

# SAN FRANCISCO DISTRICT ATTORNEY'S OFFICE



## NEIGHBORHOOD COURTS REPLICATION TOOLKIT



District Attorney George Gascón

## **SAN FRANCISCO DISTRICT ATTORNEY’S OFFICE - NEIGHBORHOOD COURTS PROGRAM**

### **Background**

Shortly after assuming office in 2010, District Attorney George Gascón stated that the criminal justice system was broken and “economically unsustainable.” At San Francisco’s Hall of Justice, overburdened court rooms were clogged and cases languished, lined-up one after the next, waiting their turn for an available court room. While serious crimes naturally commanded higher priority, insufficient attention was devoted to handling quality of life offenses.

In response, District Attorney Gascón created Neighborhood Courts in 2011, recognizing that criminal justice officials and communities shared a deep frustration about the processing of low level crimes. Neighborhood Courts, a community based pre-charging diversion program, uses a restorative justice lens to resolve lower level, quality of life crimes that erodes a community’s morale. Adjudicators – comprised primarily of residents who live and work in the community where the incident occurred – hear the case and create plans that enable the participant to address harms caused to the community and parties affected by the incident.

### **Program Goals**

- **Efficient case resolution.** Neighborhood Courts participants can have their case heard within a couple of weeks and fully complete the process before they would have even appeared at their criminal court arraignment.
- **Community-driven solutions.** The community that is affected by the crime gets to direct the plan for repairing that harm.
- **Reduced burden on criminal courts.** Neighborhood Courts has the potential to significantly save both time and money for criminal courts and the agencies that work in them.
- **Reduced recidivism.** By keeping low-level offenders out of the traditional system – and keeping convictions off their record – Neighborhood Courts removes an obstacle to meaningful participation in the community. As individuals gain a true understanding of the impacts of their actions, they may be less likely to reoffend.

### **Program Overview**

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Neighborhood Courts is a pre-charging diversion program for non-violent misdemeanors that emphasizes community participation and restorative justice. San Francisco District Attorney (SFDA) prosecutors review all misdemeanor cases to identify those that are suitable for Neighborhood Court. Suitable cases are those that (1) are legally eligible, per Neighborhood Court guidelines (provided below) and (2) would otherwise be charged for prosecution.

Participation in Neighborhood Court is voluntary. Potential participants are contacted by the SFDA and provided information about the program, including their legal rights and program requirements.

A panel of volunteer “adjudicators” (or panelists) trained in restorative justice and problem solving, hear misdemeanor cases at one of ten Neighborhood Courts located in San Francisco’s 10 police districts. There are no prosecutors or defense counsel in the hearings. Supported by staff from the SFDA’s nonprofit partners, panels of 3-4 adjudicators hear each case separately to dialogue with the participant, assess the harm caused by the incident, and issue “directives” to address the harm caused to the victim, the community, and the participant him/herself. Once the participant completes his/her directives, the SFDA discharges the case (e.g. does not file it in criminal court).

While participation in Neighborhood Court is voluntary, the individual must take responsibility for their role in the incident. If candidates fail to respond to the invitation to participate, opt out, or fail to appear at Neighborhood Court or complete their directive, their case will be referred back to the Hall of Justice for traditional criminal case processing.

Neighborhood Court hearings are confidential. If a case must be returned to the SFDA for charging, any information revealed through the Neighborhood Court process cannot be used for prosecution purposes.

### **Initial Planning and Implementation**

The SFDA views petty theft, graffiti, prostitution, vandalism, fighting, and a host of other nuisance crimes as offenses against, not only to the victim, but to the residents who live and work in neighborhoods where the offense occurred. As such, engaging the communities was a top priority during the planning stages.

During the summer of 2010 initial discussions began with DA’s office team members, community stakeholders, and consultants about how best to roll out the model in a thoughtful, methodical way through the ten police districts. After careful consideration, the Mission Neighborhood Court and the Bayview Neighborhood Court started in May 2011 as the initial pilot programs. These communities were chosen because of their elevated crime rates, dynamic racial, ethnic, and socioeconomic compositions, and positive working relationships with community organizations cultivated over the years.

2 police districts at a time were systematically folded in and by spring 2012, Neighborhood Courts rolled out into all ten police districts.

