



National Best Practices regarding Due Diligence prior to Referral of Status Offenders to Court:

Across the country there have been numerous reform efforts to decrease the number of children who are referred to status offender systems. Many of these reforms focus on due diligence efforts that can be strengthened within schools and other referring entities. In many states, like Louisiana, the majority of status offense referrals come from schools. Therefore, the following recommendations focus on school reform but can be applied broadly to status offender referring entities. The success of the due diligence reforms depends on 1) establishing sound *policies* (enacted via legislation or some other means), 2) effective *implementation* and enforcement of the policies, and 3) tracking *results*. Below we describe three successful models (2 national and 1 local) for decreasing referrals of youth to status offender systems.

Clayton County, Georgia: Led by Judge Steven Teske, Clayton County, Georgia has, in the last decade, been leading the nation in decreasing the number of children referred out of school. Clayton County reduced the number of referrals from schools to law enforcement by bringing community members together to create a cooperative agreement that spelled out specific action steps. The need for reform was obvious: in the late 1990's there were only 89 referrals per year from schools to law enforcement, by 2004, after placing school resource officers in the schools, there were 1400 referrals.¹ This extremely high-referral rate and the negative impact of court involvement led Judge Teske to form a collaborative with community members, law enforcement, juvenile justice system professionals, local school system leaders and social service groups to create a cooperative agreement that would reduce the referrals of children from school to law enforcement.²

The resulting cooperative agreement includes *policy* that ensures that "misdemeanor delinquent acts," like fighting, disrupting the public school, disorderly conduct, most obstruction of police, and most criminal trespass, do not result in the filing of a complaint unless the student commits a third or subsequent similar offense during the school year, and the principal conducts a review of the student's behavior plan. Thus, youth receive warnings after a first act and referral to mediation or school conflict training programs after a second act. Furthermore, elementary school-aged youth cannot be referred to law enforcement for "misdemeanor delinquent acts" if committed on school premises.³ The *implementation* of the cooperative agreement was successful because of initial and ongoing buy-in from the school district and other parties. The community agreed to abide by the cooperative agreement, and apparently did with great *results*. According to a Blue Ribbon Commission, among the reduced referrals (a more than 300% reduction in referrals) there was an 87% decrease in fighting offenses and a 36% decrease among other "Focus Acts," which include disorderly conduct, obstruction of an officer, and disrupting a public school.⁴ There was also an 86% and 64% decrease in referrals for

¹ <http://www.stopschoolstojails.org/clayton-county-georgia.html>

² Advancement Project, *Test, Punish, and Push Out: How "Zero-Tolerance" and High-Stakes Testing Funnel Youth into the School-to-Prison Pipeline*, 37 (January, 2010).

³ <http://www.stopschoolstojails.org/clayton-county-georgia.html>

⁴ Blue Ribbon Commission on School Discipline: A Written Report Presented to the Superintendent and Board of Education, 37 (available at <http://www.clayton.k12.ga.us/departments/studentervices/handbooks/BlueRibbonExecutiveReport.pdf>) (January 2007).



fighting and disruption of public school offenses, respectively, specifically for African American youth. Since the cooperative agreement was implemented, graduation rates also increased by 20%.⁵ In addition, similar models have been instituted across the county, most notably in Jefferson County, Alabama, with similar success.

Denver, Colorado: Since 2003, Padres y Jovenes Unidos has led a campaign to change disciplinary policies and practices within Denver Public Schools (DPS).⁶ The project began when parents and students raised awareness about the number of youth being referred out of school and decided to address the issue with Denver Public Schools. Padres y Jovenes Unidos brought together teachers, principals, parents and community members to revise Denver Public School policies in time for the 2008-2009 school-year. The revised *policies* required: 1) school officials to handle minor acts of misconduct, such as status offenses, within the school setting; 2) out-of-school suspension to be based upon serious misconduct, which excludes status offenses, and even for the most serious misconduct out-of-school suspension is discouraged; 3) schools to eliminate racial disparities in punishment; 4) data to be tracked and reported.⁷

The *implementation* succeeded because Denver Public Schools adopted the recommendations as official policy. Some of the *results* include a 68% reduction in police “tickets” within Denver Public Schools, and a 40% reduction in the use of out-of-school suspensions.⁸ The work also led to the creation of legislative task force to study school discipline. The task force has proposed a bill that would, among other things, distinguish minor violations from those that could result in a referral to law enforcement and add legal strength to the policy reforms.⁹

Rapides Parish, Louisiana: Currently, Louisiana has no state wide model, however in addition to the two national models described above, Louisiana can be proud of the efforts in several jurisdictions that have endeavor to reduce the number of youth referred to the FINS system, and implement best practice models. One of these is the reform work in Rapides Parish. Judge Patricia Koch led the way by bringing together the school board and superintendant with law enforcement and other juvenile justice actors to reform the policies and procedures of their FINS. The new FINS policies and procedures have diverted youth from the juvenile justice system in a variety of ways, including limiting school referrals, particularly for status offenses.

