



**MINNESOTA
JUDICIAL BRANCH**

FOURTH JUDICIAL DISTRICT

Evaluation of the Minneapolis Payable Traffic Calendar

Prepared by:
Fourth Judicial District Research Division

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Executive Summary

- The Fourth Judicial District sponsored two separate Saturday Restorative Justice Day events to help reduce the number of drivers with invalid licenses. While deemed a success by the community, the Restorative Justice Day events were extremely costly in term of time and resources and produced higher re-offense rates than other options.
- The Minneapolis Payable Traffic calendar was created, in part, as a vehicle within which to incorporate restorative justice principles into the day-to-day processing of drivers license offenses. However, the calendar also handles moving violations, parking tickets, and other payable traffic offenses that come to court.
- After the first year of handling cases, the Minneapolis Payable Traffic calendar is disposing of approximately 60% at arraignment. Another 14% are continued so that the defendant can return with valid documentation; most of these cases are dismissed upon the defendant's return.
- A experimental study of the restorative justice sentencing option showed that there were no significant differences in the likelihood of a new offense within four months of sentencing between those sentenced in the traditional way as compared with those given restorative justice. However, both groups fared better than those defendants involved in the most recent Restorative Justice Day, and significantly better than those defendants with drivers license offenses from the year prior to the calendar's inception.
- We recommend that the courtroom judicial screener be granted the authority to collect reinstatement fees and reinstate drivers' licenses on site. In addition, we recommend that defendants continue to be required to return to court with proof of re-validation before being given a continuance without prosecution (CWOP).
- A fairness study of the Minneapolis Payable Traffic calendar showed that, overall, defendants were satisfied with their experiences in this courtroom. Those in the restorative justice group were slightly more satisfied than those in the comparison group.

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Introduction

This report addresses several aspects of restorative justice and the Minneapolis Payable Traffic calendar. First, we discuss the background of restorative justice as applied to traffic offenses in the Fourth Judicial District. Second, we describe the newly established Payable Traffic calendar. Third, we discuss our pilot study of restorative justice in the Payable Traffic calendar. Finally, we discuss the findings from our survey of defendants leaving Payable Traffic Court designed to determine whether or not they felt they had been treated fairly.

Background of Restorative Justice for Traffic Offenses in the Fourth Judicial District

In 2003, the Fourth Judicial District bench and administration recognized the need to solve an ongoing problem with regard to traffic citations. Many individuals who receive traffic citations and ignore them are soon faced with fees and fines which many low income defendants cannot pay. This eventually results in the loss of driving privileges, and seemingly insurmountable financial costs to regain them. Faced with this situation, these individuals generally continue to drive without a valid license and, if stopped again, incur new offenses, fines, and fees, thus perpetuating a cycle from which there does not seem to be an easy way out.

In light of this problem, the Fourth Judicial District created two Saturday “Restorative Justice Day” events, the first of which was held on August 23, 2003 in North Minneapolis, and the second on September 11, 2004. During these events, eligible defendants interested in clearing their unpaid fines and open driving offenses could show

up and perform community service in exchange for the court dismissing or amending all of their driving offenses, thus validating their driver's licenses. A Department of Public Safety representative was on site during these events, so that defendants could pay any reinstatement fees necessary to make their licenses valid. In addition, defendants were assigned to work crews through the county's Sentence to Service (STS) program, and were able to complete their community service the same day.

While both Restorative Justice Days were deemed a success by participants, the court, and the community, these events were extremely time and resource-intensive for the Fourth Judicial District to run. Recognizing the value of restorative justice, the bench and court administration created the Minneapolis Payable Traffic calendar in the fall of 2004 as a vehicle with which to incorporate restorative justice principles into the day-to-day processing of certain types of traffic cases (e.g., drivers license and insurance offenses). However, the calendar handles a broader range of cases than did the Restorative Justice Day events, also including moving violations, parking tickets, and other traffic-related offenses. The next section of this report describes the calendar in detail.

