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RESEARCH

# The Impact of the Community Court Model on Defendant Perceptions of Fairness

A Case Study at the Red Hook  
Community Justice Center

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## Executive Summary

This report presents the results of a research project comparing defendant perceptions of fairness in the Red Hook Community Justice Center (Red Hook) and a traditional centralized criminal court. Nearly 400 defendants, who were seen at either Red Hook or the traditional court in summer 2005, took part in a survey comparing their perceptions of the treatment they received. The survey evaluated the effects of court location (Red Hook or the traditional court), defendant background (race, ethnicity, sex and socioeconomic status), the outcome of their current court case (dismissed or required to return to court; required to attend drug treatment or not), and the stage of their case at the time of the survey (arraignment or subsequent court appearance). Structured courtroom observations supplemented the results of the survey and helped to generate richer explanations about why different defendants might have perceived their court experiences as fair or unfair.

Among other outcomes, community courts seek to improve public confidence in the courts and to encourage law-abiding behavior. Previous research shows that when defendants perceive their treatment to be fair, they are more likely to accept the decisions of the court, comply with court-imposed sanctions, and obey the law in the future (Tyler and Huo 2002). This study provides the first-ever evaluation of the success of a community court in improving upon the traditional court's capacity to ensure that defendants leave court believing they were treated fairly.

This research project had two main goals: 1) to compare defendant perceptions of fairness at the Red Hook Community Justice Center and the traditional criminal court and 2) to identify the predictors of defendant perceptions. Since effective communication as well as respectful and fair treatment of defendants are important tenets of the community court model, we focus on how each of these elements affects defendants' overall perceptions of fairness.

Major findings:

- **The community court was considered to be more fair than the traditional court.** In addition to offering a wider range of non-incarcerative sentences (including social and community services), community courts such as the Red Hook Community Justice Center offer a more transparent and collaborative atmosphere for defendants. The services, transparency and collaboration characteristic of the community court model heighten defendant perceptions of fairness.
- **Defendant responses to the traditional criminal court were also relatively positive.** Although defendant responses to Red Hook were generally more positive than the traditional court, at least 70 percent of defendants were satisfied with nearly all of the court actors and court processes in both courts.
- **Defendant perception of the judge was the most important predictor of overall perceptions of the court's fairness.** Defendants who perceived that the judge treated them with respect, helpfulness, and objectivity were more likely to say their experience was fair overall. This effect was stronger at the Red Hook Community Justice Center, presumably because the judge plays a more crucial role in the community court model, offering support and praise to successful defendants, sanctions for those who are

noncompliant, and services and referrals for all defendants. Although the treatment of defendants by other court actors, including the defense attorney, prosecutor and court officers, was also important, perceptions of the judge were overwhelmingly more important to determining perceptions of overall fairness.

- **The quality of communication that defendants experienced in the courtroom had a significant effect on their overall perceptions of the court's fairness.** Clear communication was slightly more important to defendants' overall perceptions of fairness than respectful and helpful treatment from court staff, although these were also important elements. This suggests that efforts to improve communication and enable defendants to express their own perspectives can create more positive perceptions.
- **Defendant perceptions of fairness varied less across survey respondents in Red Hook than in the traditional court, and demographic backgrounds mattered less in Red Hook in determining these perceptions.** Defendants at Red Hook were not only more generally satisfied than those at the traditional court, but there was less variation by race and socioeconomic status. Also, having had a case dismissed did not significantly affect Red Hook defendants' perceptions

# The Impact of the Community Court Model on Defendant Perceptions of Fairness: A Case Study at the Red Hook Community Justice Center

## Introduction

Public confidence in the criminal justice system is remarkably low when compared with other institutions. Scholars attribute this to a variety of factors, some of which are largely out of the control of the system itself. These include rising public expectations, declining in trust in government in general, the discrediting of criminal justice expertise and professionalism, and inaccurate information about the workings of the criminal justice system (Garland 2001; Hough and Park 2002; Sherman 2001).

How can public confidence be improved? One approach is to ensure that criminal defendants feel that they are being treated fairly. If those most affected by the workings of the criminal justice system come out believing that the system treated them fairly, that may help to convey a broader public message that the system can be counted upon to administer justice. Citizens generally hold favorable views toward institutions that are perceived as unbiased, while holding negative views of institutions that are believed to be partisan or discriminatory (Tyler 1990). Not only can a focus on fairness improve public confidence, but research has shown that, as confidence in the criminal justice system grows, in turn, law-abiding behavior increases (e.g., Thibault and Walker 1975; Tyler 1990, 1997; Tyler and Huo 2002). This means that a fair process has the potential both to create generalized benefits via improved public confidence and specific benefits through the improved compliance of the particular defendants who experience the process.

Accordingly, this study examines defendant perceptions of fairness in two types of criminal courts, a traditional “downtown” court located in a large urban metropolis, and an experimental “community court” located in a smaller and geographically distinctive urban neighborhood. The study considers overall perceptions of the court process as well as perceptions linked to each of several key criminal justice system representatives, including the judge, prosecutor, defense attorney, and court officers. The study also considers several distinct but interrelated concepts that may predict perceptions of fairness –communication (clearly explaining the court process to defendants and giving them an opportunity to be heard), respectful and fair treatment in the courtroom, and helpfulness (responding to the defendant’s individual needs).

The rationale for implementing the study in two sites was to test the potential of the community court model to improve upon existing defendant perceptions. Community courts are explicitly interested in improving public confidence in the criminal justice system (Berman and Feinblatt 2005). They seek to accomplish this by responding to community concerns, while simultaneously addressing the service and treatment needs of individual defendants (Berman and Feinblatt 2005; Casey and Rottman 2003; Kralstein 2005). Community courts include a far greater range of dispositional and sentencing options than are commonly available in traditional courts. These may include community service, substance abuse treatment mandates, orders to job readiness or G.E.D. classes, and/or other sanctions involving treatment or social services.

Community courts can provide defendants with voluntary referrals for job training, housing assistance, or other services. The wide availability of these services and the attempt to match sentences to the social service needs expressed by defendants may elicit more of a sense among defendants that the court is responsive to their individual situations. Finally, community courts engage communities directly, soliciting input through community advisory boards and providing opportunities for volunteer work and joint planning between citizens and justice officials.

Since most community courts deal with misdemeanor defendants who would otherwise receive relatively short jail sentences, fines, or sentences involving no real conditions at all, threats of long-term punishment are not a realistic option for securing compliance with court mandates or inducing future law-abiding behavior. As a result, community courts have a strong incentive to promote voluntary compliance with court mandates, secured by enhancing defendant trust in the court's legitimacy. Whether community courts succeed in their efforts remains an empirical question, never before examined. The results of such an evaluation are important not just for community courts, but for conventional criminal courts as well, which might look to adopt successful strategies from experimental community courts.

To review, this study asks:

- 1) Do defendant perceptions of fairness differ between community courts and traditional criminal courts?
- 2) What factors influence defendant perceptions of fairness in both courts? Factors to be examined include perceptions of individual criminal justice agency representatives (judge, prosecutor, defense attorney, and court officers), specific dimensions of fairness (communication, how defendants felt they were treated<sup>1</sup>, and helpfulness), objective aspects of case processing (such as whether the case resulted in a conviction or dismissal), and defendant background characteristics (e.g., race, sex, and socioeconomic status).

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<sup>1</sup> The factor measuring how defendants felt they were treated by individual court actors is composed of variables measuring defendants' perceptions of how fairly and respectfully the court officers, judge, defense attorney and prosecutor treated him or her.

# Literature Review

## Perceptions of Fairness in the Courts

Previous research on defendant perceptions of their court experience has defined two types of fairness, procedural and distributive. Procedural justice concerns the fairness of the court procedures and interpersonal treatment, while distributive justice concerns the fairness of the case outcome. Surprisingly, research in criminology suggests that litigants are more likely to form their opinions of the court based on procedural than distributive fairness, although both play some role (Casper, Tyler, and Fisher 1988; Tyler and Huo 2002; Sunshine and Tyler 2003). Similarly, studies of management have found that employees who believe that employers have treated them fairly are more likely to be loyal and accepting of decisions, even when those decisions negatively affect them (Brockner, Tyler, and Cooper-Schneider 1992; Brockner, Siegel, Daly, Tyler, and Martin 1997; Mueller and Landsman 2004; Schaunbroek, May, and Brown 1994). The precedence of procedural justice over distributive justice and other factors is an important but counter-intuitive finding, as it suggests that even when litigants experience an objectively negative outcome (e.g., a conviction or loss in a custody dispute) they can form or retain high opinions of the court as an institution if they are treated fairly.

Further, the opinions that defendants form of the courts as an institution can have concrete behavioral effects. There is significant evidence suggesting that when citizens perceive justice system agencies to be fair, they are more likely to comply with the law, legal authorities, and court mandates (Tyler and Huo 2002). In studies of mediation, perceptions of fairness affect a litigant's decision both to accept an arbiter's decision (Lind, Kulik, Ambrose, and de Vera Park 1993) and follow its terms in the long run (Pruitt, Peirce, McGillicuddy, Welton, and Castrianno 1993). Similarly, defendants in domestic violence cases were more likely to obey the law in the future if they believed they were treated fairly by the police; indeed, the fairness of their treatment mattered more than how severely they were punished in predicting their future behavior (Paternoster, Brame, Bachman and Sherman 1997). Since approximately 20% of people involuntarily engaged by police are immediately noncompliant, and many people engaged in illegal behavior are never caught (Mastrofski, Snipes, and Supina 1996), an important way to make communities safer is to increase voluntary law-abiding behavior through enhancing defendants' and citizens' sense of fairness.

In some research, perceptions of fairness are differentiated across several dimensions. Tyler (1990) found that litigants are more likely to be satisfied with their court experience overall and to comply with court orders when perceiving that (1) their voice was heard by decision-makers, (2) they were treated with respect, and (3) decision-makers were neutral and trustworthy. The quality of communication appears to be an especially important dimension. Research has found that in multiple contexts, including courts, individuals who are allowed to have an expressive voice are more likely to believe that they have been treated fairly, particularly if the outcome of a decision was detrimental to their self-interest (Price, Lavelle, Henley, Cocchiara, and Buchanan 2004; Korsgaard and Roberson 1995; Tyler 1990; Bies and Shapiro 1988; Lind, Kurtz, Musante, Walker, and Thibaut 1980).

