

RESTORATIVE JUSTICE, COMMUNITY, & THE COURTS:

An Analysis of the Impact, Benefits, and Elements “Constantly in Conflict” in Chicago’s Restorative Justice Community Courts

EXECUTIVE SUMMARY

[This report, *Restorative Justice, Community, and the Courts: An Analysis of the Impact, Benefits, and Elements “Constantly in Conflict” in Chicago’s Restorative Justice Community Courts \(RJCCs\)*, is an exploratory study of the three RJCCs administered by the Circuit Court of Cook County in Chicago.](#) We use a mixture of interview, observational, and quantitative data to explore how the history, policies, and programming of these three courts – located in the Avondale (North Side), Englewood (South Side), and North Lawndale (West Side) neighborhoods – align with or depart from general restorative justice best practices. Restorative justice is a framework and ideology that stems from indigenous belief systems and practices with many definitions; while there is no universally-accepted method of conducting restorative justice, most practice models center the needs of victims, the people who caused harm, and their communities with great emphasis on relationships.

Our research aimed to understand how community members and stakeholders feel about how these courts operate and where they may be able to improve. Generally, our findings show positive outcomes for people involved in the RJCCs who complete the program and “graduate.” There is no doubt that the RJCCs reduce the harms of the criminal legal system for people who have access to them. Nonetheless, our research uncovers some concerns related to the inherent tensions between restorative justice and retributive justice ideology (i.e., the traditional criminal legal system), and the limited number of people who are given access to participate in these courts.

RESEARCH PROCESS

Chicago Appleseed Center for Fair Courts and the Chicago Council of Lawyers employed multiple data collection methods in order to explore how these courts came to be and in what ways they are or are not meeting their initial purposes.

INTERVIEWS | We conducted 16 semi-structured interviews with court stakeholders (10), community advocates (2), and former

participants of RJCCs (4). Three of these interviews were conducted after an original draft of this report was written; the original sample of interviewees contained only one graduate of the RJCCs, which we considered to be a major limitation of our report. We felt it was necessary to include more participant perspectives, so we engaged in a community feedback period, which allowed us to connect with additional people who had direct experience in the RJCCs. These three additional interviews differed from other interviews because we also asked participants for feedback on our recommendations. A major limitation of this report is that we were only able to interview four participants and none of them went through the Englewood RJCC. As a result, our interviews likely do not capture the breadth of participant experiences. Another limitation was that we interviewed only *graduates* of the RJCC and not current participants or individuals who participated but did not complete the programming. This decision was intentional to ensure that people currently engaged in the process would not feel as if they could be punished for any criticisms of the RJCCs, nor would incomplete participation skew the collection of data in a subjective way.

COURT-WATCHING | We generated observational data by watching ten court sessions in the Avondale, Englewood, and North Lawndale RJCCs from January through March 2023, resulting in a total of 18 observations. It is important to note that court-watching data is based on volunteers’ individual perceptions. While we recognize that subjectivity may influence the data collected from court-watching, this information is relevant in that (a) it helps contextualize interview and quantitative data and (b) these observations help approximate how outside observers (i.e., “the public”) perceive the decisions and actions of court actors such as prosecutors, judges, probation/police officers, and others.

DATA ANALYSES | The quantitative data analyzed in our report came primarily from the Cook County State’s Attorney’s records about cases that have moved through diversion programs from

January 1, 2011, through September 6, 2023.¹ Overall, 595 people were listed as having participated in an RJCC since. Additionally, we reviewed recidivism data provided to us by the Office of the Chief Judge (OCJ) of the Circuit Court of Cook County; this data is available as an appendix to our [full report](#).

COMMUNITY FEEDBACK | In order to ensure that the recommendations of our report were realistic and aligned with community members' and restorative justice practitioners' sentiments, we prepared a summary of our initial report findings and presented it to practitioners during three different feedback sessions in November 2023. During these sessions, we received feedback that helped us tailor the final version of our recommendations that have been included in our report.

