects, ranging in social status, especially in sites with major traffic thoroughfares – however all respondents indicated having more frequent interactions with subjects of a lower social class. Prior history with police, long-term use, non-cooperation and even social class all have an effect on officer motivation to divert.

“I think, you know, and again, there's different types of officers, you know, where, hey, let's face it, there's some officers that'll say, ‘No, you're getting charged, you're going to

go to jail.’ You know? And then there's some other ones that want to give them help.”
(Detective Brian, 47)

Officers routinely experience participant refusal – whether as a result of an overdose or otherwise. It’s important to mention at this juncture that drug treatment is an explicitly voluntary activity prior to arrest, and so officers have limited means, outside of building rapport, to encourage drug treatment.

“But then, also, our ambulance comes out and they still have the right to deny medical treatment to where, Personally, I believe that they deserve treatment, they should get treatment, however, we can’t force someone to get treatment, that’s the same thing with the [diversion] program, essentially we can administer Narcan and if there’s no more narcotics on them, it ends at that, and they walk away. We can’t violate the persons rights. Hey this is still up to you but I highly suggest.” (Patrol Officer Steven, 28)

Prior history in terms of frequency of contact or criminal involvement is considered by officers. Most officers believed those who were more ‘criminalized’ or had long-term use trajectories were less likely to succeed in a pre-arrest or pre-charge diversion program. Many indicated attempting diversion for this population, but experienced less success as individuals did not have adequate long-term supports needed to maintain their recovery. As such, individuals at this stage, they may be offered diversion at the lower-court level.

“But I think they're more willing to get back to where they were, you know, whereas like, I think like the lower class, where they have, yes, they can go up. But what they know is

that life, right, and I think it's just harder for them to break that cycle.” (Detective Brian 49)

“that's kind of where I think I think it's someone that's younger that has, I want to say the support system, that if someone that has a support system of family support that still can be there can go towards the [diversion] program because a family was going to be there to kind of oversee them and support them” (Patrol Officer Robert, 52)

Typically however, those who officers are more motivated to divert – the diversion-eligible first or second-time offenders with minimal histories – are more likely to refuse the diversion, often due to existing barriers to treatment. Officers have two different perspectives on this; 1) charges aren't harsh enough to motivate/compel them to seek treatment or 2) this is an opportunity to plant a seed, regardless if the interaction results in arrest.

“You know, and to be honest, we see a lot of that with first and second time offenders to with the LETI program, you offer it to them, and they're like, I don't want it. I can't, I can't afford to go into rehab. Right now I have a family I have, you know, I have two kids and counting on me, I have, you know, husband, I have to be with and take care of long with my kids. I can't I just can't go in to inpatient treatment. And what they don't understand is you don't necessarily have to get impatient. I mean, I don't know how our facilities work. You know, I don't know if that's what they're offering is just inpatient, or whatnot. I know, they do give outpatient. But it seems like a lot of people I run into are like, like, when I file a complaint later, they're like, yeah, they offered me impatient. I can't do that.” (Patrol Officer Richard, 31)

When it comes to long-term users, officers expressed a degree of futility – however, diversion is still extended when the opportunity arises.

“I think it's, it's not a lost cause to keep trying. Even if somebody's turned off at a certain point, they don't want any help. And then they try it they fail we run into the months later, they might get stopped again, arrested again.”(Patrol Officer Charles, 32)

Most officers thought along the line that long-term users should still be afforded this opportunity. Not all officers thought the same – finding that long-term users would be unable to succeed if left to make decisions on their own and requiring a level of coercion to change the course of their behavior.

“I, because I think there's, I think they're mentally still kind of there to make that kind of choice? Because I think, you know, the longer that you're on the drugs, I think, the longer you're not capable of making sounder decisions.” (Patrol Officer Robert, 52)

Overall, cooperation with police in diversion is often limited regardless of the extent of an individual's addiction or criminal history. Fear of police and the power of addiction shadow over police's efforts at diversion.

“So I've experienced that before to where the cooperation level drops drastically based on what based on they know if I admit to anything on me right now, I know I'm getting locked up right now. And I think the fear of anytime I talk to anybody, they're just afraid to get sick. And they don't want to they don't want to, they don't want to be away from anything. So it's either the fear of arrest or fear of us exactly.” (Patrol Officer Charles, 32).

Systemic Barriers to Diversion

The third theme associated with the process of diversion decision-making encapsulates the various *systemic barriers to diversion* that exist for police officers trying to navigate this strategy. Officer's capacity to manage drug problems, and particularly diversion, is impacted by a variety of factors; managing existing calls for service with limited manpower, existing treatment access barriers for PWUD and finally, the diversion policies themselves, which are often unclear and lack the capacity to empower officers to facilitate diversion regularly. Most respondents indicated that drug problems took up the most of their policing duties.

“Addiction and Mental Health is what law enforcement is in 2023. And it's just, it just, you know, most of what we deal with, you know, we deal with accidents, some medicals keys locked in vehicles, stuff like that service calls, but more often than not, we're dealing with, you know, something that involves addiction or mental health issues.” (Chief Andrew, 52)

Typically, agencies with more manpower, better structured diversion policies or relationships with social work organizations did not feel that drug problems or their diversion activities affected their ability to respond to calls for service. When manpower is limited however (particularly in rural or suburban sites, police don't always have the time to facilitate diversion, indicating a need for more responsive services or strategies that partner officers with social workers/CRS's to fill this need.

“And I hang out with them until the outreach worker gets there. But in that same time, if I’m sitting there with them, and a call comes out for a shooting or vehicle break-in, I guess, with injuries or burglary, robbery, whatever. At that point, I tell them, stay right here, he’s going to come pick you up right here, I have to go. At that point. I’ll just follow up and hope. So the outreach and the diversion part of it, when I’m being proactive about it, per se, doesn’t affect how I how I respond to calls, because I’m not required to sit there. And as much as I’d like to sit there until somebody gets there, I can’t always do that.”(Patrol Officer Philip, 33)

Existing access barriers to treatment are also felt by officers trying to facilitate diversion. Having a diversion policy in place does not mean that officers are going to have an easier time bridging the barriers of cost as well as participant resistance towards drug treatment– often making this one of the primary barriers to diversion.

“Willingness, stigma. (“from who”), society, loved ones, cost – depending on what kind of insurance you have you can only go to a certain amount of rehabs in a certain length of time. If you leave AMA [against medical advice], they won’t have you back for 30 days most times. They’ll go back after a night of using and depending on their insurance you can’t.” (Patrol Officer Jennifer, 40)

Interestingly, an officer in a rural site spoke of a phenomena in which periods of high overdose rates in Philadelphia resulted in a spike of overdoses in his town. Officers attributed this to ‘bad batches’ of drugs that were being brought to their town.

“So we got walloped. I think one time Philadelphia had like, I think Kensington had like 62 or 92 overdoses. We then had, you know, 15 in a weekend, right, like so like, we like we always watch what happens in Kensington, and then it trickles out to the suburbs of Delaware County. That's a very different thing. So we got walloped, where like, we wouldn't have, we would be running out of Narcan in our car.” (Patrol Officer Greg, 37)

As mentioned previously, drug problems are brought into rural and suburban sites through major throughfares.

