MELISSA M. LABRIOLA, JESSIE COE, ISAAC M. OPPER, DANIELLE SOBOL, AMY MAHLER

Testing the Efficacy of Pretrial Diversion

A Randomized Trial at the San Francisco Neighborhood Courts

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About This Report

This report presents the results from a randomized trial testing the effectiveness of Neighborhood Court, a restorative justice diversion program run by the District Attorney's Office in San Francisco, California. Neighborhood Courts is built on a restorative justice framework with the use of restorative justice hearings and directives that are assigned to the defendant, all to achieve four primary goals: 1) efficient case resolution; 2) community-driven solutions; reduced burden on criminal courts; and 4) reduced recidivism. Since its inception, Neighborhood Courts has handled approximately 2,000 cases with ten courts across the city. In this report, we use information collected from program staff and participant interviews and surveys, administrative data, and observations of programs to describe how the program is implemented, identify key program facilitators and barriers, illustrate participant experiences, determine whether the model is effective in reducing risk factors for criminal legal involvement (e.g., recidivism), and whether it is cost-effective. This report should be of interest to entities across the U.S. interested in diversion programs.

Justice Policy Program

RAND Social and Economic Well-Being is a division of the RAND Corporation that seeks to actively improve the health and social and economic well-being of populations and communities throughout the world. This research was conducted in the Justice Policy Program within RAND Social and Economic Well-Being. The program focuses on such topics as access to justice, policing, corrections, drug policy, and court system reform, as well as other policy concerns pertaining to public safety and criminal and civil justice. For more information, email justicepolicy@rand.org.

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Chapter 1. Introduction

Neighborhood Courts began in 2011 when the San Francisco District Attorney's Office sought to reshape and expand the City's existing community court model. Neighborhood Courts is built on a restorative justice framework with the use of restorative justice hearings and directives that are assigned to the defendant, all to achieve four primary goals: 1) efficient case resolution; 2) community-driven solutions; reduced burden on criminal courts; and 4) reduced recidivism. Since its inception, Neighborhood Courts has handled approximately 2,000 cases with ten courts across the city. The model has been replicated in both Los Angeles and Yolo County.

The District Attorney's Office refers appropriate misdemeanor cases, with limited criminal history, to Neighborhood Courts instead of charging cases for criminal prosecution. Most common charges include theft, vandalism, graffiti, public urination, public intoxication, prostitution (demand) and gambling. Exclusions include charges involving weapons and/or violence. There are ten Neighborhood Courts across the City (one for each police district), where trained neighborhood volunteers hear the matters, speak with the participants (e.g., justice involved individuals under traditional prosecution) about the harm caused by their actions, and issue "directives" designed to repair the harm and address risk factors. After cases are screened and deemed eligible, the Misdemeanor Rebooking Liaison Officer has the responsibility to prepare the rebooking packets and contacts the defendant to explain Neighborhood Courts. Defendants have 5-10 days to contact the Neighborhood Courts. They are required to attend a hearing where a panel of volunteer "adjudicators" hears the case, which includes hearing from the offender and the victim (in cases where there is a victim) and discuss the impact of the crime on the community. To resolve the case, adjudicators issue "directives," such as writing a letter to a family member, performing community service, or paying restitution, to repair the harm caused by the incident. The duration is usually 16 hours to complete the directive over a 30–60-day period. Defendants who complete the directive have their case dismissed. Those who do not contact Neighborhood Courts or do not attend their hearing or do not complete their directive have their case filed and the case appears on the defendant's record. The Neighborhood Courts have many community partners, including San Francisco Pretrial Diversion and Community Boards. These agencies initially train and provide ongoing training and support to adjudicators in restorative justice and problem-solving principles. This training is critical in making sure that restorative justice principles are guiding the hearings and communication between everyone involved.

The RAND Corporation conducted the evaluation of Neighborhood Courts (NC), which sought to document implementation issues, whether the program was effective in reducing

criminal legal involvement (e.g., recidivism), and whether it was cost-effective. The four main four research questions are:

1. What were the barriers inhibiting the potential success of a restorative justice diversion program, and how did prosecutors and service providers overcome these barriers?
2. What is the impact of a restorative justice program on future re- arrest?
3. What is the tangible and intangible cost of a restorative justice program to the local community?
4. What is the impact of a restorative justice program on defendants' perceptions of procedural justice, legal process, and readiness to change?

To answer these research questions, we conducted multiple modes of data collection. First, to answer research question #1 and #4, we conducted two site visits to the NC and interviewed stakeholders to document policies and practices, as well as challenges and barriers. Second, to answer research question #2, we designed and implemented a randomized trial assigning half of eligible defendants to NC and the other half to 'treatment as usual' and examined official re-arrest records within one year after the initial incident. Third, to answer research question #3, we conducted a survey-based experiment with a national sample, asking them to trade-off features of the restorative justice-pretrial diversion programs with features of cases that go through traditional routes of justice. These results will allow us to produce the 'real' cost of the diversion program to the community.

Background

When there are calls to reform overly punitive legal systems, one pathway oft suggested is pretrial diversion. Generally speaking, diversion prior to conviction may occur at one of three stages of interaction with the criminal justice system: with law enforcement personnel (i.e., police), at the pretrial/prosecutorial phase, and via problem-solving or specialty courts (TASC 2013). Diversion at these three phases differs with respect to their goals, oversight mechanisms and practices. The focus of this review will be on pretrial or prosecutorial diversion. Prosecutorial diversion programs may occur at the pre-filing or post-filing stage, or may offer both depending on the defendant (Labriola et al., 2018).

The National Association of Pretrial Services Agencies (NAPSA) defines pretrial diversion as "any voluntary option that provides alternative criminal case processing for a defendant charged with a crime and ideally results in a dismissal of the charge(s). Pretrial diversion programs feature: (1) uniform eligibility criteria; (2) structured delivery of services and supervision; and (3) dismissal—or its equivalent—of pending criminal charges upon successful completion of the required term and conditions of diversion" (NAPSA 2010).

According to a report published by The Center for Health and Justice at TASC, some of the goals of pretrial diversion are to reduce pressure on court dockets, reduce costs and maximize resources for more serious cases, address the underlying motivations that lead people to commit crimes, and reduce recidivism (TASC 2013). The focus of most of research has heretofore been

the effect of diversion on recidivism, which we discuss in the next section, below. That section is followed by an overview of the costs and benefit research on pretrial diversion. This review also discusses the practice of restorative justice, summarizing the different types of programs, and evidence on the impact. The review concludes with a comparison of pretrial diversion and restorative justice, and a summary of the San Francisco Neighborhood Courts program.

In practice, pretrial diversion may be targeted at either misdemeanor or felony offenders, or as is often the case, on specific populations, such as juvenile offenders, individuals with substance abuse issues or mental health problems, as well as low-level or first-time offenders (Labriola et al., 2018, TASC 2013). There have also been diversion programs for sex workers and exploiters (Roe-Sepowitz et al., 2011).

An example of a broad and comprehensive diversion program is the Bernalillo County Pretrial Services Division in New Mexico, with a target population of individuals with substance use disorders, mental illness, or co-occurring disorders, veterans, women, and other populations including incarcerated defendants who may not be competent to stand trial. The goals of this diversion programs are similarly broad, and "include reduction of jail crowding, increased alternatives for the target population, linkage of defendants to treatment services at the pre-adjudication level, and reduced recidivism" (Labriola et al., 2018). As with the breadth of the population served and the goals sought, the program mechanisms are varied. "Community services accessed include mental health, substance abuse, employment/labor, housing, faith based, Medicaid, other public benefits, community health centers, homeless services, and veterans' services. Rewards for compliance include dropping of the sentence, and sanctions for violations include adjudication of sentence" (TASC 2013). An example of a smaller, more targeted pretrial diversion program is the Montgomery County Pre-Trial Diversion in Alabama. Available only to certain types of non-violent first-time offenders, this is a "highly individualized and supervised restorative program," which includes the requirements that the defendant work, pursue further educational training, regularly volunteer, participate in counseling, report to the pretrial diversion office, and pay restitution if applicable (TASC 2013).

One innovation that could potentially improve participant outcomes, such as recidivism and victim and community satisfaction, and provide system-wide benefits is to include restorative justice practices in diversion programs. Restorative justice is an umbrella term for a set of practices that can be somewhat ill-defined and easily misunderstood (Latimer et al., 2005). It encompasses practices that are focused on community empowerment and participation as well as an emphasis on the victim (McGarrell et al., 2007). A commonly accepted definition is that it is "a process whereby all the parties with a stake in a particular offence come together to resolve collectively how to deal with the aftermath of the offence and its implications for the future" (Marshall 1996). Restorative justice interventions recognize that the typical criminal justice sanctions do not give the victim much of a voice and do not directly allow the offender to account for the harm they caused.

