



# City and County of San Francisco

## Master Report

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<b>Comment:</b> No fiscal impact.	<b>Title:</b> Motion requesting the Office of the Legislative Analyst to report on the community court system, its feasibility for implementation in San Francisco, and benchmarks of existing courts in San Francisco and similarly sized cities.	
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	<i>Scheduled for consideration December 4, 2000.</i>					
1	Board of Supervisors	12/4/2000	APPROVED			P



## LEGISLATIVE ANALYST REPORT

TO: HONORABLE MEMBERS OF THE BOARD OF SUPERVISORS  
 FROM: Gabriel Cabrera, Legislative Analyst *GC*  
 Elaine Forbes, Legislative Analyst *E. Forbes*  
 DATE: March 13, 2001

**SUBJECT: THE COMMUNITY COURTS MODEL AND FEASIBILITY OF  
 IMPLEMENTATION IN SAN FRANCISCO**

SUMMARY**SUMMARY OF REQUESTED ACTION**

On December 4, 2001 the Board of Supervisors requested that the Office of the Legislative Analyst report on the community courts system, feasibility for its implementation in San Francisco, and benchmarks of existing courts in San Francisco and similarly sized cities.

**EXECUTIVE SUMMARY**

Community courts are an alternative to traditional criminal court case processing of misdemeanor crimes and infractions (also referred to as "quality-of-life" offenses).<sup>1</sup> While components and implementation of community courts vary, these courts typically design a program of community service and social service treatment for low-level, quality-of-life offenses. Community court sentences are intended to help restore neighborhoods through community service projects and to rehabilitate defendants through social service programs. The concept is growing in popularity: the first community court opened in 1993, currently 12 are operating nationwide with 12 more planned. A community court already exists in San Francisco. However, this court varies significantly from other community courts.

This report examines community courts in three cities: New York City; Portland, Oregon; and Austin, Texas. All three courts have data that demonstrates their effectiveness at addressing recidivism and rehabilitating both victims and offenders. Whether a community court system, like those surveyed in this report, is appropriate for San Francisco is a policy decision. Factors include community needs and values and the availability of resources. Proponents of community courts in San Francisco include some merchant and neighborhood Adopt-A-Block groups, and the Mayor's Office of Neighborhood Services, while opponents include the San Francisco Coalition on Homelessness and the Lindesmith

<sup>1</sup> Based upon review of community courts nationwide, it appears that each court develops an individual definition for the term quality-of-life offense. The most typical offenses processed are theft, prostitution, low-level drug possession and sales, unlicensed vending and disorderly conduct.

Center-Drug Policy Foundation. The concerns of these groups are discussed in this report. If San Francisco's various communities agree that community courts are a better alternative to traditional case processing of quality-of-life offenses, then the City may choose from among the various community courts structures and/or add new features to create a community court system that reflects the City's particular needs and values.

## BACKGROUND

### COMMUNITY COURTS

Community courts are part of a movement to shift the focus of the criminal justice system, in particular its handling of quality-of-life crimes such as minor drug possession, prostitution, shoplifting, and disorderly conduct, from traditional criminal court case processing to community-based restoration. Community-based restoration refers to the sentencing of offenders to community service, preferably to compensate the neighborhood where the crime occurred, and offering defendants help through social services. This movement began in the 1980's with community policing, followed by community courts, community prosecution, and other such initiatives in the 1990's. While the specifics of programs vary, certain premises remain constant: (1) that traditional courts focus resources on serious crime and devote insufficient attention to quality-of-life offenses; (2) that quality-of-life offenses may lead to more serious crime, which causes social and economic problems in neighborhoods where crime occurs, therefore, sentences should include community service; (3) that offenders should have the opportunity for rehabilitation; and (4) that community members have a stake in the production of effective justice and accordingly have a role to play in shaping the justice system.

Midtown Community Court in New York City, established in 1993, is the first community court in the United States. According to Eric Lee from the Center for Court Innovation<sup>2</sup>, 12 community courts currently operate nationwide in Connecticut, Delaware, Florida, Georgia, Minnesota, New York, Oregon, Tennessee, and Texas. New York City and Portland both have two courts and plan to open a third in 2001. San Francisco's Community Court (discussed below) varies significantly from the 12 community courts nationwide. Thirteen other jurisdictions, including Oakland and San Diego, California, plan to establish community courts in the near future, according to Mr. Lee.

While these 12 courts share basic components, they are tailored to satisfy the particular needs and values of the communities they serve. These community court models vary as follows<sup>3</sup>:

- **Area of Jurisdiction and Court Location.** Community courts may be centralized (located downtown) or decentralized (located in neighborhoods). Most courts have case specific jurisdiction (all quality-of-life offenses) and geographic jurisdiction (eligible crimes that occur within the court's geographic boundaries, or catchment area). For example, some courts are located in a neighborhood and have jurisdiction over quality-of-life crimes that occur within the neighborhood. Others courts may be located within the traditional, centrally located court and hear eligible cases that occur within either a particular neighborhood or throughout the entire city.
- **Administration.** Judges administer community courts. Some courts have a full-time judge, while others use a part-time judge. Most courts use the same judge to promote familiarity with repeat

<sup>2</sup> CCI is an independent research and development arm of the New York State Unified Court System.

