

An Initial Assessment of Leon County Florida's Pre-Arrest Adult Civil Citation Program

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Abstract

Momentum is building behind law enforcement-assisted diversion programs. Some of these programs have been designed specifically for drug-involved offenders, while others focus on adults who have no prior involvement in the criminal justice system. The Leon County Pre-Arrest Diversion program, which has been operating since March 2013, offers first-time arrestees the opportunity to participate in an alternative to arrest-as-usual. Successful completion of the program results in avoidance of a formal criminal arrest record. This paper provides an initial assessment of participants involved in the program during the first 3 years of operation. Results indicate male participants, those who submitted a positive drug test at program initiation, and those who presented significantly greater behavioral health needs were more likely to fail to complete the program and become rearrested. These findings are discussed with regard to practices among pre-arrest diversion programs.

Introduction

Arrests for low-level misdemeanor offenses comprise the vast majority of law enforcement activity in the USA. National estimates indicate the number of misdemeanor cases in 2006 exceeded 10 million,¹ with more than two thirds of adults having no prior arrest history taken into custody for the first time for a misdemeanor offense.² This pattern has been observed across several states, with the bulk of cases processed through the criminal justice system classified as low-level, non-serious offenses.^{3,4}

The court caseload in the state of Florida follows this trend. In fact, nearly three quarters (74%) of the state criminal court caseload in 2008 was comprised of misdemeanor offenses.⁴ This amounts to more than one million cases statewide, many of which involve adults with no previous arrests. Further evidence from the Second Judicial Circuit indicates close to one third (31% or 1562 out of 5071) of all adult arrestees between 2014 and 2015 who were charged exclusively for a misdemeanor offense did not have any prior arrests.

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Although misdemeanor offenses do not typically demand as much time as those that are more serious on a per case basis, the sheer volume indicates law enforcement officers, corrections officers, and state attorneys must devote ample resources toward them. This dedicated effort includes arresting, booking, and prosecuting this exorbitant number of first-time low-level offenses, which could be used more efficiently if there were a more effective approach. It is also important to note that adults arrested for low-level, non-violent offenses also receive a formal criminal record, which can significantly impact them for the remainder of their lives.

These pressing issues are directly addressed by the Pre-Arrest Diversion Adult Civil Citation Program in Leon County. The program is a first-in-the-nation model, which has been operating since March 2013, to provide an alternative to arrest for adults accused for the first-time of a misdemeanor offense. There are many types of pre-arrest diversion programs in the US, but the Adult Civil Citation Program has several unique features which set it apart from all others. Currently, there are no known pre-arrest diversion programs for adults charged for the first time with a misdemeanor offense which offer the ability to withhold the formal arrest from the participant's official record. From a participant's perspective, this is probably the most attractive characteristic of the program, because avoiding a formal arrest record can prevent an array of serious consequences in many personal and professional areas of life. Research has shown an arrest record can significantly limit adults' employability,⁵ destabilize jobs among the employed,⁶ contribute to the dissolution of families,⁷ and undermine educational achievement.⁸

The Adult Civil Citation program also offers an innovative approach to identifying and ameliorating some of the potential underlying factors that tend to be associated with offending. Existing diversion programs typically only require adults to complete community service and pay financial penalties (e.g., fines and court costs), glossing over any behavioral health-related reasons that may have influenced adults' contact with the criminal justice system in the first place. The Leon Pre-Arrest Diversion Program acts on the opportunity presented through adults' contact with law enforcement officers to deliver behavioral health intervention services where they previously did not exist. In its partnership with DISC Village, Inc., a local behavioral health provider, the Leon Pre-Arrest Adult Civil Citation Program provides a comprehensive behavioral health assessment to program participants. This process allows counselors to deliver client centered intervention services with the intention of mitigating potentially problematic behavioral health conditions (e.g., mental health, substance use, and general life stressors) which are likely to contribute to subsequent criminal activity.

There are several eligibility criteria which must be met in order for a participant to enter the Adult Civil Citation program. Prospective participants must be over 18 years of age, cooperative with the investigating officer, and officers must have probable cause that the person committed one of the previously approved misdemeanor offenses. The authorized list of offenses includes disorderly conduct, trespass, criminal mischief, petit theft, underage possession of alcohol, possession of marijuana under 20 g, possession of drug paraphernalia, non-domestic simple battery, and non-domestic simple assault. Officers also conduct a criminal history search to determine whether adults have been arrested in the past. Prior arrest renders adults ineligible for participation in the program and someone can only participate in the pre-arrest diversion program once. Thus, adults who have participated in the program at any point in the past cannot go through the program a second time. Eligible adults are also given the opportunity to opt out of the program and proceed with prosecution-as-usual.

