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The Impact of the Cook County State's Attorney's Office Deferred Prosecution Program

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ABSTRACT

Research Summary

This paper analyzes the impact of the Cook County State's Attorney's Office Deferred Prosecution Program (DPP) on participation outcome patterns and compares recidivism rates between a sample of DPP participants (695) and a comparison group (991) of defendants found guilty through traditional adjudication from February 28, 2011 and December 5, 2012 with recidivism rates through June 6, 2014. Binary logistic and cox proportional regressions were utilized to evaluate the program. No statistically significant difference in re-arrest rates was found for a sample of DPP participants and a comparison group of defendants found guilty through traditional adjudication. However, DPP did have a statistically significant effect on re-arrest rates for women charged with theft; in such cases, DPP reduced the likelihood of re-arrest by roughly 76%.

Policy Implications

DPP has the potential to reduce the future collateral consequences of a criminal conviction for individuals who complete the program. Although DPP seems to have limited impact of re-arrest rates overall, the program may be revised to target certain types of defendants.

INTRODUCTION

Costing local, state, and federal governments roughly $75 billion per year (Schmidt, Warner, & Gupta, 2010), by 2013 just over two million people were housed in jail or prison (Glaze & Kaeble, 2014). Notably, non-violent offenders who are often deemed as less of an immediate threat to society, comprised an estimated sixty percent of those incarcerated (Schmitt, Warner, & Gupta, 2010). Such incarceration is not just expensive, but yields collateral damage to low-level non-violent offenders. A felony conviction often limits social and economic participation in society, strains

familial circumstances, and impacts entire communities (Travis, 2005; Travis & Waul, 2004; Western, Braga, Davis, & Sirois, 2015). Indeed, scholars have discussed the "invisible stripes" of former prisoners highlighting the stigmatizing impacts of a conviction and subsequent incarceration that span beyond a prison term (LeBel, 2012).

Although in 2010 the prison population dropped by three percent for the first time since 1972, the criminal justice system continued to encounter growing fiscal constraints and social scrutiny that weakened the systematic use of incarceration as a first response to low-level offenders (Travis, Western, & Redburn, 2014). At the state level, policymakers responded by repealing mandatory prison sentences for low-level offenses or by modifying sentencing guidelines to increase the use of non-incarcerative sentences for such offenses (Wool & Stemen, 2004). Many local jurisdictions, however, reacted to these trends in a markedly different way, by strengthening existing drug court and deferred prosecution programs that sought to divert individuals out of the criminal justice system prior to a criminal conviction (see, e.g., MacKenzie, 2006; Petersilia, 1998).

Deferred Prosecution Programs

Deferred prosecution programs are a type of diversion program that redirect eligible persons charged with certain criminal offenses from traditional court proceedings. Since the 1960's, deferred prosecution programs have been a popular alternative to rehabilitate drug offenders and have been used widely in juvenile cases to avoid the stigma of a criminal prosecution and possible repercussions that accompany a conviction (Senko, 2009). Deferred prosecution programs usually monitor and track participants' progress toward specific goals, often with the aim of dismissing a pending charge upon successful completion (Burke, 2010).

The guiding theory of DPP is therapeutic jurisprudence, which studies of the extent to which legal rules, legal procedures, and the roles of lawyers and judges produce therapeutic or anti-therapeutic consequences for individuals involved in the legal process (Wexler & Winick, 1991; Senjo & Leip, 2001). Over the past few decades, this theory has evolved to "the use of social science to study the extent to which a legal rule or practice promotes the psychological and physical well-being of the people it affects" (Slobogin, 1995, p. 193). Therapeutic jurisprudence is applied because DPP is meant to give first time offenders the opportunity to avoid traditional criminal conviction and punishment and most DPPs often facilitate rehabilitative treatment and social services. Given the stigma attached to a criminal conviction, deferred prosecution programs provide eligible defendants with a "second chance" to avoid the damaging effects of a criminal conviction (CCSAO, 2011).

Established and overseen by the chief prosecutor in a jurisdiction, deferred prosecution occurs pre-adjudication allowing defendants to avoid prosecution for an offense, pending their successful completion of program requirements. Such programs are distinct from post-adjudication diversion programs, which require defendants to plead guilty to a charge before they are offered services and monitored in the community. As such, deferred prosecution programs have been shown to reduce the volume and cost of cases handled by the court system, particularly when only cases deemed urgent for public safety (those concerning violent crimes and repeat offenders) are pursued through traditional adjudication (Senko, 2009; Greenblum, 2005). Although few published studies have evaluated deferred prosecution programs themselves, several studies have examined how successful involvement in a deferred prosecution program influenced participants' future offending.

