
Evaluation of the Cook County Misdemeanor Deferred Prosecution Enhancement Program

Findings and Recommendations

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 Center
for
Court
Innovation

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© October 2017

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Acknowledgements

This project was supported by Grant Number 2014-YX-BX-0003 awarded by the Bureau of Justice Assistance of the U.S. Department of Justice. The opinions, findings, and conclusions or recommendations expressed in this publication are those of the author(s) and do not necessarily reflect those of the Department of Justice.

We thank the Cook County prosecutors and treatment professionals for participating in interviews, sharing documents, answering follow-up questions, helping with data collection, and allowing us to observe their programs in action. We are especially indebted to Mark Kammerer, former Director of Court Diversion. We also thank Christine Devitt Westley and Ernst Melchior from the Research and Analysis Unit at the Illinois Criminal Justice Information Authority. The methodology used and results reported using data obtained from data sources are solely the responsibility of the research team.

At the Center for Court Innovation, we thank Michael Rempel for his comments on an earlier version of the final report.

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Executive Summary

Many states, including Illinois, are grappling with overwhelming misdemeanor caseloads, placing significant resource burdens on courts, prosecutors, and defense agencies (see, e.g., Greenberg and Cherney 2017; Schauffler et al. 2016). Responding to these caseload pressures, as well as to growing national interest in reducing the adverse collateral consequences of a conviction for defendants while addressing their underlying treatment needs, prosecutors are increasingly turning to pretrial diversion (e.g., see George et al. 2015; Labriola et al. 2017). Defendants who complete diversion requirements generally have their cases dismissed without further adjudication.

The current study evaluates a diversion program for misdemeanor defendants, implemented by the Cook County State's Attorney's Office (SAO), which has jurisdiction over criminal cases in Chicago, Illinois and its surrounding suburbs. The Cook County SAO is the second largest prosecutorial office in the nation and the largest in Illinois, handling about 250,000 cases per year, including more than 150,000 misdemeanors. With funding from the Bureau of Justice Assistance, the SAO sought to expand a preexisting misdemeanor diversion program to geographic areas within the county where the program was not yet available. The current study evaluates *both* the original diversion model and the enhancement.

Misdemeanor Diversion in Cook County

The Misdemeanor Deferred Prosecution Program (MDPP) was initiated in 2012 by the Cook County State's Attorney's Office. Given available funding, the program was implemented for defendants who, based on the location of their arrest, had their preliminary hearing within two of six geographically-defined branch courts within Chicago (Branch 23 and Branch 29) and two of five suburban district courts (respectively in Skokie and Bridgeview).

Besides the geographic location of the arrest and preliminary hearing, diversion eligibility also required the defendant to be charged with a nonviolent misdemeanor; not to have any prior violent conviction within the past ten years; and not to have a pending case in any court at the time that the current case was filed. As a practical matter, based upon case-by-case discretion applied by the assistant state's attorney, diversion participants tended to be first-

time defendants (no prior convictions of any kind). In addition, the most commonly seen charges were retail theft, marijuana possession, and trespass.

Enrolled program participants were required to attend two sessions at a community-based services agency located conveniently to the participant's home or work. In a special "veterans" track, program participants who were military veterans attended one of their two sessions at the John Marshall Law School Veteran's Legal Support Center and Clinic and the second session at the Jesse Brown Veterans Medical Center. Attendance at both required sessions led to dismissal of the current criminal charges.

Implemented in 2015 with Bureau of Justice Assistance funding, the Misdemeanor Deferred Prosecution Enhanced Program (MDPEP) expanded misdemeanor diversion to two additional preliminary hearing courts: Sixth Municipal District (Markham) and Chicago's Branch 34 courthouses. In addition, the expanded diversion model integrated the use of a brief validated risk-need assessment tool, the Criminal Court Assessment Tool (C-CAT), to aid with programming. Specifically, based on whether a defendant was classified by the C-CAT as low, moderate, or high risk, the defendant would be routed to one of three alternative diversion tracks: (1) two case management appointments (low risk); (2) two appointments plus at least ten hours of community service (moderate risk); or (3) two appointments plus ten hours of cognitive-behavioral treatment for criminal thinking, using the nationally known Thinking for a Change (T4C) model (high risk). The goals of the enhanced program model were to reduce subsequent criminal behavior; reduce costs to the system; and minimize the collateral consequences resulting from convictions for low-level, non-violent offenses. These same goals were also shared by the original diversion model.

Research Design

The research design included two essential elements. First, researchers conducted two focus groups with MDPEP participants. Researchers asked participants about their understandings, perceptions, and opinions of the diversion program and for recommendations to improve future implementation. Second, researchers conducted a quasi-experimental comparative effectiveness study with three groups:

1. **No-Treatment:** Legally eligible nonviolent misdemeanor defendants arraigned in 2014 (prior to implementation of MDPP or MDPEP) in the suburban district (Third Municipal District) and two Chicago courthouses (Branches 34 and 43) where MDPP was unavailable at that time.
2. **Original Program (MDPP):** Nonviolent misdemeanors arraigned in 2014 through July 2015 in two suburban districts (Second and Fifth Municipal Districts) and two Chicago courthouses (Branches 23 and 29) who enrolled in the original MDPP program model.
3. **Enhancement (MDPEP):** Nonviolent misdemeanors arraigned in January through July 2015 in the two courthouses (Sixth Municipal District and Chicago's Branch 34) that begin to use the C-CAT tool in conjunction with the risk-need-based program enhancement.

Propensity score matching techniques were used to identify final samples in each of the three aforementioned groups (120 sample members per study group). Based upon further statistical analysis, the final samples were well matched on demographic characteristics (age, gender, and race/ethnicity), current charges, and multiple measures of prior criminal history.

Implementation of the Risk-Need Assessment

At the start of the enhancement program in January 2015, participants were screened using the original C-CAT risk-needs assessment tool. Almost all participants were classified as low risk as a direct byproduct of who was found eligible and offered the opportunity to participate in the first place—typically first-time misdemeanor defendants (i.e., no priors). In response, the creators of the C-CAT worked with program staff to adjust the cut-points on the risk assessment tool, allowing additional individuals to be defined other than as low risk—but even under revised cut-points, the relatively low risk nature of the population remains a fundamental, inherent feature of the model. Ultimately, the C-CAT risk and needs scores were used to inform service planning by assigning participants into a low, medium, or high program track. Under the revised C-CAT cut-points, 85% of participants were defined as minimal to low risk; 14% were medium to high risk; and 2% were high risk.

Focus Group Findings

- **Participant Understanding of Program Eligibility Criteria:** Focus group participants were largely uncertain about why they were found eligible and referred to the program—although through the conversation at the focus group, they reached consensus that it was because they were first-time defendants or faced low-level charges.

- **Participant Understanding of Program Requirements:** Participants stated that they did not understand the program’s requirements when they agreed to enroll. Some participants expressed dissatisfaction with the dearth of programmatic information they received and said they felt rushed or forced into making the decision. Accordingly, participants recommended that future participants receive more information about the program at intake.
- **Final Decision to Participate:** Despite the above, focus group participants largely conveyed that they decided to participate due to their fear of the alternative consequences (e.g., conviction, incarceration, community supervision, or a fine) and their recognition that program completion would result in no conviction.
- **Interaction with the Social Worker:** Participants referred to the C-CAT risk assessment process as being “evaluated” by a social worker and were unaware that their answers influenced program tracks and services. In general, participants described the social worker (who both conducted the assessment and follow-up case management meetings in the enhanced program model) in positive ways—as helpful and as facilitating open and honest communications.
- **Benefits of the Diversion Program:** Participants considered the greatest benefit of the program to be a “second chance” at life, largely referencing their having been able to avoid a criminal record or jail sentence.
- **Challenges of the Diversion Program:** As challenges, participants cited: (1) a lack of information received about the program prior to entry (see above); (2) having a criminal record during the period of participation; (3) a lack of “voice” during court proceedings (i.e., inability to tell the judge what happened or give the judge information about their needs or whether assigned fines or fees are affordable); and (4) confusing requirements concerning expungement (although completion triggers immediate case dismissal, participants must separately apply to have all record of the arrest expunged from all records). Participants specifically recommended streamlining the expungement process.
- **Expanded Eligibility and Program Volume:** Due to positive overall impressions of the program benefits, they also recommended that it be expanded to more individuals and to a wider array of charges.

Impact Evaluation Findings

Significant missing data for final case dispositions in available official records data represents an important limitation in this particular analysis. This limitation notwithstanding, major findings with available impact data were as follows:

- **Case Outcomes:** Conviction rates (including guilty pleas) were lower among participants in the enhanced model (MDPEP, 3%), compared to the original diversion model (MDPP, 11%) and comparison group (4%), though these differences did not achieve statistical significance.
- **Re-Arrest:** Two-year re-arrest rates were generally lower among diversion than no-treatment participants. Specifically, re-arrest rates were lowest among participants in the original diversion model (32%), followed by participants in the enhanced model (37%), and then the no-treatment comparison group (41%). When isolating re-arrest for a new misdemeanor, re-arrest rates were again lowest for participants in the original diversion model (24%) when compared to the enhanced model (35%) or comparison group (36%).

Chapter 1

Introduction

Many states, including Illinois, are grappling with overwhelming misdemeanor caseloads, placing significant resource burdens on courts, prosecutors, and defense agencies alike (see, e.g., Greenberg and Cherney 2017; Schauffler et al. 2016). Responding to these external caseload pressures, as well as growing national interest in reducing the collateral consequences of a conviction for defendants and addressing their underlying treatment needs, prosecutors are increasingly turning to pretrial diversion programs (e.g., see George et al. 2015; Labriola et al. 2017). Defendants who complete these programs, which generally require participation in treatment or social services, have their cases dismissed without further adjudication.

