

POWER OF PREVENTION: EPISODE 10

REPAIRING THE HARM: COURT DIVERSION IS A WIN/WIN APPROACH FOR EVERYONE

Christin D'Ovidio: Welcome to The Power of Prevention Podcast. In each podcast we will go deeper into the topic of prevention in New Hampshire. We'll share our best interviews with you, of people who are working tirelessly for their professions, their families, and their communities, to stop something unwanted from happening. In this case, substance misuse. This is a podcast for people who are looking for solutions and want to make New Hampshire a better place where we all have the opportunity to live, learn, and thrive. We are hoping to make your lives a little better with these inspirational stories about substance misuse prevention. Juvenile court diversion is an approach to help both youth and those harmed by their offenses heal and repair from their actions. Research shows that most young people age out of delinquent behavior with no interventions by simply growing up, and diversion programs are a more productive way to prevent future arrests. Being involved in the court system does more long-term harm than good. I'm excited to explore successful interventions with our two guests today.

Nicole Rodler: Thank you for having us.

Diane Casale: Thank you.

Christin D'Ovidio: I think we should start out for our listeners with a description of juvenile court diversion and how it differs from other approaches or responses. Nicole, could you start us out with that?

Nicole Rodler: Sure. Juvenile court diversion is a model that's based on restorative practices. So it's a restorative process, healing the youth, the juvenile, that we're encountering, versus a punitive system. Most individuals are used to the punitive system, which goes through the courts and ends up on probation in that process. This process actually is repairing the harm to the victim or the community while working with the juvenile, building up their strength and their weaknesses so future decision-making is stronger, and hopefully wiser.

Christin D'Ovidio: Diane, can you add a little bit with approach and response from your experience too?

Diane Casale: Juvenile diversion in New Hampshire works closely with the youth and the families, and to assess what is happening with the youth. And how the program can best serve the youth, in both repairing the harm that's been caused by their events, and putting interventions into place to help prevent further encounters with the law. The program works closely to support the youth's needs in all areas of their lives. And juvenile diversion has been providing these services to youth and families for 40 plus years. They've always focused on educational restorative practices, rather than the punitive system, which Nicole had mentioned earlier.

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Christin D'Ovidio: So 40 plus years, that's a good chunk of time. Can one of you, maybe Nicole, go backwards a little bit to the history of diversion and juvenile court diversion programs in particular? How did this get started?

Nicole Rodler: Absolutely. Well, you touched on it in the beginning so your research was right on. In the 1980s with juvenile delinquency and crime across the country, the nation felt that there needed to be alternatives. Rather than putting kids through the court systems they knew that youth are youth, they develop as they're aging and they make mistakes. So the federal at that point was the DOJ, and they provided a grant to New Hampshire, to the New Hampshire's Crime Commission on Comprehensive Children and Youth Project, which went out across the state to multiple entities, both nonprofits and municipalities, to develop diversion programming. And from there, the actual programs that received the funding created what they referred to as a coffee klatch. They started meeting the early '80s into the '90s, just to help each other, support each other because this was a new process, and be able to utilize best practices that they knew of and share what resources they could. And from there, we just continued to grow. In 2011, we were strategic in adding statute changes. 169-B:10 actually was adjusted to accommodate the requirement for diversion as a pre-court option. And then in 2013 the state helped fund hiring of a coordinator for that coffee klatch, which now was a nonprofit, known as the New Hampshire Juvenile Court Diversion Network. Little by little we've grown, we've expanded, and in that time each individual program grew and developed. I know Diane was one of the key parties when I came to the table in 2010, so Diane has a lot more history behind her knowledge.

Christin D'Ovidio: What do you have to tell us about that, Diane?

Diane Casale: Well, the New Hampshire Juvenile Court Diversion Network, which was just a coffee klatch when I first started my program in 1993. Actually some of the oldest programs were back in the '80s, like 1977 through '79. Two programs in particular, the City of Keene, it's the Juvenile Conference Committee, was what they first initiated in Keene. And then also in Tilton, the Youth Assistant Program, so that's two of the oldest programs in the state. But when I started my program, this coffee klatch of programs that came to the table were instrumental in me being able to bring information back to the judges and the prosecutors who were working with me to develop a program in Derry. They were able to guide me in all of the different practices that they utilized and support me in that. They actually had a manual back at that time, which was great because it gave me something to actually look at and read and gain ideas from. So this coffee klatch has been instrumental in providing this information to new programs throughout the state for all of these years. And the very first thing that anybody who has ever said that they were going to start a diversion program in the state was, you need to be a part of this membership. You need to be a part of this network.

