



ASSOCIATION OF
PROSECUTING
ATTORNEYS

LESSONS LEARNED & RECOMMENDATIONS

**Designing Prosecutor-Led Diversion and Deflection
Programs to Address Low-Level Retail Theft**

Table of Contents

Introduction	1
Program Goals	1
Our Pilot Sites and their Unique Programs	1
Columbus City Attorney’s Office	1
East Baton Rouge District Attorney’s Office	2
Santa Monica City Attorney’s Office	3
Yolo County District Attorney’s Office	3
Lessons Learned	4
Data: Key Takeaways	6
Pilot Program Data	7
Recommendations for Low-Level Retail Theft Diversion or Deflection ...	13
Conclusion	15

Introduction

Retail theft poses a significant challenge for communities, impacting businesses, law enforcement, and judicial systems. This document outlines the lessons learned and recommendations from implementing prosecutor-led low-level retail theft diversion and deflection programs in multiple pilot sites across the country. These programs aim to address the root causes of retail theft by balancing community safety and the needs of retailers.

Through collaborative efforts involving prosecutors, law enforcement, business and community partners, and service providers, the Association of Prosecuting Attorneys (APA) worked with the pilot sites to develop programs that aim to reduce recidivism, improve participant outcomes, and foster sustainable partnerships. This resource provides an overview of program structures, key findings, and actionable insights to guide future efforts in designing and enhancing similar programs.

Program Goals

The goal of this program is to work with prosecutors' offices and their law enforcement and community partners to determine effective retail theft responses that diagnose the underlying causes of low-level theft while balancing the needs of retailers and the safety of the communities that prosecutors serve.

While each program was co-designed to meet the needs of each individual jurisdiction, the underlying model framework for each program is based on a needs assessment and direct services, so that each participant has an opportunity to have their needs individually addressed. Participants' exit and entry questionnaires were used to monitor changes and determine outcomes of program engagement. The programs included working with partners in the community, the criminal justice system, and with businesses to ensure buy-in and program sustainability.

Our Pilot Sites and their Unique Programs

Columbus City Attorney's Office

Demographics: Columbus has a population of approximately 918,000. The City Attorney's Office prosecutes misdemeanor cases. The office has approximately 89 staff and is led by an elected prosecutor.

Definition: A misdemeanor retail theft charge involves a theft valued at less than \$1000.00.

Approach: This program emphasizes a community health response to low-level retail theft cases. Retailers file theft reports directly to the prosecutor's office through an online portal and are responsible for all investigation and documentation. The Columbus City

Attorney's office then makes all filing decisions. This program is often referred to as a deflection-based program as police are not significantly involved in this process.

Partners: Retailers and Community Health Workers (CHW). CHWs interview the participant, determine their needs, and connect them with appropriate service providers. CHWs monitor the participant's services and progress.

Participant Eligibility: Individuals charged with non-violent misdemeanor offenses, including both first-time and repeat offenses.

Services: Services are tailored to individuals' needs and may include healthcare, drug treatment, job training, education, financial planning, government assistance programs.

If the participant is unsuccessful: The participant is referred to court for prosecution.

Expungement and sealing: For cases referred to court, expungement or record sealing is readily accessible.

East Baton Rouge District Attorney's Office

Demographics: East Baton Rouge Parish has a population of approximately 448,000. The District Attorney's Office prosecutes both misdemeanors and felonies. There are approximately 110 staff in the office, and it is led by an elected prosecutor.

Definition: A misdemeanor retail theft charge involves a theft valued at \$1,000.00 or less.

Approach: This program is designed with the partnership of the sheriff's office. Specific stores are designated as part of the program, and the sheriff responds to calls for service at those stores. Law enforcement then processes the arrestee.

Partners: Law enforcement, in particular the sheriff, refer arrestees to the prosecutor for review. The prosecutor has the discretion to admit cases into their program, divert cases or refer cases. A judge has committed to working with these participants in his courtroom.

Participant Eligibility: All non-violent, repeat misdemeanor retail theft offenders will be considered. Other non-violent offenders with a minimal criminal history who appear likely to benefit from the program may also be considered.

If the participant is unsuccessful: They are referred to court for prosecution.