Recently, deferred prosecution and court diversion programs have increased in popularity. These discretionary programs have largely been established to reduce the likelihood of a defendant's future involvement with the criminal justice system and to offer defendants an alternative to traditional criminal conviction and punishment (Salzberg, 1983). One study tracked the recidivism of former participants of a Post-Arrest Diversion Program (PAD) for first time non-violent misdemeanor juvenile offenders in Miami-Dade County (Dembo et al., 2008). The study found that successful completion of PAD significantly reduced graduates' likelihood of re-arrest over 12 months, controlling for socio-demographic variables, the charge type at first arrest, and assessed recidivism risk level (Dembo et al., 2008). Similarly, a study of the Correct Course Diversion Program in the Wayne County Juvenile Justice system of Michigan found similar results, with just 7.7 % of program participants adjudicated for a new offense over a similar one-year follow-up period. The evaluation also found the costs of the program averaged $1,500 per person, which was considerably lower than the average costs of proceeding with prosecution, which also resulted in further savings through lower recidivism rates (Hodges, Martin, Smith, & Cooper, 2011).

Other studies included the Vanderburgh County Indiana Pre-Trial Diversion Program (PTD) and examined factors related to program completion to access how program completion was associated with reduced recidivism (Kixmiller, 1998). It found that 50% of offenders aged 18 to 20 failed to complete the program, compared to 12.4% of offenders age 41 and older. Moreover, women were more likely to complete the program (72%) compared to men (57.2%) (Kixmiller, 1998). Although a small case study of a rural county, it demonstrated that age, income and marital status are key indicators of recidivism. A more recent study evaluated the Phoenix Prostitution Diversion Program (Roe-Sepowitz, Hickle, Loubert, & Egan, 2011). This

program required participants to plead guilty to their charge with the opportunity to have their charge later dismissed upon successful program completion. Although this program is different than traditional deferred prosecution programs because those who do not successfully complete the program are left with a conviction, it is included in this review because successful completion *does* revoke a participant's criminal charge. There was a significant relationship between participants' completion of all program requirements and a reduction in recidivism rates. Although several variables increased the risk of a participant's re-arrest for prostitution including: prior arrest for prostitution, addiction to drugs and/or alcohol, and childhood physical abuse (Roe-Sepowitz et. al, 2011), only 14.5% of program participants in the study were rearrested for prostitution within the first 12 months. Although this program specifically analyzed prostitution offenders, the social programming associated with the offense could have broad implications to reduce recidivism.

The majority of the published literature on deferred prosecution supports the notion that these programs reduce the rates of recidivism among non-violent offenders and are cost effective. Little evidence has found that deferred prosecution programs increase rates of recidivism, but some research shows that some programs show mixed results. In a study of a deferred prosecution program for DWI offenders in Washington, researchers compared the recidivism rates of individuals accepted in the program to the recidivism rates of individuals not accepted in the program (Salzberg & Klingberg, 1983). The study found that there was little to no reduction of post-deferral alcohol- related traffic violations for those who participated in the deferred prosecution program. However, the types of drivers selected for the program were more likely to be older, male, and had more serious alcohol related violation records along with more non-alcohol related violation records than those who were not

selected for the program (Salzberg & Klingberg, 1983). Inconclusive literature as well as the need to provide support to other jurisdictions developing deferred prosecution programs, highlights the need for further research to evaluate deferred prosecution programs.

Cook County State's Attorney's Office Deferred Prosecution Program

In 2011, the Cook County State's Attorney's Office (SAO) developed a Deferred Prosecution Program (DPP), creating a mechanism by which defendants could complete a program in exchange for an agreement by the prosecutor to not prosecute the case. The main goals of DPP are stated: 1) to minimize the level of resources allocated for non-violent offenders in the criminal justice system by diverting such defendants out of the criminal justice system early in the process, 2) to reduce the recidivism rates of program participants and 3) to provide an option for eligible defendants to avoid a felony conviction, thereby preventing the collateral consequences associating with a felony conviction.

DPP is a 12-month pre-trial diversionary program that is intended for first-time, non-violent offenders charged with a felony crime. DPP is predicated on an ongoing operational collaboration of the State's Attorney's Office with the Cook County First Municipal District Judicial Circuit Court, the Department of Probation Pre-Trial Services Division, and the social service organization, Treatment Alternatives for Safe Communities (TASC), all of which have key operational roles in the DPP. The Assistant State's Attorneys (ASA) at various Cook County Branch Courts identify potential candidates, first time non-violent felony offenders, before preliminary hearings are conducted. If victims agree and DPP candidates accept the 12-month program offer, the preliminary hearing is waived and the case is transferred

to the DPP program, housed within a centralized branch located in the City of Chicago.

Based on a prosecutor's recommendation for entry into DPP and the defendant's acceptance of the program, Pre-Trial Services developed an individualized program plan for each participant. Coined as a low demand program[1], DPP requirements included: the promise to not reoffend; the initial assessment plan; regular court appearances in the centralized DPP branch court; monthly meetings with a Pre-trial Services officer; and meeting of certain conditions depending on particular offenses and participants' educational and employment status. In order to successfully complete the program, defendants in DPP needed to meet restitution; employment, education, and minimal substance use treatment requirements when applicable, and attend all court dates. Upon successful completion of the program, the felony charge was dismissed by the SAO, exercising its prosecutorial discretion and the participant can then have his or her criminal arrest expunged.