Following the assessment of these criteria, officers have the discretion to issue the citation. At this point in the process, participants have a 7-day deadline to contact the behavioral health provider. Participants report to DISC Village, Inc. to undergo an intake process, which includes a comprehensive behavioral health assessment, drug screen, and development of an individualized behavioral intervention plan. All participants are required to complete requisite counseling sessions (typically ranging from 3 to 6 total), offense specific educational modules, 25 community service

hours, and pay a \$350 fee (which is consistent with the amount of fines and court-costs associated with a NTA or physical arrest) within a 90-day period. Fee payments can be extended or waived depending on the participant's ability to pay. No one is denied services for the inability to pay.

The behavioral health counselors at DISC Village, Inc. record participants' completion status by indicating whether they have conducted all required counseling sessions, have abstained from drugs, completed community service hours, completed all educational modules, and paid all fees. Counselors close the case by notifying the law enforcement agency which issued the original citation. Successful cases are closed without filing the charge with the state attorney's office, preventing participants from receiving a formal arrest record. The law enforcement agency is also notified if a participant has failed to complete the program, but a different legal process ensues. In these cases, the law enforcement agency processes the original charge with the state attorney's office for prosecution. The formal charges are issued, an arrest record is created, and the case undergoes prosecution-as-usual.

Participants who successfully complete the behavioral intervention component of the program experience several long-term benefits. First and foremost, successful completion is accompanied with avoiding a formal arrest record. Participants are also informed about the behavioral health conditions which likely contributed to the behavior leading to initial contact with law enforcement officers. In addition to holding adults accountable for their actions, examining these underlying reasons for their contact with law enforcement officials can initiate changes in behavior which would not have taken place if adults were simply required to appear in court and pay fines.

This initial assessment of the Leon Adult Pre-Arrest Civil Citation Program was designed to identify correlates between program completion and post-program arrest among participants who have been involved in the program. Given the program's emergent status and the growing momentum behind pre-arrest diversion alternatives throughout the country, this early assessment can help refine these approaches. Not only can the Leon Pre-Arrest Adult Civil Citation Program improve its existing practices, but other pre-arrest diversion programs can utilize these results to guide practices which serve first-time adult misdemeanor arrestees.

Methods

Prior to beginning this project, a research protocol was reviewed and approved by the Institutional Review Board at Western Carolina University (project #1197348-1). Data for the current analyses were collected directly from participants in the Pre-Arrest Adult Civil Citation Program, beginning with an intake assessment and concluding with an exit interview. This information is contained in participants' case files, with program completion status recorded in the form of a letter addressed to the citation issuing agency. These paper files were scanned to create electronic files, which were entered into a database and analyzed with STATA 15 statistical software.⁹

Between the program's inception in March 2013 and the most recent data collection in October 2017, 1290 adults participated in the Pre-Arrest Diversion Adult Civil Citation Program in Leon County. Out of these cases, 114 participants failed to contact the program after receipt of the citation. The citation contained demographic background information, but this group's failure to report to the program precluded the collection of additional programmatic assessment data. An additional 159 participants did not have case file information related to drug screen results, behavioral health assessment data, or demographic information such as age, gender, or racial background, which led to their omission from the current analyses. The final sample available for the current study was comprised of 1017 participants.

Adults who participated in the program ranged in age from 18 to 69 years, and were nearly 24 years old, on average ($M = 23.6$, $SD = 8.2$). The program has seen a nearly identical split in

terms of gender with 51% female participants and 49% male participants. With regard to race, the largest proportion (50%) of participants were Black or African-American, followed in sequence by White (45%), Hispanic (4%), Asian (1%), and participants who identified with a different racial or ethnic background (1%).

Participants were referred to the Adult Civil Citation program for a variety of offenses. The vast majority of participants were referred for petit theft (50%). This was followed in sequence by possession of marijuana under 20 g (27%), possession of alcohol under 21 years of age (10%), non-domestic simple battery or non-domestic simple assault (5%), possession of drug paraphernalia (3%), trespass (2%), criminal mischief (2%), and disorderly conduct (<1%).