“So they're going about 10 miles south, and you can you can get heroin at a great price, any drug really coming back up, and we have had people cause accidents, overdose while driving. So they pass out. So we see that and a lot of what we can do, and what courts have recognized is closer to I9 and some of these state roads coming from the city out we recognized as a main drug corridor. So you're going to see people that use heroin, so quote, unquote, burning a hole in their pocket, you know, they're going to try something on the way home. So we'll see a lot of transit use, where people have pulled over here and needed help overdosing, or they don't quite make it to town or make it out of town.” (Sergeant Clancy, 35)

Unfortunately, many of the county-wide diversion policies had residency components to them in order to qualify for a pre-arrest or pre-charge diversion. Officers indicated these individuals were processed through the justice system without any service coordination. This has a disproportionate effect on homeless people who lack the resources or knowledge of a given area to coordinate with service providers on their own.

“(is residency a barrier?), I think it is a barrier, but I think it’s hard to get in contact with them. So if it’s someone who overdoses or they’re a homeless person and we don’t have good contact info for them, they don’t want to use their name. If the phone’s been cut off, how is someone going to call you if you don’t have a phone. Programs are county funded, so if someone from Philly OD’s here and they go back, we can’t coordinate any services.” (Patrol Officer Abigail, 30)

For many agencies, respondents reported the diversion process as being unclear and resource intensive on the officer’s time, leading officers to either arrest and do nothing or arrest and perhaps pursue a diversion with the magistrate judge at a preliminary hearing. This lack of officer empowerment is a gap in implementation that places constraint’s on officers’ efficacy in using diversion. Some officers might forego the use of pre-arrest diversion and let the courts sort it out.

“So if like I looked back at it, if we just go into court, and I want to just see them there, put the case on and do a waiver and then not have to worry about follow up. And then the officer doesn't have to worry about any of this, it's much simpler just to go through with criminal charges.” (Patrol Officer Charles, 32)

Ability to overcome barriers to diversion

The final theme associated with the process of decision-making for diversion is the ability to overcome barriers to diversion. This includes two main components: the use of rapport as a mediator for the target population of diversion strategies and the extent of support from partner agencies that can facilitate access to treatment.

Rapport building was identified as one of the primary mediators for diversion. Given the lack of trust in police and the refusal of individuals to engage with police-assisted diversion – it is on officers to identify strategies to connect with PWUD and identify approaches and partnerships to bridge these gaps. Regardless of the diversion strategy the ability to obtain rapport is often an arduous process that happens over time through interpersonal experiences between officers, service workers and citizens (in this context, PWUD). This rapport can even be produced through numerous arrests, as shown in this excerpt from the data.

“You know you have that rapport when you’re arresting somebody and, you know, they’re okay with it just because of who you are. You know, It might be because I dealt with them a bunch or, you know, I’ve been reasonable to deal with or, you know, they just, it’s that, you know, they don’t trust anybody. So when you have a new person come in, and they go, “Yeah, well, we’re this and that” and it takes one opportunity of them getting screwed over or think you’re not going to be able to do exactly what you said you were going to do, then it’s just gone, all the trust, the small rapport you had there But having, you know, the difference of me sitting in a room and having a conversation rather than somebody new that they don’t know sitting in that room. That could be the difference.” (Patrol Officer Philip, 33)

Respondents often emphasized the importance of support from partner agencies in connecting individuals to needed services, but also in developing rapport and motivating individuals to seek treatment. Active outreach diversion policies in particular are unique in that police officers are paired with case managers or CRS’s from drug treatment agencies that partner with the police agency to do this work. In facilitating this, police allow the counselors to take the

lead, and are there to provide transport or other logistics and more importantly, a commitment not to arrest (within reason). The following excerpt is from an officer working in an active outreach police-assisted strategy spoke about the role of counselors in this process and how an alternative interaction breaks down the typical resistance to police and allows them to facilitate diversion with less barriers.

“and I'm allowing that space, you know, where now they're starting to feel, hey, these guys aren't out here to get us. They're actually out here trying to like support and the nice thing was the [counselor], they would even say, ‘this is [Officer name] and he just wants to make sure everything is good to go. And hey, by the way, if we can get you to this, you know, program, or whatever, he's going to be willing to go ahead and give us a ride or at least, you know, make connections. That way we can ensure that you get there’ you know, so I think that was a huge point to kind of like bridge that gap.” (Patrol Officer Juan, 45)

This benefit is not limited to active outreach programs however, some agencies reported partnerships with drug treatment agencies with CRS’s on staff who worked in tandem with police to facilitate diversion programs. The CRS role is particularly important to consider because they are typically individuals who have had lived experience with addiction and have a way of connecting with the PWUD that police officers lack.

“And then again, even if they're on the fence about it, or even if they're just standard patients saying no, you know, pretty much the biggest point of [treatment agency] and who they hired to work for them is those who have been through that whole process, those who have struggled with addiction, you know, it goes without saying, they can really relate to somebody that we're trying to divert much easier than we can, right. Those who struggle

with addiction know that we don't know what they've been through. We don't necessarily know their struggles because we're on the opposite side of it.” (Patrol Officer Bill, 26)

Ultimately, this process is not expected to work instantaneously. Officers reported rapport building to be a strenuous undertaking that happens over time until someone is at a place where they are ready to ‘accept help’. This idea was often referred to as ‘planting seeds’ and is prevalent throughout the data, referring to the numerous chances officers and their counterparts in diversion have to build rapport with an individual.

“To me every step in that part of the process is growth towards that point where someone is going to lay it all down and say I’m done. I think it’s still steps in the right direction. (so you believe any case where someone has that experience is a success?) Absolutely, even textbook failures are successes to me.” (Patrol Officer Jennifer, 40)

Officer self-efficacy in managing drug problems (Research Question 2)

Given our understanding of decision-making process and the ways officers use their discretion, the following themes will give insight as to whether officers feel they have efficacy to handle existing drug problems – and how diversion fits into that picture. According to this officer, policing has changed in terms of different alternatives for PWUD – speaking to broader trends and shifts in police culture.

“Well I think policing in general has changed drastically in the past, even 2 years, I think the way in which you know I think, the higher up people realized we weren’t going to arrest our way out of certain problems so we have to figure out a way with diversion programs or stuff like that. Not just here, but policing in general.” (Patrol Officer Abigail, 30)

While I am not looking to dimensionalize this concept further, it does offer insight as to the implementation of pre-arrest diversion initiatives in that, shifts in police culture are initiated by increasing social pressure to change strategies that are ineffective at solving the issues at hand. The overdose crisis prompted LE to identify new strategies and develop ways to acculturate their officers into doing what is often construed by police as “social work”.

Feelings of futility

All respondents indicated in some way that they felt their efforts at managing drug problems were futile given the prevalence and frequency of drug problems. Traditional drug

enforcement strategies of arresting dealers or users has had mixed results on drug crime in their communities. Respondents largely felt that existing drug enforcement strategies produced a cyclical churn of drug users, processed through the justice system and released without the appropriate tools to avoid relapse or recidivism, only for officers to arrest them again – officers who fundamentally do not have the tools or orientations to manage drug harms/addiction. Beyond that, officers that have been able to divert individuals have seen many of them ‘fail’ to complete treatment or relapse – limiting their faith in drug treatment.

