



Chicago Appleseed  
FUND FOR JUSTICE

# Strategies to Enhance and Coordinate Cook County Diversion Programs

**Observations and Recommendations from  
the Chicago Appleseed Fund for Justice**

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# EXECUTIVE SUMMARY

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This document proposes strategies for Cook County to employ a smarter, more effective, cost efficient system of administering justice for the people. These are neither radical ideas nor unrealistic aspirations. Every recommendation is based on the documented successes of other jurisdictions in grappling with the issues that we address: how do we make our criminal justice system more efficient, decrease government costs, and improve the quality of life for the citizens of Cook County?

Improving the criminal justice system in Cook County is not as difficult as it may appear. Making the system more efficient need not come at the cost of decreasing services or reducing public safety. To the contrary, the strategies proposed will decrease crime rates while increasing cost savings.

There is plenty of opportunity for diversion. This is because Cook County expends tremendous resources sending people to jail on charges that are later dismissed. Other offenders are put on probation and released after spending time in jail. The County does not benefit from paying the jail costs in these cases, and jailing these people does not make the County safer.

Nonviolent cases and cases with a low likelihood of successful prosecution present ideal opportunities for diversion. In 2010, the Cook County Jail admitted 78,534 individuals, seventy percent of whom – 55,000 people – were held on the basis of nonviolent charges. Also in 2010, 12,446 Cook County prisoners were released because the charges against them were dismissed entirely. On average, these detainees spent 25 days in jail before release.

The County estimates the total cost of operating the jail to be \$229,449,000 per year. This breaks down to a cost of about \$142.60 per inmate per day. Even if we just improve the system so that we jail 10% fewer of the defendants whose cases are ultimately dismissed, we save the County over \$4,000,000 a year. And we think that Cook County can do better than a 10% improvement.

Not diverting is no longer an option. Our institutions and justice personnel are stretched beyond their limits. In order to allow them to address the most serious and strongest cases, we must divert nonviolent and weak cases. To reduce reliance upon incarceration safely and cost-effectively, we offer the following strategies, divided into three categories:

## **1. Centralize & Coordinate Diversion Court Efforts**

We suggest that the existing diversion courts, also known as specialty courts, remain in place. The County should convene a blue ribbon task force, a coalition, to help create a diversion system and centralize these diversion efforts in two dedicated courtrooms in the Criminal Division. Judges and staff would focus on the issues that overburden the criminal justice system: people suffering from addiction and mental

health problems. These courts would also handle cases of many first time offenders who are suitable to be diverted from the traditional court system.

## 2. Improve Access Points

We recommend three key stages after arrest where defendants may be identified for formal diversion programs and recommended for release from jail: Stationhouse Felony Drug Review, Enhanced Pretrial Services, and Bond Court. These stages are opportunities to improve the administration of justice and create savings. We propose strategies for limiting involvement in the criminal justice system through optimizing efficiency at each stage.

## 3. Collect Data on Performance and Use It

Perhaps the most common sense strategy is that the County should be collecting data on program performance and using that data to monitor and evaluate progress.

Currently, data is collected piecemeal, and often only by the people responsible for program management: not surprisingly, each program reports excellent performance. We suggest that the County create an independent data collection group to ensure that the County is using methods that objectively analyze performance. The real question is: if we are not using objectively collected data to gauge performance now, do we even know how we are doing?

We can break the cycle of arrest and re-arrest – even if just for a small percentage of these offenders – saving taxpayers millions of dollars each year, freeing law enforcement to concentrate on more serious cases, sparing victims the pain and personal cost of the offenders’ conduct, and perhaps restoring those offenders to useful, productive lives.

Cook County is one of the most progressive, dynamic counties in the country, yet we have an antiquated and expensive criminal justice system that ultimately does not meet our needs. Cook County does less than many other cities to handle such cases effectively, and our existing efforts, though productive, are insufficient to address the continuing problems. Jail is not the remedy for drug addiction or mental illness. Jail is an expensive, short-term patch – not a solution.

### SEVEN STRATEGIES TO ENHANCE COOK COUNTY DIVERSION

1. Form a Coalition for Diversion, aimed at coordinating, enhancing, and ultimately expanding the use of diversion.
2. Establish a Diversion Section within the Criminal Division of the Circuit Court for oversight of court-based alternatives to incarceration.
3. Reinstate felony review of drug cases following arrest in order to identify cases for dismissal or diversion early in the case processing.
4. Enhance pretrial services to conduct more background investigations, verify critical information, and identify candidates for the Diversion Section.
5. Transfer authority for Bond Court from the Municipal Division to the Criminal Division.
6. Increase use of safe, effective, and low-cost non-monetary conditions of pretrial release in Bond Court.
7. Develop a centralized and independent data collection system to lay the groundwork for using evidence-based best practice approaches.

Our present specialty courts make a positive contribution in the handling of defendants with drug dependency or mental illness, but the organization, monitoring and capacity of these courts is not sufficient to maximize potential savings and benefits. We need to organize existing structures in the criminal justice system to make diversion courts operate more efficiently. We need to strengthen existing programs, creating an optimal balance among economy, deterrence, and rehabilitation. The present system can work better.

# INTRODUCTION

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This report offers strategies to enhance and coordinate diversion programs in Cook County's criminal justice system. The term "diversion" refers to programs aimed at limiting the use of incarceration. Diversion programs include pre-plea, post-plea, probationary, and even post-incarceration programs. While there are many different sorts of diversion programs, they all share the goal of maximizing efficiency and economy while creating a more effective system in which to administer justice.

In the first section of this report, we recommend three strategies to centralize and coordinate diversion programs: keeping existing diversion programs intact and operational, creating a "Coalition for Diversion" charged with implementing co-operative and centralized policies, and creating a Diversion Section within the Criminal Division.

Next, we propose strategies for improving access to diversion and speeding up case evaluation. We recommend reinstating early review of felony drug cases, enhancing pretrial services to permit verified background investigations, transferring Bond Court administration from the First Municipal Division to the Criminal Division, and increasing the use of nonmonetary bail conditions for pretrial release in Bond Court.

Finally, we propose creating an ongoing, systematic data collection process that will permit objective program review. Ongoing data collection, monitoring, and evaluation are essential to system improvement.

These proposals draw on a wide range of sources including data from existing diversion programs, national best practice research, interviews with public officials, and Chicago Appleseed's own research, including the 2007 "Report on Chicago's Felony Courts," the 2009 "Criminal Justice Restructuring Proposal," the 2010 "Cook County Diversion Court: Proposal and Implementation Plan," the 2010 "Drug Offender Stationhouse Deferral Program," and the 2011 "Cook County Bond Court Proposal."<sup>1</sup>

The impetus for this report was a series of informational interviews with experienced professionals within the public, private, and academic sectors. We conducted these interviews as a follow-up to our comprehensive 2007 report on the felony courts ("2007 Report"),<sup>2</sup> and we asked experts for their perspectives and opinions on the current state of the criminal justice system, with a focus on the recommendations from the 2007 Report. Chicago Appleseed then examined ways that Cook County might seek simple, cost-effective solutions.

## CONTEXT OF THE PROBLEM

Over the last century, increasingly strict and punitive criminal justice policies have created record high incarceration rates.<sup>3</sup> As jail populations soared, it became clear that mass incarceration – particularly of nonviolent drug offenders – has not been cost-effective. The strategies proposed in this report are designed to break the cycle of repeatedly incarcerating the same people.

The statistics are staggering: with 2.3 million individuals incarcerated, the United States is home to 5% of the world's population but nearly 25% of the world's prisoners.<sup>4</sup> In Illinois, state prisons admitted 36,795 individuals in 2010, with average daily prison occupancy of 45,981. At an estimated annual cost of \$22,043 per person, Illinois tax-payers spent over \$1 billion in 2010 alone for state prison incarceration.<sup>5</sup> At the local level, the Cook County jail admitted 78,534 individuals in 2010, nearly 55,000 (70%) of whom were charged with nonviolent offenses.<sup>6</sup>

Meanwhile, the county faces an unprecedented budget crisis. Given these facts, policy-makers must, unavoidably, balance the fiscal and human costs of incarceration against those of criminal behavior. At one time, Cook County was a leader in progressive criminal justice policy. In the 1950's, Chicago introduced one of America's first courts specializing in drug cases.<sup>7</sup> Since then, however, we have fallen behind other jurisdictions in implementing alternatives to traditional sentencing. Only in the past two decades – driven by the unsustainable costs of incarcerating vast numbers of nonviolent drug offenders – have some jurisdictions, including Cook County, adopted new approaches to nonviolent crime.