The current study evaluates a diversion program for misdemeanor defendants, implemented by the Cook County State's Attorney's Office (SAO), which has jurisdiction over criminal cases in Chicago, Illinois and its surrounding suburbs. The Cook County SAO is the second largest prosecutorial office in the nation and the largest in Illinois, handling about 250,000 cases per year, including more than 150,000 misdemeanors. With funding from the Bureau of Justice Assistance, the SAO sought to expand a preexisting misdemeanor diversion program to geographic areas within the county where the program was not yet available. The SAO also sought to enhance the program model through the use of a validated risk-need assessment tool and different treatment/service tracks, assigned based on assessment results. The goals of the enhanced program model were to reduce subsequent criminal behavior; reduce costs to the system; and minimize the collateral consequences resulting from convictions for low-level, non-violent offenses. The current study evaluates *both* the original diversion model and the enhancement.

Relevant Recent Research on Pretrial Diversion

In recent years, few prosecutor-led diversion programs have been the subject of an in-depth and scientifically rigorous evaluation. Regarding pretrial diversion programs for adults (not limited to programs run by prosecutors), recent evaluations are both limited in number and

offer inconsistent findings (see, e.g., Broner, Mayarl, and Landsberg 2005; Cowell, Broner, and Dupont 2004; Mire, Forsyth, and Hanser 2007; George et al. 2015).

Recently, a study that conducted impact evaluations of five programs and cost evaluations of four programs found that these programs reduced the likelihood of conviction, reduced the likelihood of a jail sentence, and reduced the likelihood of re-arrest at two years after program enrollment (Rempel et al. 2017). Two of the programs involved in this impact evaluation, Milwaukee Deferred and Diversion Programs, utilize a risk assessment tool as part of intake and decision making procedures. Another of the programs in this evaluation was the Cook County Misdemeanor Deferred Prosecution program, an antecedent to the expanded model that is currently under study. The evaluation found that this Cook County program reduced the conviction rate from 7% in the comparison group to zero (0%) in the diversion sample and reduced the two-year re-arrest rate from 41% to 29% (Rempel et al. 2017). What remains to be determined is whether these positive results can be replicated when expanding the model and adding a more complex, yet, risk-informed, system for assigning diversion participants to specific treatment mandates.

Relevance of the Risk-Need-Responsivity Model

Coinciding with the broader evidence-based practice (EPB) movement is growing attention to Risk-Need-Responsivity (RNR) principles. The RNR model essentially proposes that the accurate assessment of criminogenic needs, combined with targeted treatment to meet those needs, will substantially increase the likelihood of offender success in treatment (Andrews and Bonta 2010). The Risk Principle holds that those at higher risk of re-offense should receive more intensive treatment, whereas those at a low risk should be mandated to less demanding interventions or to nothing at all (Lowenkamp and Latessa 2004). The Need Principle holds that the criminogenic needs of each offender (i.e. criminal thinking, anti-social associates, employment and education deficits, and substance abuse) should be assessed and treated. The Responsivity Principle recommends the use of proven cognitive-behavioral treatment methods, adapted to the individual needs, attributes, and strengths of each specific offender (e.g., see Andrews and Bonta 2010; King and Pasquarella 2009). Focusing on the Risk Principle in particular, in theory, an effective risk assessment can be used to ensure that low-risk individuals are not over-treated, while high risk individuals receive more intensive interventions that are responsive to their particular needs. It is primarily in conjunction with an effort to better implement the Risk Principle that the Cook

County State's Attorney's Office implemented an enhancement to its existing misdemeanor diversion program.

Enhancing Misdemeanor Diversion in Cook County

The Cook County State's Attorney's Office (SAO) developed the Misdemeanor Deferred Prosecution Program (MDPP) in 2012. Three years later in 2015, the State's Attorney's Office identified two additional courts, Branch 34 and the 6th Municipal District Court in Markham, that were suitable for a diversion-based initiative and that could benefit from an evidence-based approach. To implement such an approach, in these two additional courts, the MDPP model was enhanced with the addition of an evidence-based screening assessment, the Criminal Court Assessment Tool (C-CAT), to determine individual risk and service needs of misdemeanants and the Misdemeanor Deferred Prosecution Enhancement Program (MDPEP) was launched under BJA's Smart Prosecution Grant Award.

The Original Misdemeanor Deferred Prosecution Program

The original Misdemeanor Deferred Prosecution Program (MDPP) was initiated in 2012 by the SAO in an attempt to more efficiently process non-violent cases, eliminate collateral consequences, and direct resources toward more serious crimes.

Eligibility Criteria: Given available funding, the MDPP program was implemented for defendants who, based on the location of their arrest, had their preliminary hearing within two of six geographically-defined branch courts within Chicago (Branch 23 and Branch 29) and two of five suburban district courts (Second Municipal District—Skokie and Fifth Municipal District—Bridgeview). Apart from the limitation of the program to select geographic areas of Cook County, major eligibility criteria include:

- Nonviolent misdemeanor charge, excluding select violent misdemeanors, such as domestic violence offenses, violation of order of protection offenses, stalking, hate crimes, DUI, and possession of a firearm or dangerous weapon;
- No prior violent conviction (either a prior violent felony or violent misdemeanor conviction) within the past ten years;
- No prior conviction for a child-related offense; and

- No pending case in any court at the time the current case was filed.

As a practical matter, the most common charges enrolled in the program were retail theft (e.g., under \$300 in value), marijuana offenses, and first-time trespass, but other misdemeanors meeting the aforementioned general legal eligibility criteria are also eligible and constitute a portion of the enrolled population.

Screening, Referral, and Assessment: Generally, diversion takes place on the date of the preliminary hearing, which is the first court date *after* an initial bond court hearing that immediately follows the arrest. At the preliminary hearing, the assistant district attorney reviews legally eligible cases and refers select cases as potentially suitable for the program. (The assistant district attorney assigned to the given preliminary hearing court has discretion to rule-out some technically eligible cases due to case-by-case decisions related to the current case or details of the defendant's prior history.) If a legally eligible defendant is referred to the program and expresses potential interest, a representative from Treatment Alternatives for Safer Communities (TASC) performs a brief assessment using three screening tools: 1) Screening Brief Intervention and Referral to Treatment (SBIRT); 2) Drug Abuse Screening (DAS-10); and 3) Patient Health Questionnaire (PHQ-2), to identify any problems with alcohol, drugs, or mental illness. Based on both the eligibility screening by assistant district attorney and the needs assessment by TASC, the defendant is assigned to either the Veterans or the Mental Health track. Both of these tracks are briefly summarized below, but as a practical matter, veterans are always assigned to the Veterans track and all others are assigned to the Mental Health Track. Importantly, having a potential mental health problem is not an absolute requirement for participating in the Mental Health Track, which as a practical matter is simply a default diversion option when the individual is not a veteran.

Formal Enrollment: If the defendant still agrees to participate in MDPP after the TASC screening, the preliminary hearing is waived, and the defendant will make a formal court appearance to state willingness to enroll before the judge. The defendant then receives a date for their first appointment in the MDPP program.

Mandated Services: In general, mandated services include two sessions at a single assigned community-based agency. Multiple community-based service sites are available, and one is selected largely for the convenience of the participant (e.g., close to the participant's home or work). The first session involves a comprehensive needs assessment,

and the second session involves a review with the defendant of a recommended plan for voluntary services that the defendant has the option of pursuing subsequently.

In the special veterans' track, any veteran who enrolls in the program receives a slightly different approach: The first of the two required community-based sessions takes place at the John Marshall Law School Veteran's Legal Support Center and Clinic. At this session, together with a clinical student and a staff attorney, a basic intake form is completed, a record of the interaction is documented, available services and any other legal or non-legal issues are discussed, and voluntary referrals to other agencies are made. For the second appointment, defendants are linked to the Jesse Brown Veterans Medical Center, where they receive an orientation of the center and register to learn about available services.

Implications of Program Completion: Upon successful completion—i.e., after attending the two required sessions at the assigned provider agency—the case is dismissed, and the defendant can further apply to have the case fully expunged from court records. Noncompliance (i.e. not showing up to meetings, not completing forms) may result in unsuccessful termination from the program—although defendants will often receive “second chances” if they do not initially appear for an appointment. Under these circumstances, the case will be reinstated and sent back to court for adjudication.

The Misdemeanor Deferred Prosecution Enhanced Program (MDPEP)

Until the original MDPP was expanded in 2015, the program was only accessible to a fraction of eligible defendants, because it was only available to defendants who were arrested in two geographical areas within Chicago (leading to a preliminary hearing in one of two Chicago-based branch courts) or in two suburban districts. All told, the eligible geographic areas covered approximately 30% of Chicago and 40% of the suburban districts.

The Cook County Misdemeanor Deferred Prosecution Enhancement Program (MDPEP) expanded the program to misdemeanor defendants whose case is processed in two additional courthouses: Sixth Municipal District (Markham) or in Chicago's Branch 34 court.

The MDPEP enhancement also included the addition of a risk assessment to aid with programing. Specifically, the SAO implemented the Criminal Court Assessment Tool (C-CAT), a RNR-based tool originally developed and validated in New York City, which is

specifically geared toward misdemeanor defendants in high volume urban courts. The tool, which was designed to be administered in 10-15 minutes, includes standard criminal history-based risk factors (recorded from the defendant's rap sheet) and several interview-based items, spanning the domains of substance use; employment; educational background; antisocial attitudes; current housing situation; mental health; and trauma history. The C-CAT was first developed by the Center for Court Innovation (though not by the authors of the current evaluation) and validated in New York City (Picard-Fritsche et al. 2017a). In a companion study to this one, the tool was also validated for its use in the MDPEP program in Cook County (Picard-Fritsche and Kerodal 2017b).