Part of the Evaluation of the Cook County State's Attorney's Office Deferred Prosecution Program examines the program outcomes. This paper will analyze the impact of the DPP program on participation outcomes patterns and compare recidivism rates between a sample of DPP participants and a comparison group of defendants found guilty through traditional adjudication. A major strength of our study design is that we utilized multiple data sources, which allowed us to examine the impact of DPP on both the criminal justice system and individual level. It is hypothesized that individuals who utilize the DPP will have lower recidivism rates than those in the comparison group.

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[1] By low demand program we mean no mandatory services such as therapy, drug testing unless special circumstances and house visits. Although there are program requirements, see summary above.

METHODS

Data

This study relies on administrative data maintained by DPP, case management data maintained by Pre-trial Services, case management data maintained by the Treatment Alternatives for Safe Communities (TASC), case management data maintained by the Cook County Circuit Court Clerk, and criminal history data from the Illinois State Police database, accessed through the Illinois Criminal Justice Information Authority (ICJIA). Data obtained from the State's Attorney's Office (SAO) on DPP clients were in an identifiable format, containing individuals' names and dates of birth. This study was approved by the IRB at Loyola University Chicago.

A comparison group was constructed by ICJIA research staff from Cook County Circuit Court Clerk data, using the eligibility requirements for DPP participation and other salient characteristics of the DPP sample. Researchers provided ICJIA with the names and birth dates of all individuals in the Treatment Group and Comparison Group; ICJIA then conducted a criminal history search and returned recidivism data for all individuals. Once we merged criminal history data with the original data obtained from the SAO, all identifiers were deleted from the original dataset and from the requests made to ICJIA. Combined, these sources enabled the tracking of recidivism outcomes for individuals in both Treatment and Control Groups of this study and provided all individual-level covariates noted below.

Sample

We compared all individuals who participated in DPP between February 28, 2011 and December 5, 2012 to a comparison group consisting of a sample of "DPP eligible" individuals not referred to DPP but adjudicated in Cook County during the same time. Individuals who were not enrolled in DPP was because of several factors including the public defender not knowing about DPP, the judge's buy-in for DPP,

and the geographic locations of courts that would consider DPP. Construction of the comparison group by ICJIA followed these criteria: 1) arrest charge comparability to the DPP sample, so that the most serious arrest charges corresponded to the distribution of eligible charges in the DPP participant sample; 2) prior criminal history, which were selected to be no prior felony convictions and no prior arrests for a violent offense; and 3) case disposition, which were selected to be guilty verdict with a non-incarcerative sentence. Defendants in the treatment and comparison groups were also coordinated on a limited set of demographic and case characteristics, including age, sex, and date of case filing.

Recidivism outcomes for both treatment and comparison groups were tracked through June 6, 2014 (see Measures below). The sample was limited to include only those individuals in each group with at least 18 months' time in the community after either admission to DPP or final case disposition; this procedure allowed recidivism rates to be computed across subgroups accounting for differences in time-at-risk. Individuals in the study samples experienced different lengths of exposure to failure (measured by arrest). Success and failure rates for individuals exposed to risk according to an 18-months threshold was computed. This procedure further decreased the size of study samples because only individuals at risk for at least 18 months were included. Finally, the sample was restricted to include only individuals 18 years of age or older. The final dataset includes 695 individuals admitted to DPP and 991 "DPP eligible" individuals not admitted to DPP but adjudicated guilty through the traditional adjudication process creating the comparison group.

Measures

The main outcome measure is a categorical binary variable capturing whether an individual was re-arrested or was not re-arrested during the 18 months of follow-up

after admission to DPP (treatment group) or final disposition date (comparison group). Individuals were counted as re-arrested if an arrest occurred or a warrant was issued within 18 months after admission to DPP or final disposition date. Time to failure was measured by days, until an individual was re-arrested *or* completed 18 months of time-at-risk without a re-arrest.

Several individual-level demographics were included in the analyses. Two indicators of criminal history were employed, tracking the number of misdemeanor arrests (continuous) and the number of felony arrests (continuous) occurring prior to an individual's admission to DPP or judgment date (not counting the arrest triggering DPP admission or judgment). Current offense information was included as a categorical variable (1= retail theft, 2=burglary, 3=PCS/cannabis, 4=possession of a stolen vehicle, 5=forgery, 6=ID theft/unlawful use of a credit card/fictitious ID, 7=criminal damage to government property, 8=counterfeit trademarks/deceptive practices, 9=unlawful use of a recording device, 10=disorderly conduct, and 11=false report to the police), using retail theft as the reference category for analyses. Demographics were defendant's race, (0=White, 1=Black, 2= other), defendant's sex, (0=Female, 1=Male), and defendant's age in years at the time of admission to DPP (treatment group) or judgment date (comparison group).

