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### The Role of Public Prosecutors in Achieving Substantive Justice in the Diversion Process for Children in Conflict with the Law

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#### ABSTRACT

This article explores the role of public prosecutors in achieving substantive justice through the diversion process for children in conflict with the law. Using a qualitative research design, specifically a literature review, this study synthesizes findings from various scholarly articles, legal documents, and theoretical frameworks to assess how prosecutors contribute to ensuring fairness and rehabilitation in juvenile justice systems. The analysis highlights the significance of diversion programs, which aim to redirect children away from formal judicial proceedings towards rehabilitative measures, emphasizing restorative justice principles. The study further explores the critical responsibilities of prosecutors in making diversion decisions, advocating for programs that prioritize the best interests of the child while balancing the need for accountability. Moreover, the research identifies the challenges faced by prosecutors, including systemic racial disparities, limited resources, and institutional resistance to alternative justice processes. The findings underline the importance of a restorative justice approach, which not only addresses the offense but also facilitates the reintegration of the child into society. This literature review contributes to the understanding of how public prosecutors can foster

#### KEYWORDS

*Public Prosecutors*  
*Juvenile Justice*  
*Diversion Process*  
*Restorative Justice*  
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substantive justice within the diversion process, while also pointing to the need for continued reforms and further empirical research. The study concludes with recommendations for future research that can explore the practical implementation of diversion and the role of prosecutors in various legal contexts.

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## **1. INTRODUCTION**

The increasing global focus on child protection, rehabilitation, and restorative justice has led to significant reforms in juvenile justice systems worldwide. In particular, the diversion process has gained prominence as an alternative to formal prosecution for children in conflict with the law (Assembly & Directorate, 1991). This process allows for children accused of offenses to be diverted from the formal criminal justice system into programs aimed at rehabilitation rather than punishment (Cunneen & White, 2011). The role of public prosecutors in this process is crucial, as they are responsible for determining whether a case qualifies for diversion, and they ensure that the process aligns with the best interests of the child (Jainah et al., 2024). However, while diversion is recognized as a more child-centered approach, the effective implementation of this process remains fraught with challenges, particularly in balancing the need for rehabilitation with the demands for justice and accountability.

The diversion process for children in conflict with the law, defined by the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines), is designed to protect children from the negative consequences of formal judicial proceedings (Dlamalala & Du Preez, 2020). The process aims to steer children away from incarceration and into rehabilitative and restorative measures, focusing on addressing the root causes of delinquency. The role of public prosecutors in this diversionary process, however, has not been sufficiently explored in the existing literature. Scholars have highlighted the importance of prosecutors in guiding the process and ensuring that the diversion does not simply serve as a loophole but is truly rehabilitative (Nashriana et al., 2023). Despite the growing importance of the diversion process in juvenile justice reform, there is a notable gap in empirical research that critically analyzes the specific responsibilities of public prosecutors within this framework.

While there is substantial literature on juvenile diversion and restorative justice, few studies have focused on the pivotal role of public prosecutors in ensuring substantive justice within the diversion process (Jainah et al., 2024). The existing research often overlooks the challenges and nuances faced by prosecutors in determining whether diversion is in the best interest of the child, or how they balance rehabilitation with public safety concerns (Natamiharja et al., 2023). Moreover, most studies focus on procedural aspects, leaving out the implications for substantive justice, which is concerned with fairness and equity in achieving outcomes that respect the rights and dignity of the child (Hidaya, 2019). This research gap calls for a deeper investigation into how public prosecutors can effectively contribute to the promotion of substantive justice in the diversion process.

The need for this study is urgent due to the growing number of children in conflict with the law, and the increasing recognition that juvenile justice systems must evolve to prioritize

rehabilitation over punitive measures. Juvenile detention centers are overcrowded, and the long-term effects of incarceration can be harmful to children (Pat et al., 2023). The diversion process, if implemented properly, offers a more effective alternative, but the role of prosecutors in ensuring its success is still under-explored. Without a clearer understanding of how prosecutors contribute to this process, there is a risk of implementing diversion in ways that do not meet the objectives of substantive justice. This study seeks to fill that gap by focusing on how public prosecutors can promote both fairness and accountability while supporting the rehabilitation of children in conflict with the law.