“Like I mentioned, we know that the, the criminal justice system is pretty flawed. See how to, once again just to put somebody in jail, to have them come out with a lack of resources to reoffend. We're not making a positive impact. We're kind of putting a band aid over the problem in the public eye because they're not going to see that particular individual struggle for six months a year, however long that they're going to be in the prison system for men again, just to actually set somebody up with programs and people who know their struggles and can relate to them and try to keep them on the right path and get their life back together. It's much more beneficial, rather than putting just a little one column.”(Patrol officer Bill, 26)

Because of the limited availability of beds at inpatient treatment facilities – typically The recommended level of care for those with a SUD who are most vulnerable is typically inpatient treatment (ASAM, 2023). However, because of the limited availability of treatment providers or space among existing treatment providers – officers often struggle to facilitate the diversion even if they wanted to. In many programs, unless treatment could be coordinated within a

reasonable time, this often meant that individuals under the diversion program were then charged (if charges were being leveraged by the officer).

“You know, cause I've heard a few times, oh I got, you know, got kicked out. But I was, I was let go from the program, because, you know, the next person needed a bed. Well, how's that? That's not reasonable to me, you know?” (Detective Brian, 49)

Officers also indicated that drug treatment is somewhat mysterious to them, they weren't sure exactly what it entailed, however they were aware of existence of drugs in rehabilitation facilities, likely due to prior visits to make arrests at those very facilities.

“And I mean, you can still get drugs in rehabilitation centers. So it's not like, if you're going to go to an intensive inpatient treatment, there's still a chance of somebody sneaking in dope, and you're going to get high, and you know, fall off your wagon so to speak, so nothing is perfect.”(Chief Andrew, 55)

Respondents indicated knowing a few members of the community who they had frequent contact with who cycled out of treatment with little success – indicating officers' experience with treatment resistance among members of the community (Wolf, 2020).

“And you know, either they start using or they just maybe left the area for a while came back, sometimes some of them live with their parents. Maybe mom, dad kick them out, or they end up in jail like the one that we dealt with that had passed. He lived with his mom, but she kicked him out several times, and they come back. He's been in our jail several times. And they come back, he went to rehab several million times, and they come back. So you know what I mean, we would have a reprieve there for a while, like the other one

that I was saying about? We don't know. We don't know where he is now. Not right now. We don't know. I'm sure hope. Yeah. I'm sure will come up eventually. Now that I've mentioned this, but yeah.” (Patrol Officer Rebecca, 54)

Respondents were skeptical of diversion and overall harm reduction policies and felt that this would embolden drug users to commit crimes or engage in more risky behavior knowing that the consequences are limited. In a similar vein, officers were skeptical for harm reduction strategies overall. Officers felt that drug users are taking advantage of initiatives like diversion, bail reform, decriminalization, as well as harm reduction – and are thereby enabling further drug use and exacerbating existing drug problems.

“mean, I'm glad we have the tools that we do to help them, even to save them. But I don't like the fact that they use that to, to their benefit, you know what I mean? So it's really kind of like a catch 22 For us, like, you know, you're doing this to help them. But are we going to help them again in another couple of weeks? Because this is what they do. And you can't necessarily draw that line in the sand and say, I'm not going to do it now, next time, you know, I mean, because you just can't enter into the other guy. Well, it's just not fair period, you can't let somebody die. You know, you're just not going to let them die.”(Patrol Officer Rebecca, 54)

Respondents had indicated a limited capacity to manage drug problems under diversion strategies simply because they are not trained or acculturated in the way social workers are to do the work of motivating individuals to seek treatment and coordinate the necessary services.

Officers admitted that their efforts were not a substitute for social workers – and prioritized making connections with the appropriate partnerships to make their goals of diversion a reality.

“We're literally not professionals, who are trying to go out there and give our expertise on any of this. We're simply trying to get the people who need to help and want to help. We want to get them to the right players that are going to be able to help them one way or another.”(Chief Andrew, 55)

“For the officers, it's more education and knowing what resources are out there. We know the crime codes and how to shoot guns. We should be spending time with mental health, substance use or aging counselors to know what's going on. When I get out to someone, I can offer a contact that I met “I know jimmy smith at Drug and alcohol counseling, he's in this program” we as police officers need to educate better.” (Assistant Chief Connor, 42)

Respondents indicated their priorities are in enforcement and managing the peace, and at times, there is limited latitude for officers to try and get involved in assisting individuals with access to treatment. It's worthy to note prior themes of the importance of having a strategy that is able to overcome the common policing-related barriers to diversion such as limited manpower, lack of coordination, rapport, etc.

“So we're more focused on preserving the peace. And the drug thing is, is kind of goes to the backburner with that. Because if we start going down that that hole, the problem just expands rapidly. And it would just be too far too intensive to try to get to the root of that. All the while you have a person that you feel may not even be compliant with the whole

thing, and try to get themselves into rehab or something like that.” (Patrol Officer Daniel, 30)

Influence of administration on officer decision-making

Officers receive their most significant acculturation from their own administrations and by the policies and regulations that define their role (NIJ, 2003). Respondents indicated two areas of influence of policing administration on their decision-making; agency culture/orientations of its officers and the extent of involvement of the District attorney’s office in the administration of diversion. All officers indicated that they had the full support of their agency and DA’s office to use their discretion in implementing their diversion policies.

“If we’re paying an officer his salary, give him a gun and badge, we trust him with discretion. The state gives us discretion by the statute of limitations – no rules on when I need to file charges. We have that ability, and if it’s for something better we should exercise that.” (Assistant Chief Connor, 42)

Officer motives vary within departments, respondents indicated that there are factions within departments who were more inclined to use diversion early on. The role of leadership is somewhat limited when it comes to acculturation – with great variation between departments. However, when it comes to diversion there is an emphasis on their discretion. Respondents indicated the process taken by policing administrations to introduce diversion was mostly hands off in a series of informal ‘pushes’ over a period of time.

“Yeah, it's funny, you'll get the people that would argue there was buying from beginning from the department, right? And the county, so the courts are on board with it. They're

pushing into departments on board with it and the Chiefs pushing it. Then it's dependent upon the officers to go out and do it and the same officers that are going to get behind everything as they believe in doing the job and work are the officers that participate in or at least look to find Hey, does this fit, okay” (Patrol Officer Charles, 32)

Most agencies indicated limited involvement from their DA’s office on diversion. Aside from high profile announcements – the office trusted the discretion of local police officers in implementing diversion. There are times when respondents indicated working with prosecutors to facilitate post-charge diversion to treatment through the drug court model or other means.

“Prosecutors are good at trusting our judgement because all they see is the file folder, they don’t just see the behavior they get to see how we feel about it and that is a big consideration.” (Assistant Chief Connor, 42)

However, when diversion policies are unclear or too stringent – officers do not feel empowered in using their discretion – partly because they haven’t received the appropriate direction or training from their agency. Also, while there is support for officers to divert, there is little reciprocal feedback from officers to develop and improve the policy. Many officers have expressed that they would like to see less limitations in their diversion policies, however there is no avenue for line officers to develop this policy leading to a sense of minimal ownership over these strategies.

