#### Diversion: Reducing Collateral Consequences and Recidivism with Alternative Resolutions

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# Does Policy Effect Practice?

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#### Federal Government: a few notable examples

- Biden-Harris Administration's Statement of Drug Policy Priorities for Year One (2021)
- 7 Priorities, including:
- Supporting evidence-based prevention efforts to reduce youth substance use (Priority #4)
- Advancing recovery-ready workplaces and expanding the addiction workforce (Priority #6)
- Office of National Drug Control Policy (and other agencies)
- Funding & Research Priorities: Office of Justice Programs (OJP), SAMHSA, NAMI, etc.
- DOJ: U.S. Attorney's Manual §9-22.00 (Pre-trial Diversion Program)

#### State Governments:

- Statutes, Rules of Court, administrative priorities, etc.
  - Example: California Penal Code §1000 et seq., and more recently §100.95, et seq.

#### Non-Governmental Agencies: some examples

- National Association of Pretrial Services Organizations (NAPSA)
- National Association of Drug Court Professionals (NADCP)
- Council of State Governments Justice Center (i.e., Mental Health Court curriculum)
- American Bar Association, Criminal Justice Section (new Diversion Standards)

ABA Criminal Justice Section Diversion Standards

- First Edition (8/2022) Black Letter (with Commentary on the way)
- Priority is a public health approach, avoiding the criminal legal system
  - Reduce collateral consequences
  - Address over-criminalization
  - Reduce incarceration
  - Curtail the burden on, and investment in, the criminal legal system
  - Eradicate racial disparities in arrests, charging, sentencing and incarceration
  - Encourage jurisdictions, in the absence of the threat of criminal sanctions, to refer individuals to alternative care provide by the community or the diversion program itself
- Organization of the Standards:
  - Introduction and General Attributes of Diversion
  - Early Diversion: Community-First Programs
  - Early Diversion: Law Enforcement Programs
  - Early Diversion: Pre-Filing Programs
  - Pre-Plea Programs
  - Post-Plea Programs

### Practical Realities

- Public (Federal) Funding: majority is provided to state/local programs
  - ► OJP: BJA, BJS, NIJ, OJJDP, OVC, SMART...others
- Application of treatment and/or legal standards: accountability
  - Organization/purpose of program
  - Composition of program team members
  - Definition of target population(s) and selection criteria
  - Screening and assessment procedures (therapeutic and/or criminogenic?)
  - Incentives, sanctions and therapeutic adjustments
  - Collection of data and process/impact evaluation(s)
  - Development, dissemination and improvement of evidencebased practices\* and standards within and between jurisdictions
    - 50 states and 1 federal district; 94 federal judicial districts ("front end"; post-release)
- Lack of strong/consistent policy directives, funding incentives, legal authority, program support (i.e., training) and resources re: diversion



#### **Tiffany Williams Roberts**

Public Policy Director Southern Center for Human Rights



# Policing Alternatives & Diversion Initiative

## A New Approach to Community Safety & Wellness

Our current system has failed to provide care and support to those who need it most. Instead, local governments have criminalized survival activities.

PAD works to:

**1. Reduce arrest and incarceration** of people struggling with unmet mental health needs, substance use, and extreme poverty.

**2. Address community concerns** related to these issues.

3. Increase the accessibility of supportive services in Atlanta and Fulton County.



#### A New Approach to Community Safety & Wellness

#### Provide pre-arrest diversion

Provide alternative response to people referred through City of Atlanta 311

Reduce barriers to stability and increase community connections through care navigation, emergency housing, and direct supports



#### **Pre-Arrest Diversion Flow Chart**

911 CALL

911 receives a call from a small business owner who believes a woman is shoplifting from his store. € 2



APD Officer Johnson is dispatched to the business. He engages with the woman, and learns her name is Jessica. ASSESS

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Officer Johnson realizes that Jessica has shoplifted food because she is hungry. While he has probable cause to arrest, he knows her needs would be better met by connection to services.

Officer Johnson calls PAD on a dedicated line reserved for law enforcement. The PAD Referral Coordinator asks Officer Johnson a few brief questions.

