



**DIVERSION, DIVERSION, DIVERSION**

**WHY THE JUVENILE COURT ISN'T ALWAYS THE BEST  
IDEA**

# WHAT IS DIVERSION ANYWAY?

The act or an instance of diverting or straying from a course, activity, or use: DEVIATION



# IN THE JUSTICE SYSTEM

Any of a variety of programs that implement strategies seeking to avoid the formal processing of an offender by the criminal justice system. Although those strategies, referred to collectively as diversion, take many forms, a typical diversion program results in a person who has been accused of a crime being directed into a treatment or care program as an alternative to criminal prosecution and imprisonment.

# JUVENILE JUSTICE

- ▶ In the JUVENILE JUSTICE system, diversion has different meanings, but suffice it to say that diversion is really about preventing THE NEXT THING from occurring . . . usually because we know there are some poor outcomes attached to THE NEXT THING.
- ▶ Let's look at some of the different ideas of DIVERSION in the juvenile justice system

# JUVENILE JUSTICE

- ▶ The *Missouri Juvenile Officer Performance Standards (2017)* define DIVERSION as follows:
- ▶ Level One: **PREVENTION PROGRAMS**
- ▶ Any community-based program designed and implemented to promote juvenile competency development or psychosocial functioning with a primary purpose of reducing the likelihood of referral to the juvenile officer.
- ▶ Preventative diversion program participation by a juvenile shall not be entered into the statewide case management system and should have no implication or consequence in subsequent assessments of prior referral history.

# JUVENILE JUSTICE

- ▶ **Level Two: DIVERSION FROM REFERRAL TO THE JUVENILE OFFICER**
- ▶ Any community-based program designed and implemented to provide diversion services to a juvenile wherein the alleged actions of the juvenile could result in referral to the juvenile officer. The diversion program would intend to aid the juvenile in accepting responsibility for his or her actions, repair harm to the victim, and promote competency development and psychosocial functioning with a primary purpose of diverting the juvenile from a referral to the juvenile officer. Level two diversion cases shall not be entered into the statewide case management system and should have no implication or consequence in subsequent assessments of prior referral history.

# JUVENILE JUSTICE

- ▶ Level Three: **DIVERSION FROM FORMAL COURT PROCESSING**
- ▶ Any program designed and implemented to provide a juvenile the opportunity to assume responsibility for his or her actions, repair harm to victims, and to receive services to divert the juvenile from formal court action.

# JUVENILE JUSTICE

- ▶ Level Four: **DIVERSION FROM COMMITMENT TO DYS**
- ▶ Any program designed to divert an adjudicated juvenile from a commitment to the Division of Youth Services. The program should provide services in the local community to the juvenile and family, including formal supervision and other necessary services and sanctions.



# WHY DIVERSION?

- ▶ A number of studies point to poor outcomes for children who are unnecessarily inserted into the juvenile justice system. They include data on:
  - ▶ Recidivism
  - ▶ Educational Outcomes
  - ▶ Employment Barriers
  - ▶ Incarceration

# WHY DIVERSION?

COZ . . . .

- ▶ A student arrested in high school is twice as likely to drop out
- ▶ A student who appears in court in high school is four times as likely to drop out
- ▶ School connectedness is linked to lower rates of substance abuse, violence, suicide attempts, pregnancy, and mental health disorders
- ▶ Youth who are inserted into the juvenile justice system - even for a minor offense - risk much more severe consequences for subsequent offenses, including being placed in secure detention
- ▶ Youth who are inserted into the juvenile justice system are at increased risk of exclusion from admission to college, for pursuing certain careers, or being able to enlist in the military

# WHY DIVERSION?

- US Department of Justice, *Recidivism of Prisoners Released in 34 States in 2012: A 5-Year Follow-Up Period (2012-2017)*; July 2021
- Sweeten, Gary, *Who Will Graduate? Disruption of High School Education by Arrest and Court Involvement*. 24.4 *Justice Quarterly* 462-480; December 2006
- Tony Fabelo, Ph.D.; Michael D. Thompson; Martha Plotkin, J.D.; Dottie Carmichael Ph.D.; Miner P. Marchbanks III, Ph.D.; Eric A. Booth, M.A., *Breaking Schools' Rules: A Statewide Study of How School Discipline Relates to Students' Success and Juvenile Justice Involvement*, July 2011
- Academic Pediatrics, *What is the Relationship Between Incarceration of Children and Adult Health Outcomes?*, 2019
- Crime and Delinquency, *When Is A Child Too Young For Juvenile Court: A Comparative Study of State Law and Implementation In Six Major Metropolitan Areas*, 2019
- Justice Policy Institute, *Education Under Arrest: The Case Against Police In Schools*, November, 2011

