

Report Summary:

Restorative Justice, Community, & The Courts:

An Analysis of the Impact, Benefits, and Elements
"Constantly in Conflict" in Chicago's Restorative
Justice Community Courts



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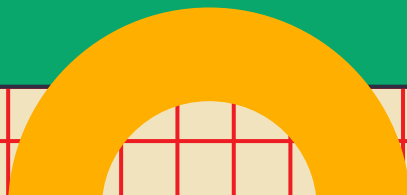
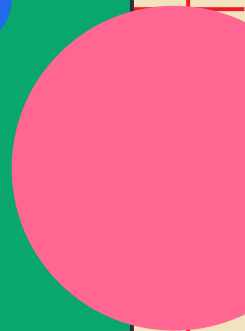
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1.

Introductions



Chicago Appleseed Center for Fair Courts

Chicago Appleseed Center for Fair Courts advocates for a legal system that is equitable, accessible, and fair to all people; efficient so justice is not delayed; and effective in seeking solutions to social injustices. Our work focuses on *improving civil and criminal court processes for people with and without representation* and *promoting judicial excellence*.

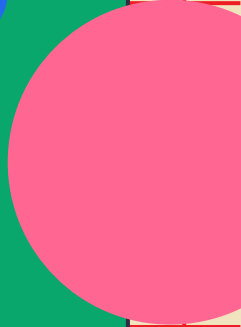
We work to interrupt cycles of poverty, mass incarceration, and racial injustice perpetrated by all aspects of the legal system.



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3.

Objectives & Methodology



Research Goals

- Exploratory study
- How do the Restorative Justice Community Courts (RJCC) in Cook County fit into the overall local criminal legal system?
- How do the RJCCs' practices align with and/or depart from general restorative justice best practices?

Methodology & Limitations

Methods:

- Literature review: restorative justice practices in courts
- 16 semistructured interviews:
 - Court staff judges, circle keepers, case managers, court coordinators. 4 participants
- 18 court observations representing 10 sessions
- Data analysis Cook County State's Attorney's records

Limitations:

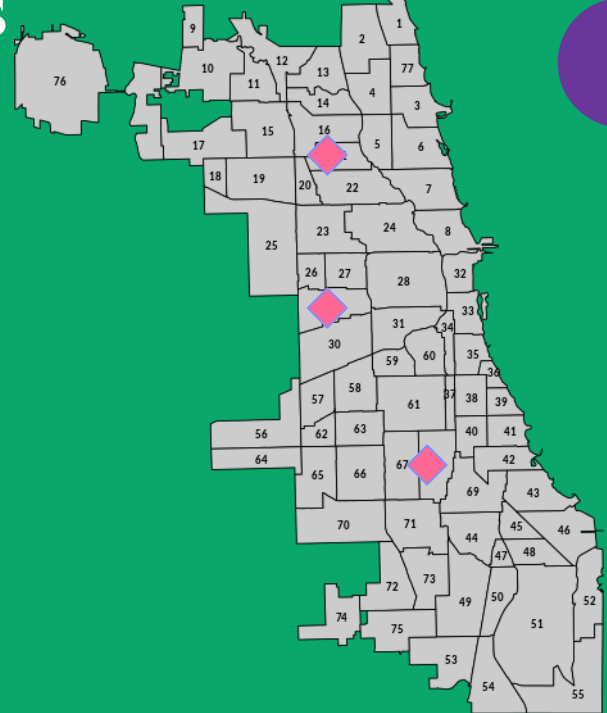
- Anonymization of interviews
- 4 participants interviewed (all successful graduates - none from RJCC Englewood)
- CCSAO's data set had missing fields, so we relied on OCJ data for recent graduation rates
- Did not observe circles

4.

