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Juvenile Pre-Arrest Diversion in Florida

Historically, Florida has taken a tough-on-crime stance that bolstered its criminal justice system in some ways, but hindered it in others. Criminal justice policies like mandatory minimums, for example, made sentencing more consistent, but also limited judges' ability to consider external factors, making sentencing harsher on low-level offenders as well as on Florida taxpayers. These and other tough-on-crime policies also led to overcriminalization, which had an impact not only on the number of adults coming into contact with police, but also on the number of children and adolescents coming into the juvenile justice system.

Fortunately, there has been a recent shift in juvenile justice policy toward approaches that provide sanctions to address the behavior of delinquent youth, while minimizing their involvement with the juvenile justice system. A central goal of this new shift in ideology is to ensure that juvenile residential beds are reserved for children and adolescents in need of stricter and more comprehensive supervision, while less expensive diversion alternatives that maintain public safety and reduce crime are used for low-risk juvenile offenders.

STATEWIDE EXPANSION

Of these juvenile diversion alternatives, pre-arrest diversion programs (JPADs) hold great promise. JPAD re-routes certain juvenile offenders in ways that hold them accountable while sparing them from an arrest record and lessening the burden on taxpayers. These programs have seen success and inspired similar options for adults, such as adult civil citation in Leon County.¹

Juvenile Civil Citation was recently codified (s. 985.12, F.S.) and expanded statewide. This expansion established a framework for civil citation and "other similar diversion programs around the state." These standards specify that all JPAD programs may be used for up to two subsequent misdemeanors (for a total of three)² for any juvenile misdemeanor.³

JPAD programs are available to child and adolescent misdemeanants and result in a number of sanctions intended to provide justice for the victim, rehabilitate the juvenile offender, and reduce recidivism; these sanctions include victim restitution payment, community service, and participation in special treatment programs.

1 DISC Village Adult Civil Citation

2 F.S. 985.12

3 Examples of qualifying offenses include trespassing or possession of marijuana. Some programs impose additional requirements or exclusions for certain crimes, such as loitering, petit theft, or vandalism.

Currently, JPAD exists under in a variety of formats, including, but not limited to:⁴

- Teen courts
- Juvenile arrest avoidance programs
- Juvenile second chance programs
- Work-in-lieu-of-arrest (WILA) programs
- First offender programs
- Juvenile civil citations

PROGRAM BENEFITS

Researchers have noted that early intervention and diversion programs targeting delinquent behavior in childhood and adolescence and can yield positive long-term outcomes.⁵ JPAD reduces recidivism by holding low-risk juvenile offenders accountable without burdening taxpayers with the cost of their arrest or risking public safety.

REDUCED RECIDIVISM

JPAD programs are effective in reducing the likelihood that juveniles will reoffend. Recidivism in JPAD programs—which serve about 9,000 juvenile offenders annually—is just 5 percent, the lowest recidivism rate of

any program type monitored by the Florida Department of Juvenile Justice (DJJ),⁶ and has been shown to go as low as 1 percent in Lee county.⁷ Comparatively, post-arrest diversion programs have a recidivism rate of 13 percent and post-arrest probation services show recidivism rates between 15 and 36 percent.⁸

BETTER OUTCOMES AS ADULTS

Diverting youth pre-arrest not only directly reduces the likelihood that they will reoffend, but also allows juveniles to engage in current and future opportunities that may further disincentivize reoffending in adulthood. Criminologists frequently cite the complex relationships between education, employment, and criminal behavior.⁹

One study found that ex-offenders with steady employment recidivate between 40 to 50 percent less often than their unemployed counterparts.¹⁰

4 Information obtained from the Florida Department of Juvenile Justice on 2/18/2016.
 5 “From Juvenile Delinquency to Young Adult Offending.” (accessed 2/23/2016). National Institute of Justice; “Delinquency Prevention & Intervention.” (accessed 2/23/2016). National Conference of State Legislatures; “Prevention and Intervention Programs for Juvenile Offenders.” (2008). Peter Greenwood, *Future Child*, 18(2): 185-210.

