

Preventing Youth Arrests through Deflection

*Best Practices and
Recommendations*

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Introduction

EFFORTS TO DEFLECT YOUTH FROM INVOLVEMENT IN juvenile court systems have evolved tremendously over the last two decades. Whereas early models focused on augmenting police / youth interactions with service referrals, research and evaluation have generated evidence of the effectiveness of more transformational approaches. This memo provides a short overview of a Chicago model that is ripe for an overhaul and provides recommendations for the incorporation of best-practice strategies that should be considered when designing and implementing an effective new deflection program in Chicago and other cities throughout Illinois.¹

These strategies can transform the way communities, law enforcement, social service agencies, and youth interact with and perceive each other and have the potential to reduce the overrepresentation of Black and brown youth in the juvenile court system. Improved deflection strategies can also reduce the trauma of arrest and enable law enforcement and juvenile courts to reserve resources to address the most serious crimes. In light of the seemingly constant images of innocent Black lives being taken at the hands of law enforcement in recent years – Laquan McDonald, Tamir Rice, George Floyd, and Breonna Taylor – and far too many others – the need for effective juvenile deflection strategies has become a matter of life or death for Black youth. Getting this right has never mattered more than it does today.

Deflection vs. Diversion

“*Deflection*” refers to policies, practices, and programs that prevent youth arrest and court involvement and link youth to supportive services in the community, if needed. Ideally, deflection occurs instead of arrest, which in and of itself is a traumatic and humiliating experience for a young person that involves being handcuffed, transported in a police vehicle, fingerprinted and having a mug shot picture taken. Arrests also produce official records which can undermine youth success in education and employment for the rest of their lives.² Thus, deflection in lieu of arrest connects youth to needed programming and services without a traumatizing arrest experience or the unnecessary creation of arrest records. Deflection may consist of a “counsel and release” approach or it may be coupled with a referral to services. “Counsel and release” refers to the interactions between police and youth in which police communicate concern for a youth’s behavior or caution them against future incidence of certain behaviors, but do not arrest the youth or formally refer the youth to an intervention, program or services. It should be noted that the option to include assessment or service referral components may enhance deflection potential but may also increase the burden of participation on children and families.

“*Diversion*” on the other hand, refers to the redirection of a youth’s legal case from further processing in the legal system at

any point following arrest. While an effective juvenile justice system incorporates meaningful diversion opportunities at

A successful deflection strategy will require technical solutions in addition to culture change – including changes in our understanding of youth development and trauma.

each key decision point, deflecting youth from arrest and court involvement altogether brings many advantages. In addition to promoting youth well-being, deflection can leverage system touch-points as opportunities to identify needs for, and provide access to, services and supports. Further, shifting responsibility from police to community service providers and human service agencies can preserve law enforcement resources for response to serious crimes. Successful deflection strategies paired with high-quality youth services can prevent arrests and the lifelong barriers they present to education, employment, and housing.

A Brief History of Juvenile Diversion Efforts

In the United States, formalized diversion programs proliferated in the late 1960s in the aftermath of the publication of the massive Katzenbach Commission Report, which sought to study crime in America and propose solutions to reduce it. Chapter Three of the report focused

exclusively on “Juvenile Delinquency and Youth Crime” and contained a number of recommendations which emphasized the importance of “pre-judicial disposition” and argued that formal sanctioning and “pronouncement of delinquency should be used only as a last resort.” “In place of the formal system,” the commissioners wrote, “dispositional alternatives to adjudication must be developed for dealing with juveniles, including agencies to provide and coordinate services and procedures to achieve necessary control without unnecessary stigma...”³

While the Katzenbach Report triggered a wave of experimental juvenile diversion programs in the late 1960s and 1970s, the enthusiasm was short-lived. Through the 1980s and 1990s, in response to incendiary rhetoric and fears of rising crime, the political center shifted towards a more punitive, tough on crime approach to criminal justice policymaking. Diversion programs were abandoned for more traditional, punitive tools of criminal justice. By the early 2000’s, juvenile crime rates declined and bipartisan support for a less punitive approach to juvenile justice reignited interest in diversion programs. New research about adolescent brain development and its impact on juvenile behavior also prompted this second wave of juvenile diversion experimentation.

The Juvenile Intervention and Support Center (JISC)

The Juvenile Intervention and Support Center (JISC) launched in Chicago in 2006 as an alternative processing center for youth ages 10-17 within a ten-district catchment area that was intended to be a hub for restorative justice and community healing. It was inspired by the Miami-Dade Juvenile Assessment Center; however, the implementation of the JISC was vastly different than the Miami-Dade model and has accordingly, fallen short of its original intent.

