



The Public Policy
and Civil Society

S E R I E S

EMPOWERING CIVIL SOCIETY TO IMPROVE JUVENILE JUSTICE IN FLORIDA

by Lars Trautman



The R Street Institute's Public Policy and Civil Society Series is a collection of case studies that demonstrate how policy can be used to energize non-governmental bodies. Each report will spotlight how government leaders turned to a diverse array of individuals, community-based organizations, nonprofits and/or local businesses to solve a social challenge, which differs from the traditional approach of creating a new centralized initiative run by a government bureaucracy. In total, these studies show how a variety of policy tools—including reduced regulations, new enabling language, tax credits and competitive grant programs—can be used to activate non-governmental bodies, which create an array of solutions tailored to local conditions. We would like to thank the Walton Family Foundation for its support of this series.

FOREWORD

Lars Trautman's superb contribution to R Street's Public Policy and Civil Society Series shows how even criminal justice—an area that seems to be the quintessential government function—can be positively influenced by greater civil-society activity. Florida's innovative use of “civil citations” channels some offenders into a web of non-governmental supports instead of the traditional court system. The policy decentralizes decision-making to the state's judicial circuits, enabling local leaders—not inflexible state policies—to decide which offenses can be treated with citations, which organizations can offer services to offenders and which bodies can manage the program. The results show how this approach can benefit offenders and society, how it can save taxpayer dollars and how it enables community stakeholders to develop an assortment of locally tailored interventions. Florida's program also raises important questions about how such an initiative ought to be funded and how non-governmental bodies can be held accountable for performance.

— Andy Smarick



EXECUTIVE SUMMARY

In many ways, the criminal justice system is the epitome of government control; it is also a system marked by high costs and poor outcomes, especially for juveniles. Seeking to build a more effective system, Florida established its civil citation and similar diversion programs to provide an alternative path for juveniles accused of committing low-level offenses. These programs empowered civil society and community members to contribute at all levels, including as program operators, treatment and service providers, and as a source of volunteers for government-managed programs. The results of this public-private partnership have been largely positive, including boasting the lowest recidivism rate of all of the programs under the Florida Department of Juvenile Justice's purview, which suggests the value of empowering civil society to help address criminal justice issues.

INTRODUCTION

From its uniform-clad law enforcement officers to its imposing correctional institutions, the criminal justice system does not usually evoke the image of a flourishing civil society. Instead, it tends to be a portrait of a quintessential government enterprise exercising governmental authority—one in which even those very government uniforms may well be products of a state-run operation. To the extent that it has one, the role of civil society is often relegated to the reentry and reintegration of individuals after the justice system has already run its course. This is a mistake.

After all, by the time someone is ready to leave the criminal justice system, it may be too late in many respects. The individual has already potentially experienced a loss of liberty and been branded with a criminal record that carries with it life-impeding stigma and a host of legal restrictions on everything from employment to housing. Meanwhile, society has likely incurred exorbitant costs and had to absorb the disruption that occurs from even the temporary removal of an individual from society. For this trouble, success—however defined—is all too rare, as high rates of recidivism and low rates of justice-involved employment are norms in most jurisdictions.¹

While a conviction may serve as the capstone of justice system involvement, it by no means marks the initiation of negative collateral consequences. To begin with, an individual may be detained prior to trial, often simply because they cannot afford a money bail. What's more, researchers have linked pretrial detention, which envelops roughly 462,000 individuals at any given moment in the United States², to all manner of poor outcomes from higher rates of guilty pleas³ and longer sentences⁴ to increased rates of recidivism⁵. Nor is incarceration necessary for justice system involvement to throw a life off course, as one study found that even a single arrest for a low-level, nonviolent misdemeanor can negatively impact a person's job prospects.⁶

¹ See, e.g., "Presentation for Senate Finance Committee," Virginia Dept. of Corrections, June 15, 2017.; Lucius Couloute and Daniel Kopf, "Out of Prison & Out of Work: Unemployment among formerly incarcerated people," Prison Policy Initiative, July 2018.

² Wendy Sawyer and Peter Wagner, "Mass Incarceration: The Whole Pie 2019," Prison Policy Initiative, March 19, 2019.

