

EVALUATING THE CALIBRATE PRETRIAL DIVERSION PROGRAM

Assessing Outcomes, Effectiveness, & Long-Term Impact

July 2024

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EXECUTIVE SUMMARY

PURPOSE

- Evaluate the effectiveness of the Calibrate diversion program and explore potential ways to improve the program through the following research questions:
 - What factors influence acceptance into Calibrate?
 - What factors impact success in Calibrate?
 - Does Calibrate reduce the risk of recidivism?
 - What do attorneys involved with Calibrate think about the program? Are there things that they would change?

DATA

- The quantitative analyses use three samples:
 1. All individuals screened for Calibrate (to examine acceptance into diversion)
 2. Participants in Calibrate (to examine success in the diversion program)
 3. Participants in Calibrate combined with a control group of defendants from cases before the diversion program was in place who would have been eligible for Calibrate (to examine the impact of Calibrate on recidivism)
- For the qualitative analyses, interviews were conducted with six attorneys who have interacted with Calibrate (prosecutors and defense attorneys)

FINDINGS

- Individuals with higher risk scores, a drug offense, and a felony offense were less likely to be accepted into Calibrate
 - Individuals with lower risk scores were more successful in the program once accepted
- Participation in Calibrate significantly reduced the likelihood of reoffending as compared to a similar group of defendants
 - Defendants who were accepted into Calibrate had a 59% lower rate of recidivism
 - Defendants who completed Calibrate had an 87% lower rate of recidivism
- Both defense attorneys and prosecutors were strongly supportive of the program

BACKGROUND

According to the Calibrate mission statement: “The Calibrate Pretrial Diversion Program seeks to reduce the number of individuals involved in the criminal justice system by diverting those deemed eligible at an early stage, thereby minimizing the negative impact on the participant and saving taxpayer dollars, while still providing an emphasis on community safety.”

The purpose of this study is to evaluate the effectiveness of the Calibrate diversion program and provide potential avenues for improving the program. Calibrate started admitting defendants to the pretrial diversion program in November 2019. By late September 2023, just under 150 individuals had been diverted into Calibrate (the time period covered in the current quantitative analyses).

The researchers were contracted to conduct a quantitative and qualitative examination of the Calibrate pretrial diversion program. This study explores several research questions: What factors influence acceptance into Calibrate? What factors impact success in Calibrate? Does Calibrate reduce the risk of recidivism among defendants? What do attorneys involved with Calibrate think about the program, and are there things that they would change?

Eligibility for Calibrate

The eligibility criteria below provide some context on the defendants who can participate in the Calibrate diversion program. According to the Calibrate Operations Manual:

Cases involving misdemeanor offenses will be eligible for participation in Calibrate, except: DUI cases, partner/family member assault (second or subsequent), temporary order of protection violations, and sexual assault. First partner/family member assault cases may be considered. Efforts shall be made to obtain agreement in writing from the alleged victim in cases involving domestic violence. Defendants with lengthy misdemeanor criminal conviction histories should only be admitted to Calibrate in rare circumstances. Defendants facing the following felony cases are not eligible for participation in Calibrate: cases involving large-scale drug trafficking, cases involving crimes of violence, sex offenses, and driving under the influence.

Defendants with multiple prior felony convictions are not eligible for participation in Calibrate. Defendants with only one prior felony conviction are eligible to be screened for Calibrate if the prior felony conviction is more than five years old and was not violent or sexual in nature. Cases where the defendant is already on active supervision, either misdemeanor or felony, should only be considered in rare circumstances. Eligibility criteria may be reviewed at a future date. Exceptions to these eligibility rules may be made on a case-by-case basis upon approval of the County Attorney or designee.

QUANTITATIVE DATA

Samples

The quantitative data for this report were provided to the researchers by the Missoula County Attorney's Office. All personally identifiable information was removed from the data that were shared with the research team. Calibrate staff compiled data on individuals screened for diversion (including those who were accepted and those who were rejected). These individuals were screened between November 6, 2019 and September 25, 2023. There were 180 candidates for inclusion in Calibrate.

Though 148 defendants initially started Calibrate, only 147 had sufficient data to examine treatment within the program. Of these 147 individuals, 105 had an outcome for the program (either successful completion or failure/ejection from Calibrate) at the point these data were gathered. Of these 147 cases, there were 81 individuals who had concluded their participation in the Calibrate program more than one year prior to the end of data collection.