<sup>3</sup> Information gathered by phone conversation with Eric Lee, Deputy Director, Center for Court Innovation and from US Department of Justice, Office of Justice Programs, Bureau of Justice Assistance. March 2000. "*Community Courts: An Evolving Model*".

offenders and neighborhood concerns. Intake and court coordinators provide judges with information about defendants' individual circumstances. This information aids judges to shape sentences. Also, judges collaborate with community residents (in some form of advisory council) to select community restoration projects.

- **Procedures.** Most community courts require defendants to plead guilty to the charges at arraignment<sup>4</sup> or enter into a deferment of judgment agreement without entering a guilty plea. Typically, community courts do not offer trials or determine guilt or innocence of defendants. If a defendant pleads not guilty at arraignment, he/she is sent to a traditional court. Some community courts arraign cases, while others process cases referred after arraignment by the traditional court (please refer to Attachment 1, Midtown Case Flow Summary).

- **Types of Crimes.** Community courts process a range of crimes that comprise quality-of-life offenses. The most typical offenses processed are theft (e.g., shoplifting and theft of services including transit fares), prostitution, low-level drug possession and sales, unlicensed vending and disorderly conduct. While most community courts hear only misdemeanor and infraction criminal cases, others consider the lowest level felonies, juvenile delinquency and housing code violations.

- **Sentences.** Community court sentences may include traditional sentences including incarceration. However, the most typical sentence is community service, which ranges from a few hours to several days of service. Some courts impose social service sanctions, which require defendants to participate in various social service programs, such as alcohol and drug treatment as part of the court sentence. Other courts provide social services at the option of the offender.

- **Availability of Social Services.** Community courts vary from referring offenders to social services to providing the social services, such as drug treatment, counseling, and assistance with entitlements (such as general assistance and social security), on site.

- **Enforcement and Followup.** Generally, community courts emphasize enforcement of community service sanctions and tracking offender progress in social service programs, in order to break the cycle in which offenders commit another crime and reenter the court system. Some courts use computer programs, in which community service work supervisors and social service providers enter information about the defendant's progress for the judge's review. Privacy safeguards would need to be considered in implementing such a system. Other courts have continuing progress interviews between the judge and the defendant during the period when the defendant participates in social service sanctions, such as drug treatment. Most community courts graduate sanctions, meaning that reoccurrence and/or non-compliance with sanctions results in harsher sanctions. If a defendant fails to appear for community service and to respond to correspondence from the court, some courts will issue bench warrants, which are enforced and can result in incarceration.

## CURRENT LAW AND PRACTICE

### *San Francisco*

In the late 1990's, San Francisco merged its superior and municipal courts into a single unified court system in accordance with Proposition 220. Within this system, there are 3 juvenile courts, 3 traffic/infraction courts, 5 family courts, 20 criminal courts and 33 civil courts, a total of 64 courts. These courts are presided over by either a judge or a commissioner.<sup>5</sup> According to Gordon Park-Li, the

<sup>4</sup> Arraignment is when the defendant enters a plea.

<sup>5</sup> A subordinate judicial officer employed by a court, who performs judicial or quasi-judicial duties assigned to him or her by a court.

Court's Chief Executive Officer, 49 judges and 15 commissioners currently work in San Francisco. Mr. Park-Li estimates that the total annual cost to operate this court system is about \$62.5 million. Its funding sources include \$55 million from the State Trial Court Fund and \$7.5 million from the City and County of San Francisco General Fund.

According to the Judicial Council of California, in FY 1998-99 (the latest year of available data), there were 148,090 criminal filings<sup>6</sup> in San Francisco. Therefore, criminal filings per court (i.e., court caseload) averaged about 6,440 (based on 20 criminal courts plus 3 traffic/infracton courts and 148,090 filings in FY 1998-99). However, this figure is probably conservatively low because, according to the Judicial Council, the total number of felony filings (i.e., the number of defendants charged with a felony) exclude "certified pleas and informations" filed in pre-unification superior courts.