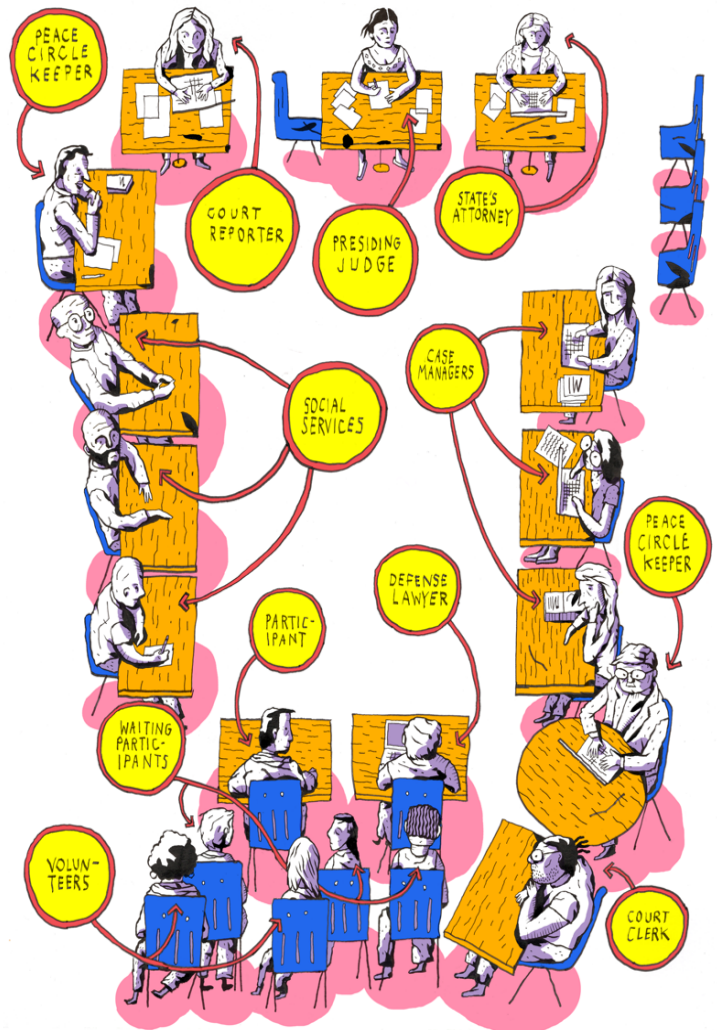
FINDINGS

Because the purpose of this report is to explore where the RJCCs' practices align with and/or depart from general restorative justice principles, and because of our small sample size, we draw conclusions limited to that scope and do not intend for this report to comprise an exhaustive evaluation of the Restorative Justice Community Courts. Nonetheless, our findings generally show positive outcomes for people involved in the RJCCs who complete the program and "graduate," but our research also uncovers some concerns related to the inherent tensions between restorative justice and retributive justice ideology (i.e., the traditional criminal legal system).

Restorative principles have been implemented in courts throughout the United States (as well as in New Zealand, South Africa, and other nations) to varying degrees. In the context of the criminal legal system, restorative justice is commonly contrasted with retributive justice in that it focuses on the victim's needs following harm, rejects punishment as a form of accountability, and offers dignity and agency to the accused person. Danielle Sered, a leading author on violence, justice, and alternatives to incarceration, [explains](#) that retribution sets people up to passively receive punishment rather than to recognize and repair the harms of their actions. Restorative justice differs from other forms of justice because it places the decision of how to address harm "[in the hands of those most \(directly\) affected by it](#)," including the victim, person who caused harm, and their community. While restorative justice practices are inspired by Indigenous practices, they are not the same as Indigenous

traditions of justice. In fact, restorative justice practices have been critiqued for co-opting Indigenous practices to further the aims of the Western criminal legal system. Concerns have been raised about differential access to resources within communities that may affect participant outcomes and the risk that these programs may in some cases uphold white, middle-class biases and values. Court-based restorative justice has also been critiqued for legitimizing the criminal legal system as an agent that can address harm. As Pavlich (2013) [explains](#):

The aim here is not to challenge state-based criminal justice arrangements, as might be expected from an independent alternative deemed to be the very opposite of retributive justice. Rather, restorative justice is then espoused as a way of enhancing state agencies, and ironically furthering or elaborating upon state criminal justice arenas.



