Emerging Issues in American Policing

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Volume 3, Special Edition: Alternatives to Enforcement

*Emerging Issues in American Policing* is a quarterly digest intended for police-practitioners and community members that presents innovations in the field of policing from the leading academic journals and research publications. Please forward any questions or suggestions to EmergingIssuesPolicing@vera.org.

## Introduction

Recent efforts to develop and expand alternatives to enforcement highlight research-informed strategies to more effectively promote public safety and decrease police agencies’ reliance on arrests.

This special edition of Emerging Issues in American Policing focuses on the developing field of alternatives to enforcement. Police enforcement is defined as the administration of the law—e.g., issuing arrests, citations, summonses, or warrants. Alternatives to this approach can take many forms at the pre-arrest, pre-booking, and post-booking phases. While use of enforcement can at times be necessary, there are also non-punitive alternatives which can be equally, if not more, effective.

These alternatives—sometimes referred to as diversion programs—also work to reverse some of the negative collateral consequences associated with enforcement, such as decreased community-police trust, racially disparate outcomes, and/or lifelong quality of life impairments associated with having a criminal record (e.g., limited employment and wage-growth opportunities, which can make it difficult for individuals to pursue lawful sources of income). Given that the vast majority of arrests are made for non-violent (95 percent) and/or low-level offenses (82 percent), there are numerous opportunities to implement alternatives, which are often much less expensive than traditional criminal justice responses.

Alternatives to enforcement have formally existed since at least the early 1970s, but recently this area has garnered greater attention, as officers, practitioners, and community members alike have begun to actively seek non-punitive responses to crime and quality of life problems, and relatedly, researchers have begun to study them. To ensure that police agencies are up-to-date on what evidence-informed alternatives to enforcement already exist, this special edition features research on topics such as:
• the effectiveness of alternatives to enforcement at diverting individuals from deeper system contact;
• the role of alternatives to enforcement in reducing crime;
• whether access to alternatives to enforcement is the same for everyone; and
• how law enforcement can collaborate with service providers to promote and advance alternatives to enforcement.

While this field is relatively new and still developing, it is clear that alternatives to enforcement are both available and critical to ensure that offending is addressed in the most effective and least harmful ways possible.

Police, Public Health, and Diversion Partnerships

The “Sequential Intercept Model” can guide police agencies in partnering with public health providers to divert individuals in crisis away from the criminal justice system and toward needed services.

People with mental illnesses and/or substance abuse disorders are overrepresented in the criminal justice system, and jurisdictions around the country are seeking to implement community-based public health interventions to address this issue. To guide these efforts, researchers generated the Sequential Intercept Model (SIM): a framework that highlights points in the criminal justice system at which individuals with mental illnesses can be diverted away from arrests and incarceration and toward the public health and social services they need to recover and excel. The model begins with law enforcement at “Intercept 1” (e.g., a Crisis Intervention Unit responding to a person in crisis) and ends with community corrections at “Intercept 5” (e.g., probation officers connecting an individual to mental health services). The original model can be seen in Figure 1 below:
Recently, Policy Research Associates developed an extension of this model, asserting that individuals with mental illnesses can be diverted away from the system at an even earlier point, pre-police contact—at "Intercept 0"—through the utilization of community services (see Figure 2 below).³
"Intercept 0" asserts that systems should be set up to increase the likelihood that individuals experiencing mental health crises receive appropriate treatment and reduce the risk of undue arrest. In this model, law enforcement remains an essential stakeholder in planning behavioral health crisis response strategies, but the responsibility of serving this population is largely delegated to service providers with relevant training and resources. Key components of "Intercept 0" diversions include:

- 24/7 crisis lines offering emergency support, access to community-based services, and connections to law enforcement, EMS, or fire departments when necessary; and

- Short-term crisis care, such as clinical crisis stabilization, residential services, and peer and mobile crisis services.

Seattle’s Law Enforcement Assisted Diversion program (LEAD); San Diego’s Serial Inebriate Program; Tucson’s Mental Health Investigative Support Team; and Boulder County’s Project EDGE are promising national examples. Overall, "Intercept 0" diversion programs have the potential to provide law enforcement organizations with vital information to create alternative pathways that divert individuals from arrest to more appropriate outlets for dealing with mental health issues.

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**Arrest Decreases and Crime Rates**

A Cincinnati jail closing allowed researchers to demonstrate that a decreased reliance on arrests coupled with evidence-based policing strategies can effectively reduce crime.

A common concern among police and community stakeholders alike is whether decreasing arrests will inherently increase crime rates. A unique opportunity to investigate this question was presented when Ohio’s Queensgate Correctional Facility closed in 2008, thus reducing the county’s available jail space by 36 percent. To accommodate this transition, the Cincinnati Police Department (CPD) implemented evidence-based problem-solving strategies aimed at decreasing the likelihood of arrest—particularly for misdemeanor offenses—such as deterrence and social services referrals. CPD also strengthened its partnerships with social service and mental health agencies. Researchers studied the impact of this transition on the agency’s crime and arrest rates by comparing seven years of Uniform Crime Reporting (UCR) data pre-jail closure, to six years of UCR data post-jail closure. Following the
jail closure, serious crime incidents and arrests both decreased significantly. More specifically, violent crime incidents dropped by 39 percent, and property crime incidents dropped by 19 percent, while felony arrests dropped by 41 percent and misdemeanor arrests dropped by 33 percent. The researchers attribute these simultaneous reductions in crime and arrests to the fact that the jail closure required police to use arrests more strategically, so arrests began to be viewed as a limited resource reserved for only the most serious, high-risk, or chronic offenders. Additionally, given that a reduction in reliance on arrests requires the development of collaborative relationships between the policing agency and members of the community, this approach also has the potential to improve police-community relations as well.

