



Juvenile Civil Citation

An Effective Innovation in Reducing Juvenile Crime and Recidivism

by LAURA LOTHMAN LAMBERT WITH A PERSPECTIVE FROM THE BENCH BY THE HONORABLE ARTHUR L. BURNETT SR.

Juvenile civil citation was enacted in Florida in 1990 as an arrest alternative for “nonserious” or misdemeanor crimes. The practice did not gain much traction in the state until 2011, when the Florida statute was amended to require statewide diversion in each of the judicial circuits. As late as 2016, however, the Fourth Judicial Circuit remained one of the lowest issuers of juvenile civil citation as an arrest alternative for misdemeanor crimes in the State of Florida. Not surprisingly, the juvenile arrest rate was also one of the highest. Yet, studies on civil citation supported its use for improved public safety outcomes and significant cost savings. In 2017, newly elected State Attorney Melissa Nelson convened 22 stakeholders, including multiple law enforcement agencies, the court system, and State Attorney’s Office, to enhance and expand the use of civil citation circuit-wide. As a result, the Fourth Circuit, which is made up three distinct counties and includes the city of Jacksonville, has become one of the highest

issuers in the state, arrests are down, and the program has been highlighted as a model of collaborative best practice. (Fla. Dep’t Juv. Just., *Civil Citation and Similar Diversion Program Best Practices Guide* (2018), <https://bit.ly/2WnhLPf>.) This article will give a brief overview of the concept of civil citation as an arrest alternative; discuss its statutory basis; detail the program from Florida’s Fourth Judicial Circuit, including several of its more unique aspects; and conclude with reflections from the bench.

SECTION 985.12, FLORIDA STATUTES

Statutory Basis and Construction

In Florida, the basis for civil citation as an arrest

LAURA LOTHMAN LAMBERT is the director of the Juvenile Division of the State Attorney’s Office in the Fourth Judicial Circuit of Florida. She can be reached at LauraLL@coj.net.

alternative can be found in Chapter 985.12, Florida Statutes. The statute has been amended several times in recent years, including most recently in 2018, and mandates the creation of pre-arrest diversion programs in each of the 20 judicial circuits. The statute limits citations to qualifying offenders who commit nonserious offenses, including “most misdemeanors and municipal ordinance violations,” with the exception of any misdemeanors involving the use or possession of firearms and certain traffic offenses. In the Fourth Circuit a “qualifying juvenile offender” is defined as a youth under the age of 18 who commits a qualifying offense (as discussed above); has two or fewer prior citations; does not have a pending citation, arrest warrant, or custody order; has never been adjudicated delinquent for a felony or been convicted as an adult; and is not a gang member as defined by section 874.03(03) of the Florida Statutes.

Some form of civil citation is available in most states and its goal is to quickly and effectively divert youth from the justice system prior to arrest. By way of example is a recent case from Jacksonville. D.B. was your typical 17-year-old high school student. During his junior year, D.B. stole several bags of chips and candy from a big box store. An employee observed D.B. place the food items in his backpack and leave the store without paying. The store’s surveillance recorded the theft and police were called. D.B. was questioned by law enforcement and admitted to stealing; he returned the items to the store. Instead of being arrested, D.B. was issued a civil citation.

Within three months of meeting with the Neighborhood Accountability Board that operated the Civil Citation program in his community, D.B. completed his sanctions. He performed 35 hours of community service, wrote a letter of apology to the store, attended a Know the Law class, completed weekly journal entries, and participated in several counseling sessions. He graduated high school in May 2018. The summer after high school, D.B. participated in the Mayor’s Summer Internship Program and worked in the library system. D.B. was admitted to the Florida State College of Jacksonville, where he is currently enrolled as a full-time student and plans to be a doctor. And when D.B. was asked on his college and job applications whether he had ever been arrested, he answered no.

D.B. told his case manager the program helped him to learn from his bad decision-making. His mother shared the following thoughts, “Thank you for helping [D.B.] to see that his mistake doesn’t define him. And

thank you for helping him to fully understand the gravity of his poor choices.” This story is just one of the almost 1,500 that law enforcement diverted to civil citation in the Fourth Circuit since May 2017.