Eligibility determinations and screening, referral, and assessment procedures within the enhanced program (MDPEP) largely proceed as described above for the original diversion model, with just a few important exceptions. First, the C-CAT assessment is completed prior to assigning the participant to specific community-based services. Second, the C-CAT risk and needs scores are used to inform service planning by assigning participants into a low, medium, or high program track, each with client specific program requirements as follows: (1) Low-track participants attend two appointments; (2) Medium-track participants (in addition to attending two appointments) complete at least ten hours of community service; and (3) High-track participants (in addition to attending two appointments) complete ten hours of cognitive behavioral therapy (CBT) classes, using the Thinking for a Change model. The participant may also be referred to other agencies for other suitable interventions, vocational and educational referrals, and drug treatment referrals.

Midcourse Changes: At the start of the enhancement program in January 2015, participants were screened using the original C-CAT tool. However, In April of 2015, the State's Attorney's Office reported that although the volume of participants diverted into MDPEP was high, almost all participants were scoring as low risk just by nature of the program (e.g., typically offered to first time defendants for misdemeanor offenses) and were therefore being placed into the low risk program track. Also, although the courts diverted a large number of marijuana cases to MDPEP, marijuana use itself is not a risk factor on the tool—nor is a specific need for marijuana-focused treatment indicated by the tool. Use of other drugs (e.g., cocaine, crack, heroin) is a risk factor, but individuals coming through the courts with these types of drug problems tended not to be eligible for the MDPEP. As a result, only a small portion of the program was being implemented—the low risk track—and the differing needs of individuals within this aggregated group were difficult to identify.

Since the C-CAT is an evidence-based, validated instrument, researchers from the Center for Court Innovation (not the authors of this report but researchers specifically involved in the development of the C-CAT) did not advise alteration of the tool. Instead, the scaling used to assign program tracks—i.e., the cut-points that distinguish who is classified as low, moderate, and high risk—were adjusted to help better differentiate the risks and needs of the participants and to increase the distribution of services. Caution was taken to recognize that changing the limits should not serve to reclassify low risk participants as higher risk than necessary. For this reason, the population continued to be largely—and accurately—classified as low risk; but the revised cut-points did lead small numbers of individuals who were initially classified as low risk to be moved up to the Medium- or High-Risk tracks.

Risk classification based on the revised cut-points was 85% minimal to low Risk, 14% medium to high risk, and 2% high risk. Actual program track classification was slightly different—86% low program track, 11% medium program track, and 3% high program track—whereby 87% of participants were assigned according to the C-CAT revised cut-points and the others were assigned either to a higher (5%), or a lower program track (4%).¹ As these statistics make clear, program participants were predominantly low risk—even after adjusting the cut-points.

Study Goals

In the current study, the Center for Court Innovation examined the impact of the MDPP and MDPEP diversion programs. We sought to answer the following four research questions:

- 1. Impact on Case Outcomes:** Do prosecutor-led diversion programs reduce conviction and incarceration rates for participating defendants?
- 2. Impact on Recidivism:** Do prosecutor-led diversion programs reduce recidivism?
- 3. Impact of Enhanced Diversion:** Do prosecutor-led diversion programs that implement a validated risk assessment tool—i.e., the enhanced diversion MDPEP program—outperform diversion programs that do not?
- 4. Lessons for Prosecutors:** What are the strengths of existing diversion approaches, and what are some of the identifiable challenges or shortcomings?

¹ We were unable to determine the Track assignment for 8 out of 205 MDPEP participants. Similar rates of risk and program track distributions were found in the matched sample (see Chapter 2).

Organization of the Report

Chapter 2 explains the study design and methodology, including the propensity score matching procedure used to equalize the baseline measures of the three study groups (comparison, original diversion model, and enhanced diversion model). Chapter 2 also provides for a more comprehensive description of both the original and enhanced diversion models that constitute the subject of the study. Chapter 3 presents findings from content analyses and thematic discussion from open coding of focus groups held with participants in the enhanced diversion program. The findings summarize participant responses and present narratives to highlight individual stories, and the discussion sets forth prominent themes that emerged. Chapter 4 presents the findings of the impact analysis, and Chapter 5 recommends measures to improve pretrial diversion programs.

Chapter 2

Research Design and Methodology

The research design included two essential elements. First, focus groups were conducted with participants in the Misdemeanor Deferred Prosecution Enhancement Program (MDPEP) in order to further understand the process and implementation of the program as well as to learn of participants' perceptions. Second, a quasi-experimental comparative effectiveness evaluation was conducted with three study groups:

1. **No-Treatment:** Legally eligible nonviolent misdemeanor defendants arraigned in 2014 (prior to implementation of MDPP or MDPEP) in the suburban district (Third Municipal District) and two Chicago courthouses (Branches 34 and 43) where MDPP was unavailable at that time.
2. **Original Program (MDPP):** Nonviolent misdemeanors arraigned in 2014 through July 2015 in two suburban districts (Second and Fifth Municipal Districts) and two Chicago courthouses (Branches 23 and 29) who enrolled in the original MDPP program model.
3. **Enhancement (MDPEP):** Nonviolent misdemeanors arraigned in January through July 2015 in the two courthouses (Sixth Municipal District and Chicago's Branch 34) that began to use the C-CAT tool in conjunction with the risk-need-based program enhancement.

The two sections that follow describe each of the aforementioned elements of the research design.

Focus Groups

The Center for Court Innovation conducted two focus groups with MDPEP participants. Researchers asked participants about their understandings, perceptions, and opinions of MDPEP, and for recommendations to improve future implementation. Focus groups allowed participants to build on and contrast with the opinions of others, offering a detailed and comprehensive account of their experiences in the program.

Focus groups were initially designed to compare experiences between low and high risk participants, as classified by the C-CAT. However, recruitment of high risk participants was

difficult due to risk scores that were skewed towards the lower end of the scale (see previous discussion on the implementation of the C-CAT in Chapter 1). Since focus group participants all classified as either low or medium risk, the focus group design was modified to combine the responses of both groups during analyses. Also, due to feasibility of access, the sample excluded those who did not successfully complete the program. As a result, the full range of program tracks and information from those who had their charges reinstated were not represented, and qualitative information for high risk and failed participants is not available.²

The two focus groups were conducted between June and October 2015. The first took place in the Jury Deliberation room at the Cook County Sixth Municipal District Courthouse on Thursday June 11th, 2015 with 7 attendees (5 men, 2 women). The second took place in a conference room at Branch 34 of the Cook County Circuit Court on Friday October 23rd, 2015 with 4 attendees (2 men, 2 women). Together, a total of 11 focus group participants (7 men, 4 women) were recruited at the court by TASC and SAO representatives. All recruitment was done by word of mouth or by the distribution of flyers (see Appendix A for sample recruitment flyer).

Focus group participants were 18 years or older, had been diverted from court to MDPEP, and had been in the program for at least one month.³ Participation in focus groups was voluntary (see Appendix B for a copy of the informed consent form), and all attendees received lunch, beverages, and a \$25 cash stipend in appreciation for their time and insight. Focus groups lasted approximately 90 minutes, and were conducted in English and audio recorded for transcription.

Using a semi-structured, guided-discussion approach (see Appendix C for a copy of the focus group protocol), researchers asked participants to describe their understanding of the program including when, how, and by whom they were recruited, program requirements, and sanctions for violated conditions. Participants reflected on the decision-making processes that landed them in MDPEP, and discussed their assessment and program track assignment using copies of the C-CAT screening tool. The group concluded by exploring benefits and

² No focus group participants were high risk and therefore there is no information from those who underwent cognitive behavioral therapy.

³ This allowed sufficient exposure to the program for participants to provide valid feedback about their MDPEP experience.

challenges they encountered to offer suggestions for improved program implementation.

Researchers acknowledge that focus groups have small samples and are limited in their ability to make larger inferences. Participants in the current focus group represent 1.2% (11/934) of all MDPEP participants that were enrolled between January 2015 and September 2016. Therefore, the experiences of focus group participants cannot be representative of all MDPEP program participants at large. The strength of focus groups is the ability to directly elicit rich information from those who are best equipped to detail what they are experiencing, strengthening the study's validity. This added context can reveal underlying details and provide explanations that large-scale quantitative analyses alone cannot. MDPEP participants provided insight into their attitudes, behaviors, and choices, and their collective voice shaped an inclusive understanding their experiences in MDPEP.

Impact Evaluation

We conducted a quasi-experimental comparative effectiveness evaluation that compared three groups or conditions. As summarized at the beginning of this chapter, the three groups respectively received no treatment/diversion; misdemeanor diversion under the original model (MDPP); and misdemeanor diversion under the enhanced model (MDPEP).

Propensity Score Matching

To conduct the impact analysis, a de-identified dataset was obtained from the Illinois Criminal Justice Information Authority (ICJIA). The dataset included demographic, criminal history, and instant case outcome for a sample of Misdemeanor Deferred Prosecution Enhancement Program (MDPEP) participants, Misdemeanor Deferred Prosecution Program (MDPP) participants, and comparison defendants that met the requirements of a pre-specified sampling frame.⁴ After merging and cleaning the data from each sample, we identified each

⁴ The sampling frame included arraigned nonviolent misdemeanor cases (excluding threats, use of force, domestic violence, sex offenses, violation of orders of protection, hate crimes, weapons crimes and DUIs). Data included key identifiers and dates (e.g., arrest date), court, arrest charges, defendant demographics, case disposition, and criminal record of arrests occurring in Illinois and submitted to Illinois Criminal History Record Information (CHRI) system. The CHRI System excludes sealed or expunged records. The sample requested included: (1) MDPEP participants arrested between January to July 2015, whereby cases were heard in the Sixth Municipal District Court or Chicago's Branch 34 Court; (2) MDPP participants arrested between January 2014 to July 2015, whereby cases were heard in the following courts: Second Municipal

individual's instant case as either the arrest that triggered entry into the respective diversion program or, for comparison defendants, the first arrest within the specified timeframe.⁵ Charge type, and charge severity, and final case disposition (if available) were identified for all instant cases, priors and criminal history, and two-year re-arrests (and their associated charges and severity) were then identified and summed.

