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STUDY REVEALS LOW RECIDIVISM RATE IN KANE DIVERSION PROGRAM DEFERRED PROSECUTION PROGRAM FORMALLY BEGAN IN 1995

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A new study has concluded that non-violent offenders who participate in pre-trial diversion programs are highly unlikely to reoffend and return to the criminal justice system.

The study, a joint project of the Kane County State's Attorney's Office, Dr. Brandon Kooi of Aurora University and Christine Devitt Westley of the Illinois Criminal Justice Information Authority, showed that fewer than eight percent of offenders who participated in and successfully completed a Kane County diversion program reoffended.

"I am absolutely thrilled at these results, which show that more than 92 percent of offenders who successfully complete our Deferred Prosecution program do not re-offend. It proves what we have believed for a long time – that these programs work, that the benefits are many and that they're worthy of our resources," said McMahon, the fourth Kane County state's attorney to administer the program. "These results should encourage other jurisdictions to consider diversion programs."

McMahon was a strong supporter of the diversionary programs when he worked as a Kane County assistant state's attorney in the 1990s. But evidence of the program's successes was only anecdotal. When McMahon returned to the office as state's attorney in 2010, he sought empirical evidence.

The study was conducted by Michelle Halbesma, who leads the Kane SAO's Deferred Prosecution program.

Kane County's pre-trial diversion program was originally called Second Chance and focused on first-time non-violent felony offenders of certain crimes, such as retail theft, burglary and criminal damage to property. The program provided incentive for participants by offering to dismiss the charges upon successful completion of specified requirements.

Based on popularity and anecdotal success, the program was expanded over time to include additional offenses.

The Kane County State's Attorney's Office this year is observing the 20th anniversary of its pre-trial diversion programs.

"This is such a great way to celebrate 20 years of pretrial diversion in Kane County," Kane County State's Attorney Joe McMahon said.

The details

The study looked at cases of 317 felony participants randomly selected from among the 1,070 offenders who participated between 2005 and 2010.

The research, which began late in 2013 and was concluded about a year later, examined the recidivism rates of those 317 participants. It studied the recidivism rate of those who successfully completed the program, along with those who were unsuccessful in completing the program for periods of 12, 18 and 36 months post-completion.

The study, which defined recidivism as a subsequent conviction, found that 92 percent of those who successfully complete the program don't come back to the criminal justice system. In addition, it found that nearly 81 percent of those who start the program but are negatively terminated because they failed to abide by the program's terms, also did not return to the court system.

According to prior research, offenders who receive traditional court sentencing recidivate at a rate between 40 percent and 60 percent.

"I have always been a great supporter of our diversion programs. They give non-violent offenders a chance to make it up to the community without the scarlet letter of a criminal conviction. That's just the right thing to do," McMahon said. "But these results offer empirical evidence that benefits extend beyond altruism. The rest of the community benefits through cost savings to the judicial system from a reduced court docket that allows court employees to focus on more serious offenses, and a reduced jail population. The community also benefits because it is safer."

Background

Kane County's deferred prosecution program started informally in the mid-1970s under State's Attorney Gene Armentrout. The program was formalized in 1995 under State's Attorney David Akemann under the name of Second Chance.

The Kane SAO offers five Deferred Prosecution programs – Felony/Misdemeanor, Misdemeanor Drug/Alcohol, Domestic Violence, Solicitation/Prostitution, and Felony Drug.

The programs hold offenders accountable without ignoring the needs of victims. Offenders who are prepared to accept responsibility for their actions have an opportunity to learn from their actions and are given an opportunity to keep their record clear of a criminal conviction, which can have a devastating, lifelong impact.

Participants must complete an intake interview, meet with a community panel, and complete varying requirements, such as community service hours, obtaining high school diploma or GED, completing substance abuse, mental health or individual counseling, writing a letter of apology to the victim, restitution, and paying fees to be placed on the program. Upon successful completion, the state's attorney's office agrees to dismiss pending charges. If the defendant fails to successfully complete

the program, he or she is terminated from the program and the case is returned to court for prosecution or sentencing.

Overall, the Deferred Prosecution Programs have maintained a success rate of close to 75 percent. The program relieves overcrowding in the jails and caseloads in the courtrooms. The continued success of the program relies on support from the criminal justice system and the community.

The program comprises the coordinator and five case managers.

The Kane SAO hopes to conduct additional research to further study the effectiveness of the programs.