The *policy* reforms led to a 3-tiered approach in the Rapides school system requiring the following steps prior to a school referring youth to law enforcement: 1) the parent must be notified of the problem verbally and made aware that the youth is at risk of being referred out of school, 2) youth must have been referred to either a Behavior Strategist, if a special education student, or to a Designated Disciplinarian. The individual working with the student must then complete a school exhaustion form

⁵ <http://www.stopschoolstojails.org/clayton-county-georgia.html>

⁶ <http://www.stopschoolstojails.org/padres-jovenes-unidos-denver.html>

⁷ Advancement Project, *Test, Punish, and Push Out: How “Zero-Tolerance” and High-Stakes Testing Funnel Youth into the School-to-Prison Pipeline*, 35 (January, 2010).

⁸ <http://www.stopschoolstojails.org/padres-jovenes-unidos-denver.html>

⁹ <http://www.colorado.gov/cs/Satellite?blobcol=urldata&blobheader=application%2Fpdf&blobkey=id&blobtable=MungoBlobs&blobwhere=1251744086285&ssbinary=true>



and ensure that all possible measures were taken within school prior to referral to FINS, and 3) if criteria are met, an eligibility determination must be made prior to referral.

The school board and superintendent were on board with the reforms and closely worked with court to *implement* these new policies and practices. Additionally, even after referral from schools or another entity, the FINS Officer checks for legal sufficiency of the referrals to verify the complaint meets the legal grounds (e.g. for truancy or other grounds). The FINS Officer also ensures that schools do not make referrals under the ground of “ungovernable” as this is not valid from schools. All of these steps must be accounted for on the Rapides Parish School Exhaustion Form.

The *results* in Rapides are truly inspiring and have led to: reduction in out of school referrals, fewer students referred to FINS, and more students with disabilities staying in school longer. In terms of numbers, Rapides Parish expulsion rates decreased from 152 in the 2006-2007 to 59 in 2009-2010 school years and suspension rates decreased from 515 in the 2006-2007 school year to 333 in 2009-2010 school year.

Relevant and Available Louisiana Data:

Louisiana data related to the numbers of referrals from schools in Louisiana helps underscore the importance of reform efforts around due diligence. Based on data reported by the Louisiana Supreme Court, there were 11,269 referrals to Informal FINS in Louisiana in 2010. The most common referral source for Informal FINS statewide was schools (68.1%) and the most common reasons for referral were truancy (55%) and ungovernable behavior (28%). There is no statewide education data that was available to track this from the state’s perspective. Rapides Parish School System did track data in collaboration with the Court.

Additionally, as part of the Louisiana Models for Change (La-MfC) initiative, the University of New Orleans has collected data on Informal FINS referrals in Rapides parish that evidence the impact of the reforms. Across three years in Rapides parish (2007 – 2009), there were 1095 referrals to Informal FINS and referrals decreased by 28% from 2007 - 2009. In Rapides, this decline was largely due to a 49% drop in school referrals. In Rapides parish, ungovernable was the most common behavior leading to referral (62.1%) from 2007-2009. Because the definition of “ungovernable” does not provide a clear description of the types of behaviors or problems being displayed by the youth, the University of New Orleans collected data from the files of all youths referred to Rapides parish Informal FINS for ungovernable behavior (n=186) in 2009. The primary referral sources for youths referred for ungovernable behavior were the family (46.4%) and school (33.8%). Disobedience at home (e.g., talks back, won't listen, doesn't follow rules) and disobedience at school (e.g., talks in class, violates school rules) were the most common behaviors/problems displayed by youths referred to Informal FINS for ungovernable behavior. Referrals to FINS from schools cannot be based on “ungovernable” behavior and educating Rapides parish schools about this fact also led to fewer referrals.¹⁰

¹⁰ *In the Interest of J.W.D., Jr.*, State ex rel., 921 So. 2d 1165 (La. Ct. App. 3d Cir. 2006) (The court held that schools are not “caretakers” under the Children’s Code and, therefore, evidence that a youth misbehaved at school did not support a finding that the youth was “ungovernable.”)