In February 2020, the City of Chicago Inspector General released its report of audit findings of the JISC which included numerous troubling conclusions.⁴ The report raises significant concerns about transparency, incompatibility of social service and law enforcement goals, inadequate oversight, monitoring and evaluation. Woven throughout the report is a vivid description of the traumatic experience youth must endure in order to receive the potential benefit of diversion at the JISC:

Once at the JISC facility, the arresting or transporting officer submits the youth’s arrest information in the same manner as they would at any other police facility. At this stage, the youth is typically handcuffed to a stationary rail...Youth are fingerprinted, photographed, and moved to a secure area... To participate in case management services, the youth and their parent or

guardian must sign a Conditions of Station Adjustment Notification and Agreement. This agreement states that if the youth does not meet with a case manager and fully participate in assigned services, CPD may forward their case to court for possible prosecution⁵.



The numerous concerns outlined in the report undermine the efficacy of the JISC model and demonstrate the need for a new strategy. Perhaps chief among the concerns raised include:

- › Diversion at the JISC can only occur *post-arrest*, at which point youth have already begun a harmful trajectory of negative consequences and potentially unnecessary system involvement.⁶ Research suggests that pre-arrest diversion programs are more effective in reducing recidivism than programs that intervene post-arrest.⁷
- › Only *after* the youth and parent or guardian sign the agreement is the youth assessed by a case manager and informed of the service plan requirements; thus, youth and parents are required to bind themselves to meet requirements that they cannot possibly anticipate, let alone agree to at the time of signing.⁸

To address these significant structural flaws, new efforts to fulfil the promise of front-end deflection will have to be accompanied by clear guidelines, community and advisory board engagement, trauma-informed, gender responsive tools, rigorous oversight and robust evaluation.

Key Pillars of Effective Deflection Models

As Chicago and other Illinois communities develop or strengthen their deflection strategies, there are five critical pillars of effective deflection policy and practice to apply:

1. Effective deflection occurs **INSTEAD** of, not **FOLLOWING**, arrest.
2. The decision between “counsel and release” or referral to services must be informed by research, guided by clear criteria and developed with an explicit focus on addressing racial disparities in arrest, deflection and referral to services. Services must be voluntary, high-quality and focused on positive youth outcomes.
3. Services must be provided and managed by a human-services entity in the youth’s local community and not by law enforcement agencies.
4. Law enforcement decisions to arrest or deflect, as well as subsequent service provisions, should be transpar-

ent to ensure effective programmatic oversight and accountability.

Effective deflection occurs in lieu of (not after) arrest. Arrests, followed by juvenile or criminal court referrals, serve two main purposes: to protect public safety and to hold people accountable for their behaviors. While most youth engage in risky and impulsive behaviors that may violate the law, these actions often pose little risk to public safety. Additionally, most youth are at very low risk for engagement in chronic delinquency or escalation that threatens public safety.⁹ Thus, **arresting youth for minor incidents does not promote public safety.** That said, the public expects that laws will be enforced and those who break them will be held accountable; **in cases where counsel and release is not sufficient for this purpose, there are effective, inexpensive and developmentally appropriate ways to build youth accountability.** These include helping youth to understand the consequences of their behavior for others, building empathy, and creating opportunities to address harms and contribute positively to the community. Further, services that build positive relationships between young people and their communities can reduce risks of future offending and improve outcomes for youth, families and communities in the short and long term.¹⁰

It is important to note that along with the questionable benefit of arrests for minor legal infractions, arrests actually

harm youth. **The arrest experience is traumatic and can be life-altering. It typically involves being taken into custody, handcuffed, transported in a police vehicle to a police facility, fingerprinted and detained (sometimes cuffed to an object) while being “processed.”** The negative perceptions that arise when a youth’s friends, family and community members learn of his arrest impact the relationships between youth and their communities. Because arrest records are difficult to expunge, they can cause lifelong obstacles for young people and their families.¹¹ Further, unnecessary arrests can cause or exacerbate conflicts between police and individuals, undermining broader community relationships and perceptions of police legitimacy, which in turn can undermine police efficacy in preventing and responding to serious crime¹². Finally, unnecessary arrests lead to unnecessary court system referrals, which in turn overburden the system and prevent those systems responding to the issues they need to focus on. It is important to note that most youth / police interactions do not result in an arrest; police are entrusted with a great deal of discretion in their work every day, in every Illinois community. Deflection strategies are critical tools in addressing the profound racial disparities which affect youth and families of color across the state.¹³ **Procedurally-just interactions, which avoid arrests whenever possible and advance racial equity, must be prioritized in every Illinois community.**¹⁴