6 “Comprehensive Accountability Report: Civil Citation 2014-15.” (2015). Florida Department of Juvenile Justice.
 7 “Civil citations keep kids out of jail in SW Florida.” (May 18, 2015). Dan DeLuca, *news-press.com*.
 8 “Comprehensive Accountability Report: Probation Services 2014-15.” (2015). Florida Department of Juvenile Justice.
 9 “Education Reduces Crime.” (Feb. 2003). Steurer & Smith, Correctional Education Association; “The Effect of Education on Crime: Evidence from Prison Inmates, Arrests, and Self-Reports.” (Oct. 2003). Lochner & Moretti; “Education and Public Safety.” (Aug. 2007). Justice Policy Institute; “Working for a Better Future.” (2012). Justice Policy Institute; “Chapter Six: Labor Markets and Crime Risk Factors.” (accessed 2/23/2106). Bushway & Reuter; “Summer jobs reduce violence among disadvantaged youth.” (Dec. 2014). Sara Heller, *Science*, 6214: 1219-1223.
 10 Mark T. Berg and Beth M. Huebner. (2011). Reentry and the Ties that Bind: An Examination of Social Ties, Employment, and Recidivism. *Justice Quarterly*, 28(2), 382-410.

Similarly, other studies find that additional education and increasing the high school graduation rate can reduce violent crime by up to 30 percent, and certain property crimes by up to 20 percent.¹¹

Additionally, while many individuals assume that juvenile arrest records are expunged when the youth turns 18, Florida statute mandates that the state's Criminal Justice Information Program retain the criminal history records of minors until the youth turns 25 or 26, depending on the severity of his or her past offenses.¹² This means that a juvenile's arrest for something as small as loitering may impact his or her employment and educational opportunities well into young adulthood. JPAD programs hold young offenders accountable without the mark of an arrest.

IMPROVED COST EFFICIENCY AND RETURN ON INVESTMENT

Using JPAD for misdemeanor juveniles improves public safety by conserving taxpayer dollars and reserving costly arrests for more serious offenders. The cost to taxpayers for a civil citation, for example, is \$386 while the cost of an arrest is almost 13 times more expensive, at

\$5,000.¹³ Some JPAD programs may cost even less, as participants are often asked to pay to participate in the program; however, payment is based on a sliding scale, and no juvenile can be denied JPAD due to an inability to pay.¹⁴

JPAD also saves money by reducing the strain on local law enforcement. Law enforcement officers make an average of about \$40,000 annually.¹⁵ Assuming that a juvenile arrest takes at least an hour more of an officer's time than a pre-arrest alternative,¹⁶ using JPAD for all eligible juveniles that were arrested between April 2015 and March 2016 would give taxpayers back a statewide total of about 16 months¹⁷ (roughly \$218,000 worth)¹⁸ of round-the-clock police protection.¹⁹

11 "Does Education Reduce Participation in criminal Activities?" (Sept. 2005). Enrico Moretti, UC Berkeley. See also: "The Effect of Education on Crime: Evidence from Prison Inmates, Arrests, and Self-Reports." (March 2004). Lance Lochner and Enrico Moretti, *American Economic Review*, 94(1), 155-189.

12 F.S. 943.0515

13 "Florida Civil Citation Initiative: A Win for Youth and the Community." A presentation given by the Florida Department of Juvenile Justice on 4/20/2016 at the 2016 Adolescent Conference in Orlando, Florida. See also: "Florida: Cost-Effective Means to Increasing Public Safety in Juvenile Justice." A presentation given by the American Bar Association during the "Strategies to Save States Money, Reform Criminal Justice, and Keep Public Safe" dialogue on 5/6/2011 in Washington, D.C..

14 Interview with DJJ staff on 6/16/2016.

15 Florida TaxWatch analysis of DMS salary data for law enforcement.

16 A prominent study found that the time to arrest and process a juvenile offender at the national level is approximately 5-14 hours, so this is likely a conservative estimate (Source: Fiscal policy center toolkit: "How to calculate the cost of youth arrest." (2013). Conly, C. & Chaidez, J.C., National Juvenile Justice Network: Fiscal Policy Center.); however, our input was verified with officers and the staff in the Leon County Juvenile Assessment Center in 2014.