Calibrate staff also gathered data on a comparison group of 119 defendants prior to the creation of the diversion program. These data allow us to compare recidivism risk for Calibrate participants with similarly situated defendants who did not participate in the diversion program. This control group consists of criminal cases from the Missoula County Attorney's Office from the years 2016 to 2018. These individuals would have qualified for Calibrate had the program been in existence at this time. Calibrate staff searched for cases in this time period based on the criminal code of the underlying charge. The criminal code queried was identical to the criminal code of current and former Calibrate participants. Upon finding prospective candidates for the control group, a review of their criminal history was conducted to determine if they would have been eligible for the Calibrate Program while their case was pending.

We utilize three samples in our statistical analyses. The first sample includes all individuals screened for the Calibrate diversion program ($n = 180$). The second sample includes individuals who participated in Calibrate and concluded their involvement with the program, either through success or failure ($n = 105$). The final sample includes individuals who participated in Calibrate and the control group of individuals ($n = 200$). This includes 81 Calibrate participants and 119 individuals in the comparison group. It should be noted that there are fewer Calibrate participants in this sample compared to the second sample (all Calibrate participants not currently in the program) because individuals needed to have completed the diversion program one year prior to data gathering in order to allow us to examine recidivism.

Variables

The study's outcome measures generally focus on success (or lack thereof), including (1) acceptance into Calibrate, (2) successful completion of Calibrate, and (3) lack of recidivism. For the sample of individuals screened for Calibrate, we examine whether they were accepted into the program. For the sample of Calibrate participants, we examine whether they were successful in the program, considering both whether participants completed Calibrate and whether they complied with all the program's requirements. Finally, for the sample of Calibrate participants and the control group, we examine recidivism. For Calibrate participants, recidivism is measured as a new arrest within one year following the completion (successful or unsuccessful) of the diversion

program. For the control group, recidivism is measured as a new arrest within one year following the disposition (either sentencing or dismissal) of the underlying charge.

To predict these outcomes, we use a variety of variables measuring demographics and factors related to the offense and the case. Demographics include age, gender, race, and income. *Age* measures the age of the individual at the time of the arrest. *Male* accounts for the gender of the defendant, which is coded as a dichotomous variable (female = 0, male = 1). *White* measures the race of the defendant (Non-White = 0, White = 1). *Low Income* measures whether the individual's annual income is below \$25,000 (\$25,000 and above = 0, below \$25,000 = 1). We examine several factors related to the offense type: felony, drug offense, and violent offense. *Felony* measures whether the arrest was for a felony offense (misdemeanor = 0, felony = 1). *Drug Offense* measures whether the defendant was arrested for a drug-related crime (drug offense = 1, other offenses = 0), while *Violent Offense* measures whether the arrest was for a violent crime (violent offense = 1, other offenses = 0). In the regression analyses, *Offense Type* is a set of categorical dummy coded variables that compares *Drug Crime* and *Violent Crime* to a baseline of other crimes (property crime, endangerment, and other crimes). Finally, we also consider other aspects of the case, including the defendant's score on the Ohio Risk Assessment System (ORAS) pretrial risk assessment tool and the source of the referral to Calibrate. *Low Risk* measures whether the defendant was rated as a low risk in the ORAS (medium or high risk = 0, low risk = 1). *Prosecutor Referral* measures whether the defendant was referred to Calibrate by a prosecutor (prosecutor = 1, someone else = 0).

ACCEPTANCE INTO CALIBRATE

This section examines the factors that influenced whether a defendant was accepted into the Calibrate diversion program. There were 180 candidates for diversion into the Calibrate program screened between November 6, 2019 and September 25, 2023 that are included in this study. Two (1.1%) of the participants were screened in 2019, 60 (33.3%) in 2020, 37 (20.6%), 37 (20.6%) in 2021, 42 (23.3%) in 2022, and 39 (21.7%) in 2023. Of the 179 defendants for whom a definitive charge was recorded, 105 (58.3%) were initially charged with a felony offense while 74 (41.1%) were charged with misdemeanors. The most common category of criminal offenses were crimes against property (38.9%), followed by violent offenses (20.6%), miscellaneous other offenses (18.3%), drug offenses (13.9%), and endangerment (8.3%). Less than 20% (19.4%) of the defendants were referred to the program by a defense attorney, and 78.3% were referred by the prosecutor.