“And, you know, if this is going to change, I would basically tell you what I just told you now that, you know, [Diversion] is great, but it can be better. And by that being is I think the input of the “street cop” is vital. Yeah, you know, having that input in there and being

like, because it's great, you know, when the AGs office comes down, or, you know, the people who are, you know, some of these people have never been on the street, you know, I don't know if they've ever worked, you know, a shift in uniform and dealt with the people and interacted with them. And they're making determinations on how things should be done. I think the input of the officer there is, is when constructing these types of programs, and how they, you know, and improving them later down the road of hey, like, what do you think we could do better? Or how does this way, you know, if we do it this way, what do you think that would have an effect on?" (Patrol Officer Philip, 33)

Police Orientations in Diversion (Research question 3)

At this juncture, having identified officer discretion as a facilitator for diversion, these themes introduce the motives and orientations that police have in facilitating diversion programs.

Emphasis on participant choice or willingness

All respondents agreed that diversion will only work for people who ‘want it’. Because healthcare is voluntary, there is only so much officers can do to get someone involved in any services – but having the tool of diversion gives potential participants the ability to make that choice.

“Yeah, I told her that we can charge her, if I find out you screwed them or the program, I’ll just file charges on you, and you can deal with it the other way but that’s your choice not mine, I gave you options, if you choose the shitty one, that’s on you, not on me. You have no one to blame except yourself - gives us an avenues of something to do.” (Assistant Chief Connor, 42)

Almost all respondents had an experience with addiction in their life, one officer even mentioned that they were in recovery themselves. It was common for respondents to know someone that was dealing with addiction in their life. This personal connection with PWUD, according to respondents, sets the pretext for an officers’ motivation to use diversion and use of alternative approaches. Still, the emphasis remains on individuals to make that decision for themselves.

“But I would say willingness and only because and I know that sounds a little bit cold, but like I’m in recovery, and like I would never have gotten here if I wasn’t ready. (would you say most often people are not willing?) I wouldn’t say not willing, more often than not people will say ‘I’ll get there’, I’ll ask, ‘what’s your 5 or 10 year plan for yourself, people express that they don’t want to use it forever, but when asked ‘ would you go right now’ it’s too scary of a leap, ‘I don’t want to do it forever, but I’m not ready to say that that last time I used was my last time’ it’s too much, it’s cold water in the face.....“We live in a day and age where probably everyone here has been touched by someone who has suffered from addiction. I’m not going to say to somebody, I’m just going to let him die like I heard in some places. Some people have had kids die, we have had past and current supervisors who have had children experience addiction. Everyone is touched by it, so there’s a little bit more understanding.” (Patrol Officer Jennifer, 40)

The participants indicated some type of training or experience in drug enforcement. Among those interviewed were a narcotics detective, a canine officer, a police chief, assistant chief and two sergeants – all had insight to their agency’s drug enforcement orientations and strategies. All respondents indicated they were confident in their ability to identify individuals who may be potential targets for interdiction.

“And then you know, we typically when we start to develop some kind of inconsistency also like pre indicators for stops. You know, typically when people involved in criminal activity, see police, they will do things out of the ordinary. And, you know, a lot of cops that are trained in interdiction will pick up on those abnormal abnormalities and, and, you know, those are the, those are the cars that the cops are going to focus on. So once you kind

of develop, you think something's going on, you pull them out of the car, and people's demeanor changes when they're out of the car because they don't have any, any barrier between them and us.”(Sergeant Adam, 37).

Despite the emphasis on diversion, many officers expressed the need to improve and enhance drug enforcement. While they admit that existing drug enforcement is ineffective, these are considered by respondents to be their primary role as law enforcement officers.

“I'm going to say funding. We were repeatedly need funding for narcotics investigations. And we're limited with the supply we can do what we need to do. With that comes, you know, manpower and overtime, we're putting lots of money out there to fight these crimes.”
(Patrol Officer Greg, 37)

Respondents were acculturated by their agencies into a practice of policing that is marked by skepticism and an emphasis on “traditional” enforcement-heavy drug policing. While these attitudes are prevalent in policing – they are in contradiction to the underlying principles of diversion, which prioritizes avoiding the harm caused to pwud through system involvement (Gant, 2022; Wang & Quandt, 2021).

Skepticism of Diversion

Officers also had a general hesitance with using diversion, primarily because of the unclear strategies that they had to interpret as mentioned previously. Respondents indicated a desire to see more success associated with the program and feedback to break that initial

skepticism that is common among police. This respondent elaborates on the concept and also indicates the value of having a CRS available to establish rapport and facilitate diversion.

“I’m not saying it’s a waste, I just don’t think it’ll be as immediately successful as people think it would be. Police officers are professional skeptics and we know a person in the community and LETI was readily successful – if they fail the criticism will come ‘doesn’t work, it didn’t work for them’ I think it wouldn’t be as successful as some people would want and think it would be because I don’t believe as a personal opinion that access to treatment is the biggest hindrance, I think it’s just the power of addiction (and their willingness. Until you’re done a lot of times and you know I wonder if, so the CRS’s that are out with the ORT, having somebody who can meet you where you are, there’s options, planting the seeds.” (Patrol Officer Jennifer, 40)

Arrest and diversion are both necessary

Despite all the barriers and limitations associated with their diversion policies, most respondents supported diversion when it was appropriate – and many believed that their leveraging of charges gave drug users the necessary push to comply with the diversion requirements – emphasizing participant choice and willingness to ‘get better’.

“No, I think diversionary programs, that's the best way to do it. But you know, there needs to be a streamlined way in there because these people aren't going to take themselves to go get it right. Unless you've kind of forced upon them. And I also believe that nobody is going to be complete unless they really want to.” (Sergeant Adam, 37)

Respondents overwhelmingly indicated that both arrest and diversion need to remain as options in the hopes of managing drug problems. In support of continued criminalization of drug use, officers reported feeling that the traditional approaches to drug enforcement are a priority for police.

“This environment of this, this, there are values of, and techniques and strategies of traditional types of policing that they have to stay the same, in order for us to do or there are, and I'm not saying all of them, because they're obviously like anything, everything has to change and improve and become better. But sometimes, there's only one way to get rid of, you know, somebody selling drugs, and that's to kick their door.” (Patrol Officer Philip, 33)

As it relates to diversion, officers feel that their ability to leverage charges is what allows them to motivate individuals in diversion. This notion of coercion being necessary for individuals, primarily those with long-term use trajectories, is prevalent through the data.

Officers largely indicated that the consequences of arrest were necessary tools in order to compel people, particularly those who are likely to be treatment resistant, to seek treatment. A prevalent concept in the data – respondents felt that drugs need to be criminalized in order for police to be empowered to provide help through diversion, indicating that those they are coming into contact with are not deterred by the idea of arrest. Respondents are largely finding that more lenient policies by the criminal justice system hinders their work.

“Yeah, cause there'd be no charges, right? I'm just giving them back and be like, here's phase two, do you want treatment, but if they know there's nothing coming with it, what's making them go to treatment?” (Patrol Officer Katherine, 28)

Diversion process is seen as limiting in this regard, as some agencies placed the responsibility on the participant to follow through with initial screenings. Respondents felt that leveraging charges against participants was a way to address hesitation or general treatment resistance.

