

A PROPOSAL FOR
A REENTRY/DRUG COURT
DEMONSTRATION PROJECT

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Judge Jeffrey Tauber (ret.)

Consultant

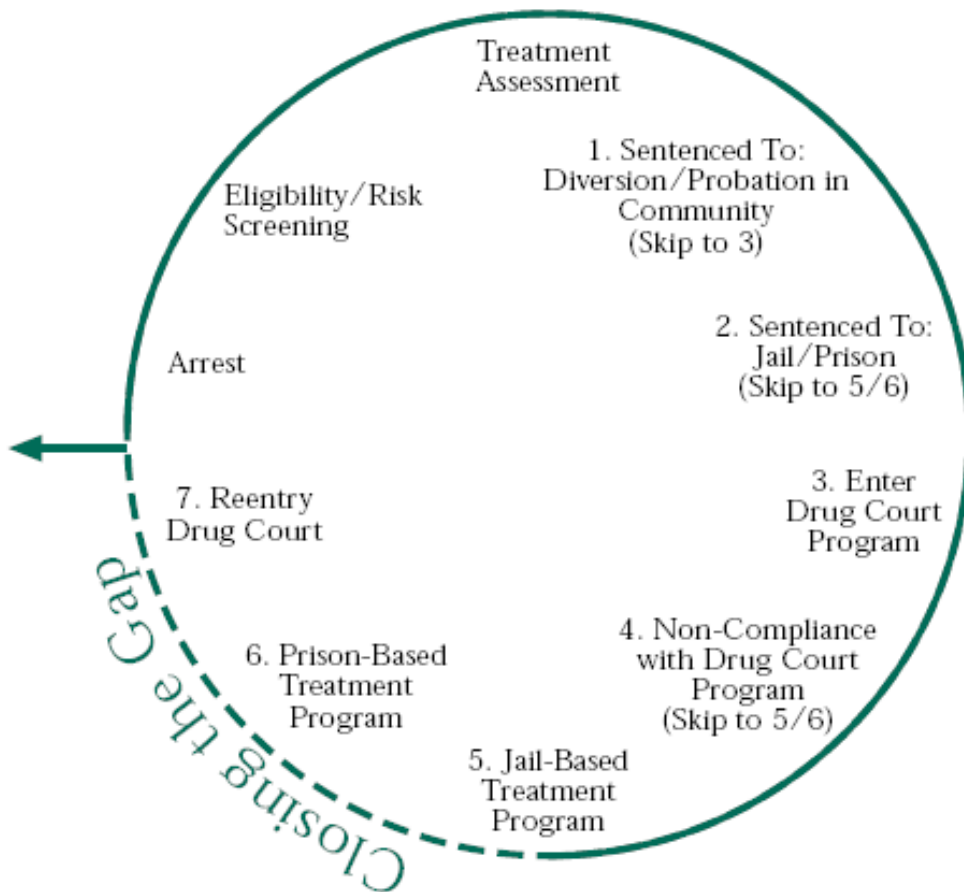
Reentry Court Solutions

jtauber@reentrycourtsolutions

CLOSING THE DRUG COURT GAP

The reentry court is the final piece in an expanded or comprehensive circular drug court system, (closing the “custody gap”), allowing us to deal effectively with those who need drug court the most, the high risk drug involved offenders sent to or returning from our jails and prisons.

The model would optimally deal with four basic populations; A. those with new felony offenses, who receive a jail or other community-based sentence; B. those with probation violations; C. Those with prison based sentencing violations; and D. those returning to the community from jails and prison



OFFENDER TRACKS:

A. Those with new felony offenses

Starting at arraignment, at the beginning of the system process (Table 1, No.1), participants work their way through the reentry/drug court process.

B. Those with probation violations

Upon the finding of a probation violation, offenders would be brought before the Reentry/drug court to be dealt with, based on the new violation, the underlying offense, as well as their past reentry/drug court history (Table 1, No.4). Where offenses are violent or too serious to be dealt with by the reentry/drug court, participants may be removed from the reentry/drug court system.

C. Those with parole violations

For the most part, state courts have minimal jurisdiction over the felon once sentenced to prison. Traditionally, judges have not had the authority to change sentences or supervise felons returning from prison. Still, it is becoming apparent to many that the courts need to play a greater role in the reintegration of the returning felon.

The most promising process is most often described as a split sentencing model, providing court based jurisdiction and supervision before and after a prison sentence (and in very few jurisdictions, during the prison term as well). Upon the filing of a prison based sentence violation, the offender would be subject to the same process as described above (Table 1, No.4, 5).