# MISSOURI REFERRALS

- ▶ In 2022, there were 43,492 referrals sent to Missouri's juvenile courts
- ▶ 53% of all referrals originated from a law enforcement agency
- ▶ 18% of all referrals were from the Children's Division
- ▶ 18% of all referrals were from school personnel or SROs
- ▶ The rest of the referrals were sent by parents, relatives, victims, other juvenile courts, mental health providers, etc.

# MISSOURI REFERRALS

- Municipal Police 17,473 40.7%
- Children's Division 7,800 18.2%
- School Personnel 5,020 11.7%
- County Sheriff 4,349 10.1%
- School Resource Officer 2,688 6.3%
- Juv Court Personnel 1,729 4.0%
- Parent 1,751 4.1%
- Other 600 1.4%
- Other Juv Court 474 1.2%
- Private Social Agency 142 0.7%
- Highway Patrol 303 1.1%
- Other Relative 87 0.3%
- Public Social Agency 34 0.2%
- Other Law Enforcement 468 1.1%
- Victim or Self 30 0.1%
- DMH 9 0.1%
- Grand Total 42,957\*
- \* Missing Data on 535 referrals

# MISSOURI REFERRALS

- ▶ 40% of referrals were for DELINQUENCY
- ▶ 29% of referrals were for CHILD ABUSE & NEGLECT
- ▶ 29% of referrals were for STATUS OFFENSES
- ▶ 2% of referrals were for ADMINISTRATIVE

# LAW VIOLATIONS BY AGE

- ▶ 44% of all juvenile law violation referrals were committed by youth aged 15 and 16.
- ▶ These youth were responsible for 53% of homicides, 54% of drug charges, 53% of liquor law violations, 52% of robberies, and 48% of stealing referrals.
- ▶ Only threats, forgery, and municipal violations were committed at a higher rate by youth 13-14.

# LAW VIOLATIONS BY AGE

OFFENSE	UNDER 10	10	11	12
ASSAULT	66	60	127	263
STEALING	17	27	42	79
PROPERTY DAMG	23	20	42	88
SEX OFFENSES	7	3	7	15
SEXUAL ASSAULT	12	10	18	29
THREATS	2	0	7	28
BURGLARY	7	5	13	35
ARSON	3	0	5	3
PEACE DISTURB	5	13	27	58
DANGEROUS DRUGS	2	2	8	38