“I would just say if money wasn't an issue with it with the policies, I mean, if you're able to streamline, right, like in a perfect world, it'd mean not giving people the option and incarceration into treatment. If you were able to give sometimes people that, like long term treatment, if you're able to get people in that are not sure if I'm going to do it or not follow up, and we were able to take them and say, Hey, this is, you know, some sort of facility where, hey, you are mandated here are the courts for a long time treatment.” (Patrol Officer Charles, 32)

Impact on officer decision-making (Research Question 4)

Despite the various shortcomings of diversion programs, officers have identified ways that diversion has impacted other areas of their work. Respondents indicated growth in their ability to meet increasing demands for drug-related social service that come as a result of police interactions with the citizenry. However, respondents have maintained that the priority remains on law enforcement, and identified numerous ways in which diversion and drug enforcement are being used in tandem. Furthermore, the success of diversion work had the most direct impact on the frequency of its use – either confirming officer’s prior skepticism or conversely, reinforcing conceptions of the importance of rapport.

Diversion and Drug enforcement used in tandem

The use of confidential informants has been a consistent tool in drug war policing (Barberi & Taxman, 2019). Results from the theme of *diversion and drug enforcement used in tandem* consists of a subsample of 9 respondents within 5 agencies across 5 counties.

Respondents made mention of a process wherein individuals who are associated with drug interdiction investigations are offered an opportunity for diversion, but may also have their charges leveraged in exchange for information towards that investigation.

“it's kind of on a case by case basis, we do have an officer who's working with the drug task force. So let's say we run into a visual who is struggling with addiction. You know, I think we can You know, kind of go both ways with it, you know, contact [Coordinating agency] for the diversionary program. And, you know, if this individual is willing to give us a hand, you know, divert them to drug task force, you know, maybe they can work as a confidential informant. So that, you know, they can do what they need to do to target the drug dealers and, and try and hit the problem more at home and get the large quantities off the street.” (Patrol Officer Bill, 26)

Most often, their cooperation is not required for officers to consider diversion, individuals are given the option of diversion regardless of their willingness to cooperate with an investigation.

“We tell people, you know, you're going to be talking to our narcotics investigator too later. I mean, it's like Dude, if you're clean, go stay clean. Yeah, we don't want you anywhere near this stuff. We don't want you to do this stuff. We want you staying busy, going to work doing whatever you got to do just stay away from that stuff. If somebody's or somebody feels that they can. We've had people say 'no, I'm good Now. I feel like I'm able to help I'm able to do this.' And, but the first priority obviously is, you know, if you feel like it's going to make a situation worse for you or put you in a vulnerable spot that you feel like you're going to be tempted..... ideas having people's take Yeah, you know, in order to get stuff off the street though, You need people to tell you information about what what's going on.” (Patrol Officer Philip, 33)

As previously explored – officers have emphasized breakthroughs with police as a result of continuous rapport, often through numerous arrests over a period of years or diversionary opportunities. This process of trust building often results in strengthened police-community relations – particularly with the target population. At times, this may lead to cooperation with police on drug investigations.

“Or on the flipside, they’ve developed a breakthrough with law enforcement, there are people I’ve helped who now call me to provide me with information to help their community, not because they’re getting anything out of it right now.” (Assistant Chief Connor, 42)

At the end stages of a drug investigation, when dealers and their associates are arrested, some respondents indicated that individuals who were involved or present in a minimal capacity (most often as a drug buyer) in a drug investigation are linked with service providers through a diversion.

“as far as if you go into a house, and there's eight people in there, you got your main target, or the other ones don't really need to be arrested. And we talked to them and divert them in program to try and get out of that. I've seen that on multiple occasions.” (Patrol Officer Greg, 37)

Increased knowledge/demand of social services

Respondents indicated that working with different treatment providers over time has allowed officers to have an understanding of who to call for services in a given situation.

Different programs allow officers to place a demand of responsibility on these organizations and

makes them more a part of their everyday work – a necessary component identified in the PERF report (2018). While police are not social workers, they consistently find themselves in positions that require a social/crisis response – despite the precipitating actions being construed as criminal (Zakimi et. al., 2022).

“obviously, if they don't get the help, we're going to be dealing with them again, at some point, you know what I mean? So we rather than get the help, but I would say that's probably like the only thing that has really changed since second chance has come around, and us using it more frequently, or knowing it's there to offer it, you know, what I mean that we have that other outlet for them.” (Patrol Officer Rebecca, 54)

Respondents had reported various ways in which their mindset towards managing drug problems had shifted as a result of practicing diversion. Not only did the program encourage empathy toward drug users, it also resulted in other forms of leniency or patience towards the broader citizenry as well as for PWUD/ those with SUD.

“Overall, I've definitely become more and more lenient, I guess, with people, because you honestly don't know. You know, you don't know what's going on in anybody's life. And for me to have somebody, you know, common, they don't have a license, they don't have insurance, they don't have registration and inspection - and they're trying to go to work. And I want to hammer them with 7 tickets, and then what does that do? Now they got to work more so that they can pay off the 7 tickets I just gave them. And then they got to work more again, because they got to pay off the license suspension. And they still don't have a license, and they still need to get the work somehow, but how are they gonna get to work without a license? And so I I feel like I can do my little part. Yeah. And instead of banging

that guy with 7 tickets, you know, what's the point of that? Give him one and say, hey, get your license taken care of. And then as long as it's taken care of, of course, I'll control the citation.” (Sergeant Adam, 37)

Respondents indicated that they are more lenient with drug users, less reliant or quick to arrest. This experience has provided an opportunity to understand addiction and has allowed police to understand their role and tailor their response to best fit the needs of PWUD – within their boundaries. Importantly, officers indicated an understanding of the need for stronger supports around people struggling with SUD, and have used diversion as a way to provide supports that vulnerable populations have limited access to.

“I guess, their mental state of wanting to get help. Okay. spend on them, you know, because I think, you know, most people want to help, they just need to be shown the door to get them out. You know, so I think that with having this system, this program, you know, it gives them hope to be and then if they see that the police officer wants them to get help, it kind of motivates them also, like, hey, maybe somebody does care about me, you know, maybe they don't have that family, you know, or the families, you know, sick of dealing with them for so many years. You know, I haven't been dealing with that person for years. You know, so maybe, you know, then seeing us want to work with them in this program. It gives them the mental state of, hey, somebody does have my back, somebody does care. You know, somebody can give me hell?”(Detective Brian, 49)

Follow-ups impact diversion

Officers have different expectations of what the diversion program can do based on system responsiveness, clear processes and coordination with partner agencies. Most programs reported minimal uptake of their diversion program (with the exception of one urban, exclusively pre-arrest diversion). Respondents indicated that among those who do comply with diversion initially, even fewer ‘succeed’ – often referring to success as an end to system recidivism or no further police contact.

“(beyond ‘wanting drug treatment’ what is the difference between those who accept diversion and those who do not) – successful outcomes, we don’t see repeat offenders. People accepting the program, we aren’t seeing them again.” (Assistant Chief Connor, 42)

While any opportunity at diversion would be considered by some as a success and a well planted seed, some see relapse and recidivism as a failure of the strategy. While increased knowledge of drug treatment services is a positive result, many officers indicated limited success with diversion strategies, often confirming prior perspectives on the limited efficacy of drug treatment and hindering officers’ motivation to divert.

