



Research in Brief to Transform Juvenile Probation

EXPAND THE USE OF DIVERSION FROM THE JUVENILE JUSTICE SYSTEM

This brief presents the research case behind significantly expanding the use of diversion. The available evidence indicates that arresting young people and formally processing their cases in juvenile court significantly increases their likelihood of subsequent arrests. Arrests and formal court processing also reduce young people's odds of future success in school and employment.

The guidance is consistent with the Annie E. Casey Foundation's *Transforming Juvenile Probation: A Vision for Getting It Right*.¹

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1

Arresting a young person for misbehavior significantly increases their odds for subsequent arrests and justice system involvement, when compared to prearrest diversion responses.

2

After a young person is arrested for a delinquent offense, formally processing delinquency cases in juvenile court substantially increases the likelihood of rearrest.

3

Youth of color are diverted from juvenile court far less frequently than their white peers, despite research showing that diversion typically improves youth outcomes.

4

Juvenile court processing is especially detrimental for youth who are not at high risk of rearrest.

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A significant share of cases formally processed in U.S. juvenile courts still involve youth who are assessed as low risk and have little or no prior record of delinquency.

6

Both arrests and formal processing in juvenile court substantially reduce young people's subsequent success in school and employment.

7

Due to the significant erosion of privacy protections provided by juvenile courts in recent years, formal processing can seriously damage young people's future opportunities for employment and higher education.

Arresting a young person for misbehavior significantly increases their odds for subsequent arrests and justice system involvement, when compared to pre-arrest diversion responses.

- Several recent studies have confirmed that being arrested during adolescence significantly increases the likelihood of subsequent arrests,² even after controlling for a wide variety of personal characteristics, as well as self-reported delinquent conduct.
- In Florida, state data analyses reveal that diverted youth who were issued civil citations in lieu of being arrested had a recidivism rate that was less than half (4%) that of comparable peers who were eligible for citations but were instead diverted after being arrested (9%).³
- In Orange County, California, researchers looked at two groups of youth with comparable backgrounds and self-reported delinquent conduct — one group had been arrested (and, in some cases, formally processed in juvenile court), the other had not. Youth in this never-arrested group proved far less likely to experience subsequent arrests than youth who had been arrested previously. In fact, youth who had never been arrested at the outset of the study continued to be free of arrest during the six-month study period, compared with a 14% arrest rate for those arrested previously but processed informally and 17% for those who had been arrested and formally processed.⁴

2

After a young person is arrested for a delinquent offense, formally processing delinquency cases in juvenile court substantially increases the likelihood of rearrest.

- A carefully controlled study of boys arrested on low-level offenses and referred to court for the first time found that youth whose cases were processed formally were arrested three times as often as comparable youth whose cases were processed informally, and nine times as often as youth whose cases were dismissed entirely. Published in 2017, these findings held true even accounting for the young people's age, race, offense characteristics, socioeconomic status and self-reported offending behaviors.⁵
- A 2010 meta-analysis by the Campbell Collaborative found that formal system processing of youth referred to juvenile courts led to significantly worse recidivism than informal processing or diversion. The review found no evidence that juvenile system processing has a crime control effect — whether in prevalence, incidence (or frequency) or severity of offense — in fact, most studies showed that formal processing increased delinquency.⁶
- In the Orange County, California study cited above, youth who were diverted from court after arrest proved far less likely than comparable peers formally processed in juvenile court to engage in subsequent delinquent conduct (as measured by self-reports) or to get arrested subsequently. Completed in 2014, the study found dramatic differences for some outcome measures — delinquent behavior dropped by more than half among diverted youth but nearly doubled for those formally processed in court, and school suspensions fell by more than 75% for diverted youth while increasing substantially for those formally processed in court.⁷

3

Youth of color are diverted from juvenile court far less frequently than their white peers, despite research showing that diversion typically improves youth outcomes.

- Despite having policies that are meant to be equitable, system decision makers are more likely to divert white youth from formal prosecution — and to deem them successfully diverted — than their peers of color.⁸ The best national data available show that 48% of cases against white youth are handled informally, compared to only 37% of cases against Black youth.⁹
- A white youth involved in an offense against a person, such as aggravated assault, is more likely to be diverted than an African American youth involved in an offense against public order, such as trespassing or graffiti.