The choice between “counsel and release” and referral to services of non-arrested (deflected) youth must be guided by clear, evidence-informed criteria and community input. Decisions about police response to youth (counsel and release or service referral) must be structured to eliminate racial bias and disparities that arise from geography or socio-economic status. Research suggests that youth may be treated differently from neighborhood to neighborhood; while this may be tied to racial or economic disparity, it is important to implement a consistent set of guidelines that can be reliably applied in all cases. To leverage procedurally just interactions as a touch point to provide needed services without unnecessarily burdening youth or their families, it will be important to work collaboratively to identify clear, consistent deflection criteria, to develop referral criteria which eliminate racial disparities and to ensure that community, youth and family voices drive these decisions.

Services delivered to youth must be voluntary, high-quality and focused on positive youth outcomes. To ensure that youth are effectively deflected from deeper system involvement, they should be offered trauma-informed, developmentally appropriate services delivered by an experienced youth services (rather than law enforcement) entity. These services should address behavioral health needs when they are present, and focus on restoration and accountability to the community. **However, participation in these**

services should be voluntary; while engagement can promote positive youth development, failure to engage or complete services should not result in court prosecution or other sanctions. Service providers are an invaluable component in efforts to build long-term connections between youth and their communities; the use of mentoring and other relationship-driven approaches can be used to fortify protective factors among at-risk youth; research suggests that supportive, healthy relationships are among the most significant “protective factors” for young people.¹⁵



Services should be managed and overseen by a youth services entity in the youth’s local community, rather than a law enforcement entity. Utilizing public resources to achieve positive outcomes for youth and communities is a critical responsibility and requires tailored expertise, experience and resources. The delivery of services to youth who have been deflected from arrest must be managed by an agency with human services experience and infrastructure in the youth’s community. An experienced youth services management entity can work with providers of services to establish accountability for outcomes, beyond just “numbers of youth served”. This approach ensures that police resources are devoted to appropri-

ate community functions; not only is the delivery and oversight of youth services incompatible with police skills, training, and authority, but it diverts resources from essential policing functions. Leveraging local community-based providers for oversight and service delivery will also be more economical than reliance on police mechanisms, which tend to be among the most expensive public resources.¹⁶

When a diversionary program is under law enforcement control, it will naturally involve extensive contact with police and trend towards typical police conduct (i.e. interrogation, indexing, and incarceration). These models rely heavily on officer discretion, and will likely recreate the biases already associated with policing and create potential for “net-widening” through enhanced surveillance of youth and punitive responses to youth behaviors. This net-widening, in turn, is likely to exacerbate racial disparities in formal processing of youth of color. In contrast, programs administered by social service agencies—while not free of bias—tend to have more therapeutic and effective approaches to problematic youth behaviors, especially those shaped by trauma. Service-focused programs can avoid the risk of net-widening and instead emphasize individualized supports, family therapy, individual therapy, educational advocacy, crisis intervention, ongoing case management and other strategies which have been demonstrated through research to improve youth outcomes and reduce delinquent behaviors.

Law enforcement decisions to arrest or deflect, as well as subsequent service provisions should be transparent to ensure effective programmatic oversight and accountability.

One of the primary conclusions of the City of Chicago Office of Inspector General audit report was that although the JISC has been in operation for nearly 15 years, the City does not know whether the JISC achieved its goal of reducing recidivism because of poor record-keeping, destruction of records, lack of data sharing among city agencies, lack of coordination among program partners and an overall lack of a governing board or documents with established programmatic purpose and goals. Due to this overall lack of structure, transparency and accountability, the JISC has been expensive investment that has not been shown to improve outcomes for the City’s youth, families or communities.

Implementation Examples and Considerations

In addition to these five pillars of effective deflection, there are a number of additional characteristics of promising alternatives to arrests in place across the country. These programs vary in location, administration, services, and focus, but they provide some examples that can guide Illinois in rethinking effective deflection. **In widespread efforts to shift from punitive to supportive responses, positive programmatic features tend to: (1) minimize police**

contact with youth and (2) minimize police discretion in youths' fate. Below are descriptions of components within various deflection programs that have been implemented across the US.