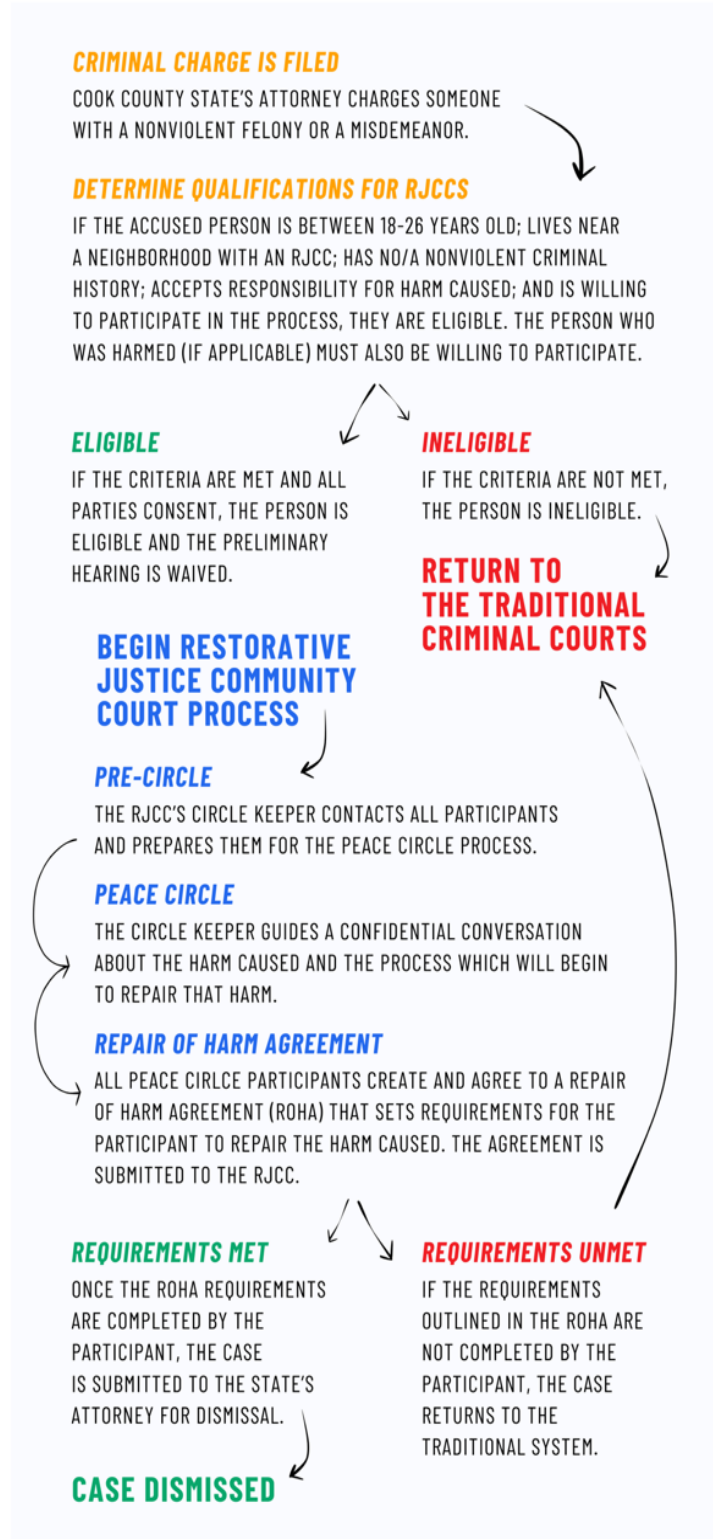
¹ Upon initial review of this report, the Office of the Chief Judge advised the report authors that the public data from the CCSAO's that was analyzed for this report does not match the OCJ's internal record keeping.