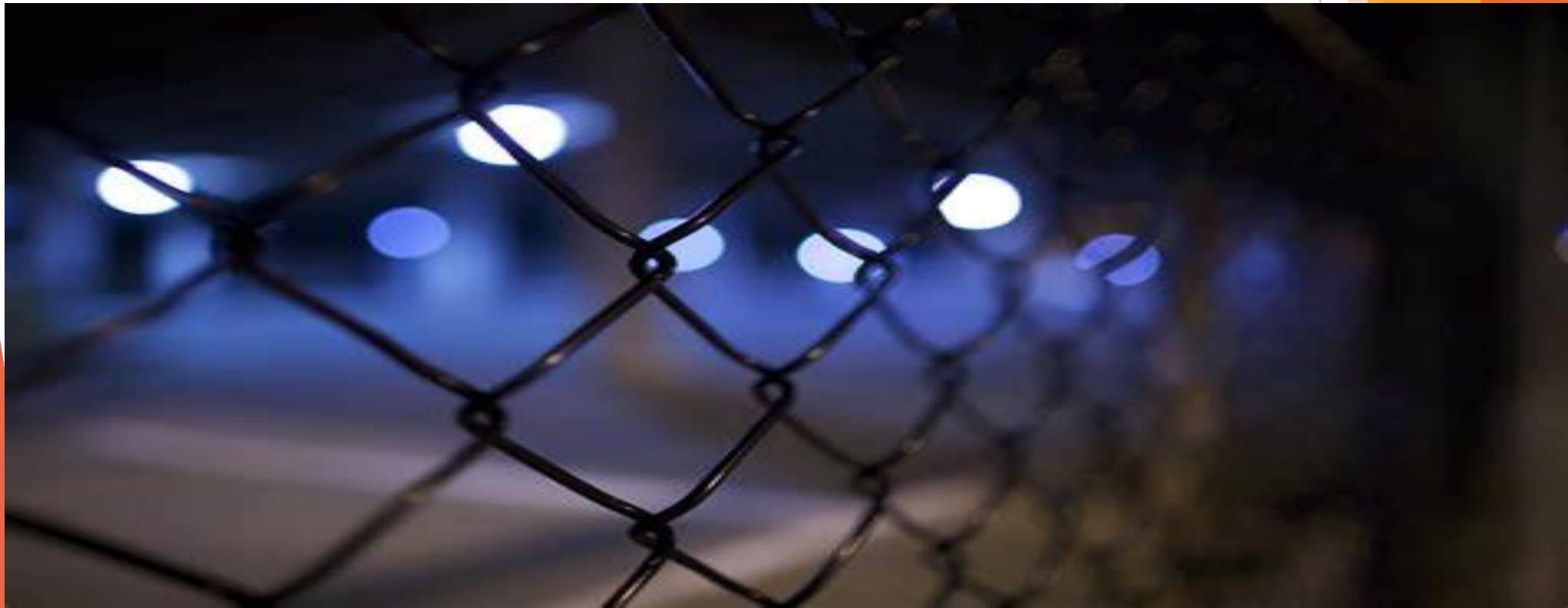
# LAW VIOLATIONS BY AGE

- ▶ In 2020, there were a total of **1,424** LAW VIOLATION referrals to the Juvenile Officer for children ages 12 and under
- ▶ 160 of those referrals were for children under the age of 10
- ▶ 160 of those referrals were for children age 10
- ▶ 344 of those referrals were for children age 11
- ▶ 761 of those referrals were for children age 12
- ▶ 334 of those referrals were for **FELONIES**

# SO... are we doing anything?

- ▶ In 2021, MJJA received a grant from the Missouri Department of Public Safety to work on

- ▶ ***INTERRUPTING THE SCHOOL TO PRISON PIPELINE***



# MJJA's LATEST EFFORTS

- ▶ The grant project is broken down into different phases:
- ▶ MJJA will hire a full-time School Response Coordinator to work with law enforcement, schools, and juvenile officers
- ▶ The School Response Coordinator will work with schools and law enforcement to implement *Handle With Care* in interested school districts throughout the state
- ▶ The School Response Coordinator will work with schools, law enforcement agencies, and juvenile officers to develop a continuum of responses to behavioral incidents or minor incidents at school and encourage the use of a juvenile referral only as a last resort.

# MJJA's LATEST EFFORTS

The School Response Coordinator will help educate schools, SROs, and juvenile officers on proven methods of interacting with youth in an effort to minimize the necessity for juvenile referrals. This will include providing assistance on the development of “MOUs” which would detail the actions each party plans to take (or not take) when responding to youth misbehavior and minor offenses committed at school.

The School Response Coordinator will provide training and/or technical assistance to school administrators, juvenile officers, and law enforcement agencies on recognizing and responding to trauma; responding to youth misbehavior; understanding roles and responsibilities, and well as improving communication and collaboration.

# HANDLE WITH CARE - Phase 1

- ▶ First developed and piloted in West Virginia in 2013, *Handle With Care* is a program to help traumatized students thrive and be successful in school.
- ▶ The premise is simple: law enforcement officers responding to calls where a child has been exposed to trauma - or has been the direct victim of trauma - will notify the child's school to let them know they need to "Handle Johnny With Care".

# HANDLE WITH CARE

- ▶ The school does not receive any other details of the event, however, they ARE aware that “Johnny” might be agitated or distracted or withdrawn or tired, or have difficulty concentrating. And they can respond DIFFERENTLY, using trauma-responsive techniques.
- ▶ If the classroom teacher notices a change in behavior or concentration or grades, they can make a referral to the school counselor.

# HANDLE WITH CARE

- ▶ The school counselor can assess the student's need for mental health counseling or other services and engage the parents in getting that help arranged.
- ▶ In Missouri, we are hoping that using trauma-sensitive interventions and having information provided IMMEDIATELY after the event will reduce reliance on the use of disciplinary measures or the involvement of law enforcement or even a referral to the juvenile officer for misbehaviors at school.

# HANDLE WITH CARE

- ▶ One of the advantages of *Handle With Care* is that it COSTS NOTHING to implement.
- ▶ One of the challenges of *Handle With Care* will be helping schools fill gaps where services are identified as “lacking” . . . most likely this will be in the area of mental health providers.
- ▶ *Handle With Care* can be implemented in one school district or an entire county.