The benefits of civil citation are well documented, and citations are widely accepted as an effective alternative to arrest. (*Citation in Lieu of Arrest*, Nat’l Conf. St. Legislatures (Mar. 18, 2019), <https://bit.ly/2TX6unx>.) They promote accountability and immediate intervention and provide swift consequences for poor decision making. In the more traditional justice system, it can take days to weeks for a misdemeanor case—such as petit theft, trespassing, or simple battery—to make it before a judge. As those of us involved with children know, the longer the period between offending conduct and consequences, the less efficacious the punishment. When most parents catch their children lying, for example, they do not tell their children to wait several weeks while they decide on the consequences. In fact, many parents do not allow the child out of their presence until the behavior is addressed and they have discussed strategies for correction in the future. The same happens in civil citation. At the time a law enforcement officer engages with a youth who has committed a misdemeanor crime, he or she uses her discretion to send the youth to the civil citation program, which in turn schedules the youth for his or her appearance within days of the citation’s issuance.

Additionally, civil citation diversion increases public safety by assessing and referring “at-risk” youth to intervention programs with the goal of reducing recidivism. In many cases, there are underlying issues of poverty, undiagnosed mental health issues, learning disabilities, or negative peer influence that are at the root of the criminal behaviors. Linking youth with the right services, in the correct quantity, and at the appropriate time is critical to reducing the risk of additional touches with the justice system.

Diversion also prevents the life-long consequences associated with arrest, adjudication, or conviction. The trauma of the arrest process itself—from being placed in handcuffs and fingerprinted to exposure to juvenile detention or assessment centers—remains long after a file is closed. By circumventing this process and reducing the number of juvenile offenders with pending cases in the juvenile system, the program promotes accountability without unnecessary exposure to the formal justice system, which research shows increases the likelihood of youth coming back to the system in the future. (Josh Weber, Michael Umpierre & Shay Bilchik, Ctr.

Juv. Just. Reform, Geo. Univ., *Transforming Juvenile Justice Systems to Improve Public Safety and Youth Outcomes* (May 2018).)

One of the most significant benefits of a pre-arrest diversion program lies in the cost savings. By implementing the program, the Fourth Circuit has been able to dramatically reduce the costs associated with the administration of the criminal justice system. According to the Department of Juvenile Justice, the average cost of placing a youth in the system in 2012 was approximately \$5,000. (*Civil Citation Initiative*, *supra*, at 27; *Roadmap to System Excellence*, *supra*, at 32; *Civil Citation*, *supra*, at 7.)

Compare this to the average cost of \$386 per youth issued a civil citation (Fla. Dep't Juv. Just., *Florida Civil Citation Initiative*, at 27 (Sept. 22, 2014) [hereinafter *Civil Citation Initiative*], <https://bit.ly/2HrZgm>; Fla. Dep't Juv. Just., *Roadmap to System Excellence* 32 (Aug. 1, 2013) [hereinafter *Roadmap to System Excellence*], <https://bit.ly/2EjGMAM>; Fla. Dep't Juv. Just., *Civil Citation: Part of the Community, Part of the Solution*, at 7 (May 2012) [hereinafter *Civil Citation*], <http://www.djj.state.fl.us/docs/quality-improvement---residential/2012-civil-citation-powerpoint>.) This does not include the long-term savings of reduced recidivism. Nor does it take into account law enforcement and the time savings of having an officer immediately back in service after the issuance of a citation, rather than having to supervise a juvenile offender through the time-intensive arrest and booking process. Although civil citation was codified as mandatory in 2011, civil citations in the Fourth Circuit were underutilized, even though data had shown that teens who complete the program reoffend at extremely low rates. As you can see from the graph below, juvenile arrests decreased sharply in 2017 and again in 2018 due to expansion of the program. In 2018, there were 1,100 fewer juvenile arrests than in 2017. Based upon the cost study cited above, this comes to an almost \$5 million savings in a single year.

THE FOURTH CIRCUIT'S PROGRAM

Structure

The Fourth Circuit tracks the language of Section 985.12, Florida Statutes, in most ways. In 2018, Section 985.12, Florida Statutes, was amended to allow a youth to participate in the program without admitting guilt. Additionally, although previously limited to three civil citations, the new statutory language does not limit the number of times an otherwise qualified youth may participate in the program. The Fourth

Circuit's MOU differs from the statute in these two ways: It requires a youth to admit guilt (although this admission cannot be used against the youth should the case eventually be referred to the justice system), and it limits youth participation in the program to three citations. Youth can qualify for most all misdemeanor offenses, included petit theft, battery, and resisting arrest without violence.