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- Grassroots outreach strategy: Internal team members identified and interviewed stakeholders in each community, individuals recognized as neighborhood leaders to inform them of the project, get their feedback, and garner their support. Even the order with which to engage them was seriously considered given the delicate personal and working relationships between some stakeholders. With their input and assistance, other notable individuals, residents, and organizations were identified and added to the contact list.
- Next, the team reached out to merchants, community based organizations, schools, homeowner associations and neighborhood watch groups, as well as other civic and social groups.
- At the same time government agencies joined in discussions, groups who were involved in neighborhood issues, e.g., departments of police, probation, health, housing, homelessness, etc. Staff support at the offices of the Mayor and district Supervisor were very helpful, assisting to seed further interest.
- Surveys were developed and distributed in the neighborhoods to get input from the broader range of residents about their perception of crime, feelings of safety, victimization, etc.
- Presentations were made at a variety of neighborhood meetings to inform and answer questions about the initiative. Contact also was made with representatives from neighborhood newspapers, which circulated articles with a community participatory perspective.
- Efforts culminated with a district wide community meeting where the Supervisor, precinct captain, and community leaders were featured and voiced support for the project. The main objectives were to:
  1. Provide an overview and articulate project goals,
  2. Receive feedback from the community members,
  3. Explain the virtues of civic engagement and recruit individuals to be directly involved as NC panelists.

Close to 300 residents attended the first meeting in the Bayview District, a community historically distrustful of government agencies. Local media coverage of the event also drew positive attention, attracting further interest and inquiries from the public.

### **Program Operation**

#### **Eligible Cases**

All misdemeanor offenses are eligible for Neighborhood Court, with the following exceptions:

- Moving violations
- Gun cases
- Domestic violence
- Child assault
- Stalking
- Sex assault / 290 registration

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- Hate crimes
- Elder abuse, whether physical, mental or financial
- Assault on an officer
- Witness / victim intimidation

The following individuals are also excluded:

- 290 registrant
- Juvenile
- Anyone under any form of community supervision in any jurisdiction, except that the following probationers *are* Neighborhood Court eligible:
  - Individuals on court probation for NC-eligible offenses.
  - Individuals who are on probation in cases where their charged offense is NC-eligible.
- Anyone with pending open case(s), including pending co-defendant case(s).
- Individuals with prior convictions are assessed on a case-by-case basis, taking into consideration the severity of the offenses, number of prior convictions and length of time from the last conviction to the present case.
- Individuals who have previously participated in Neighborhood Court.
- Individuals who are unwilling to pay documented restitution.

Typical cases heard in Neighborhood Courts include petty theft, vandalism, graffiti, prostitution, battery, embezzlement, sale of alcohol to minor, and trespassing.

Neighborhood Courts briefly handled quality of life infractions in 2013, as 10,382 infractions were processed by our NP's for referral to Neighborhood Courts. However, only 2% of these infractions resulted in a Neighborhood Courts hearing, and only 1% of referred infractions resulted in a successful outcome. There were several reasons for this dynamic. First, a significant number of individuals charged with infraction offenses - drinking in public, urinating on the street, nuisance on the sidewalk – are chronic offenders who struggle with substance abuse, mental illness and homelessness, and are unresponsive to the criminal justice system. In other instances, many individuals cited for infractions simply chose to pay the ticket fine. In addition, our Neighborhood Court adjudicators were themselves conflicted about the efficacy of handling low-level offenses through the model and struggled to identify the harm caused by some infraction offenses. After conducting data analysis and a formal adjudicator survey, the SFDA decided to stop referring infraction offenses to Neighborhood Court in 2014, and to focus exclusively on misdemeanor cases.

#### Case Processing Overview

1. SFPD officer issues citation, applying NC sticker with number to call for further information.
2. Citations and reports are placed in designated area in each station for pickup by Neighborhood Prosecutors (NP).