The gender, race, and age demographics of participants of Calibrate were fairly similar to Missoula County as a whole. Just over half (51.1%) were female, the majority were non-Hispanic Whites (87.8%), and the mean age was 35.96 years (median age = 35 years). Calibrate participants often reported relatively low income in comparison with other county residents, with 68.9% making \$24,999 or less a year, including 22 (12.2%) who reported no income.

Of the 180 participants screened for the Calibrate program, 148 (82.2%) were accepted and 32 were rejected. There were various reasons for exclusion from the program. In many instances, the defendant was deemed high risk (12 of 32), but other reasons cited for rejection from Calibrate included: a lack of cooperation on behalf of the potential participant, a lack of communication

from the defense attorney, dropped charges, an inability to pay restitution, the victim’s desire for a dismissal, criminal history, and moderate-to-high needs.

Table 1: What Influences Acceptance into Calibrate?

Chi-Square Tests of Predictors of Acceptance and Rejection in Calibrate ($n=180$)

	Accepted ($n=148$)	Rejected ($n=32$)	p -value
Felony	82 (86.2)	23 (18.8)	.09
Low Risk	85 (78.9)	11 (17.1)	.02 *
Drug Offense	17 (20.6)	8 (4.4)	.045 *
Male	73 (75.6)	19 (16.4)	.30
White	129 (129.9)	29 (28.1)	.59
Low Income	89 (92.4)	22 (18.6)	.12
Prosecutor Referral	119 (115.9)	22 (25.1)	.15

Notes: Expected counts in parentheses.

* $p \leq .05$, ** $p \leq .01$, *** $p \leq .001$

First, we examine what characteristics of the defendant and the offense significantly impacted whether an individual was accepted into Calibrate. Table 1 presents the chi-square tests of independence for acceptance or rejection into the diversion program. Two factors corresponded with patterns in acceptance to a statistically significant degree: risk assessment and committing a drug offense. Individuals who were deemed low risk were significantly more likely to be accepted into Calibrate while individuals who had committed a drug offense were less likely to be accepted into the program. Committing a felony offense neared statistical significance ($p = .09$), as there were slightly more individuals rejected than would be expected if acceptance into the program was purely by chance. People with an income below \$25,000 a year (*Low Income*) were somewhat less likely to be accepted, although this did not quite reach the threshold for a statistically significant difference. There was no significant difference in acceptance to the program depending upon the

source of the referral. In an independent samples *t*-test (not shown), we also examined whether the age of the potential participant was associated with inclusion in the Calibrate program. The individuals who were rejected were slightly younger (35.5 years vs. 36.1 years), but this was not a statistically significant difference ($p = .40$).

Overall, the data on patterns of acceptance into and rejection from Calibrate suggest that risk factors—such as being deemed a higher risk and committing a drug offense—are significantly related to acceptance. However, demographic characteristics, including race, gender, and age were not predictive of inclusion. There is a potential association between income and acceptance (although it does not meet the threshold for significance), which may be related to the rejection of individuals due to their inability to pay restitution and/or fines.

SUCCESS IN THE CALIBRATE PROGRAM

In this section, we focus on the factors influencing success or failure within the Calibrate program. Of the 148 individuals that initially started in the program, 147 had sufficient data to examine treatment within Calibrate. Of these 147 defendants, 105 have recorded a definitive conclusion of Calibrate (either “succeeding” or “failing” within the program). Success is measured as successful completion of the program. Nearly 84% (83.8%) or 88 of the 105 defendants have completed the program, while the remaining 16.2% ($n = 17$) either committed an infraction or failed to meet Calibrate’s requirements. Of the 88 individuals who successfully completed the program, 73.9% ($n = 65$) did not have any recorded instances of non-compliance with the conditions of their release, while 26.1% ($n = 23$) defendants had at least one instance. Of the 17 people who failed to complete the program, 94.1% ($n = 16$) recorded an instance of non-compliance, with the additional individual (5.9%; $n = 1$) having no instances of non-compliance but being rearrested for a new offense.

First, we examine what factors impacted whether a defendant successfully completed Calibrate. Table 2 presents the chi-square tests of independence for successful completion of the diversion program. Unlike the results above concerning selection into Calibrate, there were fewer significant patterns related to success in Calibrate. Two of the variables concerning prior offending history (felony offense and drug offense), demographics (race, gender, and income) and the source of the referral (prosecutor vs. others) were not predictive of completion. In a separate independent samples *t*-test examining the association between completion and age, the successful participants were slightly older (37.55 years) than the ones that failed (32.82 years), although this did not quite reach statistical significance ($p = .07$). The only variable that achieved statistical significance was a “low risk” score on the pretrial risk assessment ($p = .045$).