Factors over which the court has little or no control can also affect defendant perceptions of the courts and, indirectly, their likelihood of re-offending. Defendants' pre-existing societal orientations with regards to the legitimacy of the courts and their trust in the motives of criminal justice actors can affect their perceptions as well (Tyler and Huo 2002). Favorable societal

orientations such as identification with one's community, respect for the law, and trust in others all act to encourage citizens to comply with the law voluntarily (Tyler and Huo 2002). In addition, defendants' personal background (race, class, and sex) can affect perceptions of the court's fairness. Generally speaking, individuals who identify as a race or ethnicity other than white have more negative perceptions (Rottman 2000; Tyler and Huo 2002; Tyler and Wakslak 2004). Members of racial and ethnic minority groups generally come into the courtroom with lower expectations; they report less trust in other people, less trust in the legitimacy of the court, less identification with the community and country, and more negative experiences with legal authorities (Tyler and Huo 2002; Tyler and Wakslak 2004). For example, 70% of black respondents in a national survey of courts stated that as a group they believe they are treated "somewhat" or "far" worse than Hispanic or white respondents. The same study also found that black respondents were less likely to believe that court personnel are helpful and courteous, that juries are representative of the community, or that courts are "in-touch" with what is going on in their communities (Rottman 2000). In another study, black respondents were twice as likely to believe that court outcomes are "seldom" or "never" fair as they were to believe that they are "always" or "usually" fair (Rottman, Hansen, Mott, and Grimes 2003).<sup>2</sup> Once in the courtroom, minority defendants report worse treatment, more negative outcomes, lower perceptions of the quality of the court's decision-making process, and less trust in the motives of court actors. After the case is decided, these negative perceptions translate into less satisfaction with the court overall and less acceptance of the court's decision, all of which in turn lower compliance (Tyler and Huo 2002; Rottman et al. 2003). Particularly for courts that work with predominantly minority communities, such as the ones included in this study, the effects of defendant background on perceptions of the court are important for staff to understand.

### The Community Court Model

Community courts share with traditional courts the goals of ensuring community safety while protecting the due process rights of defendants. However, community courts differ from traditional courts in their approach to these goals; and community courts add other goals reflecting their mission to address local needs and priorities. In particular, community courts are designed both to help defendants solve the problems that underlie their criminal behavior and to hold them accountable for the specific incidents that brought them to court; they consult with local stakeholders to set and accomplish priorities; they are proactive in preventing crime rather than merely responding once crime has occurred; they bring criminal justice agencies (courts, prosecutors, defense attorneys, and police) into close coordination to address community issues; and they strive to create an atmosphere which is conducive to engaging communities, defendants, and other litigants (see Feinblatt and Berman 1997; Kralstein 2005).

With specific regard to the defendant experience, the community court model offers increased sentencing options, such as substance abuse treatment and community service mandates, rather than relying on more traditional sentences such as short jail stays, "time served" sentences, or fines. Studies of the Midtown Community Court found that the effect of the court's approach to sentencing was to reduce the use of short-term jail sentences on one end of the spectrum while reducing the use of "walks" on the other end, which consist of sentences such as "time served" or conditional discharges that lack further conditions (Hakuta 2006; Sviridoff, Rottman, and

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<sup>2</sup> In 2004, black men and women were 4.8 times more likely than others to be incarcerated (Harrison and Beck, 2005). Also, a meta-analysis of many studies of sentencing patterns revealed that after taking into account defendant criminal history and current offense severity, minority defendants were generally sentenced more harshly than white defendants (Mitchell and MacKenzie 2004).

Weidner 2001). Community courts also provide a wide range of social services onsite to help defendants combat problems such as joblessness, addiction, or lack of education. They also address concerns that courts have become revolving doors in which “the process is the punishment” – all too many defendants leave court following a brief but unpleasant experience only to return on similar charges with no effort having been made to address either their underlying problems or the effects of their anti-social behavior on the community (Feeley 1992).

There is some evidence that community courts have produced palpable effects on citizen perceptions of the criminal justice system. Residents and merchants surveyed in the neighborhoods served by the Red Hook Community Justice Center (the site for the present study) perceived the courts and other criminal justice agencies more positively after the Justice Center opened (Moore 2004; Frazer 2005). Between 2002 and 2004, positive feelings about the Justice Center in the community increased from 57% to 78% (Frazer 2005). Separate studies of three different community courts (Red Hook, Hartford, and Hennepin County) all reported positive defendant perceptions of their court experience (Justice Education Center 2002; Moore 2004; Weidner and Davis 2000). Yet, in the absence of a “comparison group,” it is impossible to know whether these studies of defendant perceptions were reporting findings that differed from what would have been detected in a traditional court setting.

The 27 community courts currently operating in the United States are a part of the larger problem-solving justice movement, an association of court-based innovations which “seek to use the authority of courts to address the underlying problems of individual litigants, the structural problems of the justice system, and the social problems of communities” (Berman 2000: 78). These problem-solving justice projects include specialized drug courts, mental health courts, domestic violence courts, community courts and a wave of newer models. These projects all have in common a focus on producing tangible outcomes for defendants, victims, and communities (e.g., reducing recidivism, increasing community safety, rehabilitating defendants, or linking crime victims with needed services). In some cases, these projects achieve their goals through the use of therapeutic interventions. The legal theory of therapeutic jurisprudence treats legal proceedings as events with emotional and behavioral consequences as well as bureaucratic and adjudicative functions. In practice, therapeutic jurisprudence uses psycho-medical knowledge and techniques for addressing criminal justice problems; drug courts and mental health courts are the most obvious examples of the application of these techniques (Gavin and Puffett 2005; Wexler and Winick 1996).

Several studies suggest that defendants handled in drug courts, the most widespread problem-solving model, may be especially likely to believe that they were treated fairly and respectfully (Podkopacz, Eckberg, and Zehm 2004) and to believe that the courts are fair and legitimate institutions (Farole and Cissner 2005). Several qualitative studies of drug courts also point to the judge as the most central figure in determining the overall experience that defendants report (Farole and Cissner 2005; Goldkamp, White, and Robinson 2001; Porter 2000, 2001). However, as with community courts, the existing literature on drug and other problem-solving court models does not involve rigorous quantitative comparisons of the perceptions of fairness held by problem-solving court defendants versus similar defendants handled in a traditional court.<sup>3</sup>

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<sup>3</sup> A forthcoming multi-site study of drug courts will in fact test whether participants are more likely to perceive that they were treated fairly than similar non-participants; and will also test whether perceptions of fairness influence future criminal behavior, drug use, and other outcomes (see Urban Institute, Research Triangle Institute, and Center for Court Innovation 2003). The final results of this study are not anticipated until 2008.

# Research Hypotheses

Based on the preceding literature, we propose the following nine hypotheses concerning the predictors of procedural fairness among criminal defendants.

## The Community Court Model

1. Community court defendants will rate the fairness of their court experience higher than those whose cases were processed in traditional courts.

## Specific Criminal Justice Actors

2. The judge will be the most influential court actor in determining ratings of fairness. Defendants who rate positively how they were treated by the judge will be particularly likely to rate positively the overall fairness of their court experience.

## Communication

3. Communication will be the most important dimension in determining ratings of fairness. Defendants who rate positively how well court actors communicated with them will be particularly likely to rate positively the overall fairness of their court experience.

## Objective Aspects of Case Processing

Although previous research suggests that outcome favorability (whether litigants won their case) may not be as important as how they were treated during the court process, objective case outcomes are still likely to influence perceptions of fairness to a degree (Tyler and Huo 2002).

4. Defendants with an ongoing relationship with the court (ones who have appeared multiple times on the same case) will rate the fairness of their court experience higher than those who were just arraigned (appearing for the first time).

While it may annoy some defendants to return to court multiple times for one case, those with ongoing appearances may develop more favorable perceptions, because they will have the opportunity to form relationships with court actors and become familiar with how the court functions. This hypothesis is also consistent with the findings of several qualitative studies that when drug court participants form a relationship with the judge, they have more positive attitudes towards program participation and greater motivation to recover (Farole, Puffett, Rempel and Byrne 2004; Farole and Cissner 2005; Goldkamp et al. 2001).

5. Defendants assigned to substance abuse treatment will rate the fairness of their court experience higher than those who were not assigned to substance abuse treatment.

This assumes that defendants assigned to treatment will appreciate the effort of the court to respond to their individual needs. Also, assignment to drug treatment will presumably be perceived more positively than the alternative, which is often jail.

6. Defendants whose cases were dismissed will rate the fairness of their court experience higher than those whose cases were not dismissed.

Having a case dismissed is naturally assumed to elicit more positive retrospective perceptions about the process.

#### Defendant Background

Defendant background characteristics, while not the focus of the study, were included because of their probable impact on perceptions. Previous research suggests that persons who are black, male, and lower in socioeconomic status may have particularly negative opinions of courts and of the criminal justice system in general (Rottman 2000; Tyler and Huo 2002).

7. Black respondents will rate the fairness of their court experience lower than white respondents; Hispanic respondents will fall in the middle.

8. Males will rate the fairness of their court experience lower than females.

9. Respondents with a lower socioeconomic status will rate the fairness of their court experience lower than those with a higher status.

# Methodology

## Site Selection

The study was implemented in one community court and one nearby traditional court. Table 1 compares the two courts. The two sites were selected because they were convenient to the researchers, close to one another geographically, and serve similar urban populations.

Launched in June 2000 in a low-income community in southwest Brooklyn, the Red Hook Community Justice Center (Red Hook) was designed to respond to the problems of crime, disorder, substance abuse, economic and geographic isolation, and lack of social services in Red Hook, Brooklyn. Red Hook embodies many of the core elements of the community court model: an enhanced range of dispositional and sentencing options, use of an extensive network of community and social service providers, a focus on defendant accountability (avoiding sentences that lack any real conditions and ensuring compliance with court mandates), ongoing exchange between the court and community, and some use of therapeutic techniques in how the judge converses with defendants and in the availability of substance abuse treatment mandates. Possible mandates include community service, substance abuse treatment, job training, GED placement tests, anger management classes and treatment readiness groups (Berman and Fox 2005).

Based on community input during the planning stages, Red Hook was designed not only to address criminal matters but to solve a range of local problems, including quality-of-life crime as well as family conflicts, landlord-tenant disputes, and juvenile delinquency. For this reason, Red Hook is a multi-jurisdictional community court handling cases from criminal, family, and housing court. One judge hears a broad range of the community's cases in one courtroom. He has maintained a collegial relationship with defense attorneys (nearly all of whom are employed by the Legal Aid society) and prosecutors alike. All of the court actors work collaboratively with social workers and other clinical staff to identify appropriate social services for adult defendants, juvenile delinquents, and other litigants. The cases come from three police precincts, which surround the court and extend into nearby neighborhoods. Only misdemeanors and the lowest level of felonies are heard in Red Hook's criminal court; higher level felonies are seen at the centralized Brooklyn Criminal Court. The judge in Red Hook sees 35-40 criminal cases per day.

Red Hook is a particularly appropriate site for a study of defendant perceptions of fairness in a community court, because it is generally seen as a national leader in the community court movement. Red Hook receives hundreds of visitors each year, and several other community courts are replicating the "Red Hook experiment." Red Hook has been examined through both internal research and external study (see for example, Malkin 2005; Moore 2004; Frazer 2005). After the Red Hook Community Justice Center opened, the public's fear of crime dropped and public confidence in local justice system agencies more than doubled, suggesting that the community court has had positive effects on neighborhood perceptions of the legitimacy of the court system (Moore 2004).

