



Lessons on Front-End Diversion from Deschutes County, Oregon, and Summit County, Ohio

An Innovation Fund Case Study

Jesse Jannetta, Evelyn F. McCoy, and David Leitson

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Local jails admit nearly 11 million people every year, a number that has nearly doubled since 1978 (Subramanian, Henrichson, and Kang-Brown 2015). Jurisdictions across the country are thinking creatively about reducing their jail populations and offering community-based alternatives to incarceration in response to a multitude of factors such as state and county budgetary cuts, jail overcrowding, the emergence of evidence-based practices for intervention and recovery, overburdened courts, and research on the cost effectiveness of alternatives to incarceration. Front-end diversion efforts—occurring at initial contact with law enforcement—can prevent overuse of jail custody and the negative impacts that accrue from pretrial detention and acquiring or adding to a criminal record (Dobbie et al. 2016; Lowenkamp et al. 2013).

This case study, part of a series highlighting work supported by the Safety and Justice Challenge Innovation Fund, examines the experiences of Deschutes County, Oregon, and Summit County, Ohio, as they implemented front-end diversion interventions. Deschutes County designed and implemented a precharge program for people suspected of possession of a controlled substance, and Summit County issued summonses in lieu of a custodial arrest for people facing nonviolent, low-level felony charges.

This case study draws upon regular communication between the Urban Institute and Deschutes County and Summit County over the 15-month Innovation Fund implementation period from January 2017 to March 2018. It is also based on program observation, review of program materials, and analysis of eight semistructured interviews with 14 stakeholders working on the diversion initiative in Summit County and seven semistructured interviews with 12 stakeholders in Deschutes County.

BOX 1

The Safety Justice Challenge Innovation Fund

The John D. and Catherine T. MacArthur Foundation launched the Safety and Justice Challenge Network in 2015 to create fairer, more effective local justice systems. Twenty competitively selected jurisdictions received financial and technical support to rethink justice systems and implement data-driven strategies to safely reduce their jail populations. In 2016, MacArthur partnered with the Urban Institute to expand this network by establishing the Innovation Fund to test bold and innovative ideas on how to safely reduce the jail population while maintaining or enhancing public safety. Innovation Fund jurisdictions received small grant awards, light touch technical assistance, and access to the Challenge's peer learning network.

The Diversion Interventions

Deschutes County Clean Slate

Deschutes County, Oregon, is a mountain community that is home to 181,000 people, 91,000 of whom live in Bend, the county seat. A cross-agency committee (DeschutesSafe) that convened in June 2015 to review the biggest crime and social problems in the community identified drugs as the common thread connecting most of them. As part of the response, the Deschutes County District Attorney's (DA's) Office, supported by its Innovation Fund grant, launched Goldilocks, a three-tiered program for people charged with a drug offense. The Goldilocks design collaborative also included the Deschutes County Sheriff's Office, the four municipal police departments in the county, Deschutes County Community Corrections, Deschutes County Behavioral Health, and primary care providers the La Pine Community Health Center and Mosaic Medical. The DA's goal for the program was to identify the best intervention for each individual based on their crime and possible substance use disorder, and shift the prosecution strategy from over-punishing people for addiction-driven offending to connecting them to health care and substance abuse treatment that could generate better sobriety outcomes.

Goldilocks addresses drug offenses through a three-tiered approach, based on the nature of the alleged offense:

1. **Clean Slate¹ (diversion)** for people facing a possession of a controlled substance (PCS) charge. This prosecutor-initiated and law enforcement-implemented tier was the primary focus of the Innovation Fund work. The diversion tier has two goals: to minimize justice system responses to people charged with PCS offenses, and to identify via assessment people with serious substance abuse issues and encourage them to access services and resources to address their addiction (see appendix for the intervention case flow diagram).
 - » **Clean Slate Level I** provided people an opportunity to acknowledge a mistake and correct it on their own. Level I participants were not required to take any further action to avoid a formal charge, but were offered access to services if they desired them.

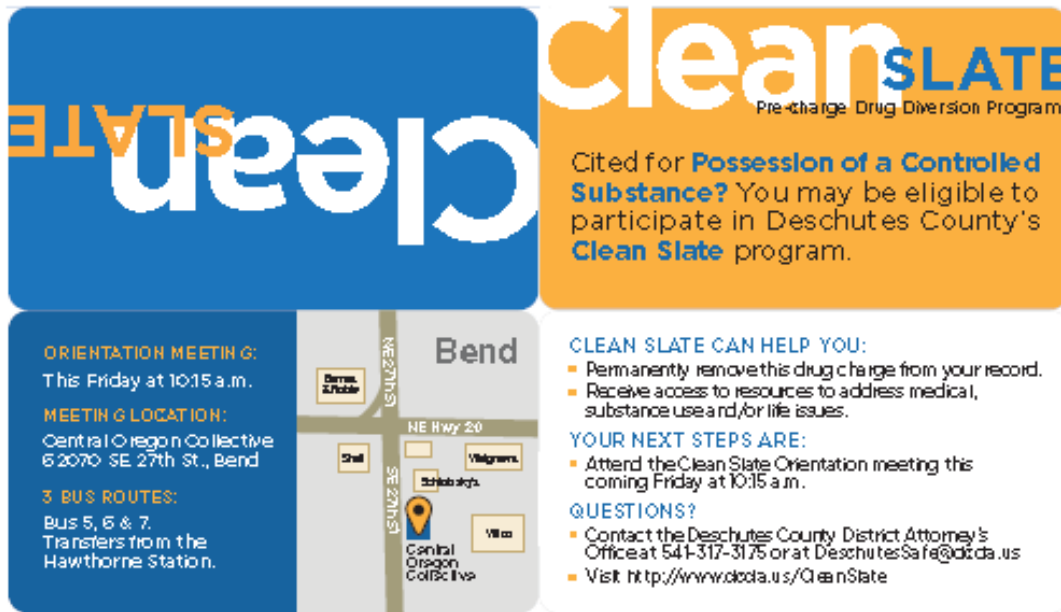
- » **Clean Slate Level II** was for people with substantial treatment needs and Level I participants who subsequently reoffended. Level II participants were required to engage with a primary care provider and complete treatment as recommended by their doctor. Participants who remained in compliance with their treatment for a year and avoided rearrest would not have their case charged, or if they entered the program after arraignment their charges would be dismissed and their arrest expunged.
- 2. **Boost (traditional prosecution)** for people suspected of PCS and another crime, noncommercial distribution or manufacturing of controlled substances offenses and Clean Slate Level II participants that do not comply with their treatment program. They are prosecuted in the traditional manner and may be eligible to enroll in the family drug court program or other post-charge diversion program.
- 3. **Deter (enhanced prosecution)** for the small number of people that have made a career out of drug distribution and manufacturing. More targeted and tougher charges are brought against these people.