Table 2: What Influences Successful Completion of Calibrate?Chi-Square Tests of Predictors of Success and Failure in Calibrate ($n=105$)

	Successful ($n=88$)	Failure ($n=17$)	p -value
Felony	43 (45)	10 (8)	.27
Low Risk	52 (48.4)	5 (8.5)	.045 *
Drug Offense	11 (12.8)	4 (2.3)	.17
Male	45 (46.1)	10 (8.9)	.56
White	76 (75.4)	14 (14.6)	.67
Low Income	53 (54.9)	12 (10.1)	.22
Prosecutor Referral	68 (68.9)	13 (12.2)	.54

Notes: Expected counts in parentheses.

* $p \leq .05$, ** $p \leq .01$, *** $p \leq .001$

Next, we consider an alternative test of success in Calibrate: whether participants complied with all requirements of the program. While this was not synonymous with a failure to complete the program—as 26.1% of the “successful” participants recorded at least one instance of non-compliance—it captures a risk factor for being removed from the program. Unlike the previous analyses (which were restricted to defendants who had concluded their participation in Calibrate), these analyses examine 147 individuals accepted into the diversion program (including those still in Calibrate). Table 3 presents the results for whether individuals committed instances of non-compliance, examining the same variables as in Table 2.

Table 3: What Influences Non-Compliance in Calibrate?Chi-Square Tests of Predictors of Non-Compliance in Calibrate ($n=147$)

	Compliance ($n=148$)	Non-Compliance ($n=32$)	p -value
Felony	46 (48.5)	29 (26.5)	.36
Low Risk	57 (51.3)	22 (27.7)	.04 *
Drug Offense	9 (10.4)	7 (5.6)	.44
Male	52 (50.8)	25 (26.3)	.68
White	89 (84.5)	39 (43.5)	.02 *
Low Income	49 (53.1)	33 (28.9)	.10
Prosecutor Referral	72 (71.5)	38 (38.5)	.81

Notes: Expected counts in parentheses.

* $p \leq .05$, ** $p \leq .01$, *** $p \leq .001$

As presented in Table 3, there were a few statistically significant predictors of recording an instance of non-compliance while participating in the Calibrate program. Low-risk participants were significantly less likely than medium- and high-risk defendants to have an instance of non-compliance. Additionally, White participants were significantly less likely to record an instance of non-compliance. In an independent samples t -test not shown in the table, it was also apparent that people who recorded an instance of non-compliance (mean age = 30.9) were significantly younger than those who recorded no instances of non-compliance (mean age = 38.6; $p \leq .01$). Individuals with a low income (less than \$25,000 a year) were somewhat more likely to record an instance of non-compliance, although this did not quite cross the threshold for statistical significance ($p = .10$).

REDUCTION OF RECIDIVISM

In this section, we examine the impacts that the Calibrate diversion program has on defendant recidivism. Recidivism is measured as a rearrest within one year of leaving Calibrate (either through successful completion or failure out of the diversion program). Eighty-one Calibrate participants concluded the program a year or more prior to data gathering, enabling an examination of their recidivism. Figure 1 compares the rates of recidivism for participants who successfully completed Calibrate ($n = 69$) compared to those who failed Calibrate ($n = 12$). Overall, defendants who failed Calibrate were much more likely to be rearrested within one year of leaving the program: 91.7% of those who failed Calibrate later recidivated, whereas only 7.2% of those who succeeded in Calibrate were rearrested. However, this is not entirely surprising, as the same risk factors that led to their termination from Calibrate should also increase the likelihood that they commit crimes in the future. Additionally, some of those who “failed” within the Calibrate program were ejected due to a criminal offense while under supervision. Therefore, it is necessary to compare Calibrate participants to a similar group of defendants. This control group of 119 individuals are drawn from cases—prior to the existence of Calibrate—involving defendants who met the current eligibility criteria for the diversion program.

