

Issue Brief

Alternatives to Arrest for Young People

The Issue and the Opportunity

A young person's involvement in the juvenile justice system often begins with an encounter with law enforcement and his or her arrest as a result of that encounter. Many youth who are arrested for low-level offenses such as skipping school, running away from home or alcohol use are inappropriately referred to the juvenile justice system. A compelling body of evidence now shows that many young people, particularly those charged with low-level offenses, achieve better life outcomes and are less likely to commit future crimes when kept out of juvenile court and detention facilities.

Police officers have multiple opportunities to divert youth away from arrest. Mayors and other city leaders can play an important role in helping their communities seize these opportunities on a regular and consistent basis. They can develop and promote a local public safety agenda that emphasizes fair decision-making by police and focuses law enforcement's attention specifically on youth who pose a public safety risk. In conjunction, they can leverage available community-based services to support positive youth development for all young people, including those who come into contact with law enforcement.

By taking these steps, municipal leaders open the door for policies and objective, evidence-based protocols that their police departments will use to determine which youth should be arrested and/or detained and which youth can develop more successfully with locally controlled, community-based interventions.

What an encounter between a police officer and a young person could look like:

Officer Smith of the City Police Department encounters a teen out during school hours while on patrol. Officer Smith approaches the teen – Kevin – and confirms that he is 15 and should be in school. Officer Smith applies his department's protocol in deciding whether to issue a non-criminal citation and referral to services, informally counsel Kevin on the importance of attending school or to put handcuffs on Kevin and put him in the squad car. If Officer Smith puts Kevin in the squad car, he then follows his department's protocol in choosing whether to take Kevin to a local service provider that works with truant youth, to Kevin's home or to the precinct. Even at the precinct, Officer Smith and his supervisor have the option to either book Kevin for a specific offense or to give him a warning and/or referral to attend a diversion program, such as counseling or peer court.

The cities highlighted in this brief are using clear, objective protocols that direct police officers to make evidence-based, developmentally-appropriate decisions in their interactions with youth. In many situations in which youth have engaged in less serious kinds of misbehavior (e.g., skipping school, violating curfews, or minor shoplifting incidents), this approach avoids the more punitive and often counterproductive responses traditionally employed by law enforcement.

Through the increased use of promising alternatives to arrest and prosecution, a growing number of cities have documented early progress and significant benefits, including:

- Fewer arrests of low-risk youth;
- Improved police-youth relations; and,
- More efficient use of officers' time.

Promising Examples of Reform

The International Association of Chiefs of Police, NLC's partner organization in the John D. and Catherine T. MacArthur Foundation's Models for Change initiative, recommends that police develop objective decision-making tools that support fair and standardized decisions to divert youth in lieu of arrest for low-level offenses.

In most communities, a law enforcement officer typically makes a quick, subjective determination of probable cause and then decides whether arresting a youth is the correct response to wrongdoing. Protocols developed to help law enforcement officers make more effective decisions typically serve to:

- Provide law enforcement officers with other tools to respond to youth misbehavior;
- Provide clear, objective guidance about when those tools should be used; and
- Hold officers accountable for following approved protocols.

Counsel, citation or cuff

Officers across the country may make subjective decisions to counsel young people informally at the time of misbehavior, without any formal legal action. However, very few, if any, police departments have formal policies about when to counsel and release youth or accurately track such decisions.

Civil citations, akin to traffic tickets that do not become part of a person's criminal record, are a legal tool available in Florida and an increasing number of jurisdictions in other states. Typically, police may issue them for misdemeanor offenses, such as loitering or possession of small amounts of marijuana. Reduced caseloads in Florida's courts provide early evidence of the effectiveness of civil citations.

Initial experience also suggests that protocols creating these alternative options to arrest need to clearly designate when they are appropriate. In particular, accountability measures are needed in order to avoid unintended consequences, such as racial bias creating disproportionate impacts on youth of color and/or the issuance of civil citations in instances in which police officers would otherwise counsel youth.

City Example: Philadelphia

In response to Mayor Michael Nutter’s broad efforts to reduce youth violence and expand opportunities for African American men and boys, the Philadelphia Police Department now does not arrest students who would otherwise be charged with disorderly conduct or possession of certain non-firearms weapons or controlled substances. Under the department’s protocol, school resource officers instead call the student’s parent or guardian while the student remains in school. Local social service providers then meet with the youth’s family within 72 hours of an incident and make appropriate referrals.

The Philadelphia Police Department invests in substantial training to help officers successfully implement its arrest diversion protocol. All officers receive training on adolescent youth development, mediation and past trends in the number of youth arrests in order to build a shared understanding of why the protocol is important. The training includes detectives so that if a case that should have been diverted reaches their desk, they will recognize the oversight and divert the youth. This training builds on Philadelphia’s administration of the Pennsylvania Disproportionate Minority Contact (DMC) Youth-Law Enforcement curriculum, which has been used as part of the training for every police academy class during the past several years. In developing the new arrest diversion protocol, the department also engaged officers in the initial program design to incorporate their insights and build support for its implementation.