The traditional court was chosen because it is geographically proximate to Red Hook. Located in a downtown area of New York City, it serves as a centralized countywide criminal court. It has specialized drug treatment and domestic violence court parts, but outside of these parts it looks

Table 1: Comparison of Red Hook and the Traditional Court

	Red Hook	Traditional Court
<b>PLANNING AND IMPLEMENTATION</b>		
Attempt to Make Physical Space Inviting	Yes	No
Collaborative Planning With Community	Yes	No
Located in a Community	Yes	No
Types of Cases	Criminal, housing and family	Criminal only
Onsite Social Services	Several	Few
<b>COURT PROCESS</b>		
Plea Bargaining	Yes	Yes
Adversarial	Yes, but with teamwork approach when appropriate	Yes
Staff Relationship and Interactions with Judge	Extensive	Minimal
Court-based Clinical Staff	Yes	No, except specialized domestic violence and drug treatment parts
<b>SANCTIONS</b>		
Community Service Sanctions	Yes	Yes
Social Service Sanctions	Frequent use	Minimal use
Sentences of Time Served	Infrequent	Frequent
Jail	Less often as initial sentence; used after alternative sanctions have failed and in that case more severe	Yes, often initial sentence

like many other traditional, high-volume courts. Courtroom operations emphasize due process, speed and efficiency, but there is less focus on implementing long-term solutions designed to address the sources of criminal behavior. Use of social service sentences is rare. The traditional court does not engage in planning with the community, nor does it assess public opinion about the court or community safety. The traditional court sees an average of 1200-1400 misdemeanors per weekday across sixteen court parts, with a different judge presiding over each courtroom and different judges for arraignments and subsequent court parts. This massive volume obviously constrains the attention that the traditional court can realistically devote to each case, and a lack of clinical staff in the courthouse constrains the ability to link defendants with services.

The different goals of the two courts are reflected in their differing structures and practices and the physical layout of the courthouses and courtrooms. The traditional court is a multi-story building with many courtrooms and judges. It has separate rooms for arraignments and subsequent trial parts as well as a separate domestic violence court and a drug court. The courtrooms are dark, despite large windows, some of which have bars on them. The floors are scuffed and often dirty. There are 12 metal detectors at the entrance to the building. The presence of social workers in the courtroom is rare, and there are many prosecutors and many different defense attorneys, some private and some from either of two public defender agencies.

The Red Hook courthouse, by contrast, is located in a remodeled parochial school, and the architecture was designed to be friendly and inviting to the community. The courtroom is smaller than the courtrooms used for criminal misdemeanors in the traditional court and is light and airy.

The judge's raised platform is not as high as in a traditional courtroom, and he often asks defendants and their families to approach him. Court-mandated and voluntary social services are available within the building. Although the building does have a metal detector, there are only two or three court officers assisting defendants during all but the busiest times, making the courthouse far less intimidating and friendlier.

During the period of study, both courts provided substance abuse treatment to some offenders. In Red Hook, defendants were clinically assessed by social workers and might subsequently be recommended for treatment. In the traditional court, among those arrested on misdemeanor charges, only defendants with 10 or more prior misdemeanor convictions were considered for treatment. In both courts, defendants who were found eligible had the ability to plead guilty voluntarily and be mandated to substance abuse treatment as an alternative to proceeding in the usual fashion. In Red Hook, treatment defendants were seen by the same judge as other defendants, while in the traditional court, they were seen in a separate courtroom by a specially trained drug court judge.

### Data Sources and Sampling

Data for this study came from two sources. The first was a survey, administered verbally in English or Spanish by researchers and research assistants during the summer of 2005. Defendants were recruited by a researcher or assistant, who approached them as they left the courtroom after their appearance in court. Survey participants were given a free public transportation ticket (MetroCard) as a small incentive. The total number of surveys completed was 398, with 202 (51%) conducted at Red Hook and 196 (49%) conducted at the traditional court. The survey, which totaled 65 questions, included the following topics (see Appendix 1 for the complete questionnaire):

- *Demographic Background (predictor variables)*: These included race, gender, age, education, language spoken at home, and housing status (i.e., living in public housing or not).
- *What Happened in Court (intermediate variables 1)*: These variables included whether or not the defendant had just been arraigned (i.e., was it the defendant's first appearance on the current case), whether the defendant had just pled guilty or pled guilty at a previous court appearance on the same case, whether the case was dismissed (including adjournments in contemplation of dismissal (ACDs), dismissals which occur after certain conditions are met, including law abiding behavior), and whether the defendant had been mandated to substance abuse treatment.
- *Interpersonal Treatment in Court (intermediate variables 2)*: This section included questions about defendant opinions of various court actors (including the judge, prosecutor, defense attorney, and court officers), previous experiences in court, and perceptions of court fairness. Opinions of court actors concerned three types of judgments: perceptions of effective communication (e.g., "The judge listened to you" or "The court officers answered your questions, if you had any"), perceptions of treatment (e.g., "The court officers treated you with respect"), and perceptions of helpfulness (e.g., "Your lawyer was very interested in helping you").

- *Global Fairness (outcome variable)*: These questions were not intended to assess perceptions of individuals or specific events in court, but rather an overall sense that the experience in court was fair or unfair (e.g., “Your case today was handled fairly by the court” or “You were treated the way you deserved in court today”).

Fairness, in this case, is conceptualized more holistically than in the procedural justice literature, as this study found all four of the questions about fairness, including the one that sought to measure distributive rather than procedural fairness, to be highly intercorrelated.<sup>4</sup> All opinion questions were measured on a five-point Likert scale, with one representing strongly disagree and five representing strongly agree.

To sample effectively, surveys were administered at Red Hook first. Only criminal cases arraigned as misdemeanors were sampled. All cases appeared in the same courtroom and before the same judge, but their stage of case processing varied. Key stages included an arraignment, subsequent appearance, and compliance hearing on a substance abuse treatment, anger management or a domestic violence program mandate. The sampling plan for the traditional court was designed to match the distributions of case types found in the actual surveying at Red Hook (e.g., approximately the same percentages of cases just arraigned, returning for subsequent appearances, and mandated to a program). To attain a matching distribution of parts surveyed, defendants at the traditional court were surveyed as they left four separate types of court parts: arraignment parts, all-purpose post-arraignment parts, a drug treatment part, and a domestic violence part.

The second source of data involved structured observations of each court, in which a checklist was used to record the behavior of the judge with regard to the defendants. Observations were made of 142 court appearances, 51% in Red Hook and 49% in the traditional court. Ethnographic field notes were also taken during courtroom observation, in order to provide detailed descriptions of the observed behavior of the judge. Observations were not made concurrently with surveys, but rather were begun after data analysis of the surveys revealed the importance of the judge and the location context in predicting defendant opinions of their experiences. The observation instrument was pilot tested with 14 measures of the judge's behavior that were thought to enhance defendant perceptions of fairness. The initial instrument was too complicated for reliable data collection and the indicators were subsequently reduced to seven. The final list of behaviors observed included:

- Spoke directly to the defendant
- Praised the defendant
- Admonished the defendant
- Requested further information about the case (usually from social workers or attorneys)
- Asked probing questions (ones with substantive answers, rather than procedural questions or questions that required only a yes or no answer)
- Discussed the defendant's future

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<sup>4</sup> Even when each variable was treated separately, fairness was predicted by the variables used in this study in much the same way; however, using a factor composed of four variables allowed for an improvement in statistical significance and power.

- Discussed the defendant's past.<sup>5</sup>

In order to ensure the validity of these matters, a second researcher observed 25 of the same court appearances used in the final analysis of the observational data. The second researcher agreed with the primary researcher in 94% of the observational items.

### Survey Data Analysis Strategy

Initial data analysis included examination of the frequencies, means, and standard deviations of individual survey items, as well as examinations of analysis of variance (ANOVA) and correlations between items. Many of the responses to the items measuring defendant perceptions of fairness were interrelated. To tease apart the underlying concepts, we used factor analysis to combine variables into single factors. By looking at multiple, intercorrelated items as a single factor, the effects of the underlying concept can be detected, whereas if each item was examined individually, there would appear to be no effect on the outcome of interest due to high intercorrelation between these items.

Factor analysis revealed four different concepts of interpersonal treatment: attitudes towards the judge (e.g., “The judge treated you fairly”), communication within the courtroom (e.g., “Your lawyer listened to you”), treatment in the courtroom (e.g., “The prosecutor treated you with respect”), and overall fairness of the court experience (e.g., “Your case today was handled fairly by the court”). Although the concepts of helpfulness and respect were also evaluated, the survey questions intending to detect this concept did not factor analyze separately and therefore were not used to create summary helpfulness and respect variables; they were instead included along with other variables in a factor measuring the quality of treatment. The technical notes for factor loadings and composite variables used to create these factors are in Appendix 2.

Multiple forms of analysis were conducted in order to describe and explain the predictors of defendant ratings of fairness. Frequencies, means and t-tests established the trends in the data, while ordinary least squares regressions were used for prediction. Further, because of the high intercorrelation between the variables of interest and the importance of detecting indirect effects not immediately obvious in regressions, path analyses were also used. Path analysis, unlike regression analysis, reveals the indirect effects of variables which may seem initially to have no detectable relationship to the outcome of interest. However, in order to do this, assumptions must be made about the order in which the variables affect one another. One must begin with a non-recursive pair of variables. A study generally needs 20 times as many observations as there are variables in the path. The path cannot contain feedback loops (it must go only in one direction, assumed to be causal). Generally, demographic variables are ordered first, with other variables following in temporal order (for example, one is black before one arrives to court, after which one has a set of experiences in court, and finally, forms an attitude about the court). In this case, demographics were ordered first, court location was second, court proceedings and mandates

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<sup>5</sup> Although the judge’s praise, admonishment, and discussions of the future and past were generally spoken directly to the defendant, these were also counted when the judge spoke about these matters to the court at large, clearly with the intention of the defendant hearing them and understanding that they were directed towards his or her past or future behavior. This occurred most frequently when the judge in Red Hook would state to the entire court, “That’s not good,” rather than telling the person in question directly, “You did something bad” (or something to the same effect).

were third, and intermediate procedural justice dimensions such as communication and ratings of specific court actors (e.g., judge, prosecutor) directly preceded the outcome variable, overall ratings of fairness. It was hypothesized that demographic effects would all be indirect, court proceeding and case outcome effects would be indirect and procedural justice effects would be directly related to overall ratings of fairness.

As a result of the restriction on the number of possible variables that may be included in the path analysis, non-arbitrary mathematical criteria were necessary to determine variable selection for the final path. First, each variable included must have had a significant correlation with an outcome variable or a significant correlation with a variable that was significantly correlated with an outcome variable. Each variable included must also improve the overall R-squared of the model (percentage of variance explained by the whole path). If the variable in question is competing with similar autocorrelated variables (e.g., opinions of the judge versus communication, judge versus lawyer, dismissed versus arraigned), the variable must improve the R-squared more than the other variable. Variables included must cause another highly intercorrelated variable of interest to become insignificant when added (chosen as above). Highly intercorrelated variables were retained in the path if they did not knock each other out. Criteria for inclusion in regression analysis were similar.

## Results

The community court had a significant, positive impact on defendant perceptions of fairness. In addition, across both courts, how defendants perceived the judge was the most important predictor of how they perceived the overall fairness of the court. Perceptions related to communication (court actors clearly explained the proceedings, answered questions, and listened to what the defendants had to say) also strongly predicted perceptions of overall fairness. In other words, the results of this study were largely consistent with expectations, with a few notable exceptions.

The following sub-sections describe the sample characteristics, test the predictors of defendant perceptions, and explain several important differences between the predictors of fairness in the community court and the traditional court.

### Sample Characteristics

As shown in Table 2, the final sample (398 defendants) was racially diverse. In both locations, nonwhite respondents dominated the sample (85%). In Red Hook, there were more Hispanics (52% versus 18%), and in the traditional court, there were more black respondents (68% versus 33%). In total, 50% of the defendants surveyed were black, 35% were Hispanic, 9% were white, 4% were Asian, and 5% identified themselves as some other race.