Analyses

The impact of DPP on defendant outcomes was analyzed using two sets of analyses. First, a binary logistic regression was used to estimate the effect of DPP relative to standard adjudication on re-arrest at 18-month follow-up. These models predict the likelihood of re-arrest controlling for defendant-level predictors such as demographic characteristics and criminal history. Second, Cox proportional regression models were used to estimate the effect of DPP relative to standard

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adjudication on time to re-arrest within 18 months follow-up. These models predict the time to re-arrest controlling for defendant-level predictors such as demographic characteristics and criminal history.

RESULTS

Difference in Re-Arrest Rates

The impact evaluation examines outcomes for 695 DPP participants and 991 defendants in a comparison group of comparable defendants found guilty through traditional adjudication. The association between DPP participation and re-arrest was analyzed by frequencies, controlling for other defendant-level and case-level attributes (Table 1). The main outcome variable – re-arrest within 18 months – shows little variation across the treatment and comparison groups. 31.4% of DPP participants were re-arrested within 18 months of admission to DPP compared to 33.5% of defendants in the comparison group. DPP participants were more likely to be female (38.9% vs. 32.5%), white (46.9% vs. 41.1%), and younger (26.3 years old vs. 27.5 years old) than individuals in the comparison group. Defendants in the treatment and comparison groups were fairly similar in terms of prior criminal history and charges, with two notable exceptions – DPP participants were more likely to be charged with retail theft and less likely to be charged with theft than individuals in the comparison group. Despite these differences, the treatment and comparison groups generally were similar.

Differences between men and women

Initial frequency analyses showed significant differences between women and men in terms of recidivism rates, age, and offense. Thus, the treatment and comparison groups were split into separate groups by sex. As Table 1 shows, the main outcome variable – re-arrest within 18 months – shows significant variation between

women and men, yet little variation across the treatment and comparison groups for men. 22% of female DPP participants were re-arrested within 18 months of admission to DPP compared to 28% of female defendants in the comparison group; in contrast, 38% of male DPP participants and 38% of male defendants in the comparison group were re-arrested within 18 months. Table 1 also showed slight demographic differences between women and men and between the treatment and comparison groups. Women in both DPP and comparison groups were slightly more likely than men to be non-white, older, and charged with retail theft, theft, or forgery. In addition, both male and female individuals in the comparison group tended to have more serious criminal histories than DPP participants. Despite these differences, the treatment and comparison groups generally were very similar across these limited covariates.

INSERT TABLE 1 Descriptive Statistics: Sample of DPP Participants and Comparison Group, by Sex

Because of the high rate of missing values for defendant race, race is not included in the analyses below. Similarly, because of the low number of individuals charged with possession of a stolen vehicle, criminal damage to government property, counterfeit trademarks/deceptive practices, unlawful use of a recording device, disorderly conduct, or false reports to police, individuals charged with these offenses were excluded from the final analyses.

Binary Logistic Regression Models Outcomes

A series of binary logistic regression models were administered to examine the association between DPP admission and re-arrest net of other defendant-level attributes (Table 2). Model 1 assessed the influence of DPP on re-arrest rates relative to all individuals in the comparison group. Odds ratios for DPP variable represented the independent influence of DPP on re-arrest relative to traditional adjudication,

controlling for other defendant and case factors. Estimates in Model 1 demonstrated that controlling for a number of defendant-level covariates, DPP had no statistically significant effect on re-arrest relative to traditional adjudication. Thus, after controlling for other demographic and legal variables, DPP participants were found to be no more or less likely to be re-arrested than defendants handled through traditional adjudication. As Model 1 indicates, several factors traditionally found to be associated with recidivism were associated with re-arrest among the study sample – defendants who were male, younger, and had more prior misdemeanor and felony arrests were more likely to be re-arrested within 18 months. Specifically, being male increased the likelihood of re-arrest by 47%. Each additional year of age decreased the likelihood of re-arrest by 3%. Finally, each additional prior misdemeanor arrest and each additional prior felony arrest increased the likelihood of re-arrest by 13% and 18% respectively. Finally, defendants charged with theft and forgery were less likely to be re-arrested, relative to defendants charged with retail theft. Yet, the model is relatively weak in explaining re-arrest – these factors explain just 12% of variance in outcomes; thus, 86% of the variance is explained by other factors not included in the model.