Services: Services and partnerships are determined based on the needs of their participants. Referrals have focused on counseling with an emphasis on behavioral modification strategies.

Expungement and sealing: Yes.

Santa Monica City Attorney's Office

Demographics: Santa Monica has a population of approximately 90,000. The City Attorney's Office prosecutes misdemeanor cases. There are approximately 40 staff in the office led by an appointed prosecutor.

Definition: A misdemeanor retail theft charge involves a theft valued at \$950.00 or less.

Approach: The primary focus is on the unhoused or those experiencing housing instability. Meeting the participants where they are at is key, so the "courtroom" is a Shelter, Treatment, and Empowerment Program (STEP) Court that operates in the neighborhood. Judges, clerks, prosecutors, and defendants are in an informal setting and successful program completion is recognized by the judge.

Partners: The Santa Monica Police Department plays a central role in identifying and referring eligible individuals. Referrals are made to Exodus, a community partner and STEP team member. A navigator meets with participants and arranges services and/or housing. On-site counselors support participants residing in permanent housing.

Services: Participants may receive counseling, drug treatment, housing, both temporary and permanent. For those in permanent housing, a staff person is a resident and on site to assist the participant.

Expungement and sealing: Yes.

Yolo County District Attorney's Office

Demographics: Yolo County, CA has a population of approximately 219,000. The District Attorney's Office prosecutes both misdemeanors and felonies. There are approximately 110 staff in the office, and it is led by an elected prosecutor.

Definition: A misdemeanor retail theft charge involves a theft valued at \$950.00 or less.

Approach: The program concentrates on first time arrestees on misdemeanor cases. Discouraging future criminal behavior and meeting the needs of the participant is the focus. Approximately 50% of people who are offered the program join the program. Their data system is well developed and accessible. It makes data sharing easier and helps encourage a pivot in approach if necessary.

Partners: The office works with a range of partners, including the Public Defender's Office and service providers within and outside the county.

Services: Services include counseling, substance use treatment, educational support, and resource navigation. The Public Defender's Office also offers financial support for program participants.

Expungement and sealing: Prosecutors provide information on possible petitions to have the arrest record sealed, and the PD provides the assistance. If diversion is completed pre-filing, the law enforcement agency updates the record to detention only.

Lessons Learned

1. Evaluate whether a low-level retail theft diversion or deflection program aligns with your office's goals, philosophy, and public safety strategy.
 - a. Engage with retailers early in the planning process. Their input, as stakeholders and crime victims, can shape program design and build essential buy-in.
 - b. Assess law enforcement's capacity and willingness to participate in the program.
 - c. Review internal data to determine whether a program is feasible given current staffing, caseload, and resource levels. Consider the impact on your office with a program and the impact on your office without a program.
 - d. Review state and local statutes to determine legal authority and flexibility for initiating such a program.
2. A decision needs to be made as to whether the program model is a deflection or a diversion.
 - a. Deflection: A participant/arrestee never appears in court prior to admission to the program.
 - b. Diversion: A participant/arrestee appears in court prior to participating in the program.
3. Considerations for decision making
 - a. All the elements of the offense have to be present for a provable case, regardless of whether the program is deflection, diversion or prosecuted through court.
 - b. Each retailer has their own practices, protocols, and thresholds for referral to law enforcement to be considered.
 - c. Confirmation of the identification of the person, and their criminal background, needs to be timely. This can impact eligibility for the program as well as safety for community partners.
 - d. Law enforcement responsiveness and what, if anything, is their role in the process.
 - e. How and by whom evidence is collected and shared (videos, photos, cash register receipt, witness accounts, any statement of the accused).
4. Common implementation challenges