Overall, 80% of the defendants surveyed were male; a slightly larger percentage was male in Red Hook (85%) than in the traditional court (75%). Red Hook defendants were less likely to have a high school or GED degree (50% versus 62%), while defendants at the traditional court were less likely to be employed full-time (14% versus 40%). Also, 24% of the sample lived in public housing, with no significant difference between Red Hook and the traditional court. Finally, Red Hook defendants were less likely to speak English at home, presumably related to their greater likelihood of Hispanic origins (68% versus 84%).

With regards to the courtroom proceedings, close to half the sample (51%) had just been arraigned. Also, 22% percent had pled guilty while 39% had their case dismissed (the outcome of the case was still pending for the remaining 39%). At Red Hook, defendants were significantly more likely to have just had a compliance hearing on a previous program mandate, usually for substance abuse treatment (11% versus 4%). Also, defendants at Red Hook were significantly more likely to have been mandated to substance abuse treatment (29% versus 18%), either during the court appearance that took place immediately prior to the research interview or during a previous court appearance.

### Perceptions of Key Court Actors

In both courts, defendants were, on the whole, satisfied with the way that they were treated by the judge, prosecutor, defense attorney, and court officers. Defendants, however, were consistently more satisfied with each of these actors at Red Hook than at the traditional court (with some of the differences reaching statistical significance and others suggestive, see Figure 1). For example, in Red Hook, 93% agreed or strongly agreed that the judge treated them fairly,

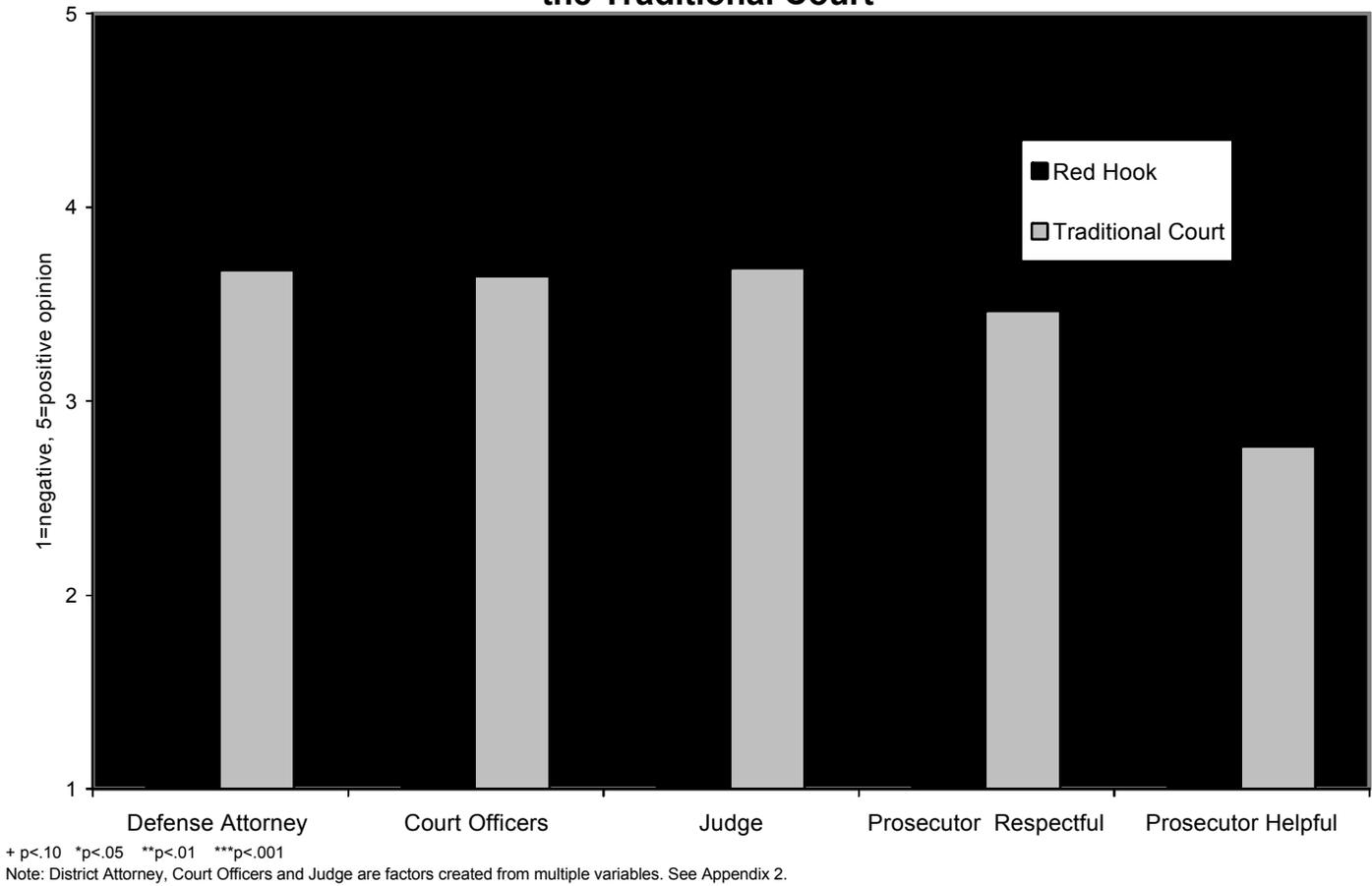
Table 2: Demographics of Community Court and Traditional Court

	Community Court	Traditional Court	Total
NUMBER OF RESPONDENTS	202	193	398
<b>RACE/ETHNICITY</b>			
Black	33%***	68%	50%
Hispanic	52%***	18%	35%
White	10%	7%	9%
Asian	1%	1%	4%
Other	4%	6%	5%
<b>GENDER</b>			
Male	85%*	75%	80%
Female	15%*	25%	20%
<b>EDUCATION</b>			
No HS Degree or GED	50%	38%	44%
HS Degree or GED Only	26%***	44%	34%
Some College	16%*	9%	13%
Associate's Degree	3%	5%	4%
Bachelor's Degree	5%	3%	4%
<b>SOCIOECONOMIC STATUS</b>			
Lives in Public Housing	25%	27%	24%
Employed Part-time	10%	32%	8%
Employed Full-time	40%+	14%	14%
Speaks English at Home	68%***	84%	76%
<b>IN COURT FOR:</b>			
Arraignment/First Court Appearance	52%	51%	51%
Progress Report/Subsequent Court Appearance	11%**	4%	7%
Other (e.g. Other subsequent court appearance)	37%	45%	42%
<b>OUTCOME</b>			
Pled Guilty	24%	20%	22%
Dismissed	43%	36%	39%
Pending	33%	44%	39%
<b>MANDATED TO DRUG TREATMENT</b>			
	29%**	18%	23%

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

while in the traditional court, 85% agreed or strongly agreed with this statement ( $p < .001$ ). Similarly, in Red Hook, 94% agreed or strongly agreed that their lawyer treated them with respect (versus 91% in the traditional court) and 89% agreed or strongly agreed that their lawyer treated them fairly (versus 85% in the traditional court) ( $p < .001$ ). Defendants in Red Hook were almost as satisfied with the court officers as with their defense attorneys, as 92% agreed or strongly agreed that the court officers treated them with respect; but in the traditional court, this figure dipped significantly to 77% ( $p < .001$ ). Not surprisingly, defendants were least satisfied with their treatment by the prosecutor, although well over half continued to express positive perceptions. At Red Hook, 73% agreed or strongly agreed that the prosecutor treated them with respect, while in the traditional court, 65% agreed or strongly agreed with this statement ( $p < .01$ ).

**Figure 1: Respondent Perceptions of Court Actors at Red Hook and the Traditional Court**



rather than these percentages, Figure 1 presents the mean index scores drawn from multiple question items concerning each court actor, but the results are analogous in substance.

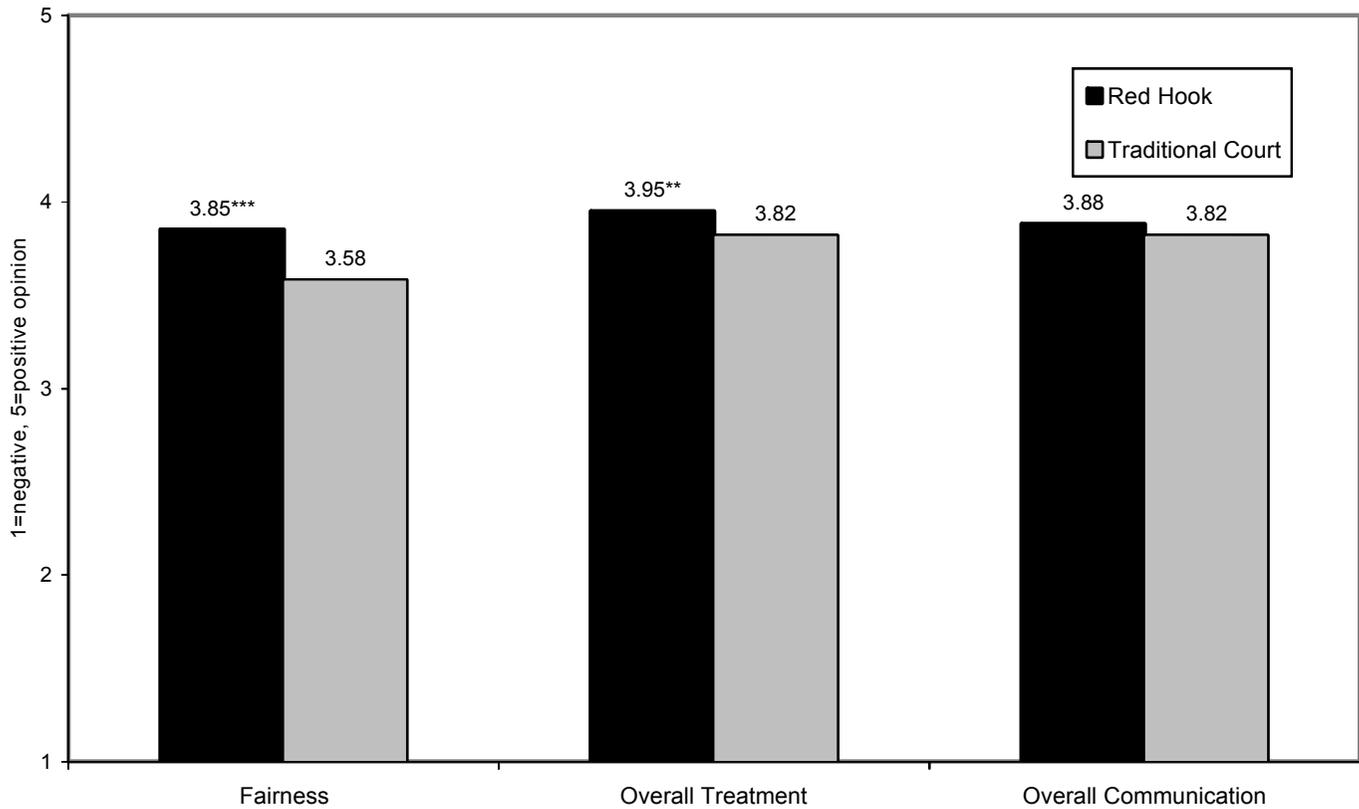
### Perceptions of Overall Fairness, Treatment, and Communication

Given that defendants were generally satisfied with their treatment by individual court actors, it is not surprising that they also largely agreed that their experience had been fair overall, that they had been treated well, and that communication had been effective. As shown in Figure 2, although defendants were largely satisfied across both sites, they were significantly more satisfied in Red Hook with respect to fairness ( $p < .001$ ) and treatment ( $p < .01$ ).