Cook County's first Restorative Justice Community Court was founded in the Chicago neighborhood of North Lawndale in 2017 and RJCCs in the Englewood and Avondale neighborhoods followed in 2020. In November of 2023, the Circuit Court of Cook County announced the planned opening of a suburban court location in Sauk Village, Illinois. The Cook County Restorative Justice Community Courts are specialty courts for young people aged 18 to 26 who have been charged with nonviolent felonies and misdemeanors and live in or near one of the communities where an RJCC is located. According to the Circuit Court of Cook County, the RJCCs seek to "end the harmful cycle of revenge and recidivism" and to "resolve conflict through restorative conferences and peace circles" with individuals who participated in and were affected by the crime. The model is based on the Red Hook Justice Center in Brooklyn, New York, which is a multi-jurisdictional community court that "focus[es] on healing and community restoration rather than punishment."

Cook County's RJCCs include a number of stakeholders with various roles.² Some of these roles are reflective of the traditional criminal legal system, such as public defenders, judges, prosecutors, court coordinators, and "participants" (i.e., defendants), while other roles are unique to the restorative justice process, such as case managers, service providers, circle keepers, and community members. RJCCs are somewhat similar to other problem-solving courts (such as drug and mental health courts), but importantly, RJCCs are pre-plea diversion programs and the status hearings are held within the community where the program is focused and are distinct from the processes of traditional courts. As opposed to a traditional courtroom, participants and stakeholders in RJCCs generally sit in a "rectangular formation," as described by court-watchers; likewise, the judge is not on an elevated podium but instead sits "at the same level as the participant" and wears street clothes instead of a robe.

Participants in RJCCs meet with their case managers on a regular basis and attend court about once a month to check in on the progress of their cases. Peace circles are held until a participant is able to identify ways to repair the harm of their actions, and at the completion of the peace circle process, Repair of Harm Agreements (ROHA) are finalized in

COOK COUNTY RESTORATIVE JUSTICE COMMUNITY COURT PROCESS



² The illustrations included here and in the full report were done by Nick Jackson of Chicago, Illinois, in October of 2023; these illustrations are property of Chicago Appleseed Center for Fair Courts and replication without prior permission is prohibited.

collaboration with participants and other circle stakeholders. The length of each case can vary depending on the participant's progress in completing their ROHA. For those who graduate, the average amount of time they spend in an RJCC is about 13 months, with the longest tenure being documented as nearly 4 years (1,450 days). For those marked as having "failed" RJCC programming, the average time spent in the court was 4.6 months; the longest tenure for an individual who eventually failed the program was 1.9 years (681 days).

DEMOGRAPHICS

There are records for 595 people admitted to the Restorative Justice Community Courts between June 19, 2017, and September 6, 2023. After dropping to its lowest level during the pandemic, referrals to RJCCs skyrocketed in 2021 and remained high in 2022 and 2023.

RACE + GENDER | Of all RJCC participants for which we have data, about 88.6% were male, 82.5% were Black, and 72.5% were both Black and male.

AGE | Notably, the RJCCs are supposed to be reserved for people under the age of 26, but people over 26 have been admitted since the courts' beginnings; the oldest participant is listed as being 39.

CHARGES | At no point in its history have the RJCCs worked primarily or even substantially with cases involving individual victims. Only 7% of all the charges over all years of the RJCCs identify a personal victim. In the first two years of the RJCC's existence (2017-2018), the court dealt almost exclusively (89%) with drug cases; in the most recent three years (2021-2023), drug cases have made up less than 10% of the cases and gun possession has made up about 83%.