Previous research has primarily focused on the role of the judiciary and social workers in the diversion process, with less emphasis on the prosecutor's function. Studies such as those by Hobbs et al. (2025) explore the impact of diversion programs on recidivism and juvenile rehabilitation (Hobbs et al., 2025). These studies indicate that diversion programs, when implemented correctly, can lead to better long-term outcomes for children, such as reduced re-offending and successful reintegration into society. However, little attention has been paid to how prosecutors can ensure that the diversion process is aligned with principles of substantive justice. In this context, studies like those of Hetharie and Arpangi (2025) emphasize the importance of prosecutors in deciding which cases are eligible for diversion, yet their role in safeguarding fairness and equity during the process is seldom discussed in depth (Hetharie & Arpangi, 2025).

This study is novel in its focus on the role of public prosecutors in achieving substantive justice within the diversion process. By examining how prosecutors can balance the dual goals of rehabilitation and accountability, this paper will add a new dimension to the existing literature on juvenile justice reform. Additionally, this study will explore how prosecutors can help ensure that the diversion process does not disproportionately affect marginalized groups or result in unjust outcomes, thereby contributing to a more equitable juvenile justice system (Ayu et al., 2025). Furthermore, this study will offer practical insights into how public prosecutors can be better equipped to serve the best interests of children in conflict with the law.

The primary objective of this study is to investigate the role of public prosecutors in achieving substantive justice in the diversion process for children in conflict with the law. Specifically, the study aims to:

- Examine the responsibilities of public prosecutors in deciding whether to divert cases and how they can ensure that diversion is both rehabilitative and just.
- Identify the challenges faced by public prosecutors in balancing the need for justice with the goals of rehabilitation.
- Explore best practices that can enhance the role of public prosecutors in ensuring the diversion process aligns with principles of substantive justice.

The significance of this research lies in its potential to improve the implementation of diversion programs. By offering recommendations for enhancing the role of prosecutors, this study will contribute to juvenile justice reform, promoting a system that prioritizes the rehabilitation of children over punitive measures. It also aims to provide insights that can inform policy makers, prosecutors, and legal professionals on how to best achieve justice for children in conflict with the law, ensuring that their rights are protected while still holding them accountable for their actions.

## **Diversion Process**

The diversion process is a critical component of juvenile justice systems that aims to redirect children in conflict with the law away from formal judicial proceedings. Instead of being processed through the criminal justice system, children are offered alternative measures that focus on rehabilitation rather than punishment (Nashriana et al., 2023). This alternative process seeks to address the root causes of delinquent behavior through restorative justice practices, counseling, education, and community service. Diversion is grounded in the principle that formal legal proceedings can harm children by subjecting them to the negative consequences of criminal stigmatization and the potential for long-term institutionalization (Wangga et al., 2023).

The rationale for diversion is founded in the belief that children, due to their developmental stage, are more likely to benefit from rehabilitative measures than from punitive responses (Woolard et al., 2016). Moreover, it is recognized that the involvement of children in formal judicial proceedings can increase the risk of recidivism, as it may exacerbate existing social and psychological problems. Diversion offers an opportunity for children to avoid the stigmatization associated with being involved in the criminal justice system, while still addressing the harm caused by their actions. The process aims not only to prevent re-offending but also to assist children in becoming responsible members of society by focusing on restorative measures that involve the community, the victim, and the offender in the healing process (Priyana et al., 2023).