Deschutes County defined the Clean Slate target population after a commissioned analysis indicated that approximately 400 people were arrested annually on PCS charges only, and 53 percent of those people were not rearrested within a year.

The diversion tier of Clean Slate starts at the initial contact with law enforcement, when officers inform people suspected of PCS about Clean Slate and refer them to the orientation meeting that occurs every Friday instead of arresting them (figure 1 is a copy of a referral card). Although people are still cited and given a court date, they can avoid traditional prosecution if they attend the Clean Slate meeting. The original plan was for all Clean Slate referrals to come from law enforcement, but the partners decided to allow referrals from court as well. Court referrals are for people identified as eligible at their arraignment, and for people who didn't attend orientation before their arraignment, to give them a second chance to participate.

FIGURE 1

Clean Slate Referral Card



At the orientation meeting, a representative from the Deschutes County DA explains the Clean Slate program. Attendees who are willing to participate sign a release of information (ROI), which facilitates data exchange to track participant outcomes; meet with a public defender; and have their need for substance abuse treatment assessed by a certified counselor using the Texas Christian University Drug Screen. Based on the results of the drug screen, participants are placed in Clean Slate Level I or Level II. The counselor also administers the Adverse Child Experiences Questionnaire and the Connor-Davidson Resiliency Scale to better understand participants' histories and needs.

All Level II participants have appointments made with a primary care provider at one of two federally qualified health centers (FQHCs), an Oregon Health Plan enroller (if needed), and/or a substance abuse treatment provider. Level II participants are required to attend the appointment with the primary care provider and comply with the treatment plan, which is developed by the doctor. Twelve months after the initial appointment, the doctor completes a final compliance assessment. If the participant has been compliant and has not been arrested again the case is dismissed, and if the case was charged, that record is expunged. People placed in Level I can also receive help connecting with a primary care physician but are not required to take any further action to avoid prosecution. Their cases are dismissed immediately.

Summit County Felony Summons

Summit County, Ohio, is a community of 541,824 people with a jail that can hold 666 people. Akron is the county seat. In the years before participating in the Innovation Fund, Summit County experienced significant state and county budget cuts that required the county to close parts of the jail. The reduction

in available jail beds resulted in overcrowding and placed significant pressure on the county to reduce its jail population.

Jail population reduction efforts included no longer housing people detained on or convicted of misdemeanor charges (except for a certain number of beds for misdemeanants that the city of Akron pays for directly) and establishing several collaborative entities to address jail capacity issues (i.e., the Jail Operations Advisory Commission and the Jail Capacity Subcommittee). One such effort is the felony summons program, focusing on reducing the 70 percent of the jail population detained before trial on felony charges.

Before the program, standard practice in Summit County was for law enforcement officers to arrest anyone charged with a felony violation and incarcerate him or her in the county jail, where the person would be held until arraignment in the municipal court of the arresting agency's jurisdiction. However, the Ohio Rules of Criminal Procedure allow for the issuance of a summons upon being charged with a felony offense.² A summons in lieu of arrest is a written order issued by the court or law enforcement official that requires someone with an alleged charge to appear in court.³

The felony summons program, led by the City of Akron Prosecutor's Office, encourages law enforcement officers to issue summons in lieu of arrest for nonviolent, low-level felony charges. The goal of the program is to reduce overcrowding in the Summit County jail. Ten agencies and jurisdictions participated in the program during the Innovation Fund grant period: Bath Township, the City of Akron, the City of Fairlawn, Humane Society of Greater Akron, Lakemore Village, Ohio State Highway Patrol, Springfield Township, Summa Protective Services, the University of Akron Police, and the Village of Richfield. About 43 percent of arresting agencies in Summit County participated in the felony summons program.

Under the felony summons guidelines and criteria provided to law enforcement officers, an arrest is presumed necessary for

- felony offenses of violence;
- felony weapon offenses;
- drug trafficking;
- first, second, and third degree felonies;
- any offense in which a law enforcement officer is the victim; and
- misdemeanor offenses of domestic violence, violation of a protection order, or menacing by stalking.

For all other felonies, it is presumed appropriate to issue a summons with a court date instead of placing someone in custodial arrest, although officers are allowed to exercise discretion. Mitigating factors can include the circumstances of the alleged offense, whether the person used or had access to a weapon, issues with confirming the potential arrestee's identity, whether the individual is already under community supervision or has a pending court case, and social factors such as family ties and

employment. Law enforcement officers who believe that arrest is necessary outside the guidance are recommended to contact a police legal advisor to obtain authorization for arrest.

Implementation Experience

Clean Slate in Deschutes County and the Summit County felony summons program shared broad similarities. Both interventions were initiated by prosecutors who led their design and implementation, and both relied on law enforcement officers to respond to alleged offenses, determine eligibility, and carry out the diversion response. The two interventions also differed significantly, largely in their motivations. Summit County wanted to use its limited jail beds efficiently and free up jail space to address violent offenses. Deschutes County was focused on reducing unnecessary custody and justice involvement, along with creating pathways to substance use treatment for people who needed it. These similarities and differences resulted in common and contrasting implementation experiences across the two interventions.

Prosecutorial leadership in Deschutes and Summit Counties collaborated within their communities to develop their interventions and build the consensus necessary to carry them out. Prosecutors in both jurisdictions were motivated by a desire to change what they believed were detrimental default assumptions embedded in their justice systems. In Deschutes County that assumption was using punishment rather than treatment to address drug dependency. In Summit County that assumption was that a felony charge necessitated an arrest and jail booking, despite the presumption of innocence. The City of Akron Prosecutor's Office began its process with the required stakeholders in Akron, by far the largest municipality in the county. The Deschutes County DA brought together a collaborative that went beyond justice system actors because the DA needed health care and treatment service providers involved to provide the pathway to treatment.

Securing the support of law enforcement agencies was essential, given their central role in carrying out the diversion intervention. This was facilitated in Summit County by the prior experience with summonses for misdemeanors, which had existed for 20 years, and by the prosecutor's office's longstanding role as the legal advisor for the Akron police department and other participating departments. In Deschutes County, the DA developed a consistent pitch for Clean Slate, which stakeholders characterized as: "We've got to try something different. Even if this doesn't work as we hope [they don't take advantage of the resources or follow through], we haven't lost anything—we just roll right back into traditional prosecution. You can't lose." This message was supplemented by the fact that Goldilocks had the Deter tier with enhanced prosecution for individuals engaged in commercial drug operations. The multi-tiered approach was persuasive law enforcement and fit with their experience that business-as-usual responses to drug crimes were ineffective. Both counties also ensured that their law enforcement partners had early opportunities to weigh in on the eligibility criteria for diversion.