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Christin D'Ovidio: I want to follow up with two questions, one for each of you. One, Nicole, you were talking about it being a mandate, or a requirement, or an RSA. Does that mean that there is a requirement that when a juvenile encounters an arrest or a ... I don't know what you want to call it, you have to tell me.

Nicole Rodler: A charge. Yeah.

Christin D'Ovidio: A charge that they must have the opportunity to go through this. Is that what that means?

Nicole Rodler: Yes. RSA 169-B:10 was, as we're notorious for this, an unfunded mandate that was not monitored, so to say. The Juvenile Petition, which our prosecutors use across the state, has a section in it that states that diversion has been looked at as an option. Now as we've grown, we've also had gaps across the state. A lot of jurisdictions we're not able to access a program, so they would quite often have to complete that petition stating "diversion not an option," or something of the sort that diversion was not applicable. Then in other locations, for example my police department, we've had diversion in Rochester since 1980, and it's always been an option, always utilized pre-court. A lot of departments look at it as an arraignment option, so they'll go to court, get the kid into the system in that process, but divert them there. Not until literally last year or the last three years we've been working on probation transformation, this really pushed it across the state statewide, that it was mandated that every jurisdiction go through an assessment process and look to see if diversion was an appropriate option for that juvenile. Or if maybe it was too far downstream already going into diversion and they just needed to have counseling or treatment resources identified for them. Or they actually were more in need, more than what diversion could provide, and those were the ones that would be identified to go for court processing. The transition has occurred over the years. In 2011 we put it into state statute, but it wasn't a solid option across the state. And Zoom became a huge option for all of us during COVID, which made it a lot more accessible, but not until January of this year did it actually get revamped in state statute. And now it is literally a mandate that they go through this assessment process and identify that diversion is or is not a target option.

Christin D'Ovidio: That's great. And, Diane, I want to ask you, because you were talking about the groups that were coming together and being someone who joined at the beginning to develop this in the Derry area, who's involved in this? Who are the people or the organizations that are bringing this into their community, and what kind of playbook is there now? What kind of guidebook is there now?

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Diane Casale: There's a lot of different organizations that can have a juvenile court diversion program. Currently, in our membership, we have municipalities. Nicole is out of the police department, Keene is out of their state. And then there's a number that are through nonprofits. Family Resource Center is where the one in Derry is housed. We have Austin17House, which is another nonprofit. So there's a number of programs that are in nonprofits. Currently we have 18 accredited programs in the state of New Hampshire. Like I said, they're housed in many, many different organizations.

Nicole Rodler: They do have, police departments always have the option to go directly to diversion, but the statute of limitations, which is the time clock on each case, not to confuse people on all of the jargon, but there is a constant, ongoing time clock on every case, from the moment that the incident occurs, to when the youth is referred, to when they go into arraignment and that process. So if a youth is diverted directly into a program, that police department only has a certain amount of time before they can bring it to petition into the courts. If a diversion program takes their six months to work on that case with the kid, quite often they can actually miss that window and the statute of limitations is up so the case becomes null and void. But the reality is that, yes, the kid has gotten services and has worked, and hopefully that program will have success with them over that timeframe, rather than they fail out of a diversion program and don't have any consequences anyways.

Diane Casale: Schools can refer to a diversion program if they so choose. One of the things that I think that's important, is that for an accredited program it has to be a delinquent offense. So we call the other things, they can bring those youth in and they can work with youth from schools, or a therapist might even. We've had youth who've been self-referred to different programs. But when it comes to the diversion program, a delinquent offense has to have occurred in order for them to be counted in the diversion process.

Christin D'Ovidio: Youth make mistakes as they grow and mature, but not all those behaviors are considered delinquent. Let's hear what type of offenses might get a young person referred to a diversion program.

Diane Casale: Running away, that kind of thing. Those are status offenses. Now a program may be working with a youth on those kinds of things, or truancy. I believe truancy is a status offense as well. Versus delinquent offenses, which are like shoplifting, criminal threatening, simple assault. Versus violations, which are possession of a controlled drug, possession of alcohol I believe is another one. There's different types of offenses, if you will, that a program can still work with, but the delinquent offenses are the only ones that really count as diversion.

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Christin D'Ovidio: I see. Thank you. Now I guess there may be a perception, you alluded to this, Nicole, that youth are getting off or getting away with something. But can you talk about really the benefits of these programs? What is this doing for youth and for communities?