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3. On a daily basis, NP's retrieve misdemeanor citations/reports issued by district station officers and deliver to SFPD Misdemeanor Rebooking Liaison Officer.
4. SFPD Misdemeanor Rebooking Liaison Officer prepares rebooking packets for SFDA Misdemeanor Intake Attorney, usually within a day.
5. SFDA Misdemeanor Intake Attorney reviews all misdemeanors for Neighborhood Court eligibility. Felony Intake Attorneys also review felony cases that would be charged as misdemeanors for eligibility. In assessing whether a case should go to Neighborhood Courts, the Intake Attorneys determine (1) if the case is one that our office would charge; (2) if the charges are Neighborhood Court-eligible, and (3) whether the individual's criminal history precludes participation (see eligibility guidelines above).
6. SFDA Neighborhood Court Coordinator picks up cases daily, enters case information into the Neighborhood Court shared database (described in detail below), and sends an introductory letter and FAQ/Legal Rights documents to the Neighborhood Court candidate.
7. When candidate makes contact, Neighborhood Court Coordinator reviews program requirements with the candidate, determines amenability to participate and schedules hearing.
8. If there is a victim, the Neighborhood Court Coordinator sends a Victim letter and Victim FAQ document to the victim.
9. If the candidate does not make contact within two weeks of the letter, the letter is returned, or the candidate refuses to participate, the Neighborhood Prosecutor for the relevant police district makes a charging decision (charge the case or discharge it for bundling).
10. After the date of the Neighborhood Court hearing, the Neighborhood Prosecutor for the relevant police district reviews hearing outcome and makes the appropriate charging decision. Unsuccessful participants may be re-cited or a DA warrant issued.

#### Hearing Overview

1. Centered in each police district, the ten Neighborhood Courts currently operate Monday – Thursday in the mornings and afternoons, with three Neighborhood Courts - Chinatown, Mission, and South of Market (SOMA) - operating at night. Hearings are held in community centers, churches, and other social centers usually in the community where the crime occurred. Sites provide hearing space at no cost.
2. All hearings are staffed by the SFDA's nonprofit partner, Pretrial Diversion. SFDA staff and Community Boards, our nonprofit training and technical assistance provider, also frequently attend hearings at all sites.
3. Setting a positive tone, the 3-4 adjudicator panel begins the hearing by introducing themselves, sharing a little about themselves and why they volunteer at the court. To facilitate an open dialogue and establish common ground, the participant also is asked to share a little about themselves.
4. The Lead Panelist provides an overview of the process goals and explains the options to the participant, noting that the hearing is confidential.

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5. The police report is read aloud by the SFPD liaison officer or Pretrial Diversion administrator. The panel engages the participant in dialogue, exploring the thoughts and motivations that lead to the participant's act.
6. The participant acknowledges wrongdoing and accepts responsibility for his/her role in the incident and its impact on others. The panel then works with the participant to identify the harm that she/he caused and develop an appropriate resolution.
7. The participant is excused and leaves the hearing room while the panelists discuss the matter to develop directive options. Common directives include community service, referrals to services and treatment interventions, victim restitution and community restitution, research projects and reflection essays.
8. Participant returns to hearing room and the panelists state what they need from the participant to restore harm to effected parties/community members.
9. Panel verifies the feasibility of each directive given the participant's personal circumstances (e.g. their work schedule, school schedule, finances and other constraints).
10. The participant is asked to state his/her understanding of the harm to the community members and the victim.
11. Panel members express how they, as community members, are affected.
12. Panel and participant explore ways on how s/he would handle a similar situation in the future.
13. Pre Trial Diversion staff interviews participant, providing information regarding the completion of directives and assessing participant for placement in support services.
14. Panel members debrief after the hearings to discuss the cases, how the process went, what could be done better, etc.

#### Victim Participation

Victims are an important part of the process and every attempt is made to ensure their restoration. Victims have the opportunity to attend Neighborhood Court and address the panel in a safe and confidential setting before the participant's case is heard. The panel's role is to listen, validate, and ask how they were affected by the incident and address its residual impact. For many victims, it is the first opportunity to express their feelings and process how the crime has impacted them.

#### Neighborhood Court Adjudicators

Adjudicators, also referred to as panelists, are members of the community - residents, merchants, students, parents, and retired people. They presently are, or were, attorneys, doctors, social workers, professors, psychologists, software engineers, teachers, nurses, and business professionals. Trained in restorative justice and problem solving, Neighborhood Court adjudicators are rooted to their neighborhood and are familiar with its needs and values. With over sixty adjudicators from seemingly every profession and life path, Neighborhood Court offers a unique opportunity for residents to shape local restorative practices and apply justice that is personalized rather than trivialized. The SFDA maintains a waitlist of individuals who wish to serve as adjudicators and rotates in new volunteers as

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positions become available. As of December 2014, 65 individuals are waiting to become Neighborhood Court adjudicators.