Separate from this unified court system, the City operates the San Francisco Community Court. This court offers an alternative to traditional criminal court processing of adult offenders charged with misdemeanor crimes and infractions, including but not limited to, petty gambling, graffiti, littering, shoplifting, assault/battery and lesser drug violations. The purpose of the court is to discourage quality-of-life violations by authorizing a judge arbitrator<sup>7</sup>, in consultation with a citizen panel, to sanction offenders with fines and/or community service. Currently, this court operates in two San Francisco neighborhoods: Bayview and Oceanview-Merced Ingleside (OMI). Hearings in the Bayview are held at City College of San Francisco at 1400 Evans Avenue, and the OMI hearings are held at the Temple United Methodist Church, located at 1111 Juniper Serra Boulevard (please refer to Attachment 2, San Francisco Community Court Case Flow Summary). The City operates or supports other alternative-to-incarceration programs, including but not limited to the Sheriff's Work Alternative Program (SWAP), juvenile drug court or "YTEC" (Youth Treatment and Education Court), and adult drug court or "the Court of HOPE" (Helping to Overcome Problems Early).

It is important to note that San Francisco's Community Court varies significantly from community courts nationwide. First, in San Francisco a judge arbitrator, rather than a judge, administers the court. Second, drug treatment services are not directly available to offenders through Community Court, as is the case in other jurisdictions. Instead the San Francisco Pre-Trial Diversion Project (a non-profit organization which directs community service for the District Attorney's Office) assesses and refers Community Court participants to drug treatment in the community. The Diversion Project also refers participants to mental health services, anger management classes and adult education programs in the community. Third, failure to complete community service or pay restitution does not result in increased sanctions. Instead, the case is automatically referred to the traditional court process. Finally, offenders are not brought back to Community Court for progress checks, as is the case in the other jurisdictions.

The Misdemeanor Intake Division (the Division) of the District Attorney's Office determines whether a case is eligible for Community Court. Eligibility depends, among other factors, on the type of offense and the likelihood of its resolution in Community Court. If eligible, the Division refers the case to

<sup>6</sup> Filings refer to the number of defendants against whom criminal charges have been filed.

<sup>7</sup> A judge arbitrator is a person chosen to settle the issue between parties engaged in a dispute or controversy. To become a judge arbitrator for San Francisco's Community Courts, individuals must apply to the Community Court Advisory Committee and attend training.

California Community Dispute Services (CCDS), a non-profit organization, which arranges a Community Court hearing. According to Thom Bateman of CCDS, the court processes approximately 1,200 quality-of-life violations each year. These cases would, otherwise, have been processed through the traditional court system.

If determined ineligible, the Division: (1) files criminal charges against the offender, (2) retains the case for further investigation, or (3) dismisses the case. The Division does not maintain statistics regarding the number of cases falling into each of these categories and, therefore, cannot estimate the total number of cases that could potentially be diverted from traditional court to Community Court. However, Mr. Bateman estimates that throughout the City, about 60,000 misdemeanor crimes and infractions may be eligible for diversion to Community Court each year. However, Judith Garvey of the Division believes that this figure is most likely overestimated because only crimes committed in the areas where the court operates are eligible for Community Court, and offenders must meet eligibility criteria for diversion through the Pretrial Diversion Project.

Will Leong of the Pre-Trial Diversion Project advises that Community Court participants are more likely to complete community service than offenders referred from the traditional court system for community service. According to Mr. Leong, this is because Community Court participants typically have shorter community service sentences, and Pre-Trial Diversion Project staff are present at community court hearings, while they are not always present at traditional sentencing proceedings.

While detailed figures are not available, it appears to cost less to process an offender through Community Court than the traditional court system. Average cost through traditional court is about \$422 (based on a budget of \$62.5 million and 148,090 criminal filings in FY 1998-99). According to Mr. Bateman, the cost to process an offender through Community Court is about \$75. The cost of processing offenders, however, may not be the most appropriate factor for determining whether the City should expand the current Community Court and/or adopt a new model. For example, the existing Community Court provides other benefits including, but not limited to, victim restitution and community restoration.

### ANALYSIS/ FINDINGS

#### **OTHER JURISDICTIONS**

##### *New York, New York*

The Midtown Court, which opened in 1993 after a two-year planning process, is a neighborhood-based court that serves the commercial district and residential areas of Midtown Manhattan. Midtown arraigns misdemeanor and violation offenses<sup>8</sup> that occur in the area where the court operates and disposes of cases in which a guilty plea was entered at arraignment. A judge administers the Midtown Court, which operates Monday through Friday. The court arraigns approximately 15,000 and disposes of approximately 12,000 cases each year.

Midtown processes a range of criminal cases, from fare beating and illegal vending to drug possession. The breakdown of cases disposed from 1993-1996 was: theft of services (e.g., transit fares) (35%), unlicensed vending (17%), petty larceny (16%), prostitution (11%), low-level drug possession and

<sup>8</sup> Violation offenses in New York are equivalent to infractions in California.

sales (7%), and other misdemeanor offenses (14%). Most defendants are sentenced to community service (63%) and social service sanctions (24%).<sup>9</sup> The judge crafts sentences using a software application that includes detailed information about the defendant, such as drug use, mental health, housing, and education and employment histories. Depending on the circumstances, the judge will combine community service with treatment sanctions. For example, the judge may sentence offenders who have a documented history of crime and drug abuse to long term drug treatment.<sup>10</sup>

Sentence compliance is carefully monitored. A software application allows the judge, case managers, and police officers to track the defendant's progress. Additionally, social services are provided on-site, including drug treatment, health care courses (such as a health education class for prostitutes and "johns"), housing assistance and job training. Services are available on a voluntary basis to offenders, and to the entire community.

