

Next Steps in Breaking the Cycle of Reoffending: A Call for Reentry Courts



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I. Introduction

When I was elected prosecutor for Jackson County, Missouri, in 1992 the Kansas City area, like so many other urban areas, was in the midst of a crisis. Crack cocaine had found its way to the area, bringing with it a crime wave resulting from the use of the drug. The rise in nonviolent offenses committed by first-time offenders was astounding. In response to this increase in crime directly related to drug addiction, the first drug court was founded in 1989 in Miami, Florida.¹ Jackson County began its drug court in 1993.

The traditional drug court model takes an offender who is new to the justice system and, through a coordinated effort to get at the underlying dependency issue, attempts to avoid having that offender begin the cycle of repeated incarcerations. Offenders are accepted into drug court only if they agree to substance abuse treatment, intensive supervision, random drug tests, and such other counseling as the judge, prosecutor, and defense team may deem necessary. Because this intervention takes place pre-plea, offenders who successfully complete drug court often have their charges dismissed, leaving them with a clean criminal record.

Given the high level of supervision and treatment required in drug courts, some have argued that such courts are not especially effective or cost-efficient. A 2005 study by the Government Accountability Office, however, found significantly reduced recidivism rates for persons who had completed drug court, as well as net savings from the reduced incarceration costs.²

As drug courts flourished, the trend of pre-plea intervention courts expanded to include other areas such as mental health courts, DWI courts, and family courts. More recently, the success of these courts has caused some to consider whether this model could be effectively used for persons who have been incarcerated and are about to be released on parole. This population, while presenting a different set of circumstances, is similar to the drug court population in that, if they are released from prison with no assistance to help them deal with the real problems they face, they are almost certainly doomed to fail and eventually find themselves once again caught up in the criminal justice system.

II. Problem

The United States is in the midst of a reentry crisis. Each year, roughly 650,000 men and women return home from a state or federal prison.³ Many of the men and women return to their communities ill equipped to live a productive life free of crime. "The majority of inmates leave prison with no savings, no immediate entitlement to unemployment benefits, and few job prospects."⁴ An alarming number of ex-offenders suffer from addiction. According to data from the Office of National Drug Control Policy, 70 to 85 percent of state inmates require substance abuse treatment, but only 13 percent receive treatment in prison.⁵ In addition, many ex-inmates cannot find safe, stable housing arrangements. In major urban areas, 30 to 50 percent of parolees are homeless.⁶

Given the extent of ex-offenders' unmet needs, it is not surprising that within three years of release two-thirds of all ex-offenders are rearrested. Half of all ex-offenders return to jail or prison on a new conviction or parole violation within three years of release.⁷ The high rate of recidivism profoundly affects families and neighborhoods and costs taxpayers dearly. In 2001 taxpayers spent an average of \$62 per day to house one prisoner in a state or federal prison.⁸

III. Reentry Courts—A Partial Solution

In an attempt to reduce recidivism, the Department of Justice Office of Justice Programs launched the Reentry Court Initiative (RCI) in February 2001. The RCI provided technical assistance to nine pilot reentry court sites:

The impetus for the RCI was the recognition that using judicial authority to apply sanctions and rewards and to marshal resources has been shown to be effective in drug courts and that a similar model could be applied to support prisoner reintegration. Courts could be used to oversee the reentry process, including monitoring, supervision, case management, service provision, and community involvement.⁹

All of the nine pilot reentry court sites share a common goal—to reduce recidivism through "a seamless system of offender accountability and support services." The RCI established six core components for the reentry court

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sites: (1) assessment and planning; (2) active oversight; (3) management of support services; (4) accountability to community; (5) graduated and parsimonious sanctions; and (6) rewards for success.

