

Juvenile Court and Contemporary Diversion Helpful, Harmful, or Both?

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Research Summary

The juvenile court was established to help children through the use of punishment and rehabilitation and, in so doing, “save” them from a life of crime and disadvantage. Diversion programs and policies emerged in the 1970s as one way to achieve this goal. Despite concerns about its potential harm, diversion became increasingly popular in subsequent decades. We examine the logic of a prominent contemporary diversion effort, civil citation, to illuminate tensions inherent to traditional and contemporary diversion. We then review extant evidence on traditional diversion efforts, examine civil citation laws, and identify the salience of both traditional and contemporary, police-centered diversion efforts for youth and the juvenile court. The analysis highlights that

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diversion may help children but that it also may harm them. It highlights that the risk of net-widening for the police and the court is considerable. And it highlights the importance of, and need for, research on the use and effects of diversion and the conditions under which it may produce benefits and avoid harms.

Policy Implications

This article recommends a more tempered embrace of diversion and a fuller embrace of research-guided efforts to achieve the juvenile court's ideals. Diversion may be effective under certain conditions, but these conditions need to be identified and then met.

Keywords

juvenile court, juvenile justice, diversion, child-saving

Almost four decades ago, Bullington, Sprowls, Katkin, and Phillips (1978: 71) argued that “one overwhelmingly clear lesson is to be learned from the history of juvenile justice in America: namely, that the path to hell is paved with good intentions. If this lesson is lost on the current generation of reformers, today’s innovations may well become tomorrow’s abuses.” Their view, which was articulated in response to the rapid expansion of diversion efforts nationally, was echoed in other reviews and accounts at the time (Blomberg, 1983; Klein, 1979; McCarthy and Smith, 1986; Needleman, 1981; Polk, 1984). Collectively, scholarship identified the potential merits of diversion, such as the opportunity for youth to avoid the stigma of a formal court record and to receive rehabilitative services that might reduce recidivism. Diversion, too, held the prospect of reducing court caseloads and of providing punishment and intervention in cases where youth otherwise might receive little-to-no attention. Set against such potential benefits were potential harms, such as net-widening, wherein more youth and their families became subject to court control; increased recidivism; abuse of discretion in placing youth into diversion programs; and amplification of racial, ethnic, and gender disparities in juvenile court processing and sanctioning.

In subsequent decades, diversion has become, if anything, more popular. Support for it stems in part from its appeal to two groups. Diversion appeals to proponents of a get-tough approach to delinquency because it provides a vehicle through which young offenders, even those who commit minor offenses, can be held accountable. It also appeals to proponents of a rehabilitative approach because it affords an opportunity to intervene with youth before they progress to more serious offending. This consensus is unique among juvenile justice reforms; other policies, such as the transfer of juveniles to adult court, engender divides that tend to fall along ideological lines (Butts and Mears, 2001; Fagan and Zimring, 2000; Kupchik, 2006; Loeber and Farrington, 2012). Perhaps for this reason, diversion programs and policies—such as teen or youth courts; drug courts; mentoring; family therapy; community service; arbitration; and programs that emphasize restorative justice, education, counseling,

and treatment—have proliferated (Ezell, 1989; Kretschmar, Butcher, Flannery, and Singer, 2016; Mears, 2012; Pearson and Jurich, 2005; Ray and Childs, 2015; Sullivan, Dollard, Sellers, and John Mayo, 2010; Willison, Mears, Shollenberger, Owens, and Butts, 2010).

What we risk with these efforts, however, are the potential harms that scholars identified in decades past. Diversion may create such benefits as reduced offending and lower court costs. But it also may be used inappropriately and implemented poorly, and it may increase offending and cause net-widening (Klein, 1979; Mears, 2012; Ray and Childs, 2015). Traditionally, prosecutors or probation officers decided which youth would be diverted (Lindner, 2008; Rubin, 1980). The empowerment of police in recent decades to divert youth elevates even more the potential stakes for young offenders (Jaggers, Young, and Church, 2014; Sanborn and Salerno, 2005; Sullivan, Dollard, Sellers, and Mayo, 2010). It creates, for example, even more opportunities for diversion and, thus, the potential for child-saving or child-harming.

Against that backdrop, the goal of this article is to use civil citation laws—which empower police to issue citations that require youth both to admit guilt and to report to a diversion program—to illustrate the continued salience of understanding the uses and effects of diversion. This article seeks to highlight the centrality of traditional and contemporary diversion efforts, including police-initiated diversion, to the mission of the juvenile court and, accordingly, the need to understand better the conditions under which diversion may help the court achieve its goals. To this end, we first discuss the mission of the juvenile court and the role that informal processing plays in achieving it. We then discuss research on diversion, including critiques and evidence about its use and effectiveness. Next, our focus turns to civil citation as an illustration of diversion and, in particular, of police-based diversion efforts that have become increasingly prominent in recent decades. We identify a series of problems that accompany civil citation and that make it difficult to know whether it helps or harms youth. We then highlight how these problems exist for both traditional and contemporary diversion programs and policies. The article concludes by arguing for renewed and systematic attention to understanding the uses and effects of diversion and the conditions under which it is appropriate, effective, and cost-efficient.

Background

Mission of the Juvenile Court

The juvenile court founders envisioned a system of justice that would protect youth from the potential harms of adult court and that would seek not only to punish but also to advance the “best interests” of youth. Unlike the adult court, in which a determination of guilt took precedence, juvenile court was to be guided by the philosophy of *parens patriae*, which is Latin for the “state as parent” (Bernard, 1992; Feld, 1999; Feld and Bishop, 2012; Guarino-Ghezzi and Loughran, 2004; Scott and Steinberg, 2008). That is, the juvenile court would act as a parent. It would punish or dismiss cases as appropriate, but it also would seek to help youth so that they could go on to lead productive lives. The focus, then,

included an emphasis on actively intervening with youth even when their offenses were minor.

In short, juvenile justice historically has been guided by both a punishment orientation and a social welfare orientation. Different laws and terms have emerged to highlight this difference from criminal justice. Juveniles are not “convicted” but instead are “adjudicated” delinquent. They are not “sentenced” but instead receive a “disposition.” Of particular importance, court proceedings are less formal and adversarial. Instead, court actors work together to individualize sanctions and interventions for youth, and they lean heavily on informal processing to do so (Mears, 2012). The court actors, thus, are “offender focused” rather than “offense focused,” and they seek to intervene through both punishment and rehabilitation. As scholars have emphasized, the juvenile court has not necessarily achieved these goals (Bernard, 1992; Cicourel, 1968; Emerson, 1969; Feld, 2014; Tanenhaus, 2004). That is, there may be a disjuncture between ideals and actual practice. In addition, the ideal in fact may contribute to worse rather than to better outcomes for youth (Butts and Mears, 2001; Feld and Bishop, 2012; Klein, 1979; Rubin, 1979; Sanborn, 1994).