The next step was to perform a propensity score match to statistically equalize MDPEP, MDPP and the no-treatment comparison group on an array of demographic, criminal history, and instant case variables (see, e.g., Rosenbaum and Rubin 1983; Rubin 1973). Propensity score matching (PSM) allows researchers to approximate random assignment among treatment(s) and comparison group(s), when randomization is not practical or ethical. A suitably matched sample provides an unbiased estimate of the impact of a treatment or program by equalizing the baseline characteristics of the study groups. Our PSM procedure included the following steps:

1. Using ANOVA and chi squares tests, we computed group differences in the means and counts on available demographic, criminal history, and instant case variables.
2. Differences at $p < .50$ were identified for inclusion in the PSM model.
3. We computed a multinomial regression, in which group membership (reference category=MDPEP) was the dependent variable, and all variables identified as different in step 2 above were independent variables (see last column of Table 2.1). Variables were dummy coded as needed to avoid excessive standard errors (e.g., variables for black, Hispanic and white race resulted in a better model, compared to a four-category race variable) and we saved the probability of group membership. Multinomial regression provides predicted probability of group membership for each group included in the model (i.e., no-treatment comparison group, MDPP and MDPEP).

District Court, Fifth Municipal District Court, or Chicago's Branches 23 or 29; (3) a comparison group of defendants arrested between January 2014 and December 2014, were not sent to a diversion program, and the cases were heard in the following courts: Chicago's Branch 34 (matches Branch 23), or Chicago's Branch 43 (matches Branch 29), or Third Municipal District Court (matches District 2 and 5).

⁵ Although weapons offenses, violent crimes, and DUI were exclusion criterion for MDPEP, and domestic violence, sex crimes, hate crimes, and child-related offenses were exclusion criterion for MDPP, instant case arrests included violent, sex and DWI charges. That is, both MDPEP and MDPP programs made exceptions and diverted defendants who did not meet the inclusion criteria. Attempts were made to match instant case charges, but no match was found for DWI and the vast majority of MDPEP violent instant case arrests.

4. Participants were sorted in ascending order by predicted probability, and group membership. Since there were fewest comparison group members (N=122), matches were identified based on each comparison group member propensity score.⁶ That is, for each comparison group member, an MDPEP participant and MDPP participant was selected with the closest or identical predicted probabilities. Prior to this last step, cases with propensity scores that were very different from the other groups—i.e., lacked common support—were removed and closer matches were identified. The end result was a 1:1:1 match, with 120 cases selected from MDPEP, MDPP and the comparison groups, respectively. Shown in Table 2.1, almost all comparison group members were selected from the original pool of comparison candidates, while 56% of MDPEP and 7% of MDPP participants were selected for the quantitative impact analyses. (In effect, the cases that were not selected comprised poor matches.)
5. Using only the cases selected during PSM, we re-computed differences between MDPEP, MDPP and comparison group members on all background, instant case, and criminal history variables.

Shown in Table 2.1, the PSM was successful. The matched sample columns (see the set of three columns in the right-most half of the table) show only one difference at $p < .05$ between groups (white race), and only one significant difference at $p < .10$ (number of other prior arrests). By comparison, before the PSM process was instituted, the samples had previously been quite different (see the three columns in the left-most half of the table), indicating that PSM was necessary to achieve reasonable sample comparability.

Unfortunately, PSM can only ensure statistical equivalence between groups on variables that are available in the dataset, and it is possible that the three groups may differ on unmeasured relevant background characteristics statistically related to group assignment.

⁶ Usually treatment group participants are selected first, and comparison group(s) propensity scores are matched to the treatment group members' scores. It was not possible to obtain a viable 1:1:1 match using this method due to the relatively lower size of the comparison group and difficulties obtaining common support for some MDPEP participants. The matching process (and statistical equivalence) was successful when propensity scores for MDPEP and MDPP participants were matched to the comparison group members.

Table 2.1. Cook County Misdemeanor Deferred Prosecution Enhancement Program: Propensity Score Matching

Sample	Original Samples				Matched Samples			
	MDPEP	MDPP	Comparison Group	p<.50?	MDPEP	MDPP	Comparison Group	Included in the model? ²
Demographics	N=205	N=1789	N=122		N=120	N=120	N=120	
Age	26.62	27.86	29.23	✓	27.42	28.69	29.39	✓
Age Categories				✓				✓
> 20 years	35% *	25%	20%		33%	21%	19%	
20-24 years	24%	33%	30%		25%	30%	29%	
25-29 years	18%	15%	12%		14%	19%	12%	
30-39 years	10%	12%	20%		11%	13%	20%	
40-49 years	7%	8%	11%		9%	9%	11%	
50-59 years	5%	6%	7%		5%	6%	8%	
60 + years	2%	3%	2%		3%	3%	2%	
Age (binary)				✓				
16-24 years	59%	57%	49%		58%	51%	48%	
25 + years	42%	43%	51%		42%	49%	52%	
Male	46% ****	58%	45%	✓	49%	49%	44%	✓
Race/Ethnicity ¹								
Black/African-American	66% ****	39%	37%	✓	50%	43%	37%	✓
Hispanic	23% ****	11%	25%	✓	32%	21%	25%	✓
White	10% ****	45%	32%	✓	17% *	30%	33%	
Other	1%	5%	6%		2%	6%	6%	
Charge Category (Mutually Exclusive)				✓				✓
Violent	23% ****	3%	5%		5%	6%	5%	
Sex	4%	2%	6%		3%	3%	6%	
Property	45%	73%	66%		74%	71%	67%	
Drug	4%	13%	11%		8%	12%	11%	
DWI/Other/Unknown	23%	8%	13%		11%	9%	12%	
DWI	1%	0%	0%		0%	0%	0%	
Other ²	21%	8%	13%		10%	8%	12%	
Unknown	2%	0%	0%		1%	1%	0%	

Table 2.1. Cook County MDPEP: Propensity Score Matching (Continued)

Sample	Original Samples				Matched Samples			
	MDPEP	MDPP	Comparison Group	p<.50?	MDPEP	MDPP	Comparison Group	Included in the model? ²
Criminal History	N=205	N=1789	N=122		N=120	N=120	N=120	
Prior Arrests³								
Any Prior Arrests	61% **	48%	51%	✓	53%	48%	51%	✓
Number of Prior Arrests	2.293*	1.662	2.361	✓	1.667	1.792	2.333	✓
Any Felony Arrest	18% **	11%	13%	✓	17%	10%	13%	✓
Number of Felony Arrests	0.307	0.225	0.287	✓	0.217	0.308	0.283	✓
Any Misdemeanor Arrest	60% **	46%	50%	✓	51%	48%	50%	✓
Number of Misdemeanor Arrests	1.985*	1.437	2.074	✓	1.450	1.483	2.050	✓
Any Arrest with a Property Charge	44% ***	31%	30%	✓	38%	33%	29%	✓
Number of Arrests with a Property Charge	0.946	0.721	0.730	✓	0.783	0.783	0.725	✓
Any Arrest with a Drug Charge	17%	17%	14%		12%	15%	14%	✓
Number of Arrests with a Drug Charge	0.302	0.324	0.508	✓	0.208	0.267	0.517	✓
Any Arrest with Other Charge ²	30% +	23%	26%	✓	23%	22%	26%	✓
Number of Arrests with a Other Charge	0.590	0.519	0.779	✓	0.392+	0.425	0.775	✓
Any Violent Felony Arrest	4%	2%	4%	✓	3%	3%	3%	✓
Number of Violent Felony Arrests	0.059	0.031	0.049	✓	0.042	0.033	0.042	✓
Any Arrest with a Sex Offense Charge	3%	1%	2%	✓	3%	3%	2%	✓
Number of Arrests with a Sex Offense Charge	0.049	0.018	0.033	✓	0.050	0.033	0.033	✓
Prior Non-Compliance								
Any Prior Parole Violation Arrests	0%	0%	0%		0%	1%	0%	
Number of Prior Parole Violation Arrests	0.000	0.002	0.000		0.000	0.008	0.000	
Any Prior Probation Violation Arrests	0%	0%	0%		0%	1%	0%	
Number of Prior Probation Violation Arrests	0.000	0.001	0.000		0.000	0.008	0.000	
Any Prior Warrant Arrests	8%	5%	7%	✓	3%	3%	8%	✓
Number of Prior Warrant Arrests	0.132	0.085	0.131	✓	0.042	0.050	0.133	✓

⁺p<.10 * p<.05 ** p<.01 ***p<.001

Note: Could not successfully match MDPEP and MDPP participants who had a DWI or non-misdemeanor instant case arrest due to lack of common support, i.e., no comparable cases in the comparison group.

¹ Black race and Hispanic ethnicity were dummy coded. White race was used as the reference category, i.e., was excluded from the PSM.

² Included resisting arrest, traffic charge, disorderly charge, or other charge.