The community is strongly involved at the Midtown Community Court. Community residents and business representatives choose community service projects; the *community advisory board* reviews court operations and results; the *community conditions panel* keeps the court abreast of local problems; and community members meet face-to-face with offenders and discuss the effect of their behavior on the community.

Costs and Outcomes - The Midtown Court is among the best funded and most thoroughly evaluated community courts in the nation. The cost of the coordinating staff, who manage programs and services (excluding the judge, attorneys, and probation staff), is \$1.2 million per year, approximately \$100 per case disposed. During the 18-month pilot phase (October 1993 – April 1995), funding came from the federal Department of Health and Human Services, the state court system, the National Institute of Justice, the State Justice Institute, the City of New York and 33 private foundations and corporate sponsors.<sup>11</sup> Since April 1995, the State Court System and the City of New York have funded Midtown.

The Midtown Community Court pilot has been documented both in an independent evaluation by the National Center for State Courts and in publications of the US Department of Justice. The former evaluation found that Midtown's compliance rate for community service was 75%, the highest in the city, compared to 48%, the average compliance rate citywide. Offenders performing community service were found to contribute the equivalent of \$175,000 of labor to the community each year. The evaluation found that in conjunction with aggressive law enforcement and economic development efforts, the court has had an impact on neighborhood crime: prostitution arrests dropped 56% and illegal vending was down 24%. Additionally, according to Bridget Regan from CCI, court data shows that 16% of defendants return voluntarily to use services offered at the court.

### *Portland, Oregon*

Two community courts currently operate in Portland, Oregon. A third court is planned to open in March of 2001. The North/Northeast Community Court has been operating since March 1998. The Southeast Court opened in February 2000. A judge administers community court sessions, which are

<sup>9</sup> Center for Court Innovation, Staff Project. 1998. "*The Midtown Community Court Experiment*".

<sup>10</sup> Offenders are more typically mandated to a four-day treatment readiness program rather than long-term treatment with the goal that the person will voluntarily enroll in long-term treatment, which Midtown coordinates with local treatment service providers.

<sup>11</sup> Currently, foundation and corporation funding is program specific.

held weekly at local community centers. The courts process misdemeanor and infraction offenses that occur within their respective catchment areas, which follow police precinct boundaries. Cases arraigned include misdemeanors and person-to-person matters<sup>12</sup> such as assault of a public safety officer, child neglect, harassment, and stalking, and exclude misdemeanors where the offender is taken into custody, domestic violence and offenders who are registered sex offenders. Four crimes make up 92% of cases: Theft/Shoplifting (52%), Drug or Prostitution Free Zone Trespass (22%), Prostitution (13%), and alcohol-related offenses (5%).

Defendants arrested on misdemeanor or violation charges within the community courts' catchment areas are arraigned, and those who plead guilty receive a sentence with community service and social service components. The courts, combined, arraign approximately 1,700 and dispose of 1,200 cases per year. A public defender is present at each court session, and staff from social service agencies are available on-site to refer defendants to services.<sup>13</sup>

Community involvement played a key role in the development and administration of the courts. The community courts grew out of a Neighborhood District Attorney program, which started in 1990. The Neighborhood District Attorney program exposed widespread resident concerns about inattention to low-level quality-of-life offenses. After visiting the Midtown Community Court in 1994, Portland District Attorney, Michael Schrunk felt the community court model offered a solution to community concerns. Both community courts have a *Citizen Advisory Committee*, made up of neighborhood residents and local government agency staff. The Committees are charged with identifying community priorities, assisting in developing sentencing guidelines, and suggesting community service projects. According to Judy Phelan, Assistant to the District Attorney, over time the judge has come to rely on and solicit the advice of the *Citizen Advisory Committee*.

Costs and Outcomes - The North/Northeast and Southeast community courts operate on \$253,000 and \$225,000 budget annually, respectively.<sup>14</sup> Per capita costs are approximately \$352 at the North/Northeast court and \$250 at the Southeast court per filing. Funding sources are one-half state and local and one-half federal grants. The Portland courts are relatively new and have not yet been formally evaluated. Some results have been documented, however. For example, through August 31, 2000, offenders performing community service contributed the equivalent of \$54,444 of labor to the community and offenders have a 74% rate of successful completion of sanctions, compared to the 61% average citywide.