D. Those returning to the community from jail or prison

Responsibility for monitoring the returning felon rests with the same judge or court that sentenced the individual. Felons know that they will be returning to the court's jurisdiction and the control of the sentencing judge and probation department.

It's critical for those returning to the community to be supervised and monitored by the same judge and reentry court team that were present at the time of arraignment through in custody supervision. The drug court model has provided us with ample evidence of this model's efficacy, to allow us to move forward in creating a seamless rehabilitation based reentry process, supervised by the reentry drug court (Table 1, No.7).

Target Population: Going to Scale with Serious Offenders

A drug court, by its very definition has (most if not all of the required) trained staff, agency and community partners, resources, and processes in place that the reentry court part of the drug court system will require.

The research tells us that serious high-risk drug offenders do best in highly structured drug court programs. Relying on that research, a reasonable and substantial demographic target would be younger, more serious defendants (18-35) charged with non-violent offenses (i.e., burglary, grand theft, drug offenses), with substantial criminal histories (typically with a substance abuse problem), *who would otherwise be sentenced to prison*. The potential here is to “*go to scale*” by exponentially expanding the reentry/drug court’s participant base while improving offender outcomes through more comprehensive services and monitoring and the cost-effectiveness that comes with greater numbers.

MODEL REENTRY/DRUG COURT SYSTEM: THE PROCESS

Early Eligibility Determination, Plea and Sentencing

Defendants are being assessed for program eligibility as soon as they are brought into custody. If they meet program criteria and choose to opt in, they would enter a guilty plea to the offense in front of the reentry/drug court judge and staff (optimally within a week of arrest). Assessment and evaluation by probation and jail staff, for appropriate in-custody (and later out of custody) rehabilitation programs, should follow immediately.

The Sentence

The recommended sentence would optimally be Imposition of State Prison Sentence Suspended for a period of five years, under the following conditions: (1) One full year in the county jail; (2) no credit for time served up until the date of plea (this will encourage early program entry); (3) no good time/work time, except for what is granted as part of the Reentry Court Incentive Program.

The reentry/drug court judge should have access to the evaluation and probation recommendation as to in-custody rehabilitation programs at the time of sentence, allowing the judge to speak directly to the participant about the program ahead, his or her expectations and the incentives to be earned if the individual fully participates.

[Note: The program maximizes both probation term and jail sentence for the express purpose of creating maximum leverage, allowing the court to reduce both substantially as incentives for successful in-custody participation and integration into the community.]

Incentives at In-Custody Progress Hearings

The participant is brought to court every two months for Progress Report Hearings (or the court may convene progress reports at the jail or prison facility). In depth probation reports (including in-custody program reports) would be reviewed by the Reentry Court Team at a “staffing” held before the court hearing. The “Staffing” provides the Judge with complete data and information from the “Reentry Court Team”, allowing the Judge to have effective interaction with the participant in court.

At these court hearings, participants can earn an incentive (technically a “negative incentive”) of a one-month reduction in their jail term at the first review; a two-month reduction at the second review; and a three-month reduction at the third review. Those “fully participating” would receive a six-month reduction on a one-year sentence.

Importantly, the participants would have begun a court-based rehabilitation process, been rewarded for their participation, and successfully initiated their reintegration in to the community. [Note: a compliant participant earns a two-month reduction in the term of probation at every Progress Report. That would reduce the 5-year probation term to 2 ½ years over the course of probation]

Transitional program

The offender is placed in a transitional housing/programming during the last two months of custody. This allows the participant to engage in preparation for their return to the community, focusing on education, and job training and acquisition, and document preparation (i.e. obtaining birth certificates and driver's licenses).

The Graduation

Formal graduation from the in-custody segment occurs during a court proceeding, with the participant's families invited. The participant is presented with a certificate of completion for the in-custody segment of the Reentry Program (as well as other certificates of program completion). The participants walk out the front door of the courthouse with their certificates (i.e.. including a certification that they are drug free to facilitate future employment) into the waiting arms of their probation officer and continuing court and community supervision. [Note: A graduation ceremony would also be the final court contact upon the participant's successful completion of Probation]

Out of Custody Probation

Once out of custody, participants would be required to continue their rehabilitation program, optimally with the same probation/parole officer involved since sentencing. Two Month Court Progress Hearings in Reentry Court continue with existing negative incentives (including the two month reduction in probation at each two month review). Other regular probation based incentives may include regular fine and fee reductions (as well as possible child support payment reductions).

Additionally, Community based probation conditions may be added, including, job training and placement, education and licensing, health and drug treatment services, housing and travel restrictions as a basis for further court-based incentives.

