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Lessons from the Midtown Community Court

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Written by

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Lessons from the Midtown Community Court

Introduction

In recent years, a disturbing gap has opened up between the criminal justice system and the communities that experience crime and its consequences. Many citizens have come to view the criminal justice system as a collection of remote, inhospitable bureaucracies more concerned with counting cases than making sure each case counts. Across the country, new trends in the administration of justice are emerging to respond to this crisis of faith. One of the most notable is the development of community courts.

Community courts are neighborhood-based courts that use the power of the justice system to solve local problems. These courts seek to play an active role in the life of their neighborhoods, galvanizing local resources and creating new partnerships with community groups, government agencies, and social service providers.

The potential implications of this new approach are far reaching. Community courts welcome neighborhood residents into the justice process in unprecedented ways, inviting them to sit on advisory boards and participate in community impact panels that confront offenders with the consequences of their behavior. Community courts ask judges to play new roles, lessening their judicial detachment and actively engaging defendants, victims, and community members. Community courts alter the dynamics of the courtroom's adversarial process, encouraging judges, attorneys, and outside service providers to work as a team to foster common outcomes.

These are just a few of the ways that community courts represent a significant departure from business as usual. Needless to say, each of these issues bears careful scrutiny. Now, while the community court movement is still in its infancy, is a particularly important time for reflection. More than two dozen community courts are currently in the works across the country in Maryland, Minnesota, Connecticut, Colorado and other states.

In many respects, this is a report from the trenches. It is not intended to be the final word on the subject — community courts are too new and the questions they raise are too profound for any publication to have all the answers at this stage. Our thoughts about community courts have been shaped by four years of experience operating a community court in New York City known as the Midtown Community Court. This paper mines our experiences in Midtown, using the Court as a starting point for a broader discussion about the potential

impact of neighborhood-based courts on the criminal justice system. After sketching the results of the Midtown experiment, we address some of the major questions that community courts have engendered to date. One of the most basic lessons of the Midtown experiment is that changing the way that courts operate has consequences. When courts engage in unfamiliar practices, they also raise new concerns — about due process, the adversarial system, and the independence of the judiciary.

Creating closer connections between courts and communities is a tricky business. What follows are some observations — and some questions — from one such experiment.

Context

The Midtown Community Court opened in October 1993. Located on 54th Street in Manhattan, it is the first neighborhood-based court in New York City since the city's courts centralized in 1962. Before that date, New York had a network of neighborhood courts that handled intake for the city's criminal court system, arraigning defendants and disposing of low-level cases. After 1962, arraignment duties shifted to centralized courthouses serving each of the city's five boroughs. The change was intended to increase efficiency and address problems of local corruption and mismanagement. While centralization may have achieved certain economies of scale and encouraged uniformity, it came with a price: remoteness. Courts were removed from the communities they were intended to serve.

As caseloads increased in the centralized courts, felony cases began to claim more and more attention. Fewer resources were devoted to quality-of-life misdemeanors like shoplifting, prostitution, and subway-fare evasion. Judges felt tremendous pressure to dispose of such cases quickly. All too often, defendants sentenced for low-level offenses received a fine that might or might not be paid or community service that might or might not be performed. More disturbingly, judges sentenced as many as one out of four defendants to the “time served” in jail while awaiting their court appearance. For these defendants, the process became the punishment ¹.

It is important not to overlook the historical context. Courts in the 1960s and 1970s labored under a different understanding of crime and social order. It has been only recently — James Q. Wilson and George Kelling wrote their landmark essay, “Broken Windows: The Police and Neighborhood Safety” in 1982 — that we have begun to understand the impact of low-level crime on the social fabric of communities. According to Kelling and his supporters, low-level crime — if left unaddressed — erodes communal order, leads to disinvestment and decay, and creates an atmosphere where more serious crime can flourish ². With the benefit

¹ See Malcolm Feeley's landmark study of a court of limited jurisdiction, in which urban courts typically impose few sanctions in response to high-volume, low-level crime: Feeley, M. 1979. *The Process Is the Punishment*. New York, New York: Russell Sage Foundation.

² See Wilson, J.Q., and Kelling, G.L. 1982. “Broken Windows: The Police and Neighborhood Safety,” *Atlantic Monthly*, March, pp. 29-38. See also Kelling, G.L., and Coles, C.M. 1996. *Fixing Broken Windows: Restoring Order and Reducing Crime in Our Communities*. New York, New York: Free Press.

of hindsight, it now seems clear that criminal justice agencies — courts, police, prosecutors, and others — had become disconnected from the problems that communities experienced on a day-to-day basis. In many respects, “Broken Windows” put into theory what many community residents felt intuitively.