³ "Number of prior arrests" counted each prior arrest once, regardless of the number of charges. Arrests are counted either as a felony or misdemeanor arrest, i.e., these are mutually exclusive categories and a case with a felony and misdemeanor charge was counted as a felony arrest. Number of felony and number of misdemeanor arrests sum to number of prior arrests. Property, drug, other and sex offense arrests are not mutually exclusive: any and number of arrests variables count arrests with these respective charges. An arrest with two property charges and a drug charge was counted once in "number of arrests with a property charge" and once in "number of arrests with a drug charge." Any and number of violent felony arrests only count arrests where a violent felony was the most serious charge.

Chapter 3

Focus Group Findings

During two 90-minute focus groups, 11 MDPEP participants provided in-depth details about their understandings, experiences, and perceptions of the program. They reflected on the benefits and challenges that they faced and recommended ways to enhance the program for future participants. This chapter captures what was learned from the focus groups.

Purpose of the MDPEP

Participants were asked about the perceived purpose of the MDPEP. Most agreed that it existed to provide people like them (facing minor charges or were first time defendants) with the opportunity for change. They believed the program could help them avoid a conviction, improve their attitudes, and learn to make better decisions that would prevent them from getting into further trouble.

Basically, to me, it was to keep your record clean, but also to teach you a lesson. Like yeah you in trouble, but you know, instead of messing your life up we gonna help you, because that way, you have a chance to start over.

Participants unanimously expressed that instrumental to making change in their life was the program's ability to clear their criminal record. Maintaining a record was believed to have long-term consequences, constraining them from making better choices and moving forward. With relevance to younger populations, one older participant stated:

It's for young people like him...for these young guns, so it [a record] don't hinder them later on in life... because this will follow them... it will stop you from getting loans, jobs, everything... believe me. That's what my understanding of this is.

Eligibility and Recruitment

Participants were asked to talk about why they were found eligible for the MDPEP and how they were recruited into the program. They were mostly uncertain as to why they were found eligible and referred, but after group conversation, there was a consensus that it was because they were first-time defendants or faced low level charges. One person with a criminal

background believed that he was eligible because he had stayed out of trouble for at least ten years. Some guessed that the selection criterion excluded people with violence, weapons, or felony-related charges.

Individually, participants described their recruitment in similar ways. When they went to court for their first appearance they were approached outside of the courtroom by either their own attorney, the States attorney, or an on-site TASC social worker. Focus group participants had no prior knowledge of MDPEP with the exception of one person who cited that he found the program online and mentioned it to his lawyer. The remaining participants believed it was a shame that MDPEP was not more widely exposed because it could benefit so many others like themselves.⁷

Participants admitted that they really did not know anything about MDPEP when they agreed to participate. The extent of their knowledge was around case processing and outcome (i.e. they would have easier and quicker adjudication and their record would be expunged) but knew very little about the program's requirements. Some participants were dissatisfied with the dearth of programmatic information they received, and felt rushed or forced into making the decision.

They make you make the decision so fast. They don't explain the program. They don't explain anything. The lawyers act like they don't even know what the hell the program is. All he tells you is that it ain't going to be on your record. That's all he say. The lawyers need to know the program...It's [the TASC social worker] that breaks it down and helps you understand. But by the time you get to the TASC social worker, you already made the choice, and they told the judge you agreed with being in the program.

Not having information about the program created feelings of skepticism and uncertainty for some participants. One woman's case was going on for three years, and the sudden availability of the program seemed "random" to her. One man said he was hesitant because he did not want to pay restitution as a condition of deferring the case to enter the program. Finally, one participant felt weary by the sense of urgency that he felt by his lawyer to accept a program when he had no information about it.

⁷ The newness of the program was acknowledged by participants. At the time of the focus groups, the program had only been up and running for between 6 (for the first group) and 9 (for the second group) months.

The Final Decision to Participate

Focus group participants joined MDPEP despite not knowing much about the program itself. When asked why they still chose to enter the program, they characterized their decision-making by describing a fear of the alternative consequences. Participants explained being approached outside of the courtroom by an attorney who told them of “a program” (most did not know the name of the program) that would result in no conviction and no record, and would not be offered again if they declined. They had a short period of time to make their decision, and were reminded that alternative risks included conviction, sentencing (i.e. incarceration, community supervision, fines), and/or having a permanent record against them.

If she was holding the trial, it would be a 50/50 chance I'm either getting locked up or I would be innocent [found not guilty], but this guaranteed I was going to get off... I just had to do community service and write a book report and I could forget this mess. I think I probably wouldn't have taken the program... but you see they scare you so much... You fight and you lose because they stick it to you, you know what I'm sayin? It's like your life be over. You just feel like your life is over.

They said they were going to give me 360 days, That's a year... They said that if I wouldn't have taken the... what's it called? ... [the deferred prosecution program], yeah the prosecution program, I would have got those days and that would have messed me up. This is the United States of America, and we in Illinois. You're going to jail.

Participants also considered how the alternatives to MDPEP would impact their family and employment. One participant recently passed the Certified Nursing Assistant exam and stated that a record would prevent him from keeping his job at a nursing home. Another talked about how he already lost his job because of the days he had spent in jail when he was arrested.

Participants' decisions to join MDPEP were primarily attributed to their case outcome. Regardless of whether or not they were provided with programmatic information, MDPEP ensured the least disruptive impact on their lives in the long-run due to the opportunity to have their case dismissed. Some participants expressed that they would have appreciated more information during recruitment, but all agreed that they would have entered the program to clear their record either way. They believed that MDPEP was the right choice for them and for anyone else in a similar situation.

How the Process Worked

Participants were asked to describe the logistics of being in MDPEP. On the day that their case was deferred by the courts, they reported to an onsite TASC social worker to begin the program. This was when they learned what the program was, what it required, and what the consequences would be if they did not comply with their conditions.

Being ‘Evaluated’ (Perceptions of the C-CAT Tool)

Participants first met with a social worker for a risk assessment which they referred to as “being evaluated.” They recalled answering a series of questions that they believed would help the social worker determine what they would have to do for the program, though they were not exactly sure what was being done.

You don’t actually know the process of how the [TASC social worker] judge or grades you, or what she wants to give you. You don’t even know that. It’s like, that’s on her. That’s heeber jeeber, you know what I’m saying? Who knows.

They believed the questions they were asked were “not bad” but had reservations about two specific items on the C-CAT. The first was question N2: “Do you currently feel that other people know your thoughts and can read your mind?”. Participants felt that this question was “weird” because it was asking if they were schizophrenic, bipolar, had different personalities, or saw evil spirits. Participants also thought question N3 was unusual: “Have there recently been a few weeks where you felt useless or sinful?” They associated this question with varying concepts such as “doing something bad or wrong,” “stealing,” “committing a sin,” “being negative,” and “doing devilish things.” One participant compared it to the movie Sin City:

Sin for me...Have you ever seen that movie Sin City? Just think about it... that's sin. Everything is bad. You've got the, excuse my language, you've got the hoes, the pimps, the gangsters, the thugs. That's what they mean. Every time you get up that's what you want to do. All negative things.

Other participants did not like this question because they believed it had a religious connotation:

When I hear sinful I think of God. I don't think this question is asked right. Sinful got something to do with your sins so when I answered this question, I was feeling like this had something to do with God... but not everybody believes in sins.

Participants also felt that using the words 'useless' and 'sinful' in the same question was confusing because they were two different concepts.

Useless, it feels like to me I ain't have no say in my life at the time. People were telling me what I was going to take or what it was gonna be, so I did feel useless. I didn't feel sinful because I didn't do nothing. Sinful is you did something wrong and you feel badly about it.

There was very little consensus about how this question was interpreted, but participants thought that using terms such as “mischievous,” “wrong doing,” or “causing harm” might have better resonated with them.⁸

Program Requirements

Perceptions of Case Management Sessions: Following the risk assessment, the TASC social worker advised participants on what they were required to do for successful program completion. Requirements discussed in the focus groups included attending case management meetings and completing community service hours.^{9,10}

Case management involved multiple meetings with the TASC social worker. The first meeting was the day of MDPEP enrollment and assessment, and the last was the day of program completion and case dismissal by the judge. All other meetings were used to

⁸ There is an updated version of the C-CAT which eliminated and reworded some of these questions (see Appendix E).

⁹ Typically, participants who were scored low were required to attend case management meetings, medium to complete community service, and high to participate in CBT. No participants in the focus groups were scored as high, and thus CBT was not discussed.

¹⁰ Aside from case management meetings and community service hours, some participants talked about having additional conditions such as taking a required class on “better life decisions,” spending two hours per day looking for a job, paying restitution, and completing a book report. Although participants confused these as being conditions of MDPEP put forth by TASC, they were actually conditions put forth by the courts as part of the agreement with the judge to defer the case. These conditions were not monitored or sanctioned by TASC.

identify participant needs and monitor progress. During meetings, the TASC social worker “got to know them” by asking personal questions about their life, how they were feeling, what they were doing, and how they were staying out of trouble. Most participants had either two or three meetings over a span of three months. Participants described these meetings as very helpful because the social worker fostered a trusting relationship. This allowed them to let their guards down and have open and honest conversations.

I ain't going to even lie. The [TASC social worker] is right on point. When she talks to you, you just feel so comfortable. Some people be weird kind of talking to you... they judge you before you walk in. She hasn't judged you. She's like honey. She understands you.

[The TASC social worker] is on top of us... The court people, they ain't even gonna listen to you. You can call the social worker and say well, I'm not going to be able to make this appointment today or whatever... She'll work with you. She's one of those people that will be like, well let me know. Don't play her though... call and let her know, don't just not call her. That's just getting yourself back in trouble.

Perceptions of Community Service: In addition to case management meetings, some participants (i.e., in the Medium Risk track) were assigned community service hours. They were provided a list of organizations where they could complete their hours, which generally included churches or food pantries. Being able to give back to their community through community service was something that many found to be more beneficial than if they had been sent to jail.