The Minneapolis Payable Traffic calendar

The Minneapolis Payable Traffic calendar is for parking and traffic offenses that occur in the city of Minneapolis and that can be satisfied by the payment of a fine. The cases typically are put on the calendar for one of three different reasons: (1) the defendant

wants to fight his/her ticket and refuses to see a Hearing Officer¹, (2) the defendant has already seen a Hearing Officer but did not agree to what the Hearing Officer offered, or (3) the defendant was arrested (tab charged) for a driving related offense and bailed out of jail. The calendar runs Tuesdays, Wednesdays and Thursdays in courtroom 1159 (11th floor), with a District Court Referee presiding. Arraignments occur in the mornings, with court trials in the afternoons. There are no prosecutors or public defenders assigned to appear on the arraignment calendar. The Minneapolis City Attorney has given the court special authority to negotiate settlements with defendants on their behalf. Many of these cases are ones in which the defendant does not have a valid driver's license or automobile insurance as described in the previous section.

The goals for the Minneapolis Payable Traffic calendar were as follows:

1. *Dispose of most cases at arraignment*
2. *Decrease criminal justice system resources required to handle payable traffic offenses*
3. *Incorporate restorative justice principles into daily processing of payable traffic offenses*

Typical outcomes for cases that appear on this calendar are:

1. Continued without prosecution (i.e., CWOP), whereby a defendant pays a fee to the Minneapolis city attorney's office and the offense is kept off his/her record. If the defendant gets no new moving violation convictions for one year, the current offense is dismissed at the one year mark.

¹ Hearing Officers are court employees that have been given authority by participating cities to reduce or handle minor payable offenses. An appointment with the Hearing Office is the first step a citizen would take in contesting a payable citation.

2. Defendant pleads guilty. The payment amount for a guilty plea is generally less than for a CWOP, but the offense goes on the defendant's driving record and can affect automobile insurance rates.
3. Case is set for pretrial (misdemeanors) or trial (petty misdemeanors). Defendants with common misdemeanors are required to set a pretrial conference time to meet with the prosecutor before their case can go to trial. For petty misdemeanors, however, defendants can set a trial date at arraignment, and may or may not have the opportunity to meet with the prosecutor on the day of the trial.
4. Case is dismissed. This typically happens when the defendant is cited for not having a driver's license or insurance, but brings proof to the court that they did in fact possess the documentation, and were simply unable to produce it on the day of the citation. Otherwise, the court does not dismiss cases in Payable Traffic Court (based on a defendant's argument), as the law enforcement officers who give the citations are not present at arraignment, and would thus be unable to present their version of the reason for the citation being issued.
5. Case is continued. Cases are typically continued so that the defendant can either (a) get a valid license, (b) return with proper documentation (license or insurance), or (c) meet with an attorney.

Descriptive Data for the Minneapolis Payable Traffic calendar

We analyzed descriptive data for the first year of this calendar, beginning with the fourth quarter of 2004 (October 1, 2004) and continuing through the end of the third quarter of 2005 (September 30, 2005). In the following analysis, we only counted cases for

defendants who actually appeared in court and were handled by the referee, excluding those who failed to appear, and also excluding those who applied for a public defender, as those cases were automatically continued and did not have a first appearance before the Payable Traffic Court referee. These two excluded categories represent between 20-30% of all cases originally scheduled on the calendar.