A critical collaborative effort in the design of each intervention was defining eligibility. The straightforward, charge-based summons eligibility criteria in Summit County were established on the

understanding that officers would appreciate having clear definitions while being allowed to use discretion in the field. Deschutes County wanted to use Clean Slate Levels I and II for “low-level drug offenders” but needed to define those criteria more specifically for officers to use them. Deschutes County also considered using a simple risk assessment tool as an eligibility factor, but it ultimately concluded that anyone facing charges exclusively for PCS offenses should be eligible for Level I or II at least once, regardless of prior criminal history. Clean Slate stakeholders also recognized that substance abuse issues often drove other minor offending, such as theft. Several stakeholders, including those in law enforcement, expressed an openness during interviews to broadening the eligibility requirements to include people facing PCS charges in combination with other, minor low-level charges.

Once eligibility criteria were set, prosecutors from each county prepared law enforcement officers for their role on the diversion effort. In Summit County, the City of Akron Prosecutor’s Office attended Akron Police Department (PD) roll calls to apprise patrol officers of the summons option, the eligibility criteria, and the process for issuing summonses. Once the patrol officers were informed, the engagement was extended to special units and detectives. After Akron PD began implementing the felony summons program, the prosecutor’s office expanded it to other municipalities. Expansion began with securing support from the judges and prosecutors in each municipality, at which point the relevant law enforcement agency was onboarded in the same way as the Akron PD. The prosecutor’s office followed up with each participating law enforcement agency through check-ins at roll calls or at in-service trainings. In Deschutes County, DA John Hummel did the onboarding and training sessions for all officers in the participating law enforcement agencies. In addition to providing an overview of Goldilocks, and the Clean Slate diversion intervention to which they would be referring, he provided the cards to hand out, eligibility forms, cheat sheets, and bus passes for people who need transportation.

As Clean Slate was intended to provide a pathway to treatment for participants who needed or wanted it, Deschutes County partners had to plan for how they would engage participants in care. The connection to primary care became central in the process and offered the ability to engage participants in addressing needs they might be facing beyond substance abuse. Both FQHCs to which Clean Slate participants were referred for primary care were able to provide Medicaid-funded whole-person wellness services similar to case management. Medical providers in Deschutes County were motivated to participate because they saw Clean Slate as more beneficial to the community than the business-as-usual approach to drug offenses, and they believed that patients would do better if they didn’t have a criminal record. Summit County’s intervention did not require the development of anything so elaborate, but the county did add a felony appearance session to the afternoons in addition to the morning session to facilitate appearances for people issued a felony summons.

Changing standard justice practice can generate unanticipated problems. For instance, defender work in Oregon is funded on a per case basis through state contracts, and the Clean Slate intervention prevented cases from being filed. Reduced cases filed would therefore amount to a de facto cut in defender funding. The defenders reached out to the Oregon Office of Public Defense Services for approval, and ultimately the defenders participated in the Clean Slate orientation meetings and were compensated for doing so.

I'd like to see an annual report or success stories communicated to the PD to share with front-line staff that the diversion program is helping. Otherwise they only experience the failures.

—Deschutes County stakeholder

Law enforcement partners in Deschutes County emphasized the importance of accountability in maintaining officer support for Clean Slate. This accountability took two forms: consequences for people referred to Clean Slate who did not comply, and data and information fed back to them regarding how the program is going and what happened to the people they had referred. As one interviewee observed, “Individual success stories would help officers process and understand the importance of the role they play in this program...If we are getting good attendance numbers, officers will buy in.” Both counties developed and collected performance measures that would allow them to provide such information. Law enforcement stakeholders also stressed the importance of hearing about success stories, independently noting that drug court graduations provide such stories. They further observed that officers see the people who continue to get in trouble despite the diversion intervention, so failures are all visible to them, while successes are invisible. They also wanted to see successful prosecutions go forward for noncompliers, as well as the promised Deter prosecutions (the first of which happened in February 2018).

In addition to accountability in Deschutes County, law enforcement partners in Summit County emphasized the importance of officer discretion for sustainability of the felony summons program. The most frequent comment from Summit County patrol officers regarding the program’s success was the need to maintain its voluntary nature. As one interviewee remarked: “I would not recommend it if you’re forced to release people. If they give us the discretion so it’s a tool on our belt that we can utilize for our daily duties, yeah, but if you take it away our discretion, I’m not for it at all.” Interviewees expressed the belief that removing officer discretion would lead to the demise of the felony summons program.

Early Outcomes

Individual-Level Outcomes from Deschutes County

When designing Goldilocks, the Deschutes County DA’s Office estimated that 400 people annually would be eligible for enrollment in the Clean Slate tier. Between the launch of Goldilocks on November 17, 2017, and March 31, 2018, 121 eligible participants were referred to Clean Slate (table 1), a rate that put Clean Slate on pace to see 79 percent of the county’s estimated referral number in its first year. Of the people referred, 50 percent attended one of the 18 orientation meetings held during that period, and 58 of them chose to sign the ROI and participate. The Clean Slate planning team had estimated that 75 percent of Clean Slate enrollees would be placed at Level I based on their assessed level of need; in

practice, the majority of Clean Slate enrollees (53 percent) were assessed at Level II. Table 2 lists the demographic characteristics of Clean Slate participants.

TABLE 1
Clean Slate Participant Flow, November 17, 2017–March 31, 2018

Eligible people referred	121
Attended orientation meeting	61
Agreed to participate	58
Assessed Level I	27
Share who received appointment to enroll in Medicaid	7%
Share who have not recidivated	93%
Assessed Level II	31
Share who received appointment to enroll in Medicaid	11%
Share who have not recidivated	81%

Source: Deschutes County District Attorney’s Office.

TABLE 2
Demographic Characteristics of Clean Slate Participants, November 17, 2017–March 31, 2018

Male	59%
Female	41%
Unemployed	49%
Homeless	10%
Median age in years	32

Source: Deschutes County District Attorney’s Office.

Note: Valid N = 58.

With Clean Slate in operation for only 4.5 months through March 2018, none of the Level II participants had been enrolled long enough to successfully complete the program by staying arrest free for 12 months. Thus, no Level II participants had yet received the substantial compliance letters needed to have their cases dismissed or their records expunged. However, more than two-thirds (71 percent) of Level II participants were on the path to successful completion, meaning they had attended their first medical appointment or were scheduled to do so, and 19 percent had recidivated. Eleven Level II participants got an appointment to enroll in the Oregon Health Plan (OHP, Oregon’s Medicaid program).

Although there was no requirement that Clean Slate Level I participants see a primary care provider, half of them requested a meeting with one, and about a quarter also received an OHP appointment. The 17 who participated in Clean Slate before arraignment had their cases dismissed, resulting in no charge appearing on their record. The 10 Level I participants referred from court needed to have their cases expunged, which was scheduled to happen for them. As of March 31, 2018, 7 percent of Level I participants and 11 percent of Level II participants had recidivated.