Intro to RJCCs

Intro to RJCCs

- The RJCCs are pre-plea diversion courts
- To qualify for participation in an RJCC, participants must...
 - Be 18-26 years old
 - Be charged with a nonviolent felony or misdemeanor
 - Live in/around a neighborhood with an RJCC (flexible)
 - Have no violent criminal history
 - Accept responsibility for harm caused
 - Be referred by the prosecutor to an RJCC
- Three courts located in North Lawndale (West Side), Avondale (North Side), Englewood (South Side)
- Located in community spaces, not courthouses



Intro to RJCCs

- According to CCSAO data at least 585 people have been admitted to the RJCCs between June 2017 and September 2023
- Participants engage in a restorative circles
- Participants work with a case manager to address any needs they may have
- Participants create a Repair of Harm Agreement (ROHA) with court staff, which must be approved by the judge and prosecutor
 - Goals may include: obtaining gainful employment, completing community service hours, meeting education requirements, gun safety course, and/or writing letters of apology to people they harmed
- Participants must complete ROHA goals in order to graduate & the case is dismissed

Intro to RJCCs

- At any point, the prosecutor may decide to remove a participant from an RJCC, at which point they would return to traditional criminal court processes
- Participants spend an average of 13 months in the program

FIGURE 9

NUMBER OF DAYS SPENT IN AN RJCC BY OUTCOME FROM 2017 - SEPTEMBER 2023

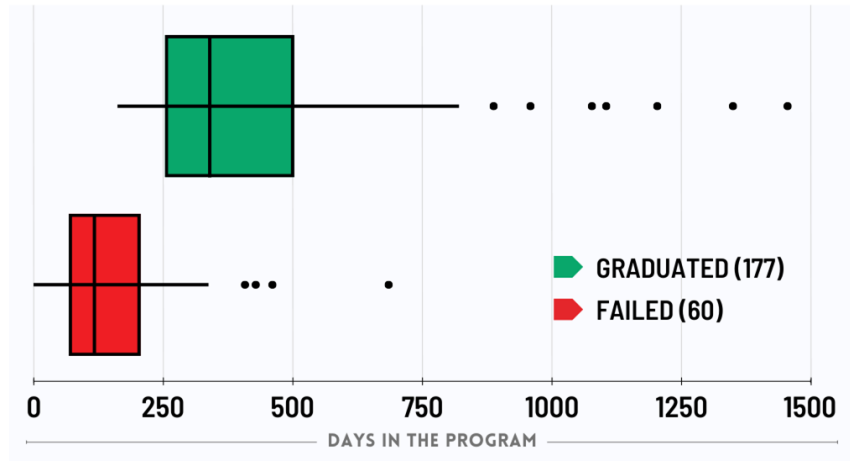


FIGURE 9:

This scatter plot represents the number of days 237 Restorative Justice Community Court participants who have "graduated" (177) and who "failed" (60) between 2017 and September 6, 2023, spent in the program. The chart excludes pending cases.

FIGURE 3

RJCC PARTICIPANTS BY AGE FROM 2017 – SEPTEMBER 2023

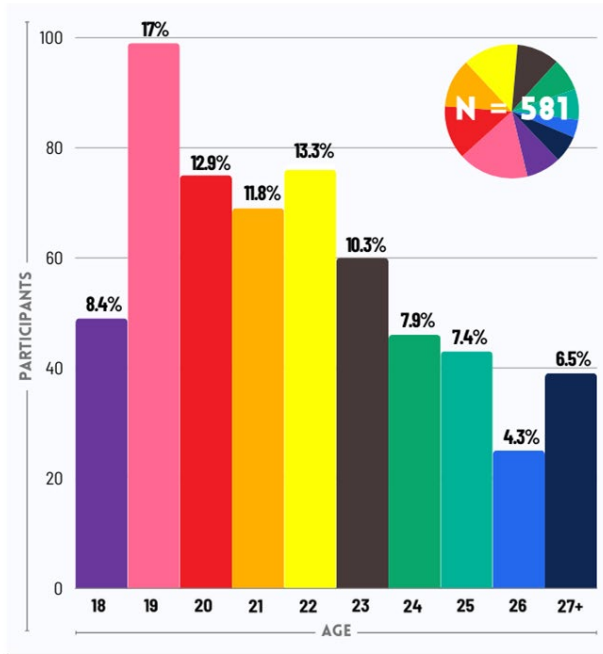


FIGURE 3:

This bar graph represents the breakdown of ages of all RJCC participants for which we have data (581 total) between 2017 and September 6, 2023.