Role of Informal Processing and Diversion in Juvenile Justice

Formal processing entails the filing of a petition with the court (Sickmund and Puzzanchera, 2014). Prosecutors typically file these petitions, but intake officers in probation departments frequently do so on their behalf. The submission of the petition in juvenile court is equivalent to the filing of a complaint (or “information”) in criminal court or to a grand jury indictment (Feld, 2009: 361). Informal processing bypasses this filing. That is, no petition is filed. Instead, informal processing consists of a youth admitting guilt and then voluntarily accepting a sanction or an intervention of some type, including probation or diversion to a program (Sickmund and Puzzanchera, 2014). The voluntary nature of the agreement means that youth do not have to abide by the conditions of the disposition. However, then the case may be reopened, which may result in formal adjudication and disposition.

For youth, the main advantage to informal processing is that they avoid an official record of adjudication and some of the more serious sanctions that can result from formal proceedings (Mears, 2012). Simultaneously, the juvenile court can give greater attention to youth who are involved in more serious offending. Although prosecutors sometimes screen cases and determine which ones should be informally processed, this function often falls to probation officers who staff intake units (Rubin, 1980). In these cases, the officers act on behalf of prosecutors (Lindner, 2008; Petrucci and Rubin, 2004; Sanborn and Salerno, 2005). Even when cases are formally processed, informal processing may occur. For example, some jurisdictions permit adjudications to be withheld if youth successfully comply with the conditions that attach to a given sanction, such as participation in a diversion program. If they do so, no formal record of adjudication occurs (Mays and Ruddell, 2012).

Informal processing, thus, is central to the design of the juvenile court. It enables the court to intervene with youth who commit minor offenses. It also gives wide latitude

to intake officers to determine whether such youth should be dismissed, counseled, and released; diverted to a program; or placed on “informal” probation. By empowering intake officers in this way, the court avoids the potential pitfalls of the more adversarial process that can unfold during formal proceedings and it infuses a “social work” sensibility into decision making about a large swath of youth referred to juvenile court. The authority that intake officers wield is in fact considerable (Lindner, 2008; Pabon, 1978). They make judgments about the legal sufficiency of cases; assess risk levels and whether detention may be warranted; and, for the cases that go to prosecutors, they make recommendations about how the cases should be handled (Feld, 2009). In arriving at these judgments, intake officers may screen youth; undertake a formal risk and needs assessment; and, more generally, inquire about the youth’s past, family, and social context. When a case must be referred to prosecutors, then the intake officer does so; otherwise, the officer essentially exercises executive (prosecutorial) and judicial powers through discretion in determining how a youth’s case should be handled (Leiber, Peck, and Beaudry-Cyr, 2016; Mears, 2012).

Historically, intake officers have occupied a central role in the informal processing of youth. However, the police, too, feature prominently in such processing. They make judgments on the street or when called to homes, schools, businesses, or other settings about how best to proceed with a given youth. In instances where a serious crime has occurred, discretion typically will be limited; the officer will arrest the youth and then refer him or her directly to juvenile court for intake processing. In other instances, the officer has latitude to determine whether to release the youth or to refer him or her to juvenile court. Increasingly, too, the officer can bypass the court and divert youth directly to programs (Ray and Childs, 2015; Sanborn and Salerno, 2005).

One of the main dispositions that youth receive as a result of informal processing is diversion, including referral for treatment or services or a requirement that youth participate in youth courts, community service, mentoring initiatives, and related programs (Feld and Bishop, 2012; Models for Change Juvenile Diversion Workgroup, 2011; Willison, Mears, Schollenberger, Owens, and Butts, 2010). If youth successfully complete the diversion program, typically no “official record”—adjudication or disposition—results (Mears, 2012; Ray and Childs, 2015). Diversion enables the juvenile court to intervene actively with youth and to hold them accountable and provide assistance and services. It, thus, seemingly provides a balance of punishment and rehabilitation.

The centrality of informal processing and diversion to juvenile justice can be observed in case-processing statistics. Most delinquency cases are handled through cautioning and informal processing. Approximately 80% of police encounters with youth do not result in arrest or referral (Sanborn and Salerno, 2005: 130). Among youth referred to juvenile court, roughly half are informally processed (Mears, 2012). For example, in 2014, 46% of all juvenile court referrals were informally processed, and of these cases, 42% were dismissed; 33% received some type of “other sanction,” typically diversion; and 24% were placed on

“informal probation” (Sickmund and Puzanchera, 2014: 170). In short, the police wield considerable discretion over how cases are handled and which cases arrive at the front door of the juvenile court. Intake officers then exercise discretion in determining whether cases are dismissed, diverted, or placed on probation.

Diversion: Ideal versus Actual Practice and Effects

Despite the appeal of diversion, concern quickly arose about the disjuncture between the ideal held out for diversion and its actual use, or practice, and effects. If used appropriately, then diversion might improve the lives of youth and reduce crime and court costs. If used inappropriately, it might result in a worsening of youth outcomes and increased costs. The potential for this disjuncture was and remains directly relevant to juvenile justice given the prominent investment in diversion policies and programs over more than five decades.

During the 1960s, the federal government advocated for and funded diversion to limit the stigma that might be associated with formal delinquency proceedings and to ensure that limited resources did not result in the dismissal of less serious delinquency cases (President’s Commission on Law Enforcement and Administration of Justice, 1967). Diversion continued to be emphasized in the subsequent decade as a response to the influence of labeling theory through appropriations that funded a wide range of diversion programs (Blomberg, 1980; Dunford, Osgood, and Weichselbaum, 1982; Klein, 1979). It continues to be a persistent and pervasive feature of contemporary juvenile justice. For example, in 2006, diversion was one of the “most prominent [juvenile justice] issues to be legislated” (Willison et al., 2010: 39; see also Brown, 2012: 7). Some types of diversion programs, such as youth courts, of which 1,000 are estimated to exist, are central to court operations (Pearson and Jurich, 2005).

The prominent role of the police and intake officers in dismissing and diverting youth seemingly is ideal for helping the juvenile court achieve its mission. Officers can use their discretion to ensure that youth who do not need intervention have their cases dismissed and so avoid being labeled or stigmatized; this approach also saves the court expenses and time so that it can focus on more serious cases. In addition, officers can ensure that youth, despite whether they have committed serious offenses, who warrant and would benefit from intervention receive it.

However, the discretion afforded to the police and intake officers also creates challenges, including the potential for errors and bias in determining which youth warrant intervention and which do not (Klein, 1979; Krisberg and Austin, 1993; Ray and Childs, 2015). In addition, diversion carries an inherent tension. On the one hand, a failure to intervene early and effectively risks setting a youth on a downward trajectory of more, and more serious, offending. On the other hand, intervening when there is no serious problem risks wasting resources and potentially creating adverse effects for youth and their families through the very mechanisms, such as stigma, that diversion is supposed to avoid (Blomberg, 1980, 1983; Mears, 2012). This tension confronts police and intake officers

frequently, given that misdemeanors constitute the bulk of cases that they face (Sanborn and Salerno, 2005; Sickmund and Puzanchera, 2014).