Each of the sites, however, crafted a unique strategy to implement the core components. The majority of the sites opted to vest authority in the judicial branch, while several decided to use administrative law judges or parole boards as the legal authority.¹⁰ The sites target different offender populations. Two programs, for example, target offenders with mental health disorders, whereas Sussex County, Delaware, targets domestic violence offenders.¹¹ In addition, “sites adopted a variety of procedures for identifying potential participants.”¹² Most sites enroll participants a few months prior to release. West Virginia and Richland County, Ohio, however, follow the “ideal” reentry model, identifying offenders at the time of initial sentencing.¹³ Identifying participants early on facilitates intensive reentry planning throughout incarceration.¹⁴

Although reentry courts remain relatively young, early results look promising. An evaluation conducted in 2002 shows a very low rearrest rate for the first sixty-six participants in the Richland County, Ohio, reentry court program.¹⁵ When asked in an interview with the Center for Court Innovation why the reentry court model works, Brigitte Fortune, an administrative law judge in the Harlem, New York, reentry court, responded as follows:

It’s a very hands-on, very intensive supervision. It’s probably harder in many ways than regular parole because you have a great many people who are monitoring everything you’re doing . . . when you have all this focus on you, everyone can see what’s going on—what’s working with you, what’s not working with you—you can get adjustments at any time during your supervision.¹⁶

IV. Federal Effort

Congress must do more to support reentry courts around the country. Last spring, Congress passed the Second Chance Act of 2007.¹⁷ Section III creates a grant program within the Department of Justice to fund reentry courts. State and local adult and juvenile court systems may receive up to \$500,000 to establish and maintain reentry courts. Applicants must present a long-term strategy and implementation plan and identify government and community entities that the project would coordinate. In addition, grantees must submit an annual report to the Department of Justice. The bill authorizes \$10 million for FY 2009 and 2010. Congress, however, must still appropriate the money.

The last twenty years have shown that the cycle of reoffending can be broken with intensive intervention and a

willingness to dedicate the necessary resources to help first-time offenders with the issues that are often at the heart of the commission of the crime. Offenders who have been sent to prison face similar, if not more daunting, obstacles than the offenders who have successfully completed drug court. The Second Chance Act represents this nation’s commitment to applying the principles behind drug courts to postincarceration initiatives such as reentry courts. It is imperative that Congress follow through on the promises made in the Second Chance Act by funding these initiatives.

Notes

- * Claire McCaskill represents Missouri in the United States Senate. She is a 1975 graduate of the University of Missouri, and earned her law degree from the same institution in 1978. She would like to thank Peg Gustafsen and Catherine Greensfelder for their help with this article.
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- 2 Government Accountability Office, *Adult Drug Courts: Evidence Indicates Recidivism Reductions and Mixed Results for Other Outcomes*, GAO-05-219 (May 2005), available at http://www.ndci.org/publications/PCPII1_web.pdf.
- 3 U.S. Department of Justice, Office of Justice Programs, “Reentry,” available at <http://www.ojp.usdoj.gov/reentry/learn.html>.
- 4 Joan Petersilia, *When Prisoners Return to the Community: Political, Economic, and Social Consequences*, SENTENCING AND CORRECTIONS: ISSUES FOR THE 21ST CENTURY, No. 9, National Institute of Justice (November 2000).
- 5 *Id.*
- 6 Michael Alpert et al., *Back to the Community: Safe & Sound Parole Policies*, Little Hoover Commission, available at <http://www.lhc.ca.gov/lhcdir/172/report172.pdf>.
- 7 U.S. Department of Justice, Bureau of Justice Statistics, “Reentry Trends in the U.S.,” available at <http://www.ojp.usdoj.gov/bjs/reentry/recidivism.htm>.
- 8 James J. Stephan, *State Prison Expenditures, 2001*, Bureau of Justice Statistics, Special Report (June 2004), available at <http://www.ojp.usdoj.gov/bjs/pub/pdf/spe01.pdf>.
- 9 Christine Lindquist, Jennifer Hardison, & Pamela K. Lattimore, *Reentry Courts Process Evaluation (Phase 1), Final Report*, Doc. No. 20242. Research Triangle Institute (April 2003).
- 10 *Id.*
- 11 *Id.*
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- 13 *Id.*
- 14 *Id.*
- 15 *Id.*
- 16 Center for Court Innovation, *Interview with Brigitte Fortune, Judge, Harlem Parole Reentry Court*, available at <http://www.courtinnovation.org/index.cfm?fuseaction=Document.viewDocument&documentID=557&documentTopicID=28&documentTypeID=8>.
- 17 Second Chance Act of 2007, Pub.L. 110-199, 122 Stat. 657 (codified as amended in scattered sections of 42 U.S.C.).