Table 1. Types of Cases on Minneapolis Payable Traffic calendar (5,075 cases)

Degree	50.2% petty misdemeanors (2,547 cases)	49.8% misdemeanors (2,528 cases)			
Type	93% traffic (4,741 cases)	5% parking (252 cases)	2% criminal (82 cases)		
Offense	43% drivers license (2,198 cases)	42% moving violations (2,131 cases)	7% equipment (339 cases)	5% parking (248 cases)	3% other (162 cases)

Table 2. Arraignment Outcomes on Minneapolis Payable Traffic calendar

	Disposed	Pled Not Guilty	Continued
4 th quarter 2004 (1,280 cases)	49.8% (637 cases)	38% (487 cases)	12.2% (156 cases)
1 st quarter 2005 (1,267 cases)	58.2% (738 cases)	27.2% (345 cases)	14.5% (184 cases)
2 nd quarter 2005 (1,362 cases)	66.2% (901 cases)	22.6% (308 cases)	11.2% (153 cases)
3 rd quarter 2005 (1,166 cases)	61.7% (720 cases)	20% (233 cases)	18.3% (213 cases)
TOTAL (5,075 cases)	59% (2,996 cases)	27.1% (1,373 cases)	13.9% (706 cases)

As Table 2 shows, since the inception of the Minneapolis Payable Traffic calendar, the disposition rate at arraignment has increased nearly 12%. It should be noted as well that many of the cases in the “continued” column are cases in which the referee gives the defendant a continuance to return to court with proof of a valid license or insurance and which, upon the defendant’s return, resolve nearly 100% of the time. In short, only 27% of cases are going on to pretrial or trial. When analyzing these outcomes in reference to goal number 1 (above), we notice that approximately the same percentage of traffic cases are disposed at arraignment as in the past.² However, the current calendar is able to dispose of these cases without the presence of prosecuting attorneys in the courtroom, thus using less resources as stated in goal number 2.

To incorporate restorative justice principles into the calendar, as stated in goal number 3, and as a response to the Restorative Justice day events (see page 5), we designed a pilot study on a subset of defendants from the Payable Traffic calendar. The purpose of the study was to evaluate outcomes for those given a “restorative justice” sentencing option as compared with those not given this opportunity. Details of that study design and its results follow in the next section.

² Because moving violation and drivers license cases were calendared differently in the past, there is no direct comparison with the processing of these types of cases. However, we have found between 60% and 65% of these types of cases were disposed at arraignment in the past.

Restorative Justice Research Study Design

Beginning in December 2004, the Research Division of District Court implemented an experimental research design in the Payable Traffic calendar.³ ***The objective of the study was to determine whether giving defendants the opportunity to dismiss or amend all of their driving charges, thus making their driver's licenses valid, by working with Sentence to Service (STS) work crews for a specified number of hours or days would be more likely to keep them from committing new traffic offenses.*** This sentencing option is called the “Restorative Justice” option, as it is patterned after the “Restorative Justice Day” events run by District Court. The outcomes for those given the Restorative Justice option are being compared to outcomes for a group of defendants with similar offenses who are disposed with either a CWOP or a plea of guilty (see above) and sentenced accordingly. Those given CWOP’s have the option of working with STS crews in lieu of paying the court fees; however, the difference between this option and the restorative justice option is that those with a CWOP do not have their prior charges dismissed.

In an experimental design researchers randomly assign who does or does not receive a certain “treatment”. All other characteristics of the two groups are randomly distributed and consequently do not differentially interfere with the effects of treatment. Random assignment ensures that there is an even distribution of differences among both the “treatment” and “comparison” groups. In this case, any observed differences between the two groups can, in fact, be attributed to the treatment if it is the only thing that systematically “varies” between the two groups.

³ The experimental design continued through April 2005.

The “treatment” for the purposes of the study is the Restorative Justice sentencing option, whereby the defendant can do STS to work off all fines or fees associated with current driving offenses and make his/her driver’s license valid.⁴ As soon as the STS days are completed, the driver’s license is made valid. If the defendant does not complete his/her STS, the matter is returned to the Traffic and Violations Bureau database (VIBES) and the driving citations remain in effect.⁵ Defendants were only eligible for the study (treatment or comparison group) if they had one of the following offenses:

Driving After Revocation (DAR)
Driving After Suspension (DAS)
Driving After Cancellation (DAC)
Driving After Withdrawal (DAW)
Failure to Produce Proof of Insurance
No Insurance (INS)
No Proof of Insurance
No Driver’s License in Possession⁶

All of the above offenses are common misdemeanors. Common misdemeanor convictions can include up to 90 days in jail and a fine of \$1,000, although these offenses are rarely sentenced at this level. No petty misdemeanors were included in the study.