“70-30%. (some will comply, start treatment, not follow through) some get charges filed, others may just be disposed of. That 70-30 split are people you see relapse later down the road.” (Assistant Chief Connor, 42)

“I would say the success rate. I don't think [diversion stakeholders] going to like it, but it probably about I would pin it at between, like, maybe 30 and 40%. But a more honest. I just, it's tough stuff.” (Sergeant Clancy, 35)

“Yeah, I mean, I've, I'd say the percentage error if I put in 50 people, maybe less than 10. Completed. Okay. That's how like, interesting, disheartening. Yeah, you're like, ‘Man, I put all these people in and I'm just filing complaints three, four months later.” (Patrol Officer Richard, 31)

Officers experience varying levels of engagement with their diversion programs based on a variety of factors beyond officer motives. Officers need to have streamlined approaches and quality treatment services available in order for diversion to have the potential of having a positive impact.

Lack of follow-ups are common however, usually dependent on the individual to make outreach, there isn't a system for other entities like service providers or District attorneys to report back to officers on the status/result their diversion. Usually the only way officers are notified are when the DA's office requests that charges be filed because the individual did not follow through with the requirements of the diversion. Lack of follow-ups is also related a to a lack in streamlining and overall cogency of the diversion initiative – further hindering implementation of diversion and decreasing officer motivation.

“How do I put this nicely, it puts it on us that we have to follow up, we now have an extra layer of you know, now I have to go punch their criminal complaint and see them and hope they show up because I haven't talked to them. months down the road when I finally realized that they didn't complete it when I finally hear back from the diversion program” (Patrol Officer Katherine, 28)

Respondents also noted the value of follow-ups when they do occur. Often the follow-up is informal with many respondents being able to name one or two individuals they helped through a diversion (or arrest) take it upon themselves to follow up with officers and update them on their sobriety.

“I hear him call me, and he leaves me a message and he says, [respondent], I'm really doing good. You know, it makes me wanna help the next person even more. So. You know, and then I tell people all the time, hey, I put this person in his program. He calls me, you know, every couple of months. Tell me still doing good. You know, and I know a lot of our guys want to hear that. They want that phone call from Jimmy from three, four months ago, to call them and say, Hey, thank you for putting me in that program.”
(Detective Brian, 49)

Respondents wanted the ability to follow up – perceptions of success helps agencies know that the strategy is working and encourages them to actually divert people. Having follow-ups and positive perceptions of success also allows officers to accept it as standard practice. Success with diversion has in turn impacted the community's relationship with police, and in particular, members of the drug using community that they typically interact with.

“I think that the people that have success are thankful, I think that helps the relationship between the community and the police.” (Patrol Officer Abigail, 30)

Chapter 7: Discussion

The continuum of diversion is effected by officers' abilities to overcome systemic barriers to diversion and the stringent regulatory parameters they have to use their discretion in that process. In the PERF (2018) report, participants had identified that agencies which prioritized identifying resources to meet gaps in treatment services and establishing contact points for law enforcement had better success in their diversion initiatives.

Systemic barriers to diversion includes everything from access to treatment, resistance to general participant refusal, however access to competent and responsive drug treatment agencies who can work in tandem with police can enhance the rapport building that is essential for PWUD to trust a police assisted diversion. However, the success of police diversion programs depends on the cooperation of police (Gant, 2022).

Officers who used strategies along the continuum of diversion characterized by street-based outreach/CRS response reported being more capable of providing on-demand access to drug treatment, affirming the notion that the rapport built through coordination with service providers is critical in implementing police-assisted diversion (Goodson et al., 2019). Rapport helps police build bridges with the community, and particularly with the target population of diversion initiatives. Diversion offers an opportunity to build on these existing patterns to improve police responses to those with addiction and limiting the extent/impact of drug crimes. This is also eloquently put in the excerpt below – diversion or not, people are still going to cycle through the system if those suffering from addiction do not have the supports and safety nets needed for recovery.

“[diversion] was a great resource. But it's not the end all deal is, but we're just how do you stop it? I think that's kind of how we're looking at it now. How do we stop the spread? And

get these people to help they need or, you know, because jail times not doing it? Or if they even are getting jail time? You know?”(Patrol Officer Katherine, 28)

Officers select individuals who are eligible for diversion based on the policies available to them, their ability to meet barriers to diversion, but more importantly, their motives in policing. Some officers may be more inclined to arrest, despite diversion being a viable option under available policies. Depending on the strategy used, there are different outcomes, likelihoods of success, etc. – especially as it relates to the ability to develop trust in and rapport with the target population. This is particularly important as officers are not explicitly dealing with citizens from their communities. Among suburban sites in particular, most of the drug related interactions occurred through traffic stops on major roadways. Since these individuals were not from their community, they were often ineligible with any kind of diversion – even if they were willing, presenting another barrier to facilitating diversion. More importantly there are constitutional concerns with diversion – particularly when charges are being leveraged. The dual mandates being balances – particularly in pre-charge diversion programs maintains officers’ orientations towards legalistic policing and drug criminalization rather than the service oriented-attitudes that are sought after in agencies that are trying to develop effective diversion practices (PERF, 2018; Wang & Quandt, 2021).

“And I can't stress it enough. Because like, when I when I put cuffs on somebody, I'm taking their liberty away. Am I arresting them? Because they need help arresting them because they committed a crime. If I can use that experience of them being arrested in that crime, they committed to make them see that then, you know, I will try. But it's not my buyer estimates on my priority to get them help at that point. They've committed a crime

that they get arrested for. And that is what a preliminary hearing, I'll say, Hey, here's their situation. If they want to get help, then we'll go that route.” (Patrol Officer Jim, 27)

The conditions presented in most of the responding sites indicated that many of the diversion policies, while showing some success, had limited impact overall. Officers did not indicate significant effect on overdose or the frequency of interactions with PWUD. Affirmed by the respondents, current policies keep more vulnerable and at-risk individuals involved in the justice system, individuals who might otherwise benefit from diversion. However, the group that are covered under diversion policies, minor 1st or 2nd time offenders, are likely to refuse the option of diversion and end up being involved in the justice system anyway, producing a net-widening effect– as seen in many other diversion policies (Wang & Quandt, 2021). Also, 1st and 2nd time offenders are not typically the population of individuals with SUD who have frequent interactions with police. The focus on low-level offenses (particularly in pre-charge diversion programs) has expanded the scope of police operations, particularly when participants are unable to complete the program and end up being charged for crimes that would otherwise be dismissed (Rempel et. al., 2018).

This is particularly harmful for those who may be experiencing some level of treatment resistance – a condition that is often accompanied by previous distressing experiences in treatment, a fear of illness, or fear of police (Wolf, 2020). Furthermore, drug treatment is complicated. Relapse is frequent. The majority of the literature on SUD indicates repeated stints in treatment are common and can elapse over years or decades (Wolf, 2020). Also, the research on diversion indicates that going to treatment (whether they complete it or not) is more effective

than incarceration and reduces the length of time before a police contact or relapse (Wang & Quant, 2021; Goodson et. al., 2019).