Deschutes stakeholders reported that Clean Slate participants are enthusiastic about the program. Many hadn’t had medical care for years and were generally excited to be doing the program and have

that access. Medical providers felt that they could get people into drug treatment services faster via Clean Slate, as the behavioral health providers agreed to expedite this process. Clean Slate participants had their primary care appointment set within 8 days on average if they did not need to enroll in Medicaid, and within 17 days if they did need to enroll.

Individual-Level Outcomes from Summit County

Summit County issued felony summonses to 749 people from January 2017 through April 2018, with 79 percent of those summonses issued by the Akron Police Department, a proportion in line with the size of Akron relative to the other participating municipalities. The summoned population receiving a summons was predominately male (66 percent), young (74 percent below the age of 40 and 42 percent below the age of 30), and white (69.7 percent).

The vast majority of summonses were for fifth degree felonies, the least serious felony class in Ohio. Summonses were heavily used for the lowest level felony drug abuse charges: 70 percent of summonses issued during this period were for drug abuse in the fifth degree, and 72 percent were for drug abuse charges of any degree (table 3).

TABLE 3
Summonses by Charge and Felony Degree, January 1, 2017–April 30, 2018

	Count	Percent
Felony degree		
First	3	0.4
Second	10	1.3
Third	34	4.5
Fourth	66	8.8
Fifth	636	84.9
Charge		
Drug abuse	536	71.6
Theft	34	4.5
Drug trafficking	29	3.9
Receiving stolen property	27	3.6
Breaking and entering	12	1.6
Forgery	9	1.2
Tampering	9	1.2
Child endangerment	8	1.1
Operating a vehicle impaired	8	1.1
Improper handling	7	0.9
Domestic violence	6	0.8
Willful fleeing of police officer	6	0.8
Assault on a peace officer	5	0.7
Burglary	4	0.5
Harassment with bodily substance	4	0.5
Passing bad check	4	0.5
Permitting drug abuse	4	0.5
Unauthorized use of motor vehicle	4	0.5
All other charges	33	4.4

Source: City of Akron Law Department.

Notes: Valid N = 749. For instances in which there were multiple charges, the most serious charge is counted.

We found that the offenses that fall into that category of you should arrest someone, those aren't the ones that people get into fights with the officer with. We found that it's many of the discretionary arrests where the arrest didn't need to happen. Those are the offenses—low-level felonies and misdemeanors—where people have the use of force.

—Summit County stakeholder

A critical question regarding the impacts of a felony summons process is whether people who receive a summons appear in court. As of April 2018, slightly more than a third of people who had received summonses failed to appear in court (table 4). Notably, the failure-to-appear (FTA) rate for people who received a summons despite not meeting the eligibility criteria (45 percent) was considerably higher than for people who did meet the criteria (30 percent). This suggests that the FTA rate can be improved by increasing officers' fidelity to specific eligibility criteria. Still, the FTA rate for summonses that do meet the criteria is high enough that additional actions, such as issuing court date reminders, should be considered for all people issued a summons.

TABLE 4

Failure to Appear (FTA) by Fidelity to Eligibility Criteria, January 1, 2017–April 30, 2018

	Count	FTA rate
All summons with an FTA	246	32.8
Summons met criteria	174	29.5
Summons did not meet criteria	72	45.3

Source: City of Akron Law Department.

Notes: Valid N = 749. The FTA rate reflects the share of summonses in each eligibility category that the charged person failed to appear for the court hearing.

A little over a fifth of summonses were issued in instances that deviated from the eligibility criteria, usually because the alleged offense was one for which arrest was presumed necessary (ineligible felony charge) or the summonsed person had an outstanding warrant (table 5). In fact, 89 percent of the ineligible summonses can be explained by the charge type, the presence of an outstanding warrant, or both.⁴

TABLE 5

Summonses Outside Eligibility Criteria by Reason, January 1, 2017–April 30, 2018

	Count	Percent
Ineligible felony charge	94	12.6
Third degree felony	36	4.8
Drug trafficking	29	3.9
Felony weapon offense	11	1.5
Second degree felony	10	1.3
Misdemeanor offense of domestic violence	6	0.8
Misrepresentation of ID	6	0.8
Victimization of law enforcement	5	0.7
First degree felony	3	0.4
Violation of protection order	3	0.4
Misdemeanor offense of stalking	1	0.1
Outstanding warrant	53	7.1
Specific to circumstances	11	1.5
Extensive criminal record	7	0.9
Resident of other state	2	0.3

Source: City of Akron Law Department.

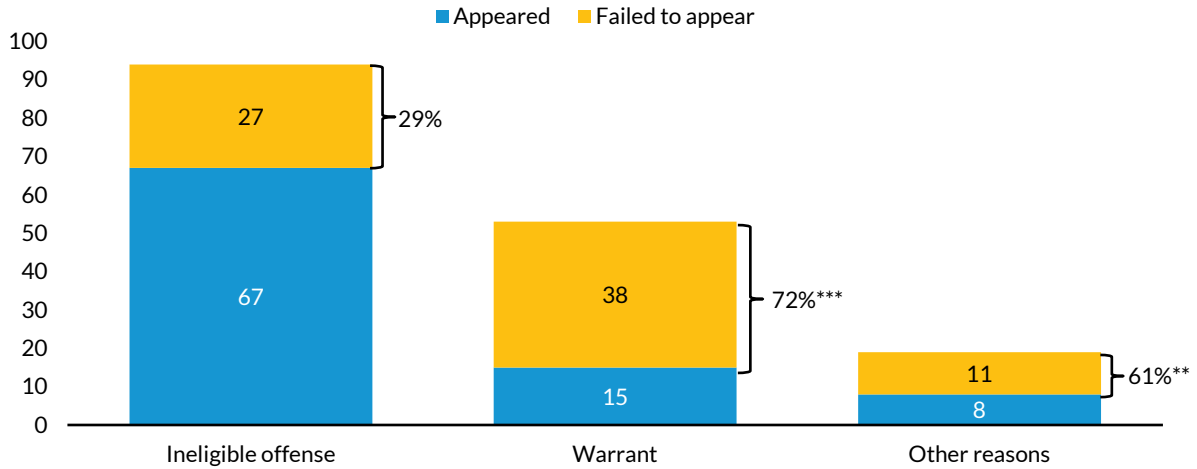
Notes: Valid N = 749 total summonses, and N=159 summonses were outside of the eligibility criteria. The percentages reflect the share of all summonses issued. Some summonses were outside the eligibility criteria for multiple reasons.

The higher FTA rate for people summonsed despite not meeting the criteria is primarily driven by people with outstanding warrants (figure 2), with the large majority (72 percent) of people issued a summons despite having an outstanding warrant failing to appear in court. Conversely, the FTA rate for people receiving a summons despite facing an ineligible offense charge was identical to that of people summonsed with fidelity to the summons criteria. This suggests either that police officers discerned when a departure from the offense-based eligibility criteria was appropriate, or that some offenses selected for exclusion were not good predictors of likelihood of FTA.