4 Juvenile court processing is especially detrimental for youth who are not at high risk of rearrest.

- A 2013 meta-analysis found that, controlling for young people’s backgrounds, youth who were assessed as low risk and who were offered diversion reoffended at a 45% lower rate than comparable youth who faced formal court processing or more invasive sanctions.¹⁰
- In Ohio, a 2014 evaluation of programs funded under the RECLAIM (Reasoned and Equitable Community and Local Alternatives to the Incarceration of Minors) initiative found that youth scoring as low risk for rearrest who were diverted from court reoffended far less frequently than comparable youth whose cases were formally processed. Youth assessed as low risk who were placed on probation had reoffending rates more than 50% higher than comparable youth who were not placed on probation. Both findings were statistically significant.¹¹
- Summing up the available evidence in 2014, the Council of State Governments concluded: “Research shows that juvenile justice systems can do more harm than good by actively intervening with youth who are at low risk of reoffending.”¹²

5

Nonetheless, a significant share of cases formally processed in U.S. juvenile courts still involve youth who are assessed as low risk and have little or no prior record of delinquency.

- The share of all delinquency case referrals that are formally processed in juvenile courts nationwide has barely budged in more than two decades. From 1996 through 2018, the latest year for which data are available, the share of delinquency cases that were formally processed in U.S. juvenile courts hovered between 53% and 59% every single year,¹³ with the remainder being diverted or dismissed at intake.
- In 2018, 59% of U.S. delinquency referrals were formally processed, of which only 6% were for violent offenses.¹⁴
- The continuing high rate of formal court processing within the United States stands in stark contrast to many other advanced nations. Some nations, such as New Zealand and the United Kingdom, have enacted policies to dramatically reduce adolescent arrest rates in recent years.¹⁵ Several other countries, including Belgium, Denmark, Finland, Germany, New Zealand and Norway, now informally handle 75% or more of all youth who are arrested and referred to court. Unlike the United States, many of these nations have sharply increased the use of diversion as an alternative to formal court processing based on recent evidence showing that diversion produces better outcomes.¹⁶

6 Both arrests and formal processing in juvenile court substantially reduce young people's subsequent success in school and employment.

- Among young people in the National Longitudinal Survey of Youth who were arrested during their high school years, those who were formally processed in court proved far more likely to drop out of school than those who were not formally processed. Even after controlling for a wide variety of demographic, socioeconomic, academic and behavioral factors, formal processing in juvenile court sharply reduced the likelihood that young people would graduate from high school. These negative consequences were especially severe for youth with little prior delinquent conduct.¹⁷
- Some studies have shown that youth who are arrested during adolescence enroll in colleges and universities at severely reduced rates.¹⁸
- Other studies show that arrests during adolescence have a lasting negative effect on employment and earnings well into adulthood. For instance, a longitudinal study of youth in Rochester, New York, found that arrest during adolescence led to reduced employment and greater dependence on public assistance at age 30.¹⁹ Likewise, using data from the National Longitudinal Survey of Youth, another study found that getting arrested during adolescence is associated with a nearly \$6,000 lower annual income by ages 29 to 33.²⁰

7

Due to the significant erosion of privacy protections provided by juvenile courts in recent years, formal processing can seriously damage young people’s future opportunities for employment and higher education.

- In 2016, a Juvenile Law Center study found that 33 states plus the District of Columbia made certain types of juvenile record information publicly available, and seven states made most or all juvenile records public.²¹
- Confidentiality laws surrounding juvenile records are riddled with exceptions, according to the Juvenile Law Center. In addition to being accessible to the police, presumably confidential juvenile records “can also be shared with employers, schools, government agencies, victims, the media and others,” the center reports. In some states, juvenile records are shared with private companies “that make a profit by selling these records to individuals and companies seeking background information.”²²
- The spread of juvenile record information can and does harm young people’s access to both higher education and employment — more than half of universities collect criminal justice information during the admissions process, and despite Equal Employment Opportunity Commission guidelines advising employers not to ask about prior involvement in the justice system and “ban the box” regulations in some jurisdictions, more than half of all employers continue to ask for criminal records information on their job application forms. Surveys consistently find that employers often reject candidates with any involvement in the justice system, no matter how minor.²³
- Release of juvenile records can also lead to youth being barred from military service.²⁴

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