CALL PAD



PAD DISPATCH

A PAD Referral Coordinator dispatches a two-person PAD Harm Reduction team, who travel to the scene to engage Officer Johnson and Jessica.

6 сом

CONSENT



Both Officer Johnson and Jessica consent to the diversion, and are asked to sign a consent form.

Officer Johnson leaves the scene, and no police report is made. The Harm Reduction team completes an intake

and learn she was recently

released from jail and is

having trouble finding

currently staying on a

employment. She's

friend's couch.

**→** 8

CONNECTION TO SERVICES

Jessica is assigned a PAD Care Navigator and transported to her home. She is given a cell phone and a bag of groceries.



ASSIGNED CARE NAVIGATOR

Jessica's Care Navigator reaches out to her within 48 hours and begins providing ongoing case management, including connection to services, such as transportation, food assistance, legal navigation, and medical care. Over the next 3 months, Jessica is provided housing with a partner agency, MARTA cards, and food. Her Care Navigator attends court with her repeatedly over the year, and the public defender successfully advocates for a dismissal of all charges.

#### Community Response Services through ATL311 Flow Chart

COMMUNITY REFERRAL



Mark, a restaurant manager, sees an individual sleeping outside the door to the restaurant. He knows this is not a concern that requires police involvement, so he decides to make a Community Referral to PAD through ATL311.

After calling 311 and selecting Option 1, Mark is connected to an ATL311 Support Service agent, who asks a series of questions and confirms that Mark's concern is an appropriate

REFER TO PAD

3

8

The referral is electronically sent to the PAD Referral Coordination team.

PAD DISPATCH

9

A PAD Referral Coordinator dispatches a two-person PAD Harm Reduction team. who travel to the area to engage the referred individual.

ENGAGEMENT

5

The Harm Reduction team strikes up a conversation with the individual and learn his name is James. They identify what James' needs are and how they can best assist.

6

ASSESSMENT



PAD referral.

The team learns that James is unhoused and needs help accessing a shelter for the night.

The team provides James with a warm meal, a MARTA card, and shelter options in his neighborhood. He's also given information for a

partner agency where he can get daytime services.

ONGOING SUPPORT

That day, a PAD Referral Coordinator calls the partner agency to let them know that PAD engaged James and he will be stopping by for services and ongoing support.

A PAD Referral Coordinator calls Mark within 48 hours to update him on how his concern was addressed.

FOLLOW UP

FEEDBACK

10

Juvenile Justice & Criminal Beh...

A survey is sent to Mark asking for feedback on his experience with PAD 311 Community Referral Services.

#### **Makes Recovery Possible**



- Consent based
- No leveraging of services
- No treatment requirements
- Safe & non-judgmental environment
- Honoring people's self-determination
- Creative collaboration

#### Our 2021 Impact

In 2021, PAD launched community referrals through 311 and expanded alternate response and diversion services citywide 7am-7pm , Monday-Friday.





# Key 2022 Goals

- Implement a joint public awareness campaign to recruit quality-of-life calls from 911 to 311, and protocol to divert select call types from 911
- Launch a new Fulton County behavioral health coalition in partnership with the Georgia Mental Health Consumer Network, to advocate for alternate PPROACH TO mental health crisis responses and NTY SAFETY & services

J

 In partnership with City of Atlanta, Fulton County, Grady Hospital and others, establish the Center for Diversion and Services to provide 24/7 diversion and sobering services



#### BY PETER ANNIN

Morse and his 8-year-old brother, Derrick, ran into two of the toughest ballies their South Side Chicago neighborhood had to offer. The intimidating boys lured the brothers to a vacant

where is the state supposed to put these two killers? A judge is scheduled to rule in the case next week. Around the country, other states are watching. They have their own predators to worry about. It wouldn't be a problem if Illinow's spe

cial 30-bed "kiddle prison" weren't still un

# Juvenile Justice & Criminal Behavior

#### THE COMING OF THE SUPER PREDATOR

#### Dr. J.Z. Bennett

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## John Dilulio

"A super-predator is a young juvenile criminal who is so impulsive, so remorseless, that he can kill, rape, maim, without giving it a second thought," Dilulio said in 1996.