#### *Austin, Texas*

The Downtown Austin Community court, opened in October 1999, is a central, downtown-based community court that processes quality-of-life cases that occur within the downtown Austin area. Defendants agree to participate in community court by signing a deferral of judgment agreement and entering a no contest plea. This allows the judgment to be deferred until the end of the agreement, and thus allows defendants to avoid the offense appearing on their criminal record if they successfully complete the conditions of the deferral agreement. The community court operates Monday through

<sup>12</sup> Most person-to-person matters are disposed of downtown.

<sup>13</sup> The Courts offer referrals to social services for low-income health insurance, housing, employment counseling, GED courses, emergency food, shelter and clothing, alcohol, drug, and mental health evaluation, parenting skills, disability services, prostitution alternatives, and Spanish and Russian-language services.

<sup>14</sup> This does not include in-kind services and donations.



Friday in the Austin Municipal Court complex. The court is administered by a full-time judge and has disposed of more than 4,000 cases in its first seven months.

The court processes petty crimes, such as public intoxication and panhandling, which are perceived as contributors to blight in downtown Austin. Deferral agreements are most typically community service combined with social service sanctions. According to the Court's judge, Elisabeth Earle, the court bridges the gap between the court, social service agencies, law enforcement and the community, which allows the community court to protect the community's quality of life in a proactive manner. The judge, working with a resource coordinator, crafts rehabilitation plans that include a range of social services, from acupuncture detoxification, to peer counseling, day and residential treatment for substance abuse, and mental health counseling. The community court, in collaboration with other city agencies, also helps offenders reenter the work force. Social services are coordinated by court-based social workers. Deferral agreements are enforced; if the offender fails to comply, a warrant is immediately issued for the defendant's arrest and he/she is brought back to community court to explain the reason(s) for non-compliance. Depending on the circumstances, the defendant may have a harsher sentence issued by the court.

Costs and Outcomes - The cost of Downtown Austin Community court is \$711,116 to process approximately 5,500 cases annually, about \$130 per case. While no formal evaluation has been conducted, according to Downtown Austin Community court data, over 80 - 90% of defendants comply with the community service component of the deferral agreement. Additionally, according to Ronnie Earle, Travis County District Attorney, the court's approach of graduated community and social services sanctions is addressing blight in downtown Austin, and the recidivism and drug dependency of quality-of-life offenders.<sup>15</sup>

#### **FEASIBILITY OF IMPLEMENTING COMMUNITY COURT(S) IN SAN FRANCISCO**

In determining whether a community court(s) program is appropriate for San Francisco, the Board of Supervisors may want to consider the following issues:

- **Community interest.** Community courts grow out of concern and frustration about the way the criminal justice system processes quality-of-life offenses. The Board may commission an assessment to determine public satisfaction with the current court system as well as interest in the community court concept. Such an assessment would likely include (1) focus groups; (2) surveys of stakeholders including merchants, residents, offenders and their advocates; and (3) data gathering and analysis. There are already a number of individuals and organizations that support the idea of a community court in San Francisco. These groups include certain merchant and neighborhood Adopt-A-Block groups, the Mayor's Office of Neighborhood Services, and the Center for Court Innovation. According to these groups, community courts help defendants address problems that often lead to criminal behavior. They also assert that community courts provide other benefits, including victim restitution and community restoration.
- **The planning process.** The community courts planning process is complex. It involves fund raising, obtaining support and participation within and outside of the criminal justice system, and

<sup>15</sup> A survey conducted by court planners in Austin found that 55% of those arrested for disorderly conduct had been arrested before. Planners also found that 56% of those committing quality-of-life offenses reported suffering from drug or alcohol addiction.

coordination among agencies and personnel that may have differing, and long-established policies and procedures. In particular, obtaining judicial and administrative support to focus more attention and resources on low-level matters has proven difficult for most of the courts surveyed for this report. Also, bringing community residents and social service providers into the courts' decision-making structure has taken time and effort. Nonetheless, in Oregon and New York traditional courts have been increasingly supportive of community courts, once established, and collaborative relationships among social services, community residents, and other stakeholders, have been expanded and integrated into the courts staffing and administration.