Researchers have studied the impact of pretrial diversion on several outcomes, however the major focus of most researchers has been the effect on recidivism. The majority of the more recent higher-quality studies, either randomized control trials, of which there have been few, and quasi-experimental designs with control groups, have shown a statistically significant effect of pretrial diversion on reduced recidivism (Cowell et al., 2004, Van Stelle et al., 2014, Rempel et al., 2018), although several have also demonstrated no effect (Dunford et al., 1982, George et al., 2015). Most of these studies involved either juvenile offenders or low-level and/or first-time adult offenders (Davidson et al., 1987, Patrick et al., 2005). In addition to studies with experimental and quasi-experimental research design, there have been weaker studies which relied exclusively on statistical analysis and did not contain control or comparison groups or controlled dissimilar groups without controls.

There have been several studies about the impact of restorative justice on recidivism, most of which found that rearrest rates decreased after participation in a restorative justice program. Most of the authors of these studies, however, recommend interpreting the results with caution due to the shortcomings in the analysis, some of which are considered inherent to restorative justice programs. Latimer and colleagues (2005) cautioned that the voluntariness of restorative justice, coupled with the high attrition rates in many studies, may explain much of the effect. Latimer and coauthors argue that the self-selection bias is inherent in restorative justice studies because voluntariness is integral to the process (Latimer et al., 2005, Sherman et al., 2014, Kimbrell et al., 2022).

Restorative justice practices are often considered diversionary, an alternative to 'traditional' pretrial diversion programs (Bergseth et al., 2007), which themselves are an alternative to processing through the court. Pretrial diversion, as noted above, is a very broad category encompassing different alternatives to prosecution, and restorative justice programs are just one subcategory. Increasingly, though, restorative justice has been incorporated into diversion, as a way to improve fairness and justice for victims, an element that some believe is a weakness in current diversion programs.

There has been some research comparing traditional diversion to restorative justice. In 2000 and 2001, McGarrell and coauthors examined family group conferences for juvenile offenders in Indianapolis, Indiana. They first compared all participants, regardless of completion, to a control group of participants in other diversion programs, finding that at six months, the recidivism rate for the restorative justice group was 13% lower than diversion. Looking only at program completers, they found 10% lower recidivism for conference participants compared to diversion (McGarrell et al., 2007). In 2007, Rodriguez compared juveniles in a restorative justice diversion program with juveniles in traditional diversion. She found that at the 24-month follow-up, restorative justice divertees, whose terms of diversion were set by victims, families, and community volunteers, had a slightly lower recidivism rate than the other divertees, whose terms were set by probation officers (Rodriguez 2007).

Cost of pretrial diversion

There are several reasons why jurisdictions are increasingly interested in diversion. As noted above, one major reason is the potential for reducing recidivism. Another is the belief that avoiding court reduces costs, freeing up more resources for the criminal justice system. The impact of pretrial diversion on recidivism remains the most studied outcome, by far. Cost-benefit and cost-effectiveness analyses are far less common. A few researchers have tested the impact of pretrial diversion on costs, and all have found cost savings. In their 2004 study, Cowell, Broner and DuPont noted that "the result that diversion [is] associated with lower jail costs is intuitively appealing, because the core defining feature of any criminal justice diversion program is to keep those diverted out of jail" (Cowell et al., 2004).

Ultimately, a fundamental question is whether the benefits of pretrial diversion outweigh their costs. The TASC study from 2013 states that "ample literature demonstrates cost- and time-effectiveness benefits…for criminal justice systems and jurisdictions that implement [pretrial] diversion programs," although it does not point to any specific studies (TASC 2013). In fact, just as there are few straightforward cost studies, there is a dearth of cost-benefit or cost-effectiveness studies.

Organization of the Report

This report provides a comprehensive description of how the program worked and who it served, as well as the results from the implementation and outcome evaluations and the cost analysis. The report is organized as follows:

Chapter 1. Introduction provides an overview of the program and evaluation.

Chapter 2. Methods describes the methodology for the evaluation, including sources of data and the analysis plan.

Chapter 3. Qualitative Findings provides detailed information about key implementation challenges experienced by the programs and how the district attorney's office works to overcome these barriers. We additionally explored what works well for both adjudicators and participants.

Chapter 4. Randomized Control Trial Findings provides findings from the randomized control trial, specifically we examine the impact Neighborhood Courts had on rearrest rates.

Chapter 5. Discrete Choice Experiment Results provides results on a previously intangible benefit of the pilot program – the benefit to the community.

Chapter 6. Conclusion summarizes the key takeaways, as well as the study limitations.

Chapter 2. Methods

This chapter provides a high-level overview of the study components and their associated research questions. This chapter also describes the analytic approach to each study component and will describe the key data sources and the relationship to the different evaluation components. The evaluation consisted of three components: site visits to all ten of the Neighborhood Courts (NC), including interviews with stakeholders and participants to document policies and practices, as well as challenges and barriers; a randomized trial assigning half of eligible defendants to NC and the other half to 'treatment as usual''; a survey-based experiment with a national sample, asking them to trade-off features of the restorative justice-pretrial diversion programs with features of cases that go through traditional routes of justice.

Site Visits

Information was collected through two intensive, in-person site visits to San Francisco by members of the research team—as well as through pre- and post-site visit phone and e-mail consultation.

Observations

During the site visits, we observed hearings in all ten Neighborhood Courts. We observed the neighborhood volunteers (adjudicators) preparation of the hearings, the dialogue between participant and adjudicators, and the issuance of "directives" designed to repair the harm and address risk factors. We developed a structured observation form (see Appendix C) to examine key elements of program administration, including key content areas, and participant engagement. We also conducted observations after the onset of the COVID-19 pandemic virtually.

Stakeholder Interviews

During site visits, researchers conducted 14 in-depth interviews with program stakeholders, specifically with lead prosecuting attorneys as well as with attorneys and administrators doing the hands-on work of reviewing and determining the eligibility of cases referred to Neighborhood Courts. Interviews focused on the structure, operations and challenges and barriers.

Interviews typically included one or two staff members, and all staff provided verbal consent for participation in the interviews. The purpose of these 45-60 minute interviews was to understand the way each agency worked with Neighborhood Courts, the flow of a typical participant through the program from recruitment to program completion, the nature of communication across the organizations that are involved with Neighborhood Courts, facilitators

and barriers to implementation, and opportunities for improvement. The description of the interview protocol presented in this section is drawn from a previous RAND research report (Anwar et al., 2023, pp. vi), with omissions and minor adjustments. For the full interview protocol, see Appendix A. Detailed notes were taken during the interviews, and they were also recorded to allow us to fill in gaps in the interview notes following the interview. To analyze the interview notes, we developed a qualitative codebook. Codes were largely developed deductively based on the interview guide. Two members of the evaluation team used the codebook to code an initial interview and then met to discuss discrepancies, after which they independently coded the remaining notes.

Participant Interviews

Throughout the project, we also attempted to conduct in-depth interviews with both participants in Neighborhood Courts, as well as the comparison group. A driving principle of Neighborhood Courts is restorative justice and the belief that crime and misconduct are offenses against an individual or community and does not need to be litigated by the state. Participants in Neighborhood Courts and other restorative justice programs take responsibility for their actions and together with the victim or community member seeks to right the wrong. The purpose of these interviews was to determine if this type of approach leads to increased offender satisfaction, accountability, and perceptions of the criminal justice system.

We conducted 24 semi-structured interviews via telephone and in-person with participants. We partnered with Pretrial Services for recruitment, they provided the names of individuals who had completed the program and agreed to be contacted. We worked closely with Pretrial Services for the duration of the program to try to increase participation. We tried various modalities, such as staff discussing the interviews in-person, and a flyer that was handed out to all participants. All participants provided verbal consent for participation and received a $25 gift card for their participation. Interviews typically lasted 20-30 minutes and focused on the participants' experiences in the program, including how they learned about the program, perceptions of the program, nature of their interactions with key stakeholders, facilitators/barriers to engaging with the program, and opportunities for improvement. For the full interview protocol, see Appendix B. We took detailed notes during the interviews which were used for analysis.