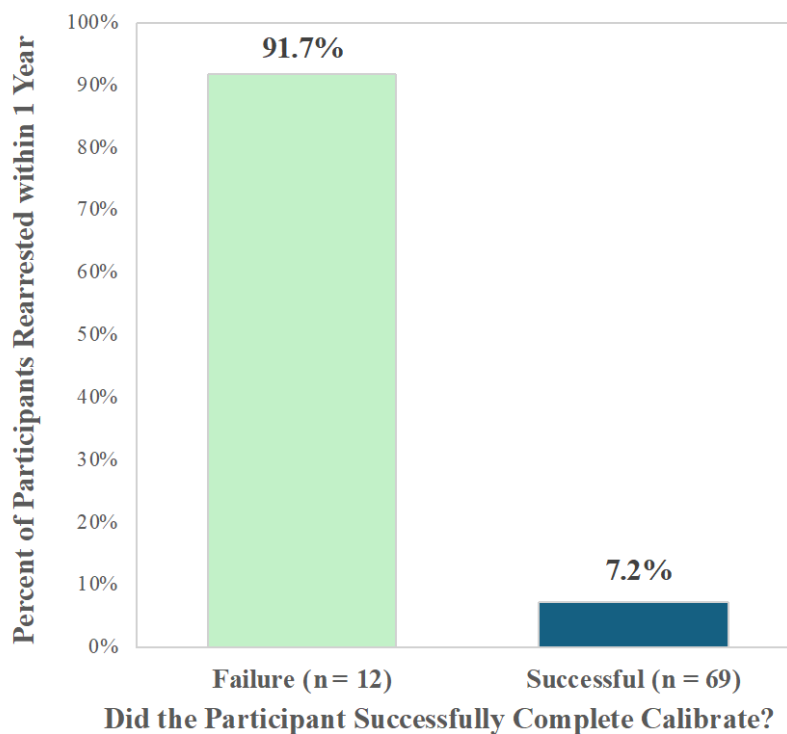


Figure 1: Rates of recidivism for Calibrate participants based on successful completion of diversion program.

As a first step in exploring the impact of Calibrate participation on recidivism, we use chi-square tests of independence to examine the differences between the Calibrate group and the control group in terms of recidivism and several factors potentially related to the risk of recidivism. Note that we do not include *Felony* in the tables below because it was a confounding variable in the multivariate analyses when included with both *Violent Offense* and *Drug Offense*.¹ As seen in Table 4, there were a few significant differences between Calibrate participants and defendants in the control group. Most importantly, Calibrate participants were less likely to be rearrested compared the control group ($p = .001$). This suggests that Calibrate may be reducing the risk of recidivism. Additionally, Calibrate participants differ from the defendants in the control group on two factors potentially related to recidivism: offense type (drug arrest) and age. Individuals in Calibrate were less likely to have been arrested for a drug-related offense. This is in line with what we were told during interviews with prosecutors. Several prosecutors discussed being surprised that many defendants arrested for drug crimes were not interested in participating in Calibrate, presumably due to being deep in a cycle of addiction. Finally, in an independent samples *t*-test not shown in the table, Calibrate participants were slightly older (mean age = 37.3 years) than the defendants in the control group (mean age = 33.59; $p = .017$).

Table 4: Comparing the Calibrate Group with the Control Group

Chi-Square Tests of the Characteristics of the Calibrate Group and the Control Group ($n=105$)

	Calibrate ($n=81$)	Control ($n=119$)	<i>p</i> -value
Rearrested within One Year	16 (27.1)	51 (39.9)	.001 ***
Male	38 (33.6)	45 (49.4)	.200
White	69 (68.9)	101 (101.2)	.952
Violent Offense	14 (15)	23 (22)	.715
Drug Offense	11 (17.8)	33 (26.2)	.018 *

Notes: Expected counts in parentheses.

* $p \leq .05$, ** $p \leq .01$, *** $p \leq .001$

¹ The variable *Felony* was very highly correlated with both *Violent Offense* and *Drug Offense* (this is likely related to the eligibility criteria of Calibrate). In this sample, all drug arrests were felony offenses and all but two of the violent arrests were misdemeanors. Additionally, five cases in the sample were missing data for the variable *Felony*, so including it in the models would have omitted these cases from the analyses.

Next, we use logistic regressions to more fully examine how Calibrate impacts the risk of recidivism. Regression techniques allow us to isolate the impact of a variable of interest by controlling for other factors related to the outcome. Here, it provides an estimation of the effects of Calibrate on recidivism while isolating the effects of the control variables (age, gender, race, and offense type) on this outcome. The following logistic regression results are shown using odds ratios (OR).²

Table 5: How Does Participation in Calibrate Impact the Risk of Recidivism?