17 $1 \text{ hour} \times 11,336 \text{ arrested JPAD eligible youth} = 11,336 \text{ hours}$. $(11,336 \text{ hours} / 24 \text{ hours}) / 7 \text{ days} = 67.48 \text{ weeks}$. $67.48 \text{ weeks} / 4.3 \text{ weeks} = 15.69 \text{ months}$.

18 Florida TaxWatch analysis of DMS salary data for law enforcement applied to the 2080 annual hour minimum used to define full-time employment. Resulting hourly wage: $\$19.23$. $\$19.23 \text{ per hour} \times (1 \text{ hour} \times 11,336 \text{ arrested JPAD eligible youth}) = \$217,991.28$.

19 At 24 hours a day, 7 days a week, 365 days a year.

THE PROBLEMS

Not all JPAD programs align with the standards set forth in S.985.12, F.S. Inconsistencies in eligibility for and the application of these programs create a juvenile justice system where the level of punishment is a better reflection of Florida’s geography than the severity of the crime committed.

ELIGIBILITY STANDARDS

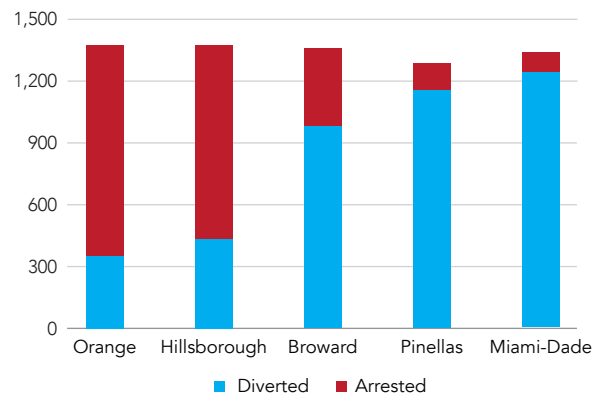
Of the 67²⁰ active JPAD programs in Florida, 15 use eligibility standards word-for-word as written for civil citation and “other similar diversion programs around the state” in S.985.12, F.S.²¹ Another 11 use the statutory standards with a few additional restrictions (e.g. no vandalism, obstruction of justice, petit theft, loitering, or trespassing cases).²² The majority of programs, however, use eligibility standards specific to their individual program’s model.²³ While this specificity may be necessary, as certain programs may serve certain groups of juveniles better than others, it means that eligibility for JPAD can differ by region; what gets a youth a referral in

one county may result in arrest just over the county line.

UTILIZATION

While all Florida counties have at least one JPAD option available,²⁴ not all of them make use of these programs. Between April 2015 and March 2016, 21 counties used JPAD for less than 15 percent of eligible juveniles.²⁵ Eleven of the participating counties declined to use pre-arrest alternatives at all, arresting more than 1,000 eligible youth. The majority of these counties had eligible populations of less than 40 juveniles, but even among the counties with the five largest eligible populations the application of JPAD programs is inconsistent (Figure 1).

FIGURE 1. COUNTIES WITH LARGE ELIGIBLE POPULATIONS DO NOT MAKE USE OF JPAD²⁶



20 This number includes only reporting counties. Bradford County has no JPAD program. Washington, Calhoun, Gulf, and Hardee have JPAD but do not report. Polk and Taylor Counties have JPAD but are in progress regarding reporting. (Source: “Civil Citation Implementation by County as of May 09, 2016.” (accessed 6/16/2016). Florida Department of Juvenile Justice). Duval, Marion, Martin, Pinellas, and St. Lucie Counties have multiple JPAD programs. (Source: Data received from the Florida Department of Juvenile Justice on 2/18/2016).