Juxtaposed against the ideals held out for diversion, as well as the concerns about it, is a limited body of credible research that has documented the extent to which diversion is implemented well and the magnitude of its benefits and harms. Numerous reviews have found that diversion frequently is implemented inconsistently and that it fails to produce significant improvements in recidivism relative to counsel-and-release or formal processing (Blomberg, 1983; Klein, 1979; Lipsey, 2009; Mears, 2012; Polk, 1984; Ray and Childs, 2015; Schwalbe, Gearing, MacKenzie, Brewer, and Ibrahim, 2012; cf. Wilson and Hoge, 2013). Some accounts have suggested that diversion may be effective in some contexts, for some youth, when it includes certain components, such as skill-building or cognitive-behavioral therapy (Lipsey, 2009; Ray and Childs, 2015). Intensive services for low-risk youth, however, generally is unnecessary and costly. For example, most low-risk youth will never offend again and so require no intervention; in such cases, punishment, but no intervention, is indicated. An argument in support of diversion as a sanction is that it may not reduce offending but that it may be preferable to no intervention or formal processing. Why? Diversion may be less criminogenic than these two options (Petrosino, Turpin-Petrosino, and Guckenburg, 2010). Finally, whether diversion has reduced the workload of the juvenile justice system and done so by intervening with youth who warranted intervention remains unknown. Instead, what is known is that diversion programs sometimes result in net-widening, such that no significant reduction in court caseloads occur, while more youth are subject to a variety of informal diversion programs (Blomberg, 1980; Roberts, 2004).

One of the central problems in studies of diversion is that the concept is unclear, which in turn creates challenges in evaluating its impacts (Klein, 1979; McCord, Widom, and Crowell, 2001; Mears, 2012; Pabon, 1978; Petrosino et al., 2010; Sanborn and Salerno, 2005). For example, diversion might be viewed as dismissing a case outright from juvenile court. It might be viewed as an effort to intervene with youth whose minor offenses might otherwise go unaddressed by the justice system. It might be viewed as an alternative to formal court processing. Or it might be viewed as a lesser sanction than otherwise might be imposed, what Klein (1979: 152) referred to as “minimization of penetration” (e.g., teen court as an alternative to probation, informal probation as an alternative to formal probation, or probation as an alternative to incarceration).

This “heterogeneity in diversion,” as Ray and Childs (2015: 425) characterized the situation, creates substantial challenges for evaluating the impact of diversion programs. Petrosino et al. (2010) emphasized this point when attempting to interpret the results of their meta-analysis of published diversion evaluations, and Mears, Cochran, Greenman, Bhati, and Greenwald (2011) echoed its salience for estimating the effects of juvenile court sanctions in general. In many instances, the counterfactual condition is unclear. For example, if court actors envision diversion as an alternative to probation, then a study ideally would compare diverted youth with matched counterparts who are on probation yet would

be ideal candidates for diversion. Youth who were probated but were not ideal candidates would be inappropriate. It also would be inappropriate to use as comparison subjects youth who were dismissed, counseled-and-released, or given a custodial disposition. By contrast, if diversion serves as an alternative to “nothing,” then comparison subjects should be youth who typically would be ignored or dismissed from juvenile court. Inattention to, or an inability to address, this issue has impeded accurate assessment of diversion’s effects on recidivism or net-widening. And it is reflected in the caveats provided in reviews. Petrosino et al. (2010: 37), for example, concluded their meta-analysis by noting, “Better descriptions of the control conditions in randomized trials are needed in such experiments to permit a better assessment of exactly what the treatment is being compared to” (see also Mears et al., 2011; Ray and Childs, 2015; Schwalbe et al., 2012).

Diversion Continues to Be Central to the Juvenile Court

Diversion continues to be a mainstay of the juvenile court and, indeed, has expanded in recent decades. Teen courts, mental health courts, various first-time or second-time offender programs, community-based interventions, and more have become increasingly popular and prevalent in juvenile justice systems throughout the United States (Butts and Buck, 2000; Jagers et al., 2014; Mears, 2012; Sanborn and Salerno, 2005). Diversion is central to initial decision making by the courts in how to handle a youth. Indeed, state or local laws may dictate reliance on diversion programs (Ray and Childs, 2015). These efforts can include diverting youth from typical court processing or from punitive sanctions that might otherwise occur. For example, mental health courts have been used as a mechanism both to divert youth from traditional juvenile court processing and to divert youth who have been adjudicated delinquent from custodial sentences to noncustodial diversion programs (Honegger, 2015; Ramirez, Andretta, Barnes, and Woodland, 2015). Such youth might receive terms of probation rather than incarceration and be enrolled in any of a variety of programs that the court relies on as alternatives to custodial confinement.

One prominent illustration of the trend toward expanded diversion is the substantially greater ability of police to bypass the courts and send youth directly to diversion programs. For example, some states, such as Florida, have enacted civil citation laws that enable the police “to make the decision to divert in the field” (Ray and Childs, 2015: 428). Police feature more prominently in diversion efforts, too, through the increased placement of officers in schools (Jagers et al., 2014; Shteynberg and Redlich, 2015). Often referred to as school resource officers (SROs), these officers typically are sworn law enforcement officers who have similar discretion to officers on the street to dismiss, divert, or arrest youth. The difference is that the opportunities to do so are markedly higher within a school setting. Historically, police were almost nonexistent in schools. As a result of federal and state zero-tolerance policies over the past two decades, they have become a prominent fixture in more than two thirds of schools nationally (McKenna and Pollock, 2014; Na and Gottfredson, 2013). These officers enable schools to address crime proactively. However, their presence

also creates the option of arresting and diverting youth who traditionally would have been viewed as having school discipline problems (Hirschfield, 2008; Kupchik, 2012; McGarrell, 2012). The common denominator in these and other contemporary diversion efforts is the expanded authority of courts, and increasingly the police, to place youth in diversion programs.

Civil Citation as a Case Study of Potential Benefits, Harms, and Challenges of Diversion

We argue that both the persistence of diversion and the increase in diversion opportunities and programs highlight the need to reinvigorate attention to the uses and impacts of diversion. Many concerns identified in research in the 1970s and since remain—specifically, the benefits, harms, and costs of diversion are unknown. That holds true for long-standing diversion efforts and their variants, as well as for new diversion policies and programs.

To advance this argument, we focus on civil citation because its purpose directly aligns with that of traditional diversion programs and because, at the same time, it illustrates a trend toward greater involvement and empowerment of the police in the processing and diverting of young offenders. Our main focus is on the different dimensions along which civil citation—and diversion efforts more broadly—can be evaluated, the potential for citation and diversion efforts to create benefits or harms, and the critical challenges to generating credible empirical evidence about the impacts or cost-efficiency of diversion.

What Is Civil Citation?

Civil citations are issued by law enforcement for misdemeanors in lieu either of doing nothing or of an arrest or the filing of a formal complaint (Howell, Lipsey, and Wilson, 2014; Ray and Childs, 2015). When they occur instead of nothing, they can serve to hold youth accountable and possibly to reduce future offending. When they occur in lieu of an arrest or formal complaint, they can serve to provide a potentially more cost-effective alternative to formal processing while achieving a comparable or greater amount of accountability and reduction in recidivism. It is this latter use that directly accords with the goal of traditional diversion: A cheaper and potentially more effective sanction occurs that benefits youth, the court, and society.

