

# Promises of a Deferred Prosecution Programme.

Short report, further distributed via CCJ-News (HJ Kerner)

## Transform Justice

### Why avoiding prosecution leads to less crime

Deferred prosecution is a slight misnomer since the idea of the programme is never to prosecute – if deferred prosecution is activated it hasn't worked for that individual. Deferred prosecution was the brainchild of Dr Peter Neyroud, a chief constable turned academic, who felt that the court system was broken.

Two police forces – the West Midlands and County Durham – piloted this innovative approach. Those who had committed offences which were serious enough to be prosecuted (who also had to meet other screening criteria) were offered a “deal” – either agree to do a rehabilitation programme or opt to be prosecuted.

Those who agree to a deferred prosecution don't have to admit guilt, but they do have to comply with the programme they are set. If they do, they are allowed to move on with their life, free of a criminal record for that offence. But if they don't comply, the sword of damocles comes down and they face court.

Last year the Cambridge University Turning Point evaluation team gave two presentations hosted by the Met police. The results are impressive – the approach is a game changer. And could make a huge difference to the court backlog if expanded beyond the pilot areas.

Even before the pandemic, the delay from offence to completion in court was getting longer and longer – from 161 days in 2011 to 188 days in 2019. These figures are now shot to pieces due to covid-related court delays and alleged victims are apparently increasingly refusing to cooperate with the criminal justice process.

Justice needs to be done for victims, and deferred prosecution offers a brilliant way of “satisfying” victims without embroiling them in a lengthy court process.

It's a myth that most victims want retribution – most want whatever happened to them never to happen again. The evaluators of the Birmingham programme (Turning Point) asked victims what they thought about not having their day in court. They were in general fine with it.

In fact, as long as someone called them to explain why the deferred prosecution programme was recommended in their case, they were much more satisfied (23% more were satisfied/very satisfied) with it than those whose case went to court. And their respect for the justice system as a whole was more positive if their crime went through deferred prosecution than if it was prosecuted.

Something that satisfies victims may still not work – they could just be persuaded by a good “salesman” to think that deferred prosecution is effective. But in fact it is. In stark reoffending figures, the difference between deferred prosecution and prosecution is not that big but, if the crime harm is measured, the difference is significant. So for those who went on the deferred prosecution programme, each offender on average created 34% less crime harm afterwards. Deferred prosecution also costs considerably less than the court process, for the police and everyone else.

**A recent academic study** looked at a drop in the diversion rate in the state of Victoria in Australia – this dropped by half over 10 years, from 25.6% to 12.5%. Based on previous International studies on the greater effectiveness of diversion than prosecution, the authors estimated that “at least 8 crimes per year per 100 offenders could have been prevented among the missed opportunity cases.

Using a population rate of offending, the estimate equals 1474 crimes that could have been prevented. Using the offending population rate, we estimate that 37,050 offences could have been prevented”. The diversion rate in England and Wales has also dropped significantly in the last ten years.

But there is another really positive aspect of deferred prosecution, for which the evidence has only recently been published – its positive effect on some BAME groups. The Turning Point evaluation shows that those from the Asian community who completed the deferred prosecution programme created significantly less crime harm (-61% crime harm index days) than those who were prosecuted. The difference versus prosecution was least for those from the black community, but still positive for white programme participants (-16%). As ever we need more research

to understand these results, and to identify which aspects of deferred prosecution seem to work best – is it the diversion, the rehabilitation programme or the relationship with the “supervisor” (called a navigator in County Durham)? Does it work better for some crimes than others? Knowing this would help refine what is already proven to be a successful approach.