- a. Asking overworked prosecutors and partners to do more in creating and implementing a new services-oriented program.
 - b. Integrating software for data collection and sharing.
 - c. If pursuing a deflection program, implementing a process for confirming proper identification of individuals who have been referred.
 - d. Identifying the needs of the participant.
 - e. Meeting the needs of the participant.
 - f. Transparency of demographics to monitor fair representation.
 - g. Defining individual successes as well as recidivism for purposes of measuring outcomes.
 - h. Clarifying to partners that this program does not include organized retail theft.
5. Potential challenges to consider during planning stages of development
- a. Addressing the volume of “Failures to Appear” for court or program obligations.
 - b. Prosecutorial independence and discretion.
 - c. Identifying as well as acknowledging resource constraints.
 - d. Expungement/sealing of arrest and charges if a participant successfully completes all obligations.
 - e. System partners often do not prioritize these cases.
 - f. Dissatisfaction by some retailers in the criminal legal system.
 - g. The program might be more challenging than a simple plea.
6. Retailer buy-in
- a. Retailers are increasingly concerned with inventory loss (“shrinkage”) in their stores and are looking for remedies.
 - b. Considerations for big box stores and ‘mom and pop’ shops may be different. Try to meet specific needs.
 - c. Retailer-specific practices, protocols and engagement of law enforcement need to be addressed. Everyone needs to know what they are expected to do.
 - d. Whether your program is law enforcement filing or store direct filing, all cases must include information sufficient to prove each element of the crime. This includes receipts, photos, videos, witness statements and reports.
 - e. Working with store loss prevention agents and police to engage in “direct file” practice with the prosecutor for those jurisdictions with limited police involvement.
 - f. Engage in regular contact or meetings with stores to improve communication, address the needs of the stores, and create buy-in for your program.
7. Intake assessment of the participant

- a. An appropriate/trained assessor should administer a needs assessment, a survey or data form.
- b. The assessor needs to pay attention to the data they are collecting. Review the data to make sure the participant's needs are met. This will result in a better program for the individual participant.
- c. The assessor should also pay attention to the data and see if there are overarching themes or difficulties. For example, are the identified needs of your participants being met with your available services such as mental health, drug treatment or financial planning.
- d. Both qualitative (e.g., participant narratives, case notes) and quantitative (e.g., demographics, service utilization) data play a meaningful role in program evaluation and continuous improvement.

8. Services

- a. Meeting participants where they are. For example: if a great deal of retail theft involves fresh foods, perhaps work to set up a weekly farmer's market or establish a food pantry.
- b. Continuously seek out and cultivate new partnerships to expand service offerings. Creative solutions may include communal gardens, job fairs, vocational workshops, or mobile resource vans.
- c. Inventory all available services that can meet participant needs. This may include health care, housing (temporary and permanent), employment assistance, mental health and substance use treatment, and financial planning. Small-scale services can be just as impactful as large ones when matched to the right participant.

9. Participant Accountability and Incentives

- a. If a participant accepts the program, they should receive services. For some, a referral will be enough to set them on a more productive path. For others, referrals are not enough, and they will need an active approach and follow up from system partners such as navigators or the court.
- b. If there are no consequences to dropping out of the program, many participants will drop out. Retailers will probably feel that their efforts were not valued, and the program will not be as effective. There should be appropriate consequences. For example, a referral to court, judicial pressure, lack of expungement or sealing of the case.

Data: Key Takeaways

- Across the four jurisdictions, 111 individuals participated in a retail theft diversion program.
- The majority of participants were women, which is a reversal of broader trends on who is involved in the criminal legal system.

- Half of participants were employed, and an additional 33% were actively seeking employment.
- Despite half of participants being employed, 77% of participants still reported an annual income of under \$20,000, placing many under the federal poverty line of \$15,650 for a single individual.
- Of participants who were actively seeking employment, 81% of individuals reported experiencing at least one barrier to employment, with the three most frequent reasons being 1) transportation, 2) childcare, and 3) criminal history.

Pilot Program Data

Across the four sites, a total of 111 individuals participated in retail theft diversion programs. Each retail theft diversion program was implemented at a slightly different time based on unique jurisdiction planning needs and timelines, which contributed to how many participants that each program was able to recruit and enroll. Because of the different timelines, data collection covered different time periods in each site (See Table 1). The number of participants also varied across sites based on program capacity and the resources required per participant, ranging from 16 participants in a 7-month period to 52 participants in a 33-month period. For example, Santa Monica had the fewest individuals enrolled in their retail theft diversion program because the program only enrolled participants with high needs surrounding mental health, substance use, and homelessness. Therefore, the program offered intensive resources to a smaller population. Conversely, Columbus' retail theft diversion program is a deliberately light-touch program for individuals who need connection to services and some guidance, but who do not have the more intensive needs of participants in STEP Court.