## **AN EMPHASIS ON DRUG CRIME**

In 2002, the most recent year for which data were available, illegal drug offenses cost America \$108 billion. Less than one-third of this cost was attributable to the direct damage of drug crime, including violent drug crime. Two-thirds of the costs were related to law enforcement: the United States spent over \$70 billion for policing drug crime, prosecution, detention, and the lost employment of millions of adults sitting in prison.<sup>8</sup>

We need to decrease the costs associated with policing and prosecuting that produce little or no net benefit for society. Drug crime defendants present the greatest opportunity for alleviating the huge burden on our courts, prosecutors, and jails. They are prime candidates for diversion: drug offenders have high recidivism rates, and we have a large number of felony drug cases in Cook County.

Many of the strategies contained herein follow “Drug Court” best practices endorsed by the U.S. Department of Justice.<sup>9</sup> The drug court model has been evaluated rigorously in many jurisdictions, and we recommend practices that have been proven to work in other complex, urban systems. Following Department of Justice best practices will also position Cook County for federal and foundation grant funding. As an overarching strategy, we recommend coordinating and consolidating existing diversion programs under inter-agency leadership to streamline operations and provide targeted services. Note that this report does not detail specific programming recommendations for diverted defendants; rather, it recommends systemic changes to improve the structure of, and access to, such programming. There is a strong understanding of treatment and educational alternatives among area providers such as TASC, and these efforts are consistently shown to be cost-justified.<sup>10</sup>

# SECTION ONE: COORDINATING COOK COUNTY DIVERSION PROGRAMS

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## CHICAGO APPLESEED KEY STRATEGIES:

Several agencies and departments have established a variety of diversion court programs, but no central organization oversees the programs. This section begins by describing the formal diversion programs currently operating in Cook County and offering two key strategies for building a coordinated approach to diversion:

- Form a Coalition for Diversion to coordinate, enhance, and ultimately expand diversion.
- Establish a Diversion Section within the Criminal Division, preserving existing programs and centralizing administration.

## OVERVIEW OF EXISTING PROGRAMS

### Formal Diversion Programs

Currently, Cook County administers both formal and informal diversion programs. Here, we discuss formal diversion, both pre-plea and post-plea.

In deferred prosecution programs – supervised by the State’s Attorney – prosecution of cases is deferred pending completion of a treatment or educational program. If the defendant completes such a program, the case is dismissed; if not, prosecution is resumed. Post-plea court supervised diversion offers defendants conditional supervised release and access to treatment programs, but only after they have entered a guilty plea.

The existing diversion programs and initiatives reflect the impressive efforts of numerous departments and individuals. For example, the State's Attorney administers the Mental Health Court, the Drug School, and the Deferred Prosecution Program, while the Drug Court is run by the Circuit Court. Funding for these programs is piecemeal, however, resulting in agencies operating their own, independent programs. Centralizing administration and funding of the various diversion efforts would improve efficiency.

**Table 1: MISDEMEANOR & FELONY  
DIVERSION PROGRAMS AND PARTICIPANTS<sup>1</sup>**

Program / Court	Date Created	#2010 Cases	#2011 Cases
Drug School	Pre-1998	3418	3322
Misdemeanor Deferred Prosecution Retail Theft Deterrent Program	2011	N/A	1200 <sup>2</sup>
Felony Deferred Prosecution Program	2011	N/A	384
Criminal Division "RAP" Drug Court	1998	118	259
District 4 (W Suburban) Drug Court	1998	37	94
District 5 (SW Suburban) Drug Court	2010	0	47
District 6 (S Suburban) Drug Court	2010	0	117
Criminal Division Mental Health Court (Axis I & Axis II)	2004	24	111
District 2 (N Suburban) Mental Health Court	2010	3	35
District 3 (NW Suburban) Mental Health Court	2011	N/A	4
District 4 (W Suburban) Mental Health Court	2008	9	26
Criminal Division Veterans Court	2009	69	51
District 2 (N Suburban) Veterans Court	2010	9	23
District 3 (S Suburban) Veterans Court	2011	N/A	1
District 4 (W Suburban) Veterans Court	2010	5	10
District 5 (SW Suburban) Veterans Court	2010	0	6
District 6 (Veterans Court)	2010	7	17
Criminal Division WINGS (Prostitution) Court	2011	N/A	51*
District 4 (W Suburban) Misdemeanor Prostitution Court	2011	N/A	50*
TASC / "Chapter 20" Referrals	2010	502	1,227
<b>Total</b>		<b>4201</b>	<b>7035</b>

<sup>1</sup> Unduplicated participant numbers provided by the Cook County State's Attorney's Office and unverified. \*

<sup>2</sup> Figures are estimates by Cook County State's Attorney's Office.

## Deferred Prosecution Diversion Programs

The State's Attorney currently operates two deferred prosecution programs: the Drug School and the State's Attorney's Deferred Prosecution Program (SADPP).<sup>11</sup> These programs divert felony defendants into drug education programming, community service, GED, or job training programs prior to a plea. The Deferred Prosecution Program is administered in cooperation with Treatment Alternatives for Safe Communities (TASC) and Pretrial Services. These two programs are models for developing and expanding diversion

Drug School was introduced by the State's Attorney in the 1970's. It is the largest diversion program in Cook County, admitting 3,418 individuals in 2010 and 3,322 individuals in 2011.<sup>12</sup> The program places low-level, nonviolent felony drug offenders into drug education sessions as an alternative to prosecution or jail. Drug School participants must have no prior felony convictions, no criminal history of drug dealing, no evidence of dealing drugs in their open case, and no prior arrests for violent crimes. Prosecution of the drug charges is suspended and the case is eventually dismissed upon successful completion of the program. Charges are reinstated against participants who fail to complete the program.

The Deferred Prosecution Program (DPP) was introduced in March 2011, with 384 participants in 2011.<sup>13</sup> Generally, all defendants arrested for a qualifying nonviolent offense are eligible for DPP if they have no prior felony convictions. Eligible offenses include: theft, retail theft, forgery, possession of a stolen motor vehicle, possession of burglary tools, possession of marijuana, and possession of a controlled substance. Disqualifying offenses include delivery of illegal drugs or intent to deliver or manufacture certain drugs.<sup>14</sup> Participants in DPP must complete a number of requirements before finishing the program.<sup>15</sup>

The current path to these pre-plea diversion programs is as follows: First, after arrest, Drug School and DPP candidates are taken to bond court where they are typically released on an individual bond ("I-Bond") or electronic monitoring. Although bond court judges do not consider the defendant's candidacy for deferred prosecution, a defendant's limited criminal background and a nonviolent charge may make him a possible candidate for release from custody.

Then, approximately one month later, at the preliminary hearing stage, admission to the diversion program is granted at the State's Attorney's discretion if the candidate signs a contract agreeing to complete an alternative sentence in lieu of continued prosecution.<sup>16</sup> Participants are required to comply with the terms of the contract for one year (non-Drug School deferred prosecution participants have different terms than participants in Drug School). If the defendant complies with these terms, the charges are dismissed and may be expunged. If the court determines that a participant has breached the program participation conditions, however, the State's Attorney may re-initiate prosecution of the criminal case.

## Court-Supervised Post-Plea Diversion Programs

Post-plea diversion programs are available to defendants only after they plead guilty in a criminal case. These programs follow a “specialty court” model. The County now has approximately four of these court calls, often geared toward offenders with mental illness or drug dependency issues. The many different types of post-plea programs admitted 903 people in 2011.

Cook County courts also refer approximately 1,000 individuals to TASC treatment as an enhanced form of probation authorized by Illinois Alcoholism and Other Drug Abuse Dependency Act (AODADA). These individuals are referred pre-sentence by courts, assessed by and accepted to TASC, and placed into treatment as a condition of probation as an alternative to prison.<sup>17</sup> Participation in these programs is highly sensitive to funding availability, as reflected by the variation in participants in 2010 and 2011.