OUTCOMES | A total of 117 people were admitted to the program between 2017 and 2019 with diversion results listed in available data; 94 people (80.3%) successfully completed the program and 23 people (19.7%) did not. This trend seems to have improved in recent years, according to an analysis provided by the Office of the Chief Justice (OCJ) of the Circuit Court of Cook County: A total of 218 individuals were admitted to RJCC programming between 2020 and 2022; as of March 31, 2023, 94 people (43.1%) had their charges dropped or dismissed, six (2.8%) had been found guilty, and 118 cases (54.1%) were still pending. According to that analysis, about 13.1% of people who participated in an RJCC were charged with a new offense "after in

the community for at least one year after release" compared to 65.2% of a matched control group.

COURTROOM DYNAMICS

All of the Restorative Justice Community Courts in Chicago are held in very different spaces than traditional courts and follow the same general proceedings—but there are clear differences between each of the three RJCCs, including distinct styles employed by judges and court staff, the influences of location, and community organization and circle keeper involvement.



On Friday mornings, court participants enter Resurrection Hall through the St. Hyacinth Basilica parking lot.

The Avondale RJCC is located in a multipurpose hall at St. Hyacinth Basilica. Based on court-watcher observations, the room, is "cozy." The ceiling of the multipurpose hall is decorated with "small, 6x6 [inch] portraits of past and present Popes" and "other Catholic symbols adorn the room." Court-watchers observed that the participants were largely Latine with a notable number of Black participants. According to our court-watchers, the judge at Avondale has a unique interpersonal style, "seemed to be focused on building rapport," and emphasizes formal education in a way that the other judges do not appear to. If a participant in the Avondale RJCC does not have a high school degree or GED, they are required to receive one in order to "graduate" from the RJCC. The average length of the court call in

Avondale was between ten and thirty minutes. Avondale is the only court where court-watchers did not observe circle keeper participation during the court calls.

The Englewood RJCC is the only Restorative Justice Community Court that has its own dedicated space, the Salvation Army's Adele and Robert Stern Red Shield Center. Based on court-watcher observations, the room is a relatively large space that “feels open.” The Englewood RJCC’s ownership of their space guarantees consistent access to a physical location for the RJCC for participants, even when court is not in session, making it easier for participants to access resources and for court staff to share space and more easily build a culture, according to interviews. Our court-watchers felt that it was difficult to observe that culture because the “cases went by quickly,” typically lasting around two minutes on average, and “the judge did not try to build rapport with participants.” Court-watchers observed that the vast majority of participants were Black and that the environment was relaxed, noting that “everyone seemed really comfortable to be there.”

The North Lawndale RJCC takes place in UCAN’s administrative building in a room that was compared to a “conference room.” The court uses a hybrid model. Court-watchers described the physical space as a “medium-sized open room” that “did not look like a courtroom at all.” Court-watchers observed that the majority of participants were Black and some were Latine. The North Lawndale RJCC judge was described as using humor to connect with participants, reading jokes from a book while they waited for court to begin. Based on court-watcher observations, the average length of the court call in North Lawndale was between two and three minutes. Because the North Lawndale RJCC is associated with an RJ Hub – and has been from inception – more community organizations are involved but there were not a large number of community members present when our court-watchers observed.

TENSIONS

Our research uncovered some tensions between the tenets and practices of restorative justice and the structures and processes of the criminal legal system. As one interviewee stated: “There’s the restorative justice element of it, the community element of it, and the court element of it. All three of those are constantly in conflict.” Based on best practice research, our court-watching observations, and interviews with stakeholders, our report discusses, in detail, how these tensions manifest in relation to the purpose and practices of the RJCCs, the processes and engagement of stakeholders, and mindsets related to

transformative change. The RJCCs, like the criminal legal system, use logics of surveillance and punishment in order to encourage participants to comply with the requirements of the program. Our court-watchers noted that punishment often comes in the form of increased requirements in how often participants must come to court; interviewees regularly stated that court stakeholders often threaten participants that they will be “sent back to 26th Street” (the criminal courthouse) as punishment. Because of this potential severe consequence, participants have a strong, nearly coercive incentive to stay in the RJCCs and participate actively and consistently—even though their participation is technically voluntary. These practices are not in alignment with fundamental restorative justice best practices. Community engagement may be able to address some of these issues, however, there appears to be little day-to-day community participation at the RJCCs.