Table 1: Participants and Data by Site

Site	Number of Enrolled Participants	Data Collection Time Period
Columbus, Ohio	26	September 1, 2023 – February 28, 2025 (18 months)
East Baton Rouge, Louisiana	16	August 1, 2024 – February 28, 2025 (7 months)
Santa Monica, California	17	January 1, 2024 – January 31, 2025 (13 months)
Yolo County, California	52	February 1, 2022 – October 31, 2024 (33 months)

Participant Demographics

Participant demographics varied across sites, reflecting expected differences in the racial and ethnic composition of each jurisdiction (See Table 2).

Table 2: Participant Demographics by Site¹

	Columbus, OH (n=26)	East Baton Rouge, LA (n=16)	Santa Monica, CA (n=17)	Yolo County, CA (n=52)	Total (n=111)
Race					
American Indian or Alaskan Native	0 (0%)	0 (0%)	0 (0%)	1 (2%)	1 (1%)
Asian	0 (0%)	0 (0%)	0 (0%)	5 (10%)	5 (5%)
Black	16 (62%)	14 (88%)	8 (47%)	9 (17%)	47 (42%)
Middle Eastern/ North African	0 (0%)	0 (0%)	0 (0%)	1 (2%)	1 (1%)
Native Hawaiian or Pacific Islander	0 (0%)	0 (0%)	0 (0%)	2 (4%)	2 (2%)
White	10 (38%)	2 (13%)	5 (29%)	18 (35%)	35 (32%)
Multiracial	0 (0%)	0 (0%)	0 (0%)	5 (10%)	5 (5%)
Other	0 (0%)	0 (0%)	4 (24%)	9 (17%)	13 (12%)
Prefer not to say/missing	0 (0%)	0 (0%)	0 (0%)	2 (4%)	2 (2%)

¹ Ethnicity data are not recorded by Columbus or East Baton Rouge. Therefore, the sample size is 70 for summary calculations across Santa Monica, CA and Yolo County, CA.

Ethnicity^[1]					
Hispanic/Latino	No data	No data	4 (24%)	12 (23%)	16 (23%)
Not Hispanic/Latino	No data	No data	13 (76%)	39 (75%)	53 (76%)
Prefer not to say/missing	No data	No data	0 (0%)	1 (2%)	1 (1%)
Gender					
Male	15 (58%)	2 (13%)	4 (24%)	23 (44%)	44 (40%)
Female	11 (42%)	13 (81%)	12 (71%)	28 (54%)	64 (58%)
Transgender	0 (0%)	1 (6%)	1 (6%)	0 (0%)	2 (2%)
Prefer not to say/missing	0 (0%)	0 (0%)	0 (0%)	1 (2%)	1 (1%)
Age (Average)	33 (SD=15)	34 (SD=14)	38 (SD=9)	32 (SD=13)	33 (SD=12)

Black participants are represented at rates approximately twice as high as the general population in Columbus, nearly twice as high in East Baton Rouge, five times as high in Yolo, and seven times as high in Santa Monica (see Figure 1).

Figure 1: Percentage of Diversion Programs who Identify as Black, compared to the General Population by Site²



Women, across racial and ethnic groups, were disproportionately represented across all jurisdictions, comprising 58% of all participants. This contrasts with trends across the broader criminal legal system, where approximately 80% of arrests involve men.³ The disproportionality or overrepresentation of Black individuals or women in a *diversion* program is not, inherently, positive or negative; it is more reflective of disparities in the criminal legal system more broadly, and diversion programs can be used as an approach to reducing harmful consequences of criminal legal system involvement for individuals from historically minoritized racial and ethnic groups or with gender-specific needs.

Participant Needs

A total of 79 participants from Columbus, East Baton Rouge, and Yolo County completed an intensive needs assessment. In Yolo County and East Baton Rouge, this represented 100% (n=52; n=16, respectively) and in Columbus, 42% (n=11) participants completed the assessment.⁴ An alternative needs assessment was administered to 17

² U.S. Census Bureau Quick Facts: Yolo County, CA; Santa Monica, CA; East Baton Rouge, LA; Columbus, OH. (2023). United States Census Bureau.