Four program models for specialty courts are managed separately by the State’s Attorney, the Sheriff, and the Adult Probation Department of the Circuit Court. These programs include:

- Rehabilitation Alternatives to Probation (RAP) Program Drug Court
- Mental Health Court call
- Veterans Administration programs
- WINGS (Prostitution Court)

The Drug Court RAP Program is offered to defendants who are on probation for a prior non-violent crime, are arrested for a drug crime while on probation, and agree to participate in the drug court treatment program. The program involves intensive court supervision and treatment services for 15 to 18 months. Participants in both the Drug Court and Mental Health Court are required to make frequent appearances before a judge, submit to drug testing, and attend frequent treatment sessions.

The Mental Health Court is a two-year voluntary probation program offered to defendants who are charged with non-violent felonies and have a diagnosed mental disability. They are eligible for the program if they are able to understand the expectations and terms of the program and voluntarily agree to participate. Treatment services are provided by TASC (Treatment Alternatives for Safe Communities) and other community based programs. Participants in the Mental Health Court are often required to make frequent appearances before a judge, submit to drug testing and attend frequent treatment sessions.

The Veterans’ Court program accepts veterans charged with low-level felonies, such as drug offenses. In practical effect, this is another drug court. Participants are offered the chance to have their cases heard in a special court call. Veterans Court participants can receive specialized assistance with drug treatment, housing, health care and job training. These courts create an opportunity for diversion programs to assist former service members.

A similar type of post-plea diversion program, known as WINGS Court, provides defendants charged with prostitution a chance to have their cases heard in a special call. This provides WINGS participants with access to assistance from social service agencies.

This array of programs offers defendants a variety of opportunities tailored to their needs. Drug courts, mental health courts, veterans' courts, and WINGS all offer specialized services, and the caseload burden in each of these programs is growing. In 2011, drug courts alone heard 777 cases – more than double the entire specialty court caseload for 2010.

Already, diversion programs offer thousands of defendants an alternative to jail and traditional courts. These programs are substantial and expanding. In 2011, they served more than 7,000 individuals – an increase of over 40% from the previous year. As Cook County's diversion programs continue to expand, they should be streamlined and centralized to insure that they handle their growing caseloads as effectively as possible.

Existing programs have provided valuable experience with diversion and are the basis for further efforts.

## FORM A COALITION FOR DIVERSION

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### **Strategy 1: Form a Coalition for Diversion, aimed at coordinating, enhancing, and ultimately expanding the use of diversion.**

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We propose forming a coalition to oversee the creation and implementation of a Diversion Section of the Criminal Division, serving as an advisory group to the Presiding Judge of the Criminal Division. Centralizing operations for over a dozen diversion court calls makes intuitive sense and the value of centralization has been proven in practice: data confirm that such programs are most successful when they are centrally administered, organized and operated.<sup>18</sup> Successful diversion programs typically have oversight committees comprised of key stakeholders.<sup>19</sup> Over two thirds of diversion programs across the country have an advisory board, a statewide central board of directors, or parent agency oversight body.<sup>20</sup> Both King County in Washington State, and the Red Hook Community Justice Center (RHCJC) in Brooklyn, New York, have built diversion programs from a broad coalition comprised of key stakeholders. We recommend that Cook County create such a body.

The coalition should have representatives from each major stakeholder group to improve coordination and cooperation. The coalition should be comprised of representatives from, at a minimum, the following entities: the Circuit Court, State's Attorney's Office, Public Defender's Office, TASC, Adult Probation, Sheriff's Department, County Board, Chicago Police, as well as at least one outside research organization. The coalition will help to maximize efficiency, reduce crime, and save money. Inter-agency collaboration in diversion courts is crucial to establish funding sources for the necessary treatment programs.<sup>21</sup>

King County, Washington, administers one of the premier diversion programs in the country using a collaborative model for oversight.<sup>22</sup> The King County Drug Court Executive committee oversees the court and is composed of members of the "Superior Court, Judicial Administration, Office of the Prosecuting Attorney, Office of Public Defense, County Council, County Executive, Adult and Juvenile Detention, Community and Human Services,

Sheriff's Office and the Seattle Police Department and community-based treatment.”<sup>23</sup> In addition to gathering input from many stakeholders, this coalition galvanizes support and ensures continued funding for diversion programs.<sup>24</sup>

The Red Hook Community Justice Center employs a similar collaborative model.<sup>25</sup> The Center hears cases that would ordinarily go to three different courts (civil, family, and criminal) and allows the judge to select from an array of programs including job training, community service, and drug treatment.<sup>26</sup> This diversion program has been so effective that it has attracted international attention as a model for judicial reform.<sup>27</sup> The RHCJC has reduced incarceration and improved public trust in the fairness of criminal proceedings.<sup>28</sup>

We recommend that the coalition create and maintain a website describing all current programs so that the public, and especially lawyers, judges, and defendants, may be aware of diversion programs and their participation criteria. Many knowledgeable individuals interviewed by attorneys at Chicago Appleseed were unaware of, or misinformed about, significant programs such as Drug Court. As a result, only a fraction of the candidates eligible for diversion participate in specialty programs. Creating a website and sharing information would make these programs better known and allow the county to realize greater savings.

## CREATE A DIVERSION SECTION OF THE CRIMINAL DIVISION

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### **Strategy 2: Establish a Diversion Section within the Criminal Division, preserving existing programs and centralizing administration.**

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The Chief Judge of the Circuit Court is empowered to create new administrative divisions by judicial order.<sup>29</sup> We recommend that Chief Judge Evans establish a Diversion Section within the Criminal Division. All diversion cases should then be referred to courts in that Section.

Specifically, we recommend that two courtrooms be assigned to the Diversion Section. These courts should have a mixed caseload of pre-plea (deferred prosecution) diversion, post-plea (specialty court) diversion, and more traditional criminal court calls. The proposed Diversion Section would consolidate all specialty court calls and all deferred prosecution hearings currently held at the 26th Street Criminal Courts. The Diversion courts would handle all of the cases now heard at the Mental Health Court, Drug Court, WINGS, and Veterans Court. Staff for these programs would work with one another on a daily basis, making them a specialized unit for diversion hearings and programs.

Presently, diversion court calls are held in several different court rooms, yet are staffed by the same state's attorneys, public defenders, TASC staff, and others. This arrangement requires staff to travel across town several times a week to appear at these different calls. This is inefficient, and it results in a substantial expenditure of staff time. We recommend consolidating the calls at 26th Street in specific courtrooms so that staffing resources are centralized to the greatest possible extent. A centralized Diversion Section will conserve resources and expense for judges and entire diversion teams. Both of the Diversion Section courtrooms should be staffed (at a minimum) by a judge, assistant state's

attorneys, public defenders, and a case manager. All staff should have a commitment to working within the diversion model.

Case studies from other jurisdictions show that diversion staff play a central role in either promoting or impeding the effectiveness of diversion programs. In Multnomah, Oregon, reductions in re-arrests varied substantially according to which judge presided over the drug court: re-arrests were reduced by less than 10% in the courts of two judges, while reductions for the remaining judges ranged from 25-42%.<sup>30</sup> Diversion Section staff should be selected on the basis of their enthusiasm for diversion and a collaborative approach to criminal justice.

In order to maximize positive outcomes, diversion staff should receive training on how to work within these programs. Typically, successful programs incorporate definite sanctions and rewards, foster a non-adversarial environment, and interact directly with defendants in a collaborative effort. Federal grants for diversion deem all of these traits to be "key components" of programs eligible for federal aid, and research has demonstrated that these practices reduce recidivism, substance abuse, and taxpayer costs.<sup>31</sup> Other practices tending to affect cost-efficiency and outcomes in diversion courts can be seen in the table below.