Also, in order to be eligible for the study, all *active* driving-related court cases must have been from **Minneapolis**. If the defendant also had open (i.e., active) driving-related court

⁴ Defendants also usually have to pay a reinstatement fee, and sometimes have to retake their driving test.

⁵ A defendant can be in court at 11:00 and be on a work crew by noon the same day, or they can schedule a more convenient day/time. STS work crews run every day of the week, including weekends, starting at both 8 a.m. and 12 noon.

⁶ This is a different offense than “No Valid Driver’s License.” Most “No Valid Driver’s License” cases are ones in which the defendant has never had a Minnesota driver’s license, and may be ineligible to obtain one based on other circumstances. If, however, “No Valid Driver’s License” was charged, but the defendant’s situation more closely resembles scenarios associated with the eligible offenses (i.e., that the license exists but has been temporarily revoked, suspended, etc.), the defendant would in fact be eligible for inclusion in the study. This happens very infrequently.

cases from other Hennepin county communities, they could not be given the Restorative Justice/dismissal option since the court may not have been given the discretion from City Attorneys in other jurisdictions to dismiss driving offenses.⁷ However, if the defendant has *dormant*⁸ driving-related cases from other cities, this did not affect their eligibility for the Restorative Justice option.

With regard to the lack of insurance cases, as well as the “No Drivers License in Possession” cases, if the defendant brought proof to the court that s/he had insurance or a license *at the time of the traffic stop*, the referee generally dismissed that case. If there are no other cases that would make the defendant eligible for the Restorative Justice sentencing option, s/he would not be part of the study. However, if the defendant brought in proof of insurance acquired AFTER the traffic stop, s/he would still be eligible for the Restorative Justice sentencing option.

Experimental Procedure

During the course of the study, one research staff person was assigned to the courtroom every morning (for arraignments). The day before each court day, research staff printed out the calendar and went through it to determine which cases appeared to be eligible for inclusion in the study. At the same time, a designated courtroom screener/collector checked the names of all the next day’s defendants in the traffic and violations bureau

⁷ Attorneys from other cities are waiting for the results of this study before they decide whether or not to embrace the Restorative Justice principles.

⁸ Dormant offenses are those that have already been disposed but are still under court jurisdiction.

computer system (VIBES), in order to see if there were any outstanding citations which would affect eligibility for the Restorative Justice program.⁹

The research staff person sat on the bench next to the Referee, and had with them a randomly generated stack¹⁰ of yellow “RJ” cards and blue “No RJ” cards. If a defendant met the study eligibility criteria (see above) the researcher would flash the next card in the randomly generated stack to the referee, and she would sentence accordingly. If offered the Restorative Justice option, the defendants had the right to refuse it, which did happen occasionally.

The comparison group was comprised of defendants who were randomly selected to be in the non-treatment group. These people received the standard sentences for these types of offenses which includes either the negotiation of a “continuance without prosecution” (often referred to as a “CWOP”) for one year and requires the payment of a fee to the Minneapolis City Attorney’s office, or a guilty plea which carries a reduced fine as part of the sentence. The only other option available (for both experimental and comparison group defendants) was to take the case to trial and try for a complete dismissal with no monetary or STS requirements. Seventeen percent of the comparison group in this study set a pretrial date, as did 24% of the group who were offered restorative justice but declined it.

⁹ As described above with regard to court cases, defendants who had active outstanding traffic citations from other cities were not eligible for Restorative Justice.

¹⁰ Obtained from <http://www.random.org>.