³ Megan Stevenson, "Distortion of Justice: How the Inability to Pay Bail Affects Case Outcomes," George Mason Legal Studies Research Paper No. LS 18-30, February 2019, pp. 1-40.

⁴ Marian R. Williams, "The Effect of Attorney Type on Bail Decisions," Criminal Justice Policy Review 28:1 (December 2014), pp. 3-17.

⁵ Arpit Gupta et al., "The Heavy Costs of High Bail: Evidence from Judge Randomization," Journal of Legal Studies 45:2 (June 2016), pp. 471-505.

⁶ See, e.g., Christopher Uggen et al., "The Edge of Stigma: An Experimental Audit of the Effects of Low-Level Criminal Records on Employment," Criminology 52:4 (2014).

The potential for bad outcomes to snowball and build off one another is only increased for individuals who first experience the justice system as a juvenile. An arrest alone can increase the odds of a juvenile dropping out of high school and lower their chances of enrolling in a four-year college program.⁷ Likewise, researchers have linked juvenile incarceration to poorer educational outcomes as well as higher rates of later incarceration.⁸ In short, youthful interactions with the criminal justice system often set the stage for a life of depressed outcomes and additional justice system involvement.

Although directly impacted individuals shoulder some of the heaviest burdens, the government is hardly immune to the drag caused by such an active justice system. Around 80 percent of the 13 million arrests conducted each year are for misdemeanors⁹, which means that law enforcement officers must spend a significant portion of their time processing minor offenses instead of pursuing more serious crimes. Similarly, criminal justice expenditures weigh down federal, state, municipal and county budgets, with direct incarceration costs alone amounting to over \$80 billion each year.¹⁰ This is money that cannot otherwise go to improving schools, fixing roads or a host of other worthy and necessary line items.



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For its part, the public is dissatisfied with the status quo. Policing practices have increasingly been the subject of popular ire and criminal justice reform has managed to capture the attention and support of individuals across the ideological spectrum¹¹. With this civic interest comes great opportunity for civic involvement. Accordingly, the present study details one particular instance in which policymakers addressed this pressing criminal justice problem by using public policy to empower civil society: Florida's juvenile civil citation program. It will begin by describing Florida's experience creating and expanding civil citation as well as how the program operates. It will then delve into the results of the experience as it relates to both criminal justice outcomes and the activation of civil society. Finally, it will comment on the implications of this juvenile justice program.

⁷ David S. Kirk and Robert J. Sampson, "Juvenile Arrest and Collateral Educational Damage in the Transition to Adulthood," *Sociology of Education* 88:1 (January 2013).

⁸ Anna Aizer and Joseph Doyle, "What is the long-term impact of incarcerating juveniles?" VOX CEPR Policy Portal, July 16, 2013.

⁹ Alexandra Natapoff, "Criminal Misdemeanor Theory and Practice," *Oxford Handbooks Online* (October 2016).

¹⁰ Council of Economic Advisors, "Economic Perspectives on Incarceration and the Criminal Justice System," Executive Office of the President, April 2016, p. 5.

¹¹ See, e.g., Danny Franklin, "Criminal Justice System Survey Results," Benenson Strategy Group, Nov. 13, 2017.



FLORIDA'S CIVIL CITATION PROGRAM

EARLY CIVIL CITATION EXPERIENCE

A civil citation program operates as a form of pre-arrest diversion. It affords law enforcement officers faced with an individual who has committed certain arrest-worthy conduct the discretion to forego the usual process of an arrest followed by a court appearance. As the name implies, under civil citation, authorities instead first attempt to address the transgression outside of the criminal system. Practically speaking, this means that an individual's record remains clear of any arrest or criminal charge, and instead of potential detention, the sanctions available include various treatment options and services.