- The planning process for eleven of the twelve community courts nationwide averaged two years. In most cases, an influential stakeholder, such as the district attorney, spearheaded the planning process.<sup>16</sup> More than half of the courts hired a full time coordinator during the planning period. San Francisco would need to identify the persons and the resources needed for the planning process. The Mayor's Criminal Justice Council (MCJC) secures state and federal funding for different criminal justice programs, such as the adult drug court, the community court initiative, and the neighborhood crime prevention program. MCJC might offer coordinating and funding support to enhance, or develop new, community courts.
- **Designing the right community court(s) for the City.** An effective community court is responsive to community concerns, helps to restore neighborhoods, provides treatment to offenders, and uses methods that reflect the values of various communities. Bringing a wide range of stakeholders to the table early, including residents, merchants, social service providers, beat cops, the defense bar,<sup>17</sup> and public interest advocates is the first step to ensure that the court(s) reflect multiple values and concerns.
- **Location of the Court.** Court goals, available resources and space requirements all shape location of the court(s). For example, the court may need a holding cell and the ability to transport defendants. While locating within the service neighborhood is optimum in terms of community accessibility, community courts have developed various location solutions including operating within a centralized courthouse and conducting community court activities such as community service, social services, and community meetings in the neighborhoods.
- **Due process.** Local public interest groups, including the Coalition on Homelessness and The Lindesmith Center, believe that community courts violate due process rights because, in their view, community courts are more concerned with sentencing an individual to community service than determining whether he/she actually committed a crime. Most community courts are designed to sentence and monitor defendants, not to determine guilt or innocence. However, generally, for a defendant to take part in the community court process, he/she must plead guilty, sign a deferment of judgment, or a consent order. Due process issues are legal matters more appropriately addressed by attorneys.
- **Scope and Case Diversion.** Local advocacy groups are concerned that focusing attention on quality-of-life violations, which are disproportionately committed by homeless and mentally ill persons due to their circumstances, will criminalize homelessness and mental illness. Additionally, opponents are concerned that community courts may create incentives for police to ticket individuals to get them off the streets or into social service programs.
- While community courts do focus attention on quality-of-life offenses, some courts divert cases that would have been processed through the traditional system; others also process a new range of

<sup>16</sup> Initiative leaders of community courts nationwide included district attorneys (5 cases), local court administrators (4 cases), and/or collaboration between the Mayor's Office and the Countywide Justice Commission (2 cases).

<sup>17</sup> Active bar members who are defense attorneys.

previously ignored offenses. Diverting cases that would otherwise be processed through the traditional system would allow community courts to craft sentences that combine community restoration with help for the offender, and move away from the two traditional extremes for these types of offenses: time served and jail time. Processing a new range of offenses, including *necessity of life* offenses such as public urination and loitering, may, however, put into the court system persons who might be better served by social services, health services or other resources. The existing 12 community courts, in coordination with local law enforcement, have all specified which crimes to include in their purview, based on the concerns of the communities they serve. San Francisco court planners, through a community process, could determine the range and scope of cases to process that best reflect the values in the City.

- **Proposition 36.** The overlap between Proposition 36-mandated probation and drug treatment and community courts is unclear. Certain elements of effective Proposition 36 implementation, including close collaboration among criminal justice agencies, drug treatment agencies and education, social and health service providers, as well as sentence enforcement and monitoring, mirror key components of successful community courts nationwide. Nonetheless, diverting Proposition 36 eligible defendants to community courts is problematic for two reasons. First, Community courts typically process misdemeanor and infraction cases, whereas most Proposition 36-eligible cases will be felonies. Second, diverting all Proposition 36-eligible offenders to community courts for arraignment could be problematic because Proposition 36 eligibility is determined at conviction, whereas community courts eligibility is typically determined by the nature of the charges.<sup>18</sup>