50%

of participants are between
the ages 18 and 21

FIGURE 2

PARTICIPANTS' RACES AND GENDERS FROM 2017-SEPTEMBER 2023

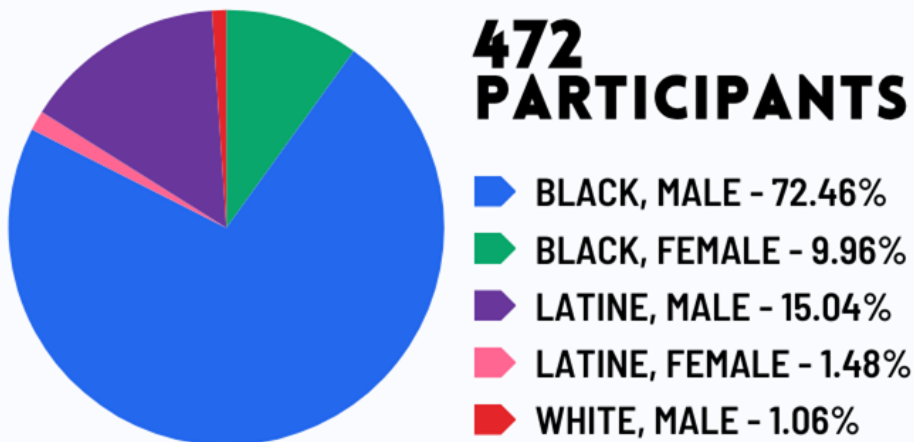


FIGURE 2:

This pie chart represents the breakdown of races and genders of all Restorative Justice Community Court participants for which we have race and gender data (472 total) from June 2017 through September 6, 2023.

FIGURE 6

CHARGE CATEGORIES FOR RJCC PARTICIPANTS FROM 2021-2023

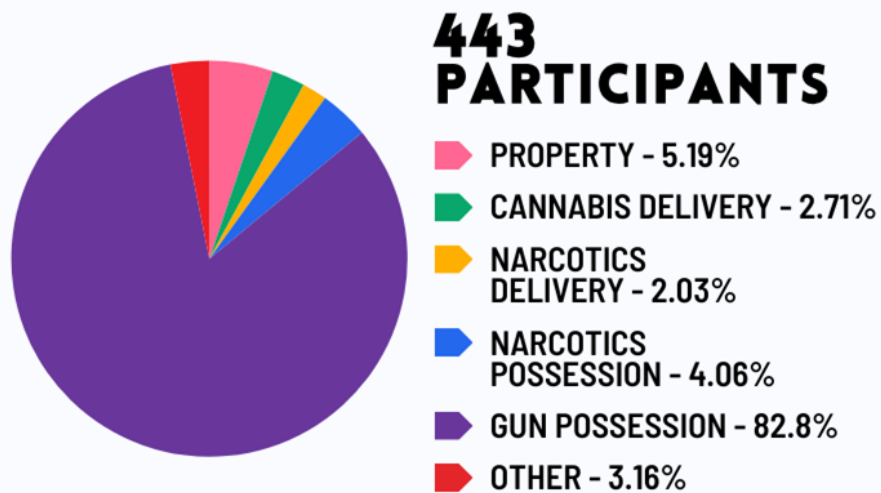


FIGURE 6:

This chart shows the breakdown of charges for 443 Restorative Justice Community Court participants from 2021 to September 6, 2023.