The total study pool for the Restorative Justice study was 323 defendants. Of those 323, 134 (41%) ended up in the treatment (restorative justice) group, 160 (50%) ended up in the comparison group, and 29 (9%) were offered restorative justice but declined it. In other words, the treatment group and the group that declined together add up to 50% of the sample, and the other 50% is the comparison group.

Table 3. Treatment and Comparison Groups

Treatment Group (Restorative Justice sentence)	134 defendants (41%)
Comparison Group (Traditional sentence)	160 defendants (50%)
Offered Restorative Justice but Declined	29 defendants (9%)
<i>Total Number of Eligible Defendants Who Appeared in Court</i>	<i>323 defendants (100%)</i>

There were no significant race, ethnicity, or gender differences between the treatment and comparison groups, nor were there any significant differences between the two groups in terms of need for a court appointed interpreter. It should be noted that a relatively high percentage of defendants who showed up for court did require interpreters (18%). Of those that required interpreters, nearly three-quarters were Hispanic (71%) and 25% were East African.

Table 4. Demographic Differences

	Treatment	Comparison	Declined RJ	TOTAL
<i>White</i>	43.2% (57 defendants)	33.3% (53 defendants)	40.7% (11 defendants)	38.1% (121 defendants)
<i>Non-white</i>	56.8% (75 defendants)	66.7% (106 defendants)	59.3% (16 defendants)	61.9% (197 defendants) ¹¹
<i>Hispanic</i>	24.2% (32 defendants)	16.4% (26 defendants)	14.8% (4 defendants)	19.5% (62 defendants)
<i>Non-Hispanic</i>	74.6% (100 defendants)	83.1% (133 defendants)	79.3% (23 defendants)	80.5% (256 defendants) ¹²
<i>Male</i>	73.5% (97 defendants)	74.8% (119 defendants)	85.2% (23 defendants)	75.2% (239 defendants)
<i>Female</i>	26.5% (35 defendants)	25.2% (40 defendants)	14.8% (4 defendants)	24.8% (79 defendants) ¹³
<i>Interpreter</i>	23.1% (28 defendants)	15.4% (23 defendants)	8.0% (2 defendants)	18.0% (53 defendants)
<i>No interpreter</i>	76.9% (93 defendants)	84.6% (126 defendants)	92.0% (23 defendants)	82.0% (242 defendants) ¹⁴

Most of the defendants seen during the study period were in court for a first appearance (65%). Of those who appeared in court, 94% appeared “pro se” (without an attorney to represent them). Six percent appeared with a private attorney, and a very small handful had either a public defender or a legal aid volunteer. There were no significant differences in terms of eligibility for the Restorative Justice sentencing option between those who had an attorney and those who were unrepresented.

¹¹ Race data were missing for five of the defendants.

¹² Hispanic ethnicity data were missing for five of the defendants.

¹³ Gender data were missing for five of the defendants.

¹⁴ Interpreter data were missing for twenty-eight of the defendants.

Table 5. Defendant Representation

	Treatment	Comparison	Declined RJ	TOTAL
<i>Pro Se</i> <i>94% of cases eligible for study</i>	42% (128 cases)	49.8% (152 cases)	8.2% (25 cases)	100% (305 cases)
<i>Private Attorney</i> <i>5% of cases eligible for study</i>	33.3% (5 cases)	53.3% (8 cases)	13.3% (2 cases)	100% (15 cases)
<i>Public Defender or Legal Aid</i> <i>1% of cases eligible for study</i>	100% (1 case)	0% (0 cases)	100% (2 cases)	100% (3 cases)

We documented a number of reasons why defendants were not eligible for the Restorative Justice sentencing option. The most common reason (57%) was that the traffic offense for which they were appearing in court did not match the offense descriptions for the study (see page 12). For example, parking and moving violations did not qualify. The other reasons defendants might not be eligible was because of outstanding citations in other Hennepin County cities (6%; see page 12), or because they were able to produce a pre-existing drivers license or insurance policy that was not in their possession on the day of the traffic stop (6%).