Diversion programs typically involve various stakeholders, including public prosecutors, social workers, defense lawyers, and community members, who work together to create tailored interventions that meet the specific needs of the child (Wright & Levine, 2021). The decision to divert a child is generally made by public prosecutors, who must carefully assess whether diversion aligns with the best interests of the child, taking into account factors such as the severity of the offense, the child's age, background, and the likelihood of rehabilitation (Arif, 2018). Despite its potential benefits, diversion is not always universally applied, and access to diversionary measures can vary significantly across jurisdictions, often influenced by local legal frameworks, resource availability, and institutional resistance to alternatives to punishment (Feld, 1999).

## **Children in Conflict with the Law**

Children in conflict with the law are minors who have engaged in behaviors that violate legal norms and have come into contact with the justice system. These children often find themselves caught in a cycle of criminal justice processes that fail to account for their developmental needs, social circumstances, and vulnerability. Unlike adults, children are in a phase of psychological, emotional, and social growth, which influences their behavior, decision-making, and the capacity to understand the consequences of their actions (Assembly & Directorate, 1991). As such, the application of the same criminal justice principles to children as to adults often results in outcomes that are not in their best interest (Bolin & Applegate, 2023).

Research indicates that the overwhelming majority of children who come into conflict with the law do so due to factors such as poverty, neglect, abuse, or lack of education (Fang, 2020). These children often lack the support structures necessary to prevent delinquent behavior and may struggle to comprehend the legal process and its consequences (Snook et al., 2016). For this reason, international conventions, such as the United Nations Convention on the

Rights of the Child (CRC), emphasize the need for a child-sensitive approach to juvenile justice that considers the unique needs of children and the potential for their rehabilitation (Assembly & Directorate, 1991; Steinberg, 2009).

Children in conflict with the law are a vulnerable group who require tailored interventions that consider their age, maturity, and psychological state. The justice system must ensure that their rights are protected and that they are not subjected to punitive measures that could hinder their development or lead to long-term social exclusion. The diversion process is designed to address these concerns by offering rehabilitative and restorative alternatives that focus on reintegrating children into society, rather than labeling them as offenders. By offering a more supportive and rehabilitative approach, diversion helps reduce the likelihood of future offenses, providing children with the opportunity to transform their lives and avoid the stigmatization and institutionalization that often accompanies formal judicial proceedings (Robertson et al., 2020).

## 2. METHODS

This study employs a qualitative research design with a focus on a literature review approach. The aim of this methodology is to synthesize existing scholarly work, theories, and legal frameworks to critically examine the role of public prosecutors in achieving substantive justice in the diversion process for children in conflict with the law. A qualitative approach is well-suited for this research as it allows for a deep, contextual understanding of complex legal practices and theoretical perspectives regarding juvenile justice and diversion programs.

This research adopts a literature review (or documentary study) design, which involves reviewing and analyzing existing research, legal documents, reports, and scholarly articles related to juvenile diversion processes, public prosecutors' roles, and substantive justice. By examining a wide array of secondary data sources, this study aims to compile, critique, and synthesize existing knowledge on the diversion process in juvenile justice systems, focusing on the intersection of prosecutors' roles and the concept of substantive justice (Fink, 2024). This type of research enables an in-depth understanding of established theories and legal frameworks, which can inform future policy and legal reforms.

The sources of data for this study are primarily secondary data, which include academic journal articles, books, international legal documents, and reports from governmental and non-governmental organizations. These sources are selected for their relevance to the topic and their contribution to understanding the diversion process in juvenile justice systems and the role of public prosecutors. Key data sources include:

- Academic journals that discuss juvenile justice, diversion processes, and restorative justice (e.g., *Journal of Juvenile Justice*, *Youth Justice Quarterly*).
- Legal texts and international conventions such as the United Nations Convention on the Rights of the Child (CRC) and the Beijing Rules (Assembly & Directorate, 1991).
- Reports from organizations such as UNICEF, the International Juvenile Justice Observatory, and the World Bank, which often provide insights into the practices of juvenile justice systems globally (UNICEF, n.d.).
- Books and articles focused on juvenile justice reform and the role of prosecutors in the diversion process (Feld, 1999).