### Predictors of Defendant Perceptions

Further analysis focused on why some defendants were more satisfied than others, disaggregating the effects of court location (Red Hook or traditional court), demographic background, stage of the court process, and any mandates received (e.g., to substance abuse treatment). Table 3 presents the results of a series of ordinary least squares regressions, each predicting perceptions related to a different aspect of fairness – overall fairness, judge, prosecutor, defense attorney,

**Figure 2: Respondent Perceptions of Fairness, Treatment and Communication at Red Hook and the Traditional Court**



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

Note: These concepts are measured using factors created from multiple variables. See Appendix 2.

court officers, communication, and treatment. From examining the results for overall fairness (Table 3, 1<sup>st</sup> column), appearing at Red Hook was the largest predictor ( $p < .001$ ); and court location similarly predicted more positive perceptions of the judge, court officers, and treatment in court. The only other independent variables significantly predicting more positive perceptions across multiple regression models were: (a) assignment to substance abuse treatment, and (b) having just been arraigned prior to the research interview. (The meaning of this last finding is that defendants were more likely to perceive their experience positively if they had just emerged from their first court appearance, the arraignment, than if they had already had multiple appearances.)

Table 3: Predicting Ratings of Court Actors and Court Concepts

Dependent variable name	Fairness Factor	Judge Factor	Court Officers Showed Respect	Prosecutor Was Helpful	Prosecutor Showed Respect	Defense Atty. Showed Respect	Communication Factor	Overall Treatment Factor
Sample Size	356	328	361	356	350	358	332	349
Red Hook Court	0.193***	0.143**	0.149**	0.083	0.005	0.000	0.046	0.137*
Male	0.059	-0.043	-0.008	-0.159**	-0.101+	0.036	-0.024	-.041
Race								
Black	0.083	0.068	0.018	-0.168*	-0.058	-0.070	0.059	-.021
Hispanic	0.081	0.052	0.047	-0.078	0.125	0.019	0.057	.017
No HS Degree or GED	0.059	-0.048	0.012	-0.021	0.001	-.0146**	-0.056	-0.088
Court Proceedings								
Assigned to Drug Treatment	0.142**	0.210***	0.083	0.122*	0.088+	0.059	0.195***	0.010+
Just Arraigned	0.157**	0.153**	0.034	0.085	0.166**	0.144**	0.159**	0.155**
Adjusted R-Squared	0.062	0.054	0.019	0.054	0.049	0.027	0.033	0.036

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

All regression coefficients are standardized partial correlation coefficients.

Also important to understand in discerning how defendants form their perceptions is which precursors of fairness are most closely linked to overall perceptions. Therefore, ordinary least squares regressions were conducted predicting perceptions of overall fairness. Variables measuring defendant opinions of specific court actors (judge, prosecutor, defense attorney, and court officers) and court concepts (communication and treatment) are highly related to one another (e.g., defendants who rated the judge highly also tended to rate each other actor highly), so each regression includes only one court actor among its independent variables. By comparing each of the seven models, the strength of the resulting coefficients (which measure the strength of the relationship between the independent variable and the outcome variable) and R-squared statistics (which measure the degree to which the independent variables as a group explain the outcome variable) could then be compared to reveal which factors appeared more strongly linked to overall perceptions (see Table 4, Models 2-8). For comparison purposes, the first model in Table 4 (Model 1) does not include any of the precursors of fairness but merely shows the impact of other background characteristics (e.g., demographic background, stage of case processing, and court mandates).

Table 4: Predicting Fairness from Demographic Variables, Court Proceedings and Procedural Justice Variables

	Model 1	Model 2	Model 3	Model 4	Model5	Model 6	Model 7	Model 8
Sample Size	356	322	348	351	345	344	325	340
Court Factors								
Judge Factor		0.693***						
Defense Attorney Showed Respect			0.310***					
Court Officers Showed Respect				0.336***				
Prosecutor Was Helpful					0.326***			
Prosecutor Showed Respect						0.303***		
Communication Factor							0.573***	
Treatment Factor								0.561***
Red Hook Court	0.193***	0.100**	0.0186***	0.138**	0.169**	0.189***	0.175***	0.101*
Male	0.059	-0.046	-0.050	-0.067	-0.024	-.025	-0.051	-0.044
Race/Ethnicity								
Black	0.083	0.030	0.088	0.055	0.127	0.124	0.039	0.062
Hispanic	0.081	0.042	0.093	0.070	0.110	0.070	0.043	0.074
No High School Degree or GED	0.059	-0.030	0.001	-0.068	-0.069	-0.067	-0.026	-0.007
Court Proceedings								
Assigned to Drug Treatment	0.142**	-0.006	0.117*	0.114*	0.097+	0.113*	0.024	0.081+
Just Arraigned	0.157**	0.036	0.113*	0.141**	0.127*	0.096+	0.058	0.063
Adj. R-squared	0.062	0.508	0.191	0.168	0.159	0.144	0.372	0.354

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

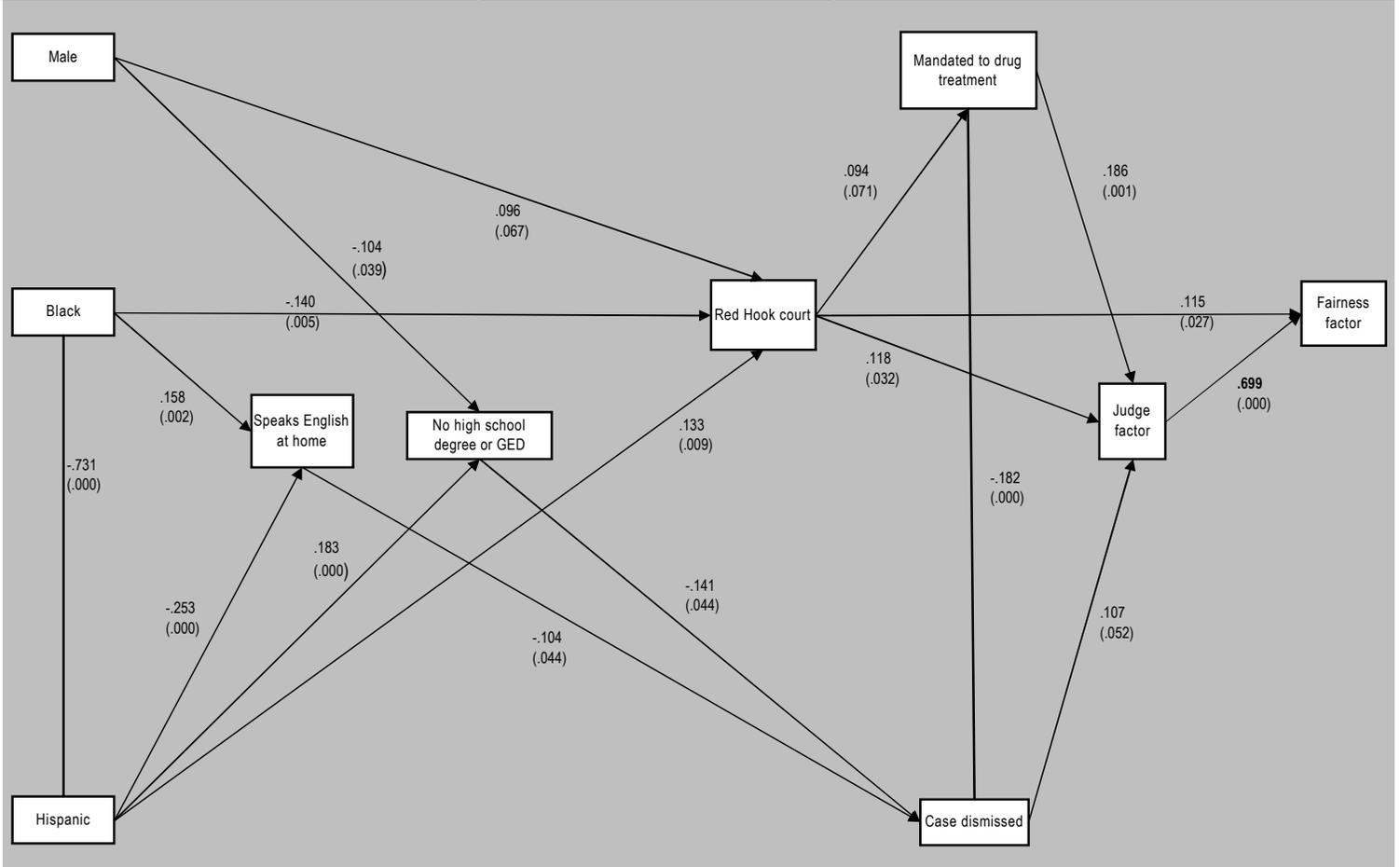
All regression coefficients are standardized partial correlation coefficients.

The results indicate that the best regression model, the one which explained the most variation, included a factor measuring satisfaction with the judge (Table 4, Model 2). This model explained more than 50% of defendants' ratings of overall fairness (R-squared =.508), compared with only six percent explained by the initial model (1). The models that included perceptions of other court actors (Models 3-6) explain between 14% and 19% of the variation in defendant perceptions; and the models that included perceptions respectively of communication and interpersonal treatment (Models 7-8) explain from 35% to 37%, a substantial amount but, again, less than what was explained when including the judge factor instead. Also of note, throughout all eight models reported in Table 4, being seen in Red Hook remained a significant independent predictor of perceptions; those who had their cases processed there rather than the traditional court were consistently and significantly more satisfied with the overall fairness of their experience. This provides evidence that even when controlling for a variety of other variables – including the immediate precursors of fairness – the community court still had a positive, independent effect on overall perceptions.

### The Importance of Effective Communication

The results shown in Table 4 suggest that the effectiveness of communication by all court actors is almost as important as the behavior of the judge in predicting perceptions of overall fairness. The regression including communication (Model 7) explains 37% of the variation in the perceptions of overall fairness (compared with 51% explained by the regression including perceptions of the judge). Communication was examined separately from (respectful and fair) interpersonal treatment and from perceptions tied to each type of court actor individually, because defendants may be treated well by specific individuals but still feel unclear about what has happened in court or believe that they have been unable to express their opinions and be

**Figure 3: Final Path Predicting Fairness**



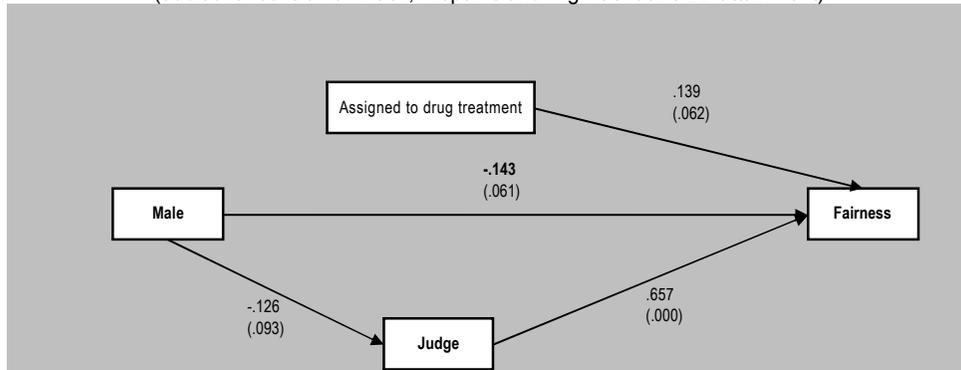
heard.<sup>6</sup> As can be seen by comparing Model 7 with the other models in Table 4, slightly more than the factor measuring impressions of overall treatment, and much more than any measure of defendant perceptions about various court actors – with the distinct exception of the judge – the factor measuring communication best predicted perceptions of overall fairness. This points to the logical conclusion that any proceeding that is not well understood and does not include an opportunity for the defendant to be heard is less likely to be perceived as fair.