What they're saying

16th Circuit Judge and former Kane County State's Attorney David Akemann: "The original thought for the diversion program was to achieve a positive result in terms of benefits, like community service, and less costs for the taxpaying citizens. I felt it then important to involve community volunteers who have a strong sense of the values of the community and the ability to cut through a sometimes cumbersome and expensive process and get to a just result for the public, as well as giving the defendant a chance to not have to go through life being a convicted felon.

"The success of the program is no doubt the result of the state's attorneys and their staffs and the judges who have made it work; but I would lift up the heroes of the program, the citizens who have volunteered their time to give the would-be defendants a second chance at being a benefit to and not a burden on our community. I'm certainly proud of all of the persons who have made this program highly successful to the community at large, and have allowed the participants a chance at turning their lives around."

Kane County Public Defender Kelli Childress: "The issues that bring people into the criminal justice system are diverse and complex, and not always indicative of a criminal mindset. When an office like that of the state's attorney, with the respect and authority it carries, says to someone, "we believe in you," that allows people who've made a poor choice to believe in themselves, and change their path. It's incredibly powerful. It brings about real change in people.

Hats off to the Kane County State's Attorney's Office for having the foresight so many years ago, and to Joe McMahon for continuing to expand the program. He is redefining justice by offering a hand up to those that others would look down on."

16th Circuit Chief Judge Judith Brawka: "The availability of diversion programs for appropriate offenders is an important tool in building a fair and effective criminal justice system. Successful diversion programs integrate offenders back into society as law-abiding citizens through restitution to victims, rehabilitation through education and employment, and reduction of recidivism. We are fortunate in Kane County to have a state's attorney office that is proactive in diversion programming."

Aurora Police Chief Greg Thomas: “When compared to the recidivism rates of those who go to prison, the eight percent recidivism rate of Kane County’s Deferred Prosecution program clearly means that diversion programs are worthy of our time, attention and resources. They have helped people from having to carry the stigma of a criminal offender, and they have made our community safer. All state’s attorney’s offices should give serious consideration to these programs.”

Elgin Police Chief Jeff Swoboda: “The recidivism numbers from the recidivism study are pleasing but not surprising. We have believed for many years that most first-time offenders will make things right when given a second opportunity. Now we have evidence. This is great news for Elgin and for all of Kane County. These results should encourage more jurisdictions to consider diversion. Well done.”

Former 16th Circuit Chief Judge Keith Brown, ret.: “We are fortunate to have a state’s attorney’s office and judges who have embraced evidence based practice to use empirical data to support their policies. It is clear that when given the right circumstances, giving a defendant a second opportunity is not only good for the defendant but for our community as a whole.”

Winnebago County State’s Attorney Joe Bruscato: “Kane County has long been a leader with Deferred Prosecution initiatives. Kane’s recent recidivism study demonstrates what we have all known to be true. Deferred prosecution programs are successful. Now we have data to support the theory that deferred prosecution does reduce recidivism.”

McHenry County State’s Attorney Lou Bianchi: “We modeled our First Offender program in McHenry County after Kane County’s Second Chance program. We appreciate the work that Kane County did with Aurora University to determine the impact of the program. To no surprise, the study showed a significant decrease in recidivism. Our congratulations to Kane County and the others who have similar programs. It gives first offenders a second chance, and further, it is the right thing to do.”

Aurora University Criminal Justice faculty adviser Dr. Brandon Kooi: “In graduate school as we were training to be researchers, we learned ethically that we must first do no harm. The same should be said for insightful criminal justice practitioners that are interested in creating measurable benefits when responding to crime/disorder in their communities. The Kane County State’s Attorney’s Office, through the leadership of Joe McMahon, has continually sought out evidence-based practices for improving their role in addressing crime throughout the county. Moreover, the coordinator for the Kane County Deferred Prosecution Program, Michelle Halbesma, partnered with the Aurora University Criminal Justice Program to assess if deferring prosecution was achieving desired results.

“Deferred prosecution programs offer alternatives to traditional convictions that might cause more harm than benefit. Research assessment has indicated that offenders who are fortunate to be offered a second chance will be less likely to be re-arrested and are not tainted by the permanency of a criminal conviction. Additional evaluations necessitate a clearer understanding of why the offenders in deferred prosecution are less likely to recidivate and also, how offenders in a traditional probation status compare to those who are successfully deferred. Deferred prosecution initiatives are self-funded and should include more direct accountability of offenders through confessions, community service hours, and court costs being fully paid. This type of direct offender accountability is not typically prevalent through the traditional penal system that is focused on a more distant deterrent effect rather than hearing directly from the individual offenders. Additional research directed toward how we can direct accountability in this manner that might be more effective than life-altering punishments are necessary if we are likely to see increased political support.”