# BACK TO WEST VIRGINIA

- ▶ Between 2014-and 2019, 527 notices were provided from law enforcement to the schools, involving 959 children.
- ▶ School interventions were enough to help 90% of the identified children, but for others, on-site counseling was needed.
- ▶ Relationships between schools and law enforcement greatly improved. HWC notices became an invitation to collaboration.

# BACK TO WEST VIRGINIA

- ▶ Teachers were better able to address classroom issues **IN THE CLASSROOM**
- ▶ Mental health providers were able to see children interacting in their school environments
- ▶ HWC became a magnet to assist agencies in working together, building community trust, and - most importantly - helping children who are struggling with the effects of trauma

# HOW IS HWC “DIVERSION” ?

- ▶ As presented in earlier slides, we know young children (ages 12 and under) are referred to the juvenile officer for acts of delinquency. We also know that many of those referrals are sent by SROs, oftentimes at the request of school administrators.
- ▶ If, when a child exhibits escalating behaviors at school, a teacher or administrator can intervene DIFFERENTLY, there is an INCREASED likelihood that law enforcement will not be called to assist.
- ▶ If law enforcement is not called to assist, there is a DECREASED likelihood that a referral will be sent to the juvenile officer.

# Interrupting the School to Prison Pipeline

## - Phase 2

- ▶ The second component of the *Interrupting The School to Prison Pipeline* grant involves the School Response Coordinator working with law enforcement agencies, juvenile officers, and schools to create a continuum of possible responses to behavioral incidents where a juvenile referral would become the “intervention of last resort.”

# PHASE II

- ▶ This might involve helping schools, law enforcement agencies, and juvenile officers create a Memorandum of Understanding (an MOU) which would potentially identify “minor school based offenses” for which all parties would agree there would be NO report made by law enforcement and NO referral to the juvenile officer. Instead, those offenses would be dealt with by the school as disciplinary actions.

# PHASE II

- ▶ This might also involve helping schools create alternatives to a juvenile officer referral, such as referring a student to an existing program (ie: communication skill building, assistance with credit recovery, in-school counseling) or linking students to clubs and activities that suit their skill set (remember the slide on school connectedness??)

# HOW THIS HELPS

- ▶ If students are not reported to law enforcement, and no juvenile referral is made, then they are truly diverted from insertion into the juvenile justice system, but still held accountable for their behavior.
- ▶ Much like *Handle With Care*, similar success can be found when law enforcement, schools, and the juvenile officer come together to engage in conversations about roles and responsibilities, and collaborate to create programs that help make students successful.

# THE CAMDENTON STORY

## A frustrating tale with a very happy ending

- Long ago (okay, it was 2013), in a galaxy not very far away
- School administrators became **EXTREMELY** frustrated with The Nice Juvenile Lady for refusing to allow SROs to bring students to the detention center or juvenile officer for minor incidents at school
- This had been building for some time, as the juvenile officer began to implement “best practice” standards



# THE CAMDENTON STORY

## Chapter 2

- ▶ The Nice Juvenile Lady THOUGHT she had been doing a good job communicating with the school about WHY students could not be brought to the juvenile office - or detention center - for really, really, really minor incidents . . . or for “non-incidents”. In hindsight, it was easy to see where improvements could have been easily made

# THE CAMDENTON STORY

## Chapter 3

- The School Administrators (it's a big school district, so there were 10 of them!) asked for a meeting with the Circuit Judge assigned to the Juvenile Division
- LUCKILY, the “juvenile judge” was well informed about our policies, best practices, and pesky statutes that don't allow you to lock up kids for turning around backward in their seats in ISS (you think I'm making that up, don't you?)

# THE CAMDENTON STORY

## Chapter 4

- The good news: at the end of the meeting, the school was frustrated with The Nice Juvenile Lady AND the judge, but The Nice Juvenile Lady felt a little vindicated!
- The bad news: we were no closer to addressing what was really going on
- And it stayed that way for about a month

# THE CAMDENTON STORY

## Chapter 5

- Surprise meeting with the Superintendent
- Because of HIM we moved forward
  - ▶ (Dr. Tim Hadfield is DA BOMB)
- And we did GREAT WORK

# CHAPTER 6 - STUFF WE DID

- Explanation of Roles and Responsibilities
- Identifying ways to move forward
- Beginning of our discussion about an MOU

# CHAPTER 7

- Development of a *MEMORANDUM OF UNDERSTANDING*
- Five delinquent acts classified as “minor school-based offenses”
- Superintendent, Building Administrators, Chief JO, Sheriff, and Police Chief

# CHAPTER 7, continued

- The purpose of the MOU was to divert students from referral to the juvenile officer, while still holding them accountable for their behavior.
- Guidelines were developed to establish uniformity in dealing with students who were accused of committing minor school-based offenses and to promote a response proportional to the different factors in each student's case.