First established in Miami-Dade County, Florida, in 2007, to address what seemed to be excessive referral of youth to juvenile court for misdemeanors, civil citation empowers the police to exercise the discretion that intake officers typically have had to dismiss or divert youth from juvenile court (Sullivan et al., 2010). Youth still can be punished, but they avoid the acquisition of an arrest record. The civil citation approach was adopted statewide in 2011 (State of Florida Legislature, 2015) and expanded in 2015 to allow citations to be issued up to three times (Vasilinda, 2015). Since 2007, many other states—including California (State of California Legislature, 2012), Delaware (State of Delaware, 2015), Hawaii (State of Hawaii, 2015), Nebraska (McCollister and Moll, 2012), and North Carolina (North

Carolina General Assembly, 2015)—have considered or implemented citation laws and programs.

Cited youth must admit guilt and then report to a civil citation coordinator who then places the youth in an approved diversion program. If a youth refuses to admit guilt, then the police officer can take the juvenile to intake instead of issuing the citation. If the youth accepts the citation, he or she then receives an assessment and participates in a diversion program, which can include up to 50 hours of community service; the youth also may be required to participate in treatment, drug testing, or school progress monitoring. Failure to comply with the conditions of diversion results in the citation reverting to an arrest and the transfer of the case to a juvenile assessment center intake officer along with a recommendation for how the youth's case should be handled (Ray and Childs, 2015). The case then might be dismissed, informally processed, or formally processed. (Detailed descriptions of the process of civil citation can be found in several sources, including Walby, 2008, and Sullivan et al., 2010.)

In short, civil citation provides a different mechanism by which youth can be diverted. It bypasses the juvenile court and, in particular, intake officers. The police essentially serve both as law enforcement officers and as intake officers when they choose to issue citations to youth rather than to refer them to the juvenile court. This approach is different from many traditional forms of diversion, which typically have relied directly on intake officers and the court to be activated. Even so, it builds on a long-standing practice of allowing the police considerable discretion in how they handle juveniles who engage in minor offending (Jaggers et al., 2014; McGarrell, 2012; Sanborn and Salerno, 2005). It also accords with the emphasis in recent decades of placing police officers at schools. Doing so provides them the authority to criminalize minor acts of misconduct (Hirschfeld, 2008; Na and Gottfredson, 2013; Shteynberg and Redlich, 2015). Not least, civil citation reflects the logic of contemporary diversion efforts in its emphasis on expanding the scope of diversion, and the logic of both traditional and contemporary diversion programs in the presumption that diversion is a clear-cut concept, that it benefits youth and the court, and that harms do not exist or are minimal.

Potential Benefits of Civil Citation and of Diversion More Generally

Civil citation—and diversion in general—may create multiple benefits for the courts and for juveniles who engage in minor offending. Here, we identify several potential benefits and how they might arise. We then turn to potential adverse effects of civil citation and other diversion efforts as well as to challenges in evaluating the effectiveness of diversion.

Avoiding the negative consequences of arrest and formal processing. The goals of civil citation align directly with those of other diversion programs (Blomberg, 1983; Klein, 1979; Krisberg and Austin, 1993; Mears, 2012). In keeping with the juvenile court's historical emphasis on advancing the "best interests" of children (Feld, 2009), one goal is to hold youth accountable. In Florida, for example, a central impetus for the civil citation program was

the view that “an intervention was needed to help reduce referrals for youth who commit misdemeanor offenses” and that would result in youth still being “held accountable for their actions through immediate sanctions” (Sullivan et al., 2010: 282). Another goal is to help youth to avoid the negative consequences of a formal record and of formal processing (Ray and Childs, 2015). Diverted youth may avoid the acquisition of an official record of delinquency if the requirements of a given diversion program are met. Avoiding a formal record also may spare youth the costs associated with sealing or expunging this record. Not least, youth may avoid the stigma and more severe sanctions associated with formal handling of court cases.

Decreased recidivism and improvement of other outcomes. When youth accept civil citations, they agree to participate in a diversion program. In turn, a range of benefits is thought to occur. Reduced recidivism is the primary goal. However, in accordance with other diversion efforts, participation in civil citation programs is anticipated to improve other youth outcomes, such as education, drug use or abuse, and mental health (Howell et al., 2014; Kretschmar et al., 2016; Models for Change Juvenile Diversion Workshop, 2011). These diverse benefits stem from the emphasis in diversion programs not only on sanctions (e.g., community service hours, monitoring, and restitution) that hold youth accountable but also on providing, or facilitating access to, treatment or services that address a youth’s diverse risks and needs (Mears, 2012; Ray and Childs, 2015). In-so-far as diversion programs emphasize evidence-based intervention strategies (Howell et al., 2014), improved outcomes should result.

It is possible, too, that civil citation provides greater justice for youth. Historically, the juvenile court has emphasized active intervention in the lives of youth to help them succeed in life. From this perspective, dismissing minor cases from juvenile court is inappropriate and, indeed, would be unjust and inconsistent with the court’s mission (Cochran and Mears, 2015; Tanenhaus, 2004). At the same time, informal processing and sanctioning helps, in theory, to ensure that youth receive balanced, individualized intervention rather than excessive punishment (Guarino-Ghezzi and Loughran, 2004; Howell et al., 2014). Civil citation policies, and diversion more generally, provide a mechanism for achieving this balance.

Decreased juvenile court caseloads (net-contracting). Civil citation and other diversion efforts may result in fewer arrests and referrals to juvenile court. That, for example, is one of the primary goals of civil citation (Myers, 2013; Project on Accountable Justice, 2015; Sullivan et al., 2010; Walby, 2008) and of diversion in general (Mears, 2012). Approximately 83% of all delinquency referrals to juvenile court nationally come from law enforcement (Sickmund and Puzzanchera, 2014: 94). Accordingly, diversion efforts that enable the police to avoid referring youth to court, as well as diversion programs that avoid the need for formal processing, may reduce court caseload processing pressures. This benefit in turn frees up court resources to focus on more serious or violent delinquents and their needs (Feld and Bishop, 2012; Klein, 1979). Diversion, thus, has the potential to reduce court caseloads and

ensure that resources are more efficiently allocated and focused on higher risk youth. The availability of diversion as a sanctioning option for low-risk youth provides a mechanism to prevent a needless and costly expansion of juvenile court operations. The court can expand or contract its use of diversion as needed.

Potential Harms of Civil Citation and of Diversion More Generally

Although civil citation and diversion programs may produce many benefits, critics of diversion have highlighted a range of potentially adverse effects for youth and for the juvenile justice system. Here, we highlight several of these potential harms.

Negative consequences that result from arrest and potential formal processing. Although a goal of diversion is to help youth avoid severe punishment, a central concern about diversion has been the possibility that it increases the likelihood that youth will be formally processed and sanctioned (Klein, 1979). For example, the existence of a diversion program might increase the likelihood that police arrest a youth or refer him or her to juvenile court versus doing nothing. In cases where the court diverts the youth to a program, the increased supervision of the youth may make it more likely that the youth will be caught if he or she engages in delinquency. The court then formally processes the case because, as a condition of participating in diversion, a youth typically “must admit that he or she committed the [delinquent] act before informal processing is permitted” (Snyder, 1996: 57). Also, the court may view youth who fail to take advantage of a diversion program as signaling a need for greater, and more restrictive, sanctioning. This adverse outcome is most likely to unfold in situations where, in the absence of a diversion program, the court likely would dismiss a youth’s case because it entailed a minor offense. In the event that the case were to be dismissed, the youth would not be supervised and, as a logical matter, could not fail to comply with the diversion program’s requirements (Mears, 2012; Needleman, 1981; Sanborn and Salerno, 2005).