Until recently in Florida, this lighter, more-nuanced approach was reserved for juveniles, who were generally deemed more deserving of a second chance than their adult counterparts. Indeed, juvenile civil citation first arose in Florida in the 1990s "for the purpose of providing an efficient and innovative alternative to custody by the Department of Juvenile Justice of children who commit nonserious delinquent

acts and to ensure swift and appropriate consequences.”¹² The original version of the law authorized, but did not require, Florida’s judicial circuits to utilize civil citations.¹³ Without a statewide directive or coordinating body, however, adoption was far from universal and even the exact number of programs—let alone juveniles served by them—at any given time was frequently unknown.¹⁴

Eventually, the actions and successes of early adopters garnered greater statewide attention. The Florida Department of Juvenile Justice launched a Civil Citation/Equal Justice Initiative to attempt to increase the use of civil citation across the state, which included directing federal funding to four civil citation programs beginning in 2007.¹⁵ That same year, Governor Charlie Crist authorized a Blueprint Commission composed of a diverse set of representatives from the public, private and nonprofit sectors to develop recommendations for reforming and improving the state’s juvenile justice system. The Blueprint Commission recommended the state abandon its “Get Tough” approach to juvenile justice in favor of one it alternatively labeled as “Get Smart.”¹⁶ Key to this strategy was greater investment in “community-based prevention programs” as well as “community-based programs and services,” and the report explicitly pointed to civil citation as a successful program and suggested that the legislature consider encouraging and expanding it.¹⁷

Nevertheless, it would take three more years for the legislature to act. It was spurred to action in part through the research and advocacy of a coalition of organizations that represented Florida’s business community and its juvenile justice professionals. Led by the Associated Industries of Florida Foundation and the Florida Juvenile Justice Association, this coalition released a report in November 2010, which made the case that to “get smart” on juvenile justice, Florida should make civil citation available across the state. In support of its recommendation, the report made a strong fiscal argument: namely, that the average cost of a civil citation was only \$386 compared to roughly \$5,000 for traditional system involvement.¹⁸ In 2011, legislation designed to turn this goal into reality earned unanimous approval across both legislative chambers—in only three months.¹⁹

¹² Fla. Stat. 985.301 (1997). Although there is no singular definition of “nonserious delinquent acts,” the phrase generally encapsulates low-level misdemeanor offenses such as shoplifting, disorderly conduct, drug crimes or non-aggravated assaults.

¹³ There are 20 judicial circuits in Florida that serve as the basic legal unit for Florida’s court system.

¹⁴ “Expansion of Civil Citation Programs Statewide Would Save Taxpayers Tens of Millions of Dollars and Improve Public Safety,” Florida TaxWatch, April 2011, pp. 4-5.

¹⁵ “2010 Annual Report to the Governor and Legislature of Florida,” Juvenile Justice and Delinquency Prevention State Advisory Group, 2010, pp. 9-20.

¹⁶ Blueprint Commission, “Getting Smart About Juvenile Justice in Florida,” Florida Dept. of Juvenile Justice, January 2008, p. 6.

¹⁷ Ibid., pp. 8 and 53.

¹⁸ Barney T. Bishop III et al., “Getting Smart on Juvenile Crime in Florida: Taking It to The Next Level,” Associated Industries of Florida Foundation, November 2010, p. 1.

¹⁹ CS/HB 997, Fla. Gen. Sess. (2011).

THE 2011 AND 2015 UPDATES TO THE CIVIL CITATION STATUTE

Specifically, the 2011 legislation amended the law to require, not merely allow, all judicial circuits to maintain at least one civil citation or similar prearrest diversion program. The potential sanctions available to these organizations were untouched from earlier versions of the law and included up to 50 hours of community service, family counseling, urinalysis monitoring, and substance abuse and mental health treatment services. Although the bill inserted new language limiting these programs to first-time misdemeanor offenders, it also granted judicial circuits a wide degree of flexibility in how they chose to operate the programs. Further, the bill listed the entities able to run them as: “a law enforcement agency, the department, a juvenile assessment center, the county or municipality, or some other entity selected by the county or municipality.”²⁰

This text ensured that each community could still tailor a civil citation or similar diversion program to reflect its particular goals and resources. Broadly defined sanctions of community and treatment services meant that every program could build its own local partnerships with nonprofits and other providers to implement community service requirements and other sanctions. Indeed, the “some other entity” language even allowed a non-governmental organization to operate a program itself, as long as the county or municipality authorized the organization to do so. The practical impact of all this was that it shifted a large proportion of the law’s obligations outside of direct government control and set up the potential for strong public-private partnerships in the space.