# CHAPTER 8

- It took a full year to finalize our MOU. We repeatedly had to remind ourselves that this was a PROCESS, not a PROJECT (and changing culture is HARD).
- Part of the process was identifying programs or services to offer students as part of the DISCIPLINARY process.



# CHAPTER 9

- ▶ We continued meeting after the MOU was implemented, and what we discovered was this:
  - The school was able to adequately address the needs of students who had committed minor school-based offenses, without any additional assistance from the juvenile officer, **BUT . . .**
- ▶ We found that **TRUANT STUDENTS** were at greater risk of being referred to the juvenile officer than delinquent students. (oops)

# CHAPTER 9, continued

- Camdenton R-III total enrollment for the 2013-2014 school year was 4,359 students
- The number of students ages 12 - 16 (those who could be referred for truancy) was approximately 1,600
- Of those 1,600 students, **322** were eligible for referral to the juvenile officer for truancy (three or more full days of unexcused absences).
- That's **WAAAY** more students than those who would have been referred for delinquency.

# CHAPTER 10

- ▶ SO . . . we took another look at our foundational principles for the MOU (diversion from referral to the juvenile officer for DELINQUENCY) and broadened it to include diversion regardless of the offense
- ▶ And we began looking for resources to help address the needs of TRUANT students

# DEVELOPMENT OF COLE

- We developed Court Outreach Liaison for Education (COLE); we applied for (and received) Juvenile Justice Programming Assistance (JJPA) funding from OSCA.
- The program diverted middle school and high school students from referral to the juvenile officer for allegations of truancy
- Hired a Site Coordinator to work with students and engage their families
- Columbia Public Schools provided mentoring for COLE

# OUR GOALS

- Divert Camden R-III middle school and high school students from referral to the juvenile officer for truancy.
- Reduce the number of unexcused absences by middle school and high school students by 25% each year for three consecutive years

# THE ICING ON TOP OF THE CAKE

- Our COLE proposal was so well received that we were invited to apply for funding to attend a Diversion Certificate Program at Georgetown University
- Our proposal was approved and we took a team to Georgetown where our COLE proposal was accepted as a CAPSTONE project. The team included both The Nice Juvenile Lady AND the Camdenton Superintendent of Schools.

# TRAUMA

- ▶ Both *Handle With Care* and the other components of MJJA's Title II grant work will involve providing education and resources on TRAUMA responses. We hope this will assist educators and law enforcement in developing different responses to youth misbehavior, particularly in school settings.

# TRAUMA

- ▶ Trauma sensitivity will look different at every school, however, what we will try to do is:
- ▶ Create a shared understanding among staff: this simply means recognizing that adverse childhood experiences are more common than most of us ever imagined and that trauma definitely impacts learning, behavior, and relationships at school
- ▶ Make students feel safe. Children's traumatic responses are often rooted in real or perceived threats to their safety. So, the first step in responding to their trauma is to make them feel safe



# TRAUMA, continued

Research tells us that if we support children in four key areas, we will maximize their opportunities to overcome all kinds of adversity:

- ▶ Relationships with teachers and peers
- ▶ Ability to self-regulate behaviors, emotions & attention
- ▶ Success in academic and non-academic areas
- ▶ Physical and emotional health and well-being

# TRAUMA, continued

Encourage schools to connect (or re-connect) students to the school community by adopting policies that do not pull students away from their peers and trusted adults, but rather assist them to be full members of their classroom and school community

Shared responsibility for students: expecting individual teachers to address a student's trauma alone (on a case-by-case basis) is inefficient and will cause teachers to feel overwhelmed.

# RESOURCES

- Trauma and Learning Policy Initiative (TLPI)

A collaboration of Massachusetts Advocates for Children and Harvard Law School

- ▶ Helping Traumatized Children Learn, Volumes I and II
- ▶ <http://traumasensitiveschools.org/tlpi-publications>

# CONTACT INFORMATION

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