



AMERICAN BAR ASSOCIATION

**Criminal Justice Section**

**State Policy Implementation Project**

## CIVIL CITATIONS FOR MINOR OFFENSES

Explosive growth in the number of misdemeanor cases has placed a significant burden on local and state court systems. Throughout the United States, defense attorneys and prosecutors are overburdened with minor cases, left with little time to focus on cases involving more serious offenses. As states continue to cut budgets, caseloads for prosecutors and defense attorneys become increasingly unmanageable. This extremely inefficient cycle burdens both attorneys and American taxpayers, who are left footing the bill to fund our clogged court system. Taxpayers currently expend on average \$80 per inmate per day to lock up individuals accused of misdemeanors (i.e. fish and game violations, minors in possession of alcohol, dog leash violations, and feeding the homeless) with little to no impact on public safety. If states implement civil citation programs for these minor offenses and require the payment of civil fines, taxpayers will save money on court costs and incarceration, and states will generate revenue through the collection of fines.

Understanding that the unnecessary use of the criminal court resources to deal with minor infractions may unwisely drain state and local budgets, the ABA passed a resolution calling for governments to review misdemeanor provisions and, where appropriate, replace criminal penalties with civil fines or non-monetary civil remedies.

**The implementation of civil citation programs for minor, non-violent misdemeanors will allow police, prosecutors, and defense attorneys to focus on serious cases and provide states with a stream of income derived from civil fines.**

**Minor cases clog court calendars and waste valuable prosecutorial resources that could be spent investigating and handling more serious cases.** In a visit to the Lower Kittitas District Court in Washington State, prosecutors handled 29 cases in one day, 21% were for minor possession of alcohol. Conviction rates suffer when prosecutors are forced to try less serious cases that distract from trials of greater consequence. With so much of the court's docket spent on minor, non-violent crimes, prosecutors are left with little time to adequately investigate and prosecute more serious offenses, leading to lower conviction rates.

**The caseload pressures of overburdened defender offices make it difficult, if not impossible, for careful and thorough representation.** In Lancaster County, Nebraska, a defense attorney spends an average of 1.1 hours on misdemeanor cases filed in city court. In 2008, attorneys with the Atlanta City Public Defender Office had an average of 2,400 cases; meaning each attorney had roughly fifty-nine minutes to handle each case. The misdemeanor caseload in Cook County, Illinois, is five times the national standard.

**Civil citation programs for minor offenses will both save money and generate revenue. The avoidance of court costs creates significant savings, and civil fines attached to citations will create an income stream for local and state governments.** The State of Florida implemented a juvenile civil citation program, in lieu of misdemeanors, in both Leon and Miami-Dade County. In Leon County, law enforcement issued over 400 civil citations. Comparing the \$5000 cost of processing a juvenile through the justice system to the \$386 per juvenile for civil citations, Leon County saved \$1.9 million in fiscal year 2008-2009. Not only does the program save money, but in Miami-Dade County, 95% of participants who completed the program did not reoffend within six months.

The ABA urges states to implement civil citation programs for non-violent, minor misdemeanors to promote judicial efficiency and save taxpayer money.



# Florida: Cost-Effective Means to Increasing Public Safety in Juvenile Justice

## Civil Citations for Minor Offenses in the United States

The number of misdemeanor cases throughout the country has dramatically increased in recent years. While the exact number of misdemeanor cases in the U.S. is not known because there are variations among states in how misdemeanors are counted, estimates indicate that there were about 10.5 million misdemeanor prosecutions across the country in 2006. These misdemeanor cases have placed significant burdens on our country's justice system. With limited resources, many states are forced to sacrifice time that would be better spent investigating and prosecuting serious offenses because the number of misdemeanor cases is extremely high.

Throughout the United States, taxpayers spend an average of \$80 per inmate, per day on individuals accused of misdemeanors such as fish and game violations, minors in possession of alcohol, dog leash violations, and feeding the homeless. As these misdemeanors demonstrate, this explosion of misdemeanor cases is not isolated to adults. Juvenile justice systems all over the country are inundated with minor offenses such as the violation of city and county ordinances, disorderly conduct, and simple possession of alcohol. As with the adult system, resources spent investigating and adjudicating these minor cases inhibit the time law enforcement and attorneys have to focus on serious offenses.

While there are efforts to implement civil citation programs across the United States, these efforts have produced high levels of success in juvenile justice. The use of civil citations for first- and (in some instances) second-time misdemeanants has increased public safety, reduced recidivism, and saved millions of taxpayer dollars. Of communities implementing these programs, Florida's civil citation programs stand out as models that focus on rehabilitation, community safety, and efficiency.

## Florida's Civil Citation Programs

### *History*

In the state of Florida between 2004 and 2005, 95,254 juveniles were referred to the juvenile justice system. Of the offenses that were referred, 26,990 were for school related offenses. One of the reasons for the high number of school-related offenses was the state's zero-tolerance policy in education. The policy led to an overreaction to discipline problems, with high numbers of juveniles arrested and referred to the juvenile justice system for minor behavioral issues that could have been handled without law enforcement involvement. These arrests and referrals then became a part of the juvenile's record. Even worse, such punitive measures were often unevenly applied: in the 2004-2005 school year, 46% of school suspensions and police referrals that took place were for African American students, even though these children made up only 22.8% of the student population.