21 Data received from the Florida Department of Juvenile Justice on 2/18/2016.

22 Ibid.

23 Ibid.

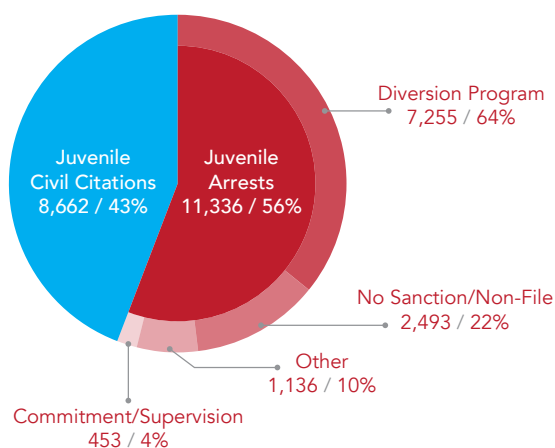
24 With the exception of Bradford County. Information obtained from the Florida Department of Juvenile Justice via phone interview on 2/17/2016.

25 “Civil Citation & Other Similar Diversion Program Dashboard: April 2015-March 2016.” (accessed on 6/1/2016). Florida Department of Juvenile Justice.

26 Ibid.

This inconsistent application of JPAD is a problem because the program keeps juveniles out of the system who should not be there, a realization that many counties not using JPAD have post-release. Florida arrested more than 11,000 youth eligible for JPAD between April 2015 and March 2016.²⁷ The Florida Department of Juvenile Justice reports that these arrested juveniles overwhelmingly end up in some form of post-arrest diversion program (about 64 percent) with an additional 22 percent receiving no sanction/non-file outcomes (Figure 2).²⁸

FIGURE 2. THE MAJORITY OF ARRESTED ELIGIBLE YOUTH ARE DIVERTED OR RECEIVE NO SANCTION²⁹



These outcome data indicate that many arrested misdemeanor youth may be adequately served through JPAD, which subjects juvenile offenders to similar sanctions to those seen in post-arrest diversion or probation, such as: counseling, behavioral health services, urinalysis monitoring, community service, and victim restitution.³⁰

These eligibility and utilization issues may be rooted in the fact that the switch to a statewide JPAD network was originally an unfunded mandate. Counties that did not already have juvenile civil citation were charged with adapting existing programs without additional resources. Some of these programs may not have been equipped to handle all types of misdemeanor juveniles. This assumption makes sense when considering that many of these programs were formerly a one-time option for first time misdemeanants, but now serve juveniles who have committed multiple misdemeanors due to changes to S.985.12, F.S.,³¹ which now allows JPAD up to 3 times.

27 Ibid.

28 “Diversion” dispositions as reported are court outcomes for arrested youth. Source: “Civil Citation & Other Similar Diversion Program Dashboard: April 2015-March 2016.” (accessed on 6/1/2016). Florida Department of Juvenile Justice.

29 Ibid.

30 “Florida Civil Citation Initiative: A Win for Youth and the Community.” A presentation given by the Florida Department of Juvenile Justice on 4/20/2016 at the 2016 Adolescent Conference in Orlando, Florida.

31 Data received from the Florida Department of Juvenile Justice on 2/18/2016.

RECOMMENDATIONS

While post-arrest diversion programs are appropriate for certain juvenile offenders, it is essential that the state make the best use of its juvenile justice resources. JPAD programs are shown to reduce recidivism more than post-arrest diversion or probation, and do so without risking public safety, burdening low-level juveniles offenders with a criminal record, or imposing high costs on Florida taxpayers.

Florida TaxWatch recommends that the Florida Legislature work with existing JPAD programs to create a graduated system of JPAD sanctions and align eligibility standards across tiers of service.

Using alternative sanctions for low-level juvenile misdemeanants should remain a priority, but the consequences these individuals face in JPAD should still escalate with subsequent offenses. The Legislature should work with all programs now under the JPAD umbrella, (civil citation, teen courts, WILA programs, etc.) to determine which level of misdemeanor (first time, second time, third time) each JPAD program would best serve.

Further, the Legislature should align eligibility standards across service levels. While the decision to issue a civil citation or refer a juvenile to a similar JPAD program should remain at the discretion of the officer, it is essential that juvenile misdemeanants have equal access to JPAD. Creating this graduated system with aligned admission standards for each tier would help solve eligibility and utilization issues as well as maximize the range of available services.

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