### Adjudicator Training

All volunteers must complete twenty-five hours of training prior to becoming Neighborhood Court adjudicators, and must participate in continuing education throughout their term as an adjudicator. Trainings are interactive and emphasize role plays and hypotheticals from actual cases. Topics include restorative justice, cultural competence, directives & creative options, effective listening, working with victims, and effective lead panelist training.

### The Neighborhood Court Partnership

The SFDA partners with two local nonprofits to operate and support Neighborhood Court. Funding for this public-private partnership comes from two sources: the San Francisco general fund and California Dispute Resolutions Program Act (DRPA) funding, which enables jurisdictions to use a portion of Superior Court filing fees to support alternative dispute programs.

### San Francisco Pretrial Diversion Project

Established in 1976, the San Francisco Pretrial Diversion Project (Pretrial Diversion) works with the Superior Court and other agencies to provide first time misdemeanor offenders of non-violent charges the opportunity to have their case dismissed by completing a program. In addition to providing support for Neighborhood Court, Pretrial Diversion administers a host of other programs to educate and assists individuals navigate the criminal justice system.

In addition to administering the hearing, Pretrial Diversion staff liaises with victims, performs individual intake assessments and pursuant to Neighborhood Court directives links the participant to social service agencies, arranges community service sites, and tracks their progress through the Neighborhood Court process. SFPDP also administers the Neighborhood Court database.

### Community Boards

Founded in 1976, Community Boards (CB) is the oldest public mediation center in the United States. Offering a wide range of training options for both beginning mediators and seasoned ADR practitioners, CB services include mediation, conflict coaching, and facilitation.

Community Boards trains Neighborhood Courts panelists on an ongoing basis providing year round trainings and support services. A key component of the workshops is the variety of role plays that the panelists eagerly engage. Presented with hypothetical cases drawn from real life, panelists play the role of the participant, victim, or other character. What would they do with a shoplifter who “forgot” to pay for items because she forgot to take her meds that morning? How would they handle a young man for graffiti who felt justified in scrawling social messages on buildings because neighborhood gentrification

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resulted in the evictions of families and neighbors? Or how would they address a transgender prostitute who has been on the street since the age of 15? What would be an effective directive in these cases?

In providing an active learning environment panelists learn from each other, develop best practices and approach cases in a more sensitive way, forcing them to deal with many underlying problems that often lead a participant to crime. Indeed, a robust training framework is critical to developing panelists with the required skill sets to be fair and effective.

### Neighborhood Prosecutors (NP)

In 2012, District Attorney Gascón brought to scale his pilot Neighborhood Prosecutor program – dispatching a team of five Assistant District Attorneys to cover the City’s ten police districts. Each NP is based at two district Police Stations, but also spends a great deal of his or her time out and about in the communities they serve – attending a wide range of meetings, from resident and merchant groups to local Police Advisory Boards. Their role at these gatherings is to both inform and to become informed, and to work shoulder to shoulder with community members to develop public safety strategies to address the neighborhood’s unique challenges. The NP’s supplement community input by conducting data analysis and crime mapping of their assigned districts. They collaborate with the San Francisco Police Department, City Attorney and other City agencies to address incidents such as code violations and graffiti. They explore proven strategies that other cities (and even countries) have employed to achieve successes with some of the most persistent crime and quality of life challenges that our communities face – from auto burglaries to graffiti to chronic offenders.

Neighborhood Prosecutors play an important role in Neighborhood Courts. They provide training to police officers at their assigned stations and inform neighborhood stakeholders about the program. They retrieve cases generated by their stations and bring it to the Misdemeanor Intake Deputy for review and referral to Neighborhood Courts. Neighborhood Prosecutors track the participant’s compliance and may charge appropriate cases through the traditional court process. In certain cases, they personally handle cases that are of particular importance to their neighborhood.

### Program Database

Neighborhood Courts uses a web-based data-sharing system that allows the flexibility for all team members to share the database simultaneously and actively exchange information. The system includes both case-level and individual-level data, including comprehensive information about the offense – location of arrest, incident report (including uploaded police report), arraignment date, etc. - as well as information concerning any victim(s). Additionally, information about the hearing process is captured – when, where is the hearing, what happened at the hearing, types of directives given, date to complete directives, and other information. Compatible with iPads and other mobile devices, the database permits court administrators to remotely access the database and retrieve the most up to date information at the hearings.