The comprehensive behavioral health assessment conducted during the initial intake interview involves the administration of the Global Appraisal of Individual Needs (GAIN) instrument.^{10,11} Participants are asked questions related to emotional health, behavioral health, substance use, and involvement in activities related to criminal behavior, such as physical fighting and property destruction. Each of these four domains is measured according to a series of five questions. Responses are summed and scored on a range from “Low” to “High.” Participants who report no involvement in any of these activities fall onto the “Low” end of the scale. Consequently, additional behavioral health intervention services are not required for this group. Participants who score “Moderate,” represented by the endorsement of one or two items, are informed of a possible problem area and the potential benefits of additional outpatient intervention services. Participants who score “High” on the assessment are deemed likely to meet formal diagnostic criteria and likely require formal intervention. The treatment plan for this group may include referral to highly qualified behavioral healthcare providers.

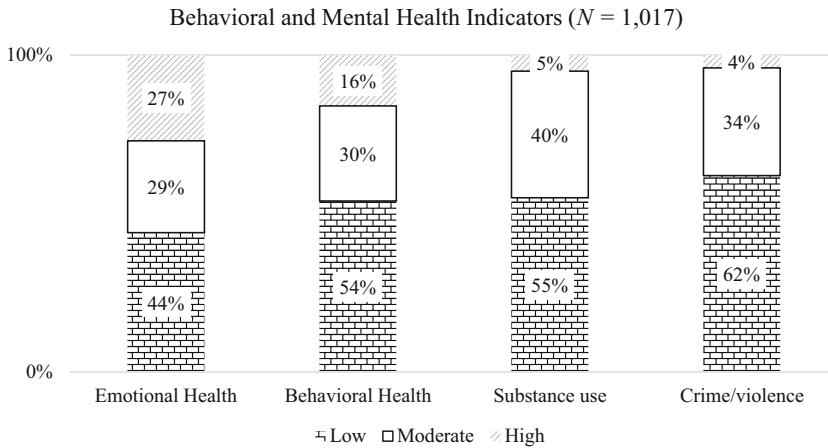
Data were also drawn from official arrest records to assess participants’ post-program arrest status. Analysts at The Florida Department of Law Enforcement’s (FDLE) Statistical Analysis Center queried the state arrest database to create a binary indicator of whether or not a participant was arrested at any point after initiation of the program. This arrest measure included any formally documented arrest which took place during or after the 90-day period when participants were actively engaged in the program. In other words, any arrest which took place after the participant received the original citation leading to their initial referral to the program was documented.

Results

Participants in the Leon program scored relatively low in each of the GAIN domains, which are presented in Figure 1. Approximately half of participants were classified with low risk pertaining to behavioral health (54%) and substance use (55%) according to scores recorded with the GAIN instrument. Slightly less than half (44%) of participants were classified with low risk related to emotional health and nearly two thirds (62%) fell into the low risk category as it related to the propensity of crime or violence. The largest proportion of high risk classification came in the form of participants’ emotional health, indicating many would benefit in this domain from the intervention programming delivered through the Pre-Arrest Adult Civil Citation Program. In comparison, marginal proportions of participants fell into the high risk category for substance use (5%) and crime/violence (4%). A sizable proportion of participants fell into the moderate risk category across all four domains, indicating many could benefit from the individually tailored intervention services delivered through the diversion program.

The program has maintained a high success rate for the duration of its operation.¹² In fact, 8 out of 10 (84%) participants successfully completed the program and avoided a formal arrest record. Among the 16% who did not complete the program, more than half (54%) did not initiate contact with the program, which is interpreted as a failure to appear. The other

Figure 1
Behavioral and mental health indicators (N = 1017)

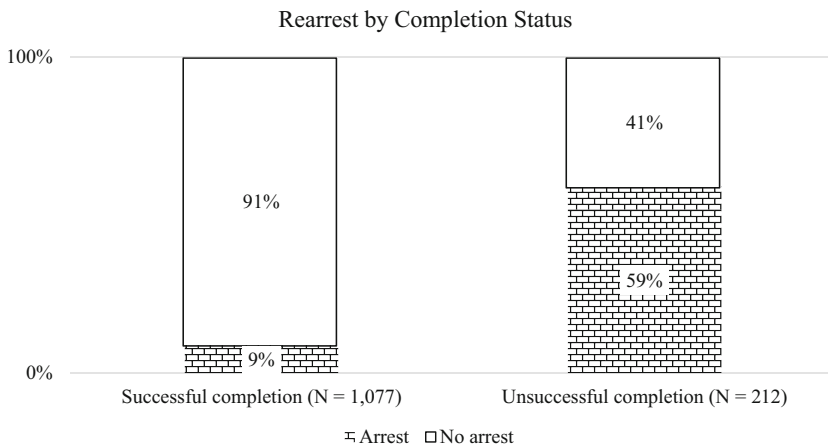


most prevalent reasons for failure to complete the program included failure to comply with the requirements (34%) and being arrested while actively completing the program requirements (12%).