To analyze data, we developed a qualitative codebook. Although we designed the participant and staff interview guides to have some comparable domains (e.g., how participants learned about the program, perceived benefits of the program), the different roles of these groups meant that some questions were distinct. Therefore, the codebook was designed to have some codes that were parallel to those in the staff semi-structured interview codebook and some that were unique to the content of the participant interviews. As with the staff semi-structured interviews, two members of the evaluation team used the codebook to code one interview and then met to discuss discrepancies, after which they independently coded the remaining notes.

Randomized Control Trial

Randomization

All cases are referred by District Attorney's Office to Neighborhood Courts. After cases are screened and deemed eligible, a rebooker contacts the defendant to explain Neighborhood Courts. The rebooker played a critical role in the randomization process. Once the case was deemed eligible, based on the unique defendant ID, the rebooker would randomly assign to NC or the control group. The rebooker would then contact those defendants assigned to NC to explain their responsibilities.

Sources of Data

For this analysis, we use two sources of data. The first source comes from the RCT itself, containing the names and demographic information of all the study participants. This dataset also contains case information related to the arrest that caused the individual to participate such as the arrest date, event description (e.g., drugs, theft, vandalism, etc.), and location of arrest. Finally, the data includes a variable indicating whether the individual was assigned to the RAND Treatment Group or RAND Control Group.

The next source of data comes from the office of the San Francisco District Attorney (SFDA). This data set contains case-level data on all arrests presented to the SFDA's office from January 2011 through January 2023. This data contains detailed information about each case. This includes information about the individual arrested such as their race, gender, and date of birth, as well as a unique person-level identifier that allows us to precisely link individuals over time. The data also includes detailed information about the arrest and subsequent action about the case; examples include the location of the arrest, date of the arrest and subsequent court action, an indicator of whether SFDA filed charges, the list of incident charges, the type of offense these charges fall under, and whether it is classified as a misdemeanor arrest or felony arrest.

While this dataset contains information on all arrests presented to the SFDA's office, there are two limitations. First, since it only contains information on arrests presented to the SFDA's office, if an individual is arrested but not booked, it would not show up in the dataset we use. Based on our communication with individuals in the SFDA's office, this is not an important limitation as the instances in which that happens are quite rare. The second limitation is more important, which is that our data only reflects arrests that occur within the jurisdiction of SFDA. This means that if, for example, someone in our study is arrested in San Jose, we have no way of knowing about that incident. This implies that our analysis will understate the overall likelihood that participating individuals were re-arrested in the year following their participation in the study and, if the treatment does not affect *where* individuals are re-arrested, the effectiveness of the program.

While the data from SFDA contained individual identifiers to link individuals who had multiple arrests in the sample, the RCT data did not include the SFDA's identifiers. Our first step is therefore to merge the SFDA data with the RCT data. To do so, we use a fuzzy string-matching algorithm, in which we match individuals across data sets based on their name, gender, race, and date of birth.

In Table 1, we test whether baseline characteristics of the defendants are balanced between Treatment and Control groups by statistically comparing differences in their means. Column (1) shows the means and standard errors for each characteristic for the Control group, Column (2) shows the same statistics for the Treatment group, and Column (3) subtracts the characteristic's mean for the Treatment group from the Control group mean. Column (4) provides the p-value for that difference from a joint orthogonality test of the treatment arms.

From Column (4), the majority of the characteristics appear balanced with larger p-values than 0.10. The notable exception is whether the defendant is male, which is more likely within the Treatment group and significant at 5%. This is likely due to the small sample size. However, given prior findings that men are generally rearrested at higher rates compared to women, this imbalance will, if anything mean that we are understating the effect of the policy (Alper et al., 2018; Olson et al., 2016).

Table 1. Balance Table

	(1) Control	(2) Treatment	(3) Control - Treatment	(4) p-value
Male	0.713	0.852	-0.139	0.012
	(0.045)	(0.033)	(0.055)	
Age	40.406	54.165	-13.759	0.458
	(1.468)	(17.296)	(18.513)	
Black	0.297	0.296	0.001	0.982
	(0.046)	(0.043)	(0.063)	
White	0.347	0.330	0.016	0.804
	(0.048)	(0.044)	(0.065)	
Asian	0.089	0.139	-0.050	0.254
	(0.028)	(0.032)	(0.044)	
Latino	0.149	0.165	-0.017	0.738
	(0.036)	(0.035)	(0.050)	

	(1) Control	(2) Treatment	(3) Control - Treatment	(4) p-value
Other/Unknown	0.119	0.070	0.049	0.215
	(0.032)	(0.024)	(0.040)	
Property Crime	0.475	0.574	-0.099	0.149
	(0.050)	(0.046)	(0.068)	
Substance Crime	0.040	0.017	0.022	0.324
	(0.020)	(0.012)	(0.022)	
Violent Crime	0.139	0.122	0.017	0.714
	(0.035)	(0.031)	(0.046)	
Other/Unknown Crime	0.218	0.200	0.018	0.749
	(0.041)	(0.037)	(0.056)	
# Priors	0.782	0.730	0.052	0.827
	(0.151)	(0.177)	(0.236)	
N	101	115	216	

Analysis Plan

We use two main approaches to estimate the effect of attending Neighborhood Courts on the likelihood that an individual recidivates. First, we create an indicator variable that is one if the individual is re-arrested (in San Francisco) within 12 months of the arrest that caused them to enter the study. We then run linear regressions of the form:

$$Y_i = \alpha + \beta X_i + \tau T_i + \epsilon_i$$

where Y_i is the indicator of whether individual i is re-arrested within 12 months, X_i are a set of covariates about the individual, T_i is an indicator of whether individual i participated in Neighborhood Courts, and ϵ_i is an error term. We estimate this regression both without any covariates as well as when controlling for the individual's race, gender, and arrest history. We estimate the effect using both the linear specification above and a logit regression and get very similar results.

While this approach has the advantage of being easy to interpret, a downside is that it ignores any information about *when* an individual is re-arrested and only measures *whether* and individual is re-arrested. Roughly speaking, this means that the approach is ignoring potentially valuable information in the data, which makes is less likely that analysis would show that NC

impacts future re-arrest rates. We therefore complete the analysis above with a model that explicitly accounts for time, namely a survival analysis.

We use the nonparametric Kaplan-Meier method to calculate the probability that the individual "survives" (is not re-arrested) over the observed time period, accounting for censoring (Kaplan and Meier, 1958). This survival probability at time t_i, $S(t_i)$, is calculated as follows:

$$S(t_i) = S(t_{i-1})(1 - \frac{d_i}{n_i})$$

where $S(t_{i-1})$ is the probability of survival at time t_{i-1}, n_i is the number of individuals surviving just before t, and d_i is the number of events at t_i. Note that $t_0 = 0$.

In this context, "survival" means not getting re-arrested in the observed timespan. For ease of interpretation, instead of showing the survival function, we plot KM estimates of the failure function, $1 - S(t_i)$, which captures the relationship between the probability of being re-arrested at least once and the number of days since the randomization took place. We plot these failure curves for the NC treatment versus control groups, and compare them using the log-rank test, whose null hypothesis states that there is no difference in re-arrest rates between the two groups.

Discrete Choice Experiment

An important aspect of restorative justice programs is their reception by community members. Are communities in favor of these interventions? Would communities prefer offenders go to jail or engage in community service? Are communities willing to support these programs through additional tax dollars? To address and quantify the sentiments of community members towards restorative justice programs, we designed and fielded a discrete choice experiment. The discrete choice experiment uses a survey instrument that asks respondents to choose between two bundles. Each bundle is a group of programs and an associated tax. By choosing between the bundles, respondents compare their preferences for different programs (i.e., jail versus community service) as well as their willingness to pay additional taxes to fund those programs.

Sources of Data

Our discrete choice experiment consists of an administered survey. Participants were recruited nationally via Qualtrics Inc. We began by developing an initial list of policy features based on existing policies, and previous survey literature focusing on the public's preferences. Then, as suggested by Coast et al., (2012), we revised the list through one pre-study and pre-tests. Specifically, we conducted interviews with family members, friends, and RAND staff about an initial survey. Based on this testing, we changed some of the instrument language, and reduced the amount of text in the narrative. Then during a pre-study, we implemented the survey with 660 Qualtrics panelists and included open-ended questions about their perceptions about each question. This led to a revision of the wording and to reducing the number of attributes levels that could vary; we describe this in more detail. We pre-tested the instrument again among

family, friends, and RAND staff colleagues, and finalized the language of the instrument. Restorative justice programs, in terms of our survey language, are attribute-levels. For example, *community* service is a level of the *Penalty* attribute. The list of programs we considered are presented in Table 2 in attribute-level format.