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Using one centralized database eliminates data redundancy, enables Pretrial Diversion staff to easily update the SFDA team on participant progress, and enables the Neighborhood Prosecutors to review data for case disposition, including looking up arraignment dates and compliance information to charge the cases or close it successfully. The database also enables the Neighborhood Courts team to perform critical data analysis that supports ongoing program assessment and refinement.

### **Neighborhood Court Directives**

Directives issued in each Neighborhood Court case are specific to the nuances of that incident. In some cases, directives are created to address unique situations. For example, a business school student who vandalized a series of storefronts was directed to work with those small business owners to develop business plans. In most cases, participants leave their hearing with a set of directives that generally include the following types.

#### **Community Service**

As payback to the community, a high percentage of the directives imposed by the panelists are for community service. Invariably, when the participant is asked if the positions were reversed and the participant was in the shoes of the panel members, what directive should be handed down, almost all state community service. In fact, many have expressed satisfaction in doing something worthwhile to restore the community, such as cleaning graffiti from store fronts, working at the Food Bank/Glide Church or other facilities serving food to those in need.

Over 100 participants were ordered to complete community service in 2014, and they performed 1,976 hours. At San Francisco's minimum wage rate of \$10.74, these hours are valued at \$21,222. Whenever practical, participants are assigned to work in the neighborhoods where they committed their offenses.

The victim also is consulted and asked if they'd prefer the participant perform their community service in a particular activity or at a favored charity or organization in the community.

#### **Community Restitution**

In some cases, Neighborhood Court participants are directed to pay "community restitution." Community restitution fees are managed and redistributed by the DA's Office through a competitive small-grants program, the Neighborhood Justice Fund. Grants are awarded to community-based organizations for projects that will enhance the safety, livability and neighborhood cohesion of San Francisco's districts.

This past year, funding priority was given to projects that could immediately improve problems plaguing many neighborhoods, such as pedestrian safety education, improving security and increasing neighborhood lighting, and supporting community mobilization and empowerment activities.

In 2014, 70 out of 71 participants directed to pay community restitution paid almost \$14,000 into the Neighborhood Justice Fund.

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### Victim Restitution

In addition to victims being given the opportunity to be acknowledged and heard in Neighborhood Court, every effort is made to make them materially whole. In particular, it is a priority to address the most basic harm done by getting payment for property damaged or destroyed and to obtain support services for healing and closure. Participants agree to pay the documented restitution amount as a condition of participation in Neighborhood Court.

In 2014, 20 out of 21 participants paid a total of almost \$36,000 in victim restitution for a compliance rate of 99%. Usually, payment to the victim is made within 30 days of the hearing.

### Essays, Reflection Papers, Letters of Apology

Participants are often required to write reflection papers on their behavior and letters of apology to neighborhoods or individuals affected by their actions. Topic areas include expressions of remorse, lessons learned from the experience, and other introspective exercises, such as a reflection paper to a family member or significant person in their life.

### Shoplifter Offender Program (SHOP Class)

The first-time shoplifter is offered the opportunity to change his/her behavior through the SHOP Class, an all-day class that examines shoplifting attitudes, retail victimization, and economic and community impacts. Through a cognitive behavioral approach the participant is made to see the consequences on others, and, in turn, become their own self-regulating theft prevention.

### First Offender Prostitution Program (FOPP)

Individuals arrested on their first solicitation case are directed to participate in FOPP, which was created in San Francisco and has been replicated in jurisdictions across the country. Taught by a team of SFDA staff, community representatives, health professionals and former sex workers, the FOPP curriculum components focus on topics related to the commercial sex trade: legal consequences, health education, negative consequences for sex workers, human trafficking, impact on communities, and sexual addiction. FOPP is designed to reduce the demand for commercial sex and human trafficking by educating men arrested for soliciting prostitutes about the negative consequences of prostitution. Participants pay an administrative fee of up to \$1,000.

### Counseling

The open dialogue between the participant and panelists may result in referrals to counseling sessions for substance abuse treatment, anger management and other related issues. One such program is the "Thinking for a Change" (T4C) program, an integrated, cognitive behavioral change program designed by the National Institute of Corrections (NIC). T4C includes cognitive restructuring, social skills development, and development of problem solving skills.

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While the goals of the counseling sessions are moderate, consisting on average of 6-8 sessions, many participants use them as stepping stones toward changing their ways, many of them returning voluntarily for continued counseling after completing their directives.

Additionally, many participants are referred for GED preparation, vocational training, and housing information.

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