Participants' subsequent contact with the criminal justice system was assessed in the form of formal arrest. A query revealed 18% of the 1289 total Adult Civil Citation participants (including those who failed to make contact with the behavioral health provider after issuance of the citation) had been arrested after their involvement in the program.

A detailed analysis of these arrest rates by program completion status, presented in Figure 2, demonstrates a significantly larger proportion of unsuccessful completers were arrested compared to the number of participants who successfully completed the program ($\chi^2(1) = 308.10, p < .001$,

Figure 2
Rearrest by completion status



Cramér's $V = .49$, Fisher's $= < .001$). Specifically, more than half (59%) of unsuccessful completers were rearrested compared to 9% of successful participants who were rearrested.

It is important to note the 114 participants who failed to contact (i.e., failure to appear) the behavioral health program after receipt of a citation were significantly different in a number of ways compared to those who proceeded to contact the program. A larger proportion ($\chi^2(1) = 4.29$, $p = .038$, Cramér's $V = .06$, Fisher's $= .04$) of participants who did not actively participate in the program were male (60%) compared to the group who did report to the program (40%). A significantly ($\chi^2(1) = 111.95$, $p < .001$, Cramér's $V = .29$, Fisher's $< .001$) larger proportion of the group which failed to report to the program (54%) was subsequently arrested compared to the group (14%) which participated in the program. The two groups were similar in terms of age ($t(1,171) = 0.77$, $p = 0.442$), race/ethnicity ($\chi^2(4) = 2.85$, $p = .583$), and offense type ($\chi^2(6) = 4.03$, $p = .673$).

Further examination of the relationships between participants' behavioral health indicators and program outcomes was conducted according to program outcome status. Four groups were created utilizing a combination of program completion status (i.e., successful or unsuccessful) and post-program arrest (i.e., arrest versus no rearrest). The group which successfully completed the program and was not arrested after completion (Successful-No arrest, S/NA) was the largest ($N = 844$) and also served as the comparison group given the optimal outcomes experienced by these participants. There were a fair number ($N = 94$) of participants who successfully completed the program, but also came into subsequent contact with the criminal justice system. This group was labeled the Successful-Arrest (S/A) group. The third, and smallest ($N = 23$), group was comprised of participants who failed to complete the program, but avoided post-program arrest. The final group, which contained 56 participants, failed to complete the program and also experienced a post-program arrest. Demographic background information, offense type, and behavioral health indicators are reported by outcome group in Table 1.

The F/A group demonstrated the highest levels of risk across a number of different factors. Compared to the S/NA group, the F/A group was disproportionately comprised of more male participants ($\chi^2(1) = 9.82$, $p = .002$, Cramér's $V = .10$, Fisher's $= .002$) and was more likely to have submitted a positive drug screen ($\chi^2(1) = 18.44$, $p < .001$, Cramér's $V = .14$, Fisher's $< .001$). The

Table 1

Demographic information and behavioral health indicators according to outcome group

Variable	Successful–No Arrest (S/NA) ($N = 844$) M (SD)/%	Successful– Arrest (S/A) ($N = 94$) M (SD)/%	Failure–No Arrest (F/NA) ($N = 23$) M (SD)/%	Failure– Arrest (F/A) ($N = 56$) M (SD)/%
Age	23.6 (8.2)	24.5 (9.7)	24.4 (8.9)	21.6 (4.2)
Female	53.7	42.6	21.7**	32.1**
Positive drug test	18.9	30.1**	39.1*	42.9**
White	44.9	40.4	56.5	41.1
Drug offense	30.1	27.7	34.8	30.4
Petit theft	50.2	53.2	39.1	50.0
Other offenses	19.3	19.2	26.1	19.6
High emotional risk	25.4	31.9	30.4	41.1*
High behavioral risk	13.9	23.4*	13.0	32.1**
High substance-use risk	4.7	5.3	8.7	14.3**
High crime risk	3.1	4.3**	4.3	12.5**