Significant differences in outcomes based on the sex of the defendant were found, thus the models were re-analyzed separately for women and men. Model 2 assesses the influence of DPP on re-arrest rates only for women; Model 3 assesses the influence of DPP on re-arrest rates only for men. Again, odds ratios for DPP variable represented the independent influence of DPP on recidivism relative to traditional adjudication, controlling for other defendant and case factors. Estimates in Models 2 and 3 demonstrate, controlling for a number of defendant-level covariates, DPP had no effect on re-arrest for women or men relative to traditional adjudication. Thus, after controlling for other demographic and legal variables, female and male DPP

participants were no more or less likely to be re-arrested than defendants handled through traditional adjudication. As Model 2 indicates, female defendants who had more prior misdemeanor and felony arrests were more likely to be re-arrested within 18 months; in turn, female defendants charged with forgery were less likely to be re-arrested within 18 months, relative to female defendants charged with retail theft. Consistent with Model 1, Model 3 indicates that male defendants who were younger and had more prior misdemeanor and felony arrests were more likely to be re-arrested within 18 months.

INSERT TABLE 2 Binary Logistic Regression Models of the Effect of DPP on Re-Arrest in 18 Months

Initial analyses revealed differences in re-arrest rates across offense categories. For example, as Table 3 indicates, re-arrest rates for theft and forgery were much lower that re-arrest rates for other offenses, particularly for female defendants. Thus, the data was further disaggregated by offense type and examined the effect of DPP on re-arrest for each of the six specific offenses listed above (retail theft, burglary, PSC/cannabis, theft, forgery, and ID theft/unlawful use of a credit card/fictitious ID) (Table 3). As Table 3 indicates, DPP had a significant effect on re-arrest rates for women charged with theft; in such cases, DPP reduced the likelihood of re-arrest by 76%. For all other offenses, DPP had no significant effect on re-arrest.

Thus, after controlling for other demographic and legal variables, DPP participants were no more or less likely to be re-arrested than defendants handled through traditional adjudication. Although not reported here, the models also indicated that several factors traditionally found to be associated with recidivism continued to be associated with re-arrest – defendants who were younger and had more prior misdemeanor and felony arrests were more likely to be re-arrested within 18 months.

Cox Regression Models Outcomes

Logistic regression analyses simply allow for an analysis of failure (in this case, re-arrest); but they do not account for time to failure. Although there may be no differences in re-arrest rates for individuals in the treatment and comparison groups, there may be differences in time to failure. Cox regression analyses examined the impact of independent variables on time to failure and produces a survival curve, which allows a graphical analysis of failure times across groups. A series of Cox regression models were implemented to examine the association between DPP admission and time to re-arrest net of other defendant-level attributes (Table 4). Model 4 assesses the influence of DPP on time to re-arrest relative to all individuals in the comparison group. Odds ratios for DPP variable represent the independent influence of DPP on time to re-arrest relative to traditional adjudication. Estimates in Model 4 show that, controlling for a number of defendant-level covariates, DPP had no effect on time to re-arrest relative to traditional adjudication. Several factors traditionally found to be associated with recidivism were associated with time to re-arrest among the study sample – defendants who were male, younger, and had more prior misdemeanor and felony arrests were more likely to be re-arrested within 18 months. Again, being charged with theft and forgery increased the time to re-arrested, relative to defendants charged with retail theft.

As in the logistic models above, the models were re-analyzed separately for women and men. Model 5 assesses the influence of DPP on time to re-arrest only for women; Model 6 assesses the influence of DPP on time to re-arrest only for men. Again, odds ratios for DPP variable represent the independent influence of DPP on time to re-arrest relative to traditional adjudication, controlling for other defendant

and case factors. Estimates in Models 5 and 6 show, controlling for a number of defendant-level covariates, DPP has no effect on time to re-arrest for women or men relative to traditional adjudication. As Model 5 indicates, female defendants who had more prior misdemeanor and felony arrests were more likely to be re-arrested within 18 months; in turn, female defendants charged with forgery were less likely to be re-arrested within 18 months, relative to female defendants charged with retail theft. Model 6 indicates that male defendants who were younger and had more prior misdemeanor and felony arrests were more likely to be re-arrested within 18 months.

INSERT TABLE 4: Cox Regression Models of the Effect of DPP on Re-Arrest

DISCUSSION

When assessing the impact of DPP using binary logistic regression and Cox proportional regression models, it was found that 695 individuals exited the program, 68.6% (n=477) and had their cases dismissed (Nolle Pros), indicating a successful completion of the program; and 31.4% (n=218) of individuals were terminated from the program, indicating an unsuccessful completion of the program. There was little difference in re-arrest rates for a sample of DPP participants and a comparison group of defendants found guilty through traditional adjudication. Nevertheless, DPP had a significant effect on re-arrest rates for women charged with theft; in such cases, DPP significantly reduced the likelihood of re-arrest by 76%. Although DPP seems to have limited impact of re-arrest rates overall, the program may be revised to target certain types of defendants (e.g., older, women) or defendants charged with certain types of offenses (e.g., theft). Moreover, DPP significantly reduces the future collateral consequences of a criminal conviction for all individuals who complete the program.