Table 2. Description of Choice Experiment Attributes and Levels

Attribute	Levels
By law, what type of penalty must be imposed? (*Penalty*)	1. Complete 16 hours of counseling to change behavior 2. Complete 16 hours of community service 3. Remain in jail for 16 hours
How must the offender take responsibility for the crime publicly? (*Responsibility*)	1. None 2. Explain details of the event to a judge 3. Explain details of the event to a community panel[a] [i]
Does the crime appear on a criminal background check? (after the offender completes the penalty) (*Record-sealing*)	1. No 2. Yes
Does the offender have to write a letter of apology & reflection? (after the offender completes the penalty; made available to the victim) (*Letter*)	1. No 2. Yes
How much is the victim repaid for the damages to their property? (monthly payments consider offender's income) (*Repayment*)	1. None 2. Half the amount of the property damage 3. Full amount of the property damage
How much do households have to pay in taxes once per year to manage this law? (if your household earns less than $50k this amount is $0) (*Tax*)	1. $2.50 2. $5 3. $10

[a] A community panel is a volunteer group of adults representing the community needs, interests, and views about the crime committed. The panelists have a background check and must complete a training. Three panelists help reach an agreement with the offender in a face-to-face dialogue, which doesn't involve the regular court system.

Our finalized survey was administered by Qualtrics. Qualtrics recruits a nationally representative sample of the general population by basing the percentages of each demographic on the previous year's U.S. census data. We received 1,260 completed responses between October 24th and October 30th, 2020. Our main analytic sample eliminates respondents who opted out of the survey experiment, leaving 1,055 respondents in the main sample. The sample is nationally representative in terms of age, ethnicity/race, and income.

Analysis Plan

We first model the choice of the bundle preferred relative to the other bundle using a conditional logit model (McFadden, 1973). A respondent's choice among the available options is

represented as a function of the characteristics of the alternatives (Hoffman and Duncan, 1988), which in our case means the specific programs and tax level within the bundle.

We model the utility that person i receives from bundle j in choice set t as:

$$U_{itj} = Z_{tj}\alpha + c_{it} + \epsilon_{itj}$$

(1) where Z_{tj} is a vector of programs and taxes characterizing alternative j in choice set t, α is a vector of preference weights reflecting the relative contribution of each program to the utility received by respondents, c_{it} is an unobserved person-choice set specific utility shifter, and ϵ_{itj} is a random error term. For a hypothetical bundle, $j=1$, that includes jail, taking responsibility in front of a judge, no letter writing, no record sealing, paying back the full amount of property damage, and costing the household ten dollars in additional taxes, the utility represented by (1) would be:

$$U_{it1} = \alpha_{jail} + \alpha_{judge} + \alpha_{full} + \alpha_{tax} * 10 + c_{it} + \epsilon_{it1}$$

The c_{it} allows for a shift in utility level between two different respondents faced with the same bundle. The α_{tax} is assumed to be negative as people would rather pay less in taxes than more in taxes. For a different hypothetical bundle, $j=2$, that involves counseling, no responsibility taking, writing a letter of apology, no record sealing, paying back half the amount of property damage, and costing the household five dollars in additional taxes, the utility represented by (1) would be:

$$U_{it2} = \alpha_{counseling} + \alpha_{letter} + \alpha_{half} + \alpha_{tax} * 5 + c_{it} + \epsilon_{it2}$$

If person i is faced with a choice between bundle 1 and bundle 2 above and chooses bundle 1, we can conclude that $U_{it1} > U_{it2}$. Seeing multiple such choices for each individual, and placing standard distribution assumptions on the ϵs, allows us to estimate the αs in (1) (Chamberlain, 1980; Wooldridge, 2010).

We are interested in the willingness to pay, in terms of tax dollars, for these programs. The willingness to pay is defined as the break-even level of additional taxation at which people are indifferent between having that good, k, at that additional tax level and not having that good (or, more generally, having the reference category):

$$\alpha_{tax} tax_0 = \alpha_k + \alpha_{tax}(tax_0 + WTP_k)$$

Solving for the willingness to pay for program k gives:

$$WTP_k = -\alpha_k / \alpha_{tax}$$

We report the willingness to pay estimates for each program (attribute-level) considered.

Chapter 3. Qualitative Findings

This chapter provides information found from the qualitative work. We sought to determine the key implementation challenges experienced by the programs and how the district attorney's office works to overcome these barriers. We additionally explored what works well for both adjudicators and participants.

Key Findings

Policies and Practices

The NC model has evolved since its launch in 2012, with panelists that better reflect the community, expanded eligibility, a uniform procedural framework, and increased focus on restorative measures that fit individual needs. Completion rates for available years (2019 and 2020) were high (92% and 90%, respectively), indicating that the policies and practices in place are generally effective.

NC cases are most often referred by the rebooking DA and the Assistant District Attorney, though other pathways exist: one interviewed participant who knew about the program made a direct request to participate and another had a public defender who petitioned for his case to be heard by the NC. When the program was first rolled out cases were restricted to those where the charged party was a San Francisco resident, did not have a prior record, and did not have other open cases or probation in another county. Over time these procedures have become more like guidelines and a broader range of people have been allowed to participate in the program. At present, referral decisions are made based on the type of case. This usually does not include people with multiple misdemeanors, and anyone with an extensive criminal history is deemed inappropriate. The DA's office will then send a letter to the participant letting them know that their case was referred to NC and instructing them to call and schedule their hearing. If relevant, the victim receives a letter with the option to participate in the process as well. If the participant does not respond within two weeks, they will receive a re-cite letter warning that a warrant will be issued for their arrest if they do not follow up.

The case types referred have evolved as well. NC initially saw non-violent misdemeanors such as vandalism or shoplifting. After a few years they started hearing simple batteries, DUI cases (below 0.10 BAC) and prostitution cases, however, case types available for referral are again becoming more limited. A May 2022 appellate court ruling stating that DUIs are not divertible has removed the NC option for individuals facing DUI charges, and changes in SVU priorities have removed most of the prostitution cases from the NC as well. At present, NC generally hears misdemeanor cases along with the occasional felony (roughly 10 – 15 a year).

The Pretrial Diversion Team (PTD) oversees the process: they are the participants point of contact, they provide support to the adjudicators, they review and coordinate directives, and they attend the hearings to ensure a smooth process. In addition, PTD monitors participant's progress and tracks compliance, as well as communicates with victims where appropriate. While PTD will call participants to remind them of their hearing date, some participants had very little idea of what the hearing and the process would be like and were surprised, others were well briefed. This again suggests that participants would benefit from a clear, uniform communication process prior to their hearing.

Participants discovered that they were referred to NC in different ways and had differing amounts of information going in. Some interviewees were told they would be entering the program with no other option given, other participants were offered entry into the program and allowed to choose if they wanted to participate. One participant showed up for her court date and was told that her charges had been dismissed, then received an unexpected letter for NC a week later saying that she had been enrolled in the NC program. This suggests that clearer and more uniform information about program referral should be shared with participants.

The hearings themselves are conducted by volunteer panelists who are supported by Community Boards, a non-profit conflict resolution and restorative justice center. Community Boards provides roughly eight trainings a year for panelists as well as PTD staff. Training includes content around implicit bias and micro-aggressions, training on the general process of running a panel and designing directives, and guidance on appropriate language to use in a hearing. Some trainings are always offered, such as a training that focuses on restorative justice, while others are created and offered as the need arises. Panelists are expected to attend a minimum number of trainings. In addition to trainings, panelists are prepared for hearings through visits to traditional courts and visits to community partners (organizations where participants carry out their directives). Participants describe panelists as creating a comfortable environment and being genuinely interested in their well-being.

NC panelists provide participants with directives that they are required to complete in order to resolve their case. Some directives are mandatory, depending on case type – DUI cases, for example, include four mandatory directives. Otherwise, panelists are free to design directives around the participants background, goals, resources, and the nature of the incident. This may include creating a life plan, writing a reflective essay, meeting with a victim, or community service. PTD provides panelists with a list of community partners with whom community service can be performed and supports participants throughout their process of performing directives.

Changes due to COVID-19

In March 2020, due to COVID and in-person restrictions, NC had to adjust to virtual hearings and to the fact that community partners were no longer available to host participants in completing in-person directives. This forced NC panelists to offer online course options and to

rely more heavily on directives such as reflective essays and life plans. While limiting the options, PTD reports that this increased compliance. It also likely contributed to the fact that NC maintained a steady rate of completion in 2020, with 92% of participants completing the program in 2019 and 90% in 2020. Indeed, participants report that virtual options made completing their directives easier. Additionally, though many in-person directives have now returned, the introduction of virtual options has increased the number of tools available to panelists and participants.