In this study, documentary analysis is the primary technique for data collection. The process of collecting data involves the systematic search, selection, and review of existing literature from a variety of reputable sources. The data collection steps are as follows:

- **Systematic Search:** An extensive search is conducted in academic databases such as JSTOR, Google Scholar, Springer, and Scopus using key terms such as "juvenile diversion", "public prosecutors", "substantive justice", and "children in conflict with the law".
- **Selection of Relevant Literature:** After the search, literature that specifically addresses the role of public prosecutors in juvenile diversion processes is selected. Sources are screened for relevance, credibility, and timeliness.
- **Document Review:** Selected documents are reviewed to identify key themes, theories, and frameworks that relate to juvenile diversion, restorative justice, and the responsibilities of public prosecutors in ensuring substantive justice.

The selection criteria for sources include:

- Relevance to the research question.
- Academic peer-reviewed articles, books, and government reports.
- Use of international standards, conventions, and case law.

The data analysis method used in this study is thematic analysis, a widely used qualitative analysis technique that allows researchers to identify, analyze, and report patterns or themes within the data (Braun & Clarke, 2006). The thematic analysis process for this study follows these steps:

- **Familiarization with Data:** The researcher reads and re-reads the selected literature to become familiar with the content and identify initial ideas or topics of interest related to the diversion process and the role of public prosecutors.
- **Coding the Data:** Key phrases and concepts are highlighted, and initial codes are created. These codes relate to significant findings within the literature, such as the responsibilities of prosecutors in the diversion process, challenges they face, and the impact of diversion on children.
- **Identifying Themes:** Once the data is coded, the researcher looks for patterns across the data. Themes are identified by grouping similar codes together. For example, themes may include "Best Interests of the Child", "Legal Frameworks", "Challenges for Prosecutors", and "Restorative Justice Practices".
- **Reviewing Themes:** After the initial themes are identified, they are reviewed and refined to ensure they accurately reflect the data and the research objectives.
- **Final Analysis:** The final stage involves writing up the findings in a narrative form, explaining how each theme relates to the research questions. This analysis helps provide a comprehensive understanding of the role of public prosecutors in the diversion process.

This methodology enables a thorough exploration of the literature and the development of an integrated understanding of the various roles and responsibilities involved in the diversion process, with a focus on the principles of substantive justice.

**3. RESULTS AND DISCUSSION**

Table 1. Literature Data Results of Literature Studies

<b>Author &amp; Year</b>	<b>Article Title</b>	<b>Key findings</b>
Livingstone et al., 2013	Restorative justice conferencing for reducing recidivism in young offenders (aged 7 to 21)	The study highlights the effectiveness of restorative justice conferencing in reducing recidivism among young offenders, ages 7 to 21.
Institute, 2023	Vera Institute of Justice Partners with Six Prosecutors and Community Organizations to Improve Public Safety and Racial Equity	The Vera Institute emphasizes the importance of partnerships between prosecutors and community organizations to improve public safety and racial equity.
Buen et al., 2020	Fostering openness to rehabilitation and reintegration of criminals into society in a fearful world: The moderating role of regulatory focus	The article discusses how fostering openness to rehabilitation and reintegration is essential for reducing recidivism, with regulatory focus playing a moderating role.
Murhula & Singh, 2019	A critical analysis on offenders rehabilitation approach in South Africa: A review of the literature	This review critiques various rehabilitation approaches in South Africa, highlighting the importance of effective rehabilitation strategies for offenders.
Feld, B. C., 1999	Bad kids: Race and the transformation of the juvenile court	Feld discusses the racial disparities in the juvenile justice system, emphasizing how systemic biases affect children of color in court proceedings.

The data from the literature review provides a comprehensive understanding of the role of public prosecutors in the diversion process for children in conflict with the law, as well as the broader implications of juvenile justice reform. The findings from the selected articles highlight several key themes, such as the significant impact of diversion programs on juvenile justice, the application of restorative justice principles, and the responsibilities of public prosecutors in ensuring substantive justice.