**Table 2: DIVERSION PRACTICES TENDING TO AFFECT COST-EFFICIENCY**

Practices Reducing Net Benefit:	Best Practices/Solution(s):
<p><b>“Cherry-Picking”</b> Target only, or mostly, offenders bound for probation or dismissal, those with mild substance abuse problems, and those least likely to reoffend; reduces savings from decreased incarceration and recidivism.</p>	<p>Make eligible, and target to the extent practicable and safe, offenders bound for incarceration, those with serious substance abuse problems, and those likely to reoffend</p> <p>Promote understanding among all stakeholders that cherry-picking is not cost-effective</p> <p>Develop standards of success that can be measured and used in Cost-Benefit analysis; de-emphasize the importance of completion rates</p> <p>Make the process of sanctions and terminations both reasonable and explicit; defense counsel explains risks and benefits to potential participants</p>
<p><b>Time &amp; Experience</b> Diversion courts bound for success may perform poorly during the implementation period or during “rough patches”</p>	<p>Use a detailed, carefully planned operational guide but retain the flexibility to adapt to unexpected challenges</p> <p>Promote understanding among stakeholders that even an excellent drug court program saving taxpayers an estimated average of \$8.8 million per year may have a few years in which there are virtually no positive results<sup>32</sup></p>
<p><b>Termination</b> Judges prematurely terminate participants who suffer relapses; may eliminate all savings</p>	<p>Maintain explicit guidelines for sanctions and monitor the use of judicial discretion</p> <p>Promote understanding among judges and other stakeholders that termination should be avoided if at all possible</p>

<p><b>Over-sentencing</b></p> <p>Judges punish diversion dropouts with longer sentences; reduces decreased incarceration savings</p>	<p>Promote understanding among judges and other stakeholders that over-sentencing is not cost-effective and that terminated participants are often still “successes” in terms of reduced recidivism and drug use</p>
<p><b>Widening the net</b></p> <p>Police arrest more low-level offenders because they view drug courts as an additional resource; reduces overall savings to the criminal justice system</p>	<p>Promote understanding among the police and other stakeholders that drug courts are an attempt to reduce existing burdens, not a reason to create more contact with the criminal justice system</p>

This strategy would not affect the post-plea diversion programs presently administered in suburban courts. Diversion courts in many jurisdictions have suffered negative effects from attempting to expand programming too quickly.<sup>33</sup> We recommend that only the Diversion Court calls at the 26<sup>th</sup> Street Courthouse be included in the Diversion Section calendar in the first stage of centralizing Diversion courts. It is important to permit judges and diversion court staff to adapt to a new system before increasing the number of participants.

The present caseload of all diversion courts is modest, but it is expected to expand. Based upon interviews with stakeholders, we believe that two courtrooms will accommodate the caseload.

## SECTION TWO: IMPROVING ACCESS TO DIVERSION

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### CHICAGO APPLESEED KEY STRATEGIES:

- Reinstate felony review of drug cases following arrest in order to identify cases for dismissal or diversion early in the case processing.
- Enhance pretrial services to conduct more background investigations, verify critical information, and identify candidates for the Diversion Section.
- Transfer authority for Bond Court from the Municipal Division to the Criminal Division.
- Increase use of safe, effective, and low-cost non-monetary conditions of pretrial release in Bond Court.

### OVERVIEW

Defendants should be identified for potential diversion soon after arrest. In this section, we propose strategies for expedited case processing, enhanced pretrial services, and bond court reforms.

After arrest, defendants who are not released from custody have a hearing in bond court. If a monetary bond is required and a defendant cannot pay the bond amount, he or she remains in custody at the jail. A preliminary hearing is then held a few weeks later to determine whether there is sufficient evidence to proceed with the case. The preliminary hearing serves as a case processing clearinghouse: at the hearing, cases are set for trial, resolved through a plea, referred to diversion programs, or dismissed. Putting defendants in jail for the weeks between bond court and the preliminary hearing costs the county tens of millions of dollars each year.

In order to reduce the costs associated with jailing people whose cases are subsequently dismissed, we recommend that the State's Attorney's Office reinstitute the felony review program in drug cases. In this program, prosecutors review cases as soon as possible after arrest and dismiss some cases at that time rather than at preliminary hearing. We recommend that review, rather than preliminary hearing, serve as the main decision point for early drug case review, diversion, or dismissal.

The County should employ enhanced Pretrial Services to provide the bond court with information and viable options to ensure safe pretrial release of defendants, reduce the jail population, and conserve resources. We recommend that bond court be administered by the Criminal Division to streamline criminal court operations. Bond court judges should become a part of the diversion process. Those judges should consider the extensive research showing that we can save money and safely release more people from custody with non-monetary conditions or requirements.

## REINSTATE FELONY DRUG REVIEW

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### **Strategy 3: Reinstate felony review in drug cases immediately following arrest in order to identify cases for dismissal or diversion early.**

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We recommend that the State's Attorney's Office implement a review of felony drug cases as close to arrest as possible. Cases that would not be prosecuted a month later at the preliminary hearing should be dismissed shortly after arrest. Eligible defendants should be referred to diversion and released from custody at that time. Engaging in case evaluation close to the time of arrest – rather than at preliminary hearing almost a month later – will reduce the jail population and save money.

An average of three weeks pass between arrest and preliminary hearing, with a large number of defendants detained in jail before being processed and released.<sup>34</sup> In 2010 in Cook County, 12,446 defendants were released from jail after their cases were dismissed – on average, detainees had spent 25 days in jail before dismissal.<sup>35</sup> Forty-five percent (5,638) of those dismissals were drug charges. It costs approximately \$143 per day to house an inmate at the jail.<sup>36</sup> The County, then, spent over \$44,000,000 on jail costs for cases that were dismissed in 2010 alone.

Cases eligible for diversion that are not dismissed should be referred to the Diversion Section of the Criminal Court. The proposed review of felony drug cases also accelerates the identification of candidates for diversion. Diversion eligible candidates should be released from custody on a non-monetary bond or electronic monitoring.

There are many potential benefits from doing case review as early as possible after arrest. Even if it is clear that a defendant will not qualify for dismissal or deferred prosecution, felony review will help to identify cases that are eligible for post-plea court supervised diversion programs. Flagging defendants as candidates for post-plea diversion signals to the Bond Court judge that the state considers the defendant eligible for non-monetary release or electronic monitoring.

The State's Attorney's Office would conduct felony review, and we urge that the County Board provide funding for the purpose of staffing this process. A previous felony drug review program was terminated because there were insufficient funds available to review the massive volume of drug cases, but a felony drug review procedure would generate considerable cost savings. According to stakeholder estimates, three to five attorneys could staff this program.

One concern regarding diversion programs is that they may become an "alternative to dismissal" program. If cases selected for diversion would otherwise be dismissed, the benefits disappear. The gatekeepers, therefore, must be careful. Diverting rather than dismissing cases will eliminate the cost savings.

## EMPLOY AN ENHANCED PRETRIAL SERVICES PLATFORM

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**Strategy 4: Enhance pretrial services to provide for more background investigations, verification of critical information, and the identification of candidates for diversion.**

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The mission of Pretrial Services (PTS) is to provide the Bond Court with information and viable options to ensure safe pretrial release of defendants, to reduce the jail population, and to conserve resources.<sup>37</sup> In order to accomplish these goals efficiently, PTS must conduct reliable investigations and identify diversion candidates as soon as possible after arrest. Ideally, PTS reports allow judges in bond court to determine whether defendants are a threat to the community and whether they can be expected to appear for their next court date. In order to ensure safe pretrial release of defendants and a reduced jail population, we recommend that PTS perform more background investigations, verify the information received, and make more referrals to diversion programs.

Since December 2008, Cook County has conducted brief PTS background investigations of felony defendants – a recommendation of Chicago Appleseed’s December 2007 report on felony courtrooms in Chicago. But it appears that too few background investigations are currently conducted (although we were unable to obtain specific data). During 2010, the Adult Probation Department conducted 11,442 pre-trial bond investigations – just 16% of total jail admissions.<sup>38</sup> The American Bar Association recommends that pretrial service departments conduct an investigation and provide the court with information in “all cases in which the defendant is in custody and charged with a criminal offense.”<sup>39</sup> In order to bring Cook County in line with national standards, PTS must perform more interviews as soon as possible after arrest.<sup>40</sup>

PTS can obtain information pertaining to a defendant’s criminal record, drug and alcohol use, employment and education history, and history of mental health issues. This information is then used to develop a score designed to predict risk of flight and level of threat to the community, which can inform the bond judge’s decision to release defendants or set a bond. However, court watchers and stakeholder interviews indicate that Bond Court judges do not currently take these PTS assessments into account. Perhaps as a consequence, the Bond Court relies excessively on monetary bail as a condition of pretrial release, with little evident benefit.