As evidenced by this paper, the results indicate that DPP participants were no more or less likely to recidivate than individuals adjudicated through traditional mean of dismissal or a finding of guilty. Rather, re-arrest appears to be driven by many factors traditionally associated with recidivism – sex, age, and prior criminal history.

If in fact the re-arrest rates are driven by the issues of sex, age and personal history, the findings point to a re-consideration of the current low demand program model and to augment the content of the program to include additional services for participants; expanded services targeted at education, employment, and mental and substance abuse needs, as demonstrated by the therapeutic jurisprudence theory (Slogobin, 1995). These are factors known to affect risk of future criminal involvement and as such could improve DPP's impact of participant outcomes as well. Thus, expansion in both the capacity and scope of the program could improve the systemic and individual-level impact of the program for Cook County.

TASC, the social service program that assisted with DPP, had limitations. In accordance to therapeutic jurisprudence theory, incarcerated individuals would have the most success when they have more supportive services (Wexler & Winick, 1991). Unfortunately, participants in both the comparison and DPP groups had limited interaction with TASC. In cases in which DPP participants asked Pre-Trial Officers for assistance in finding a GED program or support for a drug, alcohol or mental health condition, Pre-Trial Services referred clients to TASC case managers for further assistance. Although, Pre-Trial Services reported they were usually able to direct DPP participants to a GED program themselves. It was found that most clients received assistance from Pre-Trial Services and few (11%) were referred to TASC. Notably, the DPP participants interviewed said they had never heard of TASC before

and asserted they could have benefited from TASC's services, particularly with job leads. Barriers to TASC and additional social services stemmed from the lack of coordination of care for the participants and communication within the system of available services. Since the second largest offense by DPP participants was possession of narcotics, a program like DPP might consider adding more resources of participants. Seeing how the criminal justice system is the number one treatment facility for mental health issues (s), options are needed to help any diversion program participant to receive the help that they need in a non- forceful manner.

The current low demand program model has been demonstrated in literature to be a cost-effective way of delivering one of the key outcomes to participants: a lack of criminal conviction; and to the justice system, less individuals going through a costly adjudication (Wool & Stemen, 2004; MacKenzie, 2006; Petersilia, 1998). An average of 35 individuals per month are admitted to DPP since the inception of the program. Examining a sample of those (695) in the impact evaluation, 68.6% (477) successfully completed the program and, in turn, avoided a criminal conviction. Thus, although the re-arrest rates for DPP participants and comparable defendants adjudicated through traditional prosecution were the similar, these successful DPP participants avoided the stigma of a felony conviction. Lastly, we want to highlight that individuals in the comparison group as opposed to the treatment group (those in DPP) by definition had non-incarcerative sentences, meaning that most were likely to be a involved in probation programs that included more rigorous monitoring and services as compared to DPP participants in the treatment sample. This reality may provide the comparison group with more treatment options.

Nevertheless, the impact of avoiding a criminal conviction cannot be overstated – a felony criminal conviction can significantly impact an individual's

ability to find employment, stable housing, and advanced education. Although DPP may not significantly reduce the likelihood of re-arrest, DPP certainly minimizes the future collateral consequences of a criminal conviction for all individuals who complete the program.

Limitations of the Study

We encountered several research limitations limiting our ability to fully examine the impact of the program. Although the data provided by the various agencies were helpful in examining admissions and exits to the program, assessing time in the program, and describing the types of offenses with which participants were charged, they, nonetheless, provided little information about program content, participation in services, or participant demographic characteristics (age, ethnicity, race, employment status, educational achievement, income, substance use history, etc.) generally necessary for conducting recidivism analyses. As such, our ability to examine the effects of individual-level attributes such as substance abuse history, employment status, supervision levels, etc. on case outcomes was limited by the data available. Moreover, data limitations also prevented an examination of other outcomes (e.g., substance use, pro-social activities, etc.) that may be affected by participation in DPP. It would also be of notation to investigate the participants reaction of the DPP process as individual experiences of the process could mitigate the outcomes (Cossyleon, Orwat, George, Stemen, & Key, 2017).

In addition, evaluation studies of criminal justice programs generally use re-arrest as the measure of program outcome because it is the benchmark used by most policy makers to assess the long-term impact of interventions (Young, Fluellen & Belenko, 2004). Although re-arrest is an imperfect measure – as it does not capture all potential measures of deviance (e.g., substance abuse, un-reported criminal

activity, technical violations of supervision, etc.) and, in turn, is highly dependent on law enforcement discretion – we used this measure as it likely provides the best measure by which to compare DPP participants to individuals prosecuted through traditional adjudication processes.

Recommendations

To improve both the functioning and evaluation of deferred prosecution programs, case management systems should be designed to identify several factors. To fully understand demand/need for the program and trends in programs admissions, program administrators should collect information that can determine: the number of defendants eligible for deferred prosecution; the number of defendants offered deferred prosecution; the reasons for why defendants were not offered the program; the number of defendants refusing deferred prosecution; and the reasons for defendants' refusal of deferred prosecution.