Note that the population receiving felony summonses differs demographically from the jail population in ways that might affect racial and gender disparities. Nearly 45 percent of the Summit County jail population is African American, but only 29 percent of the people who received a summons were African American (figure 3). Women, on the other hand, represented 15 percent of the Summit County jail population but received 34 percent of the summonses. These figures are a reminder of the importance of tracking the impact of jail population reduction efforts by race and gender, to understand their potential impact on disparities in incarceration rates.

FIGURE 2

Appearances and Failures to Appear by Reason Summons Was Outside Eligibility Criteria, January 1, 2017–April 30, 2018

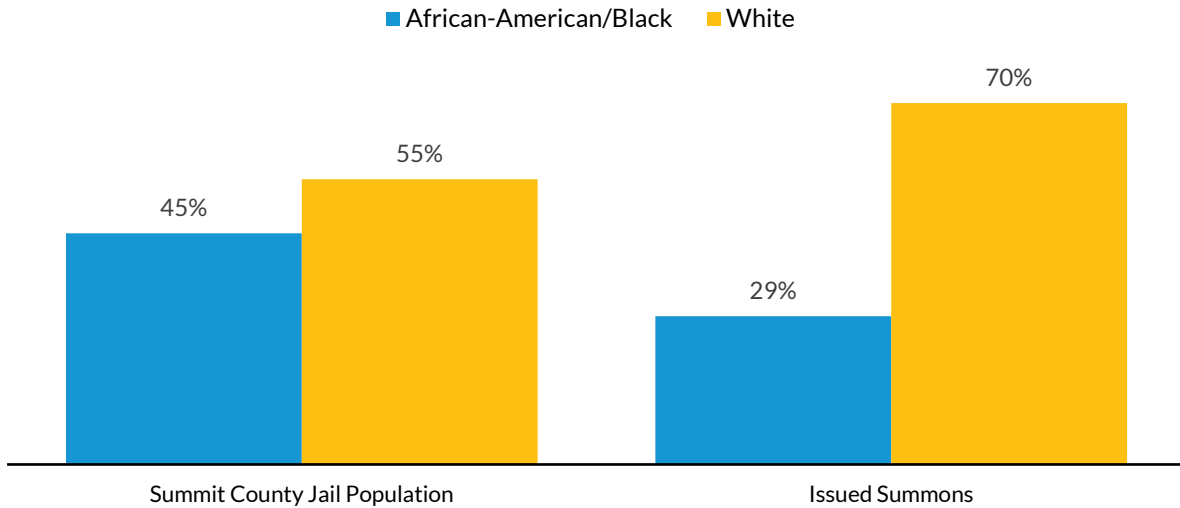


Source: City of Akron Law Department.

Notes: The data label reflects the share of summonses in each eligibility category that the charged individual failed to appear for their court hearing. The notation reflects whether these instances have a significantly different FTA rate than those who fall within the eligibility criteria. * $p < 0.1$; ** $p < 0.05$; *** $p < 0.01$

FIGURE 3

Racial Composition of Summit County Jail and Felony Summons Populations



Source: City of Akron Law Department; Annual Survey of Jails (2015).

Notes: The 2015 edition of the Annual Survey of Jails is the most recent edition to be made publicly available. In responding to that survey, the Summit County Jail estimated that on December 31, 2015, it had a total population of 615, with 274 African American people and 338 white people.

Finally, Summit County stakeholders indicated that the felony summons initiative has reduced jail bookings as intended. They also believed that issuing summonses had contributed to the 14 percent reduction (from 263 to 225) in Akron PD use of force incidents from 2016 to 2017.⁵ Although further analysis would be necessary to understand whether the summons program contributed to this reduction, a data analysis of police use of force conducted before the program found that use of force was occurring more frequently with people who were arrested for low-level felonies and misdemeanors. Stakeholders expressed that they believe a reduction in the use of force was the result of the felony summons program decreasing the use of custodial arrest in these instances.

System-Level Outcomes from Both Counties

The diversion interventions in Deschutes and Summit counties have produced early outcomes at both the system and the individual level. At the system level, designing and implementing the diversion efforts increased interagency collaboration and strengthened relationships in both Deschutes and Summit Counties, according to stakeholders. Summit County partners increased their understanding of how the justice system works, as well as the options and resources available to them to avoid jail bookings. The Goldilocks planning group created a forum for cross-agency communication that hadn't existed previously, including new partnerships between justice agencies, primary care providers, and behavioral health providers. Deschutes County stakeholders saw the inclusion of substance abuse treatment providers as a particularly important success.

Work on the diversion interventions also increased system capacity concretely. Summit County stakeholders reported increased capacity for data collection and reviewing data to understand needs and performance, as evidenced by the jail committee meetings that review jail population metrics generally and felony summons metrics specifically. Deschutes County added capacity to assess for substance abuse issues and provide appropriate referrals, through the counselor the district attorney's office hired to conduct the Clean Slate intakes. Putting the drug screening assessment in place for Clean Slate intakes provided some new insights into the interactions of substance use and justice involvement. For instance, while most PCS arrests are for possession of methamphetamine, many people arrested for that reported that their drug of choice is heroin. The Goldilocks partnership was intrigued by this early finding but had not yet determined changes in practice that might follow from it.

When you send someone to jail, you are tying yourself up on the road for a more extended period of time. There is plenty of calls on board, plenty of work to do—it gets them back to responding to community calls.

—Summit County stakeholder

Another possible system outcome for both interventions was freeing up law enforcement officer time. In Summit County, stakeholders believed that issuing felony summonses freed up officer time to focus on more serious crime and safety issues. Freeing up officer time was especially important in smaller municipalities where one or two patrol officers are on duty at a time. Law enforcement stakeholders didn't see the Clean Slate tier as saving a lot of officer time, with the possible exception of smaller departments outside Bend.

Lessons Learned

Practitioners interested in implementing similar efforts can take several lessons from the experiences of Deschutes County and Summit County.

Prosecutorial leadership is powerful. Prosecutors were in the lead in both diversion efforts, based in part on their thinking on the most beneficial and appropriate use of sanctions and pretrial detention. They brought several critical elements to the table, including their credibility on public safety matters, their expertise on the law governing diversion efforts, and their relationships with law enforcement and other stakeholders. In addition, the personal commitment of prosecutors to these efforts mattered to other partners; for example, law enforcement stakeholders in Deschutes County emphasized that the DA coming personally to prepare and encourage their officers to refer to Clean Slate and encourage them to do so was important in securing officer support. In Summit County, the City of Akron Prosecutor's Office role as the police legal advisor for several law enforcement departments helped secure buy-in from leadership and officers.

Stakeholders whose support and contributions are necessary should be involved in intervention design from the early stages. The partnerships in both counties deliberately engaged a broad array of partners in conceptualizing each effort, including important aspects such as defining eligibility criteria. Law enforcement agencies were especially important to involve early due to their role in determining eligibility and placing people on the diversion pathways in the field. Early involvement resulted in greater cooperation and less tension between agencies as implementation progressed, and it helped surface and address operational challenges (such as the need to address impact on defender funding in Deschutes County) before they became problems.