The 2011 bill further sought to grant local jurisdictions greater flexibility by adding the “or similar diversion” program language throughout the civil citation statute. This allowed for the establishment of programs that share many of the same goals of traditional civil citation, yet approach it in slightly different manners. In practice, this designation has primarily applied to a multitude of teen court programs—another popular diversion program at the time of the law and since—though it has also included initiatives such as Juvenile Arrest Avoidance Programs.

In 2015, lawmakers again expanded the reach of the law and, ultimately, decreased the amount of government involvement in these juvenile cases even more. The 2015 statutory update made two significant changes. The first removed the limitation of civil

²⁰ CS/HB 997, Fla. Gen. Sess. (2011).



citation to first-time offenders, instead allowing a juvenile to receive as many as three civil citations, if a program permitted.²¹ The second provided that law enforcement officers could also issue a simple warning, contact the juvenile's parents or direct the juvenile to a similar pre-arrest diversion program in lieu of a citation in these instances.²² Law enforcement officers were thus empowered to utilize civil citation and other deescalated responses in even more juvenile cases.

Both iterations of the law purposefully did not define eligible misdemeanors. Each locality could decide for itself which ones it felt comfortable including within its program. As a result, no jurisdiction would feel that it was required to offer diversion for an offense it believed was too serious, nor denied the opportunity for one it considered appropriate. In Polk county, for instance, no weapons-related charges are eligible, whereas in Miami-Dade county a non-firearm weapons charge may be eligible with victim approval.²³ It also means that a program can evolve over time as a community becomes more familiar and comfortable with civil citation, as Hillsborough county did, reducing its list of ineligible misdemeanors from 13 offenses down to five between 2017 and 2019.²⁴

The offense data for civil citation programs reflect these differing community norms (as well as individual situational dynamics). For the most recent fiscal year on record (2017-2018), for example, the five most common offenses leading to a citation or similar diversion program—along with the rate at which a citation was offered to juveniles accused of committing the offense—were: assault or battery (49 percent), petit larceny (72 percent), drug violations (76 percent), disorderly conduct (69 percent) and alcohol violations (59 percent).

²¹ CS for SB 378, Fla. Gen. Sess. (2015).

²² Ibid

²³ See, e.g., "Modification of Juvenile Arrest and Diversion Recordkeeping Procedures," Tenth Judicial Circuit, Polk County, Fla. (2017).; "Miami-Dade Juvenile Services Department Civil Citation Program," Miami-Dade County, accessed Nov. 4, 2019.

²⁴ Dan Sullivan, "Hillsborough further expands civil citation program for first-time juvenile offenses," Tampa Bay Times, April 2, 2019.

One notable absence from the 2011 bill and subsequent legislation was a mechanism to fund these civil citation and similar diversion programs. This has meant that the requirement to establish one has operated as an unfunded mandate for local jurisdictions. Without a central funding mechanism, it is up to each particular program to find its own revenue sources.

This also means that there is no standard funding approach for these programs. Instead, each must turn to the funding sources with which it is most familiar or has special access. For government-managed programs, this may be as straightforward as a budgetary line item assigning some number of employees to the initiative. Community organizations, on the other hand, might rely on an existing charitable donor base or, in the case of substance abuse or other treatments, potential federal funding, such as substance abuse prevention and treatment block-grant funds. Regardless of their management structure, programs can also turn to one of the favorite—and most controversial—funding mechanisms in the criminal justice system: defendants. This method relies on juveniles (or their parents) to pay for the opportunity to avoid the juvenile delinquency system.²⁵

Although the discretion afforded to local jurisdictions by the legislative updates means that the particulars of each program vary, they nevertheless tend to follow a similar sequence of events. The process begins when a juvenile is alleged to have committed an eligible non-serious misdemeanor—as determined by the local authorities—and local law enforcement decides to issue a civil citation. The juvenile then generally undergoes a needs assessment, which helps determine an appropriate community diversion service.²⁶ If the juvenile successfully completes this program, he or she will leave without any juvenile record. If she or he is not successful, then a delinquency intake may follow, along with all the associated proceedings in the traditional juvenile delinquency system.²⁷

²⁵ See, e.g., “Prosecution Alternatives for Youth (P.A.Y.),” Seminole County Sheriff’s Office, accessed July 23, 2019.