* $p < .05$; ** $p < .01$ in comparison to the Successful-No Arrest (S/NA) group

F/A group also presented greater behavioral health risks relative to the S/NA group. Specifically, the larger proportions of the F/A group fell into the group with greater emotional health risk ($\chi^2 (2) = 6.83, p = .033$, Cramér's $V = .09$, Fisher's = .04), behavioral risk ($\chi^2 (2) = 14.04, p = .001$, Cramér's $V = .12$, Fisher's = .002), substance-use risk ($\chi^2 (2) = 11.95, p = .003$, Cramér's $V = .12$, Fisher's = .005), and propensity for crime ($\chi^2 (2) = 21.07, p < .001$, Cramér's $V = .15$, Fisher's $< .001$) relative to the S/NA group.

There were three significant differences observed between the S/A group and the S/NA group. The S/A group was more likely to test positive for recent drug use relative to the S/NA group ($\chi^2 (1) = 7.44, p = .006$, Cramér's $V = .09$, Fisher's = .01). Larger proportions of the S/A group also fell into the high risk categories for behavior ($\chi^2 (2) = 7.32, p = .026$, Cramér's $V = .08$, Fisher's = .029) and propensity for crime and violence ($\chi^2 (2) = 12.50, p = .002$, Cramér's $V = .12$, Fisher's = .002) compared to the S/NA group.

Two significant differences between the F/NA group and the S/NA group were observed. Compared to the S/NA group, the F/NA group contained a larger proportion of male participants ($\chi^2 (1) = 9.20, p = .002$, Cramér's $V = .10$, Fisher's = .003), as well as a larger proportion of participants who submitted a positive drug test ($\chi^2 (1) = 5.81, p = .016$, Cramér's $V = .08$, Fisher's = .028). There were no statistically significant differences for all other variables between these two groups.

Discussion

These current program assessment data highlight the success of the majority of Pre-Arrest Adult Civil Citation participants who enter the program. This observation is important for a number of reasons, with the most notable finding being the large number of adults who have avoided the social stigma associated with arrest and prosecution through the criminal justice system. Such a high completion rate also indicates most adults who enter the program complete the community service hours, abstain from drug use, complete counseling sessions, and pay the fees required to complete the program. This is also testament to law enforcement officers who effectively divert adults charged for the first-time for misdemeanor offenses to the care and supervision of a community behavioral health provider, which facilitates the delivery of behavioral health intervention services to a population which was previously overlooked. The criminal justice system is also relieved of the burdens related to processing these cases, and adults can reflect on the behavioral factors which may have been related to the activities leading to contact with a law enforcement officer.

Another important finding is related to the low post-program arrest rate, especially among successful completers. The vast majority of successful completers avoid subsequent arrest, emphasizing the importance of providing an alternative to arrest for adults who are unlikely to be persistent offenders. This is especially the case for this group of adults charged the first-time for a misdemeanor offense.

The two failure groups (F/NA, F/A) were comprised of significantly larger proportions of male participants compared to the S/NA group. This is consistent with criminological research which has demonstrated male adults consistently exhibit greater recidivism risk compared to female adults.¹³ Considering this important finding, the adult civil citation program might explore gendered intervention programming options or enhanced retention strategies for male participants who exhibit the highest risks for program failure and post-program arrest.

There were higher rates of positive drug tests among three of the groups (S/A, F/A, and F/NA) relative to the S/NA group. A positive drug test at program initiation may be a cardinal indicator of future arrest, but it may also be one of many factors which are representative of a substance use disorder. This may be most important for the F/A group, which also scored significantly higher than the S/NA group on the substance-use risk scale. These two findings, in combination, suggest

the F/A group may be significantly more likely to experience diagnosable substance use disorders. Participants who submit a positive drug test and score in the high range for substance use disorder risk likely require intervention services above and beyond those offered through the Adult Civil Citation Program to address factors which contribute to the increased likelihood of recidivism.

Most of the noteworthy findings characterize differences between the groups which experienced a post-program arrest and the S/NA group, but the results related to offense type deserve mention for the lack of differences observed between these groups. For example, participants who received a citation for petit theft did not experience a significantly elevated or reduced likelihood of successful program completion or arrest. In other words, although participants who entered the program for petit theft were not proportionally represented in each of the four completion-arrest groups, these differences were not statistically significant. There was also a lack of a significant difference in the likelihood of program success for the other offense groups (i.e., drug offense and other offenses), indicating positive or negative outcomes were no more or less likely for any offense type. Based on this evidence, adults experience similar odds of success regardless of which one of the 11 offenses led to their referral to the pre-arrest diversion program.