More than 90 percent of students who receive these referrals complete the services. In early months of implementation, the total number of school-based arrests dropped by 60 percent. The shift has also improved relations between the police and students, as assaults on law enforcement officers in schools have decreased by 18 percent.

City Example: Peoria, Ill.

Through an examination of arrest data, local leaders in Peoria recognized a persistently high detention rate for youth charged with adolescent domestic battery (ADB). Police officers were arresting and detaining youth following family fights because they perceived that option to be the safest course of action. The local police department, district attorney, juvenile detention facility and a community-based provider seeking to address this problem developed a holistic response to ADB and committed to its implementation in a formal Memorandum of Understanding (MOU). Under the MOU, responding officers in Peoria no longer arrest youth unless physical harm is done to any parties. Instead of arrest, officers refer the youth and family for assessment and services via the community-based provider. The majority of youth who have completed one of these programs offered by the provider have not had subsequent police contact.

City Example: Gainesville, Fla.

The statewide civil citation program in Florida provides local law enforcement agencies in the state with a tool to divert first-time youthful offenders suspected of misdemeanors into teen court and away from arrest and a juvenile record. Gainesville police officers have been issuing civil citations since 2011, but internal data tracking revealed that citation-eligible black youth were still being arrested at a much higher rate than eligible white youth. In response, the Gainesville Chief of Police instituted an additional level of supervisor review when officers chose to arrest a youth who was eligible for a citation. This development immediately increased the number of citations issued to non-white youth in lieu of arrest, and the Department continues to work toward complete proportionality.

Transport to services or to precinct

City leaders who support or build community-based services to further diversion efforts often recognize that law enforcement officers can play an important role in transporting youth directly to those services instead of detention facilities. In cities such as Minneapolis and Lake Charles, La., local police departments routinely transport youth to local service providers rather than responding to youth misbehavior by taking them to a police precinct or detention intake center.

Youth who would otherwise be arrested for status offenses such as skipping school, violating curfew, or running away are very commonly

diverted through transport to services. The Vera Institute for Justice's report, *From Courts to Communities*, urges that status offenses should never result in juvenile court involvement especially since status offenses pose no immediate risk to public safety and often are signs of unmet needs of the youth and family.

City Example: Lake Charles, La.

The Lake Charles Police Department achieved dramatic improvements in efficiency in its deployment of police officers following implementation of a protocol to transport youth accused of all crimes except felonies to the Multi-Agency Resource Center (MARC) instead of the juvenile detention center. The process of referring a youth to services at the MARC takes only 12 minutes of an officer's time, far less than the time required to complete the process of booking a youth and contacting his or her parent or guardian. Use of the MARC also resulted in zero 'youth prison' placements for status offenses.

City Example: Nashville, Tenn.

Under a hallmark reform championed by Nashville Mayor Karl Dean, police take youth who would otherwise be charged with truancy or loitering during school hours to the Metro Student Attendance Center (M-SAC). The services provided at the M-SAC – including an attendance contract, family and crisis intervention and case management – played a key role in the city's success in reducing the truancy rate by half (47 percent) over the course of three years.

Book or release from precinct

After youth are taken into custody and transported to the police station, law enforcement officials have a final opportunity to implement policies that divert a young person before the case is handed to a district attorney or detention intake unit. Mayors and other city leaders may be able to dig deeper into local data to develop protocols specific to the youth and community-based services in a city. One possible product of local data analysis is an arrest screening tool, which may guide law enforcement as they decide whether to formally process or to divert youth.

City Example: Brookline, Mass.

The Brookline Police Department in Massachusetts is at the cutting edge of developing a pre-booking screening tool. University partners working with the department have tested the Brookline instrument against previous cases in three local jurisdictions. As each city is different, testing the tool against previous local cases will help ensure that the factors measured by the instrument accurately predict the risk for youth in that geographic area.

When the tool is fully implemented, Brookline officers who decide to bring a youth to the precinct will not automatically proceed with the booking process. Supervisors will use the risk screening instrument to decide whether to proceed or stop the process and release the youth. Youth who meet established criteria and are deemed at lower risk of committing another crime under this new protocol will not be charged.

An example of how these steps might be put into practice: Officer Smith encounters Wayne, a 16-year-old city resident, during school hours. Based on his city's policy that status offenders (skipping school is considered a status offense) should not be arrested, Officer Smith approaches Wayne and counsels him about the importance of attending school every day. After some prodding, Wayne reveals that he's scared to go to school because other youth who live along his route to school threatened him. Officer Smith provides Wayne with information about service providers to talk with about being bullied, and promises to patrol the route Wayne walks to school during the mornings to keep an eye out for him. Wayne attends school the next day, sees Officer Smith on the route and feels safer. Wayne calls the community provider and starts attending a program with a positive peer group, where he is able to build up his self-esteem. Wayne's challenges aren't over, but he's attending school on a regular basis and feeling stronger when confronted by bullies.

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