<https://www.census.gov/quickfacts/fact/table/yolocountycalifornia,santamonicacalifornia,eastbatonrougeparishlouisiana,columbuscityohio/PST045224>

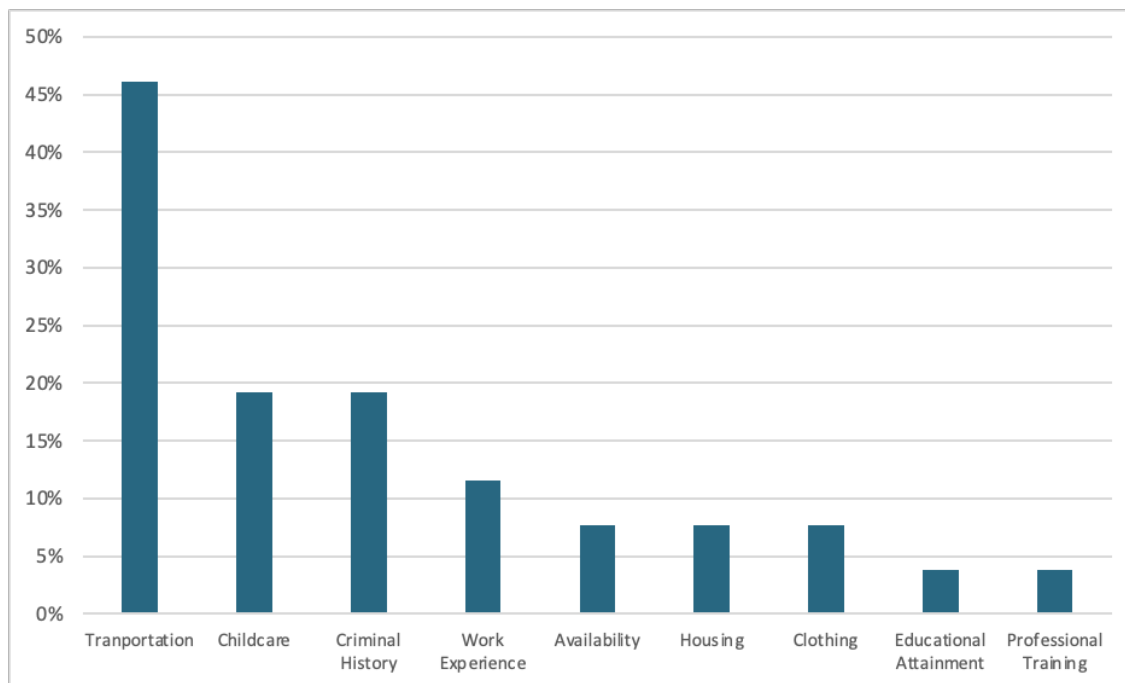
³ Women's Justice: A Preliminary Assessment of Women in the Criminal Justice System. (2024). Council on Criminal Justice. <https://counciloncj.org/womens-justice-a-preliminary-assessment-of-women-in-the-criminal-justice-system/>

⁴ Participants were allowed to skip any questions that they did not wish to answer, leading to inconsistent sample sizes between questions.

participants in Santa Monica. Of the 96 participants who completed the needs assessments, 69% reported a mental health and/or substance use concern, and 33% reported concerns about insecure housing or need for housing services. Not surprisingly, Santa Monica had the highest prevalence of individuals screened to have a mental health and/or substance use concerns due to its focus on individuals with behavioral health conditions and housing concerns, with 88% of participants identified as needing services in one or both of those areas. Columbus had the fewest participants with identified behavioral health concerns, with 55% of participants reporting these concerns.

The participants from Columbus, East Baton Rouge, and Yolo County reported additional information about their financial circumstances. Of these 79 participants, 46% (n=36) were employed full or part-time, and 4% (n=3) were employed seasonally. Among the 33% (n=26) that were unemployed but actively looking for work, the vast majority of these individuals –81% (n=21)—reported experiencing at least one barrier to employment. The barrier most commonly reported was transportation (46%; n=12), followed by childcare (19%; n=5) and criminal history (19%; n=5). Only 9% (n=7) were unemployed and not looking for work (excluding those who were disabled or retired).