²⁶ “Civil Citation,” Florida Dept. of Juvenile Justice, accessed Nov. 4, 2019.

²⁷ Ibid.



PUBLIC PRIVATE PARTNERSHIPS IN ACTION

In the eight years since the legislature mandated that each judicial circuit establish a civil citation or similar diversion program, local officials working in concert with their communities have ushered in a dramatic shift in the state's treatment of juveniles who have committed misdemeanors. Although still not ubiquitous, these programs are an increasingly common piece of the state's juvenile justice puzzle. And, central to the health and success of these programs has been the deep and multi-faceted engagement of civil society organizations and community members, which have facilitated a broader array of approaches than would have been possible otherwise.

IMPLEMENTATION

A civil citation or referral to a similar diversion program is now the typical disposition for eligible juveniles in Florida, albeit not the universal one. The Florida-wide utilization rate (the percentage of eligible youth who actually received a civil citation or other pre-arrest diversion offer) has steadily increased every year since the 2011 bill became law, rising from 26 percent in FY 2011-2012 to 62 percent in FY 2017-2018.²⁸ Notably, this growing utilization rate also reflects an annual increase in the absolute number of alternatives offered, from 6,960 in FY 2011-2012 to 11,448 in FY 2017-2018, even as overall potential arrests during that time dropped.²⁹

The number of civil citation and similar diversion programs has largely mirrored this rising juvenile admissions figure. Thirty-eight programs received at least one juvenile through a civil citation or similar pre-arrest diversion program in FY 2011-2012.³⁰ By FY 2016-2017, that number was 65, with individual circuits and even some counties allowing multiple programs to operate within their jurisdiction.³¹ In the 7th Judicial Circuit, for example, six different programs operated in FY 2016-2017, including programs overseen by EPIC behavioral health, My Refuge Community Church and the St. Johns County Sheriff's Office.³²

²⁸ "Civil Citation & Other Alternatives to Arrest Dashboard," Florida Dept. of Juvenile Justice, accessed July 23, 2019.

²⁹ Ibid.

³⁰ "Civil Citation Comprehensive Accountability Report 2012-2013," Florida Dept. of Juvenile Justice, July 2014.

³¹ "2018 Comprehensive Accountability Report," Florida Dept. of Juvenile Justice, December 2018.

³² Ibid.



These positive trends, however, do obscure some geographic disparities. Although the 2011 legislative update intended for a civil citation or similar diversion program to be available to juveniles throughout Florida, this is not yet the case even eight years later. While every judicial circuit has complied with the letter of the law and established at least one such program, individual counties have not all followed suit, leaving portions of Florida without meaningful civil citation or similar diversion opportunities. The most recent data available from May 2018 through April 2019, for example, shows five counties failing to offer a single alternative to arrest and another four doing so in less than 10 percent of qualifying cases.³³ On top of this, significant disparities still exist even between judicial circuits. For example, the 16th Judicial Circuit offers civil citation or a similar diversion program to 97 percent of eligible youths, while the 1st Judicial Circuit has only a 27 percent utilization rate.³⁴

The services offered by the programs have been more consistent. For instance, according to a 2014 survey of Florida's civil citation programs, virtually every program utilized a case management system to monitor the juveniles who received a civil citation, usually on either a weekly or a monthly basis.³⁵ The most popular intervention services offered by these programs included anger management (90 percent), drug screens (85 percent), drug abuse rehabilitation (80 percent), mental health counseling (80 percent) and life skills (75 percent).³⁶ Ninety-seven percent of programs lasted for 120 days or less, with 33 percent utilizing a 30-60 day timeline, 38 percent using a 60-90 day program and 26 percent falling in the 90-120 day range.³⁷ Further, a majority of programs either sought or required victim approval during the process, while half held regular public meetings to solicit feedback from the community on the civil citation program.³⁸

³³ "Civil Citation & Other Alternatives to Arrest: Sep 2018-Aug 2019," Civil Citation & Other Alternatives to Arrest Dashboard, accessed Nov. 4, 2019.

³⁴ Ibid.

