

# Dane County (WI) Community Restorative Court

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**SITE VISIT REPORT**  
**Dane County, Wisconsin**  
**February 2018**

The Center for Court Innovation is a non-profit think tank that helps courts and criminal justice agencies aid victims, reduce crime, and improve public trust in justice. The Center grew out of a single experiment in judicial problem-solving. The Midtown Community Court was created in 1993 to address low-level offending around Times Square in New York City. This innovative experiment in community justice combines punishment and help, sentencing offenders to perform community service and receive social services. The project's success in making justice more visible and more meaningful led the court's planners, with the support of the New York State Unified Court System, to establish the Center for Court Innovation to serve as an engine for ongoing court reform in New York. The Center has received numerous awards for its efforts, including an Innovations in American Government Award from Harvard University and the Ford Foundation, and the Prize for Public Sector Innovation from the Citizens Budget Commission. Today, the Center's projects include community courts, drug courts, reentry courts, domestic violence courts, mental health courts, and many other initiatives.

Beyond New York, the Center disseminates the lessons learned from its innovative programs, helping criminal justice practitioners around the world launch their own problem-solving experiments. The Center for Court Innovation provides hands-on, expert assistance to practitioners – judges, attorneys, criminal justice officials, and community organizations – around the country and internationally. The Center provides guidance on assessing public safety problems and crafting workable, practical solutions. Having launched dozens of innovative criminal and juvenile justice initiatives in New York, the Center knows first-hand the nut-and-bolts steps that must be taken to get a new project off the ground. From using data to define the problem to reaching out to the local community to building effective multi-agency partnerships, the Center is working nationwide and overseas to help create innovative responses to problems like drugs, domestic violence, delinquency, and neighborhood disorder.

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## Background

In November 2013, the Center for Court Innovation (the Center) was contacted by Colleen Clark-Bernhardt, the Equity and Criminal Justice Council Coordinator for the Dane County (WI). Dane County was developing strategies to reduce its high disproportionate minority contact rate in the criminal justice system also known in the field as RED (Racial and Ethnic Disparities). The Dane County Criminal Justice Council-Racial Disparities Subcommittee was charged with finding solutions to the high level of disproportionality of people of color in the criminal justice system, and therefore was a critical committee in moving any initiatives forward. The CJC-Racial Disparities Subcommittee had done initial research on community courts, restorative justices, as well as completing an early data analysis to understand any potential project impact.

Specifically, there was interest in learning more about the community court model since it has been shown to rely less on incarceration and more on community-based solutions as well as allowing many defendants to complete their court-mandated sanctions in exchange for dismissals or reduced charges that would not result in a criminal conviction.

Ms. Clark-Bernhardt planned a site visit to bring a contingent of Dane County criminal justice practitioners and community members to observe some of the Center for Court Innovation operating projects in New York City that are run in conjunction with the New York Unified Court System. The Dane County stakeholders wanted to see if some of the strategies the Center has used to reduce the jail population in New York City could translate to Dane County, and to develop their own strategies to address the local needs of the Dane County criminal justice system. The site visit to New York City occurred in October 2014.

The two-day site visit to New York included visits to the Center's Red Hook Community Justice Center, the Brownsville Community Justice Center, and the Harlem Community Justice Center. The visitors from Dane County included members of the Racial Disparities Subcommittee of the Dane County Criminal Justice Council and other key partners. The visitors that attended the New York City site visit were:

- Officer Mike Alvarez, Neighborhood Officer, Madison Police Department—South Precinct
- Captain Joe Balles, Madison Police Department—South Precinct
- Ron Chance, Dane County Human Services Manager
- Colleen Clark-Bernhardt, Equity Coordinator/Criminal Justice Council Coordinator,
- Barbara Franks, Dane County Assistant District Attorney
- Reverend Alex Gee, Pastor of Fountain of Life Church and Author of *Justified Anger*
- Ron Johnson, Community Restorative Court Coordinator
- Ismael Ozanne, Dane County District Attorney
- Shelia Stubbs, Dane County Board Supervisor—South District

Although the visit to New York City was primarily to learn about community courts, the Dane County contingent also wanted to learn about other programmatic options to possibly pilot in their jurisdiction. The site visit to New York City included learning about the Red Hook

Community Justice Center’s Peacemaking program, Brownsville’s Justice Community program, and the Harlem Reentry Court. The goals that they had for the two-day site visit included:

- ❑ Understand the community court model and the roles of stakeholders
- ❑ Explore ways to promote stakeholder collaboration
- ❑ Learn how Center for Court Innovation programming combats disproportionate minority contact in the justice system
- ❑ Learn about effective diversion strategies, including mechanisms and interventions and understand the basic components of planning for diversion options in Dane County
- ❑ Hear how the Center for Court Innovation collaborates with both traditional and problem-solving courts
- ❑ Understand the significance of procedural justice in the work of the courts and the larger work of the justice system
- ❑ Conduct a strategic planning session with staff from the Center for Court Innovation on how best to implement a problem-solving justice initiative in Dane County
- ❑ Understand how to collect appropriate data that can be easily analyzed for a program evaluation

Upon the conclusion of the 2014 New York City site visit, the Dane County planning team decided to create a community justice panel program modeled after the Red Hook Peacemaking program. The planning team believed this type of program would meet the goals of engaging the community and addressing certain types of behavior occurring in their jurisdiction without initiating a criminal proceeding. The Dane County planning team and the Center for Court Innovation agreed to continue working together during the planning phase of the Dane County project and executed a Memorandum of Understanding (MOU) to memorialize that agreement.

## Dane County Community Restorative Court Planning

Center staff and the Dane County planners discussed how to determine the best community justice panel program model to use, how to engage community and justice system stakeholders, and how to recruit and train community volunteers. The program that evolved from the planning efforts is the Dane County Community Restorative Court, also referred to as the CRC.

Dane County also had other existing diversion initiatives including a treatment court as well as diversion programs run by the district attorney’s office, specifically the Deferred Prosecution Unit. Although the CRC is a pre-filing diversion, the planning team had to fit the CRC jurisdictional and filing decisions into the matrix of the other diversion programs being run in the county by the court and the District Attorney’s Office. The planners were concerned that if the CRC took cases that had been charged (and the information entered into CCAP), then the CRC would not have had as much impact on the RED numbers as hoped in launching this new initiative.

Other decisions that the planning team had to determine was deciding which cases would be eligible for the CRC and which agencies should be able to have the ability to refer cases to the CRC. In addition to planning the model of the CRC, the planning team also had to recruit volunteers and develop a training curriculum. The Community Restorative Court began hearing cases in July 2015, a little less than one year after the Dane County site visit to New York City.

## October 2015 Center site visit to Dane County

The Dane County Planners asked the Center for Court Innovation to do a site visit approximately three months after the launch of the Dane County CRC. The goals of the site visit were to observe the referral process, speak with CRC stakeholders, hold a strategic planning session to develop ideas on how to expand the caseload of the CRC, and to speak with the racial disparities subcommittee and present to them how other jurisdictions are using community justice programs. One of the concerns of the CRC planning team was the low caseload of the recently launched program. Center staff spoke with key stakeholders of the CRC during the October 2015 visit and made recommendations that addressed many of the concerns raised during the site visit.<sup>1</sup>

## February 2018 Center site visit to Dane County

The goals of the February 2018 site visit were to discuss the progress of the CRC and how the growth of the CRC should be managed.

Center staff met with the following agencies and groups:

- CRC staff
- District Attorney's Office
- Public Defenders Office
- Madison Police Department
- Board of Supervisors
- Social service providers
- Community based organizations
- Community members
- CRC Peacemakers

To ensure open and candid discussion about the growth and direction of the CRC, all interviewees were assured of confidentiality and as such, specific names of those interviewed are not included in this report.

Center staff also attended a CRC Board meeting and observed an intake session. Center staff on the site visited were trained in restorative justice practices, specifically in circle sessions, and were invited to participate in a CRC session.