The transition to virtual hearings also allowed Community Boards representatives to 'sit in' on the hearings and to provide feedback to panelists as well as to resolve issues in panel dynamics. It forced panelists to spend more time preparing for the hearings and to have a formal debrief following hearings, both of which panelists have reported to be helpful. The caseload per hearing was reduced from three cases to two as well, allowing more time for questions and breakout sessions, and the number of panelists in each hearing was reduced from three to two. While panelists have to work harder with a smaller team, hosting panels in pairs has been reported to improve panel dynamics.

Finally, Covid led to a decrease in the number of cases that are referred to NC overall, and the number of hearings that NC holds has been reduced accordingly. 331 cases were referred to NC in 2019 and 225 were handled, compared to 253 and 137 in 2020, respectively. Interestingly, the appearance rate remained steady (93% in 2019 and 2020).

Strengths

The NC program offers participants the opportunity to keep a conviction off their record as well as connections to services such as CBT, anger management, housing and job support. It also offers them the opportunity to reconcile with victims. Panelists, participants, and other stakeholders discussed how appreciative most participants are of the NC program. They discuss the opportunity to learn something different, a newfound understanding of where they fit into their community, and (prominently) the opportunity to keep the conviction off their record. They also appreciate the opportunity to discuss their case in an environment that felt safe and to be heard by a panel with a sincere interest in their well-being and describe being treated fairly. The majority of interviewees also report satisfaction with the outcome of their case.

Challenges

Contacting and keeping connections with participants is the biggest challenge that PTD faces in managing the NC. As the types of cases that NC hears has evolved, they have begun to see more cases that involve unhoused participants or participants with behavioral problems, increasing this challenge. Further, unhoused participants face very specific challenges to completing directives and require unique resources as well as more 'handholding' to complete the process. This places an additional burden on PTD.

Panelist burnout is another considerable challenge. Community Boards deals with this by rotating trainings, by engaging panelists through 'field trips' to collaborative courts and service providers, and by hosting activities (such as hearing testimony from San Francisco Public Defender) to remind panelists why their work is important. In addition, panelists express desire to hear more about participant outcomes, both in terms of effectiveness and in terms of how they felt about the process. The panelists feel that it is challenging to perform their duties without much feedback on how well the program is working. Finally, while some feedback indicated that the panelist pool is better reflecting the community than it once did, many report that more diversity is needed among panelists.

Participant's Experience

Neighborhood Court participants generally expressed gratitude for the opportunity to resolve their cases outside of the traditional justice system because it allowed them to keep the offense off of their records and to avoid more serious penalties.

Participants experiences with the panels themselves were positive – they felt listened to, treated fairly and respectfully, and felt that the panelists genuinely wanted to be helpful to participants and to the community. They generally felt that the directives themselves fit their offense, however, feedback on required classes and groups were mixed, with some participants feeling that they learned a good deal and others feeling that the directives were laborious or a waste of time. This appeared to be related to the flexibility that panelists have in designing directives. For example, a participant with an assault charge found anger management classes to be very helpful, while a participant with an underage drinking charge did not feel like he needed to sit through a drunk driving program. The later, however, was likely a directive that panelists were required to give. All of the participants appreciated the amount of time and flexibility that they had in completing the directives.

Participants reported different levels of understanding the court proceedings. Most felt that the process was easy to navigate and that the case workers were helpful with the neighborhood courts themselves, but they did not always feel fully informed about the process. A few reported that it would have been useful to have an advocate and help navigating penalties related to their offenses outside of the neighborhood court system, such as Department of Motor Vehicles penalties or fines, and that case workers were unable to help with those things.

Chapter 4. Randomized Control Trial Findings

This chapter provides findings from the randomized control trial, specifically we examine the impact Neighborhood Courts had on rearrest rates.

Key Findings

Linear Probability Analysis

Our main results for the linear probability models are shown in Table 3. For Columns (1) and (2), the outcome is an indicator for whether the individual was ever rearrested (in San Francisco) within the 12 months following the initial arrest. For Columns (3) and (4), the outcome is the count of these rearrest events. The first and third columns regress these outcomes on the treatment indicator for attending Neighborhood Courts only, while the second and fourth also add controls for the count of prior arrests in San Francisco and whether the defendant is white and/or male.

In all specifications, the treatment coefficients are negative, which may indicate some program efficacy at reducing future rearrest(s) between 6-7%. However, the effect is not statistically significant, thereby comprising suggestive evidence only. This is likely due to the small sample size of N=216, which also prevents us from exploring whether there were heterogeneous treatment effects for certain groups.

However, if the treatment effect is null here even with a larger sample size, our findings would contrast those of Shem-Tov et al., (2022), who estimate significant reductions in reductions in re-arrest rates of about 18% for participants assigned to a restorative justice program with similar features to Neighborhood Courts. An important distinction between their paper and ours is that our treatment group consists of adults facing misdemeanor charges, while Shem-Tov and coauthors study a program aimed at youth aged 13 to 17 years facing felony charges. The future criminal tendencies of these younger offenders may be more responsive to restorative justice programming, while the more severe charges they face may make rearrest more likely for the control group. Overall, further study is needed to determine whether the NC program could yield comparable reductions in rearrest rates for participants.

Table 3. The Effects of Assignment to NC on Likelihood of Rearrest Within 12 Months

|	(1) Any Rearrest	(2) Any Rearrest	(3) # Rearrests	(4) # Rearrests
Treatment	-0.0697	-0.0638	-0.116	-0.0741
	(-1.17)	(-1.18)	(-0.59)	(-0.41)
# Priors		0.110***		0.393***
		(7.11)		(5.05)
White		0.0853		0.189
		(1.46)		(1.04)
Male		0.00802		-0.129
		(0.12)		(-0.59)
Constant	0.287***	0.166**	0.663***	0.383**
	(6.35)	(2.58)	(4.41)	(2.03)
Observations	216	216	216	216

NOTE: t statistics in parentheses
$^{*}p < 0.10$, $^{**}p < 0.05$, $^{***}p < 0.01$

Survival Analysis

In the regressions above, we look at a 12-month window after their initial entry into the study since we observe all participants for at least 12-months; however, this both ignores information on when the re-arrest occurs as well as information on whether individuals who we observe for a longer window are re-arrested. To incorporate this information, we also conduct a survival analysis. Figure 1 presents Kaplan-Meier estimates of the cumulative failure functions for Treatment and Control groups. The functions capture the relationship between the probability of being rearrested at least once and the number of days since randomization took place over a time period of 1,000 days; note that we do not observe every individual for 1,000 days after the randomization occurred, but the Kaplan-Meier estimates for this type of data censoring.

For both groups, the likelihood of rearrest is relatively low, with both groups facing a less than 50% chance of rearrest nearly three years after the initial arrest. For the individuals in the Treatment group, however, the likelihood of rearrest is lower. This difference in rearrest likelihood is about 5 percentage points in the first 3 months, hovers around 15 percentage points between 3 months and 1 year, then falls to 10 points beyond 1 year. That said, as in the earlier analysis these differences are not statistically significant. Specifically, We perform hypothesis tests for equality of the two functions and calculate p-values using the log-rank test, the most widely used test for comparing two survival time distributions. We cannot reject the null hypothesis that the two functions are equal as the p-value is greater than 10%. As in the linear probability model analysis, this is likely due to the small sample size and further study is needed.