RECOMMENDATIONS

The following recommendations are based on our exploratory research findings and general restorative and transformative justice principles. These short- and long-term recommendations also include the input of community restorative justice practitioners and former Restorative Justice Community Court participants.

SHORT TERM

- 1. The Circuit Court of Cook County should immediately implement a community oversight model and pause any future development of additional RJCCs until that has been achieved.** By nature and by name, the RJCCs are *community courts* that must have community oversight. However, we found that there was very little day-to-day community engagement with the RJCCs. More community oversight by residents who practice restorative justice in and belong to the communities from which many RJCC participants hail might result in collaboration that leads to creative solutions that address the deeply entrenched, systemic problems that cause harm and violence in Chicago communities. We posit that absolute community oversight of the RJCCs is necessary for the court to be both a restorative justice court and a community court. Without community oversight, these are simply neighborhood-based courts that implement some restorative practices. Until a community oversight model can be established, we do not believe that new RJCCs should be created.
- 2. The Restorative Justice Community Courts should prioritize transparency, accountability, and openness**

around their operations, service providers, staff, funding, and outcomes in order to effectively implement restorative justice principles. We found that the RJCCs – just like all other aspects of the court system – are extremely opaque. Despite the community-based nature of these courts, it was not readily apparent when court calls took place or where the courts were located; our researchers were made to contact the court system directly to access this information. This basic information should be readily available to community members who are absolutely essential to any restorative justice process; likewise, all courts (except juvenile courts) are statutorily open to the public, so the lack of public information access runs counter to that principle. The courts should also provide more transparency on the service providers involved in the RJCCs, the resources provided to participants, and all staff qualifications.

- 3. Restorative Justice Community Court practitioners (judges, court staff, service providers, and others) should receive ongoing, rigorous, community-led restorative justice training.** All court actors in the RJCCs must not only have an in-depth understanding of restorative justice practices, but also be comfortable practicing restorative justice. Our findings show that court actors had varying degrees of understanding and embodiment of restorative practices and we observed some instances of behaviors not in line with restorative justice principles. The goal of these trainings should not only be to provide participants with a restorative experience but to cultivate a culture of restorative justice and explore the power dynamics brought about by court actors' roles; socioeconomic, racial, and gender identities; and their relationships to settler-colonialism. Furthermore, restorative justice training should be based in trauma-informed, healing-centered, and to the extent possible, anti-oppressive frameworks with an understanding of long-term transformative justice goals.
- 4. We recommend that the RJCCs take steps to increase participant autonomy, reduce the amount of time the court process takes, and provide more scheduling flexibility.** We found that broadly, the RJCCs do not adhere to community-based restorative justice best practices that promote participant agency and choice. Lack of agency and respect for participants' choices came up in interviews in regard to court call scheduling, delayed court calls, and court call efficiency. Participants, who often work full time or have family obligations, struggle to attend RJCC court calls and the time taken out of their day can have a negative impact on their employment or other

responsibilities. Delayed court start times were observed at all three RJCCs because of "staffing" going longer than expected. We recommend that the courts practice better time-management, starting "staffing" earlier to provide a buffer to the beginning of court calls. RJCC judges should focus court calls on programming needs and case management rather than on relationship building. Our research shows that the court calls that were focused on case management were most efficient and appear to be most effective. We recognize that relationship building is a critical part of restorative justice; however, this relationship building should be between participants and their community and therefore is best conducted by circle keepers, case managers, and community members as opposed to other court actors.

- 5. The Office of the Chief Judge should create a task force to evaluate the courts, gain participant feedback, and oversee changes to the court.** The taskforce should be primarily composed of restorative justice experts and community members. Court actors should make up no more than 25% of the task force to make space for community voices. The members should be selected with input from the community, perhaps by using a nomination process. The task force and subcommittees should evaluate the courts and determine what current strengths are and what changes need to be made in order to advance the mission of the courts and make them more restorative. The court task force should establish a mechanism to receive feedback from participants and staff about their experience with the program on a regular and on-going basis moving forward.