³⁵ "Stepping Up: Florida's Top Civil Citation Efforts," Dewey & Associates, 2015, p. 22.

³⁶ Ibid., p. 23.

³⁷ Ibid., p. 24.

³⁸ Ibid., p. 25.



CIVIL SOCIETY'S INFLUENCE

Few of these programs operate without the involvement of civil society or members of the community serving in some sort of meaningful role. In large part, this is because the heart of a civil citation or similar diversion program is “referral to [an] appropriate Community Diversion Resource.”³⁹ Often, this means that a nonprofit organization is either directly operating the civil citation or similar diversion program itself, or is at least providing the intervention services or referral coordination for a government-managed program. In addition, volunteers staff many of the programs’ positions, while community organizations frequently host civil citation recipients who must complete a community service obligation.

However, civil society exercises the most influence in the process when a nonprofit organization operates the program itself. In these situations, local government officials are still in charge of determining many of the contours of the program, including which offenses qualify and who, ultimately, receives a referral. The nonprofit entity, however, is in charge of the specifics of the program itself, as well as oversight of juveniles referred to the program. The nonprofit will also potentially provide direct services, such as substance abuse treatment or mentoring, and a location for the completion of community service obligations.

For example, in Brevard County, the nonprofit Crosswinds Youth Services operates the civil citation program.⁴⁰ County officials have determined that 11 categories of offenses may qualify for a civil citation and a Brevard County law enforcement officer has the discretion in each individual case whether or not to issue one.⁴¹ Law enforcement officials then hand the juvenile

³⁹ “Civil Citation.”

⁴⁰ “Civil Citation Process,” Civil Citation of Brevard County, accessed Sept. 17, 2019.

⁴¹ Ibid.

off to Crosswinds, which conducts an intake to determine the appropriate sanctions and services.⁴² Crosswinds also supervises the juvenile and ensures compliance with program requirements. Although Crosswinds generally keeps these services in-house, in theory, it could assign a juvenile to a program or services at another local organization, require the juvenile to complete community service hours at an outside location or otherwise enlist the support of other community resources.

Although the majority of programs are government-managed, nonprofit-managed programs represent a significant minority. For the most recent civil citation admissions data available, which covers May 2018 through April 2019, at least eight nonprofits accepted juveniles through civil citation, totaling 942 admissions.⁴³ Notably, only two of these groups also appear on the list of civil citation operators during FY 2011-2012. The other six nonprofits are part of the surge of new civil citation and similar diversion providers that has occurred since the 2011 update.

Among these entities are behavioral health providers, faith groups, a substance abuse treatment center and a community shelter. In Leon County, for example, officials might refer a juvenile to Living Stones International, a faith-based children and family outreach and social service organization,⁴⁴ or to DISC Village, a behavioral health nonprofit that provides a full continuum of services to individuals adversely affected by alcohol and drug abuse.⁴⁵ Across the state in Volusia County, officials might refer the juvenile to Bay Area Youth Services (BAYS), a juvenile delinquency-focused nonprofit that provides a host of youth and family support services⁴⁶ or to EPIC Behavioral Health, a nonprofit that provides mental health counseling and substance abuse treatment services.⁴⁷ In each of these instances, the nonprofit will determine the course of services and work to ensure that the juvenile succeeds.

Other programs retain managerial control within a government body, yet delegate the referral decision or the actual services themselves to an outside organization. For example, the 6th Judicial Circuit's Juvenile Arrest Avoidance Program is centered in the Administrative Office of the Courts and operated in partnership with local law enforcement agencies. Yet, it nevertheless relies on a nonprofit behavioral health and wellness center, Operation PAR,⁴⁸ to conduct the program's assessments, and draws

⁴² "Civil Citation FAQs," Civil Citation of Brevard County, accessed Sept. 17, 2019.

⁴³ Civil Citation & Other Alternatives to Arrest Dashboard.

⁴⁴ "LSI Homepage," Living Stones International, accessed July 23, 2019.

⁴⁵ "About DISC," DISC Village Behavioral Health, accessed July 23, 2019.

⁴⁶ "History, Mission, Vision & Core Values," BAYS, accessed Sept. 17, 2019.