Data collection is critical, as is reporting that data to partners. Stakeholders indicated that tracking performance metrics and statistics was useful to maintain accountability and transparency within and across agencies, but also as a basis for demonstrating success. Law enforcement partners wanted to see that data so they could see the results of their efforts to refer people to diversion. Measures are also important to have should a negative case occur. When speaking about data collection, one Summit County stakeholder remarked, "that's key when a problem arrives, not if a problem arises."

Data collection can enhance understanding of community safety issues. Data collected to guide and monitor the effectiveness of these efforts also provided additional insight into important community dynamics. For example, the substance abuse assessment administered as part of Clean Slate provided more nuanced information about drug use patterns among people involved with the justice system.

Similarly, Summit County's performance data on outcomes for the felony summons population is providing new information about the relationship between charge severity, prior warrants, and failure to appear in court.

A focus on securing and maintaining law enforcement buy-in is essential for success. Front-end diversion cannot succeed unless law enforcement officers in the field support it and play their part in referring people. Emphasizing the benefits of participation in a program from a law enforcement perspective—such as increased officer safety, reduced violence toward officers, better outcomes for people committing crimes to reduce recidivism and crime, or freeing up time to prioritize more severe crimes—can encourage interest and commitment from law enforcement. Allowing for officer discretion on the use of diversion was indispensable to maintaining their support for the program. Summit County officers appreciated summons as a tool that could be used during daily duties, but they were emphatic that discretion is necessary in the field. Officers signaled that the greatest threat to the felony summons program would be making the issuing of summons mandatory for certain offenses. Officers in Deschutes County were supportive of Clean Slate, but similarly felt it important that their ability to exercise their professional discretion was maintained.

Getting credible leaders to publicly champion the interventions is very valuable. In Summit County, stakeholders noted the value of the sheriff expressing public support of the program. As one stakeholder noted, “The jail helps to legitimize the program. ...The Sheriff did an article where he mentioned the program and the benefits of the program and thought Akron was doing something really great. The jail has been a critical partner to get at that measured success.”

Successful diversion may require building capacity to support participant success. Deschutes County built a pathway to treatment for Clean Slate participants that required both tapping into existing intervention capacity outside the justice system (such as the FQHCs) and adding key components such as a substance abuse counselor to conduct intake assessments. Summit County didn't build intervention capacity in the same way, but the fairly high FTA rates may suggest that investment in further structures, such as court date reminders (see our companion case study on engaging defendants for a summary of such an effort), would be highly beneficial. As a small community, Deschutes County faced challenges in maintaining its capacity; Clean Slate intake meetings didn't occur for two weeks when the first counselor took a new position, and moving Clean Slate from a pilot to a sustained intervention will require institutionalizing the added capacity.

Conclusion

Jail detention is costly, both budgetarily and in the impacts on the lives of the people detained, their families, and the community at large. Deschutes and Summit Counties engaged in prosecutor-led efforts to develop justice involvement pathways that involve less use of jail custody. Summit County focused on minimizing the use of custodial arrest and jail bookings for low-level felony charges, deploying summonses to have people show up in court. Deschutes County developed an alternative pathway to traditional prosecution, which could include both pretrial detention and sentences to jail time, for

people found in possession of controlled substances. This pathway focused on mitigating the collateral harms associated with detention and acquiring or adding to a criminal record, and instead connecting people with health care and treatment options.

Both counties demonstrated that various partners were willing to contribute to making diversion work, with law enforcement playing a central role. Investment in capacity building was required on several fronts, including building consensus on intervention design and eligibility, training law enforcement in diversion intake, putting in place new assessments and referral relationships to care providers, and establishing performance data collection and reporting mechanisms. Sustaining these diversion efforts will require demonstrating success through metrics, continuing to improve intervention operations, and identifying stable sources of support for the intervention.

Sustainability is challenging in smaller communities like Deschutes County and jurisdictions that have experienced budget reductions like Summit County. At the same time, innovation also creates new opportunities, as Deschutes County demonstrated by securing a small quality health care initiative grant from the Central Oregon Independent Practice Association to continue implementing and refining Clean Slate. Changing business as usual in the justice system raises many challenges, but the partnerships in Deschutes and Summit counties demonstrate that many system actors are ready to step up and change the way jails are used, in service of a fairer and more effective system of justice.

Appendix. Clean Slate Program Process, March 2018

Source: Deschutes County District Attorney's Office.

Appendix appears on pages 18–19.

- Clean Slate - Law Enforcement Suspect an Individual of a PCS Crime

LE will contact the mobile crisis team, and/or take individual to Deschutes County Stabilization Center, jail or the hospital

Behavioral Health or appropriate medical staff will provide care

Is the person in Crisis?

Is the person still in crisis?

Law Enforcement cites and releases individual. Provides handout on Clean Slate and bus passes, as necessary.

Law Enforcement provides DA's office with list of PCS-only cases daily & submits reports within 4 days.

DA's office reviews all PCS citations and contacts potential participants

Individual attends DA's weekly Goldilocks Clean Slate Participant Orientation (PO) Meeting

Did the individual attend the meeting?

Participants are only eligible for Clean Slate I (CS1) once. CS1 participants are eligible to go through Clean Slate a maximum of two times, on different PCS-only citations – once at Level I & once at Level II. Participants that enter the program at Level II may only go through the program once.

Individual is required to attend arraignment.

Ineligibility or personal desire to not participate cannot be used in argument

Defense attorney recommends participant for C.S. at arraignment.

Participant must attend next Clean Slate meeting. Only has 1 chance to attend.

PCS-only cases. An individual's previous record is not considered.

Individual meets w/ DA, Public Defender and participates in a risk/needs assessment screening with a SUD Counselor.

Did the individual sign the Participation and ROI form?

Is the participant assigned to Clean Slate Level I or Level II?

Clean Slate Level I

Participant is provided information on appropriate and available medical care, social services and/or substance treatment options

Participant is free to go with or without a scheduled medical appointment.

Participant is reassigned to Clean Slate II

Separate flow chart for assigning primary care providers & determining OHP eligibility

Appointment(s) are scheduled for participant to meet with a PCP, OHP enroller and/or substance treatment provider.

DA's Office cancel's scheduled court date.

PCP completes an initial compliance assessment form on the participant.

Clean Slate Level II

Participant follows care and treatment plan prescribed by PCP & other treatment/service providers.

After 12 months the PCP completes a final compliance assessment and sends a letter to the DA's office regarding the Clean Slate II participant's compliance over 12 months of care.