Midtown Community Court

Recognizing the importance of low-level offenses, the Midtown Community Court was designed to re-create a neighborhood-based arraignment court with a number of modern updates. The hope was that such a court could focus on those offenses that may be minor in terms of legal complexity but have a major impact on the quality of life. The Midtown Community Court is located near Times Square on the West Side of Manhattan, an area teeming with quality-of-life crime. The Court seeks to honor the idea of community by making justice restorative and accountable to neighborhood stakeholders. Offenders are sentenced to pay back the community through work projects such as caring for street trees, removing graffiti, cleaning subway stations, and sorting cans and bottles for recycling. At the same time, whenever possible, the Court uses its legal leverage to link offenders to drug treatment, health care, education, job training, and other on-site social services to help them address their problems. In these ways, the Midtown Community Court seeks to stem the widespread crime and disorder that demoralize law-abiding residents.

The Court building itself is an exercise in rethinking justice. The courthouse is designed to be a physical expression of the Court’s goals and values, communicating a fundamental respect for all who participate in the legal process, including often-overlooked stakeholders like defendants, service providers, and community residents. For defendants, the courthouse has clean, well-lit holding rooms where glass panels replace iron bars — a pointed contrast to the squalid downtown holding pens. For social service providers, who are often treated as an afterthought in other court buildings, the courthouse includes a full floor of office space. An innovative computer system allows the judge, attorneys, and social service workers to keep in touch with each other and access a defendant’s record at the click of a mouse. This gives counselors, educators, and social workers the tools they need to work with defendants referred by the judge and implicitly acknowledges the importance of nonjudicial personnel to the problem-solving mission of the Court. For community residents, the courthouse contains well-marked entry ways, space for community meetings, and overhead computer terminals that prominently display the schedule of cases that will be heard in court that day.

Law-abiding citizens play a key role at the Midtown Community Court. Local residents and merchants sit on a community advisory board that serves as the Court’s eyes and ears, identifying neighborhood trouble spots and proposing new community service projects. In addition, the Court keeps residents informed of its work through a community newsletter and by employing an ombudsperson.

These mechanisms have enabled the Court to establish a dialogue with local residents and to keep abreast of neighborhood needs and problems.

Measuring Success

Judging a community court's success is complicated. Like other courts, a community court must employ traditional benchmarks, measuring the number and types of dispositions and how quickly they are reached. But community courts must also answer other questions, such as: What impact do sentences have on community conditions and defendant behavior? What effect does the court have on local residents' perceptions of justice? These and similar issues were investigated by the National Center for State Courts in a recently completed independent evaluation of the Midtown Community Court³.

One of the topics the National Center for State Courts focused on was the Midtown Community Court's ability to change the sentencing standards for low-level offenses. In particular, the Court created an array of intermediate sanctions, including community restitution and social services, that lie between short-term jail sentences and no sanction at all. These sanctions are designed to fulfill the Court's agenda of combining punishment and help — an agenda that grew out of a dialogue between the Court's planners and the local community. During the Court's planning stages, local residents and merchants made it clear that they wanted the harm caused them by misdemeanor crime to be acknowledged and restoration made. At the same time, they felt that restitution in the form of community service was not enough. Community members also encouraged the Court to have an impact on the lives of offenders, offering them help that could curb their criminal behavior.

The National Center for State Courts' evaluation found that sentencing at the Midtown Community Court produced significantly more intermediate sanctions than at Manhattan's downtown court. Indeed, the Midtown Community Court more than doubled the rate of community service sentences. More important, the Court reduced the percentage of convicted offenders sentenced to time served. At the downtown court, 24 percent of the cases received these sentences; at the Midtown Community Court, less than 1 percent did.

Many early critics predicted that a community-based court would have no effect on sentencing, that the status quo was too ingrained to allow for a shift to alternative sanctions. Other critics argued that defendants who did not like the sentences imposed at the Midtown Community Court would adjourn their cases to Manhattan's downtown court with the hope of receiving no punishment at all. In other words, they predicted that defendants would shop for the forum of their liking. This has not been the case. The National Center for State Courts' investigation found that the rate of cases disposed at arraignment at the Midtown Community Court was comparable to the rate downtown — there was no widespread forum-shopping.