⁴⁷ "The EPIC Way," EPIC Behavioral Healthcare, accessed Sept. 17, 2019.

⁴⁸ The Operation Par website is available at: <https://www.operationpar.org>

support from other services-oriented nonprofits, such as the Central Florida Behavioral Health Network and BAYS.⁴⁹ Likewise, in Lee County, the sheriff-run civil citation program refers individuals to the Juvenile Assessment Center (JAC), a government body, for an assessment of needs. This ultimately might result in services provided by the JAC, such as substance abuse counseling, as well as referral to various resources in the community for appropriate services,⁵⁰ such as through AMIkids Southwest Florida, a nonprofit aimed at giving troubled youth additional supports.⁵¹

Government-managed civil citation and similar diversion programs further rely on community members to take part in unpaid services that contribute to the success of these programs. These volunteers not only provide valuable expertise, but this unpaid labor can help make them more sustainable in the face of limited funding options. The incorporation of volunteers under the auspices of government oversight is especially common in the teen courts that dot Florida's judicial circuits. At these courts, volunteer attorneys may serve as judges, while youths step forward to participate as mock attorneys, bailiffs and jurors.⁵² Another example of government reliance on volunteers is the Seminole County Sheriff's Office, which has more than three times as many volunteers as staff in its Prosecution Alternatives for Youth program and counts on local volunteers to fill important roles within the diversion program, including that of Hearing Officer.⁵³

The participation of the community in these programs provides a further intangible benefit to these efforts: community agency and input. Through the leadership of organizations and the opinions of individual volunteers, the community is able to help guide the rehabilitative process in a much more significant manner than in the traditional juvenile delinquency system. In addition, the juvenile remains in the community during this process—a stark contrast to detention, which literally removes an individual from his or her community. This more integrated and cooperative approach helps the community remain invested in the juvenile and the juvenile remain invested in the community. Or, as the Florida Department of Juvenile Justice has put it: "Part of the Community, Part of the Solution."⁵⁴

⁴⁹ See, e.g., "Pinellas County Juvenile Diversion Services," 6th Judicial Circuit, accessed July 23, 2019.; Administrative Office of the Courts, 6th Judicial Circuit of Florida, "Court System Expands Program To Help Juveniles," Press Release, last accessed Nov. 4, 2019.

⁵⁰ "Civil Citation," Juvenile Assessment Center of Lee County, Florida, accessed July 23, 2019.

⁵¹ See: "Our Story," AMIkids, accessed Sept. 17, 2019.

⁵² "Duval County Teen Court Program," 4th Judicial Circuit Courts of Florida, accessed July 23, 2019.

⁵³ "Prosecution Alternatives for Youth (P.A.Y.)," Seminole County Sheriff's Office, accessed July 23, 2019.

⁵⁴ "Civil Citation."



“Part of the Community, Part of the Solution.”

Whatever the exact nature of participation by civil society in a civil citation or similar diversion program, the result is a juvenile justice experience entirely unlike the traditional delinquency system. For example, during the pendency of a case, a community center is more likely to serve as the gathering point than a courtroom. Likewise, the roster of individuals interacting with and guiding the juvenile includes counselors, mentors and community volunteers; a departure from the delinquency system’s reliance on judges, lawyers and police officers. And, in the end, a criminal record is eliminated in favor of a community service log. In short, community participation helps a punitive process become a more rehabilitative one.

Civil society’s participation in civil citation and similar diversion programs has similarly altered how it engages with the issue of juvenile delinquency. Without civil citation, organizations have to wait for self-referrals or do their own search for juveniles that they might be able to help. On the other hand, when these programs are in place, they can direct juveniles to these organizations at an acute point of need. This means that organizations are able to reach juveniles they might not otherwise have been able and to do so at a point in that juvenile’s life that they otherwise could not. In addition, the openness of government-managed programs to community participation and services creates new pathways for civil society to interact with this juvenile population, facilitating a wealth and depth of interaction that would likely have been unavailable in the traditional delinquency setting.