LONG TERM

- 6. We recommend that the Cook County State's Attorney's Office (CCSAO) create an internal rule to ensure that all accused people eligible for the RJCCs are given the automatic opportunity to participate.** We recommend that the CCSAO take steps to limit the discretion prosecutors have in allowing people to participate in the Restorative Justice Community Courts. Because some judges and prosecutors may not "buy-in" to the RJCC model, these limitations are important to ensure individuals' biases do not influence this process in ways that hurt some prospective participants' chances of engagement in the RJCCs. Ideally, any and all people who meet the eligibility criteria to participate in the RJCCs should be automatically deemed eligible, informed of this option by their lawyer, and given adequate opportunity to decide if they would like to participate in the RJCCs or continue their case in the traditional criminal court system. Instead of requiring accused

people to *opt in* to RJCCs, they should be given the option to *opt out* and return to the traditional criminal legal process. By limiting judges' and prosecutors' discretion, individual or professional biases that may affect eligibility would also be limited.

7. Circuit Court of Cook County stakeholders should work together to expand the RJCCs' purview to include charges where there may be a clear victim, including those that are labeled "violent."

Currently, the RJCCs currently only accept nonviolent, first time offenses. Because the RJCCs are a deferred prosecution program not bound by any state statutes, the CCSAO can make changes to the eligibility criteria for the RJCCs via an agreement with other key stakeholders, such as the OCJ, public defender, and community representatives. As discussed in this report, the majority of participants in the RJCCs were referred for gun and drug possession crimes. Within the criminal legal system, restorative justice models are uniquely positioned to address instances where harm has been done to another person or persons, yet our research shows that the RJCCs model are inappropriately unavailable to people accused of such crimes. We do not doubt that restorative justice and community-based practices can have an incredible impact on a person's life in many instances, but low-level possession charges should be diverted out of the criminal legal system altogether. This reflects a larger issue with the RJCCs that is ripe for consideration: in many instances it seems the RJCCs are overseeing cases that would be better off dismissed from traditional prosecution at the outset and referred to community-based supportive programs. Connection to the traditional punitive legal system regularly causes significant harm to people, especially members of marginalized communities, and should be substituted for less punitive and more supportive alternatives whenever possible.

8. The Circuit Court of Cook County should work with the Cook County Board of Commissioners and other decision makers to explore outsourcing some of the work of the Restorative Justice Community Courts to community-based and grassroots organizations, given the conflicts that arise when integrating restorative

justice into the criminal legal system. Cook County should explore creating a pre-plea restorative justice program that refers participants to community-based organizations to manage the restorative justice process with court oversight. This program should then be evaluated by outside researchers who can determine if it is successful and then it should be scaled up. This program should maintain the use of wrap-around to help participants access resources they self-determine they need or want. Throughout our report, we repeatedly underscore how restorative justice has fundamental tensions with the criminal legal system generally; true transformational justice would prioritize a restorative approach that is unable to result in retributive, punitive sanctions. However, the courts themselves are not able to actualize this given the legal frameworks they are bound to. To the extent possible, we recommend that the Circuit Court of Cook County partner with the Justice Advisory Council of the Cook County Board President's Office, legislators, and other related decision makers to assess if the [community justice center model](#) (outside of the legal system) may be an achievable goal for Chicago and Cook County communities.

CONCLUSION

In this report, we identify how certain aspects of the RJCCs are largely symptomatic of the tension between the criminal legal system and community-based, restorative approaches to justice. We present short-term and long-term recommendations designed to explore possible ways to diminish the role of the criminal legal system and its actors in the restorative justice process and empower communities to decide how best to prevent and repair harm. Our research validates the findings of community restorative justice practitioners that, when utilized in the criminal legal system, its full potential is greatly diminished. Nonetheless, there is real harm reduction happening in the RJCCs and we hope that our recommendations can bring the RJCCs closer to accountability.

You can read our full report, including a detailed explanations of our research findings, on our website at www.chicagoappleseed.org.