³ See Sviridoff, M., Rottman, D., Ostrom, B., and Curtis, R. 1997. *Dispensing Justice Locally: The Implementation and Effects of the Midtown Community Court*. Alexandria, Virginia: State Justice Institute.

The evaluation found that changes in sentencing at the Midtown Community Court had a substantial effect on defendant behavior. This was most evident among local prostitutes, who tended to receive lengthy community service sentences at Midtown. To avoid these sentences, prostitutes began to change how they conducted business. Some altered their work hours. Some moved indoors. Others took advantage of court-based services to help them get out of the business. Over the Court's first two years, neighborhood prostitution arrests dropped 63 percent. A similar effect occurred with illegal vending arrests, which dropped 24 percent.

The National Center for State Courts also found that the Midtown Community Court operated quickly and effectively. By keeping defendants, police officers, and paperwork in the neighborhood where the crime occurred, the Court cut arrest-to-arraignment times substantially, from an average of 31 to 18 hours. By emphasizing immediacy and using technology to enforce accountability, the Court improved community service compliance rates (75 percent compared with 50 percent downtown). By improving efficiency, the Midtown Community Court became one of the busiest courtrooms in the city, handling an average of 65 cases per workday, for an annual total of over 16,000.

Perceptions of Justice

Before the Midtown Community Court opened, local residents expressed little confidence in the criminal justice system. Community members who participated in a series of focus groups complained that the court system did not pay enough attention to low-level crime. Their expectations of the new Court were muted — they had been disappointed many times before by flashy new initiatives. Nor was the skepticism confined to residents. Court staff, including attorneys, clerks, court officers, and pretrial interviewers, were also dubious, particularly about the court's potential impact on their roles.

Over time, these initial reservations were replaced by enthusiasm. Community residents' doubts about the new Court ("Will it work?") soon gave way to new questions about whether aspects of the Court could be replicated in other settings. Although some early critics argued that it would be difficult for the Court to engage community residents in its work, the focus group participants expressed a desire to learn more about the outcomes of cases and community service projects. Many urged the Court to publicize its efforts as broadly as possible.

The attitudes of local police officers changed even more dramatically. Although upper management strongly supported the development of the Midtown Community Court, many local precinct officers were skeptical. By the end of the first year, however, local officers, impressed with the Court's impact on prostitution and other low-level offenses, had become vocal supporters. Most important, officers began to see the Court as a resource. Some started to use the Court's social service team to head off potential problems on the street — even when no arrest had been made. For example, one officer brought a mentally retarded woman who had been robbed by con artists to the Court for help. Others request-

ed that the Court's community service crews, staffed by sentenced offenders, clean up a local corner to make it less hospitable to neighborhood drug dealers.

A community's perception of its own well-being is difficult to quantify. The National Center for State Courts attempted to measure the Midtown Community Court's impact on community conditions through observations of local trouble spots; interviews with offenders; analysis of arrest data; focus group research; and interviews with local police, community leaders, and residents. There were two areas in which community residents felt that the Court had a particularly strong impact: graffiti and prostitution. Graffiti along the busy Ninth Avenue business corridor, once a symbol of Midtown's problems, is now virtually nonexistent. Focus group participants credited the Court's community service work crews, which each year contribute more than \$175,000 worth of labor to the community. A sign of the Court's impact on prostitution appeared when Residents Against Street Prostitution (RASP), a neighborhood group that for many years led the fight against local prostitution, disbanded, declaring victory. The Court is only one protagonist in this success story; changes in law enforcement, aggressive economic development, and public safety efforts by government and local businesses played a major part. However, local activists and merchants point to the Court as being important and acknowledge that communities that work together are communities that work.

These results did not come easily. To accomplish its goals, the Midtown Community Court had to make significant changes in court operations. These changes occurred in three areas in particular: philosophy, partnerships, and personnel.

Philosophy

Community courts are problem-solving courts. This simple statement has profound implications for the way community courts behave. Above all, community courts must devote significant resources to learning about the unique problems of a neighborhood. This takes time. It also takes research and analysis — reviewing data about arrests and court filings; convening focus groups with community members, offenders, and local police; and interviewing community leaders.