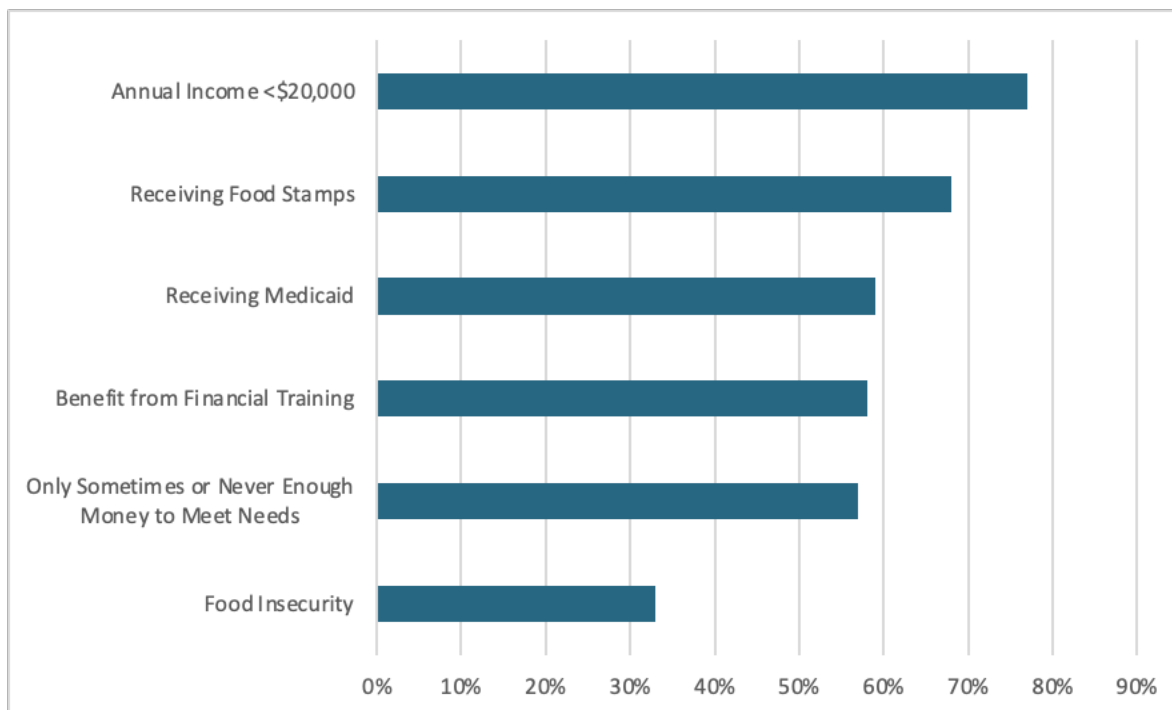
Figure 2: Barriers Experienced by Diversion Program Participants Seeking Employment (n=26)



Despite half (n=39) of participants being employed, 77% of participants still reported an annual income of under \$20,000, placing many under the federal poverty line of \$15,650 for a single individual. Critically, 12% of participants report that they never had enough money to meet their needs, and an additional 45% reported they only sometimes have enough money to meet their needs. With regard to food security, 33% of individuals

reported that they were concerned that they would run out of food in the month prior to completing the needs assessment. Additionally, 68% of participants reported receiving food stamps and 59% reported receiving Medicaid benefits. Over half (58%) reported that they believed they would benefit from financial training or budgeting advice.

Figure 3: Financial Characteristics of Diversion Program Participants



Note: Many participants declined to respond to questions about their finances during their needs assessment intake.

Retail theft diversion programs serve individuals with complex, overlapping needs that extend well beyond the criminal justice system. The high prevalence of mental health and substance use concerns suggests that addressing behavioral health should be a cornerstone of effective diversion strategies. Notably, individuals who have engaged in retail theft reported experiencing a severe financial strain, which may be a relevant factor in understanding any subsequent criminal legal system involvement. The substantial variation in needs across jurisdictions indicates that successful diversion programs likely require tailored, jurisdiction- and person-specific approaches rather than one-size-fits-all solutions. Ultimately, these statistics reveal that retail theft may often be a symptom of broader socioeconomic and behavioral health challenges requiring holistic intervention strategies.

Recommendations for Low-Level Retail Theft Diversion or Deflection

Eligibility Criteria

Knowing whom you hope to serve directs the program design. You will need to distinguish your program from a program targeting organized retail theft. They are fundamentally different programs.