Policy reforms, effective implementation and tracking results were important elements of each of the three models described briefly above. Legislation is another tool that can be used to bolster reform and it will be interesting to see what happens with the bill proposed in Colorado. Other model states have used legislation successfully to solidify due diligence reform. Connecticut, New York, and Florida have passed legislation that require the school system to take certain steps to address the needs of the child and avoid referral. These steps provide a buffer between schools and the status offender system to ensure that youth receive all possible services within the school before they are referred out. In Connecticut schools are required to perform an educational evaluation of any child who is “habitually truant” to determine if there are unmet educational needs prior to referring the child to the status offender system.¹¹ Florida has a provision in its statute requiring the school to name the efforts it has made to get the child to attend school and to list the number of contacts the school has made with the child’s family.¹² In New York, when alleging chronic truancy, the school must include the steps it has taken to improve attendance and/or the conduct of the child in its referral to the court.¹³

Sample Statute: Fla. Stat. § 984.151 (4)

(4) The petition must contain the following: the name, age, and address of the student; the name and address of the student’s parent or guardian; the school where the student is enrolled; ***the efforts the school has made to get the student to attend school; the number of out-of-school contacts between the school system and student’s parent or guardian;*** and the number of days and dates of days the student has missed school. The petition shall be sworn to by the superintendent or his or her designee.

There are numerous reforms states could make related to the steps agencies should take prior to referring a child to the status offender system. These reforms could be done through policy change, practice reforms, and/or legislation. States might adopt a “due diligence statute” as defined earlier in the Lead Entity section. Legislation should mandate certain steps be taken by the schools before referral can be made to the status offender system for truancy and other undesirable behaviors.

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¹¹ See CONN. GEN. STAT. § 46b-149(e) (2011).

¹² See FLA. STAT. § 984.151 (4)(2011).

¹³ See N.Y. FAMILY COURT LAW, Part 3 § 732(a)(McKinney 2011).

Implementing Due Diligence

Louisiana
FINS Commission
November 9, 2011

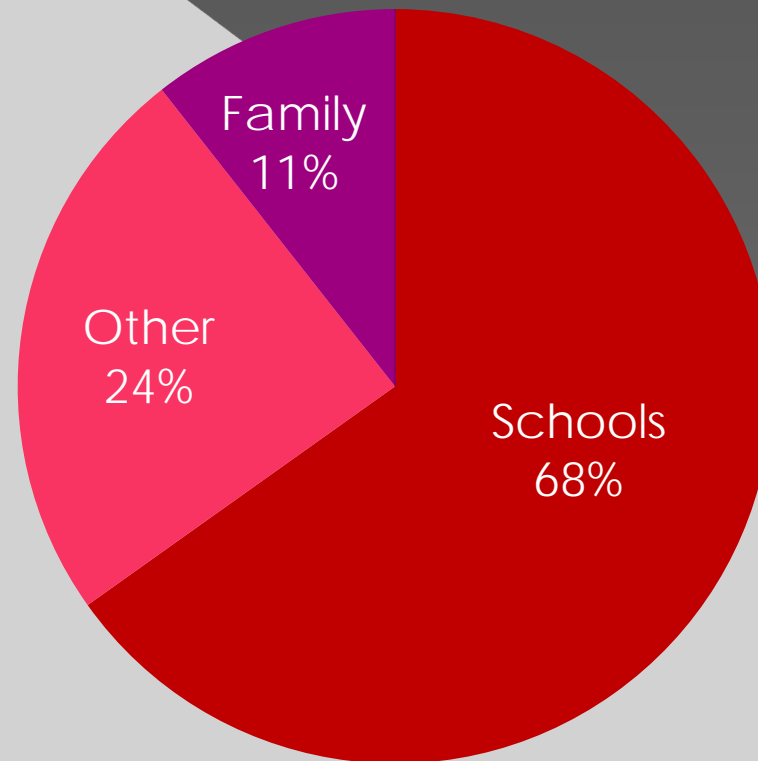
initiative, intervention, improvement

Referrals to informal FINS in Louisiana in 2010



#1 Source of referrals in Louisiana in 2010?