Figure 1. Kaplan-Meier Failure Estimates of Likelihood of Rearrest
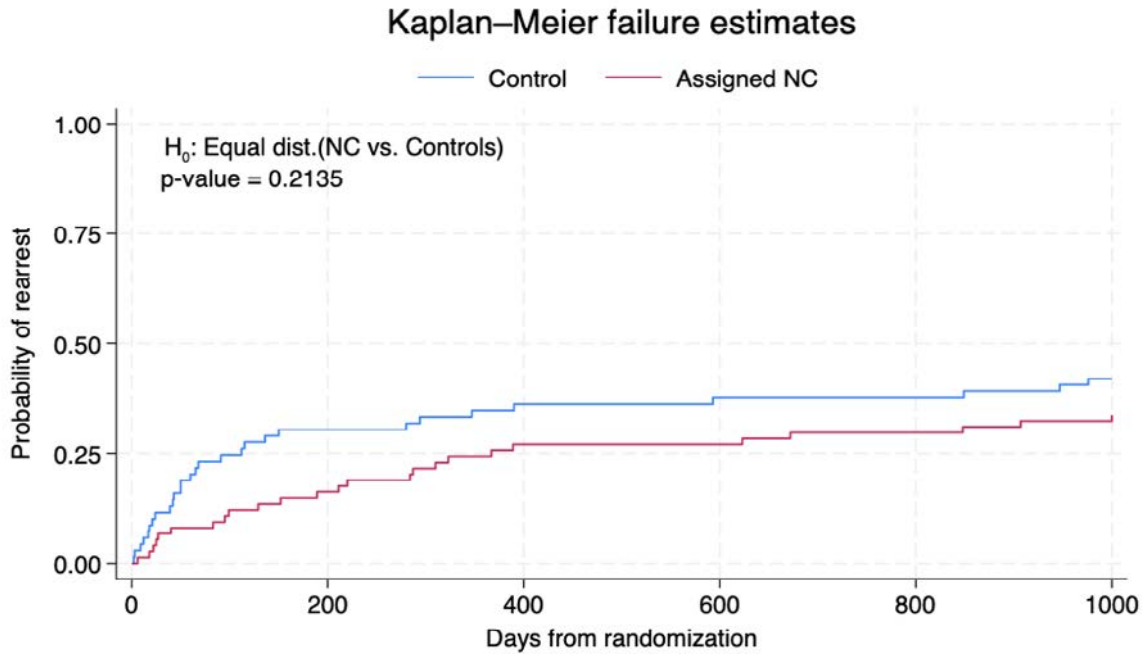
In summary, we find suggestive evidence that attending the Neighborhood Courts program reduces future rearrest rates for Treatment group individuals compared to their Control group counterparts; however, our estimates are not statistically significant, likely due to the small sample size of N=216 individuals. We estimate a negative treatment effect from linear probability models, but it is not statistically significant. Survival models also show a lower likelihood of any rearrest in the time period following the randomization, but again the difference between failure functions is not statistically significant. Further study is needed to assess whether the NC program can effectively reduce recidivism for participants.

Chapter 5. Discrete Choice Experiment Results

This chapter provides results on a previously intangible benefit of the program – the benefit to the community. If community members prefer restorative justice interventions to the status quo justice process, then implementation of these interventions has benefits beyond the impact on recidivism.

Process

To elicit the public's voting preferences, we use a survey based Discreet Choice Experiment (DCE) approach that allows respondents to select two options: two proposed laws containing six relevant attributes at different levels.

We began by developing an initial list of policy features based on existing policies as already described in the previous section, and previous survey literature focusing on the public's preferences. Then, as suggested by Coast et al. (2012), we revised the list through one pre-study and pre-tests. Specifically, we conducted interviews with family members, friends, and RAND staff about an initial survey. Based on this testing, we changed some of the instrument language, and reduced the amount of text in the narrative. Then during a pre-study, we implemented the survey with 660 Qualtrics panelists and included open-ended questions about their perceptions about each question. This led to a revision of the wording and to reducing the number of attributes levels that could vary; we describe this in more detail. We pre-tested the instrument again among family, friends, and RAND staff colleagues, and finalized the language of the instrument.

In selecting the attributes and their levels, our objective was to include realistic sentencing features for a misdemeanor property crime case. After discussing with prosecutors and reading recent polls on public concerns in sentencing, five attributes were identified as the key features of the new law: (i) whether defendants are sentenced to jail or an alternative including counseling or community service (Penalty); (ii) whether defendants must take responsibility for the crime in front of a judge or neighborhood panel (Responsibility); (iii) whether the justice system will seal their record after completing penalties (Record-sealing); (iv) whether defendants must write a letter of apology and reflection (Letter); (v) how much the court makes the victim repay (Repayment); and (v) the annual tax to manage the law (Tax). Table 1 presents the attributes and their levels.

Table 4. Description of Choice Experiment Attributes and Levels

Attribute	Levels
By law, what type of penalty must be imposed? (*Penalty*)	1. Complete 16 hours of counseling to change behavior 2. Complete 16 hours of community service 3. Remain in jail for 16 hours
How must the offender take responsibility for the crime publicly? (*Responsibility*)	1. None 2. Explain details of the event to a judge 3. Explain details of the event to a community panel[a]
Does the crime appear on a criminal background check? (after the offender completes the penalty) (*Record-sealing*)	1. No 2. Yes
Does the offender have to write a letter of apology & reflection? (after the offender completes the penalty; made available to the victim) (*Letter*)	1. No 2. Yes
How much is the victim repaid for the damages to their property? (monthly payments consider offender's income) (*Repayment*)	1. None 2. Half the amount of the property damage 3. Full amount of the property damage
How much do households have to pay in taxes once per year to manage this law? (if your household earns less than $50k this amount is $0) (*Tax*)	1. $2.50 2. $5 3. $10

[a] A community panel is a volunteer group of adults representing the community needs, interests, and views about the crime committed. The panelists have a background check and must complete a training. Three panelists help reach an agreement with the offender in a face-to-face dialogue, which doesn't involve the regular court system.

The option set was introduced as a choice between two laws that included the relevant attributes of sentencing options (penalty, responsibility, background check, letter, victim) for given cost attribute (tax) at different levels. In each experiment, the respondent was asked to choose the alternative that renders him/her the highest utility. By choosing law preferences, the respondent implicitly makes trade-offs between the attributes associated with each law. The impact from each attribute on the choice of law is then measured by altering the level of each attribute for laws 1 and 2. In this survey, respondents are faced with six choice situations.

The full study uses a block design of 12 blocks, with respondents randomly assigned to a block, such that 8 to 9 percent of our sample are in any one block. We selected 72 choice sets from the full factorial using the mix-and-match method (Aizaki, 2012). For each question, respondents find that at least one of the attributes differs, with up to 3 attributes differing. The likelihood that the tax attribute varies is greater, approximately 4 out of 6 questions for an individual. Within each block, respondents answer six questions. For the main analysis, we restrict our attention to the 9 blocks in which each attribute varied at least once.

Participants were recruited nationally via Qualtrics Inc. Through Qualtrics Inc., participants can obtain a Qualtrics Panels account to participate in research. From this account, Qualtrics recruits a nationally representative sample of the general population by basing the percentages of

each demographic on the previous year's U.S. census data. Interested participants were screened for eligibility and directed to the online, anonymous survey. Prior to completing the survey, participants provided informed consent. The survey took an average of 7 minutes to complete (and 5.5 minutes at the median, suggesting few people took a very long or short amount of time to complete. Participants were compensated with credit through their Qualtrics account commensurate to their participation. To prevent duplicate responses, each individual login and IP address was allowed only one opportunity to complete the survey. Survey responses were omitted based on a criterion of most incomplete responses, and/or nonsensical responses. Each participant was given the option to choose their preferred form of compensation based off their credit, however, the total amount for completing the survey remained the same. The study protocol was approved by the Institutional Review Board at the institution supporting this research.

We received 1,260 completed responses between October 24th and October 30th, 2020. Table 2 presents descriptive statistics for the 1,055 respondents in the main sample. The sample is nationally representative in terms of age, ethnicity/race, and income.

Table 5. Summary Statistics of Analytical Sample

	Analysis sample	US population
Gender		
Male	49%	48%
Female	51%	52%
Age		
<45	50%	46%
45+	50%	54%
Race/ethnicity		
Hispanic	18%	17%
non-Hispanic white	60%	62%
non-Hispanic black	12%	13%
non-Hispanic other	9%	8%

SOURCE: Census (2021)
NOTE: Percentages are computed relative to the total United States population 18 years of age and older.

Results

We model the decision to vote on a policy within an expected utility framework. Our theoretical basis for the attribute-based choice method is derived from Lancastrian consumer theory (Lancaster, 1966), which assumes that utilities for goods can be decomposed into separate

utilities for their underlying component characteristics (i.e., attributes). We combine this with random utility theory (see McFadden, 1973; Hanemann and Kanninen, 1998; Manski, 2001), which posits that individuals behave rationally and will select the alternative yielding the highest utility. Therefore, the probability that a respondent will select a given option in the choice experiment will be greater if the utility provided by the attributes of that option exceed the utility provided by the attributes of the alternative options. We additionally allow an individual-choice set specific utility shifter which may be arbitrarily correlated with the attributes. The resulting model is flexible in that the utility function can vary across individuals and even within individuals across choice sets in an arbitrarily additive way. The results are presented as willingness to pay (WTP). The willingness to pay is the break-even amount of taxes at which the utility of having the program at that level of taxes equals the utility of not having the program and paying zero taxes.