Where feasible, deflection opportunities should be decentralized and, in the youth's local community. Centralized processing of youth can exacerbate what is already a traumatic experience for a young person. They may be handcuffed, placed in the back of a police car and transported to a central processing center far from neighborhoods familiar to them. On the other hand, utilizing decentralized locations can mitigate these harms. Ideally, the program sites (which should not be

Deflection involves avoiding all parts of arrest – including detainment, fingerprinting, and records.

staffed by police but by local service providers) should be widely available in communities such that the youth can be referred or escorted without placing the youth into police custody. Decentralized processing centers are necessary in larger cities like Chicago; while centralized centers can suffice in smaller communities. Whether decentralized or centralized, the program providers can be located within a community center, restorative justice hub or other welcoming environment in the community. Police stations or other facilities where police bookings are conducted should be avoided.

Deflection and service linkages should be widely available to youth and their families. Eligibility criteria should be carefully developed to avoid net-widening and to maximize the positive impact of deflection strategies. Deflection strategies which focus solely on “status offenses” such as truancy or very low level offenses have the potential to net-widen by intervening with youth who would not otherwise be subject to justice system responses and are more properly served by other systems, such as education or child welfare. Research has conclusively demonstrated that intervening with low risk youth can worsen their outcomes. At the same time, narrow eligibility criteria that “cherry pick” very low level offenses can exclude the prime targets for services – those youth with unmet needs who, absent effective interventions, are most likely to return to the justice system – thus leaving youth without the supports they need and wasting scarce public resources. Perhaps most importantly, narrow eligibility criteria that unnecessarily exclude youth and families from accessing community-based supports is likely exacerbate racial disparities in arrests. To avoid these inequities, system and community stakeholders should work together to ensure that deflection opportunities and service linkages are as widely available to youth and families as possible.

Deflection programs should not require the youth's cooperation with services or payment of a fee as a condition of the decision to forego arrest. Some programs utilize

“civil citations” in lieu of arrest for status offenses (conduct that would not be a crime if committed by an adult). Similar to traffic tickets, this penalty occurs outside the court and without arrest, while still promoting accountability. However, civil citations require youth to pay a fine to avoid referral for prosecution, which is inherently more burdensome for low-income families.



In these programs, the issuance of citations is also left up to officers’ discretion (officers can choose to override a civil citation and perform an arrest with the approval of their commanding officer), so officer bias is not necessarily mitigated.

Additionally, when civil citations are issued after arrest, they may expose youth to the burdens and psychological harms associated with the arrest process.

Recommendations

The state of Illinois has the opportunity to rely on tested best-practice strategies to develop an approach to deflection that can reduce racial disparities in arrests and justice system referrals, strengthen communities, and promote well-being among youth. To do that, the Commission rec-

ommends local municipalities take the following steps:

1. End the use of police diversion programs like the JISC that incorporate programmatic features that have been ineffective. Leverage findings from the City of Chicago Office of Inspector General audit report (February 2020) and the guidance in this memo as the foundation for a new approach to deflection in Illinois.
2. Ensure that every police deflection program engages stakeholders and communities in planning and is grounded in research and best practices policies to ensure that:
 - c. Deflection occurs **INSTEAD** of, not **FOLLOWING**, arrest; The decision between “counsel and release” or referral to services is informed by research and guided by clear criteria;
 - d. Services are voluntary, high-quality and focused on positive youth outcomes;
 - e. Services are managed by a human-services entity in the youth’s local community and not by law enforcement agencies; and
 - f. Law enforcement decisions to arrest or deflect, as well as subsequent service provisions, should

be transparent to ensure effective programmatic oversight and accountability.

3. Identify metrics for ongoing monitoring and evaluation. A new approach to deflection should be based on a logic model that articulates the manner in which counsel and release as well as service strategies can minimize harm and reduce court involvement while still promoting accountability. This will help identify program outputs as well as the short- and long-term outcome indicators that can gauge the success of the deflection efforts. Tracking, measuring and sharing data regarding the impact of deflection strategies on racial disparities is imperative. To overcome challenges in previous deflection efforts and ensure accountability and effectiveness, it will be essential to carefully monitor program functioning as well as an array of youth outcomes.

Build and maintain infrastructure to support ongoing community dialogue as well as transparent data monitoring to demonstrate accountability and outcomes. This means that workgroups and governance bodies will need to include community representation and engage in frequent communication and analysis. Additionally, municipalities will need to utilize technological systems that support service referrals and the documentation of engagement and outcomes.