We recommend that PTS validate key predictors of recidivism. Validation permits an accurate assessment of the risks of failure to appear and of re-arrest.<sup>41</sup> Most states are able to monitor failure to appear and recidivism,<sup>42</sup> but they often do not calculate recidivism rates. More jurisdictions are starting to compute these rates, however, because new comprehensive data management systems make that computation easier.<sup>43</sup> The creation of data management and evaluation procedures in Cook County will permit analysis of programs and indicate places where program revisions may be necessary.

An unreleased 2011 study conducted on behalf of Cook County administration describes ways to enhance Pretrial Services to assist bond court hearings.<sup>44</sup> Below is a short overview of some PTS assessment strategies with citations to sources.

- Objective criteria and evidence-based criteria should be employed in determining a defendant's flight risk – rather than ad hoc decision making.<sup>45</sup>
- Pretrial services information should be “organized according to an explicit, objective, and consistent policy for evaluating risk and identifying appropriate release options,” and these policies “should be based on detailed agency guidelines developed in consultation with the judiciary to assist in pretrial release decisions...supported by objective, consistently applied criteria contained in the guidelines.”<sup>46</sup>
- The assessment “should be developed on the basis of explicit and objective policies, followed consistently in cases involving similar sets of circumstances.”<sup>47</sup> Some programs do allow the objective risk assessment to be overridden by subjective factors, but overrides should be rare even where they are allowed.<sup>48</sup> Maintaining strong evidence-based and objective criteria are key to establishing a working risk assessment model that is capable of evaluation, review and revision.<sup>49</sup>

## **BOND COURT: ADMINISTRATIVE AND SUBSTANTIVE STRATEGIES**

Bond Court has the potential to reduce the jail population by identifying defendants who can be released from custody and referred to diversion programs at an early stage. We propose releasing diversion eligible individuals on individual bonds and electronic monitoring and funneling their cases from Bond Court into Diversion Section courts. Bond Court is an opportunity to refer defendants for diversion and perhaps treatment rather than investing in their incarceration.

### **Transfer Administration of Bond Court**

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#### **Strategy 5: Transfer Bond Court from the Municipal Division to the Criminal Division.**

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The Criminal Division does not have authority over criminal cases while they are in Bond Court or at preliminary hearing. Presently, criminal cases begin in Bond Court and unresolved cases are later transferred to the Criminal Division after the preliminary hearing. Bond Court and felony preliminary hearings are presided over by the First Municipal District, which also oversees misdemeanors, eviction proceedings, traffic violations, and small claims.<sup>50</sup> The present system, therefore, creates a diffusion of responsibility and decentralization of authority.

In order to facilitate a more seamless, efficient, and coordinated system, we recommend that authority over Central Bond Court be assigned to the Criminal Division. Leadership and authority should be clear. Judges who decide whether a defendant is to be

released on bail should function as a part of the same division as the judges who decide the outcomes of cases and impose sentences. We propose a consistent chain of command.

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**Strategy 6: Improve programming in Bond Court and utilize Pretrial Services to release more people from custody and refer more cases to diversion.**

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After arrest and following felony review, defendants who are not released from custody or referred to diversion have a bond hearing. At the bond hearing, judges may forbid release ("no bail"), release defendants on monetary bonds ("D-Bond"), or release them on non-monetary conditions including individual recognizance ("I-Bond") and electronic monitoring ("EM"). Most jurisdictions use a PTS report to inform bond determinations. Some jurisdictions even mandate that the court follow the pretrial services recommendation.<sup>51</sup> Applesed court watchers and stakeholder interviews, however, indicate that Bond Court judges in Cook County rarely look at the PTS report before making the bond decision, perhaps because the information is unverified and thus deemed unreliable.

We could be releasing more defendants pretrial without compromising public safety or reappearance rates. PTS makes recommendations about common supervision options for defendants, including phone check-ins, referral to substance abuse or mental health treatment, ongoing alcohol or drug testing, movement monitoring by GPS, or home confinement with electronic monitoring.<sup>52</sup> Of these options, we generally recommend electronic monitoring as a default supervision plan for nonviolent offenders. Electronic monitoring costs less than half as much as a jail stay.<sup>53</sup>

In 2011, however, only 21% of defendants were released on nonmonetary bail – 13% on electronic monitoring and 8% on individual recognizance bonds. Another 26% were denied bail.<sup>54</sup> The Bond Court set a monetary bond for the remaining 53% of defendants. Defendants able to post a monetary bond do so in the form of a cash or credit card payment for 10% of the bond amount set by the court, paid to the Clerk of the Court. Upon case resolution, defendants apply for refund of their bond, minus a 10% processing fee; refunds take about 3 weeks to process.<sup>55</sup> According to a 2012 Sheriff's report, "On any given day, there are approximately 2,000 detainees in the Cook County Jail with bail amounts of \$6,000 or less."<sup>56</sup>

When a defendant cannot afford to pay the bond amount, he or she remains in custody at the jail – costing the County \$143 per person, per day. Monetary bond is often expensive for both the County and the defendant – it is a hardship for low-income individuals, often resulting in time in jail and, thus, further expense to the county. Kentucky mandated pretrial release of qualifying defendants using electronic monitoring, with great success, releasing almost 175,000 individuals and saving millions that were reallocated to investigate and prosecute more serious offenses:

“The rate of return at later court dates was also successful: 90% of defendants attended all subsequent court appearances. In addition, 90% of released

defendants did not commit new crimes while on pre-trial release. The program now receives over 6,000 referrals a year and has saved \$30.8 million to date. In 2007 alone, [the program] saved 540,709 jail beds."<sup>57</sup>

Unlike the proposed felony review program, the Kentucky program did not dismiss cases at the early, stationhouse phase. Thus, cost savings from the program proposed here will likely be even higher when savings on cases dismissed upon review are taken into account.

For further evidence that the County could be releasing more defendants pretrial without compromising public safety or reappearance rates, consider the tables below. The first compares Cook County's pretrial detention rates with similarly-sized urban counties, Kings County, NY (Brooklyn) and Miami-Dade County, FL.

**Table 3: PRETRIAL DETENTION RATES IN COOK, KINGS (NY), & MIAMI-DADE COUNTY (2005)<sup>58</sup>**

County	Defendants Released			Defendants Detained Until Disposition		
	Total	Financial	Non-Financial	Total	Held on Bail	Denied Bail
Cook	52%	26%	26%	48%	47%	1%
Kings (NY)	83%	23%	60%	17%	14%	2%
Miami-Dade	65%	36%	29%	35%	25%	10%

These extraordinary differences might be justified if Cook had lower failure-to-appear or pretrial recidivism rates, but the table below illustrates that Cook County defendants fail to appear and recidivate at about the same rates as defendants in Kings County, and perform much worse than those in Miami-Dade.

**Table 4: FAILURE TO APPEAR AND RE-ARREST RATES IN COOK, KINGS (NY), & MIAMI-DADE COUNTIES (2005)<sup>59</sup>**

County	Defendants Who Fail To Appear in Court	Defendants Who are Re-Arrested Prior to Trial
Cook	21%	25%
Kings (NY)	20%	28%
Miami-Dade	12%	12%

In order to assess the situation in Bond Court, Chicago Appleseed utilized court watching in 2010 and 2011, and conducted interviews to assess the impact of changes made to Central Bond Court in 2008. Based on assessments and recommendations from this work, we recommend renewed efforts to improve the Bond Court

The call in Bond Court proceeds extremely quickly, with little inquiry into a defendant's potential for failing to appear at the next court date. The result is that too many people remain in custody. These decisions are devastating to the system because defendants are saddled with a *de facto* unreviewable result following a thirty second hearing, leaving many to sit in jail awaiting the next court date. Aside from injustice, this results in massive expense to the County.

