

Problem-solving justice: responding to real problems, real people

Adam Mansky on court innovations in New York.

The American criminal justice system can be seen as one of polar extremes – too harsh, to some; too soft, to others. Unfortunately, framing the justice system reductively has created paralyzing obstacles to reform – all too often, change efforts are seen as a zero-sum game – what’s good for one side is necessarily and correspondingly bad for the other.

But there’s another truth percolating up through the American criminal justice system, a new approach – problem-solving justice – that has shown some success at cutting through the political knot choking reform. Emerging over the last fifteen years, a wave of specialized courts – community courts, drug treatment courts, domestic violence courts and mental health courts – are testing innovative ways to deliver justice. Their objective is to provide more lasting and meaningful resolutions for thousands of difficult cases.

The conditions giving rise to these new problem-solving courts are not hard to identify. In recent decades, courts have increasingly become the public institution of choice for dealing with the social problems that other institutions can’t seem to handle: addiction; mental illness; family dysfunction; repeated petty assaults against property; anti-social behaviour. Not surprisingly, traditional litigation approaches can yield distinctly unsatisfactory outcomes when applied to these non-traditional issues. As New York State Chief Judge Judith S. Kaye has written:

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“The addict arrested for drug dealing is adjudicated, does time then goes right back to dealing on the street. The battered wife obtains a protective order, goes home and is beaten again. Every legal right of the litigants is protected, all procedures are followed, yet we aren’t making a dent in the underlying problem. Not good for the parties involved. Not good for the community. Not good for the courts.”

Rather than bogging down in the battle over whether justice should be more punitive or rehabilitative, problem-solving courts seek to change the mould. By taking a step back, examining the results that courts are actually achieving, and asking, “Isn’t there a better way to do this?” problem-solving courts seek to improve case outcomes, achieving tangible results such as safer streets, reductions in recidivism and improved public confidence in justice.

One form of problem-solving court that has attracted particular attention in the UK is the community court. Starting with the Midtown Community Court in New York City, which was created in 1993, community courts seek to solve the kinds of neighbourhood problems that erode public safety and quality of life for citizens. Community courts use the authority of the

judge to link offenders to community service, drug treatment, job training, education and numerous other services. To ensure accountability, compliance is rigorously monitored.

Community courts also seek to transform the experience of justice for citizens. As Home Secretary David Blunkett remarked after a 2003 visit to the Red Hook Community Justice Center, a community court in Brooklyn, New York:

“What I saw . . . was about engaging the community in finding a way of resolving problems . . . It was about the community coming together physically as well as intellectually, and practically, to help do something about it, and using volunteers.”

The community court concept has captured the interest of the British government, and community residents and court administrators are currently engaged in planning a Liverpool Community Justice Centre. International interest is not limited to the UK: Australia, Canada and South Africa are also actively evaluating the feasibility of community courts for their justice systems – and closely tracking the UK’s progress.

Community courts represent just one model of creating more responsive justice. Indeed, all problem-solving courts embrace a common-sense operating assumption: that court stakeholders – the public at large, victims, witnesses, even defendants – are meant to be treated as customers. Justice is achieved by serving real people with real problems.

This consumer-oriented focus of problem-solving justice can be seen in the numerous specialized courts that have been created and rolled out throughout the US:

- **Drug treatment courts:** In drug treatment courts, of which there are now 1,100 across the US, drug treatment is mandated in lieu of incarceration and closely monitored by a specially-trained judge to minimize re-offending and to help offenders lead productive lives. Numerous studies have documented that this approach reduces recidivism.
- **Domestic violence courts:** Domestic violence courts use rigorous compliance monitoring schemes maximizing offender accountability and ensuring the safety of the victims by linking them to shelter, counselling and other services.
- **Integrated domestic violence courts:** In this newest variation of a domestic violence court, a cross-trained judge in a multi-jurisdictional court presides over all claims arising from a domestic violence situation – criminal, matrimonial, custody, visitation and support – in order to come up with the best, comprehensive solution for the victim and her family. The idea here is simple: one family, one judge.
- **Mental health courts:** These courts seek to improve public



Community volunteers painting over graffiti in Red Hook

safety for communities by providing meaningful and closely-monitored treatment to offenders affected by mental illness – traditionally, one of the hardest populations for courts to serve effectively.

Each of these specialized court models tackles different substantive issues, but all share two key principles. The first is that they work to respond more effectively to social and legal problems – addiction, domestic violence, mental illness, chronic low-level offending – that courts have long struggled to address in a meaningful way. And the second is that they seek to shape case resolutions that respond to the concerns of key stakeholders – victims, community residents, defendants. These two attributes – a focus on improving judicial effectiveness and judicial responsiveness – help explain why problem-solving courts have won supporters across the political spectrum.

Problem-solving courts have been implemented in every US state and endorsed by all fifty state chief justices. The American Bar Association has also issued a formal statement endorsing the concept. Indeed, for many policymakers, the question in the US seems to have shifted from “should there be problem-solving courts” to “how can we make all courts problem-solving?”

What’s driving all of this interest in problem-solving justice? The answer is simple: results. A three-year evaluation of New York State drug courts found that all had reduced recidivism – by an average of 32 percent. An independent evaluation found that the Midtown Community Court had helped reduce local crime by 56 percent. And for the first time in more than forty years, the neighbourhood of Red Hook has completed a year without a single homicide.

There is also growing evidence to indicate that these models are shaping public perceptions of justice. Before the Red Hook

Community Justice Center opened, 13 percent of Red Hook’s community residents approved of courts; since it began operations in April 2000, more than 58 percent of residents approve of the Justice Center. But maybe the best way to gauge these efforts to create more responsive courts can be summed up by two once-sceptical local residents who recently declared, when describing the Red Hook Community Justice Center, “This is *our* Justice Center.”

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