Nicole Rodler: Yes. There is a huge benefit, and would love to actually talk about that. The myth of tree hugging is truly a myth. We are actually working with the kids and making a change. Restorative practices, restorative justice, is what all of the diversion programs utilize. And that's where they're looking at the youth in 360, a 3D model, so to say, where they're looking at the youth, their strengths and their needs, and their evaluating how their home life is, their school life, their interests, their personal goals. Trying to really work with identifying where those weaknesses are, because we know that the underlying causes tend to be why a youth will do an act. They will find themselves doing a delinquent act because of what's happening in their life, versus just wanting to do something that's wrong. So if we can get to that underlying level, which we have been very successful in implementing what we refer to as our screening tool. It's an SBIRT, which is the Screening to Brief Referral and Intervention and Treatment, and the PHQ-9. We have worked with the state's best practice models on doing these tools that are adjusted for juvenile justice. The traditional SBIRT that's used in a medical setting when you go into the doctor's office is a little different than what we're utilizing with the youth in our offices. In our intake process we're literally looking at this full picture and we're getting this assessment done live, with the youth, at that moment. So we can identify, one, a referral into intervention and treatment if it's needed. If it's not, then we are able to identify what level of education and resources we need to put into helping that youth make a change in their life. Across the board the youth is going to benefit, the family's going to benefit, because the youth is now making changes in their life with someone helping them in a structured setting. And the community is also getting something in return where, one, the youth is repairing the harm that they've created, be it a willful concealment charge, or even if it's a simple assault. Sometimes the fights in school, that impacts the school community on a whole. And so the kids are repairing that harm. And that's what's making the changes, because not only are they learning and adjusting and their family is benefiting, but that community piece is also seeing the impact that that youth has and is changing. It's a win-win across the board.

Christin D'Ovidio: Diane, can you talk a little bit about what Nicole was just saying, maybe about how a family is involved, versus just the youth. And then maybe some of the other supports or programs within the program that are offered to do this restorative piece?

Diane Casale: Sure. One of the things that we believe in diversion, is the earliest intervention you can possibly have with the youth is absolutely the best place to be. So the earlier you can intervene with that youth, the better chance you have of really making change. Because if there's things going on within the family you can work with that family unit. Maybe there needs to be

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some parent education, as well as working with the youth on whatever the offense is. You can put these supports into place for the parent. Maybe there's things that are very basic, like food, shelter. We've had youth who have come to the program and found out that their families have no place to live. So being able to help them find those resources. There could be some mental health issues. There could be substance abuse issues or misuse issues, different things of that sort. Which, once that's recognized, supports can be put into place for that family to help them be able to meet the needs of that child and themselves. Being able to do all of those things makes a safer environment for that youth to then flourish. And by helping them work through those kinds of things, we help not just the youth, but the family and the community as well, because then you have a more solid, stable family in the community.

Nicole Rodler: Ironically, Diane's former program, she came from The Upper Room and Derry, and her program, she worked with them on instilling some fantastic family programming that we all utilize. The irony is that COVID was a blessing for our diversion programs. We ended up able to refer families down, I do regularly, to some of The Upper Room's programs because they're on Zoom and I can identify family support, parenting support groups for my parents, that they have someone there all the time that they can access and bounce questions off of. Where my community right now doesn't have a family support group. There's programs that utilize their inner resources. So as a police department, clearly we're not going to have that internally, but reaching out to our partners across the network, we can access some of these programs. And Diane's was fantastic for that.

Diane Casale: Being in a family resource center really was wonderful because it allowed me to have those supports and resources available to me right there. And now the beauty of it is, is that it's been able to branch out and be used by multiple programs.

Christin D'Ovidio: That's great. And we've heard from a number of guests about the importance of families getting support. That it's not something you can just go off and do on your own and be an expert at.

Diane Casale: No.

Christin D'Ovidio: That's really great too. I do want to ask, are there any drawbacks of juvenile court diversion?

Nicole Rodler: I couldn't come up with one when you asked that question earlier. I felt a little cocky saying, "Not that I know of," but honestly, it's a win-win. When you are able to provide a youth with education to make better decisions, I don't see there being any drawbacks.

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Diane Casale: Yeah. And if I were going to say there was a drawback or any drawbacks, I would say one is the fact that we've worked really hard in the network to make sure that all of the youth in New Hampshire have access to a diversion program. But the North Country still has to either travel a long way or they're on Zoom, which is, it's good. It's good that they have that, but it's still not as good as being able to meet with someone in person. I would say, that would be what I would consider a drawback. And maybe the only other thing is that it would be wonderful if all of the programs had access to resources that they could send youth to, which is another thing that's not available to all the programs.

Christin D'Ovidio: And you're touching on something I want to talk about too. Really, what are the challenges and the issues that are facing juvenile court diversion programs right now?

Diane Casale: Funding.

Nicole Rodler: One word, funding.

Diane Casale: Funding. Yes. It's definitely-

Nicole Rodler: That magical word that everybody absolutely hates using.