Outcome Data

We tracked follow-up data for traffic court defendants in the restorative justice study (both the treatment and comparison groups) for the four months following their disposition. We looked at their driving records in three places: (1) in the Fourth Judicial District Traffic and Violations Bureau system (for new Hennepin County citations), (2) in

the Fourth Judicial District's Subject In Process (SIP) database (for new offenses set on the criminal court calendars), and (3) in the Minnesota statewide Department of Vehicle Services system (for new citations throughout the state of Minnesota).

We found no statistically significant differences in outcomes between defendants given the restorative justice option and those in the comparison group. Of the restorative justice group, 19% had a new driving offense in four months, as compared with 17% of the comparison group. Among the comparison group, those most likely to have a new driving offense within four months were those who received a CWOP (38%). On average, it took the treatment group approximately 2 months to receive a new traffic citation. The comparison group received their new offenses about 10 days earlier, on average.

The percentage of defendants with new offenses from this study is lower, however, than the re-offense rate for those who participated in the last Restorative Justice Day event (see page 5). Of those who attended the September 2004 event, 24% had re-offended within four months. This finding is surprising in light of the fact that at the Restorative Justice Day events, qualified defendants were able to have their drivers licenses immediately reinstated (by paying the reinstatement fees to a Department of Public Safety representative who was present at the events) and were also able to complete their STS requirement (i.e., one day of work) that same day. In contrast, those given the restorative justice sentencing option in court are often required to go to St. Paul to pay their reinstatement fees, are often given more than one day of STS (depending on their

driving records), and need to set a date in the future to complete their STS. In short, those defendants who attended the Restorative Justice Day events had every advantage afforded to them, but still had slightly worse outcomes than those defendants who came to court.

Table 6. Re-Offense Rate

	New Driving Offense in 4 Months	Average Number of Days to New Offense
<i>Treatment Group (Restorative Justice Sentence)</i>	21% (28 defendants)	58.2 days
<i>Comparison Group (Traditional Sentence)</i>	18% (29 defendants)	47.6 days
<i>Declined Restorative Justice</i>	28% (8 defendants)	68.0 days

Approximately 43% of those defendants with a new driving offense (including both treatment and comparison groups) were cited for driver's license issues (i.e., driving after suspension, driving after withdrawal, driving after revocation, driving without a valid license).¹⁵ An additional 15% were cited for failure to provide proof of insurance, 23% were cited for speeding, and 19% were cited for other driving offenses (e.g., failure to stop on red, illegal passing, driving under the influence).

Table 7. Offense Type for those With New Driving Offenses in Four Months

	Drivers License	Insurance	Speeding	Other Driving	TOTAL
<i>Treatment Group</i>	46.4% (13 defendants)	17.9% (5 defendants)	17.9% (5 defendants)	17.9% (5 defendants)	100% (28 defendants)
<i>Comparison Group</i>	44.8% (13 defendants)	17.2% (5 defendants)	24.1% (7 defendants)	13.8% (4 defendants)	100% (29 defendants)
<i>Declined Restorative Justice</i>	25% (2 defendants)	0% (0 defendants)	37.5% (3 defendants)	37.5% (3 defendants)	100% (8 defendants)
TOTAL	43.1% (28 defendants)	15.4% (10 defendants)	23.1% (15 defendants)	18.5% (12 defendants)	100% (65 defendants)

¹⁵ We discuss explanations for these findings beginning on page 20.