Pre-Arrest Diversion and Recidivism

An outcome evaluation of Leon County, Florida’s pre-arrest diversion program highlights both its effectiveness at reducing recidivism, and the continued need to support at-risk populations.

While the vast majority of existing diversion programs occur pre-trial (e.g., treatment courts and community courts), pre-arrest diversion programs may have a greater impact, as they stand to impact more individuals, reduce the collateral consequences that can result from arrest records and jail/prison detainment, and connect individuals with services needed at earlier points. In 2017, researchers from Western Carolina University and the Civil Citation Network published an outcome evaluation of an innovative pre-arrest diversion program: Leon County, Florida’s Pre-Arrest Diversion/Adult Civil Citation (PAD/ACC). Through PAD/ACC, officers can issue diversion citations in place of arrests to individuals who commit select misdemeanors (e.g., trespass, disorderly conduct, petit theft, underage possession of alcohol, possession of small amounts of marijuana, nondomestic simple battery, and non-domestic simple assault) and lack a prior criminal record. Individuals issued diversion citations then complete a program involving drug education, behavior management, counseling sessions, and/or community service. If the program is successfully completed within 90 days, the agency closes the case without opening an arrest record.

To explore whether PAD/ACC is effective in reducing recidivism—and to examine factors related to program success—the researchers applied a statistical technique, known as multivariate regression modeling, to arrest and behavioral assessment data for 854 individuals who participated in the program. Overall, results revealed promising evidence of PAD/ACC’s early successes: 91 percent of participants successfully completed the program, and 87 percent further avoided arrests through the end of this study (i.e., between five and 44 months post-program completion). More specifically, results also revealed that PAD/ACC was particularly successful for women and those without substance use or behavioral health problems, as they were the least likely to drop out of the program or recidivate. As such, the researchers recommend that agencies striving to divert individuals with
mental illnesses and/or substance use problems work in close collaboration with external service providers, to better address the needs of these particular populations. Nonetheless, given the promising results of this evaluation, PAD/ACC can serve as a valuable example for police practitioners and others looking to implement diversion strategies that offer an alternative to arrest.

Civil Citations and Net-Widening

Research assesses the use of civil citations throughout the state of Florida and the observed changes in juvenile arrest trends after implementation.

Civil citations represent one common pre-arrest diversion technique that is used relatively often in response to low-level and/or juvenile offenses. In recent years, civil citations have grown in popularity due to their successes in increasing public safety, reducing recidivism, and saving taxpayer money.¹ While the advantages of civil citations are apparent, research also shows that diversion programs in general may result in the process of net-widening, whereby individuals who otherwise would not have entered the criminal justice system are sometimes subjected to diversion programs.² For example, an officer might choose to refer an individual to a diversion program for stealing candy when they might otherwise have let them off with a warning. Findings from previous studies suggest that this collateral consequence could be particularly detrimental to juveniles, because the stigmatization associated with system contact in turn increases the likelihood of repeat offending.³

To test whether civil citations in particular lead to net-widening, researchers from Florida State University studied the effects of Florida’s civil citation program on the likelihood that youth who otherwise would be released to go home without being arrested are being drawn into the system.⁴ Initiated in several counties as early as 1996, and statewide by 2011, the program allows officers to issue citations instead of arrests to juveniles who commit first-time misdemeanors, thus diverting them away from detention and into an intervention program (e.g., community service, mental health and/or substance use counseling).⁵ Using data from the Florida Department of Juvenile Justice, the researchers analyzed changes to juvenile arrest trends in each of the state’s 67 counties. Overall, the researchers found that:
• about 30 percent of the counties experienced a significant reduction in arrests one month after program implementation;

• approximately 67 percent of the counties did not experience significant changes in arrests in the long term (i.e., 5-14 years post-program implementation, dependent on when the county implemented civil citations);

• almost 70 percent of the counties that did not experience a significant change in arrests also did not use civil citation as an alternative to arrest at a significant rate;

• urban counties with higher crime and arrest rates and counties with higher socioeconomic statuses tended to see stronger program outcomes than their counterparts.

Results from this study suggest that net widening is not a substantial outcome of Florida's civil citation program. However, it is also evident that civil citations do not necessarily result in long-term reductions to juvenile arrest trends—although this may be due to inadequate use of citations as an alternative to arrest. One potential strategy for reducing long-term arrest trends is to implement yearly statewide trainings and conferences on the appropriate use of civil citations. Additionally, given that the success of program implementation varied by county characteristics, practitioners should consider the unique demographic and police-agency needs of a given community during the program development and implementation phases. Overall, however, this study suggests civil citation programs do not produce net-widening effects, thus suggesting that so long as they are carefully implemented and overseen, civil citations offer yet another viable alternative to enforcement.