Firstly, many of the studies emphasize the crucial role of public prosecutors in determining whether a child should be diverted from formal judicial proceedings. Livingstone et al. (2013) both stress that prosecutors must balance the need for accountability with the child's best interests, advocating for diversion programs that focus on rehabilitation rather than punishment (Livingstone et al., 2013). This sentiment is echoed by Vera Institute (2023), who argues that prosecutors are integral in ensuring fairness and equity within the diversion process, ensuring that all children, regardless of their background or the nature of their offense, have access to rehabilitative measures (Institute, 2023).

Moreover, several articles highlight the importance of restorative justice principles in juvenile diversion. Buen et al. (2020) point out that restorative justice emphasizes healing for both the offender and the victim, which aligns with the objectives of diversion programs aimed at reintegrating children into society without stigmatizing them (Buen et al., 2020). This approach is seen as a more effective and humane alternative to traditional punitive measures, which can have long-term detrimental effects on young offenders (Murhula & Singh, 2019).

Additionally, issues related to race, as discussed by Feld (1999), also emerge as a significant concern in the juvenile justice system (Feld, 1999). These studies explore how systemic inequalities in the justice system can disproportionately affect children of color, underscoring the need for prosecutors to ensure that diversion processes are applied equitably to all children, regardless of their racial or socioeconomic background.

In conclusion, the literature strongly supports the idea that diversion programs, when properly implemented and managed by public prosecutors, can serve as a more just and rehabilitative alternative to traditional judicial processes. However, the studies also underscore the challenges faced by prosecutors in navigating this delicate balance, highlighting the need for continued reforms to ensure that the diversion process is fair, effective, and focused on the long-term welfare of children in conflict with the law.

## **Discussion**

The findings from the literature review provide a nuanced understanding of the role of public prosecutors in the diversion process for children in conflict with the law, highlighting key themes related to rehabilitative justice, prosecutorial discretion, and systemic challenges. The analysis underscores the importance of diversion programs in promoting rehabilitation over punishment, which aligns with contemporary trends in juvenile justice reform. This shift is particularly significant as it responds to the growing concerns about the negative long-term effects of punitive measures on children, which can increase the risk of recidivism and social exclusion (Campagna et al., 2019).

One of the central findings of this study is the critical role of public prosecutors in ensuring that the diversion process is applied fairly and effectively. As Rifmawati argue, prosecutors must balance the need for justice with the child's best interests, advocating for rehabilitation over punitive measures (Rifmawati, n.d.). This responsibility is particularly important in light of the increasing push for restorative justice practices, which emphasize healing and reintegration over punishment (Brodowski, 2021; Goddard, 2014). Prosecutors are uniquely positioned to ensure that diversion programs not only reduce the involvement of children in the formal justice system but also contribute to their successful reintegration into society. This aligns with theories of restorative justice, which stress accountability for the offense

while prioritizing the offender's development and rehabilitation (Zehr, 2002). The importance of prosecutor-led decisions in these contexts cannot be overstated, as they serve as gatekeepers for diversion, ensuring that only those cases where diversion would be beneficial to the child are prioritized.

Moreover, the findings draw attention to the importance of restorative justice in juvenile diversion, an area that has gained significant traction in recent years. According to Brodowski (2021), restorative justice programs aim to involve all stakeholders — including the child, victim, and community — in the healing process. This approach, which focuses on repairing harm rather than retribution, reflects a paradigm shift in juvenile justice systems globally. The implementation of such practices, however, is not without challenges. Although restorative justice is widely advocated, practical implementation issues, such as a lack of resources, training, and institutional support, often hinder its success (Lynch, 2011). Therefore, the role of public prosecutors becomes even more critical in promoting these practices and ensuring they are carried out effectively.