Table 3 reports estimated WTP values in U.S. dollars. Respondents took all listed sentencing alternative dimensions into account. The results are shown with the least preferred level of each attribute as the reference category. We find the individuals in our sample that want and are willing to pay for all of these policy features; both community service and counseling are preferred to jail, seeing a judge or a community panel is preferred to no action, sealing a record is preferred to not, writing a letter of apology is preferred to none, and victim compensation is preferred to none. We find positive and statistically significant willingness to pay for each of the programs considered.

The sentencing component valued the greatest for most respondents is paying back the victim; individuals in our sample are willing to pay $17.19 per annum in taxes to ensure defendants pay half of victims' damages on average, and $28.60 to ensure victims are fully repaid by defendants, as opposed to no repayment. Also valued highly by the public is for the defendant to take responsibility in front of a judge ($13.83). Lower down on respondents' priorities are for the defendant to perform community service ($7.04), or go to counseling ($8.28), instead of going to jail; to write a letter of apology to the victim ($7.08); and to publicly take responsibility in front of a community panel ($6.45). Despite its relative popularity in the discourse, sealing the criminal record after completing any penalties has the lowest estimated willingness to pay ($3.15).

Table 6. WTP

	Average WTP per household, $
Penalty (ref: jail)	
Community Service	7.039***
	(1.828)
Counseling	8.287***

	Average WTP per household, $
	(2.402)
Responsibility (ref: none)	
Judge	13.826***
	(3.089)
Community Panel	6.451***
	(2.161)
Seal Record	3.149**
	(1.303)
Letter of Reflection	7.089***
	(1.513)
Victim compensation (ref: none)	
Half Damages	17.194***
	(3.469)
Full Damages	28.597***
	(5.142)
Respondents	1055
Observations	12660

NOTE: Robust standard errors in parentheses. * p<0.10, ** p<0.05, ***p<0.01.

In summary, we find that community members support restorative justice policies and are willing to pay increased taxes to implement them. Community members are willing to pay the highest level of additional taxes for victim compensation. Both alternatives to incarceration – providing community service and receiving counseling – are preferred over jail time and people are willing to pay to see these policies implemented. In addition, we find that people are willing to pay to see offenders take responsibility for their actions either in front of a judge or to a community panel, to write a letter of reflection, and, to a lesser extent, to have the offenders record sealed. There is an appetite in the community to see these restorative justice processes implemented. We caveat that while respondents state strong support for these programs despite having to pay additional taxes to implement them, these preferences may not reflect how people would vote when faced with actual implementation.

Chapter 6. Conclusion

The final chapter of this report summarizes the key takeaways, as well as the study limitations. This report provides the District Attorney and program partners the opportunity to reflect on the implementation of the program and learn more about the participants who are being served and the services that are being provided, as well as the impact the program had and how the program could be made stronger in the future.

Takeaways and Recommendations

Program Staff and Partners are Key to Program Success

The staff at Pretrial Diversion is critical in the success of NC, they work with the defendants, court, the adjudicators, and attend all hearings. The same goes for the adjudicators, the group of volunteers who work the panelists and decide on directives.

The Core Components of Neighborhood Courts Are in Place but Change Has Occurred Over Time

The referral process and case types have evolved over time. According to the stakeholders that were interviewed, as the types of cases that NC hear has evolved, they have begun to see more cases that involve unhoused participants or participants with behavioral problems.

Participants Would Benefit from Additional Information About Neighborhood Courts and Their Responsibilities

While PTD will call participants to remind them of their hearing date, some participants had very little idea of what the hearing and the process would be like and were surprised, others were well briefed. Participants discovered that they were referred to NC in different ways and had differing amounts of information going in. This suggests that clearer and more uniform information about program referral should be shared with participants. Participants reported different levels of understanding the court proceedings. Most felt that the process was easy to navigate and that the case workers were helpful with the neighborhood courts themselves, but they did not always feel fully informed about the process.

The Program Provided Participants a Range of Possible Benefits

The NC program offers participants the opportunity to keep a conviction off of their record as well as connections to services such as CBT, anger management, housing and job support. Neighborhood court participants generally expressed gratitude for the opportunity to resolve

their cases outside of the traditional justice system because it allowed them to keep the offense off their records and to avoid more serious penalties.

Lack of Reliable Contact Information and Community Knowledge of the Program are Barriers to Recruitment

Contacting and keeping connections with participants is the biggest challenge that PTD faces in managing the NCs.

COVID-19 Had a Substantial Effect on Program Implementation

In March 2020 NC had to adjust to virtual hearings and to the fact that community partners were no longer available to host participants in completing in-person directives. COVID led to a decrease in the number of cases that are referred to NC overall, and the number of hearings that NC holds has been reduced accordingly.

Participants Appreciated the Restorative Justice Aspect of Neighborhood Courts

Participants experiences with the panels themselves were positive – they felt listened to, treated fairly and respectfully, and felt that the panelists genuinely wanted to be helpful to participants and to the community.

There is suggestive evidence that the program reduces future rearrest.

We found suggestive evidence that attending the Neighborhood Courts program reduces future rearrest rates for Treatment group individuals compared to their Control group counterparts.

Community Members are Significantly Willing to Pay for the Features of Neighborhood Courts

We find the individuals in our sample want and are willing to pay for various policy features; both community service and counseling are preferred to jail, seeing a judge or a community panel is preferred to no action, sealing a record is preferred to not, writing a letter of apology is preferred to none, and victim compensation is preferred to none. We find positive and statistically significant willingness to pay for each of the programs considered.

Community Members Feel Strongly About Paying Back the Victim and Taking Responsibility

The sentencing component valued the greatest for most respondents is paying back the victim; individuals in our sample are willing to pay $17.19 per annum in taxes to ensure defendants pay half of victims' damages on average, and $28.60 to ensure victims are fully repaid by defendants, as opposed to no repayment. Also valued highly by the public is for the defendant to take responsibility in front of a judge ($13.83).

Study Limitations

This study has several limitations. First, the sample size for the randomized control trial was small due, in part, to COVID and changes in arrest policies in San Francisco. We believe that the suggestive evidence could have been stronger if the sample would have been larger. Second, we were able to work with Pretrial Diversion to help recruit for the interviews and despite multiple attempts to change recruitment modality (in-person, flyer, email, phone calls) we were unable to recruit as many participants as we would have liked. Third, with respect to the participant interviews, the individuals who agreed to be contacted and agreed to participate may have been systematically different from those who did not participate. Fourth, it is important to keep in mind that this intervention was specifically designed to serve a low-risk population, and that may also explain the lack of significant effects of the program. Fifth, despite a strong attempt and approval to collect recidivism data from the California Department of Justice, they did not send us the data. We needed to use San Francisco County data which does not include rearrests in other counties in California. Sixth, the scope of valuations we can estimate in the DCE is limited by the fact that the survey focused specifically on the property damage example, which may not generalize to other diversion and restorative justice-eligible offenses. Lastly, COVID occurred during the evaluation time frame and adjustments had to be made. We tried to capture that information through the observations and interviews, but it is impossible to know the effect of COVID on this program.

Appendix A. Stakeholder Interview

San Francisco Neighborhood Courts
Case Study Interview Protocol

I. **BACKGROUND INFORMATION**

1. What is your name, position, and agency name?
2. Please describe your role in implementing the San Francisco Neighborhood Courts Program?
3. How long have you been in this position?

II. **PROGRAM ENVIRONMENT**

4. Have there been any changes to the structure of the prosecutor's office since our last visit? **Probes**: *number of attorneys working in the office; kinds of other staff who work in the office; number of other staff.*

5. About how many felony and misdemeanor cases does your office prosecute every year?
_____ (# felony cases/year)
_____ (# misdemeanor cases/year)

6. Do you have an annual statistical report or any document you could share indicating the breakdown of cases your office prosecutes by charge and/or disposition outcome? If yes, can we have a copy?
□ Yes (Attached/Provided)
□ No

III. **OVERALL PROGRAM CHANGES**

7. How has the program changed since our last visit? **Probes**: *Issues that weren't working optimally, stakeholder requested a change, capacity to take on more cases/different types of cases*. **If changes made**, please explain why.

IV. **PROGRAM MODEL CHANGES (REVIEW LOGIC MODEL)**

8. Has the program made any changes to the target population, inputs, program activities, or target outcomes since the last site visit? **Probes**:

- *Inputs: staffing, resources, training, service providers, community partners*
- *Target population: when and where PTD occurs; charge severity; clinical or non-clinical eligibility criteria; exclusions*
- *Program activities: how are cases referred, who screens cases, how is eligibility determined, how are defendants enrolled, how directives are determined, type of directives, how directives are completed, time to completion, how compliance is tracked and addressed*
- *Target outcomes: rehabilitation, reduce recidivism, community engagement, efficiency, restorative justice, case dismissal/filed*

9. **If changes have been made**, please explain why.