As mentioned previously, agencies used a variety of strategies in diversion, written or otherwise – while some had detailed strategies, many were subject to informal standards or motives set by practicing officers (Wang & Quandt, 2021). To further discuss net widening, officers that leverage charges for participation in diversion programs that only allow minor offenses were at risk of producing the net-widening effect in diversion as described by Wang & Quandt (2021). Officers have wide discretion as to when charges need to be filed with a desire to extend the time someone has to get treatment – while this sentiment comes from a positive place, it also produces net widening because it keeps someone within the reach of police (who are not empowered to support them in this process alone). Aside from existing barriers to treatment for PWUD, the biggest barrier to the success of diversion programs is likely the policies themselves. Unclear strategies that limit officer discretion and have mixed results are unlikely to be used by officers and they will continue to rely on arrest as their primary drug enforcement strategy, even with the motive of wanting to get someone access to treatment. Respondents have indicated that they would like to see the eligibility for diversion grow, as the range of allowable charges is not congruent with the range of drug related crime that they see. This may seem contradictory considering that officers also mentioned that they have lower expectations of success for long-term users or those with lengthy prior histories, however they also supported the notion of rapport building, “planting seeds”, and found that diversion was called for in certain situations, particularly for those who are charged as dealers (possession with intent to distribute) without the “other elements” of the charge being present.

In some cases, individuals have been diverted who would traditionally be carrying amounts that would link their possession to an intent to distribute. Understanding the nuances of today's drug problems and trends in drug use, procurement and availability – police are interacting with individuals who are mainly selling to support their habit. At best, they would be deflected or diverted from the justice system, at worst, it could result in a conviction for Drug Delivery Resulting in Death (DDRID) or Drug Induced Homicide (DIH) – most commonly it results in the continued cycle of system involvement that does not end but promotes further drug use/sale. Officers seem to have stricter discretion in diverting individuals from the CJ system to drug treatment than they do in charging individuals with DDRID/DIH.

Many officers were supportive of DDRID laws and worked to make those convictions in whatever ways they could. This joint strategy of outreach/diversion while emphasizing 'traditional' drug enforcement against traffickers has not proven to be effective (Goetz et. al., 2006) – despite the respondent's enthusiasm towards drug enforcement and diversion alike, drug problems have not improved for them either.

“So, I feel pretty strongly about prosecution wise with respect to that, because, you know, you'll have a dealer who's doing nothing but selling poison, and it's resulting in people's deaths. I believe there needs to be that accountability. And if we can tie that back to a dealer, you know, somebody who's solely into it for their own personal gain, for the most part, you know, getting that fast money, you know, them going ahead, they're only worried about themselves, and what type of lifestyle they have, or whatever, they don't care about. Who they're selling that bag of dope to, you know. And oh, by the way, if it kills them, they don't care. And so, me, particularly, I believe highly in that prosecution. I'm supportive of that. If we're able to, to tie somebody back to that. Okay.” (Patrol Officer Juan, 45)

The importance of having responsive supportive agencies to implement diversion cannot be overstated as police are not equipped to handle this work alone. Police receive very little training on behavioral health interventions, which makes it difficult to identify individuals who would be appropriate candidates for deflection. Police training is typically associated with a militaristic regiment that prioritizes skepticism – a skepticism that has also extended to diversion programs (Smith, 2022). Police administrations can play their part to acculturate officers, an incredibly important component for officer acculturation and diversion uptake, however respondents in this study indicated their involvement to be piecemeal, and expressed a desire for increased training (PERF, 2018). Also, it's worth mentioning that a handful of officers (usually higher ranking, more experienced) felt that their lack of involvement in developing the diversion policy limited their buy-in. This perspective among supervisors is important, as the quality and orientation of field supervision is the primary indicator for patrol officer behavior (NIJ, 2003). Given the importance of officer orientations, agencies need to improve their ability to acculturate officers to diversion and work with them to develop the policies and partnerships to make diversion work (Gant, 2022; PERF, 2018). Establishing strong partnerships with drug treatment organizations and prioritizing service-style policing in police agencies has the potential to promote police-assisted diversion and deflection practices (Gant, 2022).

Chapter 8: Conclusion

The impact on the U.S Economy from the US's drug problem was estimated at \$631 Billion in 2018; a combined financial burden among healthcare, premature death (highest contributor), criminal justice, child and family assistance and educational programs and lost productivity (Neville & Foley, 2020). Despite this spending, the problem remains protracted. Lawmakers have been hard-pressed to find solutions that fit well within the existing role of the police, particularly as it relates to drug enforcement (Langabeer et al., 2019; Neville & Foley, 2020). Drugs policing is considered an "impossible mandate" (Manning, 1997). Police agencies are implementing alternatives to arrest because many have found that arrests have not contributed in a positive way to the problem (Bacon, 2022).

Much of this study's findings point to the need for more streamlined processes and building up system responsivity to accompany diversion initiatives. Despite individual orientations, officers are clearly willing to do the work – however, lack of process, service availability, and bad experiences are hindering the use of the program. Prior to arrest diversion being available, many officers made indications to prior efforts with DA's offices, detectives, district judges, to get individuals into treatment when possible and avoid incarceration.

Through greater understanding of police perceptions, practitioners can connect individual decisions with outcomes among their diversion programs and work towards ways to improve decision making. It will also provide insight to police agencies on the implications of police culture, socialization, and the local influences on individual officers' discretion (Murphy & Russell, 2020). This study provides that insight and understanding both to line officers and allows for the development of diversion policies that have a positive impact on police operations, officers and ultimately the community. Furthermore, the demands of increasing

empathy as part of a discretionary police initiatives is not only in contradiction with some policing styles but may overload officers who are already juggling various demanding roles. Further research needs to be conducted to identify how diversion impacts officer empathy and particularly burnout.

This study did not seek to evaluate the efficacy of those measures; however, police decision-making needs to be explored in the context of PWUD and the use of diversionary programming to better understand the process of police assisted diversion. Qualitative research that includes perspectives from law enforcement (and others who have contact with the program) is needed to further develop best practice (Smith, 2022). Furthermore, Harmon-Darrow's (2023) systematic review found only two studies that include Pennsylvania in their sample, without detail as to which areas of the state and whether the jurisdictions were urban, rural or suburban.

This study will support the police community and harm reduction professionals' (social workers, recovery specialists, EMS) understanding of police diversion decision-making and hopefully heighten awareness of the experience of police officers to work towards improvements and best practice (Barritt, 1986).