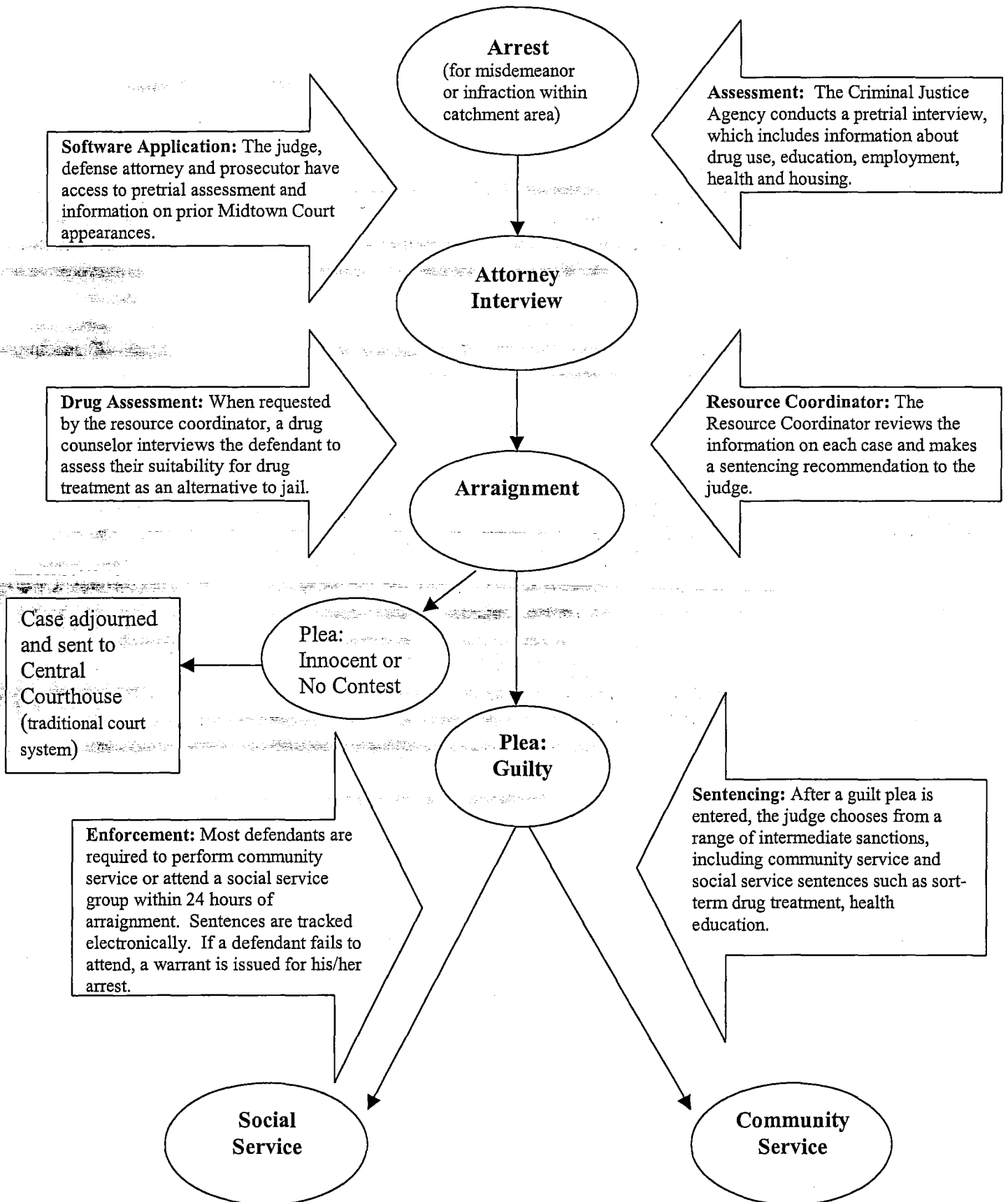
### CONCLUSION

In addressing quality-of-life offenses, community courts appear to be more effective than traditional courts at addressing recidivism and rehabilitating both victims (the neighborhood) and offenders. However, developing community courts is a complex undertaking. While a number of San Francisco citizens and officials are supportive of establishing a community court(s), as demonstrated by the pilot community courts and expressed in conversations with criminal justice officials, others, including the Coalition on Homelessness and the Lindesmith Center, have expressed concern regarding issues of due process and criminalization of mental illness and homelessness. Whether a community court program is appropriate for the City is a policy decision. Factors include community needs, values, and available resources. If San Francisco's various communities believe that combining community service sanctions with rehabilitation is a superior solution to addressing quality-of-life offenses than the current system, the City has an opportunity to choose among the various community courts structures and/or add new features to build a community court system that reflects the City's particular needs and values.

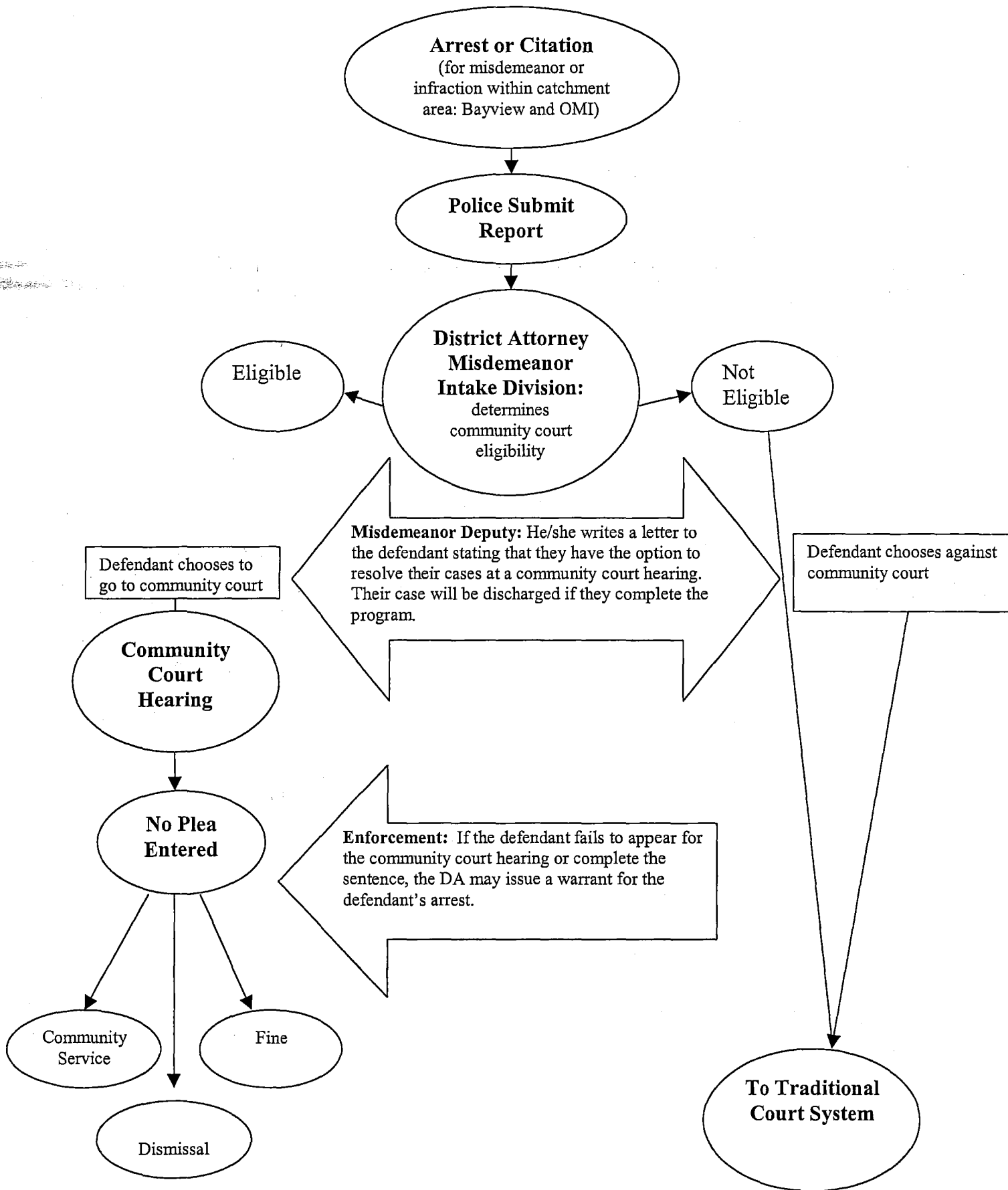
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<sup>18</sup> For example, if a person is charged with burglary and illegal drug possession, and plea negotiations eliminate the burglary allegation, or if at trial the offender is acquitted of the burglary charge but found guilty of the drug charge, that offender is Proposition 36 eligible. See Opatrny, Dennis, "Frequently Asked Question About Prop 36," The Recorder, December 14, 2000.