The findings also point to the ongoing challenges related to racial disparities in the juvenile justice system, an issue that remains prevalent in many jurisdictions. Studies such as those by Feld (1999) and Zimring (2013) highlight how systemic inequalities often disproportionately affect children of color, potentially leading to harsher treatment and fewer opportunities for diversion (Feld, 1999). This is particularly concerning given that diversion programs are supposed to be implemented equitably, ensuring that all children have equal access to rehabilitative measures. Public prosecutors, as noted by Van der Merwe (2016), are in a powerful position to address these inequities, yet they face the challenge of navigating institutional biases within the system. This underscores the importance of ensuring that prosecutors are adequately trained in cultural competence and equity to better serve all children, regardless of their race or socioeconomic background.

From a theoretical perspective, the findings align with the framework of substantive justice, which emphasizes fairness, equality, and respect for the rights of individuals within the legal system (Feld, 1999). Substantive justice, unlike procedural justice, is concerned with the fairness of outcomes, ensuring that every child is given an opportunity for rehabilitation and that the justice system does not perpetuate social inequalities. The role of public prosecutors, therefore, is not only to ensure that legal procedures are followed but also to ensure that the outcomes of diversion are truly just and equitable.

In conclusion, while the literature reviewed highlights the significant potential of diversion programs in promoting a more rehabilitative and restorative approach to juvenile justice, it also reveals several challenges that need to be addressed. Public prosecutors play an essential role in navigating these challenges, ensuring that diversion programs are used effectively, fairly, and equitably. However, the successful implementation of diversion programs requires systemic changes, including increased resources, training, and a commitment to addressing racial disparities in the system. Prosecutors must be equipped not only with legal expertise but also with an understanding of the social and developmental needs of children to ensure that substantive justice is achieved. As the juvenile justice system continues to evolve, it is crucial that further reforms be made to ensure that diversion is truly a tool for rehabilitation, rather than a mechanism that perpetuates existing inequalities.

#### **4. CONCLUSION**

This literature review provides a comprehensive analysis of the role of public prosecutors in the diversion process for children in conflict with the law, highlighting their crucial position in ensuring that justice is both substantive and equitable. The findings indicate that while diversion programs offer a more rehabilitative and restorative approach to juvenile justice, the successful implementation of these programs depends largely on the decisions made by public prosecutors. They are tasked with balancing the need for accountability with the child's best interests, ensuring that diversion is applied fairly and effectively. Furthermore, the importance of restorative justice practices in the diversion process has been clearly emphasized, showing their potential to foster healing for both the offender and the victim. However, challenges such as systemic racial disparities, limited resources, and the need for further training in cultural competence remain significant obstacles to the widespread success of diversion programs. The literature also underlines the need for continued reform in juvenile justice systems to address these challenges and ensure that all children, regardless of their background, receive equal access to rehabilitative measures.

### **Recommendations for Future Research**

Future research should focus on empirical studies that examine the practical application of diversion programs and the role of prosecutors in various jurisdictions. It is important to assess how prosecutorial discretion and decisions impact the outcomes of diversion, particularly with regard to racial and socio-economic disparities. Additionally, further studies are needed to explore the effectiveness of restorative justice practices in juvenile diversion, particularly in non-Western contexts or in countries with different legal frameworks. Research on the institutional barriers to implementing diversion, such as resource constraints or resistance from legal professionals, would also provide valuable insights for policy reform. Finally, longitudinal studies on the long-term outcomes of diverted children, particularly in terms of recidivism rates and social reintegration, could help refine diversion practices and ensure that they lead to sustainable rehabilitation.

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## **6. AUTHORS' NOTE**

This article is the result of a literature review aimed at exploring the role of public prosecutors in achieving substantive justice within the diversion process for children in conflict with the law. The author acknowledges that this study is limited by its theoretical approach, which is qualitative and descriptive in nature, and does not include empirical data

from field studies. Therefore, the author encourages future research that can build upon these findings through quantitative methods or case studies in practical settings.

The author declares no conflict of interest in the writing of this article. All ideas, analyses, and interpretations presented herein are solely the academic responsibility of the author. This article is intended as a scholarly contribution to the ongoing discourse on juvenile justice and public prosecution, offering insights into the application of diversion programs and restorative justice principles in contemporary legal systems.

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