Once the citation is issued by law enforcement, it is referred to an entity called Teen Court, which is run by the court administration office. The citation is screened to ensure eligibility, and then the youthful offender is referred to one of two programs, either Teen Court or a Neighborhood Accountability Board (NAB). (*Duval County Teen Court Program and Neighborhood Accountability Boards*, Fourth Jud. Cir. Cts. Fla., <https://bit.ly/2YGFuaf>.)

The Fourth Circuit has several NABs that are community-based, decision-making entities aimed at repairing the harm caused by youthful offenders. The boards are made up of volunteer community members in several zip codes around the city. The NABs convene weekly to meet with youth from their neighborhoods who have received civil citations. They discuss the consequences of youth behavior and roundtable not only the impact of the behavior on the victim, but also on the larger community. By the end of the discussion, the group—including the offender—comes to a consensus on a time-limited case plan to redress the harm.

Teen Court is the other component of the program, and it is held at the Duval County Courthouse. The proceedings are made up of volunteer attorneys who serve as judges and specially trained youth volunteers, aged 12-18, who serve as prosecutors, defense attorneys, and jury members. The judge oversees a mock trial and approves the sentencing, or assigned tasks, formulated by the student jury. In both the NAB and Teen Court models, no arrest or criminal charges appear on the youth's record upon successful completion of the program.

Sanctions

Sanctions vary and are based upon a variety of things, including the underlying misdemeanor, conversations with the youth and his or her parents or other caretakers, information that is gleaned from assessments, and the community-based meeting in the NABs or the trial in Teen Court. Some examples of sanctions include community service hours, written or verbal apology to the victim and the youth's parent, essays discussing their behavior and its impact on the victim and greater community,

repayment of restitution to victims, classes to educate the youth on the law, curfews, and written letters to law enforcement. The program is also able to provide treatment services as needs indicate to address substance abuse, mental health, and anger management issues at no cost to the family.

Statistics

It is difficult to convey the impact of this program and its long-term effects on youth without looking at the numbers. When the program is reviewed in light of the data points that are being tracked and interpreted, the picture becomes clear: Civil citations are working. Presently, more youth are receiving citations; fewer are reoffending; law enforcement is saving resources; and taxpayers are saving funds through fewer arrests, detentions, and incarcerations. As the *Florida Times-Union* recently reported, “In the first three months of 2018, law enforcement agencies across Duval County issued civil citations instead of making arrest about 90 percent of the time. Previously, Duval had a 27 percent utilization rate in 2016 and a 56 percent rate in 2017.” (Dewey Caruthers, *Friday Lead Letter: Duval County May Be Top Performer in Juvenile Civil Citation*, Fla. Times-Union (June 26, 2018), <https://bit.ly/2Qeot4c>; Tessa Duvall, *Report: Duval County Poised to Be State Leader in Juvenile Civil Citation Use*, Fla. Times-Union (June 26, 2018), <https://bit.ly/2HEwtj>.)

Presently, approximately 85 percent of eligible youth in Duval County are receiving civil citation instead of being arrested.

Perhaps the most encouraging data trend over the past two years, however, is the recidivism data. Teen Court is tracking all of the completion data for the Fourth Circuit, including recidivism data in six-month, one-year, and two-year post-completion time periods. Only about 4 percent of youth who complete the program are arrested again in a two-year time period. In other words, approximately 96 percent of youth who successfully graduate from the program do not have further contact with the justice system in the two years following their participation. Teen Court defines recidivism as a new arrest, which is substantially broader than the Department of Juvenile Justice (DJJ) definition of a new adjudication. DJJ also tracks civil citation data statewide. It can be found at *Civil Citation and Other Alternatives to Arrest Dashboard*, Fla. Dep’t Juv. Just., <https://bit.ly/2WWXYTI>.

Program Highlights

There are several components unique to the program in the Fourth Circuit that are critical to its ongoing success.

Law Enforcement Feedback Loop

Staying in touch with law enforcement agencies that use civil citation and the stakeholders who administer the program is extremely important for ongoing communication, identifying training gaps, and the sharing of successes. In partnership with law enforcement agencies, the State Attorney’s Office drafted a legal bulletin for patrol officers, so they would understand the expanded use of civil citation and its legal limitations. Additionally, law enforcement leadership made the use of citations a priority in their respective agencies. For example, the Jacksonville Sheriff’s Office reviews utilization data biweekly to ensure that the information about civil citation as an arrest alternative is making its way down to the officers on the street. Stakeholders also volunteer to perform trainings when needed and are committed to meeting every six months to review data and discuss program challenges.