Solutions to neighborhood problems need to be created with community stakeholders in mind — residents, businesses, victims, police, defendants, and community groups. This is a departure from business as usual for two reasons. First, it significantly increases the number of participants involved in the court's work. Where once those participants were confined to judges, clerks, attorneys, and court officers, a community court must open its doors to local clergy, business people, tenant leaders, neighborhood activists, and others. These community members have valuable roles to play in choosing the restitution projects and social services that make sense for their neighborhood.

Crafting solutions in conjunction with community stakeholders also affects the philosophical foundations of the court. Under the traditional model, there are only two interested parties in a criminal case: the government and the

accused. Building on the pioneering work of the victims movement, community courts posit that there is another party with an interest in the case, the local community. In crafting sentences, community courts acknowledge that even so-called victimless crimes inflict injury that should be repaired. Apartment buildings, blocks, and neighborhoods all suffer from chronic low-level crime. They too should be restored when a crime has been committed. By restoring the community through service projects, the Midtown Community Court gives “standing” to the community it serves.

Accountability

In developing new solutions, community courts must take care to monitor their performance rigorously. Being a member of a community means being accountable to that community. The Midtown community took a bold step when it welcomed the Court to the neighborhood: it agreed to accept offenders back on its streets to perform community service. Community courts cannot ask their neighbors to make this kind of commitment unless they demonstrate that offenders are subject to rigorous scrutiny.

At the Midtown Community Court, a single judge, rather than a rotating set of judges, presides over the courtroom. With the help of technology, the judge has information about the history of each case at his disposal, greatly limiting the ability of offenders to manipulate the system. Community service work projects are classified as high, medium, or low supervision, and offenders are matched to the appropriate level based on their criminal history, background, and arrest offense. Offenders with more extensive criminal histories and those considered less likely to complete their sentences are assigned to projects in the courthouse, such as building maintenance or a bulk-mailing operation. Offenders considered to be lesser risks are assigned to more visible outdoor projects such as removing graffiti and painting fire hydrants. Compliance is tracked by computer, enabling the Court to monitor offenders consistently and efficiently.

It is not enough for community courts to develop internal mechanisms for accountability. They must also provide regular feedback to their constituents about the kinds of sentences that are being handed out, how many defendants complete their sentences, and which court-based programs work and which do not. In order to respond effectively to community problems, they must evaluate their own performance and change programs and procedures to adapt to shifting realities on the ground. In sum, community courts have to be reflective courts.

For example, the Midtown Community Court recently expanded its menu of services to include a formal job training program for ex-offenders who successfully complete community service sentences. Although job training was not part of the Court’s original design, research revealed that 75 percent of the defendants who appear before the Court are unemployed. In response, the Court launched Times Square Ink, a job training program that prepares ex-offenders for employment by having them staff a full-service copy center.

Partnerships

Too often, courts hold themselves above the fray. Cases move from street to court to cell and back again without anyone questioning the impact on communities, victims, defendants, or the criminal justice system. A community court can change this equation by coordinating the work of police, probation officers, prosecutors, and corrections officials. Each of these groups loses heart in fighting low-level crime when they lack reliable ways to measure progress. By providing regular feedback on case outcomes and street impacts, a community court can create a greater sense of community among the diverse professionals who work in the criminal justice system. For example, by providing police with real-time information about court appearances and community service completion, the Midtown Community Court encourages law enforcement efforts, particularly the execution of low-level warrants.

Knitting together a fractured criminal justice system can have unexpected benefits. At the Midtown Community Court, the improved relationship with local police led to the creation of a joint program, Street Outreach Services (SOS), which brings together caseworkers from the Court with community police officers to perform street outreach. The SOS teams scour the streets of Midtown, reaching out to the homeless, prostitutes, substance abusers, and others who have fallen between the cracks of traditional law enforcement and social service networks. The goal is to enroll these people in social services before they get in trouble with the law.

It is not enough, however, for community courts to work in conjunction with criminal justice agencies. They must reach beyond the walls of the justice system to involve new partners. Locating a court in a neighborhood gives the community a sense of a stake in that court that would never exist with an impersonal, centralized facility. Residents and merchants who feel a connection to the court can make valuable contributions to the court's efforts. Local organizations can donate community service supervision, social service staff time, and supplies like paint and plants. When they see demonstrable community justice at work, local businesses and foundations may be willing to provide financial support for social services and other programs originating in the courthouse. Community courts require larger, more diverse staffs than traditional courts. In addition to clerks and security officers, community courts may need social workers, mediators, victim advocates, job developers, managers for community service work projects, and additional research and public information staff. At the Midtown Community Court, managing the Court's ongoing relationships with local merchants, community groups, and elected officials requires a community ombudsperson.