Since the Dane County visit to the Center for Court Innovation in 2014, many different jurisdictions have visited the Red Hook Peacemaking program or have contacted the Center for advice on creating a community justice program. Some of these communities have started programs while others are still planning and/or creating stakeholder support for launching a program. For this report, when appropriate, some of the work of those programs will be

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<sup>1</sup> The October 2015 recommendations are at the end of the report as Attachment 1. The CRC had addressed, in some form, all the recommendations by the time of the February 2018 site visit. A link to the entire report can be found at the end of the Attachment 1.

referenced but not always named. Since the Dane County program was modeled upon the basic structure of the Red Hook Peacemaking program, that program will be referenced more than the others and, when appropriate, will be specifically referenced.

The staff from the Center for Court Innovation who conducted the 2018 site visit were Brett Taylor, Senior Advisor, Problem-Solving-Justice (and one of the original planners of the Red Hook Peacemaking Program), and Deron Johnston, Deputy Director, Brownsville Community Justice Center. Deron has extensive experience in community organizing and development of community-based projects.

## Terminology

Restorative justice programs that are currently operating, regardless of pre-filing or post-filing, use a variety of terms to refer to similar concepts. Whereas Dane County refers to their volunteers as peacemakers, other programs may refer to the volunteers as panelists, circle keepers, or community volunteers. Similarly, the people who are referred to these programs are referred to as respondents (the term Dane County uses), participants, clients, or defendants. This is not an exhaustive list of terms, but ones that may be used in this report. When referring to the Dane County CRC, the terms peacemakers and respondents will be used. Other terms may be used in referencing other programs. Some of those programs are called Peacemaking Program, Peacemaking Project, Neighborhood Justice Panels, and Neighborhood Courts.

## Expansion of the CRC

### Geographic Expansion

The Dane County Community Restorative Court (CRC) was always intended to be a county-wide program. In its first year, the program was only hearing cases that originated from the City of Madison (Madison Police Department). At that point, the County Board of Supervisors began to question why the county was funding a program that, at the time, was only serving the City of Madison. At the time of the February 2018 site visit, the CRC had started planning with other municipalities within Dane County to expand the reach of the CRC.<sup>2</sup> Stakeholders of the current CRC had positive attitudes about the geographic expansion for many reasons, including an increase in the number of referrals, as well as potentially increasing the type of agencies that refer cases to the CRC.

Some stakeholders did caution against expanding solely to get more case referrals and wanted to know if there was a plan for the expansion in terms of how quickly the CRC would grow and if the growth would be able to be absorbed by the existing staffing levels. Additional questions regarding the expansion were related to if the new jurisdictions would be restricted to the same type of eligible cases that the program currently hears and if the local municipal judges would be able to refer cases. One stakeholder asked how the CRC was being explained to the new jurisdictions and how would the CRC handle a jurisdiction that wanted to refer cases with charges that currently were not eligible to be heard by the CRC. They further asked if new

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<sup>2</sup> At the time of the site visit, Fitchburg, Sun Prairie, Town of Madison, and Middleton were moving towards finalizing the requirements to allow them to refer cases to the CRC.

jurisdictions would be required to sign a MOU to ensure that they would comply with the eligibility requirements.<sup>3</sup>

The issue of CRC staffing levels regarding the proposed expansion is a topic that will need to be monitored throughout the expansion process. Other jurisdictions that have similar restorative justice programs within its criminal justice system and expanded their geographic footprint expanded slowly and by ensuring the staffing levels of the program would be able to handle the extra volume of cases that would enter the program. The Neighborhood Justice Panels in Los Angeles did a caseload analysis of the proposed expansion area to ensure that their staff would be prepared for the increased caseload. The Syracuse Near Westside Peacemaking Project similarly expanded slowly to ensure both stakeholder support and staffing levels existed as its program expanded. It should be noted that some programs, such as the Red Hook program, expanded its range of referral agencies<sup>4</sup>, but not its geographic footprint. The Red Hook expansion occurred after more staffing was assigned to the program.

### Case Volume Expansion (Case Types/Client Profile)

The original motivation for creating the CRC was to reduce the racial and ethnic disparities (RED) among the Dane County jail population, which was considered to be the worst RED in the country at the time the Dane County stakeholders came to New York City to observe the Center for Court Innovation operating projects in 2014. The goal of the CRC was to divert people from the point of police contact with the belief that if a participant successfully completed the CRC process, charges would never be filed in court and the participants name would never be put in a state database known as CCAP.

The Wisconsin Consolidated Court Automation Programs, CCAP, is a case management system. It allows the proceedings of the criminal justice system be transparent and easily accessible to the public. Upon the filing of criminal charges in the circuit court, a person's name is entered in the CCAP database. One potential negative impact of CCAP is that even when a case gets dismissed, the initial charge would be reflected in the CCAP database. It is anecdotally reported that most people in the private sector merely look to see if a person's name is in the database and oftentimes do not read the entire history of the case. The ramifications are that although a person may have had a case dismissed, it could still have a negative impact on the person whose case was dismissed (including housing, employment, and personal relationships). The original planning team took this issue into consideration when planning the Dane County Community Restorative Court.

As the CRC began to grow and show early successes, stakeholders wanted the CRC to grow beyond the original intent of the program and to have filed cases referred to the program from the District Attorney's Office. Additionally, stakeholders have stated they would like to see cases where a person has a previous record and/or has had a previous case in the CRC be eligible to be referred to the program. Although the District Attorney has begun to refer cases to the CRC, including two high profile felony cases, many stakeholders would prefer to see more cases referred from the District Attorney's Office.

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<sup>3</sup> Shortly after the site visit, the CRC developed a MOU that all referring jurisdictions would be required to sign. The MOU is at the end of this report as Attachment 3.

<sup>4</sup> Juvenile probation, the public housing agency, and local schools were the primary additional referral agencies.



Additionally, many stakeholders have expressed a desire to have more serious charges eligible for referral to the CRC. One example would be allowing resisting arrest charges to be referred to the program. The Red Hook Peacemaking program is an example of a state court system that allows these types of cases to be referred to its program. The Red Hook Peacemaking program has recruited and trained retired police officers as peacemakers to sit on cases involving young people charged with resisting arrest. Red Hook stakeholders report that this approach has had significant positive impact on the people who were charged with resisting arrest. Additionally, the Red Hook program also allows many assaultive type behavior charges to be referred to the program. CRC stakeholders believe that their volunteers have been properly trained and have enough experience now to properly handle similar type charges in the Dane County CRC.

Since the time of the launch of the CRC, there has been a national awareness of the need to reduce incarceration in many communities. Dane County, as evidenced by applying for and receiving a MacArthur Foundation Safety and Justice Challenge grant, <http://www.safetyandjusticechallenge.org/challenge-site/dane-county-wi/> is aware of this national discussion and is acting on reducing its jail population. The CRC is but one aspect of the Dane County strategies, however, many stakeholders believe the CRC could be playing a bigger role in helping to reduce the overreliance of jail as a criminal justice system response. Increasing the type of charges that would be eligible for the CRC provides an opportunity to further reduce the reliance on jail for certain behaviors that occur within the county.

At the time of the February 2018 site visit, the Dane County Community Restorative Court had been in operation for approximately 30 months and has had 129 cases referred, of which 92 had been completed successfully. The Dane County Board of Supervisors, which has funded the CRC staff positions since the start of the program, were asking questions regarding what they perceived was a low number of cases heard for the amount of operating budget invested in the CRC.

### Staffing Concerns

Two separate issues are discussed in this section: the issue of having enough CRC staff to handle the anticipated influx of cases; and the issue of the District Attorney having proper staffing levels to review cases in an expedient manner and thereby allowing more referrals from its office. Although both issues may be beyond the ability to be resolved by the CRC Advisory Board or CRC staff, it is necessary to include these issues in this report as it can potentially impact the growth of the CRC referral process.

As the CRC expands geographically, along with potentially more eligible charges being referred to the CRC, stakeholders expressed concern that the CRC does not have enough staff to handle the increased caseload. The request for more staff has been met with some resistance from the Board of Supervisors. The Board believe they had adequately funded the CRC and want to see an increase in case referrals before they considered funding more staff for the program. Stakeholders have stated that this conundrum has the potential to negatively impact the CRC. Their argument is that if staffing levels remain where they currently are, and they receive more referrals from both the District Attorney and the soon to be added jurisdictions, the CRC will not

be able to properly intake these cases let alone resolve the cases with the volunteer peacemakers in a timely manner. If this potential for delay in resolving cases occurs, stakeholders are concerned it will have a negative impact on its referral sources, especially among the new jurisdictions.