ADDING A BACK-END TO A DRUG COURT SYSTEM

A Community based intervention

Community alternatives to incarceration are the traditional response to misconduct, and reach back into antiquity. Using prison as a response to non-serious or non-violent offenses is a serious mistake that exacerbates the offender's criminality as well as prison overcrowding. Reentry Court relies on "community" to link the offender to beneficial interventions both in custody and out.

A Seamless System

“Community” based rehabilitation begins at the time of the plea and sentence, intensifies when the offender is placed in custody and continues unabated as the participant graduates to out of custody probation. Participants move through the program together, supporting each others progress. The same probation officer (as well the judge, and other court and rehabilitation staff) work with the participant out of custody as did in custody. Immediate connections should be made with probation upon release from court custody and continue in the general community.

The Importance of an Incentive/Sanctions Process

An incentivized process (using a “Contingency Contract”) spells out the consequences of compliance and noncompliance at its very beginning, motivating participants to take control of their own rehabilitation. At the core of every successful Reentry court are substantial incentives and rewards such as reductions in custody and probation terms (rather than symbolic or inconsequential ones).

Those with probation or parole violations will be dealt with through the Reentry process, entering the circular system at No.4 of the diagram (with the caveat that serious or violent offenders may be sent to prison and removed from the Reentry/Drug Court Track.).

Involving the greater community in the work of the Reentry/Drug Court

Government and non-profit agencies, as well as other community-based organizations have an extraordinary part to play in the reentry process. The reentry drug court plays a critical, but relatively minor role compared to the community at large. Having said that, the reentry drug court provide a center or focus for many reentry services, providing the incentives and sanctions that insure that the offender stays involved community based rehabilitation, treatment, and educational/job training programs.

Insuring institutionalization by creating a community-wide funding process

Institutionalization is critical to the survival of the reentry system. It is clear that where community shares funding decisions, systems often survive and are most effective. Reentry systems should have community-wide steering committees (in the form of non-profit corporate structures) that have full participation from criminal justice and non-criminal justice entities alike, in order to fully coordinate and collaborate in the reentry system.

CONCLUSION

As stated above, the advantages of the Community-Based Reentry Court are substantial. Local resources and personnel come into to play. Importantly, this County-based model will help reduce the size of prison populations by diverting those who would otherwise be sent to prison, to a far less expensive and more effective “community” based intervention (designed to keep them out of prison permanently).

Immediate pleas (and program entry) are encouraged by substantial incentives; therefore program assessments and rehabilitation can begin immediately upon the taking of the plea by the Reentry Court Judge. Participants can reduce their five-year probation/ one-year county jail sentence to two and one half years of probation and a six-month jail term. These substantial incentives are intended to keep the participant’s rehabilitation on track. [Note: Of course, there is the additional motivation of avoiding a violation of probation and sentencing to state prison).

Equally important is the level of judicial contact, leadership, and oversight over the Reentry System as a whole. Community-based organizations and treatment agencies have responded extraordinarily well to judicial involvement and leadership in drug court systems and other Problem-Solving Courts. It’s reasonable to expect the same level of cooperation and effectiveness in a Reentry/Drug Court System.

A COMMUNITY-BASED REENTRY/DRUG COURT SYSTEM

The described demonstration model is intended to provide guidance to those interested in expanding their drug court into a system capable of dealing with the high-risk, drug-involved, non-violent offenders that are overwhelming our jails and prisons.

One way to think of the Reentry/Drug Court is to recognize that most drug courts only deal with those drug offenders who are to be involved in pre-trial, out-of -custody rehabilitation, supervision, and treatment programs. The reentry half of the reentry/drug court model, on the other hand, is intended to both deal with those returning from prison, as well as, those in county jail, who would otherwise be sent to prison. It is the second half or completion of a circular drug court system that deals with those high-risk, drug involved offenders sentenced to jails and prison as the result of a plea to a new charge, probation or parole violation, as well as those reentering the community after completion of a jail or prison term.

Finally, it is important to recognize the reentry/drug court is a new drug court paradigm, rather than a separate problem-solving court. The reentry/drug court system will provide both a new level of in-custody monitoring, incentives, and rehabilitative services and a seamless transition from custody to community-based court and community oversight. But that does not make it a new or untested experiment, but the “next generation” in the evolutionary development of the drug court model, a model whose effectiveness has been established over the past twenty years. (Note: the reentry/drug court prospects for effectively working with significant numbers of high-risk non-drug involved offenders appear to be equally promising.)