Personnel

The Midtown Community Court asked the city's pretrial agency to expand its assessment interviews with each defendant before he or she sees the judge, a significant shift in the pretrial routine. In contrast to traditional interviews that focus only on information pertinent to bail decisions, these expanded assess-

ments explore such issues as substance abuse, homelessness, and mental health. This information is crucial to devising individualized sanctions. The results are conveyed electronically to the Court, where they are reviewed by a new participant in the courtroom: a resource coordinator. The resource coordinator functions as a link between the Court, attorneys, and social service providers, keeping track of sentencing options and making sentencing recommendations to the judge based on assessment results.

Creating assessment interviews and hiring a resource coordinator seem like simple steps, but implementation was difficult. Adding new information and new voices to the mix altered traditional courtroom dynamics of the judge-attorney relationship. The response was predictable. Defense attorneys did not like the idea of the resource coordinator having a direct line to the judge. Prosecutors worried that the resource coordinator would make recommendations inconsistent with their office's sentencing guidelines. The assessment team's prearrestment interview, meanwhile, raised questions on both sides of the courtroom about confidentiality. How would a defendant's admission of drug use — which is, after all, a criminal act — be used in the courtroom? Who would have access to this information and for what purpose?

By developing protocols about the handling of information gathered from prearrestment interviews and used at trial or subsequent hearings, the Midtown Community Court gradually relieved defense and prosecution concerns. Over time, the resource coordinator established relationships with the attorneys in the courtroom, and many have come to see the coordinator as a valuable asset. Indeed, defense attorneys frequently ask the coordinator to find help for their clients. The assessment interview and the work of the resource coordinator are critical to promoting the Court's problem-solving mission.

Challenges and Concerns

The Midtown Community Court experiment has demonstrated that by playing a variety of unconventional roles, a neighborhood court can have a visible impact on a community. With new roles, however, come new questions. Community justice is not without its critics. Some are insiders with deep attachment to (and professional investment in) the traditional criminal justice system. Others are residents concerned about their safety and the potential impact of any new initiative on their neighborhood.

Over the course of its planning and operation, the Midtown Community Court has had to confront a number of issues about neighborhood-based justice. Some are misconceptions that can easily be allayed. Others are questions that are too fresh and too profound to be fully answered yet. At this point, there are no definitive answers to these questions. The observations in this paper are based on a single case study; other community court experiments may yield different solutions — and raise new questions.

Nevertheless, we are convinced that if community courts hope to be more than just a series of provocative but isolated demonstration projects and if their true goal

is broad-ranging institutional change, they must address the following questions:

Do Community Courts Widen the Net of Governmental Control?

Concerns about net-widening are not unique to community courts. Indeed, drug courts face them frequently. Before the Midtown Community Court opened, the local defense bar was concerned that the Court's emphasis on paying back the community would lead to punishment for offenders who otherwise might have been released with no sanction.

Do community courts widen the net of social control? Yes. The more provocative question is: Should they? That so many low-level offenders walk away from criminal courts without any meaningful response is a fundamental problem. With their overwhelming caseloads, these courts find it difficult to hand out sentences that demonstrate that all crime has consequences. When these courts allow offenders to walk, letting the process become the punishment, they send the wrong message to offenders, victims, police, and community residents. The message is that nobody cares, that the justice system is little more than a revolving door.

It is precisely this perception that the Midtown Community Court was created to address. At Midtown, many defendants who might have escaped sanctions in a traditional court find themselves ordered to paint over graffiti or participate in drug treatment. Clearly there were holes in the net; the Midtown Community Court simply sought to mend them. The Midtown Community Court approached this issue with great care, choosing to target a specific set of crimes that were going largely unpunished. The Court's approach emphasized proportionality — making the punishment fit the crime. This meant creating short-term sentences for low-level offenders — one or two days of community service. It also meant that the Court did not attempt to send drug addicts with no prior record to 18 months of inpatient drug treatment.

Do Community Courts Lead to Vigilante Justice?

Many fear that community courts will unleash an insatiable community hunger for harsher, more punitive responses to low-level crime. In fact, the Midtown Community Court experiment has shown that, when given options, community residents will generally support constructive sanctions like community restitution and social services⁴. For example, residents were among the first to suggest that Midtown provide health services to prostitutes. This suggestion did not necessarily grow out of altruism — residents were justifiably concerned about public health implications. But it does show that community residents have more on their minds than just “throwing the book” at low-level offenders.