Prior to the February 2018 site visit, there was some contention around staffing levels, referrals and data. County funders were concerned about the level of budget increases without a similar increase in referrals.

Both staffing issues, within the CRC and within the DA's Office are legitimate concerns and will need to be resolved to ensure the continued growth of the CRC is not impeded by these matters.

### CRC Case Referral Process

As previously stated, the original intent of the CRC was to reduce the RED incarceration issue in Dane County, while maintaining public safety. The pilot program of the Community Restorative Court was designed for people ages 17-25 who could have been charged with a misdemeanor crime in the geographic boundaries of the South Madison Police Department. The pilot of the CRC was always intended to grow beyond its original geographic boundaries with the goal of growing the program both city-wide and across the county. Although certain municipal ordinance violations could be eligible, the original planners looked at that as net-widening and wanted to pilot to focus on potential misdemeanor charges.<sup>5</sup> The original eligible offenses included:

- simple battery
- disorderly conduct
- obstructing an officer
- theft
- criminal damage to property

Although other charges could have been referred to the CRC upon consultation with the District Attorney's Office, the CRC was initially intended to have its cases originate from law enforcement referrals. Additionally, in the pilot phase of the program, only people without criminal records would be eligible for the CRC. One concern some stakeholders had regarding referring more serious charges to the CRC in the pilot phase was that the peacemakers conducting the restorative justice circles had no previous experience and would not be ready to handle those cases.

By the time of the February 2018 site visit, the CRC had been referred two exceptions to the original eligible offense list. Each case was a felony level charge, and they were subsequently resolved successfully. Based on these successes, some stakeholders questioned why more referrals were not coming from the District Attorney. They also asked why police could not

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<sup>5</sup> Most municipal ordinance violations have corresponding misdemeanor statutes. There was some discussion in the planning phase of the CRC regarding if officers should give a person the choice of the misdemeanor or ordinance, but it was decided that although the intent of giving the person the choice was to make a case eligible for the CRC, it was perceived that it would be coercive to offer that type of choice.

directly refer more serious cases and why the local courts were also not referring cases to the CRC.<sup>6</sup>

Stakeholders thought that perhaps the low number of referrals was a result of the district attorney referring more cases to its Deferred Prosecution Unit (DPU) rather than to the CRC. Those stakeholders believed more cases should be referred to the CRC rather than the DPU as they believed the CRC was able to resolve cases quicker than the DPU and that there was more oversight with the CRC regarding ensuring participants completed their obligations, known as Repair Harm Agreements (RHA). They did not believe there was as much oversight with defendants in the DPU. The District Attorney, as mentioned previously, has stated strong support for the CRC and has stated that the Office would refer more cases as the CRC develops more infrastructure and the volunteers handle more cases. Furthermore, their Office was following the guidelines set up by the CRC Advisory Board and the office was reviewing as many cases as possible given the personnel shortage in the office of prosecuting attorneys.

It was very clear throughout discussions with stakeholders during the February 2018 site visit that the biggest concern of the stakeholders was the lack of clarity about who the actual ‘gatekeeper’ was regarding which cases and what charges could be referred to the CRC. This matter needs to be resolved to ensure the continued growth of the CRC. Other jurisdictions have developed case flow charts to educate and inform their stakeholders of how cases are referred to their restorative justice program.<sup>7</sup> The Dane County Stakeholders may benefit from the development of a case flow chart showing the different entry points and referral sources for the CRC.

Although many stakeholders would like to see the CRC be able to accept referrals from other referral sources such as defense attorneys, local courts, and even community members, those stakeholders also stated they believed the CRC needed to resolve the perceived conflicts in how cases are currently referred before taking on new referral sources. With the geographic expansion occurring with the CRC, this is an opportunity for new jurisdictions to begin referring cases to the CRC with all these referral options available at the inception of their participation in the CRC.

### Operations/Case Processing

A CRC case starts by a referring agency agreeing to offering the CRC as a way of diverting the potential criminal justice matter. Ideally, once the referring agency decides to offer the CRC diversion option, that agency informs the CRC of the referral in a timely manner and sends all the appropriate information regarding the case and respondent contact information to CRC staff. Stakeholders report that in some instances, there are delays in the CRC receiving this information and, in some instances, the delay made it more difficult to contact the potential respondent. Stakeholders were not sure if there are specific policies and protocols in place that

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<sup>6</sup> See Attachment 3 for breakdown of age, race, gender, and referral agency for all CRC cases from inception through 2018.

<sup>7</sup> As an example, a copy of the Red Hook Peacemaking Program case flow chart is included at the end of this report as Attachment 4.

govern how the referral process is supposed to occur and if there were timelines for the referral process.

After receiving the referral, CRC staff reaches out to the potential respondent to schedule an intake interview to determine suitability for the respondent to take part in the CRC process. CRC staff strive to schedule the intake session as soon as possible. This is important to do in all restorative justice practices in general but given that the program is still serving primarily 17-25-year-olds, quicker engagement is important to help ensure a successful outcome. The intake process accomplishes the following:

- Ensures the respondent understands this is a voluntary option and they can always refuse to participate in the process.
- Explains the concept of restorative justice to the respondent.
- Discusses the details of the case that resulted in the CRC case and to hear the respondent's point of view of the incident.
- Ascertain if the respondent acknowledges some responsibility for the behavior that resulted in the CRC case.
- Understands the process of the circle and what will be required of the respondent and potential outcomes of the process.
- Explains details of the program, including the Repair Harm Agreement.
- Administers, or schedule a time to administer, the risk assessment instrument.
- Sets the date for the peacemaking session.

After the intake process is completed, the CRC staff schedules the peacemaking session which includes ensuring the meeting space is available, reaching out to peacemakers to see which of them are available and then coordinate their availability with the date of the peacemaking session.

Prior to the circle, the CRC staff review the risk assessment results to see if there are any flags for the staff or the circle to be aware of, as well as using the information to refer respondents to social services, if needed. Additionally, CRC staff also provides food and beverage before each session and they are responsible for procuring and serving the food and beverages. This is noted solely to show the amount of detail the restorative justice staff must handle for each case. Although it is seemingly not that important, it has been shown that the serving of food and beverage has a perceptibly positive influence on the success of circle-style restorative justice programs.<sup>8</sup>

After the peacemaking session is held, there are a lot of recordkeeping obligations for the staff to attend to including: recording the outcome of the session, scheduling any community service requirement or other activity included in the RHA, notifying the referring agency of the case outcome, and any data tracking requirements that the CRC has agreed to collect. Repair Harm Agreements are issued on every case and are expected to be completed for the case to be considered resolved.

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<sup>8</sup> More discussion on this topic in the Data Collection/Evaluation section on page 15

With expansion occurring with the CRC, it is inevitable that more personnel will be needed to continue to operate the program at its current standard of operation. Additionally, with the recent hiring of the fulltime social service worker, the CRC will be able to provide more specific social services to the respondents. The increased providing of social services will require increased support in scheduling and tracking the provision of those social services.

Although not technically part of the case processing, another duty the CRC staff undertake is the recruitment and training of the peacemakers. More will be addressed on this topic in a separate section, but in trying to describe all the duties of the CRC staff, it was important to note this use of the CRC staff time in this section.

Understanding that the Board of Supervisors wanted to see more results before funding the CRC with additional staff, the CRC should consider expanding its use of interns to help with the day-to-day operations of the CRC. The CRC has already established a working relationship with the University of Wisconsin regarding training of the peacemakers. The CRC should explore a more robust relationship with the university to provide interns for the CRC. The increased use of interns is discussed in more detail on page 17.

As the CRC continues to grow, it should also develop an organizational chart to show the specific roles and responsibilities of the staff members. An organizational chart would also be useful in the recruitment of new jurisdictions as it would show the duties and responsibilities of everyone involved with the CRC.

The CRC should maintain a clear policies and procedure guide so that the successful practices will become institutionalized within the CRC and continue beyond the initial set of staff that established those practices. Additionally, the policies and procedures guide will allow new staff members to be able to understand the program and how all operations of the program are to occur. It should also be used as a *de facto* training guide for new staff and new Peacemakers. A policies and procedures guide should address all aspects of the program including; referral sources, intake process, duties of the participant, duties of the facilitator and CRC staff, obligations of the peacemakers, and the process of conducting the peacemaking sessions.