V. **RELEVANT STATE OR LOCAL LAWS AND REGULATIONS**

10. Have there been any changes to the state or local laws or regulations that set parameters on how or with whom the Neighborhood Courts can be used (e.g., time limits on case filing, speedy trial regulations, or laws that specifically cover the use of diversion)

VI. **OVERALL PROGRAM STRENGTHS AND WEAKNESSES** *Note: Reference previously stated strengths and weaknesses. Inquire about changes made to address any challenges.*

11. Do you feel that the program is successfully meeting its goals and objectives? *Why or why not?*

12. What would you say are the greatest strengths and weaknesses of the program?

13. What have been some of the most important barriers you've faced since our last visit?

14. Has the community view of the program changed since our last visit? *If so, please describe the changes.*

15. What would you like to change about the program (if anything)?

16. What do you see as the most important difference between someone going through Neighborhood Court diversion compared to other court diversions? ***Probes:*** *accountability, victim compensation, sentence more in line with what happened*

17. Suppose we were going to ask the public whether they prefer offenders going through Neighborhood Court or court diversion, what specific aspects would you want the public to consider? ***Probes****: court costs, accountability, talking with neighborhood adjudicators* instead of judge, time spent in court in front of someone, directives compared to court sentences, how much comes back in restitution

18. If Neighborhood Court could be extended to include other crimes, which ones do you think should be considered? **Probes:** *DUIs, simple assaults (non-DV)*

19. Do you think Neighborhood Court should be extended to include people who have multiple misdemeanors? *Why or why not?*

VII.   **PROGRAM DATA AND RESULTS**

20. How many defendants participated in the program in 2018?
_____ (# defendants)

21. If you know, how many defendants were referred to the program in 2018 but did not ultimately participate?
_____ (# defendants)

22. As of the end of 2018 (or as of right now if that is easier), how many defendants participated in the program since inception?
_____ (# defendants)

23. As of right now, of those who enrolled since the program opened, how many defendants? *(Accept breakdowns for other years or time periods depending on what data the program has available.)*
Successfully completed   _____ (# completed)
Failed the program   _____ (# failed or dropped-out)
Have currently open cases   _____ (# open cases)
Other status   _____ (# other status: _____)

24. On average, about how many days or weeks pass between an arrest and program entry?
_____ (#) Days / Weeks *(circle time unit that applies)*

25. On average, about how many days or weeks pass between program entry and actually having a first appointment or session that involves delivering of program services or content?
_____ (#) Days / Weeks *(circle time unit that applies)*

26. In practice, about how long does the average program completer spend as a participant in the program (considering extra accumulated time due to missed appointments or other reasons)?
_____ (#) Days / Weeks / Months *(circle time unit that applies)*

27. Has the program updated the official policies and procedural manual?
□ No
□ Yes

28. If yes to the previous question, can you please provide a copy of the updated manual?
□ Yes/Attached
□ No

29. Have you changed the way you seek feedback from program participants? *If so, how and why?*

30. How is feedback from program participants used?

31. Have you changed the way the program maintain tracks participant characteristics and performance? *If so, how and why?*

32. Do you still create regular (e.g., annual) performance reports? If yes, may we have a copy of one example?
□ Yes
□ No

VIII. **COMMUNITY PARTNERS ONLY**

33. What are the primary goals and objectives of the San Francisco Neighborhood Courts Program?

34. What is your agency's role in implementing this program?

35. Please describe how you interact with the District Attorney's office, which oversees this program.

36. What is your overall perception of the program?

37. Do you feel that the program is successfully meeting its goals and objectives? *Why or why not?*

38. What would you say are the greatest strengths and weaknesses of the program?

39. What have been some of the most important barriers you've faced in implementing the program?

40. What would you like to change about the program (if anything)?

Appendix C. Observation Forms

NEIGHBORHOOD COURT APPEARANCE OBSERVATION FORM
Individual Case Observation

Name of Judge:_____
Observer:_____
Case Type: _____
Case #: _____
Docket #: _____
Total # of minutes: _____ (start time _____, end time _____)
Date: ___/____/____

Case stage:
Initial Appearance
Mid-Review
Final Review
Other: _____

Defendant sex:
Male
Female

Purpose of court appearance:
Arraignment
Pre-Trial
Plea
Sentence
Other

Case outcome:
Continuance
Dismissal
Plea
Sentence
Plea and Sentence
Other

Type of sentence:
Restitution
Fine
Program
Court Costs

Other

The defendant requested an interpreter (Yes/No)
There was an available interpreter in the courtroom (Yes/No/NA)
There was not an available interpreter in the courtroom. The case was adjourned until the interpreter arrived (Yes/No/NA)
There was not an available interpreter (Yes/No/NA)

The Judge: (Yes/ No)
Asked probing questions to defendant (requires multi-word response)
Asked non-probing questions to defendant (requires 1-word response)
The judge asked the defendant if he/she understood the next steps
Explained the purpose of today's court appearance
Made eye contact with defendant
Greeted defendant by name
Engaged in direct conversation with defendant
Read a script to the defendants
Explained the legal terms he/she used
Used colloquial English to explain case procedure and outcome

Had all parties approach the bench w/o defendant
Explained why he/she requested that all parties approach the bench (Yes/No/NA)
Showed favor towards the prosecutor (if yes, provide comment)

Showed favor towards the defense attorney (if yes, provide comment)

Asked defendant if he/she or attorney had anything else to say before decision

Made eye contact when speaking to other court staff and attorney

Asked defendant if he needs a short break to discuss decision with his/her lawyer
Demonstrated respect towards defense attorney
Demonstrated respect towards ADA
Demonstrated respect towards other court staff
Demonstrated respect towards the defendant
Appeared impatient with either the defendant or court staff or both? (name one)
Was intimidating to the defendant
Was caring to the defendant
Adequately described what was happening to the defendant

Answer the following questions only if there was a plea and/or sentence:
Demonstrated interest in the defendant's understanding of the plea allocution
Adequately described what defendant must do to comply with court order/sentence
Explained penalty for noncompliance
Expressed an interest in defendant's success/compliance
Asked defendant if he/she understood his/her sentence and/or next steps

Asked defendant to repeat back his/her understanding of the sentence and/or next steps
The defendant was provided written instructions about his/her sentence

Is the defendant in compliance with court directive(s)?
Yes
No

If the defendant was non-compliant, what was the type of non
compliance?_____

If the defendant is noncompliant, describe the judge's reaction/sanction (Check all that
apply):
None
Investigation/Assessment Restart program
New program
More frequent court appearance
Verbal admonishment
Judge accepted documented excuse
Additional time in program
Short jail stay
Jail sentence
Other_____

If the defendant is in compliance, describe the judge's reaction/reward (Check all that
apply):
None
Less frequent court appearances
Positive verbal feedback
Favorable change in disposition
Other_____

Courthouse and Session Observation Protocol
Court #:_____
Date:_____
Judge:_____
Observer:_____
Observation Start/End Time:_____

The court started on time?
Yes
No
N/A

The Judge apologized for any delay in the starting of court (if there was a delay)?
Yes
No
N/A, there was no delay

The Judge or other court staff clearly explained court etiquette and rules at the beginning of the court session?
Yes
No
N/A

The Judge made eye contact with the audience upon entering the court?
Yes
No
N/A

The Judge introduced him/herself by name?
Yes
No
N/A

The court staff interrupted court proceedings to address audience behavior in the gallery (e.g., talking, sleeping)?
Yes
No

The Judge provided some overview of what might happen during various court appearances and how decisions would be made?
Yes
No

Circle the number that best represents the observer's impression based on the court sessions that were observed: 1 = strongly disagree and 5 = strongly agree.
Concerning the actions and demeanor of the judge towards the defendants, was the judge:
Respectful
Fair
Attentive
Interested Consistent/Predictable Caring
Intimidating
Knowledgeable
Clear
Overall Comments:
_____

Abbreviations

BAC	Blood Alcohol Content
CBT	Cognitive Behavioral Therapy
DA	District Attorney
DCE	Discreet Choice Experiment
DMV	Department of Motor Vehicles
DUI	Driving Under the Influence
NC	Neighborhood Courts
PTD	Pretrial Diversion Team
SFDA	San Francisco District Attorney
SFPD	San Francisco Public Defender
TASC	Treatment Alternatives for Safe Communities
WTP	Willingness to Pay

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