We got to at least give back to the community through the community service, and it helps. It don't even feel like we being punished... I feel thankful that they letting us do something. I feel way better... by the program, you're helping. It wouldn't even matter if you said 30 hours... I would have did it. That ain't 30 years in jail, or 30 days. That's 30 hours. Even if it was 50 hours, you still win. Even it was 100 hours, you still win.

Consequences of Noncompliance: The consequence of noncompliance with program requirements was clear to all participants. If they stopped reporting for meetings, if they did not complete their community service hours, or if they incurred a new charge, they would not graduate from the program. They would then return to court for reinstatement of the original charge and face possible conviction and sentencing. One participant believed that those who fail the program do so because they want to be in jail, because the program was an easy out that did not require anything worth going back to court for.

Attitudes and Beliefs about MDPEP

Participants reflected on their experiences and shared what it was like to be in MDPEP. They talked about what was helpful for them, as well as what challenges they faced.

The Benefits

According to participants, the best part about the program was repeated multiple times: it helped participants get a “second chance” at life. It allowed them to think about what they did wrong and afforded them a less disruptive outcome than going to jail or living with the stigma of having a record.

I think it's a good program because instead of you going to jail or doing them days or just having another background, it's easier for you to get it expunged versus not taking the program and have it take forever to get stuff off your background or getting locked up.

One participant stated that he had already been suspended by his job because of his charge, so his job was dependent on the expungement of his case in a timely manner. Participants expressed gratitude for the program and agreed that it was a lifesaving experience.

The Challenges

In spite of the described benefits, participants still faced a number of obstacles. Major challenges included an initial lack of understanding of the program’s requirements up front (as described above), lack of understanding during court proceedings, having a criminal record for the duration of the program, and confusion about record expungement after program completion. When participants complete the program, the case is dismissed, but participants must then themselves complete paperwork and initiate additional steps to have the the arrest permanently expunged from all records; and even if they take these steps, final expungement only occurs after several additional months.

Lack of Understanding of Program Requirements: Some participants believed that inadequate information about the program during recruitment prevented them from making an informed and voluntary decision to be in MDPEP. With no apparent alternatives, they committed to something they did not completely understand and had no avenue to later change their mind.

By the time you get to the TASC social worker you already made the choice...They tell the judge that you agree with being in the program and if you make that agreement, you have to really stick to that agreement. When I came the first time I wasn't able to pay my restitution and he said 'well you told me that you could do this'...you really gotta stick to that agreement.

Participants believed that they have unique and powerful information that would benefit MDPEP if they were to help with recruitment and explanation of the program.

I'm good with talking to people... for real, I will help you out. People don't know... like y'all don't know because you all ain't do stuff. You're learning a whole lot more by talking to us... you learning a whole lot of other stuff. You can get lost up in here trying to find out because this is how the system is. It's messed up. We'll just tell you everything.

Lack of "Voice" During Court Proceedings: Some individuals reported feeling isolated from the court proceedings and decisions.

I didn't even get to say nothing. This is what I'm thinking about in court... I didn't do nothing wrong and I'm going to talk to the judge and tell him what happened...but I didn't even get to say nothing. The public defender was over there doing all the talking.

I wasn't able to pay my restitution fee when I came the first time... I'm telling the judge that I cannot afford to pay that. He's like can you bring \$100? I'm like no, I don't get paid until the 31st. He said bring \$100, bring \$100. I'm like I don't get paid until the 31st. I just can't make nobody loan me no money.

You have to do this by yourself. You don't know how hard it is out here on the streets... Man, this is real life. They [lawyers and judges] are not out there. They got these degrees and stuff, and we're out there trying to get them.

Criminal Record During the Period of Participation: Some participants struggled, because even while in the program, they still had a criminal record. (An open criminal case is public information and effectively does constitute a record.) This impeded some from obtaining or maintaining employment, as well as from attending school since the record remained accessible.

You've got to do some kind of time, put it that way. You've got to do your little time period of waiting, like three months or whatever... That time period, the stuff is on

your record. That's like the one disadvantage about it[MDPEP]. It shows on your record.

I was working at this place called Ghirardelli downtown and I was going to go to Washington College... now I've got to go in the spring. I'm sitting around waiting ... I can't even apply for the job I want to because I've got something on my background.

The record also created hurdles for fulfilling community service requirements. Participants could select a place from a list provided, but many struggled with stigma from their criminal justice involvement.

One lady asked me at the church 'but what you doing community service for?' and I gotta tell her, and she's like 'well I don't even really wanna be involved in nothing like that.' Then I tried to go to a shelter on 51st and she asked me what 'well what you gotta do community service for?' and she be like I don't want to get involved in that.

Expunging their Criminal Record After Completion: Almost all participants spoke about the difficulties of clearing their record after program completion. Participants stated that no one explained the additional steps for removing their arrest record, which was preventing them from moving forward.

As far as I know, there wasn't nothing on my record. When the lawyer explained it to me, he said oh, nothing is going to be on your record if you take this. I'm like nothing is going to be on my record? That's all I needed to hear. He didn't explain the arrest is [still] on your record.

I had three jobs tell me oh man, we was [sic] going to hire you but this is on your background. I'm like what? It's not what they told me, they was like 'this won't show up on your record'... but the arrest is still on your record. It ain't no conviction, but it's an arrest.

I want to be productive. I don't want to sit around all day. I want to go do something. I need to go make my music or work trying to get some type of money. I don't sell drugs, I'm not going to sell drugs. I'm trying to, you know, get finished with this but that's the only thing... the process to get the stuff off your record. That's the biggest disadvantage.

Expungement was a multi-step process in which they had to get their rap sheet from the local police station and take it the Circuit Court at Cook County, which for some were located far from where they lived. Participants were irritated with this runaround especially because they were initially led to believe that program completion meant they would have no record at all.

Some then had to take time away from their efforts to move forward (i.e. searching for employment, attending school, going to work working) which then incurred them additional costs (i.e. travel to multiple locations, cost of bus fare, or gas and parking).

When you get through with the program you shouldn't have to wait months to get it taken care of. If you had to pay a ticket, once you pay the ticket it's over. It should be the same. When the program is done, you should be done... Why should we have to go and do all this stuff when you can do it right here? I got the program over, I got my certificate, cool, boom, I'm done. Just connect the computers... y'all got all this technology, why should we be the ones to have to do it. You finish the program this should be automatic. When the program is over, our last court date... it should say expunged. Give you a paper saying you expunged, it's not on your record no more, and you can go into that job and show them.

Even with these obstacles, participants were all glad that they joined MDPEP, because they perceived these challenges as insignificant compared to having to face the alternative consequences (conviction, jail, record, etc.). The program had “more advantages than disadvantages,” and in the end they all believed it was the “best thing to choose.”

Overall Perception of the Program

MDPEP was generally talked about in a very positive light. It was constantly described it as (in the words of one participant) a “blessing,” life-altering, and was highly recommended for others in similar circumstances.

This is a good program. People like being here... they should do it in other jurisdictions. You have something that won't tarnish the future, so you can focus on doing what you should do. Your future won't be disturbed because of that one little stupid thing that you did. Because we all make mistakes.

Focus group participants believed that more youth should be found eligible since they are the ones that get “railroaded,” and it should also be offered to second-time (though not third-time or more) defendants. Offering MDPEP to those facing violent charges was a point of disagreement: Some believed that no one with a violent offense should be allowed to participate, but others believed that there might be certain circumstances (i.e. self-defense) where violence was a necessary action. The group came to the conclusion that people with violent offenses should be offered the MDPEP program following some type of qualification evaluation.

Summary of Themes

Analyses from focus groups revealed three prominent and reoccurring themes around concepts of procedural fairness, redemption, and systemic fragmentation.

Procedural Fairness

Fair treatment by the criminal justice system can encourage positive perceptions of the system's legitimacy and trustworthiness, leading to increased compliance with judicial orders (Tyler and Huo 2002). This involves these individuals being given a voice, being respected, being treated without bias, understanding what is happening, and feeling like system actors genuinely want to help them. Focus groups participants identified that these dimensions generally existed within the TASC component of the program, though less evidently within the court component.

Voice: “I didn’t even get to say nothing.” Participants believed they were not provided a voice during court procedures. Their attorney would speak to the prosecutor and the judge on their behalf and decision making did not consider their life circumstances. They believed that court actors could not relate to them, and that the direct suppression of their thoughts and feelings functioned to conceal details that could alter the court's decisions.

Understanding: “They don’t explain anything to us.” MDPEP participants were not fully aware of the program requirements during recruitment. Having a thorough understanding of the program's details in addition to knowing the program outcomes can increase compliance, encourage personal investment in the program, and help participants internalize the benefits of provided services.

Respect, Neutrality and Helpfulness: TASC: “She understands you.” Staff at TASC were unanimously well-regarded. A nonjudgmental environment facilitated comfortable and honest discussions that helped to identify participants' needs for progress. Establishing mutual respect enhanced the program's credibility, in turn encouraging participants to work harder at staying out of trouble. This ‘buy in’ was crucial for developing integrity and positive perceptions of MDPEP.

It is important to acknowledge the difficulty of balancing procedural justice. For example, an attorney who understands the workings of the courts but prevents his client from speaking

(voice) may be functioning to protect their client and obtain the best possible case outcome (helpfulness). In this scenario, it might be against the client's best interest to speak up in court, but explaining this together with all other court proceeding in this fast paced environment and often backlogged courtroom, may not be practical. Finding ways to incorporate procedural justice practices in the court is essential however, as it can counteract feelings of deceit and neglect that can result in disengagement with the system as a whole.