### Path Analysis

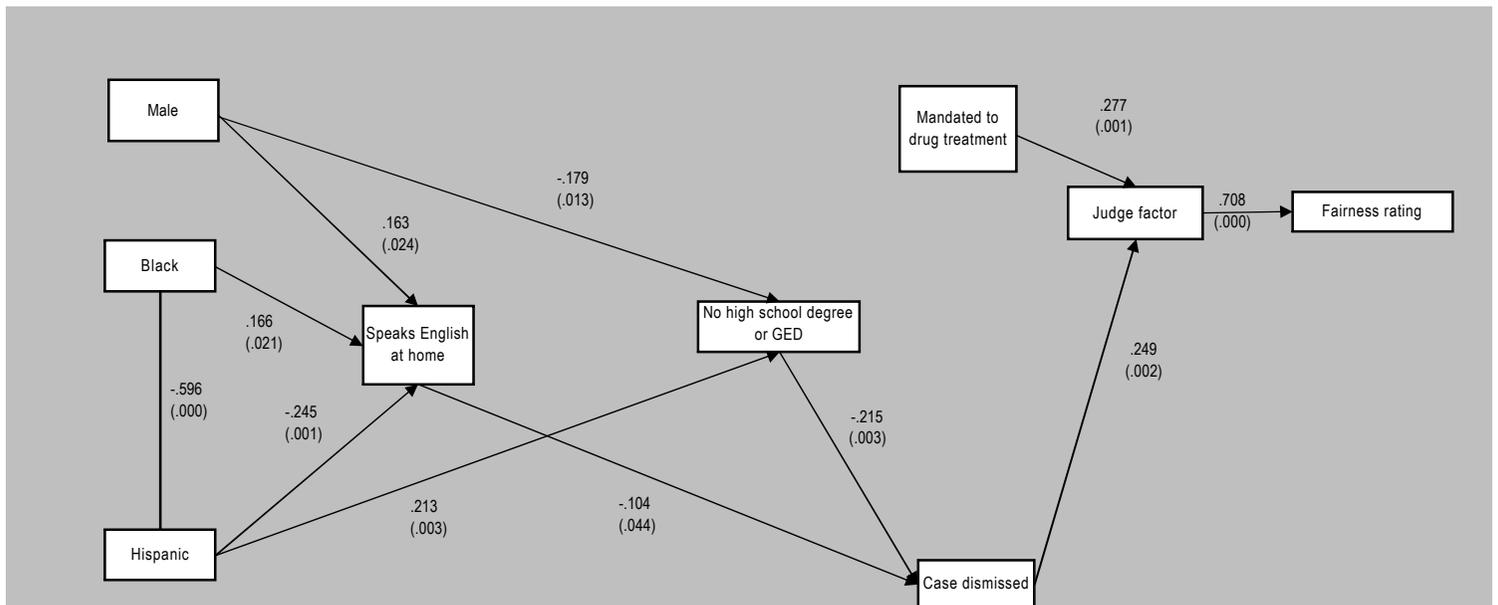
In order to better understand the underlying dynamics behind defendant ratings of overall fairness, a path analysis was built to detect both the direct and indirect effects of court location, demographic variables, court outcomes, and perceptions of individual court actors. Variables were included according to the rules set out in the methodology section; they are presented left to right in temporal and logical order. Arrows indicate the direction of hypothesized causality;

<sup>6</sup> When variables related to effective communication (those that asked questions about the ability of court actors to answer questions clearly and to listen) are factor analyzed, they cluster separately from those related to treatment (which asked questions about respectful, fair, and helpful treatment). See Appendix 2.

**Figure 4: Path to Fairness in Red Hook**  
(additional control for Black, Hispanic and High School/GED attainment)



**Figure 5: Path to Fairness in the Traditional Court**



straight vertical lines indicate variables which are related to one another but have no causal relationship. As in a regression equation, the size of the numbers in the path analysis indicates the strength of the relationship between the two variables in question (the numbers below indicate the degree of statistical significance).

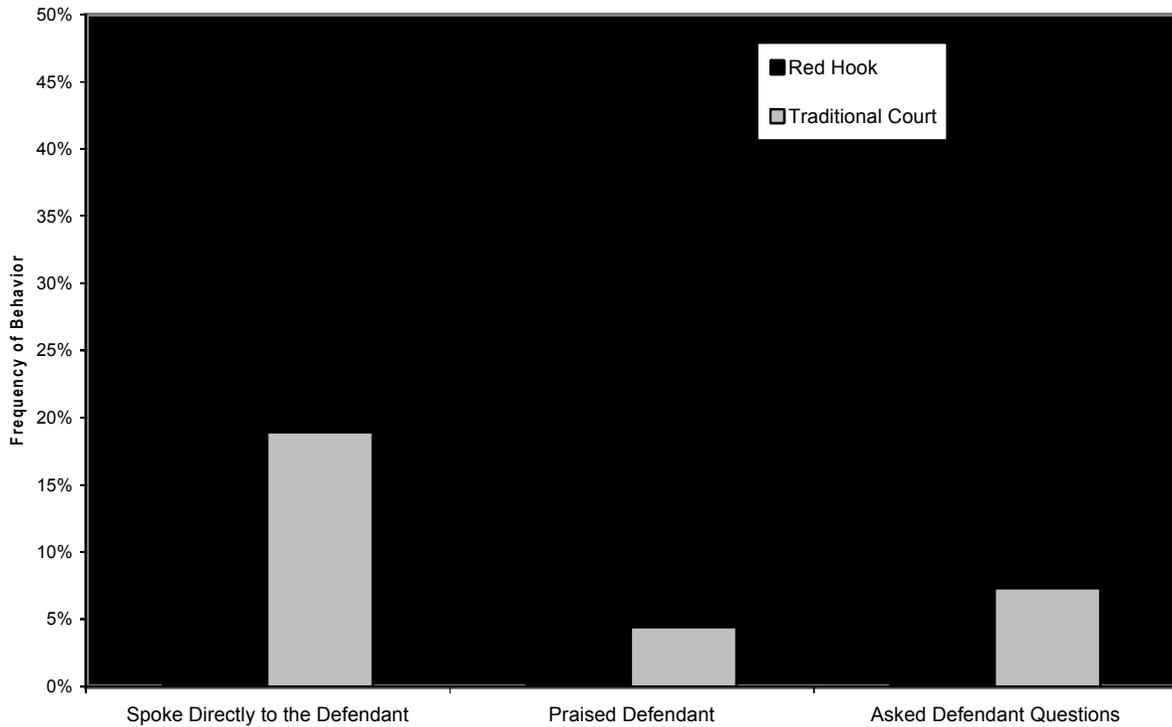
The path analysis, shown on the previous page in Figure 3, does not precisely mirror the ordinary least squares regressions but does confirm their main findings. Defendant perceptions of the judge were overwhelmingly the most important predictors of their ratings of the overall fairness of the court. Whether the case was processed in Red Hook or the traditional court also significantly predicts defendant perceptions of fairness. Indirectly, being mandated to drug treatment and having had the case dismissed positively affects ratings of fairness, because each positively affects ratings of the judge.

None of the demographic variables were directly correlated with either opinions of the judge or overall fairness. Both race and sex were distributed unevenly between the two courts, with male and Hispanic defendants more likely to have had their cases processed in Red Hook and black defendants more likely to have had a case processed in the traditional court. Both speaking English at home and having no high school or GED degree were negatively related to defendants having cases dismissed, which in turn led to lower ratings of the judge. Unlike the preceding results for the entire sample, when the sample was split by location, two different pictures emerged. In Red Hook (see Figure 4), sex was the only demographic variable that mattered in affecting perceptions of fairness; women perceived the court to be fairer. By contrast, at the traditional court (see Figure 5), race, sex, educational background, and language spoken at home all affected defendant perceptions, although the paths were indirect. Also, in Red Hook, assignment to substance abuse treatment was the only court process factor that mattered to defendants as they rated the fairness of their experiences, while in the traditional court, the objective court outcome (whether the case was dismissed) also mattered to defendants. In general, at the traditional court, a large number of factors affected perceptions of fairness, directly or indirectly, whereas at Red Hook, the path is far simpler because the Red Hook defendants are more homogenous, as well as more consistently positive, in their perceptions.

### Structured Court Observation: How Red Hook and the Traditional Court Differ in Practice

The observed behavior of the judges at the two locations provides some insight into defendants' higher ratings of the judge and of the overall fairness of the community court. One hundred and forty-two court appearances were observed, 72 in Red Hook and 70 in the traditional court. As shown in Figure 6, in Red Hook, the judge spoke directly to the defendant in 45% of the observed appearances, while at the traditional court this occurred in only 19% of the appearances. Also, the judge praised the defendant in 16% of the observed appearances in Red Hook, while at the traditional court this occurred in only 4% of the appearances. One would expect that defendants appreciate being spoken to directly and that they appreciate praise for improvements in their behavior or life situation. For example, the judge in Red Hook often praised defendants in long-term substance abuse treatment if they had repeatedly tested negative; and upon graduation from treatment, he generally shook the hand of the defendant, asked about future plans, and praised the defendant, acknowledging how difficult it is to complete treatment. Further, the judge in Red Hook invariably greeted defendants as the court appearances began, while this was rare in the traditional court. The judge in Red Hook often asked about the defendant's family life and personal circumstances, focusing on the context of whatever had brought the defendant to the court and any challenges to lawful behavior that remained. Just before the winter holidays began, the judge asked nearly all defendants who were in substance abuse or alcohol treatment how they planned to stay sober over the holidays and whether or not they could expect support from their families. With defendants in long-term treatment, which required multiple check-ins with the court over the course of 90 days to one year, the judge remembered and asked about difficult personal circumstances such as illness in the family or difficulty securing employment; and he also often offered referrals that would help defendants to prepare for and find employment. This never occurred during the observed appearances of the traditional court.

Figure 6: Judges' Behaviors in Red Hook and the Traditional Court



The interactions between the judge and other court staff were also far more collegial in the community court than the traditional court. One of the judges observed in the traditional court repeatedly admonished the defense attorneys and prosecutors for not being ready for their cases. Other judges were terse when speaking to court staff, if not overtly annoyed or hostile. The judge in Red Hook was rarely observed admonishing staff, and in the two cases where this did occur, the criticism was delivered gently. Besides the judge, both the prosecutors and defense attorneys at Red Hook often spoke with social workers who appeared in court with clients, while this was not observed in the traditional court.