While the way in which these types of cases were processed prior to the existence of the Payable Traffic calendar was somewhat different, we thought it would be interesting to see whether there was a difference in terms of recidivism. We took a random sample (10%) of drivers license case defendants from the same five month period one year prior to the existence of the calendar (i.e., December 2003 through April 2004) and assessed whether or not these defendants had new citations in VIBES, DVS, or SIP during the four month period following their disposition. We found that, in fact, 30% of these defendants had at least one new driving offense in four months, which is significantly worse ($p < .05$) than the defendants in our study. In addition, the defendants from a year ago committed a new driving offense about one week sooner than our restorative justice group, although not as soon as our comparison group (see Table 8).

Table 8. Re-Offense Rate

	New Driving Offense in 4 Months	Average Number of Days to New Offense
Treatment Group (Restorative Justice Sentence)	21%	58.2 days
Comparison Group (Traditional Sentence)	18%	47.6 days
Declined Restorative Justice	28%	68.0 days
Pre-calendar Drivers License Cases	30%	51.5 days
2004 "Restorative Justice Day" event	24%	(unknown) ¹⁶

¹⁶ This finding was taken from a report entitled "An Evaluation of Hennepin County Restorative Justice Day," conducted by Hennepin County's Office of Planning and Development. Days to new offense was not calculated for this report.

Explanations for Restorative Justice Study Findings

In looking more closely at the reasons for the restorative justice group having slightly worse outcomes than the comparison group at four months, we came to several realizations which have already helped the bench to re-design sentencing options for this calendar. For example, out of the 28 defendants from the treatment group who were cited for a new driving offense in four months, nearly half (12 defendants) failed to apply for a new drivers license at the Department of Public Safety. In other words, upon leaving the Payable Traffic calendar, defendants given the restorative justice option were told that although their Hennepin County driving records would be cleared, it was their own responsibility to get to St. Paul and pay any necessary reinstatement fees to become valid drivers again. Those who did not do so were often cited again for driving without a valid license.

In addition, a number of these defendants had outstanding fines or citations from other counties which could not be cleared by the Fourth Judicial District. Again, failure to handle these outstanding fines and citations often led to a re-suspension or a continued suspension of driving privileges.

Depending on the types of driving offenses, many defendants also had the option of going downstairs to the public service level of the Hennepin County courthouse to pay their reinstatement fees. However, these payments typically take up to a week to be entered into the Department of Public Safety database, and if a defendant drives and is

stopped by a law enforcement officer during that time, his/her license will still come up in the system as invalid.

Finally, if defendants failed to meet their STS obligations, their driving citations were all re-activated. At that point, they could either choose to come back to court, or their driver's licenses could be re-suspended.

The overriding issue in all of these instances is that the restorative justice defendants were granted the dismissal of all Hennepin County driving offenses before having to prove that they carried through on their end of the deal.

For the comparison group, however, there were systemic procedures in place which prevented these problems and may have helped with the initial success of those who received a CWOP. In order to get the CWOP, these defendants had to get their license reinstated and come back to court with a valid license. At the point at which they returned to court (usually within four months), the CWOP went into effect, granting the defendant a year's "probation" before the charge would be dismissed. In short, the defendants in the comparison group had more incentive to follow the necessary steps to become valid, as it was necessary in order for them to get the best "deal".

There are clear recommendations that stem from these findings. *First, we recommend that the judicial screener who checks defendants' driving records be given the authority to accept the reinstatement fee from defendants to alleviate the need for them*

to have to go elsewhere. At this point the screener is capable of doing everything that a Department of Public Safety representative would be able to do (and did do during the Restorative Justice Day events), except collect payment. Increasing his responsibilities would help defendants and immediately reduce the number of citations given for driving without a valid license.

Second, the bench has already implemented a change in sentencing practices. ***The Payable Traffic Court referee is no longer granting outright dismissals at arraignment on the promise that defendants will do what they are told.*** She is instead granting defendants continuances to re-validate their licenses and then come back with the valid licenses, at which point they can receive a CWOP with a fee attached, or a CWOP with STS conditions. We recommend that this sentencing practice continue.