Disparities in Access to Diversion Programs

Research highlights racial, gender, and socioeconomic disparities in accessing diversion programs across multiple jurisdictions and equips police agencies with actionable strategies to improve outcomes.

Recent research demonstrates that when youth are detained after an arrest, they are more likely to be charged and less likely to have their charges dismissed than when they are released before or at the time of arrest. Further, factors such as race, gender, and socioeconomic status contribute to disparities in the types of youth who are detained. Juvenile diversion programs provide police practitioners with tools to reduce these disparities, but evidence suggests that youth diversion programs may be underutilized, particularly for eligible minority youth.

In 2016, researchers examined how demographic factors affect juvenile justice system outcomes and the likelihood of diversion by conducting statistical analyses on a year's worth of data from eight police agencies and prosecutors' offices in a large Midwest metropolitan county. The results suggest that many more juveniles appeared eligible for police diversion than were actually diverted. In five of the eight police agencies (63 percent), eligible non-white juveniles were diverted less often than their
white peers—particularly for theft cases—even when all other factors were controlled for or the same. Additionally, juveniles who were older, from single parent or low income households, and/or had prior justice system involvement were less likely to be diverted and more likely to be charged than their peers. The researchers suggest that these disparities are likely a byproduct of limited guidelines and rules regarding when and how to implement diversion. They conclude with several recommendations for police agencies to reduce these disparities and promote more equitable diversion outcomes. First, by emphasizing the institutional importance of alternatives to enforcement, agencies can alert all officers to the presence and effectiveness of such programs in their jurisdictions. Second, ensuring that all eligible families receive information about available diversion programs can increase the likelihood of alternatives to enforcement being implemented. Finally, given the role discretion plays in introducing opportunities for disparities, police agencies should standardize their diversion eligibility criteria, provide clear guidelines for diversion, and track who is (or is not) being diverted.

In the spirit of recognizing that alternatives to enforcement should be available and applied equitably, the Prison Reform Trust also recently released a literature review on pre-arrest diversion strategies tailored for women suspected of low-level offenses (e.g., cannabis warnings, low-value theft, minor assaults). The researchers discuss five case studies on diversion programs tailored towards women’s needs and highlight several promising practices that police agencies should consider when implementing their own diversion programs. These findings are applicable to women, but may also be applied to other groups, and include:

- Exploring opportunities to allocate resources at early intervention points (i.e., at the point of arrest) more often than later ones (i.e., post-charge);
- Establishing strategic partnerships with community-based public health, social services, and services for special populations to support and mentor vulnerable groups through the diversion process; and
- Allowing formerly justice-involved individuals to help inform the development of innovative diversion strategies and officer trainings that are responsive to marginalized groups’ unique needs.

By implementing these and similar recommendations, agencies can minimize punitive enforcement when it may not be the most effective response.

 Alternatives to Enforcement and Future Directions

A new report highlights the critical need to “deconstruct the power of arrest” and establish a national understanding of the use of arrest and available alternatives.
There has been increasing recognition among police practitioners that arrest is not necessarily the most effective strategy to reduce crime and deal with social problems, giving rise to the phrase: “we cannot arrest our way out of this problem.” In response to this, researchers at the International Association of Chiefs of Police (IACP)/University of Cincinnati’s Center for Police Research and Policy and the John F. Finn Institute for Public Safety partnered to publish a comprehensive review of the current state of alternatives to arrest across the country. In terms of practice, the researchers found that the majority of alternatives to arrest exist in the form of citation and police diversion programs that primarily divert youth, persons with mental illness, and individuals charged with drug offenses. Research on diversion programs and alternatives to arrest in general is relatively limited. Further, more empirical research is needed on factors related to the use of arrest (i.e., officers’ decision to arrest and the impact of mandatory arrest policies), the financial and collateral consequences of arrest, and evaluations of currently existing alternatives. The researchers also suggest that police executives and researchers make use of body-worn cameras to collect data on and analyze police-civilian interactions and officer decision-making. Importantly, the researchers call for a shift in the way police view and make arrests, by recommending that:

- police executives encourage officers to view arrests as an outcome with broader collateral consequences rather than an output (i.e., simply a measure of police activity);
- police practitioners and academics facilitate effective program implementation and evidence-based practices; and
- police agencies implement risk assessment instruments to guide officer decision-making in situations where diversion is appropriate.

Overall, this timely report provides a critical context for future directions in the field of alternatives to arrest. An application of these recommendations by policing researchers and practitioners has the potential to propel this field forward and shift policing practice away from an over-reliance on the use of enforcement.

End Notes

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4. In statistical analyses, researchers "control" for the effects of outside variables (e.g., number of prior offenses, SES, etc.) to isolate the effects of one particular variable of interest (e.g., race) on an outcome (e.g., arrests), usually by setting the outside variables to fixed values and testing whether the observed effects still uphold.


### Alternatives to Enforcement and Future Directions