It is important to note that within the traditional court, the drug treatment court part was an exception to the general lack of interaction between judges and defendants. Not surprisingly, defendants were more likely to be satisfied with their experiences in the drug treatment part of the traditional court than in other parts (see Figure 5 above). In terms of the judge's interactions and defendants' positive perceptions of their experiences, the treatment part of the traditional court was generally more similar to Red Hook than to other traditional court parts.

## Discussion

### Impact of the Community Court Model

Red Hook's culture and institutional practices are a means to attain its goal of providing long-term solutions to neighborhood quality-of-life problems. Changing a defendant's behavior is difficult, especially when avoiding criminal behavior requires a serious shift in lifestyle or livelihood. Community courts are premised at least in part on the belief that defendants undergoing this kind of change need a supportive structure to improve their chances of success. This structure, in turn, may affect their long-term willingness to comply with the law.

As expected, defendants at the Red Hook Community Justice Center were significantly more likely to perceive their experiences as fair than defendants at the traditional court, even controlling for differences in their backgrounds, stage of case processing, and mandates. Hypothesis 1 was fully supported. This suggests that community courts are effective at improving the criminal justice system's image in the eyes of defendants. Further, the results indicate that defendants do not perceive Red Hook more positively merely because they have more positive impressions of the specific individuals that are encountered there (the judge, attorneys, and court officers) – although this is certainly part of what is happening. Rather, as demonstrated by the path analysis, even when controlling for intermediate procedural justice concepts (communication and overall treatment) or perceptions of specific court actors (e.g., the judge or defense attorney), Red Hook still exerts a significant independent effect on perceptions of overall fairness. This suggests that the factors distinguishing Red Hook from traditional courts, such as the collaborative culture, friendly architectural design and efforts to provide services, may affect defendant perceptions independently of their treatment by specific actors and of the types of mandates they receive.

In addition to the more positive ratings of specific court actors and, independently, of overall fairness at Red Hook, the lower variance and dearth of significant demographic or court outcome variables that also predict perceptions of fairness in the Red Hook-only sample suggests that positive perceptions are more consistent at Red Hook. By contrast, the higher variance and statistical significance of race, court stage, court outcome, and court mandate variables in the traditional court-only sample suggests that both the defendant background and what happens in court mediates the perceptions of that court's overall fairness.<sup>7</sup> Although court actors cannot change defendant cultural backgrounds or expectations, they appear to be accommodating and attenuating these differences more effectively at Red Hook than at the traditional court.

### Impact of the Judge

Hypothesis 2, that the judge would be the most important court actor in predicting ratings of fairness, was fully supported. The judge was the most important court actor in determining perceptions of fairness, and based on structured observation, the judge in Red Hook engaged with defendants more often and more substantively. Previous research also points to the vital role of the judge in the success of problem-solving and community-based courts (Farole and Cissner

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<sup>7</sup> Levene tests, which detect significant differences in variance (in a similar way to t-tests' ability to detect differences in means) were significant when the Red Hook and traditional court samples were separated in a top-two box analysis.

2005; Goldkamp et al. 2001; Marlowe, Festinger, and Lee 2004). Perceptions of other court actors may affect defendant perceptions as well, but the judge plays by far the dominant role in court proceedings, perhaps because the judge is a particularly powerful and salient symbol of the law.

And yet, due measurement error and the “halo effect,” in which respondents are unable or unwilling to distinguish between the different behaviors of individual actors within an institution, relying instead on their overall impressions of one of the actors, the analyses that emphasize the importance of the judge may somewhat overstate this role.<sup>8</sup> The judge is a symbol of the court and particularly a symbol of its impartiality, situated as he or she is on a raised bench above the courtroom, between two lawyers with clear biases toward and against the defendants. The large predictive power of defendant perceptions of the judge on ratings of overall fairness may be about the judge, but it may also be a reflection of defendant impressions of the other court actors, the courthouse itself, or some combination of all of these factors together. Similarly, positive impressions of the judge may be reflected in defendants’ satisfaction with the other court actors. This is one possible cause of the high correlation between the ratings of each of the court actors in both courts.

### Impact of Communication

Slightly more than good treatment (respectful, helpful, fair), effective communication by all of the various court actors indexed together caused perceptions of the overall fairness of the court to rise. Hypothesis 3 was supported. This suggests that if courts are interested in enhancing defendants’ sense that courtrooms are just and fair, they might focus on improving communication. Without expending significantly greater resources or hiring more staff, both traditional and community courts can take steps to provide clear and effective explanations about what is going on in the courtroom. Since the interpersonal treatment factor also significantly predicted perceptions of overall fairness, efforts by all court actors to maintain a respectful and even-handed demeanor in their interactions in front of defendants can also make a positive difference.

### Indirect Effects: The Impact of Court Mandates, Case Outcomes and Defendant Backgrounds

In keeping with previous research on both drug courts and procedural justice, what factually happened to defendants in court had a small but significant effect on perceptions of the court’s overall fairness (Farole and Cissner 2005; Podkopacz, Eckberg, and Zehm 2004; Tyler and Huo 2002). Although the judge, communication, and treatment factors more strongly predicted overall fairness ratings, the favorability of the case outcome (e.g., dismissed or convicted) and the nature of the court’s mandates (e.g., to substance abuse treatment) were also important – especially for the traditional court respondents. Specifically, in the final path (figure 3), both having had their case dismissed and assignment to treatment predicted more positive ratings of the judge, which in turn predicted more positive ratings of overall fairness. In short, hypotheses 5 and 6 were supported, although the correlations were not large. At Red Hook (figure 5) there is

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<sup>8</sup> The “halo effect,” first observed in respondents’ ratings of different attributes within individuals in social psychology experiments, has since been applied to ratings of teams, companies and groups (Nisbett & Wilson, 1977). See Rottman, 2000, for a discussion of the Supreme Court’s halo effect on state courts.

no effect of having a case dismissed, suggesting that the community court model may be able to inculcate more positive feelings towards the court even in defendants who are found guilty. Hypothesis 4, that defendants with an ongoing relationship with the judge would have more positive perceptions, was not supported.

In both courts, being mandated to drug treatment had a strong, positive effect on opinions of the judge and indirectly, on perceptions of fairness. Defendants seen in Red Hook were more likely to receive drug treatment mandates; although it is possible that this is due to sampling differences, it is more likely that Red Hook uses drug treatment as a mandate more often than the traditional court given both Red Hook's commitment to the use of alternatives to incarceration and the traditional court's stringent criteria for drug court eligibility. Further, defendants mandated to drug treatment receive additional help in solving related problems (such as lack of health insurance, lack of job training, or family issues). They also receive greater interpersonal support. As noted earlier, the judge at the community court takes note of their successes and failures during regularly scheduled compliance hearings. The additional services and support they receive no doubt enhance defendants' sense that the court process and outcomes are fair.

Although drug treatment itself no doubt directly enhances defendant perceptions of fairness because it is a choice defendants make in order to avoid jail or other traditional sanctions, being mandated to drug treatment is also a route to being connected to many other social service opportunities. Since neither mandated nor voluntary social service use was measured in the survey, the effects of the social services themselves on perceptions of fairness cannot be gauged. However, if drug treatment mandates are understood as a proxy for social service use, this study strongly suggests that enhanced social services have a positive effect on defendant perceptions of the fairness of the court.

The path analyses also provide partial support for the hypotheses about the effects of defendants' backgrounds on their perceptions of the overall fairness of the court. Hypothesis 7, that black respondents will give the lowest fairness ratings of all racial/ethnic groups, followed by Hispanic respondents, was therefore only partially supported; it was not supported at all in Red Hook, and only the expectation that black defendants would give the lowest ratings of any racial/ethnic group was supported in the traditional court. Hypothesis 8, that males will give lower fairness ratings than females, was fully supported. Hypothesis 9, that respondents with a lower socioeconomic status as measured by living in public housing and not having a GED will have lower ratings of communication and fairness, was partially supported. As with race and ethnicity, when the sample was split, this finding applied only to the traditional court-only sample; and second, while not having a GED negatively predicted both communication and overall fairness, living in public housing was not a significant predictor in any direction and in any court when other factors were statistically controlled.

In the final path (figure 3), race, sex and socioeconomic status affect perceptions of fairness but only do so indirectly. This provides support for previous findings suggesting that what criminal justice agencies do is overwhelmingly more important than these background factors in shaping perceptions of fairness (e.g. Tyler and Huo 2002). Figures 5 (Red Hook) and 6 (Traditional Court) show that while black defendants in the traditional court have lower opinions of the court's fairness and Hispanic defendants have higher opinions, these effects are absent in Red

Hook. Similarly, speaking English at home and having a high school degree have no effect in Red Hook but have significant indirect effects on defendant perceptions of fairness in the traditional court.

The differences between the two paths have important implications for understanding of community courts. There is significant evidence to suggest that in the U.S. population, black citizens have lower opinions of the criminal justice system and are less confident than others in the neutrality and legitimacy of the courts (Rottman 2000; Tyler and Huo 2002). If community courts neutralize this effect, they make an important contribution to improving the legitimacy of the court in the eyes of a population disproportionately affected by the criminal justice system.

## Study Qualifications and Recommendations for Future Research

This study suggests that further investigation is necessary to improve our understanding of how treatment in different types of courts can enhance or detract from defendant perceptions of fairness. The impact of these perceptions on future compliance with court-imposed sanctions and with the law in general also merits attention – although as discussed above, previous research strongly suggests that positive perceptions increase the likelihood of future compliance. This study alone is limited in its external validity, because it draws upon data from only one community court and one traditional court. Although this study included a variety of measures of defendant perceptions of the court as well as objective measures of their background and case outcomes, it has a few substantive limitations as well. For one, defendants were not asked about their perceptions of criminal justice agencies such as the police who are not involved directly in courtroom proceedings. Second, the study employs a cross-sectional design rather than asking defendants about their expectations and plans before and then again after they appear in court. If defendants were asked about their opinions of the court both before and after appearing, researchers could separate the effects of defendants’ underlying societal orientations (such as their pre-existing attitudes towards the court and the criminal justice system), expectations of how they will be treated by various court actors, and prior experiences with the criminal justice system from the effects of how they were actually treated during their current court case. If such a longitudinal design were coupled with courtroom observation of the case of each defendant surveyed, even stronger conclusions could be drawn about the effects of court actors’ actual treatment of the defendants on their perceptions.<sup>9</sup> Finally, further research should measure whether defendants intend to comply with sanctions, whether they follow through with their intentions and complete sanctions, and whether or not they comply with the law in the future.

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<sup>9</sup> This in turn may increase researchers’ ability to discriminate what aspects of their treatment are most important for which defendants. For example, one might expect that defendants with low expectations of the courts’ fairness at the outset might be particularly inclined to change their opinions if they are treated respectfully, or that defendants with previous negative experiences with the police might have more positive perceptions of court officers who surprised them by being exceptionally fair and communicative.

