



Sherburne County Attorney's Office
and
Victim Witness Services

Kathleen A. Heaney, Sherburne County Attorney

December 30, 2015

Minnesota State Court Administrator
ATTN: Janet Marshall
130 MN Judicial Center
25 Rev. Dr. MLK Jr. Blvd.
St. Paul, MN 55155

Minnesota State Legislature
ATTN: Reed Polakowski
Legislative Reference Library
645 State Officer Building
100 Rev. Dr. MLK Jr. Blvd
St. Paul, MN 55155

RE: 2014-2015 Biennial Report on Sherburne County Diversion Program
County Attorney File Number 187699

Dear Ms. Marshall and Mr. Polakowski,

Attached please find the biennial report on the Sherburne County Diversion Program which was started in 2014. The Protocol of the diversion program is attached for your review. The Sherburne County Adult Diversion program began operating in September of 2014. This report is for the calendar years of 2014 (Sep-Dec) and 2015 and is offered in compliance with MS§299C.46 Subd 5, and MS§401.065 Subd.4.

For the year of 2014 (Sep-Dec) the following information is submitted:

Of the eligible offenses screened, 11 cases met the criteria to be referred to diversion.

Of those 11, 5 were returned by diversion as either ineligible or not completed (failed). Of those 5, the average age was 37.2 years and the number of males was 3 and the number of females was 2.

Of the 6 who were successful, the average age was 38.6 years and the number of males was 1 the number of females was 5.

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For the calendar year 2015, the following information is submitted:

Of the eligible offenses screened, 34 met the criteria to be referred to diversion:

Of those 34, 14 were returned by diversion as either ineligible or not completed (failed). Of those 14, the average age was 28.6 years and the number of males was 5 and the number of females was 10.

Of the 15 who were successful, the average age was 29.3 years and the number of males was 8, and the number of females was 7.

There are currently 5 referrals who are currently in the diversion program but have not yet completed it. Of those 5, the average age is 31.8 years and the number of males is 2 and the number of females is 3.

Sherburne County Community Corrections reports that as of December 11, 2015, there have been 20 successful and 18 unsuccessful diversions, with 6 still pending. These statistics are for September of 2014-Dec 31 of 2015.

My opinion on the programs effects on the Sherburne County criminal justice program is as follows:

As noted, we began running this program in September of 2014. The program has been running for a total of 16 months. As the attached protocol notes, the program is limited to designated misdemeanors. Due to the fact the program has not been running that long, it is probably too early to draw any concrete conclusions on its impact on the overall court system. Early observations would be that the overall numbers of people that have entered the program is not all that high. Hence, the program has not saved a significant amount of court time. That being said, numerous people have avoided having a criminal conviction on their record by completing the program. That was a major goal of the program. Hence, that goal is being met.

Sincerely,



Samuel Wertheimer II
Chief Deputy County Attorney

SW:te
Enclosures

SHERBURNE COUNTY ADULT DIVERSION PROTOCOL

The Sherburne County Adult Diversion/Community Accountability Program (herein after Community Accountability Program) is a program designed to assist the Sherburne County Attorney's Office and the Elk River City Attorney's Office in diverting offenders from the criminal court system prior to charging and conviction. The goal is to have a program to create an incentive for defined first-time offenders to change behavior and thus reduce recidivism while at the same time ensuring full and timely payment of restitution to victims, holding offenders accountable, and reducing costs associated to the criminal justice system.

GENERAL GUIDELINES

- I. Law enforcement will not determine diversion eligibility, nor will they offer diversion.
- II. The Sherburne County Adult Diversion/Community Accountability Program is limited to the following misdemeanor property offenses with a loss to the victim(s) of no more than \$500 in total:
 - a. Worthless Checks, 609.535
 - b. Theft, 609.52
 - c. Receiving Stolen Property, 609.53
 - d. Trespassing, 609.605
 - e. Criminal Damage to property, 609.595
 - f. Motor Vehicle Tampering, 609.546
 - g. Ordinance violations maybe considered for entrance into the program upon consent of the prosecutor on a case by case basis
- III. The Sherburne County Sheriff's Office, Big Lake Police Department and Becker Police Department will forward citations charging the above offenses to the Sherburne County Attorney's Office prior to filing them with the court. The Elk River Police Department will forward their citations to the Elk River City Prosecutor. Law enforcement forward the citations issued on or after September 1, 2014.
- IV. When law enforcement forwards a citation charging one of the above offenses to the Sherburne County Attorney's office or Elk River City Prosecutor, the following items are requested:
 - a. Ticket with court date set out a minimum of 45 days
 - b. Defendant's current address and phone number
 - c. Victim's current address and phone number
 - d. Police reports establishing probable cause for offense committed
 - e. Dollar amount of restitution (if known)

- f. Ticket/reports generally need to be submitted within 1 (one) week of ticket issuance
- V. Cases forwarded to the Sherburne County Attorney's Office should be submitted by e-mail to: attorney.reports@co.sherburne.mn.us
- VI. The Sherburne County Attorney's Office will open a file as soon as a case is referred by law enforcement.
- VII. Guidelines for Diversion Eligibility
 - a. No prior felony, gross misdemeanor or misdemeanor conviction, or a juvenile adjudication for a felony, gross misdemeanor or misdemeanor offense. An offender is eligible if three years have elapsed since the date of conviction or adjudication of a prior misdemeanor conviction.
 - b. An offender is NOT eligible if they have additional charges pending in any jurisdiction. Pending petty misdemeanor traffic offenses would normally not exclude an offender from participating.
 - c. An offender is NOT eligible if they were previously in a diversion program as an adult.
- VIII. Once a case is forwarded to the prosecuting authority, the attorney will review the case and make a determination as to whether party is eligible for diversion. If a party is not eligible for diversion, the prosecuting authority will e-mail law enforcement and direct them to e-file the ticket with Court Administration. Law enforcement will provide the prosecuting authority a point of contact for diversion issues.
- IX. If a party is eligible for diversion, a case referred to the Sherburne County Attorney's office will be forwarded to Sherburne County Victim / Witness Services to contact the victim for any possible concerns they may have about the diversion program.
 - a. If none, the case will be forwarded to Sherburne County Probation.
 - b. If the victim has concerns, the case will be forwarded to the attorney assigned to the diversion program for a determination if the offender will be allowed to enter the diversion program.
- X. Sherburne County Probation will notify the Sherburne County Attorney's Office or Elk River City Attorney's office (via the referral form originally submitted) of the following:
 - a. Diversion was successfully completed
 - b. Diversion not completed
 - 1. Not eligible because
 - 2. Declined to participate
 - 3. Did not attend diversion meeting

4. Terminated for not meeting diversion requirements

- XI. If the party was not eligible for or did not complete the diversion program, the prosecuting authority will notify law enforcement to file the ticket or will file a long-form complaint.
- XII. If diversion was successfully completed, Sherburne County Probation will notify the prosecuting authority and the file will be closed.