This would require that data collection begins at the branch courts, capturing information on all eligible defendants when the initial decision to offer or not offer deferred prosecution occurs. Program administrators should also seek to collect more detailed information that can assess the need/use of services for deferred prosecution participants, including: defendants' needs for employment, education, and treatment programs; the number of referrals to TASC; the outcomes of TASC needs assessments; the number and type of TASC referrals to services; and the number of completions of programs following TASC referrals.

Finally, to gain a better understanding of the factors associated with program outcomes and future re-offending, program administrators should seek to collect more detailed information about defendants, particularly factors associated with risks/needs: defendant marital, employment, and education status; defendant housing

status; and defendant prior criminal history. These are general categories of information that could assist in program design and evaluation.

Conclusions

This paper presented findings of the impact of the Evaluation of the Cook County State's Attorney's Office Deferred Prosecution Program (DPP), a pre-indictment diversion program for first time felony offenders. Although the findings were mixed, the implications for further research and practice allow for potential interventions. This research is important in helping to guide Deferred Prosecution program developers, policy makers, and treatment staff to best implement deferred prosecution programs and to assist in identifying eligible participants most likely to benefit from these programs. Creating and implementing a deferred prosecution program may be a turn in the right direction towards lowering incarceration rates. However, in order to improve the systems of tracking participants of deferred prosecution programs, jurisdictions must invest time and resources towards better understanding the candidates and participants of such programs. Doing so, will yield answers to questions about the circumstances that lead people to abstain from re-offending along with more grounded evidence for tailoring programmatic contents of such programs.

The expansion of DPP programs across the state and country are certainly a viable option given their success in reducing both the cost and collateral consequences for defendants in comparison to traditional adjudication. In Illinois, DPP programs can be expanded to reside in other court branches in addition to the centralized "26th and California Branch" and could be increased in size to include additional participants. Moreover, given the lack of statistically significant impact of DPP on re-arrest rates, there also exists an opportunity to improve the content of the

program to include additional services for participants. Although deferred prosecution

programs that offer minimal rehabilitative services for participants may be a lower

cost alternative for counties, jurisdictions can potentially work in collaboration with

community organizations that are already doing this type of rehabilitative work in the

community as one option. Instead of having DPP participants as an extra caseload for

these community organizations, DPP participants can be *part of* their traditional

caseload as defined by Department of Corrections funding sources. Thus, increasing

both the capacity and scope of the program could improve the systemic and

individual-level impact of the program for Cook County. Further research should be

aimed at examining deferred prosecution programs themselves to fill a gap in research

on diversion programs and to provide an overview of program specifics for possible

replication.

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Table 1

Descriptive Statistics: Sample of DPP Participants and Comparison Group, by Sex

	Women		Men		Combined	
	DPP	Comparison	DPP	Comparison	DPP	Comparison
Total cases	269	331	426	660	695	991
Re-arrest rate within 18 months (%)	21.9	27.8	37.6	38.1	31.4	34.6
Race						
White (%)	36.8	34.7	53.7	45.1	46.9	41.6
Black (%)	42.8	45.9	28.4	37.6	34.0	40.4
Other (%)	2.6	0.6	1.9	2.0	2.3	1.5
Missing (%)	17.8	18.7	16.1	15.3	16.8	16.5
Age (mean years)*	28.5	29.2	27.3	26.8	26.3	27.5
Criminal History						
Prior misdemeanor arrests (mean)	1.16	1.66	2.07	2.65	1.94	2.31
Prior felony arrests (mean)	0.93	1.32	1.31	1.56	1.22	1.46
Charges						
Burglary (%)	0.7	3.0	22.0	18.4	13.7	13.2
Retail theft (%)	48.3	33.5	12.3	12.7	26.3	19.7
PSC/Cannabis (%)	10.4	11.5	27.4	21.5	20.7	18.3
Theft (%)	16.7	26.0	13.2	24.4	14.7	24.9

Possession of a stolen motor vehicle (%)	1.1	0.3	3.3	4.9	2.4	3.3
Forgery (%)	11.9	12.4	5.7	3.9	8.1	6.8
ID theft/unlawful use of a credit card/Fictitious ID (%)	5.6	7.3	4.5	5.6	5.0	6.2
Criminal damage to government property (%)	1.5	3.3	4.7	5.0	3.5	4.4
Counterfeit trademarks/deceptive practices (%)	0.7	--	1.4	--	1.2	--
Unlawful use of a recording device (%)	0.4	--	2.1	0.8	1.4	0.5
Disorderly conduct (%)	1.9	--	1.7	--	1.7	--
False report to police (%)	--	2.7	--	2.7	--	2.7
Other (%)	0.7	--	1.7	--	1.3	--