FIGURE 7

PARTICIPANTS WHO "GRADUATED" OR "FAILED" FROM 2017-2019

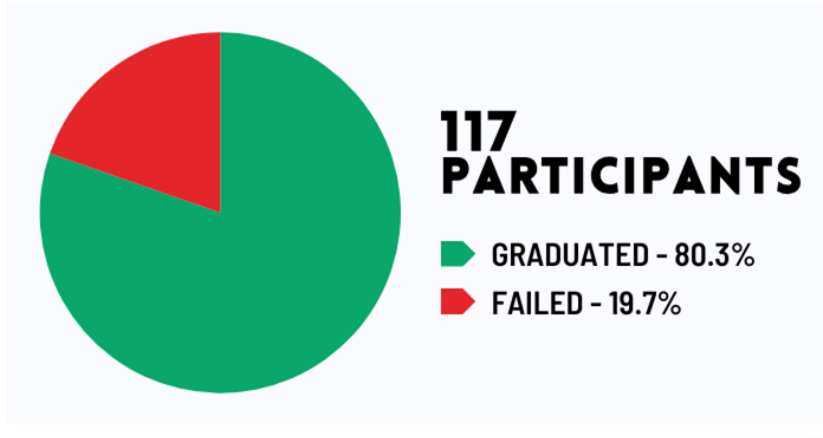


FIGURE 7:

This chart uses data from the Office of the Chief Judge that shows that of the total 117 people who were admitted to the program between 2017 and 2019 with diversion results listed, 94 people (80.3%) successfully completed the program and 23 people (19.7%) failed.

FIGURE 8

PARTICIPANTS WHO "GRADUATED" OR "FAILED" FROM 2020-2022

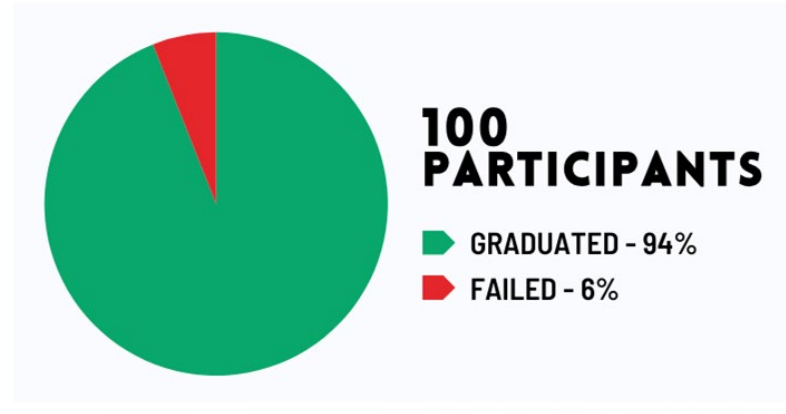


FIGURE 8:

This chart uses data from the Office of the Chief Judge. A total of 218 individuals were admitted to RJCC programming between 2020 and 2022; as of March 31, 2023, 118 cases were still pending. Of the 100 people who had completed their time in the program as of March 31, 2023, 94 people (94%) had their charges dropped or dismissed and six (6%) had been found guilty. The chart excludes pending cases.

FIGURE 10

ONE YEAR RECIDIVISM RATES: RJCC VS. MATCHED CONTROL

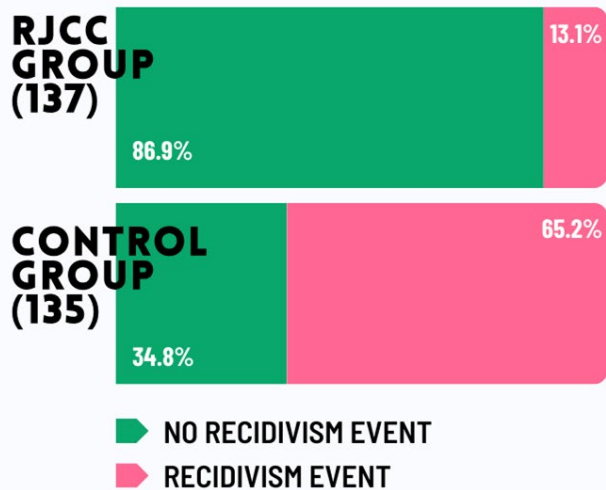


FIGURE 10:

This stacked row chart compares the one-year recidivism rates of all participants admitted to programming between 2020 and 2022 (135 people) to a matched control group (135) who have been in the community for at least one year after release. This data was provided by the Office of the Chief Judge of the Cook County Circuit Court and can be found an Appendix of this report.