The final set of results was related to the behavioral health indicators associated with negative outcomes. The F/A group scored highest on the emotional, behavioral, substance use, and crime/violence indices compared to the S/NA group. This is not an alarming finding given the highest risk participants were also the most likely to be arrested, but it does raise some questions about ways to enhance intervention services for this group. At first glance, recommendations may include increasing the intervention services for participants who score in the high range on these three domains, but there may be participants who score in the moderate range who also need additional services. A follow-up investigation should be conducted to identify gradations of risk within the F/A group to inform better practices which can reduce the likelihood of program failure and post-program arrest.

The results from these analyses highlight the factors associated with program outcomes among participants in the Leon Pre-Arrest Adult Civil Citation Program, but there are some important limitations to consider. For instance, the arrest data gathered from the statewide database allowed for an examination of post-program law enforcement contact within Florida, but these data do not include arrests made outside of the state. Future work should include a broader assessment of arrest to confirm the post-program recidivism rates observed in the current data match nationwide arrest records. It is also important to note the Leon Adult Civil Citation Program currently does not conduct end-of-program behavioral health assessments. Although some criminal justice programs have demonstrated the importance of pre- and post-program assessments,¹⁴ current practices preclude the ability to examine changes in risk as they relate to these outcomes.

It is also important to recognize participants who failed to report to the program could not be included in these analyses given the lack of information in these case files. Participants who were eligible but failed to report may represent a unique segment of the population which is at greater risk for persistent contact with the criminal justice system. Although this type of project would demand a substantial amount of resources, future research is needed to follow-up with the failure-to-report group to identify the specific reasons why these participants did not engage with the program.

The greatest limitation of this work is related to the absence of a comparison group of adults charged with misdemeanor offenses which experienced prosecution-as-usual. It is possible that such a comparison group would be as successful as the participants in the Civil Citation Program, despite any observable impact attributable to the behavioral health intervention. On the other hand, the services offered by this program may play an important part in significantly reducing future contact with the criminal justice system relative to most other diversion programs. The vast majority of front end criminal justice diversion programs which serve this population of adults do not provide any behavioral health services to those who may be charged for the first time with a misdemeanor offense. This is the underlying reason why additional research must be conducted

with a comparable group of adults who were charged with similar offenses and not offered behavioral health services to assess the broader impact of this type of program. If the Pre-Arrest Adult Civil Citation Program is more effective at reducing future criminality due to its ability to improve behavioral health, we will observe these benefits along with lower arrest rates relative to adults in a comparison group who were prosecuted-as-usual.

Additional research should also examine the extent to which there are constellations of factors associated with elevated risk for program failure and post-program arrest. The results presented here suggest there may be several indicators of a higher probability of program failure and arrest, including a positive drug test, higher emotional risk scores, higher behavioral risk scores, higher substance-use risk scores, and greater risk for future criminality. These factors may be inter-related and work together to magnify the risk of poor program outcomes.

Although there is much more to be learned from the Leon Pre-Arrest Adult Civil Citation Program, these initial findings offer great promise for its ability to deliver innovative and effective criminal justice practices. The majority of adults successfully complete the program, offering a second chance by avoiding a formal arrest record. The delivery of intervention services also brings to participants' attention some of the behavioral health factors which can help prevent future criminal justice contact. Continued research and empirically informed refinements have the potential to enhance participant success rates, support program expansion into additional judicial circuits, and offer this alternative to arrest to more adults.

Implications for Behavioral Health

The data collected from Leon Pre-Arrest Adult Civil Citation Program participants suggests pre-arrest diversion can be an effective law enforcement approach, but they also highlight the need to deliver behavioral health services to this population. First-time adult arrestees are not viewed as threats to public welfare, but providing appropriate assessments and relevant services can help to bring previously overlooked needs to the attention of adults who enter the program. The Leon Pre-Arrest Adult Civil Citation program represents an innovative method to assess and deliver behavioral health services while simultaneously preventing an arrest from being recorded on participants' permanent record.

Compliance with Ethical Standards

Conflict of Interest The author declares that he has no conflict of interest.

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