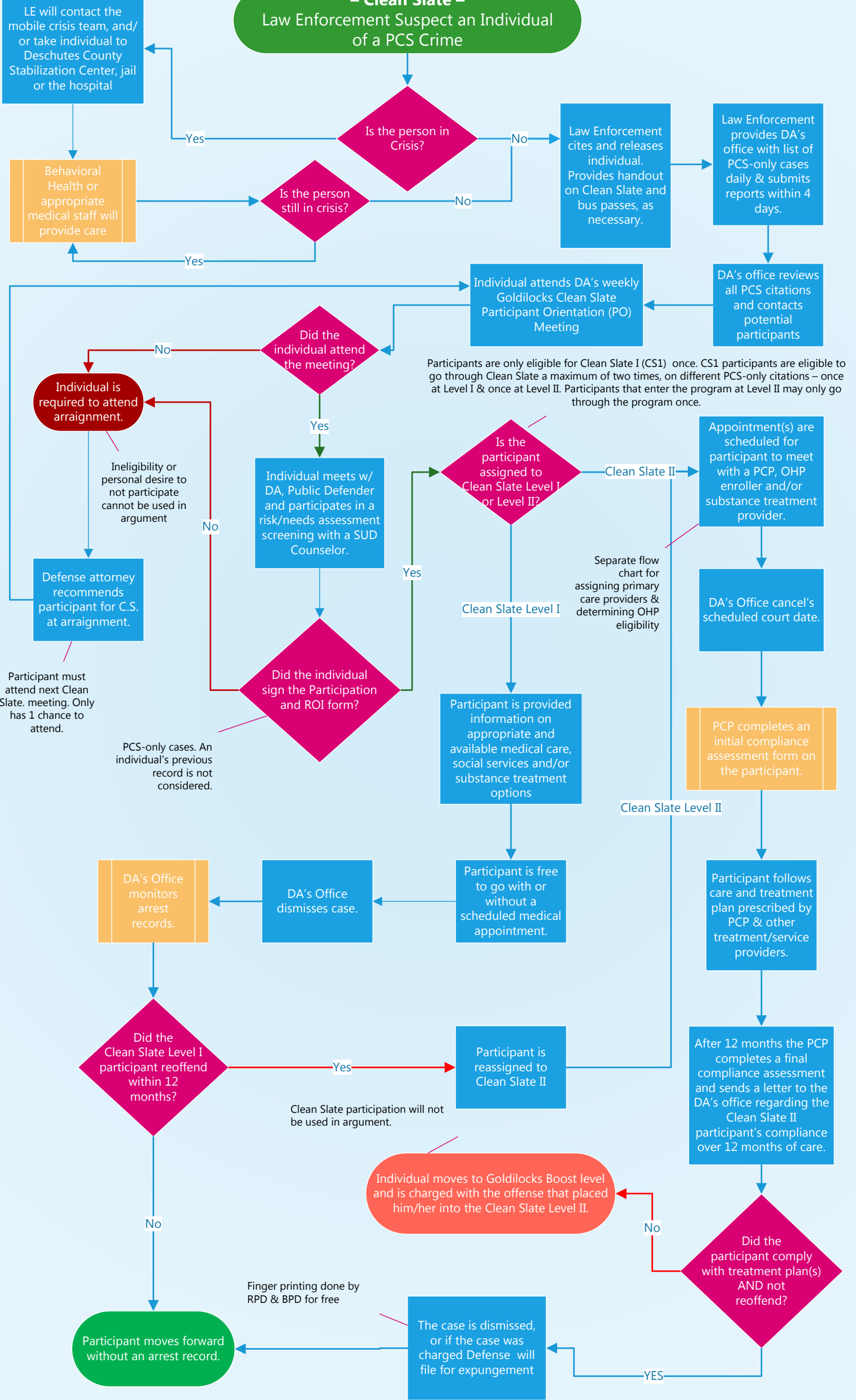
Did the participant comply with treatment plan(s) AND not reoffend?

Individual moves to Goldilocks Boost level and is charged with the offense that placed him/her into the Clean Slate Level II.

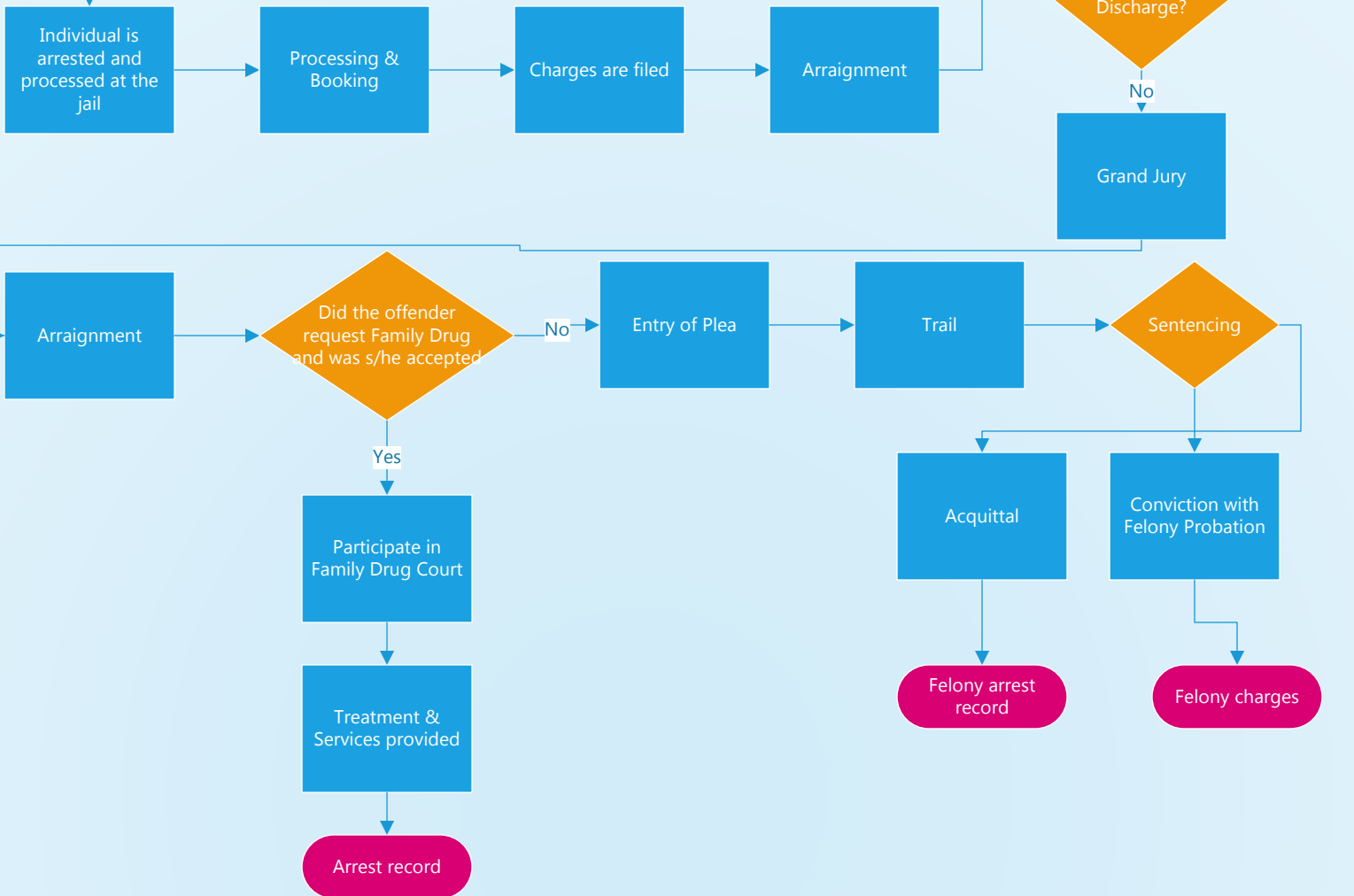
Finger printing done by RPD & BPD for free