The policies and procedures guide should be reviewed and updated on a regular basis. The new CRC staff member referenced early in the report stated that they will review and update the existing CRC policies and procedures guide.

## Session Observation

Center staff was able to observe CRC staff with two respondents during the February 2018 site visit. The first respondent was there for the intake session. The respondent was offered food and beverage during the intake session and the CRC staff made the intake session appear to be an informal conversation. This approach put the respondent at ease and allowed for an open and free-flowing conversation about the CRC process. The respondent left satisfied with being offered the opportunity to resolve the matter at the CRC.

The second respondent previously had done an intake with CRC staff as well as having the risk assessment tool administered. The case was a fairly routine charge and after a few rounds of discussion, the respondent began to be more open about the situation that created the behavior that led to the CRC referral. The respondent understood the potential harm that could have occurred if the case had been filed in court and agreed to the requirements of the Repair Harm Agreement proposed by the peacemaker. In discussing the case after the respondent departed, the CRC staff said that the respondent was advised of the potential outcomes of the peacemaking session and that a community service obligation would be the likely outcome of the session. Regarding the processes observed in both cases, Center staff shared that established restorative justice practices suggest the respondent should be asked what type of Repair Harm Agreement they need to do to resolve the matter rather than be told what RHA would be imposed on them to resolve the matter. Although the respondent was told at intake what the likely outcome of the case would be, by asking the respondent what they need to do to resolve the matter makes the respondent reflect more on their behavior as well as what they need to do to bring equity to the situation. If the respondent struggles with identifying options for the Repair Harm Agreement, the peacemakers can suggest options to the respondent. This process gives the respondent more ownership of the RHA.

### Data Collection/Program Evaluation

The Red Hook Peacemaking program did a brief process evaluation and that occurred about a year after the program began hearing cases. That evaluation revealed a couple of interesting facts that helped inform the program staff. On the positive side, respondents stated that they really liked the option of doing the program rather than continue having the case heard in court and that they appreciated having the opportunity to have their side of the story heard, something that is not always going to occur in a court setting. Furthermore, respondents reported that by starting the sessions with the sharing of food, it set the tone that it was a very different experience than being in a court. Conversely, despite the efforts of the staff doing the intake, many respondents did state they felt they had no other choice but to agree to do the program. This finding was troubling in that staff emphasized during intake that this was a voluntary process, but this finding made staff really focus on this topic during the intake and made sure respondents understood that although most of them did not wish to go to court, it was a choice for them to make and they should only do the peacemaking program if they truly wanted to participate in that process

The Los Angeles City Attorney's Neighborhood Justice Panels (NJP) completed a recidivism study of their program and the low recidivism numbers that were revealed because of the study, with those undergoing a risk assessment process at intake having even lower recidivism numbers helped shape that program. Based on the recidivism results, the NJP received the support to expand its program to take more serious cases as well as respondents with prior records. The program also expanded the use of the risk assessment tool to all districts offering the NJP.

These examples are given to show the importance of conducting an independent evaluation of the CRC. An evaluation can help highlight which parts of the process are most effective and which parts could potentially be improved. Evaluation results could also help guide the future growth of the program by showing which type of charges are most successful and which referral sources are most effective.

To prepare for an eventual evaluation, the CRC staff and the Advisory Board should decide which metrics should be tracked by the CRC. Those metrics will then inform CRC staff as to which data points should be tracked.

Examples of some data points that could be tracked are:

- # of cases referred
- # of cases referred by charge
- % of total number of an eligible charge type referred to the CRC (e.g. if a jurisdiction had a total of 100 eligible shoplifting cases in a year and 20 were referred to the CRC, it would be a 20% referral rate)
- % of referred cases that accepted the CRC
- # of CRC cases
- # of CRC cases successfully completed
- # of repair harm agreements given to respondents
- % of repair harm agreements completed
- # of community service hours completed
- Total value of the community service performed (Total hours of community service performed x local minimum wage amount = total value of community service performed)
- # of total CRC sessions
- # of volunteers who participated in CRC sessions
- # of hours of training completed by peacemakers
- # of cases by each referral source (law enforcement, District/City Attorney, Court, Defense Bar, Community)
- If possible, track these data points by each participating jurisdiction, and in Madison, by police district.

Regarding the tracking of the data, it is also advised that a process is put in place to ensure that the data tracking process occurs as efficiently as possible so that CRC staff can continue doing the substantive work of running the CRC and not spending an inordinate amount of time tracking data. Each staff member should know what their obligations are regarding the tracking of data for the CRC.

### Community Outreach/Promotion of the CRC

Stakeholders were unaware of any targeted community engagement efforts towards different segments of the community served by the CRC. Some stakeholders thought the expansion of the CRC offered an opportunity for the CRC to develop a coordinated approach to engage with the communities within the new jurisdictions that will be sending cases to the CRC as well as the communities already utilizing the CRC. Other restorative justice programs have regular ongoing engagement efforts such as speaking at roll call at local police precincts, attending public housing tenant association meetings, and speaking at local schools and faith-based locations. Additionally, these programs also attend events that are held in the local community to both promote their programs as well as recruiting new volunteers for their programs. Another potential benefit to this type of community outreach could be the creation of another referral



source to the CRC, the local communities. By encouraging community members to utilize the CRC to resolve local disputes, it can not only address issues that are arising in those communities that need to be addressed, but they will do so in a manner that will not give rise to behavior that results in police involvement or court cases being filed.

The CRC should consider creating a coordinated community engagement plan that can be used in educating new jurisdictions about the goals and operations of the CRC as well as using the community engagement as a way of finding peacemakers from each new community. Likewise, by creating a coordinated community engagement plan, the CRC can use that approach to engage with the existing communities that are currently sending cases to the CRC.

Finally, the CRC should also consider establishing a presence on social media platforms to both promote the CRC program as well as to share success stories. In sharing the success stories, the identities and specific nature of each case can be protected while still sharing the overall story. For example, the CRC can share a story about how a case was diverted, how the peacemaking session allowed all sides of a conflict to be discussed in an open and safe environment. Furthermore, sharing the basic gist of the outcome, and if it occurred, any behavior changes, or awareness change of the participant can also be shared on these platforms. This allows the community at large, the funders, and stakeholders to share in the successes of the program without having to invade the privacy of the specific participants of the program.

### Recruitment and Training of CRC Peacemakers

Stakeholders were satisfied with the process of the recruitment and training of CRC peacemakers. The geographic expansion of the CRC did concern some stakeholders regarding the demographic composition of the peacemakers in relation to some of the jurisdictions that will be referring cases to the CRC. Stakeholders wanted to know if there will be recruitment and training of peacemakers in as many of the communities as possible. Recruitment of peacemakers can be difficult at times, and even if the recruitment is fulfilled, it is a drain on the time and energy of any restorative justice program. The expansion of the CRC to different jurisdictions will provide an opportunity for the CRC to expand its base of peacemakers and have peacemakers that are from the jurisdictions that the CRC serves.

Based on review of similar restorative justice programs, the CRC should consider using future new peacemaker trainings to engage with CRC stakeholders. Invite representatives from the different referring agencies to attend the training sessions. By attending the sessions, the stakeholders will get a greater understanding of the program and the concepts learned by the peacemakers. Hopefully, it will also help the stakeholders develop a greater appreciation of the effort put into conducting the peacemaking sessions. In other jurisdictions where stakeholders attending training sessions, some stakeholders expressed that they no longer looked at the program as an easy way for the defendant to resolve the case and realized in some instances, it may be more difficult.

Another option for the CRC to consider is to emulate the approach the Red Hook Peacemaking program and have retired law enforcement officers trained to hear resisting arrest cases. Red Hook Judge Alex Calabrese sends nearly every resisting arrest case to the peacemaking program



and states that they achieve better results than the court ever can with those cases. It allows a dialogue to occur and begin to break down the mistrust that often exists between young people and local police. Red Hook planners have also discussed training military veterans and people who have previously struggled with substance use disorder to sit in circles where it would be appropriate based on the history of the respondent.