Fairness Study Findings

At the same time that the restorative justice pilot study was being conducted, we also conducted a fairness study in Payable Traffic Court. The fairness study, detailed in a separate report, was one in a series of fairness studies conducted in the Fourth Judicial District.¹⁷ The fairness studies are based on the concept that perceptions of fair treatment are approximately twice as important as case dispositions when it comes to measuring litigant satisfaction with the court. Furthermore, litigants who feel they have been treated fairly are more likely to see the court as legitimate and are thus more willing to

¹⁷ All of the fairness reports completed so far are accessible on the Fourth Judicial District website, <http://www.courts.state.mn.us/districts/fourth/measurements/research/researchhome.htm>.

comply with court orders, ultimately reducing the rate of “repeat business” for the court and its justice partners (Tyler, 1990)¹⁸. In this section of the report, we discuss the key findings from the payable traffic fairness study.

We interviewed 227 people from the Payable Traffic calendar. The survey participants included defendants and police officers (present for court trials only). A majority of those we interviewed (90%) appeared on the arraignment calendar, with only 11 defendants from the trial calendar (5%) and 11 police officers (5%) from the trial calendar.

Overall, defendants were satisfied with their experiences in Payable Traffic Court and the treatment they received from the referee. This was demonstrated by the high agreement on all of the statements pertaining to fairness, satisfaction with the outcomes, and willingness to comply with the referee’s decision. Defendants in Payable Traffic Court reported very high levels of satisfaction and fairness, and felt that they were listened to when they were in court. There were no differences between defendants according to age, gender, employment status, or race. Defendants whose cases were completed were more satisfied with the process than those who had to return to court to complete their cases. Also, those who were charged with misdemeanor offenses had more favorable ratings of the court than defendants who were charged with petty misdemeanor offenses. Stated another way, individuals who came to court for driver’s license or insurance offenses (mostly misdemeanors) were more pleased with their experiences than

¹⁸ Tyler, Tom R. 1990. *Why People Obey the Law*. New Haven: Yale University Press.

defendants who were charged with moving violations (petty misdemeanors). While our data do not directly explain this finding, it seems plausible to suggest that the misdemeanants are more satisfied because one of three outcomes generally occurs: (1) the case is dismissed because the defendant comes to court and shows proof that s/he did have a valid license or insurance policy on the day of the traffic stop; (2) the defendant is offered restorative justice; or (3) the defendant is offered a CWOP, all of which are good outcomes for the defendants. However, this assumption relates to outcome, rather than fair treatment, which should not vary based on offense type. Finally, defendants who felt what was required of them was appropriate, as compared to those who did not feel it was appropriate, rated the court more positively.

We looked at the fairness data in conjunction with the restorative justice experiment, and found only one marginally statistically significant ($p < .10$) difference between the treatment and comparison groups. Those defendants who received the restorative justice sentencing option were slightly more satisfied with the judicial officer's decision than those defendants sentenced in the traditional way. In short, while the restorative justice experiment did not provide us with the outcomes we hoped for in terms of recidivism, procedural justice theory would suggest that those who received restorative justice and were thus more satisfied with the referee's decision will ultimately commit less driving offenses.

Conclusions

Based on these findings of the first year of the Minneapolis Payable Traffic calendar, we see early signs of success. More cases are being disposed at arraignment than when the calendar started, and those with drivers license offenses are less likely to have new offenses than those who went through the costly Restorative Justice Day events, or those who had been handled under the traditional calendars in the past. Also, litigants are overall satisfied with the treatment they received from the Payable Traffic Court referee.

We recommend that the court consider ways to simplify the process for those defendants needing to re-validate their driver's licenses. Also, we recommend that rather than giving defendants the best possible "deal" before they leave the courtroom, the bench continue to require that defendants do what is necessary to become a valid driver again, and return to court to prove they have done their due diligence. At that point, they can earn the reward of a reduced fine/sentence, and we can be more confident about their ability to comply with court orders.