Avoidance of Collateral Consequences

A major turning point for participants was the realization that their actions resulted in a criminal record that would have a lasting impact on their lives. Focus group participants acknowledged that even with a genuine desire to change, their record could prevent them from obtaining employment and education, and from maintaining relationships with family and friends. According to participants, MDPEP helped them understand the impact of a record, and appreciate how removing it offered a fresh start.

Systematic Fragmentation

The criminal justice system comprises multiple sub-systems that necessarily function both independently and as part of the larger system (Sharp 2009). Although each subsystem requires autonomy to be functional and resilient, conflicting ideologies, goals, and practices can at times be problematic. MDPEP participants did not feel as though the program was working cohesively with all actors involved, resulting in inconvenience from decentralized record systems; confusion and mistrust from breakdowns in communication; and frustration from a lack of overall collaboration. Specifically, participants believed there was little connection between the courts and the police. Although their court case was expunged, getting rid of the arrest required multiple, additional, and often unknown steps. There was also broken communication between SAO and TASC, and between TASC and community organizations. MDPEP participants expressed being provided with conflicting and often insufficient information about their case and the program requirements, and many faced difficulty with community service due to the lack of community support and partnership.

Recommendations

Major recommendations from focus groups findings involve incorporating principles of procedural justice and improving system cohesiveness.

1. Incorporate procedural justice practices as a core part of the MDPEP program:

- a. During recruitment, SAO and TASC should explain deferred prosecution and MDPEP by providing as detailed explanations as time can permit.
- b. Past and current MDPEP participants can aid in recruitment by offering additional information, especially when time does not permit for SAO and TASC representatives.
- c. To supplement recruitment, participants should be provided hard copies of informational materials such as flyers, pamphlets, and cards so that they have ongoing access to program details prior to enrollment.
- d. During recruitment and prior to agreeing to be in the program, participants should have the opportunity to ask questions and put forth their own thoughts and opinions about their case in discussion with SAO and TASC.
- e. Clients should provide feedback on the assessment tool to explain how they are interpreting and understanding the questions to identify the need for clarification based on the purpose of the instrument.
- f. Information and feedback from participants should be sought out on an ongoing basis to better understand the program's evolution over time.
- g. Staff should work towards promoting all procedural justice dimensions for participants, which can increase program credibility, satisfaction, compliance, and effectiveness.

2. Explore options for easing the process of expungement:

- a. Distinguish upfront the difference between court and arrest expungements.
- b. Provide adequate and accurate information about the process of expungement during from the point of recruitment.
- c. Provide informational materials on arrest expungement detailing “next steps” upon program graduation.
- d. Consider limiting outside access to criminal records or placing a hold on record access during participation in MDPEP (to prevent consequences, such as loss of employment and education opportunities, which are central components of MDPEP programming).

3. Encourage Systematic Cohesiveness:

- a. SAO and TASC should work more closely together at key points in program implementation (i.e. recruitment, monitoring, success/failure, graduation) to align both court and program focused goals.
- b. Police and Court records should be centralized, if not systematically, at least spatially (i.e. same location, closer locations) in some way that facilitates simultaneous expungement or at minimum, eases the process.
- c. TASC should establish community ties with agencies that are willing to allow MDPEP participants to complete their community service hours with them.

Chapter 4

Impact on Convictions and Subsequent Recidivism

This chapter presents results from analyses examining program impacts on the likelihood that the current case ends in a conviction (as opposed to a case dismissal) and on future recidivism. As described previously, the evaluation takes the form of a comparative effectiveness study, with a no-treatment comparison group; a sample that received the original misdemeanor diversion program (MDPP), and a sample that received the enhanced program (MDPEP).

Results

Conviction Rates

Shown in Table 4.1, conviction rates (including guilty pleas) were lower in the MDPEP group (3%), compared to MDPP (11%) and the comparison group (4%), although these differences did not achieve statistical significance. Although promising, these results must be interpreted with caution due to the high missing rate (76%) of case disposition information for the three study groups (73% for MDPEP, 78% for MDPP, and 79% for the comparison group). However, no association was found between missing data and any of the demographic variables of interest (e.g., gender, race, age); hence, we assume that case outcome data were most likely missing at random.

Recidivism

The lower section of Table 4.1 suggests that two-year re-arrest rates were lowest among MDPP participants (32%), followed by the MDPEP group (37%), and then the no-treatment comparison group (41%). When isolating re-arrest for a new misdemeanor charge, re-arrest rates were again lowest for MDPP participants (24%) when compared to either the MDPEP group (35%) or the comparison group (36%).

When days to first re-arrest was considered, risk of re-arrest—i.e., hazard rates—were again lowest for MDPP participants (hazard rate=0.810) when compared to both the MDPEP group and the no-treatment comparison group.

Table 4.1. Impacts on Case Dispositions and Recidivism

Sample	Matched Samples		
	MDPEP	MDPP	Comparison Group
Case Disposition¹	N=120	N=120	N=120
Pled Guilty/Convicted	3%	11%	4%
Dismissed/Not Convicted	97%	89%	96%
Odds Ratio for Conviction		4.000	1.333
Recidivism²			
Two-year Re-arrest			
Any Re-Arrests	37%	32%	41%
Any Felony Re-Arrest	8%	13%	13%
Any Misdemeanor Re-Arrest	35% +	24%	36%
Any Violent Felony Arrest	3%	0%	3%
Days to First Re-Arrest (Median)	175	197	478
Hazard Ratio for Two-Year Re-Arrest (Cox regr.)³		0.810	1.009

⁺ p<.10 * p<.05 ** p<.01 ***p<.001

¹ Instant case disposition included 85 cases (MDPEP N=33; MDPP N=27; comparison N=25).

² The variable, "any re-arrests," was coded as "1" if the defendant was re-arrested on either a felony or misdemeanor charge. Arrests are counted either as a felony or misdemeanor arrest, i.e., these are mutually exclusive categories and a case with a felony and misdemeanor charge is counted as a felony arrest. Any violent felony arrests only flagged arrests where a violent felony was the most serious charge.

³ MDPEP was the reference group, i.e. the hazard rate compared the likelihood of re-arrest for the MDPP and non-treatment comparison groups, relative to the MDPEP group. An exp(b) or hazard ratio greater than one indicates that the group had a higher likelihood of re-arrest relative to the MDPEP group; an exp(b) or hazard ratio less than one indicates that the group has a lower likelihood of re-arrest compared to the MDPEP group. Days to re-arrest were adjusted for censored incidents (i.e., defendants with less than two-year follow-up data).

Conclusions and Limitations

Similar to other recent evaluation findings (Rempel et al. 2016), the original Misdemeanor Deferred Prosecution Program (MDPP) outperformed the no-treatment comparison group, producing lower re-arrest rates across multiple measures. However, impacts associated with the enhanced diversion model (MDPEP) were mixed—modestly, though non-significantly, more positive than the comparison group, but modestly more negative than the original misdemeanor program.

In interpreting the findings in this chapter, one substantive limitation of the enhanced diversion model, as well as several data limitations, merit discussion.

As a substantive matter, the enhanced diversion model did not entirely work out as planned: The eligible population for Cook County’s misdemeanor diversion model skews extremely low-risk; hence, the whole concept of risk-informed decision may, in retrospect, have been an ill fit for the program, when there is so little risk-based differentiation in the participant pool. It is conceivable that that for the low-risk population served by the program, a singular brief program model involving only two sessions of intervention is, in hindsight, preferable to adding additional community service and other requirements to some participants whose risk level is only the slightest bit higher than “low.”

Several data limitations may also have impacted the findings. First, the limited sample size of the comparison group resulted in a small study sample (N=360 total or 120 per study group), which lowered the predictive power of the study, i.e., adversely affected our ability to identify statistical significance for small effect sizes.

Second, we were unable to retain a greater proportion of the treatment group due to the limited size of the comparison group and a lack of common support with the comparison group (we identified good matches between MDPEP and MDPP participants, but could not get sufficient comparison group members to retain more MDPEP participants). Although we obtained statistical equivalence between the three study groups, this came at the expense of having to jettison many MDPEP participants from the analysis; accordingly, we cannot generalize to these participants in projecting program impacts.

Finally, comparison group data were available from only one of the three district courts originally requested. (Cook County is divided into multiple branch and district courts, defined based on the location of the arrest—as described in Chapter 1.) The limited comparison data in the final analysis both limited the sample size of the comparison group and, more importantly, because the comparison group came from one single district court, may have introduced geography-based biases if policing practices lead re-arrests to be more or less likely in this district than elsewhere.

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Appendices

Appendix A: Sample Recruitment Flyer

ARE YOU IN THE MISDEMEANOR DEFERRED PROSECUTION
PROGRAM (MDPP)?



ON JUNE 11TH AT 2 PM
WE WANT TO HEAR FROM YOU!



**YOU'LL GET \$25, AND SANDWICHES, SNACKS AND BEVERAGES
WILL BE PROVIDED!**

Being in the MDPP means you were you given conditions **instead** of having your misdemeanor case prosecuted. If you are unsure if you are in this program, ask your legal counsel or give us a call.

Who are we?

Researchers at a non-profit organization called the Center for Court Innovation. We are NOT connected to the court system, so it won't affect your case whether or not you participate.

What is it?

A 60-minute group discussion with a few other MDPP participants. We will talk about your MDPP experiences and the program overall.