## Attachment 1 - Midtown Community Court Case Flow Summary



**Attachment 2 - San Francisco Community Court  
Case Flow Summary\***



\* In San Francisco, the entire community court process occurs in between the Arrest and Attorney Interview steps in the Midtown Model.

Source: California Community Dispute Service and Office of the Legislative Analyst.

1 [Community Courts]

2 MOTIONING THE OFFICE OF THE LEGISLATIVE ANALYST TO REPORT ON THE  
3 COMMUNITY COURT SYSTEM, ITS FEASIBILITY FOR IMPLEMENTING IN SAN  
4 FRANCISCO, AND BENCHMARKS OF EXISTING COURTS IN SAN FRANCISCO AND  
5 SIMILARLY SIZED CITIES.

6 WHEREAS, The City and County suffers from quality of life offenses, such as drug use and  
7 prostitution, which plague its neighborhoods; and,

8 WHEREAS, A system of Community Courts has been successful in at least twelve communities  
9 nationwide in promoting accountability for quality of life offenses; and,

10 WHEREAS, These courts establish pre-trial diversion similar to what will be required by  
11 Proposition 36; and,

12 WHEREAS, Presently, San Francisco distributes its present caseload of misdemeanors and  
13 felonies between San Francisco's 19 existing courts; and,

14 WHEREAS, In preparation for any change to the judicial system, including adding courtrooms,  
15 it would be helpful to look at the existing system, potential changes and how those changes could be  
16 implemented in San Francisco; now, therefore, be it

17 RESOLVED, That the San Francisco Board of Supervisors does hereby motion the Office of the  
18 Legislative Analyst to report on the Community Court System, its feasibility for implementing in San  
19 Francisco, and benchmarks of existing courts in San Francisco and similarly sized cities.

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## INTRODUCTION FORM

By a member of the Board of Supervisors or the Mayor

Time Stamp or  
Meeting Date

I hereby submit the following item for introduction:

- 1. For reference to Committee:  
An ordinance, resolution, motion, or charter amendment.
- 2. Request for next printed agenda without reference to Committee
- 3. Request for Committee hearing on a subject matter.
- 4. Request for letter beginning "Supervisor \_\_\_\_\_ inquires..."
- 5. City Attorney request.
- 6. Call file from Committee.
- 7. Budget Analyst request (by motion).
- 8. Legislative Analyst request.

[Note: For the Imperative Agenda (a resolution not on the printed agenda, use a different form.)]

**Sponsor(s):** Supervisor Gavin Newsom

**SUBJECT:** Community Courts Report

The text is listed below or attached:

Subject: Report on benchmarks of the existing court system, comparison to other similar cities, and examination of the community courts system and how it might be applicable to San Francisco.

Signature of Sponsoring Supervisor: \_\_\_\_\_



**For Clerk's Use Only:**

002089