Diversion may be harmful in other ways. For example, it does not necessarily entail a trivial intervention but instead can involve substantial requirements—such as drug testing, restitution, participation in mentoring efforts, community service, counseling, and so on—that match or exceed what youth might face if placed on probation (Krisberg and Austin, 1993; Lindner, 2008; Sanborn and Salerno, 2005). Thus, concerns that exist about formal processing and sanctioning exist as well for some diversion programs (Bullington et al., 1978; Schwalbe et al., 2012).

The availability of diversion, too, may empower court officials—and increasingly police officers—to coerce youth into admitting guilt and participating in diversion. Plea bargaining has constituted a central feature of juvenile and criminal court processing for decades, but it typically has resulted from prosecutorial discretion (Kutateladze, Lawson, and Andiloro, 2015; Mears, 1998; Sanborn, 1993). Although the police exercise considerable discretion in how they handle particular incidents involving youth (Jaggers et al., 2014; Sanborn and Salerno, 2005), they typically have not had the authority to sanction youth directly. Civil

citation creates that possibility. Police may leverage youth into participating in diversion through a process similar to plea bargaining. If the youth admits guilt or agrees to participate in a diversion process and program, then the officer may offer to leave well enough alone. If the youth does not, then the officer may threaten to arrest the youth and refer him or her to juvenile court. Notably, the introduction of police into schools, with the concomitant authority to “criminalize” school discipline, creates a similar possibility and illustrates the expanded authority of police in juvenile justice processing and sanctioning (Hirschfield, 2009; Krezmien, Leone, Zablocki, and Wells, 2010).

Another potential risk for youth is that diversion results in a permanent juvenile court record. Historically, a benefit of diversion was that youth might avoid such a record. After completion of a diversion program, the court would dismiss charges and/or expunge the youth’s record (Feld, 2009; Ray and Childs, 2015). The advent of “get tough” laws in the 1980s and 1990s changed this situation and led to greater public access to juvenile court records (Feld, 1999, 2014).

In addition, the recent trend toward empowering police to be actively involved in handling delinquency cases has expanded the potential for juvenile records to become publicly available. Historically, the juvenile court sought to protect youth from the “punitive control of the police” (Wolcott, 2005: 106). As Jacobs (2014) has emphasized, although the early juvenile court may have prioritized protecting the confidentiality of court records, the police operated under no similar guiding philosophy. The end result is that youth in contemporary America face collateral consequences that attend not only to having a record of being adjudicated delinquent but also of having a record of contact with the police or juvenile court (Hirschfield, 2009). The police, for example, maintain records of “police contacts” with youth, and they can and do disclose information about these contacts to the Federal Bureau of Investigation, the Armed Forces, social service agencies, sometimes to private employers, as well as to schools (Jacobs, 2014: 160–163).

Increased recidivism and worsening of other outcomes. Diversion programs are heterogeneous, and many remain unevaluated (Mears, 2012). As emphasized earlier, reviews and meta-analyses suggest that diversion may sometimes be effective (Ray and Childs, 2015; Wilson and Hoge, 2013). More often than not, however, it seems to exert little-to-no effect, and it may even have criminogenic effects (Blomberg, 1983; Klein, 1979; Mears, 2012; Schwalbe et al., 2012). A null effect may stem from diversion programs not relying on evidence-based principles or practices (Howell et al., 2014), whereas harmful effects may stem from such mechanisms as creating strain for youth or stigmatizing them.

In theory, a civil citation and other such mechanisms for diversion may avert a juvenile court referral and associated harmful outcomes. However, diverted youth in fact may never have received any sanction if they pursued formal processing. And diverted youth who otherwise would have had their cases dismissed may be more likely to have their cases subsequently referred to juvenile court, which can result in an official court record (Shah, Fine, and Gullen, 2014). This record may create collateral consequences for them.

For example, it may contribute to dropping out of high school or to difficulty in being accepted to college. Universities and colleges ask applicants to provide criminal background information and deny admission if that information is not provided (Hirschfield, 2009; Kirk and Sampson, 2013; Sweeten, 2006). In addition, even if a youth is referred to juvenile court but not adjudicated delinquent, he or she may face barriers to gaining employment, obtaining housing, being able to volunteer or work with children or vulnerable adults in health-care settings, and being a foster parent or adopting a child (Council on Crime and Justice, 2011; Jacobs, 2014).

Finally, although diversion programs may provide a conduit for more appropriate and effective intervention, the lesser due process safeguards for youth create opportunities for coerced participation and for disparities (Bullington et al., 1978; Hirschfield, 2009; Roberts, 2004). Police discretion illustrates these possibilities. It may, for example, result in the police providing more opportunities—via civil citation rather than an arrest and formal processing—for minorities to receive lenient sanctions and to have access to more rehabilitative interventions. Conversely, it may result in the police affording such opportunities disproportionately to White youth. A large body of scholarship has found that racial and ethnic disparities can and frequently do surface throughout all stages of court processing (Cochran and Mears, 2015; Feld, 1999; Leiber et al., 2016; McGarrell, 2012). By extension, they may well surface in various diversion efforts, including those that stem primarily from police discretion in issuing civil citations or in making arrests at schools.

Increased police or juvenile court caseloads (net-widening). Net-widening traditionally has been viewed as arising when the juvenile court, through diversion programs, expands its reach. Rather than reducing caseloads, the court continues to process roughly the same numbers of cases as it otherwise would, but in addition, it places large numbers of youth into diversion programs (Blomberg, 1983; Klein, 1979; Krisberg and Austin, 1993; Roberts, 2004). Put differently, the “net” of the juvenile court catches more youth than otherwise would occur.

With civil citation, the risk of net-widening is increased. The police may become more involved in processing and sanctioning youth. In a typical year, approximately one third of all delinquency referrals are dismissed from court (Sickmund and Puzanchera, 2014: 170). Among informally processed cases, the dismissal rate typically is higher. If the police informally dismiss (or ignore) youth whom the court typically would dismiss, no net-widening occurs. However, if they divert these youth directly through civil citations, then net-widening may occur. A similar risk exists when police are placed in schools—if they arrest more youth at school, they place greater pressure on the courts to handle more cases. Given that diversion programs tend to be operated by private vendors, there is the risk as well that the vendors develop a vested interest in promoting and lobbying for police-based or traditional diversion, including extending the reach of diversion to cases that the court historically might have viewed as requiring nothing more than counseling and then release (Bullington et al., 1978; Feeley, 2002).

To demonstrate the potential for net-widening, Table 1 provides a listing of behaviors that constitute misdemeanors in Florida; they constitute but a small fraction of the acts that can trigger an arrest, referral, or citation (State of Florida Legislature, 2015). They serve solely to illustrate the number and range of misdemeanors that allow for civil citations and, more generally, referral to juvenile court. They constitute the types of offenses that can result in the diversion of youth in any jurisdiction in Florida and nationally. The offenses range from minor offenses, such as disrupting a school function or evading transit fares, to more severe ones, such as assault and driving under the influence, and accord with acts that other states classify as misdemeanors.