5.

Findings

Philosophical Tensions

- Our research found evidence of tension between criminal legal system and restorative justice philosophy and practices in almost every aspect of the RJCCs

“There are three elements of [RJCC]. 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.”

- By placing the RJCCs within an existing criminal legal system, one scholar notes that restorative justice becomes: “[Not] an alternative to the criminal justice rationales and practices but...an alternative to specific processes provided within that system. In this mode, restorative justice emerges as an appendage to enhance (perhaps even expand) existing criminal justice and/or legal institutions.” - Pavlich, G. (2005). *Governing Paradoxes of Restorative Justice*

Themes

- All of the courts have a different feel from a traditional court system - each court has their own culture and program expectations
- The RJCCs offer a level of flexibility unprecedented in criminal court proceedings
- There is a noticeable hierarchy of power and decision-making among court actors
 - Judges and prosecutors have final say over the content and satisfaction of ROHAs & can remove participants from the program
- Community presence is limited or absent at court calls, and community members have little power over the RJCC processes

“When the rubber has to meet the road, it is the State's Attorney who can say, ‘I'm sending this back to [the criminal courthouse at] 26th Street for regular court. You're out of here.’”

Themes

- Limited autonomy for participants: Participants are sometimes encouraged by court actors into ROHA elements they do not regard as necessary
- Court took up a significant amount of time in participant's lives Frequent check ins with court - monthly to weekly
 - Weekly calls with case manager
 - Lengthy community service hours
 - Interference with participant schedules, work, and childcare
- Traversing boundaries - asking for private information, information on past alleged crimes, emotional appeals during court calls
- Best outcomes / experience for participants that perform "engagement"

“Voluntary” Nature of Program

- Participants are very aware, and are routinely reminded by court actors, that if they are not successful in the RJCC their case will go back to the traditional criminal system, where they may risk incarceration - “sent back to 26th Street”
- 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
- This does not align with RJ which stresses accountability & participant agency

Harm, Crime, and Safety

- Majority of participants in court for simple gun possession
- Disconnect between what court describes as harm and what participants see as harm
- The court cannot address root issues for why folks are carrying guns - feeling unsafe in their neighborhood

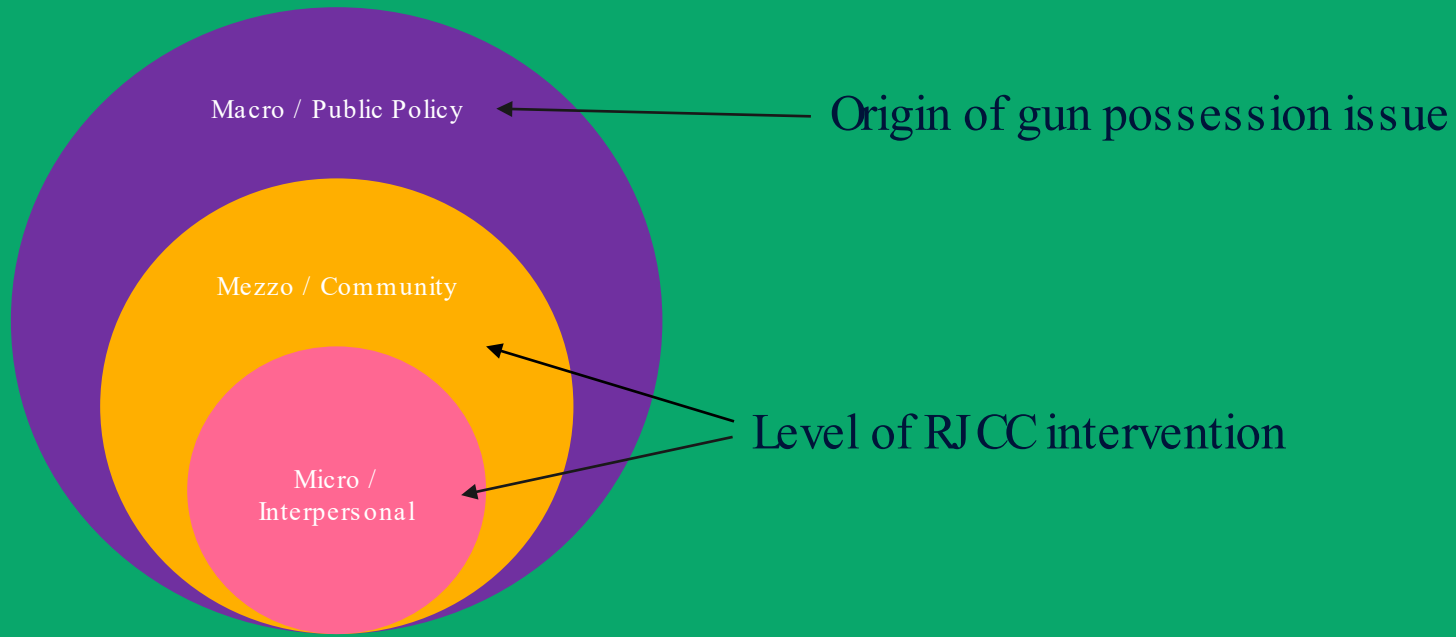
"Now I mostly stay in the house. I don't go nowhere besides work...Ain't nothin outside but trouble so I just stay in the house."