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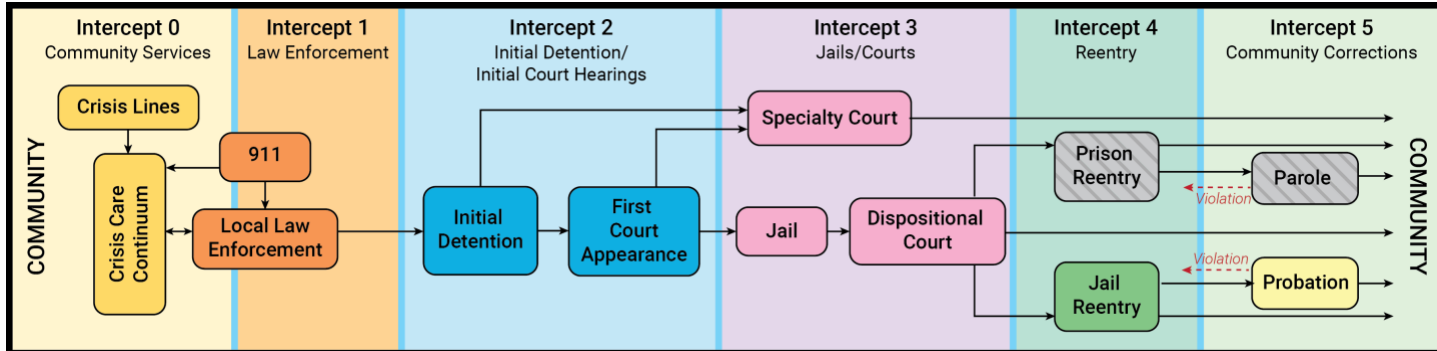
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Appendix A

Figure 1. Sequential Intercept Model



Appendix B - Diversion case examples from raw data.

Overdose Response Teams

“So we do a lot of that in general, I scan through any report with someone who overdoses or anything involving mental health, including MCORT, and I can give you an example, (so you scan the case and see if it will fit?), yeah we’ll see if it fits and make a referral. (Searches for an example incident on her phone..... So for this particular person, this past week, he overdosed on fentanyl while at home, he was given Narcan, came to, and went to Abington hospital. He left the hospital AMA. We then referred to MCORT to follow up. He did not have charges stemming from that incident.”

Active Outreach initiatives

“So alternative, um, well goes back to the, you know, one instance where, you know, I did administer Narcan in the parking lot of [city square], a couple of years ago, she had been actively overdosing, you know, grab the medical bag out of the car, grab the Narcan administered a dose, and she started to come back denied an EMS transport. And we did find a couple digital packets of heroin on her. But I think I kind of share the a very similar mindset to the majority of officers that reached out to [diversion program], as opposed to filing the criminal complaint or taking somebody to jail.”

Street-based (Pre-Arrest)

“This young female, she was in her 20s, was not from around this area, came down for the drugs (heroin and cocaine). She was selling her body in order to make money – she was out of money and the hotel wanted her out, wasn’t paying her bills. Showed up, she had crack on her, some pills, and paraphernalia. She was distraught. Had no one in the area, didn’t want to rat on people, but was tired of being abused so technically right then and there she’s a trespasser so we have a multitude of charges to put on her. I called [counseling agency] told them the situation, I don’t think putting charges on her is appropriate or dropping her off in the city is good either. We took her to [counseling agency] with the clothes on her back. At [counseling agency] they clothed and fed her, and set her up with a rehab. she successfully completed the 90-day IP program and went back home, which was 2 hours away from here. I never criminally charged her, it wasn’t what she needed, she just needed help to set her down on the right path.”

“There was a woman, RT from the mall, but she had priors, so depending on the value or number of RT you had, you basically can either be released or held and talking to her, she basically was like, I could tell by looking at her that she used, and sort of ‘how did you get here’. I like to start of the opening line ‘ I don’t think you’re a bad person, you just made a bad decision, I also know I’m one or two choices away from being you, like and I don’t envy that at all, and I think you’re in a very tough spot, I don’t think I’m better than you,

I'm lucky to be sitting here and not there. And then I was just curious and asked about her active addiction, she said she was tired of this and wanted to get off the roller-coaster, I was able to call [counseling agency] and get her a bed, basically they take over and I can't remember what happened with that, they say don't fingerprint her."

Street-based (Pre-Charge)

"They were both in their 60s, you can tell there's no reason for them to be stealing. And once we got talking to him, I mean, the one, the one guy clearly had, you know, an issue because of drugs, when he was falling asleep, trying to talk to us, you know, couldn't stay awake, he just knew that it was a problem. And then talking to the second gentleman, he explained that he was clean, you know, he did drugs, you know, way back when. And then he got hooked up with one of his buddies, who was a drug addict and brought him into that world than me. Right? So those two guys, I put both of them into the program. The one guy succeeded with flying colors, and the other guy failed miserably."

"One was a traffic stop, search of the car was conducted, crack-cocaine in the car. Obviously, at that time we take an individual into custody, we will fingerprint and process them, however instead of filing a criminal complaint actual charges against that person, we are able to offer them the program."

"Most recent diversion was in November, December of 2022, where I offered the individual the LETI program. And I usually will ask people, listen, this is completely voluntary, you don't have to do this, we offer this so you can get help and not use these certain drugs. He pretty much advised me like, yes, he'd love to do it, followed up 2 weeks later and he never reached out. He actually told [counseling agency], he didn't want to do this. That can happen or someone can want to do it and will follow through."

"I had one where I've assisted other officers, but I had one where, you know, she knew she needed help. She was having very significant health conditions from using and she knows it. And I tried to get her into [diversion], It is unfortunate she did not succeed. But there was other issues standing in her way. And from the last time I spoke to her she is clean. But unfortunately it didn't work for her at that time."

"Yeah, so um, two weeks ago I got a female that was argued I can hear them or verbally arguing you know, in their car I always drive with my windows down on patrol and one of our bigger intersections and she had an outbreak lead and like a registration or inspection was expired something along the lines of that and she kind of jogged up to the car and right on her lap was just like seven bags of Tranq right between her legs and it was like completely visible. And she's actually in the [diversion] program right now. So, like, I'm out there trying to you know, enforce the laws and you know, fight I knew these people, but then get them into treatment like that's, in my opinion, you know, what, you know is what's going to be best for society, our town and for the person we're dealing with on the street stuff."

“And another one I ran into recently was I had this guy I arrested in Baltimore, is probably the one that Yeah, that wasn't supposed to be anyway. So I arrested him on a warrant and are you familiar with the with like the searches incident to arrest and his method of Alright, so I, I searched them on the scene, but I didn't get his little coin pocket in his jeans. So I take him back to station before we put them in the cell. We searched their coin pocket, he's going to jail. So I knew I had to do a very thorough search. And I filled out a little bag and cook. And now I got it back and cook. And I explained the [diversion] program to him and he goes to jail, and he gets out of jail. And then he goes to this, this program. And they say he doesn't need treatment. And so I'm contacting [counseling agency]. And I said, Hey, this is what we got. And her response was No, he doesn't qualify if he doesn't have a drug problem.”

“She was a couple years ago. She wasn't one of our regulars. She was in an accident. And she was highly intoxicated. And when I brought her back here, we started talking, and the more we started talking, and her sister came, and you know, she has an alcohol problem. There's like she's an alcoholic, she has a problem. She says I can't get help. So I mentioned about [diversion] for her and they actually came in and she was saying like, then I don't know if I'm ready. And you know, whatever. So I know her sister was working on her and I can't remember I think she may have gone into the program. I think she may have.”

Station-diversion (Pre-Arrest)

“Her friend actually came back to station I had somebody from second chance come back here sat down with them. I think that they probably an interview with them for probably close to an hour. I think the outcome was they believe that they didn't meet enough for like an inpatient treatment, but they set them up with some different outpatient treacle and all that. Although that day was the first time I entered interact with that individual. I had not seen them since. Okay, so I like to believe that you know, they exactly yeah, I like to believe that the programs that were offered to them were beneficial and they actually stuck with them.”