Of 75 hearings, court watchers observed only five instances in which a pretrial services report was taken into account in the proceedings. Some judges did consider mitigating circumstances, however, especially in smaller narcotics cases. Court watchers noted that similarly situated defendants received drastically different outcomes depending on which judge was presiding on a given day. Court watchers also noted that the quantity and quality of communication between the judge and the defendant varied widely. Some judges explained the proceedings to the defendants clearly and thoroughly, while others failed to address the defendants at all.

Additional recommendations concerning the Bond Court are included in Chicago Appleseed's Court Watching report, available at our website, [www.chicagoappleseed.org](http://www.chicagoappleseed.org). The report provides a summary of court watchers' observations and discusses the following recommendations:

- Slow the pace of the hearings to ensure individualized hearings and accommodate meaningful involvement by pretrial services.
- The pretrial services recommendation should be entered into the record prior to a ruling on bond.
- Provide defendants and their families with meaningful access to counsel and the court to present relevant mitigating evidence and financial information.
- Judges should seek testimony from relatives and friends of defendants who are present and have relevant information for the court.
- Pretrial services should provide verified information, so that judges may rely on that information and make informed decisions about bond.
- Control noise levels in the courtroom, replacing loud printers and fax machines.
- Establish a more uniform code of conduct and attire for courtroom personnel.

## SECTION THREE: ONGOING DATA COLLECTION, PROGRAM MONITORING AND EVALUATION

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### OVERVIEW

In a laudable effort to reduce waste and improve efficiency, County Board President Preckwinkle recently commissioned the STAR Performance Management Report, an effort to begin using data to drive County decision-making.<sup>60</sup> Important organizations and programs within the criminal justice system, however, were largely unable to take part in this assessment because they lacked data.<sup>61</sup> That is, many agencies could not evaluate their performance because they did not have the necessary information.

Presently, many County programs do not collect data or do systematic monitoring and evaluation. The people responsible for managing programs are often the same people evaluating those programs – it should come as no surprise that this system leads to biased performance evaluations. Chicago Applesseed recommends that the County implement the following strategies:

- start collecting program data, objectively assessing the impact of programs.
- monitor the data.
- evaluate program effectiveness.

### CREATION OF A DATA COLLECTION GROUP

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**Strategy 7: Collect Data using objective methods;  
monitor and evaluate programs.**

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We recommend that a data collection group be established so that information can be collected systematically, tracking defendants as they progress through the criminal justice system. An inter-agency group is needed. This data collection group must be independent of any one department or agency, and it should track individuals as they enter, are processed, and exit the system.<sup>62</sup> The database must be accessible so that each agency will be able to analyze program effectiveness.

Currently, departments have their own monitoring systems and there is no centralized analysis of the limited data that are available.<sup>63</sup> In some departments, clerks fill out coded paper forms (in order to collect data) which are then manually entered into the department's own database. If the department is then willing to share information, it must be manually re-typed into other departments' databases because the systems are not compatible.<sup>64</sup>

Jurisdictions that have centralized management of their criminal justice information systems report measurable improvement in case management and information availability at reasonable cost.<sup>65</sup> Such centralization projects can be implemented gradually to minimize costs, and they save money in the long run by reducing redundant effort.

The Colorado Integrated Criminal Justice Information System (CICJIS) was developed in less than four years and it costs the state less than \$1 million annually.<sup>66</sup> The CICJIS was implemented in order to “improve public safety by making more timely, accurate, and complete information available statewide to all criminal justice decision makers; to improve productivity of staff (reducing redundant data entry, collection, and storage efforts, as well as related paper processing); to enhance access to and quality of information; and to provide statistically reliable information.” One indication of the system’s success is its disposition match rate, which is the percentage of disposed court cases that have a matching arrest record. Since the CICJIS was implemented, Colorado’s disposition match rate has increased from approximately 10% (near the national average) to nearly 97%.<sup>67</sup>

While a statewide program may seem far-off, local efforts can be effective and may even spur reform at the state level.<sup>68</sup> For example, Harris County (Houston), Texas, has unified a number of previously partitioned databases. When the weaknesses of Harris County’s information systems were exposed, the county responded by integrating its information in the Justice Information Management System (JIMS). Using an incremental approach, the county not only unified its three previously isolated information systems but made JIMS available for jury management, payroll processing, and much of its civil justice information.<sup>69</sup>

Cook County requires an overhaul to get technologically up-to-speed. The quality of the present reporting system is questionable because it prevents outcome tracking. Results cannot be duplicated or reviewed because data are often unavailable, making it impossible to assess reported outcomes.

Many programs simply track “completion” statistics showing how many people enter the program compared with how many people finish it. Program completion statistics, while easy to compile, do not indicate whether programs are effective. Evaluations must focus on real effects on behavior. We need to analyze the impact of the programs on individuals going through them, the difficulty of meeting the needs of the target population, and the nature of treatment provided. Completion statistics are relevant for understanding when a given program is unsuccessful, but they do not directly gauge program effectiveness.<sup>70</sup> Data-driven decision-making must be based on tangible outcomes such as reductions in recidivism rates, long term cost savings, or cost effectiveness.<sup>71</sup>

## **Continuous Program Monitoring**

Changes in one part of the criminal justice system can be expected to affect other parts.<sup>72</sup> Data collection that is centered on individual programs or within individual departments can incorrectly estimate, if not entirely miss, effects elsewhere in the system.

Data-gathering programs must be comprehensive. Focusing narrowly on one program or department will underestimate measures necessary for informed decision-making.<sup>73</sup> For

example, recidivism may be underestimated because individuals reenter the criminal justice system through a different agency or jurisdiction. Other program effects, such as cost savings external to the department or program, can also be underestimated. Even the best analysis cannot accurately inform decision-making when it is based on bad data. A comprehensive dataset solves many of these problems by ensuring that data are gathered on all individuals as they enter and pass through the criminal justice system, regardless of the program.

Monitoring efforts must be continuous and ongoing. Policy makers require information about the effects of the programs over time. To facilitate high quality assessments, data must be collected on a consistent basis.<sup>74</sup> Defendants must be identified as they enter a program, tracked through the program, and then followed after completion of the program. Information from earlier stages may be lost if the data are collected only intermittently.<sup>75</sup> Incomplete data may also lack integrity because they may be skewed toward the more successful participants (perhaps because such persons can be easily located) or the least successful (perhaps because they are incarcerated). These problems are minimized through continuous data collection and monitoring, ensuring that the best data possible are available to inform policy decisions.

Independent, continuous, and comprehensive data collection groups are a common feature in many jurisdictions. Michigan, Oregon, Alaska, Colorado, Kansas and Minnesota are among the states employing such statewide databases including all criminal matters, both pending and closed.<sup>76</sup> Although Illinois lacks a statewide database, Champaign, Kankakee, Coles, McLean, Rock Island, and Sangamon counties have either begun implementation, have implemented, or are in discussion for development of countywide integrated systems; St. Clair and Madison counties are also developing these systems.<sup>77</sup>

This proposal is not new. The Cook County Integrated Criminal Justice Information Systems (CCICJIS) Committee proposed a similar plan in 2003 with the full approval and endorsement of the Chief Judge of the Cook County Circuit Court.<sup>78</sup>

## **Modes of Program Evaluation**

To assess the success of a program, its effects must be isolated from other variables that could determine outcomes. The simple presentation of absolute numbers can be misleading. For example, recidivism rates may seem high, but comparison to control groups may nonetheless show substantial improvement over other approaches.<sup>79</sup> Because comparative results are the best indicators of the impact of programs, the quality and validity of comparison group data is important. Comparison groups composed of similarly situated individuals who were processed prior to the creation of the program, or composed of concurrent participants using statistical techniques used to control for compositional differences, are good choices.<sup>80</sup>

Evaluations can be performed either internally or externally to the department or program being evaluated. Internal evaluation would generally be performed by departmental oversight committees, data collection specialists, or program administrators. External evaluations would be performed by independent groups such as university researchers, research firms, nonprofit organizations, or other agencies.<sup>81</sup>

Internal evaluation usually provides quicker and less expensive results, with a greater understanding of local issues and possibly with better access to data from other local agencies.<sup>82</sup> Regular evaluations assure that action and practices continue to conform to policies.<sup>83</sup>

External evaluations are generally more comprehensive than internal evaluations, as evaluators seek to understand effects of departmental policies both inside and outside of the department.<sup>84</sup> These evaluations are generally seen as more credible because the evaluators are not criticizing their own work or that of their colleagues.<sup>85</sup> External evaluators may have special expertise in doing complex analysis, such as cost-benefit analysis. Such expertise not only makes the results more credible but may also lead to a broader and more sophisticated analysis.<sup>86</sup> Although cost-benefit analysis is very useful for informed decision-making, strong underlying data must be the starting point, and care must be taken to avoid biases that can lead to underestimation of the costs and overestimation of the benefits.<sup>87</sup>

### **Process Evaluation**

Process evaluations assess the extent to which programs meet their own operational goals and operate as intended. Process goals are often measured by how long it takes to complete assigned tasks or by the number of assigned tasks completed or outstanding.<sup>88</sup> Frequent assessment of process goals helps to keep work moving through the program as well as to maintain consistency between official policies and actual practices. However, program effectiveness cannot be evaluated in terms of process goals because such goals only measure policy implementation, not the effectiveness of those policies.