The CRC, like nearly all other restorative justice programs, tend to have a volunteer pool that is predominantly white and older. The stakeholders know this and know the CRC staff is aware of this situation. By establishing a more robust community engagement effort, the CRC could begin to recruit peacemakers that more accurately matches the demographics of each jurisdiction it serves.

In addition to recruiting a more varied base of peacemakers, the CRC should expand its recruitment and use of college/university interns. The Red Hook program is an example of a program that relies extensively on interns to provide many duties including community outreach, conducting client intake, reminding respondents of upcoming sessions and court dates, and engaging with clients during the peacemaking sessions.<sup>9</sup> Interns help respondents with tasks such as writing resumes, applying for school (GED, college or trade school), looking for employment, and applying for government benefits. This is not an exhaustive list of duties the interns perform but just a sample of how the program utilizes its interns.

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<sup>9</sup> The Red Hook program does not have a set number of sessions and in many instances, a case can have multiple sessions. At the end of each session, the volunteers have the participant do 'healing steps' that are aimed at both healing the relationships involved in the dispute that brought the case to court as well as self-advancement of the participant.

## February 2018 Site Visit Recommendations

The following recommendations are based in order of priority and do not follow the outline of the sections of the report.

- 1. Schedule a CRC stakeholder and advisory board planning day/retreat to update the goals of the CRC.** To address some of the issues that have occurred due to the growth of the CRC past its original goal of being a police-led diversion program, it is suggested that the CRC stakeholders and advisory board schedule a planning day (or half day) to address some of the issues that cannot be resolved by one person or stakeholder agency. Some of the more notable topics that could be addressed during the planning day could include, but are not limited to:
  - Clarifying the referral process including whether the CRC should start accepting court referrals.
  - Clarifying the process regarding how the District Attorney determines which cases get sent to the CRC or the office's diversion program.
  - Determining if the list of eligible charges should be broadened to include more serious charges.
  - Discussing how the CRC should accept requests for geographic expansion.
  - Creating a more robust community engagement plan.
  - Discussing if, and how, the CRC should develop a stronger presence on local social media platforms.
- 2. Develop a coordinated plan for geographic expansion of the Dane County Community Restorative Court.** This plan should include case eligibility, referral sources, area to be served by the CRC, and the recruitment and training of local peacemakers. By developing a coordinated plan, it will allow the planners to use a similar expansion model for each jurisdiction and ensure that each jurisdiction joining the CRC goes through a similar process prior to referring cases to the CRC.
- 3. Develop a process for analyzing potential caseloads for each new jurisdiction to ensure the CRC can absorb the influx of cases.** By analyzing the eligible case types and the number of eligible cases filed in the previous two years in each jurisdiction, the CRC planners should be able to extrapolate how many of those eligible cases will accept a referral to the CRC and allow the program to ensure their staffing levels can accommodate a new jurisdiction prior to accepting cases from the jurisdiction.
- 4. Maintain a policies and procedures manual.** CRC staff should regularly review and update its policies and procedures guide. The policies and procedures guide allow staff and stakeholders to have a better understanding of the CRC process from the inception of a case including: referral, intake, facilitation of the peacemaking sessions, and how to craft and follow-up the Repair Harm Agreements. Other topics that the policies and procedures guide should address are the role of the facilitator and the peacemakers. Stakeholders expressed that although they generally understood the CRC process, many of the stakeholders had specific questions or at times indicated there were some aspects

of the process that were not always clear to them. Staff could share the policies and procedures guide with stakeholders and funders, so everyone understands how the program is designed to operate. All policies and procedures guide updates should be in consultation with the CRC stakeholders and be approved by the CRC advisory board.

5. **Develop performance measure metrics for the CRC process.** Defining the metrics that the CRC is trying to achieve will help any future evaluator better measure the success and impact the CRC is having on the communities it serves. Additionally, defining the metrics for the program allows staff, funders and stakeholders to better understand the goals of the program as well as being able to check the progress of the program on a regular basis. Some suggested metrics are included on page 15 of the report but should not be viewed as the definitive measures of program success. CRC staff, stakeholders, and the advisory board should all contribute to developing these metrics.
6. **Develop a data collection protocol.** As mentioned in the report, data integrity was an issue most stakeholders discussed at some level regarding the CRC. Specifically, the number of referrals how those referrals were counted from each referral source was a major issue of contention. Additionally, how to measure the success of any specific case was another topic discussed.

Stakeholders agreed that a trusted data collection process was important to the long-term success of the CRC. Along with defining the metrics to measure the program, a data collection protocol should also be developed to ensure that data collection is collected on a regular basis. Additional components of a data collection protocol include where the data will be stored, who will have access to the data, and which entities will be allowed access to the data. This protocol is especially important in a program that utilizes multiple governmental agencies in the referral process.

7. **Draft a case flow chart.** A case flow chart would be a useful visual aid for educating people and stakeholder agencies about the exact process of the CRC. It could be used both in bringing on new jurisdictions who want to refer cases to the CRC as well as ensuring that existing stakeholders have a clear understanding about the referral process and the path of a CRC case. An example of the Red Hook peacemaking program's case flow chart is included as Attachment 4 at the end of this report.
8. **Draft an organizational chart.** As the CRC continues its growth, developing a detailed organizational chart, along with expected duties of the CRC staff, should be developed to ensure that staff are doing the duties they are expected to perform and not using a lot of their time working on details that are not specifically assigned to them. This is not meant to be a rigid document that prohibits staff from helping with all aspects of the program, however, it should be used to ensure that staffing levels are maintained to keep up with all the different aspects of the CRC needed to ensure its continued success.
9. **Develop a more robust intern recruitment process.** The CRC currently utilizes interns to help with its day-to-day operations. As the CRC develops more programming with its social worker staff, enhancing these services through interns from the local colleges and

universities will allow the CRC to have a greater reach on the type of services it can provide to respondents. This will also allow the circles to suggest a more varied and individualized approach to its Repair Harm Agreements.

**10. Create a community engagement plan.** To gain broader community support, including in the communities that the CRC initially was hoping to impact, the CRC should develop a community engagement plan to promote the work and successes of the CRC. This plan could include going to existing government/elected body meetings, local community group meetings, local universities and colleges, and local faith-based organizations. By engaging in more community outreach, it could help recruit a more diverse base of peacemakers. The increased community engagement efforts could help create a more robust community referral process that would allow local communities to utilize the CRC to resolve some disputes before they reach the level of needing law enforcement involvement.

**11. Expand the peacemakers training outreach to include groups previously not participating in the peacemaking training sessions.** The CRC staff should consider using the peacemaking trainings to both educate stakeholders and to reach specific groups of potential participants. Invite the CRC stakeholders to participate in the peacemaker training classes. By attending these trainings, stakeholders will gain a better appreciation of the training the peacemakers receive, the approach taken to resolve the cases, and the level of commitment that respondents go through to resolve a CRC case and stakeholders would see that the CRC is not an “easy way” to resolve a case for the respondents. Better understanding of the training process may lead to more referrals by some stakeholder agencies.

Other ways to utilize the training sessions could include the CRC developing specialized trainings such as training retired police officers to handle resisting arrest cases or reaching out to military veterans and people in recovery from substance use disorder to participate in the trainings.

**12. Develop a stronger social media presence.** Developing a stronger presence on social media platforms will allow the CRC to reach audiences that it currently may not be reaching, and it would also allow a sharing of the program success on a more regular basis. Utilizing social media platforms could also help increase recruitment of peacemakers as well as developing another referral source. Utilizing interns to help maintain the social media presence will free up the CRC staff to stay focused on the day-to-day activities of operating the CRC.