This is true even in neighborhoods plagued by drugs and guns. Our experience planning a second community court in the Red Hook section of Brooklyn confirmed this impression. Despite Red Hook's reputation for drugs and armed violence, focus-group research and door-to-door community surveys revealed that

⁴ See Edna McConnell Clark Foundation. 1992. *Americans Behind Bars*. New York, New York: Edna McConnell Clark Foundation.

local residents want the community court to provide low-level offenders with education, counseling, and help in reintegrating into the community.

Do Community Courts Expose Judges to Undue Influence?

There is an important distinction to be made between judicial independence and judicial isolation. While community courts encourage judges to become more sensitive to community needs and concerns, they must take pains not to compromise the independence of the judiciary. This can be a delicate balancing act.

At the Midtown Community Court, it is clear that the judge’s job is not to manage community relations; instead the Court has a community ombudsperson and an administrative staff charged with this responsibility. Nonetheless, the Court’s decision to create a community advisory board — and have the sitting judge attend its meetings — made some local judges uneasy. Would the advisory board seek to second-guess judicial decisions? This has not been the case. The members of the advisory board, while actively engaged in thinking about the Court’s programs and community service projects, have never tried to lobby the judge about individual cases. Rather, they have been a valuable resource for the judge, helping to expand the array of community service options and create post-disposition opportunities such as job training. At some point, however, being responsive to a community could militate against important concepts of judicial independence. Freedom from popular influence is a basic element of judicial independence. Judges in community courts must therefore struggle to identify which forms of interaction with community residents and leaders are acceptable and which are not. They must also think hard about what types of information about community problems or concerns should be taken into consideration in deciding individual cases.

Are Community Courts Soft on Crime?

It is difficult to characterize community courts as either “soft” or “tough” on crime. The intermediate sanctions offered by the Midtown Community Court are alternatives to the polar ends of the sentencing spectrum: no sanctions and jail. The Court thus sends a double message: All offenders must be held accountable for their crime, no matter how small; and a court can also use its coercive power to move offenders toward rehabilitation. In short, the Midtown Community Court argues that punishment and help can be combined.

Given the previous discussion about widening the net, it will come as no surprise that, in the main, the Midtown Community Court is tougher on crime than Manhattan’s downtown court. According to the National Center for State Courts’ evaluation, “walks” — sentences that are attached to no penalty whatsoever — are more than twice as common at the downtown court as they are at the Midtown Community Court, where offenders by and large receive community service and social service sentences. Jail sentences are another side of the story. Interestingly, the National Center for State Courts found that although the Midtown Community Court issued fewer jail sentences in the aggregate, offenders received longer jail sentences than those imposed downtown. Midtown

increased the percentage of misdemeanor jail sentences of more than 30 days by 57 percent.

None of this has been lost on defendants. Interviews revealed that defendants who have appeared before both courts believe that Midtown is “tougher” than the downtown court. When asked which court they preferred, however, defendants chose Midtown. Why? Because Midtown’s staff treat them with a measure of dignity and at Midtown they can get help with their problems. This response is one clear sign that Midtown’s double message of punishment and help is working.

Do Community Courts Stigmatize Offenders?

Offenders at the Midtown Community Court receive a great deal of attention. The Court’s computer system records the results of each defendant’s assessment interview as well as their compliance with community service. For some, the Court’s collection of this information evoked images of an impersonal “big brother” amassing data and increasing the court’s remoteness. Would this information be used to brand people as offenders for life? Ironically, the Midtown Community Court has instead used modern technology to recreate the familiarity of a small town. Judges need to understand who is standing in front of them. Without information, courts can feel like assembly lines. With information, the process becomes more personal. Both punishment and help can be tailored to fit the individual needs of each defendant.

Another element of the Midtown Community Court that raised similar concerns was the visibility of the Court’s punishments. Offenders sentenced to perform community service outdoors must wear vests that announce they are from the Midtown Community Court. The Court also has experimented with victim-offender reconciliation panels that bring offenders face-to-face with those they have harmed. Are these just exercises in public shaming? Is the net effect to widen the gulf between offenders and law-abiding citizens? For Midtown, the answer has been “no.” Instead, these initiatives, like the Court’s use of technology, have helped put a human face on crime. No longer can residents, merchants, and court personnel deal in abstractions or talk about offenders as a separate class of people. This is important groundwork for the Court’s problem-solving mission.