Another important component is ongoing communication with the officers who are on the ground making the decisions to issue citations. The State Attorney’s Office reviews every misdemeanor case coming to the office for missed opportunities in civil citation. Although discretion to issue remains with the officer, the MOU requires that the officer articulate why he or she chose to arrest instead of issuing a citation. When that process is not followed, assistant state attorneys reach out to the officer to let him or her know the case was civil citation eligible and determine why it was not issued. In appropriate cases, the State Attorney’s Office will directly divert these cases back to Teen Court so that cases are treated equitably.

Finally, Teen Court contacts the officers upon a youth’s successful completion of the program. In some cases, the youth choose to write the referring officers a letter, explaining their behavior and reflecting on what they learned in the program. Many of the officers respond with comments like, “I am glad she is doing better and love hearing stories like this” or “That was awesome; thank you for sending me that letter!” A number of officers mention seeing only the negative side of their work and so hearing about successes reinforces their use of citations: “The letter was very much appreciated; as you may know a lot of times we go to work . . . and wonder if we even made a difference in someone’s life. It is always good to get a letter like this.”

Domestic Violence Pilot

Prior to 2017, batteries, like in the domestic violence context, were excluded as a qualifying offense for

the program. This was due to law enforcement being trained not to leave an aggressor in a home with his or her victim. As a result of this concern, and in partnership with DJJ, Duval County created a pilot program for juvenile domestic violence cases. The program works with local law enforcement and the Youth Crisis Center for services. In the event of a misdemeanor domestic battery involving a juvenile offender, law enforcement now retains the discretion to channel civil citation youth to the shelter for separation from the family and respite care, instead of arresting the youth and transporting him or her to the Juvenile Detention Center. The youth is permitted to stay at the shelter for up to 30 days while the Youth Crisis Center works with the youth and his or her family to provide necessary services. Teen Court also travels to the shelter to hold initial meetings so that the youth can begin the program without additional delay.

Youth Perspectives

It is also important to consider the experiences of the youth who have benefitted from civil citation. Teen Court asks each graduate to take a survey upon completion of the program, including reflecting on his or her overall experience. Their words convey the positive and lasting impact that the program had on many of them. One young person noted, "I've learned better ways to effectively convey my feelings without using aggression and violence. Most importantly I've learned that a positive attitude will help no matter the situation. Overall, I'd say having to go through this program was a blessing in disguise." Another graduate observed, "I learned that actions have consequences. I learned that what I did that night was extremely immature. The most helpful thing was volunteering at the mission house because society portrays all homeless to be dangerous. However, 95 percent of the clients at the mission house were kind and extremely grateful." And a third participant wrote, "The program was great. It helped me a lot in life. The most helpful part of the program was when I had to do the honesty paperwork. I felt like it really made me think about what I did and will not do it again. And I will tell my friends if they are gonna do something that is against the law and how it isn't worth it. But I just want to say thank you for giving me a chance to change."

As Frederick Douglass once observed, "It is easier to build strong children than repair broken men." This captures the essence of the Fourth Circuit's Juvenile Civil Citation Program: to ensure that youth understand the consequences of their actions on

their community, to provide them the opportunity to repair the harm their actions have caused, to give appropriate support and services, to prevent the long-term implications of arrest, and to help our children become stronger and more thoughtful citizens on their road to adulthood. ■

Perspective from the Bench by The Honorable Arthur L. Burnett Sr.

Judge Burnett has served the people of the United States in a number of ways throughout his lifetime, including sitting as a magistrate judge in the US District Court for the District of Columbia, and then a judge on the Superior Court of the District of Columbia. In that capacity, he has sentenced hundreds of defendants for both misdemeanor and felony offenses and conducted preliminary hearings, including setting pretrial release conditions and bail. As a result, Judge Burnett brings a unique perspective and insight to the innovative process of using civil citation as an arrest alternative for first-time juvenile offenders committing misdemeanor offenses.

I want to stress that the initiative of using civil citations may prove to be one of the most important innovations in the juvenile justice system, perhaps since the founding of the Juvenile Court concept in Chicago in Cook County, Illinois, in 1899. It could greatly diminish the impact of the school-to-prison pipeline for middle and high school students, particularly when involving cases of bullying or simple school fights. If the youth is given a civil citation, rather than a police officer coming to the school to arrest that youth, the child avoids the stigma and trauma of a formal arrest. Additionally, if engaged in a juvenile diversion program, that youth may learn the harms involved in risky behaviors and change his or her attitude and social values, with a dramatically reduced likelihood of recidivating or their behaviors escalating in criminal conduct. Further, the use of a citation avoids the collateral harm done to an individual when he or she has an arrest on his or her record and has to disclose the arrest, for example, when applying to college or for employment.