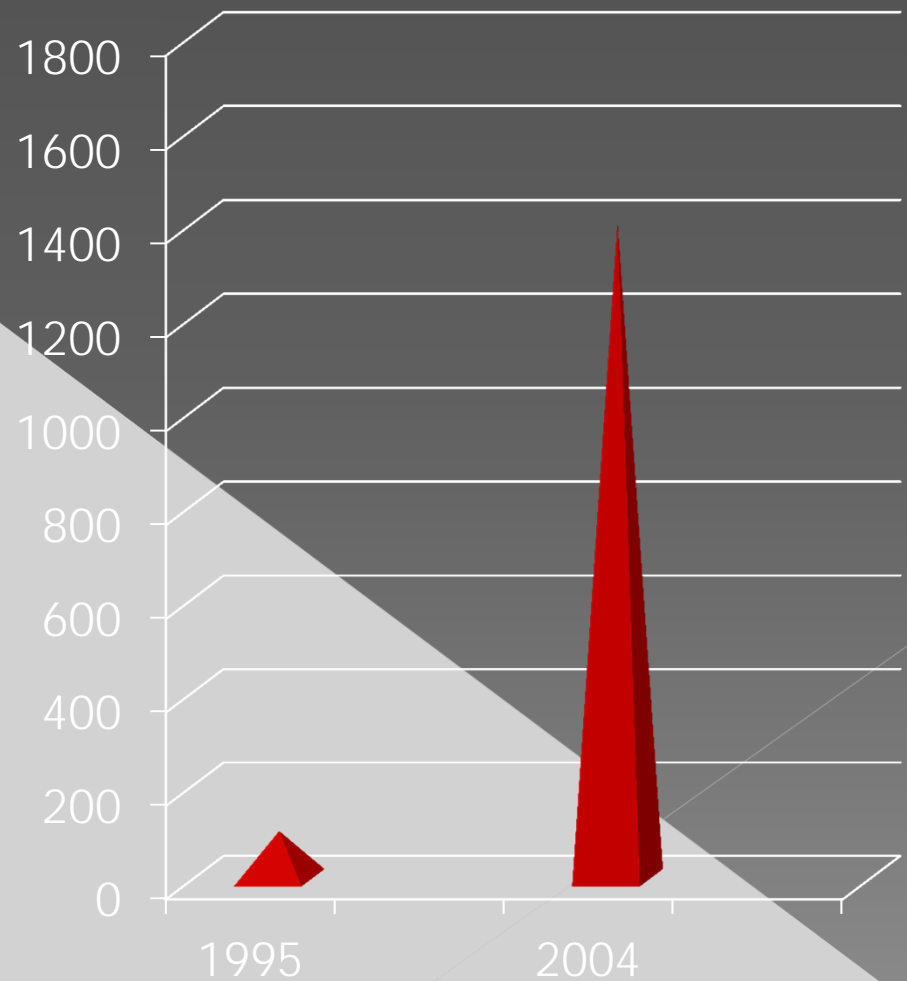
FINS Referrals



It is NOT just Louisiana

● Clayton County, GA

- > 1995 = 89 referrals from school
- > 2004 = 1400 referrals from schools



Reforms have decreased referrals from Schools

- > Clayton County, GA
- > Denver, CO
- > Rapides Parish, LA

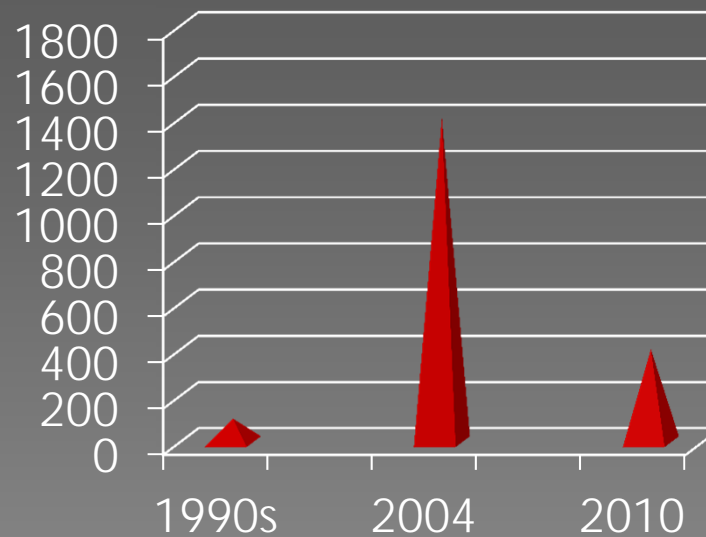
Clayton County, GA

Cooperative Agreement

Impact

- **COOPERATIVE AGREEMENT**

Community members, law enforcement, courts, schools, and service groups created a Cooperative Agreement to reduce referrals from Schools