Remembering the 90's

04/20/99

57.20

#### s Ex-Theorist on Young 'Superpredators,' Bush Aide Has Regi

JZABETH BECKER FEB. 9, 2001

From his perch as the director of the new White House Office of Faith-Based and Community Initiatives, which he believes will help uplift many needy people but particularly the most troubled teenagers, John J. DiIulio Jr. conceded today that he wished he had never become the 1990's intellectual pillar for putting violent juveniles in prison and condemning them as "superpredators."

https://www.nytimes.com/2001/02/09/us/as-ex-theorist-onyoung-superpredators-bush-aide-has-regrets.html

# Central Park 5

- Five teens were wrongfully convicted of beating and raping a woman jogger in Central Park in 1989
- Even though they did not commit the crimes they confessed to it anyway (deprived teens of food, drink, and sleep for over 24 hours)
- Despite inconsistencies within the confessions, which where presented during trial, and no physical evidence tying them crime scene, the teens were still convicted





TITLE STRANDED ON DEATH ROW BART 1 BY: SAM CARSON ARA MUSCLE

A HOT SUMMER MORNING IN JULY 1995, THE COUNTY GAIL BUS AS MAKING THAT TRIP FROM HOLMESBURG COUNTY PRIJON TO A NOTORIOUS PENITENTIARY UPSTATE CALLED S.C. ( CSTATE CORRECTIONAL INSTITUTION ! GRATERFORD, WELCOME TO THE PENNSYLVANIA PENAL SYSTEM FOR THE BIG, BOYS, AS THEY SAY, APPROXIMATELY FIRMY PEOPLE CONVICTED OF CRIMES RANGING FROM RAPEI MURDER, ROBBERY, BURGLARY, DRUG DEALING; ETCI, ENTER THE FRONT ENTRANCE A, KIA: THE BELLY OF THE BEAST. THE CORRECTIONALES, D.

# The Crime Bill of 1994

The Violent Crime Control and Law Enforcement Act was a lengthy crime control bill that was put together over the course of six years.

- "Three strikes" mandatory life sentence for repeat offenders,
- Money to hire 100,000 new police officers,
- \$9.7 billion in funding for prisons, and an expansion of death penalty-eligible offences.
- It also dedicated \$6.1bn to prevention programs <u>"designed</u> with significant input from experienced police officers", however, the bulk of the funds were dedicated to measures that are seen as punitive rather than rehabilitative or preventative.







## School To Prison Pipeline

- Succeeding the 1999 tragedy that occurred at Columbine High School in Jefferson County, Colorado, which left 12 students and one teacher dead by two armed students (Dylan Klebold and Eric Harris), zero tolerance polices began to infiltrate into many school districts across the nation.
- Under the Clinton Administration it applied the rhetoric and intention of tough-on-crime laws to the school environment and passed the Gun-Free Schools Act in 1994 (Kang Brown et. al. 2013). The Gun-Free Schools Act mandates expulsion for possession of a firearm, referral of law-violating students to the criminal or juvenile justice system.

## Zero Tolerance

- There is a common misconception that severe disciplinary consequences like out-of-school suspensions are used primarily for very serious behaviors like bringing guns to school and selling drugs.
- Contrary to popular belief serious incidents that zero-tolerance policies can be applied to are extremely rare instances.

## Zero Tolerance

- According to Youth for Change and the Advancement Project (2014) students have reported be suspended for
- 1. laughing in class,
- 2. getting out of a chair to sharpen her pencil,
- 3. or for "popping" gum in class.
- Out-of-school suspension particularly problematic as it is highly associated with later involvement in the juvenile justice system.

# How a Philly cop broke the school to-prison pipeline

Updated: SEPTEMBER 26, 2016 - 5:13 AM EDT



#### **Evaluation of the Philadelphia Police School Diversion Program**



School-Based Arrests

Number of Students Diverted

Pre-Program 2013-2014	n	
2014-2015	88888	486
2015-2016	88886	472
2016-2017	66661	433
2017-2018	<b>888</b> i	308
2018-2019	8881	337
100 Students = 🔗		





