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Testing the Cost Savings of Judicial Diversion

In the first year following the repeal of the Rockefeller drug laws, courts in New York State sent nearly 1,400 more drug-addicted offenders to treatment and produced resource savings of \$5,144 per offender, according to an independent evaluation, *Testing the Cost Savings of Judicial Diversion*, conducted by the Center for Court Innovation and NPC Research. These savings resulted primarily from a drop in re-offending and from the fact that community-based drug treatment is less costly than the incarceration or probation sentences that treatment participants would otherwise have received.

BACKGROUND

Adopted in 1973 and named after then-Governor Nelson Rockefeller, the Rockefeller drug laws required lengthy prison sentences for felony-level drug sale and possession offenses. When punitive drug enforcement strategies peaked in late 1980s and early 1990s, as many as 10,000 drug offenders in New York were sentenced to state prison each year (10,785 in 1990). Reform legislation, adopted in April 2009, included several “judicial diversion” provisions that went into effect six months later, giving judges the discretion to link offenders charged with drug- or property-related felonies to treatment, primarily through New York’s existing network of drug courts. Drug courts seek to halt the

revolving door of addiction and arrest by linking addicted offenders to drug treatment and rigorous judicial monitoring. Drug courts bring together judges, prosecutors, defense attorneys, treatment providers and court staff in a collaborative effort to enforce compliance with court orders. Drug courts also use classic behavioral modification strategies (swift and certain sanctions and incentives) that are designed to motivate substance abusers to maintain a drug-free and crime-free life.

KEY FINDINGS

Researchers at NPC Research and the Center for Court Innovation compared the change in treatment participation in the year before the reform took effect and the year after using publicly available case-level data in all 62 counties. For the cost-benefit analysis, the researchers extrapolated to the entire state results obtained through an in-depth comparison of costs associated with court-ordered treatment and conventional case processing in 10 representative counties.

Key findings include:

- Court-ordered treatment enrollment increased by 77 percent in the year after October 7, 2009, when the judicial diversion provisions of drug law reform went into effect.
- Changes in treatment enrollment varied widely by region and county, indicating that the precise impact of

Rockefeller drug law reform depends heavily on local culture and practice. For instance, enrollment increased by more than 200 percent in 13 of New York's 62 counties and by 1 to 200 percent in 25 counties; enrollment remained the same in 6 and decreased in 18 counties.

- The greatest increase in treatment enrollment took place in the suburbs of New York City, which saw a 728 percent increase—mostly stemming from a change from seven to 326 treatment participants in Nassau County and from 30 to 215 participants in Suffolk County.
- Offenders sent to treatment consumed significantly fewer criminal justice resources than similar offenders processed the year before judicial diversion went into effect. In particular, offenders sent to treatment spent significantly fewer days than the comparison group on probation or jail sentences stemming from the initial criminal case and—due to reductions in re-offending over a 3-year follow-up period—also spent fewer days serving prison sentences that stemmed from future criminal cases.
- Those felony-level offenders who enrolled in treatment due to judicial diversion were a higher risk/higher need population (e.g., longer and more serious drug use history and more prior arrests and convictions) than the offenders who were enrolled in treatment previously. This trend puts New York State more closely in line with national research demonstrating that high-risk/high-need offenders are particularly suitable for intensive interventions such as drug courts.

- Judicial diversion in New York will yield a projected net benefit of \$5,144 per offender over 5 years, resulting in cost-benefit ratio of 1 to 2. That is, for every taxpayer dollar invested in the program, there will be a \$2 return in the form of criminal justice resources saved after 5 years. When victimization costs are included—representing the cost to crime victims whenever there is a property or violent crime—the net benefit is \$13,284 per offender, and the cost-benefit ratio increases to a return of \$3.56 per dollar spent. (Judicial diversion produces substantial victimization savings by reducing the quantity of new property crimes and crimes against persons.)

As Testing the Cost Savings of Judicial Diversion documents, sending cases to treatment in lieu of incarceration or probation can free up significant criminal justice resources. But only subsequent policymaker decisions can determine whether actual savings will be realized. Among other things, realizing cost savings depends on continuing to send a high volume of felony-level defendants to treatment. Forthcoming research by the New York State Division of Criminal Justice Services and the Vera Institute of Justice will explore other aspects of Rockefeller Drug Law Reform, including whether the reform of the Rockefeller Drug Laws reduced the length of prison sentences in New York.

For more information

To download a copy of the report:

http://www.courtinnovation.org/sites/default/files/documents/NY_Judicial%20Diversion_Cost%20Study.pdf

To listen to an interview with co-author Shannon M. Carey of NPC Research:

<http://www.courtinnovation.org/research/after-rockefeller-research-findings-statewide-impact-judicial-diversion-0>