Denver, CO

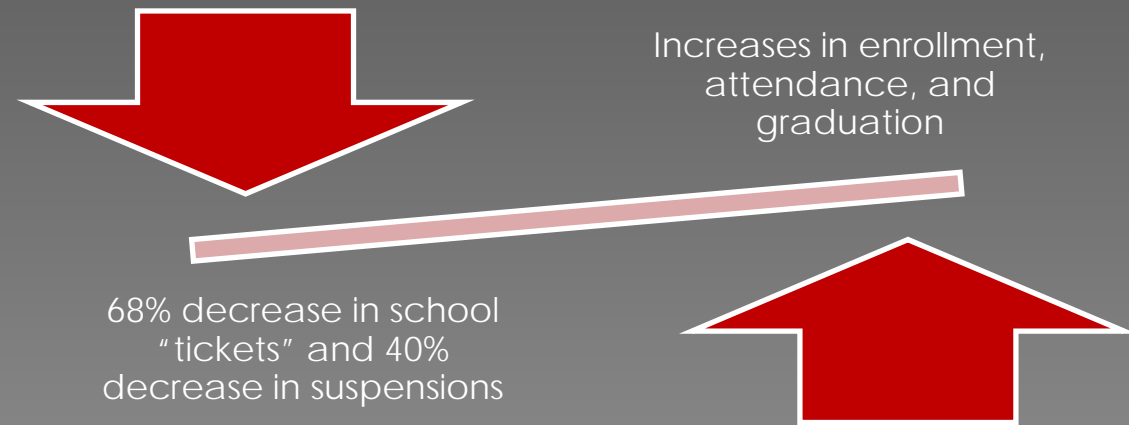
Policies

- POLICIES

Padres y Jovenes Unidos initiated a campaign leading to 4 new Denver Public School policies:

1. Misconduct to be handled WITHIN school setting
2. No out-of-school suspensions for status offenses
3. Eliminate racial disparities in punishment
4. Requirement to track and report data

Impact



Rapides Parish, LA

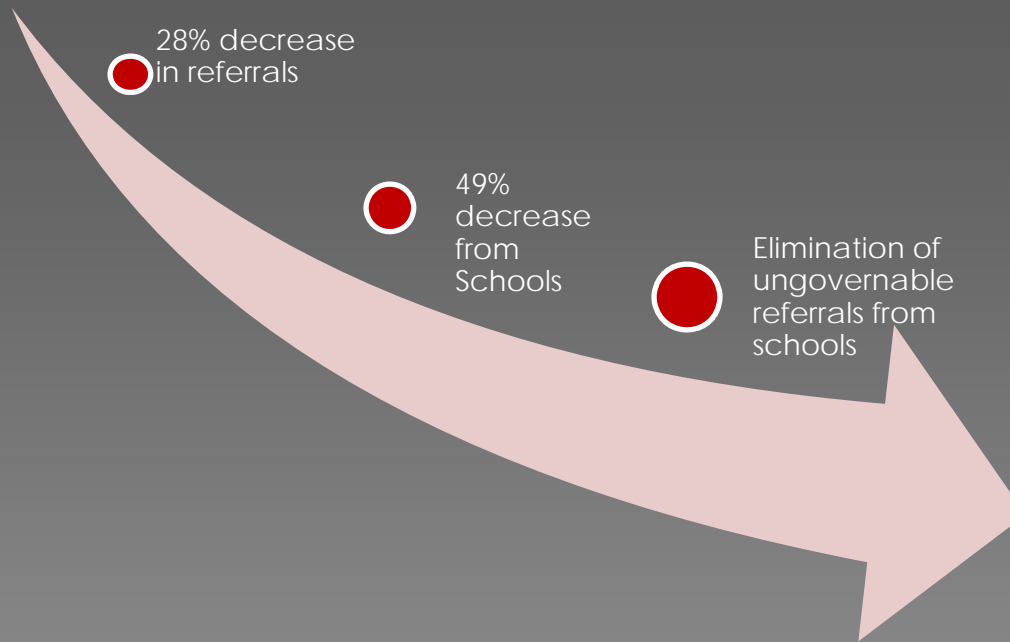
Practices

● PRACTICES

Rapides Schools and Courts worked together to establish a 3-tiered approach:

1. Verbal Parental Notice
2. Behavior Strategist and School Exhaustion Form
3. Eligibility Determination

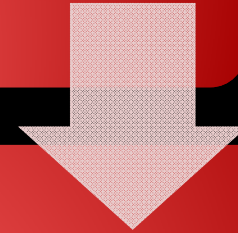
Impact



RECOMMENDATIONS

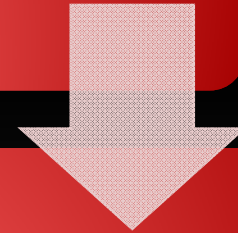
INITIATIVE

Collaboration with schools,
courts, communities



INTERVENTION

Cooperative agreement, policy
measures, school exhaustion



IMPROVEMENT

Use data to show success

Initiative, intervention, improvement

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