Logistic Regression of Rearrested within One Year on Calibrate Participation, Demographics, and Offense Type ($n=200$)

	Odds Ratio	<i>p</i> -value
Calibrate Participant	0.41	.011 *
Age	0.97	.025 *
Male	0.81	.523
White	1.41	.456
Offense Type (Non-Violent/Non-Drug = Reference Category)		
Violent Crime	1.04	.935
Drug Crime	2.55	.016 *
Model Fit		
Pseudo R ²	0.10	

Note: * $p \leq .05$, ** $p \leq .01$, *** $p \leq .001$

In the first regression model—presented in Table 5—we explore the impact of Calibrate participation on recidivism. Results indicate that participation in Calibrate reduced recidivism. Calibrate participants were 59% less likely to be rearrested compared to the individuals in the control group (OR = 0.41; $p = .011$). Two control variables also impacted recidivism: age and having committed a drug crime. Older defendants were less likely to be rearrested: each year increase in a defendant’s age corresponded with a 3% decrease in the likelihood of recidivism (OR = 0.97; $p = .025$). Additionally, defendants who committed a drug-related crime were over 2.5

² With odds ratios, the extent to which a number is above 1.00 shows the extent to which the factor increases the probability of the outcome (recidivism), while a number below 1.00 shows how much a factor decreases the likelihood of an outcome. For instance, an odds ratio of 1.75 means that the factor increases the likelihood of the outcome by 75%, while an odds ratio of 0.75 means that the factor is associated with a 25% decrease in the likelihood of the outcome.

times as likely to recidivate compared to individuals who had committed a non-violent and non-drug crime, including property crimes, endangerment, or other offenses (OR = 2.55; $p = 0.16$).

The first regression model compared Calibrate participants to defendants in the control group, showing that involvement with Calibrate decreased the likelihood of recidivism among defendants. However, this probably underestimates the overall impact of Calibrate, since the model is combining Calibrate participants who succeeded in the program with those who failed out of diversion. As was shown in Figure 1, successful completion of Calibrate was associated with a fairly low risk of rearrest, while failure in Calibrate was associated with a very high likelihood of rearrest. Therefore, in our second logistic regression model, we split these two groups apart, allowing us to examine the impact of the successful completion of Calibrate by comparing successful Calibrate participants to the control group (and failed Calibrate participants to the control group).

Table 6: How Does Completion of Calibrate Impact the Risk of Recidivism?

Logistic Regression of Rearrested within One Year on Calibrate Success, Demographics, and Offense Type ($n=200$)

	Odds Ratio	p -value
Calibrate Outcome (Non-Participant = Reference Category)		
Calibrate Success	0.13	.000 ***
Calibrate Failure	16.78	.009 **
Age	0.97	.047 *
Male	0.81	.574
White	1.22	.689
Offense Type (Non-Violent/Non-Drug = Reference Category)		
Violent Crime	0.99	.989
Drug Crime	2.34	.044 *
Model Fit		
Pseudo R ²	0.23	

Note: * $p \leq .05$, ** $p \leq .01$, *** $p \leq .001$

Table 6 shows the logistic regression results examining the effect of successful completion of Calibrate on recidivism. The impact of Calibrate is much more pronounced than in the previous model. Successful completion of Calibrate reduced the likelihood of rearrest by 87% compared to the control group ($p < .001$). Several control variables also impacted recidivism. Unsurprisingly, failure in Calibrate was associated with a significant increase in the risk of recidivism. Compared to defendants in the control group, those who failed Calibrate were almost 17 times more likely to be rearrested (OR = 16.78; $p = .009$). As with the previous model, age and drug offenses also impacted recidivism. For every year increase in age, a defendant was 3% less likely to recidivate

(OR = 0.97; $p = .047$). Compared to individuals arrested for non-violent, non-drug offenses, defendants with a drug-related arrest were 2.34 times more likely to be rearrested within one year (OR = 2.34; $p = .044$).

Overall, these results show that—after we removed the confounding influences—defendants who successfully completed Calibrate experienced an incredible drop in their risk of rearrest within one year. Clearly, the program is effective at reducing recidivism. One caveat to this estimated reduction in offending is that the control group is more equivalent to the initial screening of candidates than the final sample of people who completed Calibrate. The assessment of “risk factor” among the control group would have allowed us to more definitively match an equivalent control group with Calibrate participants, as being assessed as low risk on the ORAS increased both the odds of being accepted into Calibrate and of successfully completing Calibrate.