As with many other acts, subjective judgment may enter into determining whether a misdemeanor in fact occurred. Theft from a store might be viewed as purposeful or not, and the officer's assessment of whether it in fact was purposeful may affect whether the act is classified as a misdemeanor and, in turn, whether an arrest or citation occurs. In addition, even if evidence clearly indicates that a youth committed a misdemeanor, police can and do exercise discretion in whether to arrest or cite a youth (Hirschfield, 2008; Sanborn and Salerno, 2005; Shteynberg and Redlich, 2015). Given that nearly all youth engage in some form of minor offending—including illegal alcohol or drug use—at some point during adolescence (Piquero and Weiss, 2012; Snyder, 2012), this situation creates considerable leeway for the police to divert large numbers of youth. If they feel political pressure to do so or if they are situated in school settings that enable them to identify or learn about more misdemeanor offenses, then the potential for substantial net-widening occurs (Hirschfield, 2008; Jagers et al., 2014; McGarrell, 2012).

Challenges in Assessing Civil Citation and Similar Diversion Efforts

To this point, we have identified ways in which civil citation, and diversion in general, may produce benefits (“child-saving”) or harms (“child-harming”). In this section, we identify several challenges that confront efforts to determine the extent to which diversion efforts, such as civil citation, in fact produce benefits, harms, or both.

Challenge 1. Inconsistent definition of diversion. Research and reviews on diversion consistently have pointed to the heterogeneity of diversion as a problem (Klein, 1979; Models for Change Juvenile Diversion Workgroup, 2011; Ray and Childs, 2015; Roberts, 2004; Sanborn and Salerno, 2005). There has been variation along such dimensions as the providers, the specific interventions or tasks that youth have to complete, the duration of diversion, and the consequences of failure to complete diversion successfully. As a result, the external validity of diversion studies has been limited because the results may be specific to the particular configuration of diversion processes, activities, and services, as well as to the particular counterfactual condition, such as dismissal, informal probation (and attendant sanctions), or formal probation (and attendant sanctions) (Mears et al., 2011).

In Florida, for example, civil citation entails a process that may vary within and across counties. For example, some counties may not use citation at all, some may promote it and

TABLE 1

Examples of Misdemeanor Offenses, Florida*Traffic*

- Reckless driving
- Driving under the influence of alcohol
- Driving under the influence of chemical substances
- Leaving crash scene when there is property damage
- Drag racing

Vandalism

- Driving a vehicle on a sand dune and causing damage
- Modifying a monument
- Disrespecting a state flag
- Disrespecting the U.S. flag
- Willfully and maliciously damaging guideposts
- Defacing works of art
- Defacing educational property

Trespassing

- Being on school grounds when suspended or expelled
- Entering a property unlawfully
- Not leaving property when requested by owner
- Driving on a restricted highway

Public Order

- Engaging in a brawl or fight
- Interfering with the admin. of educational institutions
- Disrupting a school function
- Wearing a hood or mask on public property
- Using a recording device in a movie theater
- Engaging in nuisances that annoy the community
- Conspiring to riot at school
- Disturbing the peace

Alcohol

- Misrepresenting one's age to obtain alcohol
- Possessing alcohol

Drug

- Inhaling chemicals for the purposes of intoxication
- Possessing a controlled substance
- Intending to sell a controlled substance
- Delivering 20 grams or less of marijuana
- Possessing 20 grams or less of marijuana
- Using drug paraphernalia

Theft

- Possessing a shopping cart
- Stealing from a retail merchant
- Not paying for gas at a gas station
- Evading transit fares
- Forging a ticket to a sports game
- Possessing a forged ticket to a sports game
- Inserting one's arm into a vending machine
- Stealing items worth \$100–\$300

Assault/Battery

- Intentionally and unlawfully threatening violence
- Intentionally touching or striking another
- Committing assault or battery of a sports official
- Committing assault or battery of a school employee
- Causing bodily harm to another

Sex

- Exposing sexual organs
- Sexting another minor
- Engaging in voyeuristic acts
- Engaging in lewd acts

Other

- Purchasing a lottery ticket
- Collecting plant or animal specimens in a state park
- Providing false reports to the police
- Lending one's identification card to another person
- Displaying another's identification card as one's own
- Calling w/o disclosing identity and intending to annoy
- Repeatedly calling another with the intent to harass
- Using a BB gun if under 16 without a parent present
- Falsely alarming others of a fire
- Possessing, lending, or giving away obscene materials
- Loitering or prowling
- Selling an essay for use by another student
- Taking another's online exam for compensation
- Being involved in a secret society
- Misusing 911
- Resisting arrest
- Abandoning an animal
- Unlawfully possessing a firearm
- Giving false name to police officer when detained

Source. State of Florida Legislature. 2015. *The 2015 Florida Statutes*. Tallahassee: State of Florida Legislature. Available online (leg.state.fl.us/statutes).

issue citations primarily in the community, and some may promote it and issue citations both in the community and in schools. In addition, cited youth are sent to any of a wide range of programs, which themselves vary greatly within counties and across counties (Myers, 2013; Project on Accountable Justice, 2015; Sullivan et al., 2010; Walby, 2008).

Challenge 2. Unclear theoretical logic for achieving intended impacts. The overarching theoretical logic of diversion is that youth avoid the harms of formal processing and simultaneously receive some type of rehabilitation and punishment (Blomberg, 1983; Petrosino et al., 2010; Sanborn and Salerno, 2005; Wilson and Hoge, 2013). However, the precise activities that constitute particular diversion programs may or may not entail a clear emphasis on addressing factors that place youth at risk of delinquency (Howell et al., 2014). Without a clear theoretical logic to guide the specific activities that participants must undertake, diversion programs risk undertaking a form of what Latessa, Listwan, and Koetzle (2014) have referred to as “correctional quackery.” In particular, youth may participate in various activities, such as community service hours, job training, or restitution, even though the activities may have little to do with the risks or needs that led them to engage in delinquency in the first place. The end result is that the interventions are unlikely to produce benefits.

Challenge 3. Inconsistent use of diversion for targeted groups. Diversion is used to target a wide range of different youth. Florida’s civil citation program, for example, initially was allowed only for first-time misdemeanants but then was expanded to allow youth to be civilly cited for up to three separate misdemeanor events (Vasilinda, 2015). It also was intended in part to reduce racial and ethnic disparities in court referrals (Sullivan et al., 2010). Nationally, and within jurisdictions, diversion programs may be used for highly diverse groups of youth. A youth’s age, gender, race or ethnicity, school or work history, family characteristics, police and court resources, and more all may affect which youth are diverted and which are not (Sanborn and Salerno, 2005). The end result is further heterogeneity in diversion, with respect both to the legally permissible categories for which diversion may be used and to the actual groups of youth who ultimately are placed into diversion programs.

Challenge 4. Inconsistent implementation of diversion. Any assessment of the impact of diversion requires information not only about who is diverted but also about the amount and quality of the activities that constitute diversion. Poor implementation plagues many juvenile justice programs (Lipsey, 2009; Mears et al., 2011). Accordingly, what is needed is systematic and consistently collected information on the specific activities that constitute various diversion programs, the amount and quality of these activities, and the extent to which each influences any identified impacts on recidivism or other outcomes. Few empirical studies of civil citation exist. Those that do exist (Myers, 2013; Sullivan et al., 2010; Walby, 2008) have reinforced findings from a large literature on diversion—namely, implementation is inconsistent, incomplete, and highly variable (Mears, 2012).