Conclusion

While there are no perfect deflection models, research and evidence on best practices and successful components can inform Illinois jurisdictions as they design new approaches. Incorporating evidence based features into local deflection programs will achieve positive outcomes for the youth in their communities, while minimizing harm in the process.

- ¹ National and local data indicate that school-based arrests can be a key driver of referrals to the juvenile court system. In fact, the presence of police in schools is associated with higher rates of suspensions, expulsions, and arrests for low-level offenses such as disorderly conduct, with students of color disproportionately bearing the harms of over-policing schools. (See <https://www2.ed.gov/about/offices/list/ocr/docs/school-climate-and-safety.pdf> and https://www.everycrsreport.com/files/20180705_R45251_db5492370a04c7e3b39f27ce52416d229a0ac17d.pdf) In light of this data, the Commission recommends that every Illinois community Illinois examine the role of police in schools, address racial disparities in school-based arrests and immediately limit school-based arrests to conduct which endangers the safety of students, school personnel, or the community. (See http://ijjc.illinois.gov/sites/ijjc.illinois.gov/files/assets/IJJC%20Racial%20Justice%20Statement_June%202020_0.pdf.) This document, however, focuses primarily upon youth / law enforcement interactions taking place outside the school context.
- ² See *Burdened for Life: The Myth of Juvenile Record Confidentiality and Expungement in Illinois* at <http://ijjc.illinois.gov/sites/ijjc.illinois.gov/files/assets/Burdened%20for%20Life.pdf>.
- ³ President's Commission on Law Enforcement and Administration of Justice. (1967). *The challenge of crime in a free society*. US Government Printing Office.
- ⁴ *Audit of the Chicago Police Department and Department of Family and Support Services' Administration of the Juvenile Intervention and Support Center*. (2020). Chicago, IL: City of Chicago Office of the Inspector General.
- ⁵ *Audit of the Chicago Police Department and Department of Family and Support Services' Administration of the Juvenile Intervention and Support Center*. (2020). Chicago, IL: City of Chicago Office of the Inspector General at pg. 15.
- ⁶ *Audit of the Chicago Police Department and Department of Family and Support Services' Administration of the Juvenile Intervention and Support Center*. (2020). pg. 15
- ⁷ Pre-Arrest Diversion: The Most Effective Tool for Common Youth Misbehavior. (2018, June 22). Retrieved October 27, 2020, from <https://www.aclufl.org/en/pre-arrest-diversion-common-youth-misbehavior>; see also, Holly A. Wilson & Robert D. Hoge, *The Effect of Youth Diversion Programs on Recidivism: A Meta-Analytic Review*, 40 CRIM. JUST. & BEHAVIOR 497, 498 (2013).
- ⁸ *Audit of the Chicago Police Department and Department of Family and Support Services' Administration of the Juvenile Intervention and Support Center*. (2020). pg. 18
- ⁹ General, U. S. (2001). *Youth violence: A report of the Surgeon General*. Washington, DC: US Department of Health and Human Services.
- ¹⁰ Bonnie, R.J., Johnson, R.L., Chemers, B.M., and Schuck, J. (Eds.). (2013). *Reforming Juvenile Justice: A Developmental Approach*. Washington, DC: The National Academies Press, Committee on Law and Justice, Division of Behavioral and Social Sciences and Education.

- 11 Burdened for Life: The Myth of Juvenile Record Confidentiality and Expungement in Illinois, *Illinois Juvenile Justice Commission*, April 2016 available at <http://ijjc.illinois.gov/sites/ijjc.illinois.gov/files/assets/Burdened%20for%20Life.pdf>
- 12 <https://www.ojjdp.gov/mpg/litreviews/Interactions-Youth-Law-Enforcement.pdf>
- 13 http://www.icjia.state.il.us/assets/articles/JJ%20Statewide%20Snapshot%202014_final%20full%20version%2009132016.pdf
- 14 When young people (and adults) experience fair, respectful and caring interactions with police, short and long term outcomes are better, regardless of the outcome of the interaction (arrest / non-arrest). Improved interactions can in turn promote positive youth outcomes (fewer arrests, less physical contact by police) and police outcomes (deescalated interactions, less physical assault, etc.) See <https://www.ojjdp.gov/mpg/litreviews/Interactions-Youth-Law-Enforcement.pdf>
- 15 U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration (2009). *Risk and protective factors for mental, emotional, and behavioral disorders across the life cycle*
- 16 Cooper, D., & Lugalía-Hollon, R. (2014). Chicago's Million Dollar Blocks. Retrieved October 27, 2020, from <https://chicagosmilliondollarblocks.com/map.html>



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