Still, the potential for abuse exists. What happens when a community court becomes the domain of a judge with highly idiosyncratic views? How and to whom should community courts be held accountable for their treatment of defendants? These are issues that will become more important as community courts continue to multiply.

Are Community Courts’ Costs Prohibitive?

Decentralization costs money. Initially, it is less expensive to run one large courthouse with dozens of courtrooms than it is to run dozens of separate small courthouses, each with its own staff and physical plant to maintain. If that’s all that community courts are — boutique versions of the status quo — they would not be worth creating. But they are much more than that. By placing a variety of social services under one roof and providing community restitution, community

courts add a significant amount of value to the court system. The questions are: How much? Is it enough to offset the expense?

Community courts must analyze the costs and the benefits of their work. Among the benefits that community courts must be prepared to articulate are drops in crime rates, reductions in arrest-to-arraignment processing times, improved community service compliance rates, and community service labor contributed to the community. More difficult to measure are a community court's effects on a neighborhood. For example, by addressing neighborhood blight, improving public safety, and providing social services, a community court can help spur neighborhood economic development. After all, meaningful and lasting economic development rarely takes place in areas where residents, merchants, and employees fear for their safety. All of these arguments can be used to explain why a community court is worth an initial outlay of funding and how, over time, it might pay for itself. These arguments are particularly crucial in the current political climate of government cutbacks and public cynicism concerning government reform efforts.

What will the community courts of tomorrow look like? How can we be sure that they are cost-effective? Perhaps video technology could be used to link litigants in communities with judges located in centralized facilities. Perhaps selected housing cases could be filed, and even resolved, via computers located in public housing developments and with tenant advocacy groups. The Midtown Community Court model is just that — one model among many possibilities.

Do Community Courts Erode the Adversarial Nature of the Legal System?

In developing community courts, concerns about diminishing the adversarial process go with the territory. A similar criticism has been leveled at drug courts, which are often called “nonadversarial” because they focus on supporting and sustaining defendants in treatment and recovery rather than on determining criminal responsibility. Likewise, it can be argued that procedural protections and advocacy often take a backseat to other objectives of community courts. It is worth considering what types of protections need to be built into community courts to guard against the possibility of arbitrary decision making.

There is no denying that the Midtown Community Court's focus on problem solving led to some important structural changes in the courtroom. The assessment interview and the resource coordinator provide an unprecedented level of information directly to the judge that is not filtered by attorneys. With more information and a broader array of sentencing options at hand, the judge has taken greater control of decision making. For some, this has created the perception that the balance of power in the courtroom has shifted too far in the direction of the judge, that the Court is more concerned with outcomes than with process.

The differences between a problem-solving model and a more conventional adversarial system may not be as stark as some seem to think. The Midtown Community Court has maintained the core components of the traditional court-

room model. Visitors to the Court are sometimes surprised that the district attorney's office prosecutes each case and that each defendant is represented by a defense attorney.

In fact, most of the problem-solving tools — drug treatment, health care, education, and others — located on-site at the Midtown Community Court come into play only after a case has been decided. They are housed under the same roof as the courtroom to improve the chances that defendants will use them and to enhance the Court's ability to monitor performance.

In addition, the Midtown Community Court is the home of several unconventional programs, such as community mediation, job training, and homeless outreach, that bear little relation to the day-to-day work of arraigning misdemeanor cases. These programs do not involve the judge directly and do not emanate from the courtroom, but they do represent the Court's commitment to improving the quality of life in the community. These programs take advantage of the Court's presence, using its institutional authority to lend them credibility. The Midtown Community Court has thus demonstrated that the courtroom does not have to be the only entry point into a courthouse — a court can serve as an institutional base for a variety of programs that seek to tackle persistent neighborhood problems.

Do Community Courts Create Inequity?

Community courts raise concerns about equity. Some observers question whether paying attention to community concerns means that justice will vary from neighborhood to neighborhood. They ask whether the location of an arrest should have any impact on sentence outcomes.

This is a challenging issue, but it is not necessarily new. Consistency has always posed a challenge for court administrators: sentences vary dramatically from city to city, courtroom to courtroom, and judge to judge. Community courts further complicate the mix, but the challenge they pose is not unheard-of. Other observers have argued that neighborhoods should benefit equally from the resources of the court system. Court administrators are understandably sensitive about resource allocation. The appearance that one neighborhood is receiving more than its fair share of resources is a major issue for community court planners to confront.