Walby’s (2008) study of civil citation in Florida is illustrative. His study identified the following prominent barriers to consistent implementation: policy barriers (e.g., the

existence of other policies, such as zero-tolerance laws, that encourage different responses to youth misbehavior), program barriers (e.g., extensive paperwork and little-to-no available programs), youth and family barriers (e.g., youth noncompliance as a result of mental illness or family lack of support for the intervention), and community barriers (e.g., community mistrust of the police and courts and limited resources to support diversion).

Challenge 5. Inconsistent measurement of recidivism and other outcomes. Recidivism, along with other outcomes—such as educational attainment, drug abuse, or mental health—has been inconsistently measured in studies of diversion (Ray and Childs, 2015). Studies might use police contact or arrest, juvenile court referral, or adjudication, for example, to measure recidivism, and varying follow-up periods may be used. These periods may include the time during which the youth participates in diversion, 6 months, 12 months, or variable durations. Such inconsistency makes it difficult to draw valid comparisons across studies. The issue, notably, is largely moot in many cases. The impacts of many diversion efforts, including civil citation, have not been evaluated at all.

A related issue warrants emphasis. To the extent that diversion seeks to hold low-risk youth accountable, the use of recidivism as an outcome is of questionable relevance because most such youth will never reoffend and would not warrant substantial, or even any, rehabilitative intervention. The relevant outcome then is a systems-level one: What percentage of youth who have committed low-severity misdemeanors are sanctioned? And what percentage of diverted youth perceive their sanction to be a punishment? Recidivism seemingly would only warrant attention for youth who engage in more serious or frequent offending.

Challenge 6. Lack of methodologically rigorous evaluations of impacts on youth. Perhaps the most critical shortfall in research on civil citation and a wide range of diversion efforts lies in the lack of rigorous impact evaluations. Efforts to evaluate impacts on youth in fact face daunting hurdles. For example, most diversion youth are first-time offenders and so have a low average likelihood of further offending. Accordingly, diversion programs may have little room to reduce recidivism appreciably. In addition, to the extent that diversion is used as an alternative to nothing, then an impact evaluation would need to identify those youth whom the police or court otherwise would dismiss or ignore. Identifying such nonevents is difficult if not impossible. For example, if the police see a youth engage in a minor act of delinquency and they ignore the act or simply warn the youth, no record of contact may result. No comparison group in turn can be created to serve as the reference for estimating the effect of a citation.

This counterfactual scenario is directly relevant to assessing impact. Civil citation creates an opportunity for the police to sanction youth quickly. There is no need to take the youth, for example, to juvenile court. When faced with the need to transport youth to court, the police may well decide to warn youth rather than to intervene, especially for low-severity misdemeanors. The availability of civil citation, however, means that the police can sidestep that problem. As a result, they may well issue citations to youth in situations where, in the

past, they would only have cautioned the youth. Similarly, many youth who in juvenile court might have had their cases dismissed instead are referred to a diversion program because one exists. The possibility exists, too, that youth essentially are plea bargained by the police or intake officers into participating in a diversion process and program in cases where the youth may be innocent. A study using randomization to treatment and control conditions would be difficult in this situation. And a quasi-experimental design would be difficult to undertake because there would be limited or no information on youth whom the police or court decided to ignore or dismiss.

To the extent that diversion serves as an alternative to formal court processing, then a different counterfactual exists. It requires use of a different comparison group—specifically, youth who typically would be placed on probation but instead are placed into a diversion program. Here, again, a randomized study typically would be difficult to undertake. Quasi-experimental designs thus tend to be employed, but they encounter substantial challenges. For example, it is not always clear which youth serve as appropriate points of comparison. In matching studies, researchers might use a wide range of legal and extralegal factors to create matched groups of offenders. Diversion programs, however, typically involve a focus on first-time offenders or on those who have committed minor, low-severity offenses. Accordingly, there is little criminal history information on which to create matches.

Studies to date have been hampered by these and related conceptual and methodological challenges (Blomberg, 1983; Klein, 1979; Mears, 2012; Sanborn and Salerno, 2005; Schwalbe et al., 2012). The end result is that many studies have provided primarily descriptive accounts of diversion outcomes for participants as compared with a “control” group that may not constitute a valid basis of comparison. Put differently, they have provided an “apples-to-oranges” comparison rather than a valid “apples-to-apples” comparison.

A related limitation bears emphasis—many accounts of diversion assume that the youth would have been adjudicated delinquent but for participation in the diversion program. Indeed, youth typically must admit guilt to partake in diversion. Yet, some youth assuredly would not have been adjudicated delinquent had they challenged the case in court. For those youth, the appropriate comparison when evaluating the impact of diversion is youth who may have been innocent, had cases deemed by the court to lack sufficient evidence to proceed, or had cases that the court deemed to be too inconsequential to warrant attention.

Challenge 7. Lack of methodologically rigorous evaluations of impacts on police. Civil citation may affect police activities and, in turn, the impacts of the police on crime. Issuing citations requires police action (Howell et al., 2014; Ray and Childs, 2015; Sullivan et al., 2010; Walby, 2008). Accordingly, the use of citations may free up police resources if the police otherwise would transfer youth to juvenile court and process paperwork there. It may be, however, that civil citation consumes more police resources if officers expend their time issuing citations to youth who in the past they would have cautioned or ignored.

A parallel situation exists for the use of SROs. Once, again, the counterfactual centers on how police officer time would otherwise have been expended. If the police would have

been primarily dedicated to responding to delinquency cases, then the net effect on how they expend labor time is the same. Whether placed in the community or in schools, their focus would be on addressing delinquency. The question here is whether juvenile crime is reduced more by placing the police in schools or the community.

If the police otherwise would not have been primarily dedicated to addressing delinquency, then a different counterfactual exists. For example, the relevant question likely would be whether overall crime is lowered more through a focus on juvenile crime—and specifically the kind that may occur in schools—rather than through placement of the police in the community.

Yet another counterfactual entails a situation in which net-widening occurs. Specifically, if the hiring and placement of police in schools occurs *in addition* to the typical police staffing that would have occurred in a given community or jurisdiction, then the question is as follows: Did the additional investment in law enforcement achieve a reduction in juvenile crime that exceeds what otherwise would have happened without this investment?

Although a large literature on diversion and net-widening exists, it has focused almost exclusively on the impact on juvenile court operations. It thus remains largely unknown how diversion laws and policies have affected policing or altered police effects on crime.

Challenge 8. Lack of methodologically rigorous evaluations of impacts on juvenile justice.

Since the advent of the juvenile court, various mechanisms, including both diversion and transfer to adult court, have existed to help ensure the efficient and effective operations of the juvenile court (Butts and Mears, 2001; Feld and Bishop, 2012; Guarino-Ghezzi and Loughran, 2004; Zimring, 2005). Studies, however, typically have focused on the actual youth subjected to particular sanctions (e.g., diversion, probation, and transfer) and whether they recidivate.