-Participant

The judge asked what the participant felt the pros and cons of gun ownership were...It felt like the judge kept asking for more cons and wasn't totally satisfied with the answers."

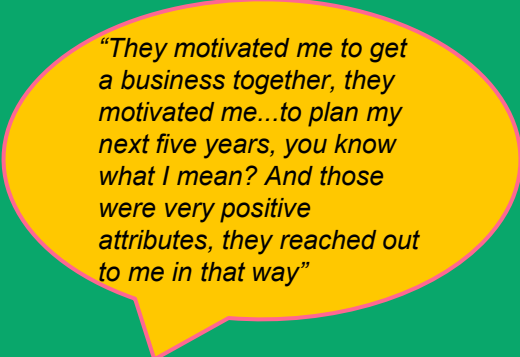

-Court-watcher

Addressing Macro Issues at the Micro/Mezzo Level





Reducing Harm

- Participants avoid felony background
- Participants we interviewed were generally grateful for the program
- RJCC is still operating within and according to a larger court system that is designed along punitive lines.
- Infractions are dealt with in a comparatively more compassionate way, continued inclusion in the program is contingent upon adherence to the rules set forth by the court, and so participants are not necessarily free from the legal system's reach.



"They motivated me to get a business together, they motivated me...to plan my next five years, you know what I mean? And those were very positive attributes, they reached out to me in that way"



Are RJ CCS Practicing RJ?

- They employ some restorative practices in a community setting
- Despite best intentions, they do not sufficiently meet the criteria for RJ
 - Power dynamics
 - Lack of participant autonomy
 - Punitive - threat of sending case back to 26th St
 - Lack of community participation
 - Conflating harm with crime
- Performance of repair
- When comparing to the traditional criminal legal system they are an improvement, when comparing to RJ they do not measure up



6.

Recommendations

Short Term Recommendations

- Implement a community oversight model in the RJCCs and pause any future development of additional RJCCs until that has been achieved.
- Prioritize transparency, accountability, and openness around their operations, service providers, staff, funding, and outcomes in order to effectively implement restorative justice principles.
- Ongoing, rigorous, community-led restorative justice training for all RJCC staff
- Increase participant autonomy, reduce the amount of time the court process takes, and provide more scheduling flexibility.
- The Office of the Chief Judge should create a task force to evaluate the courts, gain participant feedback, and oversee changes to the court.

Long Term Recommendations

- Office of the Cook County State's Attorney create an internal rule to ensure that all accused people eligible for the RJCCs are given the automatic opportunity to participate.
- 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."
 - Different process for "victimless crimes" (gun possession)
 - Expand age eligibility
- 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.