Diane Casale: Yeah.

Nicole Rodler: Funding is a challenge across the board. It's a matter of accessing those resources and identifying what's in our communities, being able to refer kids to what is needed, versus what is available. So we're struggling. Even with the probation transformation process, we were trying desperately to implement services on that front end from diversion and before, but we have a lack of resources to tap into. [inaudible 00:21:31] statewide issue, it's a national issue, honestly.

Diane Casale: Right, right.

Nicole Rodler: Funding is definitely one of those. We do receive some incentive funds. Some of the programs do from the state. And we do receive funding for our screening of each of our youth from the state. That's been very instrumental in helping us build up our programs. But there's no consistent, sustainable funding that's provided to the diversion programs across the state. And that really is a challenge for many, many of the programs to keep their doors open.

Diane Casale: Well, one of the other things too that plays into that is that many of the programs, especially through nonprofit programs and things like that, are programs that are housed in nonprofit agencies. Foundations, they feel it should be a state thing, that the state should be funding diversion programs, so they're withdrawing their funding of diversion programs. And

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that's made it really difficult too to find, because then there's a gap that needs to be filled in and they need to figure out how to do that. And I just want to touch on, comprehensive funding is crucial in order for these programs to provide these services that are being asked of the programs.

Christin D'Ovidio: So a rounded response, community, state, members.

Diane Casale: Yes.

Christin D'Ovidio: And people need to know about it.

Diane Casale: Yes, yes.

Christin D'Ovidio: What would you say to a worried parent, because they're encountering this from another side. They might not even know about prevention and their child has gotten in trouble. Or that maybe they're not a parent, maybe they're a caretaker or a guardian for a child.

Nicole Rodler: That's something we see a lot of, is the majority of cases right now are with custodial guardians. They're not with their biological parents. And it is scary. Some of them are parenting for a second time and they weren't prepared for it. So it's a matter of, one, a teen is a teen, same as yesterday, as today, as is tomorrow. They're developing, they're growing. We know that the brain takes until at least 25. I am convinced it's at least until 50. It's a process that we've all gone through. The diversion process is designed to let charges drop away. We take into account the fact that youth, that juveniles, are developing and growing and learning. And that's the beauty of getting them pre-court to be able to wave that charge away, so that way a kid is walking around with a clean slate. But the beauty of New Hampshire also is that juvenile justice is confidential. Even if a kid does end up in the system, they are not held to having that record out there, unlike other states. And that really imposes an image on a youth. They're applying to college and they pull up a juvenile record and they hold it against a youth, that their developing brain just didn't understand what they were doing. It's really, it's a hard penalty to pay. I just tell parents, "We work with your kid, and we help them make the best decisions and give them the tools that they were missing in their toolbox to go forward."

Christin D'Ovidio: I like that, that's a nice way to look at it. As you know, the title of this podcast series is The Power of Prevention. And we like to end by asking each of our guests the same question, which is, how do you describe prevention or what is your definition of prevention? And I'll ask you first, Nicole?

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Nicole Rodler: Put the pressure on me first. I define prevention as stopping something from happening. As I mentioned earlier, I think youth get themselves into trouble because of what's happening in their life that they can't control. If you give them the tools to change what's happening in their life or to look at it in a different way, even if they can't change it, then you're stopping them from making the decisions that put them on a different path.

Christin D'Ovidio: Thank you. And, Diane, how do you describe prevention? How would you describe prevention?

Diane Casale: When I first read the question I was like, "Okay, what is the definition of prevention?" I Googled it and found that it says, "With respect to human services, prevention consists of methods or activities that seek to reduce or deter specific or predictable problems, protect the current state of wellbeing, or promote desired outcomes of behavior." And so with that, I look at it as it's the ability to work with the youth to help them resolve an issue that puts them on a positive path. That, to me, is what really prevention in juvenile diversion is, is it's regardless of the circumstances we're going to work with them and get them moving in a positive way. Whatever is going on in their lives, we're going to shore that up and move them forward.

Christin D'Ovidio: Thank you. Those are both great definitions. Our guests today were Nicole Rodler and Diane Casale. And I'd like to say thank you so much to both you for joining us. I really have learned so much, I know our listeners will have as well.

Nicole Rodler: Thank you for having us.

Diane Casale: Thank you for having us. This is great.

Christin D'Ovidio: All behavior is a form of communication. When we punish youth for engaging in antisocial behavior through the court system, we sometimes do more harm than good. Involvement in a juvenile court diversion program helps to identify some of the factors that contributed to a youth's negative behavior, like mental health, family issues, substance use. And then it helps these youth to develop new ways of coping. This helps both you and those harmed to heal and grow.