## Policy Implications

The results of this study have significant policy implications, including the following:

- **Community Courts:** Defendants perceive community courts to be fairer than traditional courts. Community courts, such as the Red Hook Community Justice Center, may be generally better at eliciting positive perceptions, because they are designed to serve the individual defendant as well as the surrounding community. Defendants' enhanced opinions of the fairness of the court and the law, in turn, may encourage defendants not to re-offend. The findings of this study may extend to other problem-solving models (e.g., drug courts and mental health courts), but additional study is needed before confirming such a conclusion.
- **Traditional Courts:** Even courts that do not offer the range of services that a community court provides can enhance defendant perceptions of fairness by improving three aspects of their courtroom operations. The quality of interaction and treatment by the judge is crucial. Improved communication, such as allowing defendants to speak and be heard, answering their questions, and ensuring that they understand the process, can also have a positive impact. Good treatment by all court actors (respectful, helpful, and fair) also improves overall perceptions of the court experience. And greater use of long-term substance abuse treatment may further enhance defendant opinions.
- **The Judge:** The quality and quantity of the judge's interactions with defendants are crucial in shaping their perceptions. Even within the traditional court, defendants who were more satisfied with the judge were more satisfied with the court's overall fairness. This suggests that in traditional courts, judges who make an effort to connect with defendants (e.g., making eye contact, providing clear explanations of court proceedings and of their decisions, and appearing respectful and impartial) can help to enhance their sense that the court is fair.
- **Communication:** Effective communication is also crucial in ensuring that defendants perceive their experiences as fair. Courts, whether traditional or community-based, that work to improve communication can enhance defendant perceptions and, indirectly, increase compliance.
- **Interpersonal Treatment:** Even in a traditional court, respectful and fair treatment strongly improves defendant perceptions of the court's fairness. This suggests that court staff in all courts might be attentive to how they interact with defendants. When the judge and other court staff are polite and respectful, defendants are more satisfied. Good treatment can even overcome the effects of an objectively negative court outcome (such as having to return to court or facing a conviction). Traditional courtrooms may be perceived as fairer if they treat all defendants respectfully and politely.

- ***Substance Abuse Treatment:*** In addition to its therapeutic effects, the use of substance abuse treatment as a mandate option for defendants, where appropriate, has the additional benefit of enhancing defendant perceptions that their experiences in court were fair.
- ***Defendant Backgrounds:*** Although defendant background indirectly affects overall perceptions, other factors matter more. Further, even the indirect effects of defendant background were eliminated when examining the results in Red Hook only; neither race, sex, nor educational background affected perceptions of fairness at Red Hook, while at the traditional court, they had significant, although indirect effects. It would appear that as a community court, Red Hook excels in equalizing the differential expectations, prior experiences, and societal orientations of different groups, resulting in a lack of differences based on defendant background in how fair Red Hook's proceedings are perceived to be.

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<b>Appendix 1: Survey Instrument</b>			
Hello my name is _____. I'm with the Center for Court Innovation. We're conducting a survey to learn about your experience today in court. Participation in this survey is voluntary. Your responses will be kept confidential. In fact, we will not even ask you for your name. The information is for research purposes only. The survey will be about 10 minutes long.			
Today's Date _____	Time Survey was taken _____ AM / PM	ENGLISH (1) SPANISH (2)	
<b>Please circle your answer below.</b>			
1		1 You pled guilty today. 2 Your case was dismissed today or the judge said it would be dismissed if you stayed out of trouble. 3 You pled guilty on this case in the past and were here for a progress report on your mandate. <b>(skip to Q2)</b> 4 You had a court appearance in an ongoing matter on which you have not pled guilty. <b>(skip to Q2)</b> 5 None of those things happened. <b>Note to interviewer: Probe for what did happen.</b> 6 Don't know. <b>Note to interviewer: Probe for what did happen.</b>	
1a		1 Yes 2 No	Were you just arraigned today by the judge?
2		1 Yes 2 No 3 Don't know.	Do you have to come back to court again to see the judge?
3		1 Yes 2 No 3 Don't know.	Do you have to attend drug treatment at a treatment program located outside of this courthouse as a result of this case?
4		_____	About how many minutes did it take you to get through security today? <b>SKIP IF INDIVIDUAL HAS BEEN ARRAIGNED</b>
5		_____	Once you were in the courtroom, about how long did you have to wait before the judge heard your case? (Please elicit a response in hours and/or minutes, whichever is appropriate). <b>SKIP IF INDIVIDUAL HAS BEEN ARRAIGNED</b>
6		1 Very unpleasant 2 Unpleasant 3 Neither pleasant nor unpleasant 4 Pleasant 5 Very pleasant	I found waiting in the courtroom to be: <b>SKIP IF INDIVIDUAL HAS BEEN ARRAIGNED</b>

	For each of the statements below, please indicate the extent of your agreement or disagreement by placing a check mark in the appropriate column.	Strongly Disagree	Disagree	Neither Agree nor Disagree	Agree	Strongly Agree
		1	2	3	4	5
7	The judge listened to you.					
8	Your lawyer seemed very interested in helping you.					
9	The court officers treated you with respect.					
10	The judge listened to you via your attorney.					
11	Your lawyer treated you with respect.					
12	The prosecutor seemed very interested in helping you.					
13	The judge clearly explained to you everything that was happening with your case today.					
14	You understood the judge's instructions to you about your case.					
15	Your lawyer listened to you.					
16	The judge treated you fairly.					
17	Your lawyer cared most about getting your case over with quickly.					
18	The judge got all the information needed to make a good decision.					
19	The prosecutor treated you with respect.					
20	The judge showed favoritism towards one party in your case.					
21	Your lawyer clearly explained to you everything that was happening with your case today.					
22	Your lawyer was honest with you.					

		Strongly Disagree	Disagree	Neither Agree nor Disagree	Agree	Strongly Agree	
		1	2	3	4	5	
23	The judge cared most about getting your case over with quickly.						
24	Your lawyer treated you fairly.						
25	Throughout your case, the judge tried to understand your particular needs for services or any other needs you had.						
26	The judge treated you with respect.						
27	The prosecutor cared most about getting your case over with quickly.						
28	The judge carefully considered what you or your lawyer said when making a decision.						
29	The court officers gave clear answers to your questions, if you had any.						
<b>Now, I'd like you to think about your case overall. Do you strongly disagree, disagree, neither disagree or agree, agree or strongly agree with the following:</b>							
30	Your case today was handled fairly by the court.						
31	Thinking about today's experience in the courtroom <u>only</u> , your legal rights in court were taken into account.						
32	You were treated the way you deserved in court today.						
33	The outcome of your case was fair.						
<b>Please circle your answer below.</b>							
34	Have you had a court case anywhere else besides the court you're in today (e.g. Downtown Brooklyn, a different Borough or State, etc.)?  1 Yes      If yes, where? _____ 2 No        If no, skip to question 44						
<b>Thinking about that other case experience:</b>							
35	About how many minutes did it take you to get through security? _____						

36		Once you were in the courtroom, about how long did you have to wait before the judge heard your case? (Please elicit a response in hours and/or minutes, whichever is appropriate).  _____				
37	1 2 3 4 5	I found waiting in the courtroom to be:  Very unpleasant Unpleasant Neither pleasant nor unpleasant Pleasant Very pleasant				
<b>Thinking about that other court case experience, overall:</b>						
For each of the statements below, please indicate the extent of your agreement or disagreement by placing a check mark in the appropriate column.		Strongly Disagree	Disagree	Neither Agree nor Disagree	Agree	Strongly Agree
		1	2	3	4	5
38						
39						
40						
41						
42						
<b>Please circle your answers below.</b>						
43	1 2 3 4	Overall, my experience here in court today was:  Better than my experience at the other court. Worse than my experience at the other court. About the same as my experience at the other court. I don't know/can't remember.				

44	1 2	What is your sex? Male Female
45		What is your age?
46	1 2 3 4 5	How would you best identify yourself? White Black/African American Hispanic/Latino Asian or Pacific Islander Other (please specify:)
47	1 2 3 4 5 6 7	What is the highest level of education you have completed? No high school diploma or GED High school diploma or GED Some college or technical training school Associate's degree Bachelor's degree Some graduate school Graduate or professional degree
48	1 2 3	Are you currently in school? Yes, full time Yes, part-time No
49	1 2 3	Are you employed? Yes, full time Yes, part-time No
50	1 2 3	What language is most spoken in your household? English Spanish Other (please specify:)
51	1 2 3 4 5 6	What area do you live in? Red Hook Sunset Park Gowanus/Wyckoff Park Slope Cobble Hill/Carroll Gardens Other
52	1 2	Do you currently live in public housing? Yes No
53		Is there anything else you would like to add concerning how you were treated today in court? _____ _____ _____

## Appendix 2: Means and Factor Loadings of Scale Items

Item number and description	MEAN	STANDARD DEVIATION	FACTOR LOADING
<b>COMMUNICATION</b>			
7. The judge listened to you	3.694	0.897	0.715
10. The judge listened to you via your attorney,	3.876	0.687	0.780
13. The judge clearly explained to you everything that was happening.	3.838	0.762	0.752
14. You understood the judge's instructions to you about your case.	3.918	0.639	0.712
15. Your lawyer listened to you.	3.897	0.666	0.741
21. Your lawyer clearly explained to you everything that was happening.	3.859	0.731	0.677
28. The judge carefully considered what you or your lawyer said.	3.825	0.696	0.689
29. The court officers gave clear answers to your questions, if you had any. *	3.551	0.914	0.526
FINAL ALPHA			0.851
<b>TREATMENT</b>			
9. The court officers treated you with respect.	3.777	0.762	0.581
11. Your lawyer treated you with respect.	3.956	0.620	0.736
16. The judge treated you fairly.	3.874	0.709	0.741
19. The prosecutor treated you with respect.*	3.522	0.877	0.562
24. The lawyer treated you fairly.	3.834	0.679	0.750
26. The judge treated you with respect.	3.942	0.552	0.766
FINAL ALPHA			0.808
<b>DEFENSE ATTORNEY</b>			
8. Your lawyer seemed very interested in helping you.	3.760	0.896	0.800
11. Your lawyer treated you with respect.	3.956	0.620	0.795
15. Your lawyer listened to you.	3.897	0.666	0.748
21. Your lawyer clearly explained to you everything that was happening.	3.859	0.731	0.719
22. Your lawyer was honest with you.	3.891	0.712	0.795
24. The lawyer treated you fairly.	3.834	0.679	0.768
FINAL ALPHA			0.860
<b>JUDGE</b>			
7. The judge listened to you	3.694	0.897	0.740
10. The judge listened to you via your attorney,	3.876	0.687	0.715
13. The judge clearly explained to you everything that was happening.	3.838	0.762	0.688
16. The judge treated you fairly.	3.874	0.709	0.775
18. The judge got all the information needed to make a good decision.	3.608	0.920	0.702
25. Through out your case, the judge tried to understand your part.	3.448	0.995	0.673
26. The judge treated you with respect.	3.942	0.552	0.786
28. The judge carefully considered what you or your lawyer said.	3.825	0.696	0.777
			0.872
<b>FAIRNESS</b>			
30. Your case today was handled fairly by the court.	3.723	0.827	0.840
31. Your legal rights were taken into account	3.796	0.732	0.776
32. You were treated the way you deserved in court today.	3.690	0.818	0.828
33. The outcome of your case was fair.	3.655	0.900	0.815
FINAL ALPHA			0.835

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