Problems with such high numbers of referrals and arrests were numerous. Arrest and referral often leads to negative development in children. Those who are suspended and/or arrested miss days of school, fall behind in classes, and may become discouraged and drop out at an earlier age. Further, such misbehavior is often a symptom of unknown mental health or family issues that remain unsolved without proper treatment and counseling. The high number of arrests overburdens the legal system, and these professionals do not have the proper time and resources to address the issues presented by first-time juvenile offenders. Keeping these problems in mind, the state of Florida enacted

Florida Statute § 985.12. The statute authorizes counties to implement civil citation programs for first-time and second-time misdemeanants in lieu of arrest and a juvenile record.

### ***Current Programs***

Since Florida's civil citation statute has become law, several counties throughout the state have created departments devoted to civil citation programs. The goal of these programs is threefold: (1) to keep youth that pose no threat to the community out of the justice system, (2) to reduce the cost of processing youth for misdemeanors that take time and resources away from the system, and (3) to focus those limited resources on more serious offenses, thus improving public safety. The focus of the programs is on youth who commit non-serious delinquent acts. In other words, the programs identify and recognize the difference between common youth misbehavior and more serious offenses. Funding for the programs per year vary throughout the state – the lowest being \$113,000 and the highest being \$137,000. Each program includes between one to five employees who maintain services. Although programs vary across the state, each follows the same general guidelines.

Almost all programs include four steps: (1) offenses and referral, where the juvenile is given the opportunity to accept or deny inclusion in the civil citation program, as opposed to arrest; (2) intake and assessment, during which the juvenile and his or her parents receive varying levels of counseling and guidance; (3) assignment of sanctions: juveniles may be sanctioned with up to 50 hours of community service, in addition to other sanctions such as counseling, restitution, essays, apology letters to the victim, and written learning assignments; and (4) completion and discharge: juveniles are provided a specific timeframe by which community service and other programs must be completed. All services provided by civil citation programs are aimed at reducing recidivism, increasing public safety, and promoting rehabilitation and growth of each youth. The programs promise swift and appropriate sanctions that address a juvenile's needs.

### ***Success and Savings***

Throughout the state, civil citation programs have proven to be highly successful. The average costs associated with civil citations is \$386 per juvenile, compared to the \$5000 it costs to process a juvenile through the justice system. Recidivism rates have also decreased throughout the state. Miami-Dade County, in particular, has experienced significant results. In its first year in 2007, Miami-Dade's civil citation program produced a recidivism rate of only 3%. Between 1998 and the end of the programs first year in 2008, the county reduced juvenile arrests by 46%, and reduced first-time offenders who reoffended within the first year by 80%. State-wide, juvenile arrests decreased only 3%, while arrests in Miami-Dade decreased by 23%, even though the county experienced a population increase of 6.5%.

The program has also proven to greatly benefit minority populations in Miami-Dade County. Of those referred to the program in Miami-Dade, over 90% are minorities, and over 30% are females. Overall, the program has reduced the intake and screening process of law enforcement agencies by 60%. It has also significantly reduced paperwork, eliminated court fees, and lead to immediate cost savings of thousands of dollars per juvenile.

In Leon County, the civil citation has also proven to be a success. In the county's fourth quarter in 2009, 98% of citations were successfully closed. And in that same year, juveniles participating completed over 14,000 hours of community service. Similar to Miami-Dade County, Leon County was also able to address and reduce the disproportionate number of minorities and females who were previously referred to the juvenile justice system.

## *Future*

Wansley Walters, the current Secretary of Florida's Juvenile Justice Department has named the implementation of civil citation programs statewide a top priority. And several Florida organizations, such as the Associated Industries of Florida, the Ounce of Prevention Fund of Florida, and the Florida Juvenile Justice Association, have released recommendations and guidelines for successful programs. Based on the success of the programs in various counties throughout the state, providing programs statewide will lead to enormous savings. Applying the savings in both Miami- Dade and Leon Counties throughout the state, the number of juveniles processed through the juvenile justice system would be reduced by 40% (34,211 fewer juveniles). Given the difference in costs between the \$386 spent per juvenile in civil citation programs and the \$5000 spent per juvenile in the system, implementing programs statewide would save Florida taxpayers \$157,849,554. When considered in conjunction with the success of these programs in reducing recidivism and promoting rehabilitation, it is clear that the use of civil citations can lead to a significant, positive impact on the juvenile justice system across the country.

## **Conclusion**

Although Florida's civil citation programs are focused on juveniles, the guidelines and principles inherent in the programs are generally applicable to adults, as well. Oftentimes, first-time adult offenders are in need of rehabilitation and treatment, as opposed to a conviction and incarceration. If the successes of Florida's juvenile program are appropriately instituted in adult cases, the results will lead to an increase in public safety and significant savings for taxpayers.