## Update to Report/Recommendations

Since the time of the 2018 site visit, the following are updates to the report and recommendations:

- As of December 2018, the CRC has accepted 354 cases for intake and has successfully resolved 199 of those cases.
- Dane County CRC staff has divided Dane County into geographic quadrants. Staff then worked closely with police chiefs, their staff and village boards to introduce the CRC concept and on-board municipalities with a signed memorandum of understanding (MOU). The CRC presented Peacemaker trainings for all four quadrants throughout the county as a part of the onboarding process.
- Currently we have signed MOUs with 14 out of 22 law enforcement agencies, plus the Dane County Sheriff's Office, which has county-wide arresting authority.
- The CRC, in partnership with Code for America, piloted a text message reminder system for both circle participants and volunteer peacemakers.
- The District Attorney has hired an intake person who works with the CRC staff to ensure quality control regarding the referral process.
- The Dane County continues its support of the CRC by providing an additional staff member in 2019.
- The CRC has a large Restorative Justice binder that includes an overview of restorative justice, a Facilitator's Handbook, CRC documents and forms, and local resources.
- CRC has continued to work with IT, at the County and Human Services Departments, to develop the database to meet our needs. SQL Server Reporting Services have also been created, which allows for consistent reporting methods. CRC is producing reports and statistics on a monthly basis for stakeholders.
- CRC is collecting recidivism data (misdemeanor and felony convictions) for all referrals, whether a respondent participated in the program or not. This information is being collected at 6 months, 1 year and 2 years.
- Dane County Expansion: 14 Law Enforcement Agencies signed the MOU, including the Dane County Sheriff's Office. CRC will continue to engage with the other 8 agencies in order to have the MOU signed and a full Dane County expansion.
- Referrals increased throughout 2018 to 205. Madison Police made 74 referrals and the DA's Office made 73.
- In September 2018, CRC hired a Limited Term Employee- Program Leader, Donnetta Foxx. Ms. Foxx comes with a strong skill set and a history of working in the criminal justice system. She has been a solid asset to CRC and assists in Intakes, Circles and community outreach.
- Ms. Foxx created a Retail Theft Group for a specific population of retail theft referrals. Community participants in this group include a Peacemaker, Law Enforcement, Loss Prevention Officer and Retail Store Manager.

- The Dane County Budget approved for a full time Program Leader in the 2019 Budget.
- CRC created satisfaction surveys for Circle Peacemakers, Respondents, Victims and Peacemaker Training Attendees.
- CRC, with the assistance of Law Professor Jonathan Scharrer, is revising our Peacemaker Training after gathering feedback from our training attendees. The 2019 Budget approved 4 trainings.
- CRC is creating a Peacemaker Advocacy Board to assist with community engagement and outreach, circles and constructive feedback to improve the program.
- CRC currently has 3 interns for the 2018-2019 school year that include Social Work and Criminal Justice students from the University of Wisconsin-Madison. We will onboard interns for summer placement as well as fall placement.
- CRC created a Facebook Page to reach out to the community through social media. We will also develop a Newsletter with videos to increase community and stakeholder engagement that includes testimonials from respondents, victims and peacemakers.

## ATTACHMENT 1

### October 2015 Recommendations for the Dane County CRC (link to full report is at the end of this attachment)

1. **Develop an expansion plan for the CRC increasing geographic, offense and/or individual eligibility.** All stakeholders agree that the CRC will need to expand for many reasons. One reason is the equity argument of ensuring equal access to the CRC for all people within the jurisdictional limits of Dane County. Additionally, if the CRC is to have positive impact on the local justice system, it will need to have more cases referred to the program. The major areas of expansion that need to be explored are:
  - a. Which geographic areas should the CRC be expanded to after the pilot phase?
  - b. Should the eligible offenses that can be referred to the CRC be expanded, and if so, which additional eligible offense will be added?
  - c. Should the CRC accept respondents who already have a criminal record?
  - d. Should the CRC accept cases that have identifiable victims?
  
2. **Streamline the police referral process.** Currently street-level officers have been requested by memorandum to make the decision on the spot if a person should be offered the opportunity to participate in the CRC. The officers have been directed to issue a misdemeanor citation for eligible candidates and offenses. The citation lists the next CRC court date. The commander of the South District during the pilot phase of the program has been reviewing all district arrests of 17-25-year-olds to ensure no eligible cases were missed. The success of the current method depends on police officers' willingness to change their practice and write misdemeanor CRC referrals when they previously may have written an ordinance violation. Further, the attention of the precinct commander is a crucial part of making sure that eligible cases do not slip through the cracks. The process for selecting cases should be transparent so that there is consistency on which cases are eligible for the CRC. Simplifying the process for officers could facilitate expanded referrals. For example, in San Francisco, police are given stickers with information about how to contact the San Francisco Neighborhood Court that they can adhere to tickets when writing violations. Respondents then make the decision themselves about whether to pay the fine or take their case to the Neighborhood Court, removing some of the burden for the police department.
  
3. **Consider expanding referral source options.** Currently, the police department is the main method of receiving referrals to the CRC. Once the program begins to expand beyond the pilot phase, the referral process should create protocols that would allow the court, defense bar, and prosecutors to identify potential cases that would benefit from the CRC process. Although the list of charges and defendants that qualify for the CRC have already been agreed upon by the advisory board, occasionally cases will arise that could be best resolved using the CRC process. Developing a method where all parties could agree on allowing these outlier cases

into the CRC process would be beneficial to the parties of the cases, the justice system and the community.

4. **Develop a data collection protocol.** As the CRC begins to handle more referrals and more cases, it will be important to show that the CRC is having the desired impact on the community that was intended. The planning of the CRC already includes an evaluation component. It is necessary to have as much data collected on the program as possible for the evaluators to be able to rely upon for the evaluation. Since the CRC is in its infancy and has not had a high volume of cases, developing a good data collection protocol, including what stats to keep and who is responsible for keeping them, is vital to the success of the evaluation.
5. **Include a defense attorney on the Community Restorative Court advisory board.** As the CRC continues to grow and search out funding opportunities, it should include a member from the defense bar to be on the CRC advisory board. By adding a member from the defense bar on the advisory board, it will gain a different perspective on how future decisions and protocols will impact defendants/participants in the CRC. Additionally, funders look at how long advisory boards have been in existence and who are members of the board.
6. **Make CRC referrals based on whether the respondent would benefit from the restorative justice process.** The CRC was launched as one way to help impact the racial disparities issue Dane County is currently addressing. Many stakeholders mentioned the racial disparities issue and the CCAP website when discussing which cases should be eligible for the CRC. If those two issues are the tantamount concern when referring cases into the CRC, there will be many cases that could be resolved effectively using the CRC that will not get referred to the program.
7. **Consider holding a training for the current peacemakers with a Native American peacemaker.** The CRC is utilizing some peacemaking techniques for its restorative justice program. The planning team should enlist a Native American peacemaker to conduct advanced training for the peacemakers who already completed the initial training program. Wisconsin is home to 11 federally-recognized tribes and some of those tribes have nationally recognized peacemakers as members. Reaching out to the Native American community to conduct a training would enhance the peacemakers' knowledge of how the process works and could establish a good relationship and serve as a resource for future trainings as the CRC expands.
8. **Provide peacemakers training for working with victims.** All parties agreed that the CRC will continue to expand. That expansion may include working with non-intimate partner victims. For the community peacemakers to properly handle those cases, they need to receive training from restorative justice experts on how to work on cases that have a victim involved in the case. Consider devoting a portion of this training to self-care techniques that peacemakers can use if and when hearing



difficult cases becomes upsetting to them.

9. **Use mock hearings to get immediate experience for the current peacemakers.**

A concern of many of the stakeholders was wanting experienced peacemakers in place before expanding the CRC program. The conundrum facing the CRC planners is how to get the peacemakers that experience during the pilot phase of the program while the referral process is not yielding a high volume of cases. One idea from the strategic planning session was to use current Madison police officers for the mock hearings. The police could use fact patterns that they frequently face in the community and they would also learn first-hand how the process works. A potential added benefit of this approach is that police may feel more comfortable making referrals to the CRC after seeing firsthand how the process works.

A link to the entire 2015 report can be found here:

<https://board.countyofdane.com/documents/pdf/dane%20county%20site%20visit%20report%20final.pdf>

## ATTACHMENT 2

### **DANE COUNTY COMMUNITY RESTORATIVE COURT MEMORANDUM OF UNDERSTANDING Effective Date: 3/1/2018**

This Memorandum of Understanding (MOU) is entered into between the Dane County District Attorney's Office (DA), the Dane County Department of Human Services (DCDHS), the undersigned police departments, and undersigned city attorneys for the purposes of forming a collaborative between agencies for participation in the Dane County Community Restorative Court (CRC) program. The goal for this developing program is to cover the entirety of Dane County, open to eligible individuals beyond the initial geographic areas, continuing to expand into additional jurisdictions throughout the county.