Contact us for information, and to see if you are eligible:

Phone: 917.912.9591

Email: cramdath@nycourts.gov

Appendix B: Informed Consent Form

CONSENT TO PARTICIPATE IN A FOCUS GROUP FOR A STUDY OF THE MISDEMEANOR DEFERRED PROSECUTION PROGRAM (MDPP)

Introduction

You are being asked to take part in this research study because you're part of the Misdemeanor Deferred Prosecution Program (MDPP) in Cook County, Illinois. If you are in this program, it means that you had a misdemeanor case that was deferred from the courts, and as long as you comply with a set of conditions set forth by your judge, your case will be dismissed. The purpose of today's group is to talk about your MDPP experiences so we can understand this deferred prosecution program. I am part of a group of researchers from the Center for Court Innovation which is a completely independent nonprofit organization. We don't work for the courts or for any other justice system agency, and have no influence on your case or program status.

Your role

Your participation is completely voluntary and you can choose not to participate without any consequences. Whether or not you participate will not affect your case, and if you participate, you can skip questions, leave, and withdraw from the study at any time.

Confidentiality

Your answers will be known to other participants in the room today, so out of respect for each other, please keep all information that is shared today confidential. Please do not use any names. Your responses will also be known to a small group of researchers who are not connected to the MDPP, but have each signed a written agreement to keep your answers confidential. Your name will never appear in any reports, but your responses are being audio recorded on a password protected device which only designated researchers have access too. All information will be kept in locked cabinets and computers outside of Illinois and will be destroyed once the study is complete. The only exception to confidentiality is if you talk about plans to commit future crime, after which researchers may contact the authorities.

Risks

This discussion group will not involve any physical or financial harm and although most questions are not expected to cause emotional harm, it's possible that answering questions about your legal situation or participation in previous criminal behavior may lead you to experience discomfort. Please remember that you are NOT required to answer any question that makes you uncomfortable and can skip questions, take a break, or leave the room at any point. If you feel distressed, we can refer you to someone to talk to.

Benefits

In appreciation for your time and information you will receive a \$25 stipend at the end of the group. If you need to leave the group because you feel uncomfortable, you will still receive the stipend and we will give you a referral to someone to talk to about your concerns.

Contact

If you have questions about the study you can contact researchers at the Center for Court Innovation, Melissa Labriola (301-879-1781) or Cassandra Ramdath at (917 912 9591). In addition, if you have any questions about your rights as a research participant or want to express problems with the discussion group, you may contact the Institutional Review Board's Administrator, Janelle Cotto, at the Center for Court Innovation at (646) 386-4471.

STATEMENT OF CONSENT**PARTICIPANT'S STATEMENT**

"I have been provided with a description of this research and I understand it. I understand the risks and benefits involved, I understand that my participation is voluntary and that can stop participating at any time or refuse to answer questions asked of me, and it will not affect my case. All of my questions have been answered and I have received a copy of this form. I am voluntarily agreeing to participate in this study."

- ☐ I agree to participate in this discussion group.
- ☐ I agree to be audio recorded

Signature _____

Print Name: _____

Date: _____

INVESTIGATOR'S STATEMENT

I have discussed the proposed research with this participant, and in my opinion, the participant understands the benefits, risks and alternatives (including non-participation) and is capable of freely consenting to participate in the research. I have answered all questions asked of me, and provided sufficient contact information for any future questions. I provided a copy of this form to the participant.

Signature _____

Print Name: _____

Member of the Research Team

Date: _____

Appendix C: Focus Group Protocol

FOCUS GROUP GUIDE
Thursday June 11, 2015
2:00pm – 3:00pm (60mins)

INTRODUCTION (5 MINUTES)

- 1. Information cards, consent & welcome (3 minutes)**
 - a. Upon arrival each participant is provided a card to fill out (to obtain demographics)
 - b. Informed consent is read aloud, explained and documented
 - c. Welcome script is read, any questions are answered
- 2. Ice breaker activity (2 minutes)**
 - a. Introductions/Favorite Foods – Name Tents

FOCUS GROUP PART ONE (50 MINUTES)

- 3. Engagement Questions (5 minutes)**
 - a. Information Gathering
 - i. Can you tell me generally, about the MDPP program? How does it work?
 - o Selection process (how do people get in)
 - o Sanctions/Requirements (what do people have to do)
 - o Violations (what if you don't do it)
- 4. Exploration Questions (15 minutes)**
 - a. Gather MDPP experiences/knowledge
 - i. Individual Activity: On the piece of paper provided in your folder, please think about and jot down some notes about the following questions:
 - o How did you enter the MDPP?
 - o What were you told about MDPP?
 - o Why did you want to be in MDPP? What were your expectations?
 - o What would have happened if you chose not to be in MDPP? What other options did you have?
 - o How do you feel about the MDPP?
 - ii. Group discussion about each person's experiences
- 5. Exploration Questions (10 minutes)**
 - a. Gather MAP-s experiences/knowledge/perceptions
 - i. Group discussion: You've been provided a copy of a screening tool that you might have seen before you came into MDPP
 - o Have you seen this before? (probe)
 - o Do you know what it is for? (probe)
 - ii. Go through screening tool
 - o What do you think this means? How do you interpret it?
 - o Is it clear? How could it better be reworded?
 - o How does it make you feel?
 - o Any recommendations on how to improve it needs?

FOCUS GROUP PART TWO (20 MINUTES)

6. Exploration Questions (15 minutes)

- a. Gather MDPP perceptions
 - i. Group Activity – pairs or small groups :On the chart paper you are provided , please brain storm pros and cons and recommendations for MDPP:
 - Pros: What do you like the most/most beneficial to you about being in MDPP?
 - Cons: What don't you like/most difficult for you about being in MDPP?
 - Recommendations: If you had to improve MDPP, what would you do? What changes would you make/what would you keep the same? Who should/shouldn't be accepted into MDPP?
 - ii. Group discussion

7. Exit Questions (5 minutes)

- a. Is there anything else you can think of that you want to add about the MDPP program?

CONCLUSION (5 MINUTES)

8. Thank You

- a. Thank participants
- b. Ask for any last minute questions
- c. Distribution of stipend/log stipend distribution
- d. Provide contact information

Appendix D: MDPEP: Comparison of Matched vs. Unmatched Cases

Sample	MDPEP	Excluded from PSM	Included in PSM
Demographics	N=205	N=85	N=120
Age	26.62	25.51	27.42
Age Categories			
> 20 years	35%	37%	33%
20-24 years	24%	22%	25%
25-29 years	18%	22%	14%
30-39 years	10%	8%	11%
40-49 years	7%	5%	9%
50-59 years	5%	5%	5%
60 + years	2%	1%	3%
Age (binary)			
16-24 years	59%	59%	58%
25 + years	42%	41%	42%
Male	46%	41%	49%
Race/Ethnicity ¹			
Black/African-American	66%	88% ***	50%
Hispanic	23%	12% **	32%
White	10%	0% ***	17%
Other	1%	0%	2%
Instant Case			
Charge Category (Mutually Exclusive)			
Violent	23%	48% ***	5%
Sex	4%	6%	3%
Property	45%	5% ***	74%
Drug	4%	0% *	8%
DWI/Other/Unknown	23%	41% ***	11%
DWI	0%	1%	0%
Other ²	21%	37%	10%
Unknown	2%	4%	1%
Charge Severity			
Felony	1%	1%	0%
Misdemeanor	100%	99%	100%
Criminal History			
Prior Arrests³			
Any Prior Arrests	61%	74% **	53%
Number of Prior Arrests	2.293	3.176**	1.667
Any Felony Arrest	18%	20%	17%
Number of Felony Arrests	0.307	0.435+	0.217
Any Misdemeanor Arrest	60%	73% **	51%
Number of Misdemeanor Arrests	1.985	2.741**	1.450

Appendix D: MDPEP: Comparison of Matched vs. Unmatched Cases
(Continued)

Sample	MDPEP	Excluded from PSM	Included in PSM
Criminal History (continued)	N=205	N=85	N=120
Any Arrest with a Property Charge	44%	53% *	38%
Number of Arrests with a Property Charge	0.946	1.176+	0.783
Any Arrest with a Drug Charge	17%	25% *	12%
Number of Arrests with a Drug Charge	0.302	0.435+	0.208
Any Arrest with Other Charge ¹	30%	41% **	23%
Number of Arrests with a Other Charge	0.590	0.871 **	0.392
Any Violent Felony Arrest	4%	6%	3%
Number of Violent Felony Arrests	0.059	0.082	0.042
Any Arrest with a Sex Offense Charge	3%	4%	3%
Number of Arrests with a Sex Offense Charge	0.049	0.047	0.050
Prior Non-Compliance			
Any Prior Parole Violation Arrests	0%	0%	0%
Number of Prior Parole Violation Arrests	0.000	0.000	0.000
Any Prior Probation Violation Arrests	0%	0%	0%
Number of Prior Probation Violation Arrests	0.000	0.000	0.000
Any Prior Warrant Arrests	8%	14% **	3%
Number of Prior Warrant Arrests	0.132	0.259*	0.042

+ p<.10 * p<.05 ** p<.01 ***p<.001

Note: Significant differences between the matched and excluded MDPEP participants found in (1) Hispanic and white race; (2) any prior, felony, property and warrants arrests; and violent and property instant case charge categories.

¹ Black race and Hispanic ethnicity were dummy coded. White race was used as the reference category, i.e., was excluded from the PSM.

² Included resisting arrest, traffic charge, disorderly charge, or other charge.

³ "Number of prior arrests" counted each prior arrest once, regardless of the number of charges. Arrests are counted either as a felony or misdemeanor arrest, i.e., these are mutually exclusive categories and a case with a felony and misdemeanor charge was counted as a felony arrest. Number of felony and number of misdemeanor arrests sum to number of prior arrests. Property, drug, other and sex offense arrests are not mutually exclusive: any and number of arrests variables count arrests with these respective charges. An arrest with two property charges and a drug charge was counted once in "number of arrests with a property charge" and once in "number of arrests with a drug charge." Any and number of violent felony arrests only count arrests where a violent felony was the most serious charge.