There are a number of relatively common scenarios involving poor choices made by youth who could benefit from the use of civil citation, such as riding a public bus or jumping a turnstile without paying the

fare, engaging in petty theft from unlocked cars parked on the street, or shoplifting from a store.

In situations where the youth is one of a group of teenagers and he or she runs from the scene of the activity, and especially if the youth gives a false name when caught by a police officer, that youth may be arrested, charged, and detained. In some jurisdictions, youth may even be prosecuted as an adult if the crime is perceived as warranting transfer to adult court. Chronic truancy presents another situation in which a referral by citation to a juvenile diversion program may be considered, particularly in instances where a parent or caretaker is requiring the child to stay home, sometimes to care for younger siblings because of underlying employment, resource issues, or mental health struggles. This way, the familial needs can be addressed as a whole, without overly penalizing the youth for circumstances that are well beyond his or her control.

These innovations could reach youth through a youth court, teen court, peer review court, or other diversion program—like that of the Fourth Circuit discussed above. The word “court” conveys the seriousness of the situation for the youth and his or her parent, but the child will avoid the trauma and stigma of being pulled further into the justice system. The use of civil citation will also reduce the costs on American taxpayers in juvenile cases brought before the court system, as well as the detention costs, and the long-term incarceration costs described in the Florida program above. Other jurisdictions such as Brooklyn, New York, and New Orleans, Louisiana, are also employing these types of juvenile programs for minor offenses. (Salma S. Safiedine, Jeannie Chung & Hannah Leyla Gokaslan, *Policy Reform in the Juvenile Justice Arena*, 33 *Crim. Just.*, no. 2, Summer 2018, at 8.) “In New Orleans, the school-based pilot program is called ‘Policing Alternatives for Youth’ in an effort to reduce the overall juvenile arrest rate by allowing officers discretion to give warning notices rather than court referrals to youth committing minor offenses.” (*Id.*)

Based on the remarkable results these programs are achieving, this article is designed to encourage other jurisdictions to set up and implement such juvenile diversion programs. The documented advantages are many: positively influencing youth development and values, decrease in crime, low rates of recidivism, reduction of the caseload on our court system and costs of juvenile administration, freeing up the enforcement officers to devote their time and efforts to investigate and handle far more serious offenses in their communities, and making

communities safer for all citizens. (*Id.* at 9 (“[A] juvenile system that focuses on positive change by building trust and providing exposure to positive influence rather than punitive measures alone could work to curtail further criminal trajectory . . . since the brains of youth are malleable and more susceptible to positive feedback than a fully developed brain, the juvenile justice system should focus on diversion, intervention and rehabilitation programs, rather than the stricter punishment-orientation of the adult system.”).) Use of these programs could greatly reduce the school-to-prison pipeline, mass incarceration, and the funds that the United States spends to house more inmates than any other country. The money saved from these innovations then could be used to enhance and strengthen our educational system, and to provide a more competent and expert workforce in science, technology, engineering, and medicine to meet the needs of our ever-advancing electronic and technological world. Furthermore, more diversionary programs, legislative reforms, community trust training, and implicit bias training are essential to achieving improved protections of our cherished constitutional rights. Professor Merrill Sobie, professor of law at the Elisabeth Haub School of Law at Pace University, wrote about “[t]he State of American Juvenile Justice.” (Merrill Sobie, *The State of American Juvenile Justice*, 33 *Crim. Just.*, no. 1, Winter 2018, at 26.) Although the state of American juvenile justice has improved significantly in the past several years and there has been a proliferation of diversionary and restorative justice programs, we still have much work to be done. Much remains to be accomplished in every state of the United States of America to eliminate actual prejudice and implicit bias, the impact of living in poverty, and the opening of the doors of opportunity to every child to achieve a true system of justice within the United States of America. She also noted, “[t]he policy of diverting and treating the . . . child . . . in lieu of judicial adjudication is beneficial to both the youngster and society. It is also far more cost effective than the alternative prosecution model.” (*Id.* at 28.) With over 60 years’ experience at the Bar, I believe that the national expansion of juvenile civil citation can revolutionize our juvenile justice system. With adequate financial support from the government and community-based organizations, we can support generations of youth to become even more successful and productive adults. ■