The case is dismissed, or if the case was charged Defense will file for expungement

Participant moves forward without an arrest record.

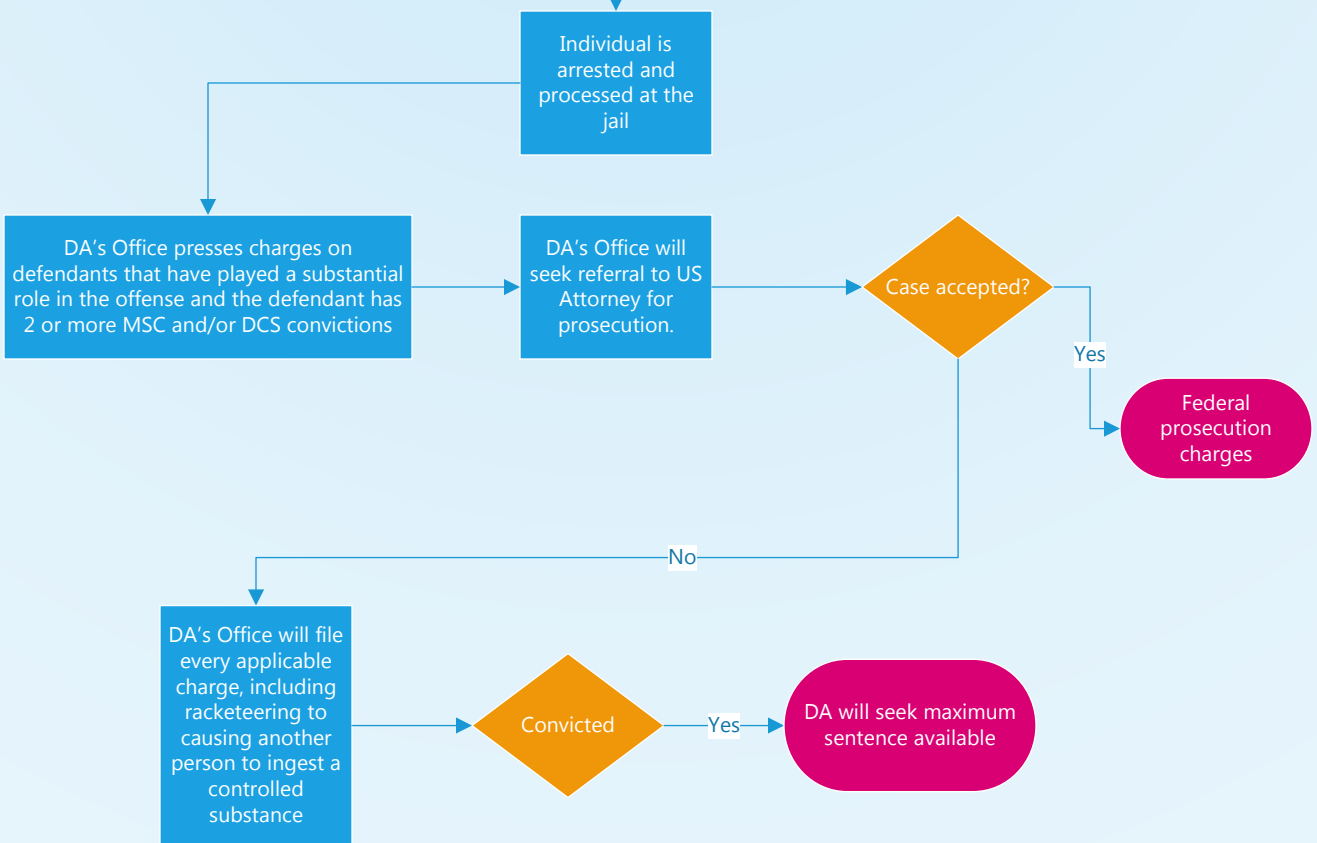


– BOOST –
 Law Enforcement Suspects an Individual of low level DCS or MSC
 OR
 A PCS Individual has Failed out of Nudge



Only for PCS cases or property crimes related to PCS

– Deter –
 Law Enforcement Suspects an Individual of MSC and DCS



Notes

- ¹ Clean Slate was called “Nudge” during the early design stage.
- ² See “Ohio Rules of Criminal Procedure” on the Ohio Supreme Court’s website, <http://www.supremecourt.ohio.gov/LegalResources/Rules/criminal/CriminalProcedure.pdf>.
- ³ “Citation in Lieu of Arrest,” National Conference on State Legislatures, last updated October 23, 2017, <http://www.ncsl.org/research/civil-andcriminal-justice/citation-in-lieu-of-arrest.aspx>.
- ⁴ Five people had a warrant on file as well as charge outside the criteria.
- ⁵ Akron PD changed its criteria for determining what constituted a use of force in 2016, substantially expanding the actions fitting that definition. For this reason, 2017 use-of-force levels cannot be directly compared with levels from years before 2016.

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About the Authors



Jesse Jannetta is a senior policy fellow in the Justice Policy Center at the Urban Institute, where he leads research and technical assistance projects on reentry, justice system change efforts, community-based violence reduction strategies, and the practice of risk assessment in the criminal justice system. He holds a BA in political science from University of Michigan and an MPP from the John F. Kennedy School of Government at Harvard University.



Evelyn McCoy is a research associate in the Justice Policy Center. Her research focuses on correctional programming and practice, jail reentry, alternatives to incarceration, and human trafficking issues. She provides direct technical assistance to jurisdictions improving justice system functioning across the nation. She holds a BA in Spanish and Latin American Studies from the University of Pittsburgh and MA in Sociology and Public Policy from the Pontificia Universidad Catolica del Peru.



David Leitson is a research analyst in the Justice Policy Center, where he works primarily on data collection and analysis. His research focuses on corrections, reentry, and violence prevention strategies. He received his BA in political science and economics from Grinnell College.

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Washington, DC 20037

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