ATTORNEY’S PERCEPTIONS OF CALIBRATE

Calibrate staff provided the researchers with a list of six prosecutors and seven defense attorneys (public defenders and private defense counsel) who had experience with the diversion program. Six individuals agreed to participate in interviews, including prosecutors and defense attorneys (both public and private). Participants were asked about their experiences with Calibrate, their thoughts on the positive and negative aspects of the program, barriers to the program working effectively, and things they would change about the program. The full interview schedule is included in the Appendix of this report. These interviews were conducted over Zoom or telephone and generally lasted around 30 minutes. Recordings were deleted following the transcription of the interviews, and participant’s names and other identifying information were removed during the transcription process. These transcripts were analyzed for salient themes and patterns. Although the attorneys often had differing vantage points based upon who they represented in court, they were unanimous in their support of Calibrate.

Positive Impact

The entire sample of attorneys who were interviewed for the study all had positive things to say about the program. For example, multiple individuals commented on the amount of time that was able to be saved for all parties involved. One individual stated, “it frees us up on the other more difficult stuff to have a little more time.” The Calibrate program allows the attorneys on both sides to focus on more pertinent issues, while also allowing for criminal justice-involved individuals to avoid traditional punishment. One defense attorney spoke about the hardships of the traditional penal system and stated:

“Diversion programs make a huge difference in people’s lives. So, if someone has never been in trouble before, or they have a very limited criminal history, giving them the opportunity to avoid a felony conviction is massive. And again, maybe I don’t know about the effectiveness all the time, but I do know that long term, for a person who maybe gets in trouble for the *first* time to avoid that felony conviction, it’s life changing.”

Attorneys went on to discuss the long-term effects of this program and the positive impact it has the potential to make for individuals. For example, if a defendant is eligible for the program and successfully completes the requirements, they are able to avoid the typical barriers to reentry such as employment and housing problems.³ Moreover, this format provides an important reprieve from the adversarial nature of the traditional criminal justice system.

Beyond the positive effects for the clients, the attorneys also reported that Calibrate allowed for them to feel a sense of accomplishment, as well. For instance, one of our interviewees stated:

“When someone is able to come in and work through their deferred prosecution agreement and meet all their requirements and not have a criminal conviction, that’s a win for everybody. And I think that those sorts of little nuggets, or glimmers, really are helpful to everyone in this process to continue to go and know that this work is meaningful. And so, I think Calibrate is really kind of a flying-under-the-radar piece. But when we have those cases, those are kind of the glimmers that keep you going in this otherwise very difficult work.”

While the goal of the Calibrate program is to help those individuals who are involved in the criminal justice system, one of the unintended consequences uncovered during this study was the pride and satisfaction attorneys feel when seeing their clients succeed within the program. These “win-win” moments are important for everyone involved, as their jobs can entail high levels of burnout.⁴

Eligibility and the Process

One of the common themes discussed was the desire to see a more distinct set of criteria for defense attorneys to know who is and isn’t eligible to partake in the Calibrate program. For example, it was suggested that defense attorneys felt that they needed the prosecutor to agree that their client was a good match, and if they didn’t agree, the process would end there. There was desire among our interviewees to create what would be perceived as a more objective approach to who is and is not eligible for the Calibrate program. This ranged from discussion of a third-party review of a candidate to a static assessment that would determine eligibility. These ideas were put forth in an effort to eliminate some of the perceived differential discretion currently being used. On the other hand, one of the prosecutors felt that defense attorneys were not being aggressive enough in the pursuit of getting clients into the Calibrate program. The prosecutor explained:

“They are trained to immediately start thinking of how they can get somebody off on the offense and defend them as like they’re not going to get in trouble versus looking more holistically at what this person might need for future success. And I don’t mean to put everybody in a box, because the contrast of that attitude is that

³ For a systematic review of the literature on employment, see: Connell et al. (2023). For the effect of housing on recidivism, see: Jacobs and Gottlieb (2020).

⁴ For discussion on burnout among prosecutors, see: Park, Choo, and Na (2022).

there are a handful of defense attorneys that are just really working with their clients to make sure they don't end up in that situation the next time rather than just focusing on concepts of, like, you know, innocence or getting them out of trouble.”

This quote offers a unique critique of the practices among defense attorneys that the prosecutor has had experiences with. Of note, this prosecutor did not want to make this a blanket statement about all defense attorneys with whom they had worked. However, it does show the different types of practices being utilized by defense attorneys.