* Measured at date of admission to DPP or judgment date

Table 2

Binary Logistic Regression Models of the Effect of DPP on Re-Arrest in 18 Months

	Model 1 All defendants		Model 2 Women		Model 3 Men	
Independent Variables	B (S.E.)	Odds	B (S.E.)	Odds	B (S.E.)	Odds
Group						
DPP	-0.030 (120)	0.971	-0.098 (.216)	.907	0.035 (.148)	1.035
Sex (male)	0.387 (.137)**	1.472	--	--	--	--
Age (years)	-0.030 (.007)***	0.971	-0.012 (.010)	0.988	-0.041 (.009)	0.960***
Prior misdemeanor arrests (number)	0.122 (.022)***	1.130	0.195 (.050)***	1.216	0.103 (.024)	1.109***
Prior felony arrests (number)	0.167 (.053)**	1.182	0.365 (.143)**	1.441	0.143 (.055)	1.154**
Offense						
Retail theft (reference)	--	--	--	--	--	--
Burglary	-0.101 (.198)	0.904	0.238 (.643)	1.268	-0.159 (.234)	0.853

	B	Exp(B)	B	Exp(B)	B	Exp(B)
PSC Cannabis	-0.082 (.177)	0.922	-0.246 (.336)	0.782	-0.056 (.227)	0.946
Theft	-0.412 (.176)*	0.662	-0.461 (.283)	0.630	-0.359 (.236)	0.698
Forgery	-0.590 (.253)*	0.554	-0.896 (.378)*	0.408	-0.288 (.361)	0.750
ID theft/unlawful use of CC/Fictitious ID	-0.154 (.258)	0.857	0.180 (.386)	1.197	-0.346 (.352)	0.708
-2 log likelihood	1756.585		582.613		1159.108	
Negerlkereke pseudo r	.129		.127		.114	
Chi-square	145.889***		50.548***		81.430***	

*p<.05, **p<.01, ***p<.001.

Table 3
Re-arrest Rates within 18 months by gender and Binary Logistic Regression Models of the Effect of DPP on Re-Arrest, Disaggregated by Offense (DPP Coefficients only)

	Women				Men			
Offense	**DPP**	**Comparison**	**B (S.E.)**	**Odds**	**DPP**	**Comparison**	**B (S.E.)**	**Odds**
Retail theft	28.5%	30.6%	0.409 (.323)	1.506	34.6%	44.0%	0.296 (.424)	1.344
Burglary*	--	30.0%	--	--	37.6%	44.6%	-0.060 (.306)	.941
PSC/Cannabis	25.0%	36.8%	-0.643 (.624)	0.526	44.8%	42.3%	0.230 (.266)	1.259
Theft	8.9%	22.1%	-1.388 (.647)*	0.249	37.5%	29.8%	0.339 (.352)	1.403
Forgery	15.6%	12.2%	0.708 (.751)	2.030	29.2%	38.5%	-0.575 (.862)	0.563
ID theft/unlawful use of a CC/Fictitious ID	20.0%	37.5%	-1.096 (.806)	0.174	21.1%	32.4%	-0.477 (.701)	0.621

*Only two female defendants in DPP group were charged with burglary; thus, the number of re-arrests is not reported here.

Table 4
Cox Regression Models of the Effect of DPP on Re-Arrest

	Model 4 All defendants		Model 5 Women		Model 6 Men	
Independent Variables	**B (S.E.)**	**Odds**	**B (S.E.)**	**Odds**	**B (S.E.)**	**Odds**
Group						
DPP	-0.049 (.093)	0.953	-0.065 (.180)	0.937	-0.003 (.110)	0.997
Sex (male)	0.352 (.112)**	1.422	--	--	--	--
Age (years)	-0.026 (.006)***	0.974	-0.009 (.009)	0.991	-0.036 (.007)***	0.965
Prior misdemeanor arrests (number)	0.068 (.012)***	1.070	0.095 (.017)***	1.100	0.055 (.014)***	1.056

Prior felony arrests (number)	.063 (.028)*	1.065	0.251 (.095)**	1.285	0.067 (.031)**	1.069
Offense						
Burglary	-0.118 (.150)	0.888	0.220 (.511)	1.246	-0.153 (.174)	0.858
PSC Cannabis	-0.099 (.136)	0.906	-0.141 (.259)	0.869	-0.065 (.169)	0.937
Theft	-0.350 (.141)*	0.705	-0.472 (.246)	0.624	-0.276 (.181)	0.759
Forgery	-0.541 (.213)*	0.582	-0.811 (.340)*	0.444	-0.322 (.279)	0.725
ID theft/unlawful use of CC/Fictitious ID	-0.160 (.211)	0.852	0.091 (.315)	1.095	-0.300 (.285)	0.741
-2 log likelihood	-7105.247		-1747.077		-4735.604	
Chi-square	152.310***		74.644***		74.532***	

*p<.05, **p<.01, ***p<.001.