An equally if not more important focus is the extent to which these mechanisms contribute to more efficient and effective juvenile justice. Civil citation laws, for example, were created in no small part to reduce court caseloads (Sullivan et al., 2010). Does diversion result in the court providing more appropriate and effective sanctions and interventions for delinquents? Does it result in net-widening and achieve this same goal or fail to achieve this goal? Research has largely been silent on the issue. Consequently, debates about the merits of diversion tend to revert to a focus on studies of recidivism or to assumed system benefits or harms associated with diversion.

The challenge here lies not only in the paucity of empirical research to inform such debates, but it also lies in the inherent methodological challenges associated with estimating a system-wide impact of diversion. Such an assessment requires information about how resources across the juvenile justice system otherwise would have been expended, how youth who engage in misdemeanors otherwise would have been processed, the magnitude of any diversion benefits or harms, and the magnitude of any benefits or harms to all other youth processed in juvenile court.

Conclusion

The history of diversion is perhaps best characterized as an idea with great promise that has yet to be fulfilled. Some previous reviews, conducted soon after the dramatic expansion of diversion programs in the 1970s, highlighted the promise and the pitfalls of diversion. Klein (1979), for example, drew attention to the hoped-for benefits of diversion and then described in considerable detail a “litany of impediments” that undermined the likelihood that these benefits could or would be achieved. Other reviews at the time painted an equally bleak portrait (Blomberg, 1983; Bullington et al., 1978; Dunford et al., 1982; Polk, 1984). In almost every instance, the conclusion was that specific diversion programs might be effective depending on how well they were designed (e.g., if they target criminogenic factors) and implemented. However, the heterogeneity of diversion, the inconsistent design and implementation of diversion programs, and the limited state of research on these programs all created a situation in which it was difficult to arrive at an evidence-based foundation for endorsing diversion.

That was the conclusion of reviews in the 1970s and early 1980s. This article sought to revisit this assessment to identify whether it applied to diversion in contemporary America. The central conclusion remains the same (Mears, 2012; Ray and Childs, 2015; Schwalbe et al., 2012). Specifically, there is little evidence that diversion is designed or implemented well, that it appreciably reduces recidivism, or that it is cost-efficient. Some exceptions exist but do not alter this overarching assessment. If anything, the concerns that were highlighted almost four decades ago have become more salient. Diversion efforts have continued to expand, and new forms of diversion have emerged. One of the most prominent trends entails the empowerment of police—through placement in schools, civil citation laws, and other such efforts—to divert youth (Hirschfield, 2008; Na and Gottfredson, 2013; Shteynberg and Redlich, 2015; Sullivan et al., 2010). These efforts, like many diversion programs, seem to be well intentioned. However, their specific designs are highly variable and their effectiveness and cost-efficiency, as well as their potential harms, including the potential for net-widening, all remain largely unknown.

In addition, as the case study of civil citation highlighted, fundamental challenges continue to impede the ability of researchers to estimate accurately the impacts of diversion programs and to provide estimates that generalize across populations and settings. These challenges include inconsistent definitions of diversion, including the design of diversion programs; unclear or unspecified theoretical foundations for particular diversion program designs; use of diversion for different target populations or offenses; inconsistent implementation of diversion within and across jurisdictions; inconsistent measurement of recidivism and other outcomes; methodological challenges in conducting impact evaluations, including uncertainty about the appropriate counterfactual and difficulty obtaining appropriate matches to estimate treatment effects; and similar challenges associated with estimating the impacts of diversion programs on police activities and the operations and effectiveness of the juvenile justice system.

Diversion may be a good idea. However, and notwithstanding its intuitive appeal, it also may be a bad one. As Schwalbe et al. (2012: 30) concluded after conducting their meta-analysis, the identified null effects of diversion on recidivism “suggests the provocative hypothesis that the best intervention for diverted youths is no intervention.” Indeed, paying for null effects makes little sense. The situation is worse if investing in diversion transfers funds away from potentially more effective approaches to reducing delinquency.

It is not that simple, however. Diversion holds considerable promise, may be effective under certain conditions, and at the least, places at center stage the central ideal of the juvenile court—to hold youth accountable, to help them, and not to wait until problems progress to the point that intensive intervention, or punishment, may be needed. Diversion is part and parcel to the informal sanctioning that captures this ideal (Mears, 2012). Under this model of intervention, youth benefit from the spirit of court actors seeking to assist youth and simultaneously to avoid an official record that might create stigma and other adverse effects. Strong critiques can be and have been leveled against this ideal (Feld, 1999; Klein, 1979). Informal justice is, from this view, improper and harmful justice. It perhaps works well when parents implement it, but not when society seeks to do so on their behalf. Better, then, to have the juvenile court focus primarily on punishment and due process protections than to seek both to punish and to rehabilitate youth who commit minor offenses.

No clear resolution to the situation seems likely to surface soon. Certain steps can, however, be taken to place traditional and new diversion efforts on a more evidence-based foundation. First, research is needed that empirically identifies the precise conditions under which diversion is appropriate and helpful and that addresses each of the eight challenges identified earlier (Blomberg, 1983; Kretschmar et al., 2016; Ray and Childs, 2015). Rigorous impact evaluations of diversion policy effects on recidivism and net-widening, in particular, are needed.

Second, diversion programs should be designed to accord with extant theory and research on the causes of offending and how to reduce it (Latessa et al., 2014). Diversion in and of itself constitutes a process. Its ultimate success depends in part on the use of effective diversion programs. Such programs may vary in design, but they likely will be ineffective if they do not build on principles of effective intervention.

Third, diversion efforts should be coupled with process evaluations to ensure that any given effort targets the intended population, that it is used in an appropriate and equitable manner, and that programs are implemented as designed (Polk, 1984; Rubin, 1980). Youth typically are less competent than adults to appreciate the implications of their decisions or those of the police or court (Feld, 2014; Shteynberg and Redlich, 2015). Accordingly, evaluations should include assessments of the extent to which youth receive adequate legal guidance about diversion’s potential benefits and risks.

Fourth, diversion efforts should be coupled as well with impact evaluations to ensure that the programs in fact reduce recidivism and improve any other intended outcomes (Boyd,

Huss, and Myers, 2008; Mears et al., 2011). Despite the widespread use of diversion—including such new policies as civil citation—few diversion processes or programs have been subject to methodologically rigorous evaluations of impact on intended or unintended outcomes.

Fifth, diversion evaluations should include empirical assessment of net-contracting or net-widening impacts on the police and the juvenile justice system. The risk otherwise is that recidivism reductions serve to mask the true costs associated with diversion. Diversion may be cost-efficient, but it may be cost-*inefficient* when it expands the net of formal social control or diverts funds away from efforts that might more effectively reduce delinquency.

Finally, research is needed on the precise conditions under which diversion improves outcomes without creating unintended harms or net-widening (Mears, 2012; Sullivan et al., 2010). Recidivism studies are important. However, they provide little-to-no information about the extent to which diversion reduces overall juvenile justice system case processing or costs.

Diversion has occurred for far too long for these questions to remain unanswered. In another four decades, reviews ideally will have answered them and will have helped to place diversion, and juvenile justice more generally, on a more evidence-based platform.

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