The stance of the victim of the crime is also one of the major factors that determine the eligibility process. For example, one prosecutor went on to say:

“We need to be responsive to the people who have been harmed by these crimes. One kind of rub that we struggle with a little bit is sometimes you get a victim who is totally understanding. And they're like, ‘Yeah, I want this person to have a second chance. I understand they've had a tough life. You guys are doing a good job putting them through this diversionary program. I'm on board.’ And then other times, you get victims who are extremely anti-diversion.”

The interviewee went on to point out that even a first-time offender who commits residential burglary is still shattering the victim's sense of security that we all generally feel within our own homes. In service of the victims, it is not always possible to be as “black and white” as a static evaluation might be. The challenge for criminal justice practitioners lies in balancing the needs and perspectives of the victims with the goal of rehabilitation for the offenders. A one-size-fits-all approach works when assessing an offender's needs and criminal history, but the issue becomes nuanced when accounting for a victim's needs and public safety.

Another prosecutor argued that victims should indeed have an input, but went on to say, “Whether or not that actually disqualifies somebody for the diversion program? I don't think that that's appropriate.” They went on to bring up a specific case in which the victim's anti-diversion stance was overridden by prosecutors and the offender went on to successfully complete their diversion in Calibrate. Anecdotally, this outcome highlighted the fact that positive outcomes regarding rehabilitation are possible even in cases where the victim may disagree with the approach. The prosecutor reiterated that a case-by-case approach would best serve the eligibility process, and a blanket policy that requires a victim's endorsement would be problematic. By considering the specific details of each case, the criminal justice system can work towards more equitable and effective outcomes for all the parties involved in the process.

Staffing

Among prosecutors, one of the common themes discussed was a desire to increase staffing. This was due to an overwhelmingly positive experience with the Calibrate program. For instance, one prosecutor stated:

“I also wish that Calibrate was, I guess, even bigger. If we had more employees that could assist with these cases and just grow the program a little bit, I think that would be good, because we have a lot of offenses that that would fit into this category. And obviously with Calibrate having more resources, they’re more able to effectively manage the cases that they have and supervise the folks that they’re working with.”

Calibrate has filled a need for Missoula County and while also opening the possibility to take on even more cases. The interviewees expressed a desire for not just sustaining the program but for growth, suggesting that an increase in staffing would enable them to better support the individuals who are eligible for the program. By expanding its resources, the Calibrate pretrial diversion program could provide more comprehensive case management and expand its net to include more types of clients, ultimately leading to better outcomes for both the offenders and the community. Of note, several interviewees pointed out that the current staff are doing an excellent job, but that an increase in staffing would be beneficial for all involved in the process.

CONCLUSION

This report suggests several points of evidence for the efficacy of Calibrate. Most notably, results indicated a significant reduction in recidivism as compared to similar individuals arrested in Missoula County during the years prior to the establishment of the program. However, there is also evidence that a low score on the ORAS pretrial risk assessment was predictive of success during Calibrate as well as recording no instances of non-compliance. This highlights the efficacy of the program in evaluating who will succeed in pretrial diversion. Finally, the interviews with attorneys suggested broad support for Calibrate, with both defense attorneys and prosecutors praising the program. Overall, there is strong support for the continuation—or even expansion—of the program.

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APPENDIX

Interview Schedule for Calibrate Stakeholders

Thank you for taking the time to talk with me about the Calibrate Pretrial Diversion Program. Our research team is conducting these interviews as a part of our evaluation of the Calibrate program. We will provide the County Attorney's Office with a report on our findings at the end of this process. Our findings may be used to help improve the program, so we appreciate your willingness to share your experiences with us.

I'll record our conversation and delete the recording after transcribing the interview. Your name will not be included in the transcript, and we will not include it in any reporting of the data in order to preserve confidentiality. However, you are one of about a dozen attorneys that Ray Reiser referred to us for interviews. Within this small population, we wanted to be open about the are inherent risks that Calibrate staff reading our report could make educated guesses at the identities of unnamed respondents. Please let me know if you have any questions about confidentiality and this report.

If you are comfortable with this, then we can move on to the questions.

1. Can you tell me about your experiences with the Calibrate Pretrial Diversion Program?
2. How would you characterize the program? What are the positive and negative parts of the program?
3. What are barriers to Calibrate working more effectively?

Additional prompts:

Adding more staff?

Changing admissions criteria to be more strict or more lenient?

4. Besides what we have discussed, are there any things that you would change about the program?
5. Is there anything else that you would like to share about Calibrate?