1. Purpose: The purpose of the MOU is to establish procedures that will be followed by the parties to identify participants for the CRC operated by DCDHS. The CRC is a program to address misdemeanor and ordinance violations for youthful offenders ages 17-25 in a restorative justice model as an alternative to the formal criminal justice system, ideally prior to a formal charging decision. The goals of the CRC, as laid out in the CRC Program Overview, are to: provide victims with a voice in the restorative process while holding the respondent accountable for his or her actions; promote community-driven solutions to crime and repair the harm done to the extent possible; reduce the burden on the criminal and municipal courts through efficient case resolution; reduce discriminatory barriers and future recidivism; and reduce crime and racial disparity in the criminal justice process.

2. Authority: Each party enters into this MOU based on the powers and discretion inherent in each office to determine the operations of the office. Parties retain all powers and authority granted them by applicable laws and governing bodies.

3. CRC Coordinator/Operation: DCDHS will employ a CRC Coordinator who will be responsible for facilitating the CRC process. The CRC Coordinator is skilled and trained in community based, restorative justice principles. The CRC Coordinator will be available to assist participants referred to the CRC (e.g. respondents) who otherwise would be charged with a misdemeanor crime or an ordinance violation. The CRC Coordinator will also provide assistance to victims where necessary and applicable.

Data will be collected on a continual basis regarding participants and outcomes to evaluate the effectiveness of the CRC and impact on the community.

4. Renewal: The parties agree to engage in this ongoing CRC program from the date of this MOU. The program will automatically renew with the undersigned parties on an annual basis. A program partner may end its participation as provided herein.

5. Withdrawal: Any party to this MOU may decide, at any time and by providing written notice to the other parties, that they will no longer participate in the CRC program. Any cases currently

active with the CRC related to the specific partner agency at the time of withdrawal will remain with the CRC through respondent's completion or termination from the program.

6. Adding Additional Jurisdictions/Program Partners: Additional jurisdictions and law enforcement agencies may join this agreement at any time without having to re-execute this document or seeking permission of the other CRC partners. Addendums with appropriate signature lines are self-executing and automatically incorporate the applicable agency or jurisdiction into this agreement as a program partner. Additional agencies and jurisdictions that join the CRC program as partners are also invited to designate an individual to be present at the regularly scheduled advisory board meetings.

7. Law Enforcement Referral Process: When a law enforcement officer investigating a case determines that probable cause exists for a misdemeanor arrest or an ordinance citation and an arrest or citation is going to occur, the officer (giving consideration to the crime victim) may serve young adults within program parameters with a misdemeanor or ordinance citation directing them to the CRC. In instances where it is not possible or practical for a misdemeanor or ordinance citation to be issued, officers may still refer young adults directly to the CRC Coordinator or direct the matter to applicable command staff for referral consideration. Partner law enforcement agencies are responsible for developing a review process with the assistance of the CRC Coordinator for determining eligible respondents and cases related to misdemeanor and ordinance offenses. Partner agency arrests may also be regularly reviewed by the CRC Coordinator and law enforcement agency designee to determine additional possible eligible respondents not initially referred or considered. Qualifying respondents who are eligible and accept responsibility for their actions may be offered the opportunity to participate in the CRC and appear before a group made up of community members/peacemakers. Some eligible respondents may not receive an offer to participate in the CRC due to capacity issues.

Partner law enforcement agencies reserve the right to refer cases to the DA's office for a formal charging decision at a later date should the participant fail to successfully complete the CRC program.

8. Exclusions: Criminal traffic violations and misdemeanor crimes against vulnerable adults or resulting from domestic violence, child abuse, child neglect, and sexual assault offenses will not be considered for referral to the CRC by investigating officers. Violent or assaultive physical resisting a police officer cases can be reviewed on a case-by-case basis within the Law Enforcement Agency for interested officers to determine whether the CRC would best serve all parties including the community. However, the DA's Office, after review of the case, and in consultation with the crime victim may deem referral to the CRC appropriate at a later date.

9. DA's Office Referral & Review Process: The DA's Office may elect to refer persons to the CRC prior to charging for any offense (misdemeanor or felony) it believes to be suitable for the CRC. The DA's Office retains the right to review any misdemeanor respondent referrals at its discretion and find a respondent ineligible for the CRC on those misdemeanor offenses.

10. CRC Referral Review: The Dane County Department of Human Services, through the CRC Coordinator, will assess referrals on a case-by-case basis in consideration of crime victims and

reserves the option to decline a referral if it is outside of the eligibility parameters of the Community Restorative Court. The CRC Coordinator has the authority to determine appropriateness of referrals and to find respondents or a specific case ineligible for the CRC and refer them back to originating law enforcement agency for disposition. The CRC Coordinator is also able to decline a referral to the CRC due to capacity issues.

11. Policies and Procedures: This MOU establishes the policies and procedures adopted by Dane County as part of the Dane County Community Restorative Court to supplement the existing CRC program policies and procedures documents.

12. Expectations and Understandings:

a. Case Review, Selection, and Referral: In order to achieve the goals of the CRC, it is integral that every partner is dedicated to identifying possible candidates for referral. Each partner agency is expected to be regularly reviewing and referring applicable cases to the CRC.

b. Communication and Collaboration: Law enforcement partners and the District Attorney's Office are expected to provide police case detail report, police reports, summary reports, and any other relevant information regarding the incident and the respondent, in a timely manner, to the CRC to aid in the initial assessment of respondent for appropriateness for the CRC process. The CRC Coordinator is to provide respondent identification information and process data to the DA's Office. The CRC Coordinator is expected to communicate with law enforcement and the DA's Office (for misdemeanor cases) regarding respondents who do not successfully complete their repair harm agreements or choose to opt out of the CRC program. The CRC Coordinator shall provide completion data and a copy of the standard reporting form regarding the agreement to the appropriate agency for those respondents who successfully complete their repair harm agreements.