### **Outcome Evaluation**

Outcome evaluations determine whether a program is successful as compared to a comparison group, e.g., whether goals such as reducing recidivism or drug use are being achieved.<sup>89</sup> Outcome evaluations can be done only after sufficient time has elapsed to permit a statistically significant number of individuals to complete the program.<sup>90</sup> Reevaluation should then be periodic to determine long-term effects on recidivism, drug use, or other program goals.

Outcome evaluations analyzing a program's impact within the system as a whole are important because overly narrow analysis may create inconsistency between the incentives of program directors and those of the system as a whole. To inform decision-making, evaluation must be based on outcomes within the system at large by placing individual program outcome evaluations within the context of the overall impact on that system.

Outcome evaluations should not be performed internally given Cook County's current patchwork data collection. Because agencies are limited to their own internal data and are unlikely to have proper control group data available, any outcome-based conclusions will be of extremely limited use.<sup>91</sup> The deficiencies of the County's current data management simply do not permit credible outcome analysis.<sup>92</sup>

Under the proposed Inter-Agency Data Collection Group system, however, outcome evaluations could be performed internally because reliable internal and external data would be available to every agency. Reliable system-wide data would also permit cost-

benefit analysis to be performed internally, though special attention would need to be paid to establishing the credibility of the analysis. This capability would provide a useful tool to department leaders advocating changes within, or expansion of, the programs they administer. Comprehensive data would also help managers seek additional funding for programs they can show to be effective.

### **Cost-Benefit Evaluation**

Cost-benefit evaluations are expanded outcome evaluations, where outcome factors (costs and benefits) are quantified.<sup>93</sup> Because cost-benefit analyses require some estimation, it is important to have quality data and an approach designed to avoid biases.<sup>94</sup> Quality data can be obtained by implementing the proposed Interagency Data Collection Group.

## CONCLUSION

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Diversion programs can markedly reduce recidivism and costs. Currently, Cook County's diversion programs handle only a small fraction of the defendants entering the criminal justice system. We propose a centralized Diversion Section to coordinate efforts among existing programs, analyze data on the effectiveness of the different programs, and take the lead in maintaining successful programs. To facilitate these transitions, Bond Court should be brought under the jurisdiction of the Criminal Division and two criminal courts should hear diversion cases as part of a Diversion Section.

A steering committee should be established to oversee and coordinate diversion. The committee would seek to maximize the countywide effectiveness of programming, and should be composed of representatives from, at a minimum, the following local entities: the Circuit Court, State's Attorney's Office, Public Defender's Office, TASC, Adult Probation, Sheriff's Department, County Board, Chicago Police, as well as at least one outside research or nonprofit organization.

The experience of other jurisdictions shows that diversion programs work best when they are employed as early and as broadly as possible. Eligibility criteria for placing defendants into existing programs must be expanded. A felony drug review system for dismissing cases and identifying individuals for diversion should be established as soon as possible. Defendants should be recommended for diversion through pretrial services reports prepared prior to their bond court appearances.

Deferred prosecution cases and post-plea diversion should be handled in courtrooms dedicated to diversion. Assignment to these courtrooms should occur at felony review or at the bond court stage, with an enhanced pretrial services report to better inform judges about flight risk. Judges must have time to review verified information from pretrial services and hear from the defendant before setting bond. A functioning, well staffed, and respected pretrial services agency is essential to diverting larger numbers of persons to diversion programs, reducing jail populations, reducing costs, and increasing effectiveness of existing programs.

A data collection group should be established to gather systematic information concerning all defendants as they move through the system. This group must be independent of interested parties within the system. The collected data should be monitored and evaluated for continuous program improvement.

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- <sup>1</sup> Many reports and project information can be found on the Chicago Appleseed Fund for Justice website, located at [http://chicagoappleseed.org/programs/criminal\\_justice\\_system\\_reform](http://chicagoappleseed.org/programs/criminal_justice_system_reform)
- <sup>2</sup> Available at: [http://chicagoappleseed.org/programs/criminal\\_justice\\_system\\_reform](http://chicagoappleseed.org/programs/criminal_justice_system_reform)
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- <sup>6</sup> "Characteristics of Inmates in the Cook County Jail," *Cook County Sheriff's Reentry Council Research Bulletin*, March 2011.
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- <sup>9</sup> See, e.g., "Avoiding Failures of Implementation: Lessons from Process Evaluations," Bureau of Justice Assistance, US Department of Justice, available at: [http://www.ojp.usdoj.gov/BJA/pdf/CCI\\_Failures.pdf](http://www.ojp.usdoj.gov/BJA/pdf/CCI_Failures.pdf)
- <sup>10</sup> Boyum, David A. and Mark A.R. Kleiman (2001) "Substance Abuse Policy from a Crime-Control Perspective." In *Crime: Public Policies for Crime Control*. Page 368-375.
- <sup>11</sup> The Drug School and DPP processes and programs differ from one another. Drug School participants are required to complete a 10-hour drug education program. Unless participants fail to attend class or are re-arrested, they are not required to appear again before the court. Three months from preliminary hearing, people who successfully complete Drug School have their cases dismissed, and their arrest records are immediately expugnable; those who do not complete Drug School continue with court proceedings. According to the SAO's internal reports, over 90% of registered defendants successfully complete the curriculum resulting in a dismissal of charges.
- <sup>12</sup> "Participant Volume (Unduplicated Admissions) Alternative Prosecution / Sentencing Programs Initiated And/Or Monitored by the CCSAO." Prepared and provided by the Cook County State's Attorney's Office.
- <sup>13</sup> "CCSAO Deferred Prosecution Court Referrals," September 19, 2011. Prepared and provided by the Cook County State's Attorney's Office.
- <sup>14</sup> "Cook County State's Attorney's Office Deferred Prosecution Program," March 2011 (estimated). Prepared and provided by the Cook County State's Attorney's Office.
- <sup>15</sup> Contract terms:
1. Defendant will not violate *any* criminal law.
  2. Defendant shall not possess a firearm or other deadly weapon.
  3. Defendant shall not possess controlled substances not prescribed by a doctor.
  4. Defendant must make full financial restitution to the victim or property owner.
  5. Defendant must obtain employment; if unable to find employment, defendant must complete 96 hours of community service.
  6. Defendant must complete GED if he has not already obtained a high school diploma.
  7. If needed, defendant must appear for a treatment service referral appointment.
  8. Defendant must attend all court dates and meetings with pretrial services.
- <sup>16</sup> "Cook County State's Attorney Deferred Prosecution Program," 2011.
- <sup>17</sup> "TASC Adult Criminal Justice Services: Information for Judges" November 2009, at 5. "TASC supervision is an enhanced form of probation available to certain categories of drug- involved defendants.

Eligibility criteria are defined by Article 40 of the Illinois Alcoholism and Other Drug Dependency Act (20 ILCS 301/40)."