But it is also clear that some neighborhoods are disproportionately burdened by specific problems that require unique solutions. In midtown Manhattan, quality-of-life crime was the problem to be addressed. This may not be what fuels community courts in other settings. In other neighborhoods, the primary problem may be juvenile delinquency or domestic violence or housing issues. In still other neighborhoods, the most pressing problem to be addressed may be the gap between the community and the criminal justice system itself. Each of these problems calls for different resources and a unique set of partners.

Community courts will always be intrinsically different from each other because each must focus on the problems of a specific community. The relevant question then is: Does this conflict with the notion of fair, equal, and evenhanded justice?

The Future of Community Courts

We know from the Midtown Community Court and other recent experiments that courts can wear many hats: justice dispenser, peacemaker, service provider, and, most important of all, problem solver. In playing these roles, the new courts have challenged traditional notions about the nature of the criminal justice system and tested the extent to which courts can serve as catalysts for change in neighborhoods.

Some questions remain: Where does all this lead? Will the new wave in court reform result in systemic change or will it always be ancillary to traditional case processing? What is the purpose of the community court movement? Is it to create a mosaic of unique courtrooms narrowly targeted to handle specific groups of cases? Or is it to bring a new problem-solving focus to the work of courts in general?

The short answer is that it is still too soon to tell. Community courts are still in their infancy. For the moment, two competing images of justice operate side by side: one actively engaged with the noisy and messy problems of neighborhoods and individuals; the other shielded from the din, protective of its detachment.

We envision the community courts or, perhaps, “community justice centers” of tomorrow as multiservice facilities, offering help to offenders, victims, and community residents alike. The new justice centers would house the kinds of treatment and prevention programs typically found in social service centers. They would mediate neighborhood disputes and enlist residents in defining responses to crime and delinquency. They would use community restitution to eliminate signs of neighborhood disorder. They would cross jurisdictional boundaries, hearing civil court and family court matters in addition to criminal cases in order to address in a coordinated fashion the multiple problems that confront so many individuals and families.

Everyone who enters the justice center of the future as a litigant would be entitled to legal representation, but not everyone would reach the courtroom. Several different tracks would be available: a mediation track, a social service track, a courtroom track, and others. Where a matter ended up would depend upon the case and the person. The interesting questions would be: Who decides? Would litigants be allowed to opt for whatever track they chose? Would opposing counsel determine which track was appropriate in a traditional adversarial fashion? Or would court personnel serve as gate keepers, assessing and referring each case? Would community members or victims have a say? What would become of the judge? Perhaps the judge would function like an air traffic controller, presiding over the whole enterprise, making sure that the justice center stayed on course.

Although the future of community justice remains unclear, experiments like the Midtown Community Court already have made several valuable contributions to the national conversation about courts, communities, and criminal justice. Community courts posit that some fundamental changes must be made in the way that courts conduct their business. As a first step, courts must acknowledge the damage that crime has done to both individuals and communities. This will

not be easy. To do this, courts must look beyond the narrow issues presented in any given case to address the underlying problems of individuals and communities. They also must recognize that solving problems like community disorder, addiction, and criminal recidivism requires new partnerships with social service providers, victim organizations, businesses, schools, and others. Finally, to perform all of this new work, courts must create new structures, experiment with new technology, and hire new personnel. In testing these ideas, community courts demonstrate that our system of justice can help repair injured neighborhoods and that our courts warrant public confidence and respect.

Center for Court Innovation

The winner of an Innovations in American Government Award from the Ford Foundation and Harvard's John F. Kennedy School of Government, the Center for Court Innovation is a unique public-private partnership that promotes new thinking about how courts can solve difficult problems like addiction, quality-of-life crime, domestic violence and child neglect. The Center functions as the New York State Unified Court System's independent research and development arm, creating demonstration projects that test new approaches to problems that have resisted conventional solutions. The Center's problem-solving courts include the nation's first community court (Midtown Community Court), as well as drug courts, domestic violence courts, youth courts, family treatment courts and others.

Nationally, the Center disseminates the lessons learned from its experiments in New York, helping courts across the country launch their own problem-solving innovations. The Center contributes to the national conversation about justice by convening roundtable conversations that bring together leading academics and practitioners and by contributing to policy and professional journals. The Center also provides hands-on technical assistance, advising court and criminal justice planners throughout the country about program and technology design.

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