OUTCOMES

The results of this public-private partnership have thus far been largely positive. The statewide recidivism rate of juveniles in these programs has been either four or five percent each year in which it has been collected.⁵⁵ Further, these figures represent the lowest recidivism rates of any program within the Florida Department of Juvenile Justice's continuum of services.⁵⁶

Of course, as with most averages, this overarching recidivism rate hides disparities between programs. A handful of smaller programs, for example, have reported double-digit recidivism rates, while a few larger ones have helped drive down the average with rates even closer to zero. But, herein lies one potential source of improvement. With dozens of programs operating in Florida and reporting data to the same body, each judicial circuit has the opportunity to assess the relative strength of each program. If a judicial circuit finds that any of the programs it operates consistently underperform its peers, then it can consider placing that program on an improvement plan or outright eliminating it. Likewise, judicial circuits could attempt to replicate especially successful programs. In the long run, these two forces could help push Florida's recidivism numbers even lower.

Politically, civil citation has continued to garner the attention and support of policymakers and the community. A number of community organizations have joined with some legislators in order to try to make civil citations mandatory for certain offenses, though none of the bills doing so have managed to become law.⁵⁷ In 2018, however, the legislature took the first step toward adult civil citation with the passage of a law reminiscent of the original juvenile law, which recommended but did not mandate adult civil citation and similar diversion programs in Florida.⁵⁸ These movements suggest that in the future, these programs may have an even broader reach and see even wider use than they currently do.

⁵⁵ Civil Citation & Other Alternatives to Arrest Dashboard.

⁵⁶ "Civil Citation & Similar Prearrest Diversion."

⁵⁷ Samuel Howard, "Church, community groups want civil citation for juveniles expanded," South Florida Sun Sentinel, Dec. 25, 2016.

⁵⁸ CS/CS/SB 1392, Fla. Gen. Sess. (2018).





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ASSESSMENT AND CONCLUSION

Variety is one of the defining features of Florida's network of civil citation and similar diversion programs. In all likelihood, they could not have had nearly the reach across the state without the ability to adapt to local resources and conditions. As such, the flexibility of the 2011 law and its emphasis on locally designed and implemented programs represents one of its primary strengths. Especially after the 2015 update corrected the 2011 bill's ill-conceived restriction to first-time offenders, the amount of discretion afforded to local officials was considerable. This local control lowered the barriers for a program's establishment, thereby making it easier for civil society to contribute its own resources and expertise to the problem.

On the other side of the ledger, the greatest shortcoming of both the 2011 and 2015 bills was the failure to address funding. While the absence of new state funding is certainly understandable at a political level, its practical impact on civil citation's expansion was likely quite detrimental. For example, additional funding may have been able to eliminate geographic coverage gaps and increase utilization rates. It may also have made participation in civil citation and similar diversion programs financially viable for more organizations, thereby increasing the number of civil society actors able to contribute. Finally, state funding would have reduced the need for programs to charge juveniles and their parents fees in order to participate. Eliminating this pay-for-play component would make it easier for more juveniles to participate and reduce the burden on those that do.

That so many civil society organizations and community members have gotten involved in these programs—even despite the lack of centralized funding—represents a remarkable endorsement of the goals of the programs themselves. It is unclear that civil citation and similar diversion programs would have been able to address the societal problem of juvenile delinquency with the breadth and depth that they have without civil society permeating aspects of so many programs. By the same token, while these organizations often already worked on the issue through prevention programming or the delivery of some targeted services, the establishment of these specific programs provided organizations with a framework to access and work with a whole host of additional juveniles in need. The resulting public-private partnerships helped expand the capacity of both, to the benefit of the juveniles and their communities.

Responding to scofflaws may seem like the quintessential government endeavor; the government is, after all, responsible for enforcing our laws. Yet, the civil citation experiment in Florida offers compelling evidence of the value of including and empowering the community to help address societal issues. Indeed, the resultant consistently low recidivism rates suggest that not only can civil society address this kind of societal issue, but it may even be better than the government-only alternative in some instances.



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We work extensively on both state and national policy, focusing on issues that other groups tend to neglect. Our specialty is tackling issues that are complex, but do not necessarily grab major headlines. These are the areas where we think we can have a real impact. We believe free markets work better than the alternatives. At the same time, we recognize the legislative process calls out for practical responses to current problems. Toward that end, our motto is “Free markets. Real solutions.”

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