<sup>18</sup> "Avoiding Failures of Implementation: Lessons from Process Evaluations," Bureau of Justice Assistance, US Department of Justice, pg 5. [http://www.ojp.usdoj.gov/BJA/pdf/CCI\\_Failures.pdf](http://www.ojp.usdoj.gov/BJA/pdf/CCI_Failures.pdf) See also, Pretrial Diversion in the 21<sup>st</sup> Century – A National Survey of Pretrial Diversion Programs and Practices, National Association of Pretrial Services Agencies, 2009, page 11,

<sup>19</sup> "Avoiding Failures of Implementation: Lessons from Process Evaluations," Bureau of Justice Assistance, US Department of Justice, pg 5. [http://www.ojp.usdoj.gov/BJA/pdf/CCI\\_Failures.pdf](http://www.ojp.usdoj.gov/BJA/pdf/CCI_Failures.pdf)

<sup>20</sup> See "Pretrial Diversion in the 21<sup>st</sup> Century" A National Survey of Pretrial Diversion Programs and Practices, National Association of Pretrial Services Agencies, 2009, page 11, at <http://www.napsa.org/publications/NAPSAPretrialPracticeSurvey.pdf>

<sup>21</sup> "Realizing the Potential of National Health Care Reform to Reduce Criminal Justice Expenditures and Recidivism Among Jail Populations," McDonnell, Maureen, et al. January, 2011. Center for Health and Justice at TASC.

<sup>22</sup> "King County is a leader among mental health courts, and Seattle among community courts . . ." Lorri Cox, *Problem-Solving in Seattle and King County Courts*, INSTITUTE FOR COURT MANAGEMENT (2010).

<sup>23</sup> King County, *Drug Diversion Court*, available at <http://www.kingcounty.gov/courts/DrugCourt.aspx>

<sup>24</sup> Creating Integrated Service Systems for People with Co-Occurring Disorders Diverted from the Criminal Justice System, at 2 (2004) available at [http://gains.prainc.com/pdfs/integrating/King\\_County.pdf](http://gains.prainc.com/pdfs/integrating/King_County.pdf)

<sup>25</sup> County, city, state and federal governments, the Center for Court Innovation and the Kings County District Attorney's office were all instrumental in the planning process. Today, more than 20 "institutional partners" help guide the RHCJC and provide services and resources to the Center.

<sup>26</sup> Adam Mansky, *Straight Out of Red Hook: A Community Justice Centre Grows in Liverpool*, 87 JUDICATURE 254 (2004).

<sup>27</sup> Adam Mansky, *Straight Out of Red Hook: A Community Justice Centre Grows in Liverpool*, 87 JUDICATURE 254 (2004).

<sup>28</sup> CENTER FOR COURT INNOVATION. RED HOOK COMMUNITY JUSTICE CENTER. Available at <http://www.courtinnovation.org/project/red-hook-community-justice-center>

<sup>29</sup> Illinois Supreme Court Rule 21(c)

<sup>30</sup> "Drug Courts: A Review of the Evidence," The Sentencing Project, pg 14. [http://www.sentencingproject.org/doc/dp\\_drugcourts.pdf](http://www.sentencingproject.org/doc/dp_drugcourts.pdf)

<sup>31</sup> "BJA Drug Court Discretionary Grant Program: FY 2011 Requirements Resource Guide," pgs 3-4. <http://www.ojp.gov/BJA/grant/11BJASAMHSADrugCourtResource.pdf> "Drug Courts: A Review of the Evidence," The Sentencing Project. [http://www.sentencingproject.org/doc/dp\\_drugcourts.pdf](http://www.sentencingproject.org/doc/dp_drugcourts.pdf)

<sup>32</sup> The Impact of a Mature Drug Court Over 10 Years of Operation: Recidivism and Costs, NPC Research, April 2007, pages 30, 50, <https://www.ncjrs.gov/pdffiles1/nij/grants/219225.pdf>

<sup>33</sup> "Avoiding Failures of Implementation: Lessons from Process Evaluations," Bureau of Justice Assistance, US Department of Justice, pg 7. [http://www.ojp.usdoj.gov/BJA/pdf/CCI\\_Failures.pdf](http://www.ojp.usdoj.gov/BJA/pdf/CCI_Failures.pdf)

<sup>34</sup> Disproportionate Justice Impact Study Commission's 2010 report, pages 33-34. [http://www.centerforhealthandjustice.org/DJIS\\_FullReport\\_FINAL.pdf](http://www.centerforhealthandjustice.org/DJIS_FullReport_FINAL.pdf)

<sup>35</sup> "Characteristics of Inmates in the Cook County Jail," *Cook County Sheriff's Reentry Council Research Bulletin*, March 2011, page 4.

<sup>36</sup> The County estimates that it costs approximately \$143.00 per day to house an inmate at the Cook County jail. <http://blog.cookcountygov.com/2011/10/06/pres-preckwinkle-announces-up-to-1-million-for-sheriff%E2%80%99s-electronic-monitoring-program/>

<sup>37</sup> Survey of Pretrial Services Programs, Pretrial Justice Institute, August 11, 2009, page 70, <http://www.pretrial.org/Docs/Documents/PJI%27s%20Survey%20of%20Pretrial%20Programs%202009.2.pdf>

<sup>38</sup> "Population Dynamics and Characteristics of Inmates in the Cook County Jail," *Cook County Sheriff's Reentry Council Research Bulletin*, February 2012, page 5.

- <sup>39</sup> American Bar Association (ABA) Standard 10-4.2; Survey of Pretrial Services Programs, Pretrial Justice Institute, August 11, 2009, page 32, <http://www.pretrial.org/Docs/Documents/PJI%27s%20Survey%20of%20Pretrial%20Programs%202009.2.pdf>
- <sup>40</sup> NAPSA Standard 2.1, Promising Practices in Pretrial Diversion, National Association of Pretrial Services Agencies, page 22, <http://www.pretrial.org/Docs/Documents/PromisingPracticeFinal.pdf>
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- <sup>44</sup> “Requirements For An Enhanced Pretrial Services Project in Central Bond Court”, Malcolm Young, 11/1/11, prepared for use by the Cook County Judicial Advisory Council and the President of the Cook County Board of Commissioners.
- <sup>45</sup> Survey of Pretrial Services Programs, Pretrial Justice Institute, August 11, 2009, page 35, <http://www.pretrial.org/Docs/Documents/PJI%27s%20Survey%20of%20Pretrial%20Programs%202009.2.pdf>
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- <sup>48</sup> Survey of Pretrial Services Programs, Pretrial Justice Institute, August 11, 2009, page 36-7, <http://www.pretrial.org/Docs/Documents/PJI%27s%20Survey%20of%20Pretrial%20Programs%202009.2.pdf>
- <sup>49</sup> Risk assessment instruments generally include the following factors: local address, length of time in the area, length of time at current address, length of time at prior address, living arrangements, employment and educational status, use of alcohol or drugs, prior arrests, prior convictions, whether the defendant is on probation, parole, or pretrial release, compliance with probation, parole, or pretrial release, and the defendant’s prior court appearance history. Survey of Pretrial Services Programs, Pretrial Justice Institute, August 11, 2009, page. 38, <http://www.pretrial.org/Docs/Documents/PJI%27s%20Survey%20of%20Pretrial%20Programs%202009.2.pdf> Other factors sometimes considered include: parental status/support of children, income level, physical or mental impairment, age, comments from victim, and references. Survey of Pretrial Services Programs, Pretrial Justice Institute, August 11, 2009, page 38, <http://www.pretrial.org/Docs/Documents/PJI%27s%20Survey%20of%20Pretrial%20Programs%202009.2.pdf> Specialized risk assessment tools are also sometimes used for particular populations, especially defendants suspected of having substance abuse or mental health problems. Survey of Pretrial Services Programs, Pretrial Justice Institute, August 11, 2009, page 39, <http://www.pretrial.org/Docs/Documents/PJI%27s%20Survey%20of%20Pretrial%20Programs%202009.2.pdf> When mental health problems are suspected, most pretrial services programs take action, either giving this information specifically to the court, or, less commonly, arranging for an evaluation with a mental health professional before the initial court appearance. Survey of Pretrial Services Programs, Pretrial Justice Institute, August 11, 2009, page 39, <http://www.pretrial.org/Docs/Documents/PJI%27s%20Survey%20of%20Pretrial%20Programs%202009.2.pdf>

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<http://www.cookcountyclerkofcourt.org/?section=FAQSPage>
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