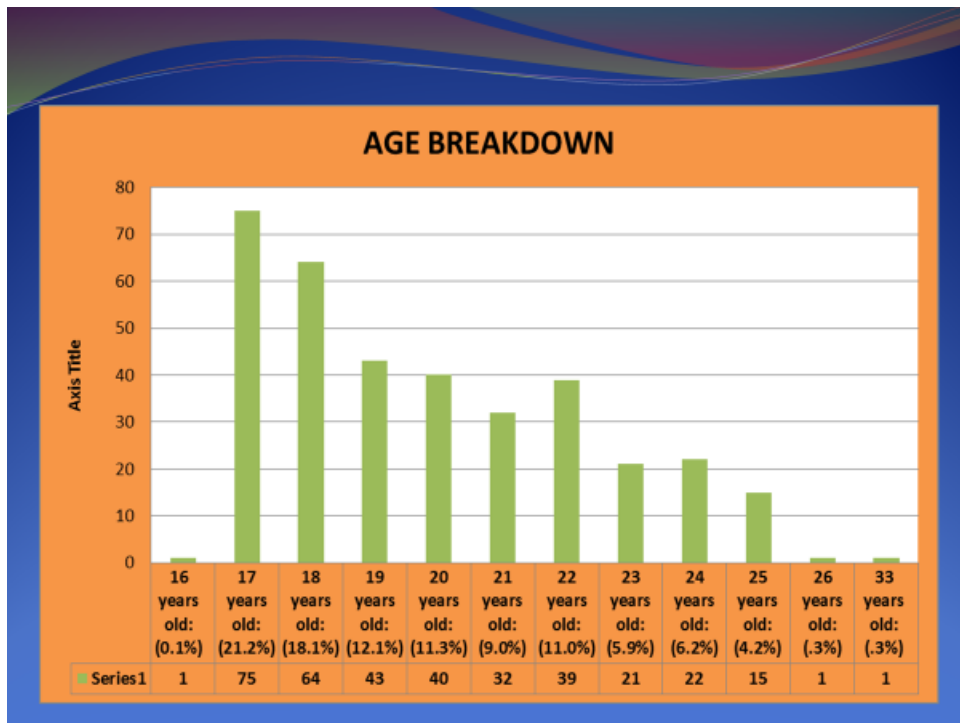
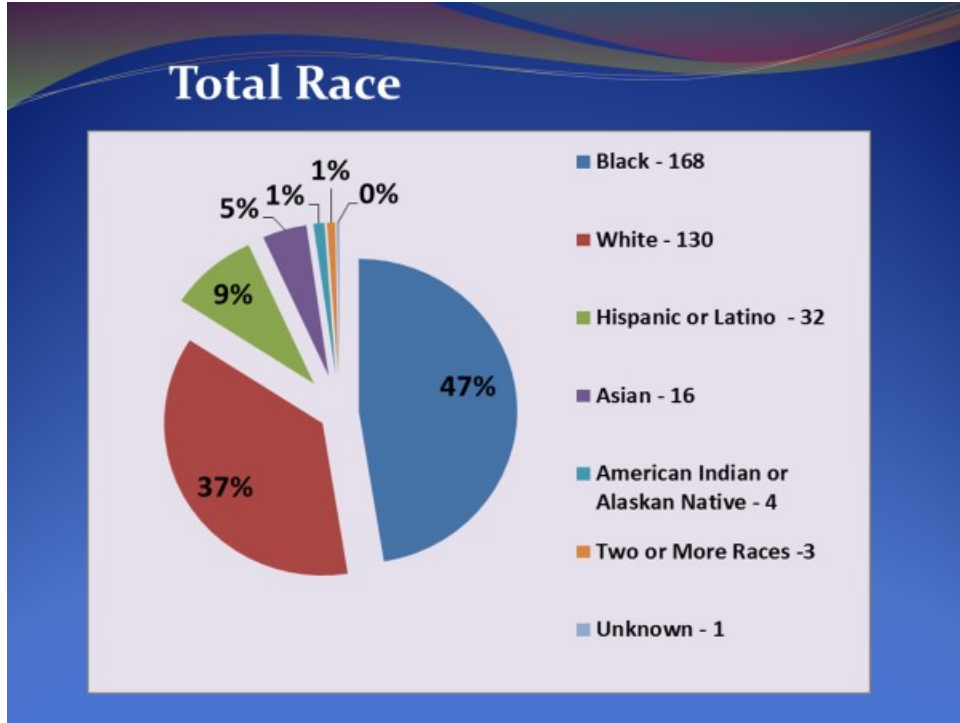
c. Confidentiality: Maintaining confidentiality regarding the contents of any meetings or statements made in the restorative circles and conferences is paramount to the integrity of the program. This applies to all parties involved and will by necessity limit the amount and type of information that may be shared about a particular person's participation in the process. Therefore, the parties agree that CRC staff, facilitators, and volunteers may not be subpoenaed to provide information about the details of particular meetings or statements made by individuals. Statements made by a respondent during a circle or conference are deemed inadmissible by prosecuting agencies in any further criminal action that results from a respondent's non-completion or termination from the program in the referred matter. An exception exists for communications that trigger mandatory reporter standards or threats of harm or future crimes.

d. Voluntary Participation: Participation in the CRC program is strictly voluntary for both victims and respondents, and either party can end their participation at any time. Respondents who either choose to withdraw from the process or are found inappropriate by the CRC Coordinator are referred back to the originating agency and returned to their

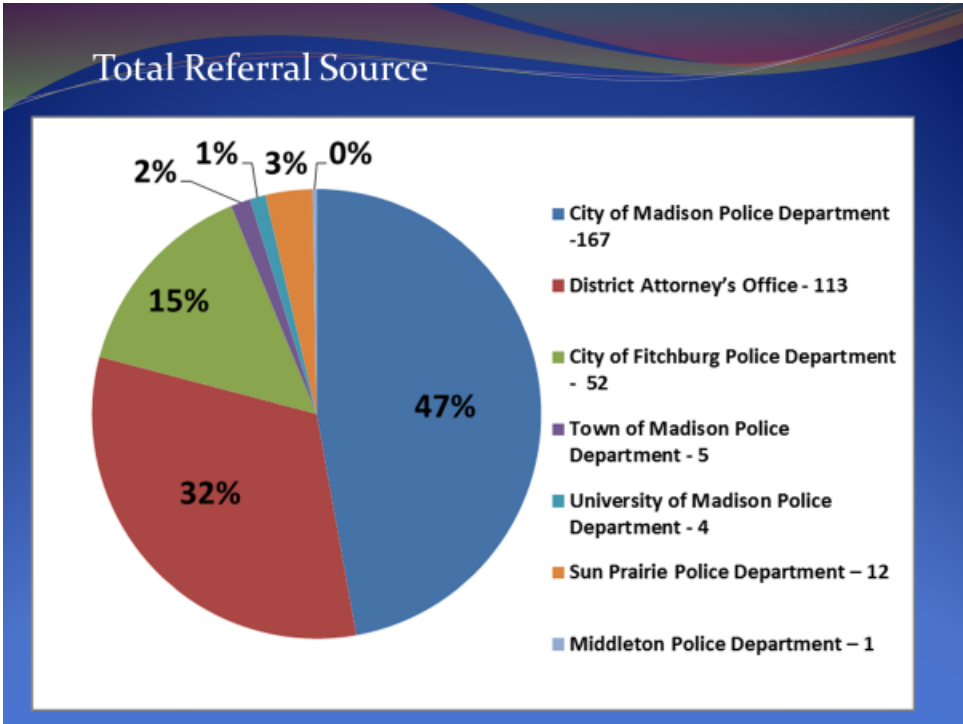
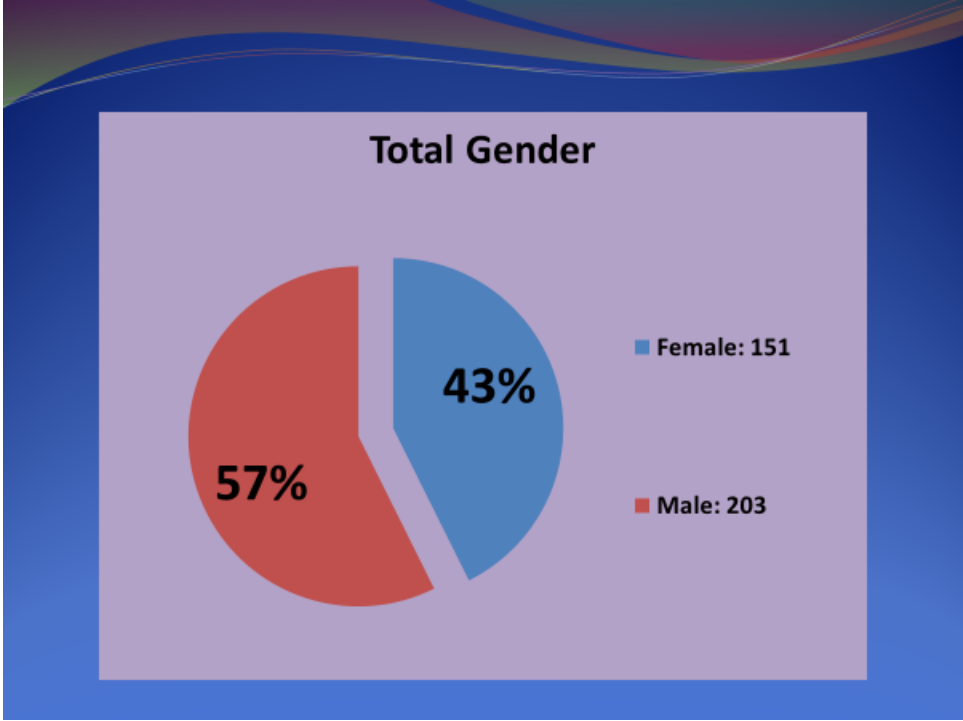
previous position in the traditional criminal justice system, retaining the original misdemeanor or ordinance violation status. Respondents who choose to withdraw from the CRC program do not forfeit any of their due process rights.

13. Counterpart: This MOU may be executed in counterparts, each of which when executed by the parties will be deemed to be a complete original of the MOU. An electronic (PDF) or facsimile copy of the executed MOU or counterpart will have the same legal force and effect as an original document.

ATTACHMENT 3



Source: Dane County Department of Human Services, Community Restorative Court



The 2018 referral numbers from the District Attorney's office were 37% of the total CRC referrals for the year.

Source: Dane County Department of Human Services, Community Restorative Court