Individuals with first time offenses

1. Probably need fewer resources and less monitoring.
2. Probably need a shorter program.
3. Turn their lives around before they become heavily justice system involved.

Individuals with prior justice involvement

1. Probably need a greater amount of resources and more monitoring.
2. May need a longer program.
3. Focused intervention will reduce overall crime.

Planning for Data Collection

1. Have a person in your office who:
 - a. Is familiar with your data program and policies for sharing data.
 - b. Can troubleshoot sharing your data with others as needed.
2. If resources allow, invest in a research or data analyst role. This person should be involved early in program development to help shape data infrastructure, outcome measures, and evaluation strategy.
3. Define clearly:
 - a. What participant-level data will be collected. What format(s) will it take.
 - b. What determines a successful program and how it will be measured.

Partnerships

You might have partners that you already work with that are automatic to include in the program. Some partners may require a MOU.

A strong, experienced program lead.

1. Must do more than make referrals. Close collaboration and monitoring with partners may be necessary.
2. Must know the resources that are available and are able to call on all the community partners.

Retailers and businesses

1. Need to be in regular communication about the effectiveness of the program design and outcomes. This may include review of individual cases.
2. Need to share results of constant study of the program.
3. The retailers need to understand the difference between your retail theft program and the problem of organized retail theft.

Community providers

1. Ensure the service providers are properly resourced and effective at working with your program participants.
2. Services to be directly delivered to the participant.
3. Must have the ability to pivot as needs and participants change.
4. You may need to find new service providers as the needs of the program expand.

Law enforcement

1. Whether the program is diversion or deflection will help to determine the role of law enforcement.
2. In all instances, the proper identification and background of the arrestee needs to be determined.
3. Making arrests, gathering evidence and writing reports may be required.

Other system actors

1. Probation/social services.
2. Community Health and Service Workers.
3. Public Defenders.
4. Courts.

Program Structure

1. Requirements of the participants need to be reasonable.
 - a. Should not be more rigorous than a guilty plea.
 - b. Create an incentive to join – assistance provided, help with expungement/sealing.
2. Finding strong service providers.
3. Law enforcement's role.
4. Court's role
 - a. Buy-in is necessary if a diversion program instead of a deflection program.
 - b. Can provide teeth to the program.
5. Defense Counsel's role
 - a. Can provide referrals.
 - b. Do not rely on the defense counsel to complete and turn in the initial participant questionnaire.

- c. May be necessary for assistance in expungement/sealing.
- 6. Length of program
 - a. Should not be more strenuous than a guilty plea.
 - b. Create an incentive to join – assistance provided, help with expungement/sealing.
- 7. What does success versus unsuccessful participation look like?
 - a. Commemorate the participant's successes.
 - i. By the judge in court and/or a certificate of completion.
 - ii. By the service providers.
 - iii. By the program lead.
 - b. If unsuccessful, decide whether the case will be referred to court for prosecution.

Program Measures

1. Entrance questionnaires/needs assessment.
2. Exit questionnaires/needs assessment.
3. Determine the definition of program success and measure the outcomes.
4. Determine the micro successes for the participant.
5. Recidivism needs to be defined and then measured.
6. Long-term connection to referred programs and services.
7. Qualitative interviews six months after program completion

Statutory, Constitutional and Ethical Obligations

1. You must comply with requirements of victim/witness notification.
2. Be mindful of your role as a prosecutor with regards to defense counsel and attorney/client privilege.
3. Prosecutorial ethics require that any cases referred to court or a deflection program have a reasonable probability of resulting in a conviction if the case were referred for prosecution.

Conclusion

Prosecutor-led retail theft diversion and deflection programs offer a promising, problem-solving approach to addressing low-level offenses while promoting accountability and community safety. The lessons learned from these pilot sites demonstrate the value of stakeholder collaboration, data-informed decision-making, and flexible service models that meet participants where they are.

When thoughtfully implemented, these programs can reduce recidivism, ease pressure on court systems, and strengthen trust between prosecutors, communities, and retail partners. As jurisdictions explore or refine their own strategies, the insights and recommendations outlined in this document are intended to guide design, promote

sustainability, and ultimately support a justice system that is more responsive, restorative, and effective.