

# OPTIONS FOR A CALIFORNIA REENTRY COURT SYSTEM

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## **INTRODUCTION**

AB 109 offers the opportunity to build on the success of California's collaborative courts network, creating an effective felony sentencing system capable of dealing with felony offenders, especially those serious offenders, with a high risk of reoffending. If successful, California, its criminal justice system, and rehabilitative communities would make an important contribution to sentencing reform in the United States.

## **REASONS WHY WE NEED TO DO THIS**

These are extraordinary times, with opportunities for basic prison reform that have not existed in generations. For the first time, there may be a substantial increase in funding, available for innovative alternatives to prison overcrowding and failed offender reentry. Whether that funding will survive the debacle the California government is experiencing is another question. What seems incontrovertible, is that policy makers and the public has turned against the wholesale imprisonment of non-violent felons and that there is a chance for basic criminal justice system reform that may not come again.

As describe above, opportunities for real reform rarely come. They are often driven by the most pragmatic, and least altruistic of reasons, a lack of money. It is always difficult to take the risk required to be innovative and commit oneself to a new approach during difficult financial times. But this is our window of opportunity. California, with all its financial problems, still is a leader in Collaborative Courts and CJS reform. Although not a popular notion at this time, resources can be stretched, shared, and reconfigured in way that encourages innovation and cost-savings. The mission of this court system should be to keep the most difficult of offenders from recidivating, and remain in the community.

## **What will the reentry court system's target participant look like?**

First, it should be stated that all sentencing approaches are in essence, reentry systems, a means to ultimately return the offender to the community as a non-recidivist, productive citizen. Our sentencing system within a new state wide sentencing paradigm should reflect that. There are two populations that will need to be addressed, those who have returned to the community from prison, and those who are sentenced to probation and/or a jail term. We can expect our parole participants to be younger, male, convicted of more serious offenses, with a tougher attitude, and less interest in rehabilitation.

Under the new legislation, the more serious parole offenders will continue to be supervised through the parole system, but will be under the jurisdiction of the county court. Parole reentry court then, should be part of a systemic reentry court system, that address the needs of all sentenced felony offenders. We can expect our parole participants to be younger, male, convicted of more serious offenses, with a tougher attitude, and less interest in rehabilitation.

Felony probationers, who make up the larger, less serious demographic may be equally challenging. It should be noted that the ghettoization of the most criminogenic, least able to care for themselves (often due to drug abuse and /or mental health issues) in the poorest neighborhoods will pose serious challenges to probation rehabilitation efforts.

### **What should a reentry court system look like?**

For obvious reasons, the Reentry Court System will need to reflect the risks and needs associated with the new serious felony participant. Funding (though limited) could create a skeletal reentry system, adaptive to the needs of the target population. Programs dealing with a difficult population should be flexible, innovative, and able to adapt to changing circumstances quickly, while staying on top of a challenging demographic.

There is no reason to believe that expanding existing drug court or mental health courts cannot be part of the solution. However, existing programs tend to be set in their ways, have clearly defined parameters, and personnel with distinct roles and perspectives. While important stabilizing attributes for existing programs, they can stultify and limit a new program's ability to provide new approaches to deal with limited funds and a challenging population.

### **A Multi-Dimensional vision of a Reentry Court System**

While ambitious in scope, developing a multi-dimensional court structure, to deal with the many serious offenders sentenced and returned to the community has both operational and financial logic. The court deals with offenders reentering society on multiple levels. There are serious offenders, those with probation violations with a high risk of reoffending, those with new felony offenses and/or probation/parole violations; and those returned to the community from prison or jail. There are less serious offenders; those who are not considered high-risk, or those with a history of lesser offenses, that need to be dealt with in a less intensive court environment.

It should be possible to create a court system made up of separate tracks dedicated to dealing with the offender who arrives through different doors. Experienced and highly trained staff, and resources that exist in California Counties, will be able to deal with the issues facing a reentry court system, such as providing eligibility and risk/needs assessments, rehabilitation services, and offender accountability.

## A POTENTIAL PLAN FOR A REENTRY COURT SYSTEM

### LOCAL OFFENDER REENTRY TRACKS:

**Pre-entry Court: those sentenced to probation and/or county jail for a felony**

*Felons know that after a custodial term, they will remain under the jurisdiction and control of the sentencing judge or a judicial team.*

*[Because different offender risk/seriousness levels are to be expected, more than one track, and possibly one judge, may be required.]*

#### **a. Those with new convictions**

It's critical for those sentenced on felonies, to be supervised and monitored by the same reentry court judge or reentry team that were present at the time of sentencing through in-custody supervision. This track has the potential to provide a seamless transition from adjudication through sentencing and jail to out of custody probation/programs.

#### **b. Those with probation violations**

Upon the filing of a probation violation, offenders would be brought before a Probation Reentry Court to be dealt with, based on new offenses, as well as technical violations.

### PRISON REENTRY TRACKS

**Parole Reentry Court: those returning from state prison**

*Those sent to prison pre AB109 and in violation of their parole or supervised post AB109 by Parole, should be handled in Parole Reentry Court. This court will be highly intensive in both its supervision and rehabilitation services and work with high risk and/or serious offenders.*

Under AB109, high risk and/or serious offender parolees who have not violated their parole, may be placed under the jurisdiction of the Parole Reentry Court for the first time. Other parolees who have violated their parole may be eligible for the Parole Reentry Court under both AB109 and Penal code Sec.1315. [Optimally, participants who are to be terminated by the Parole Reentry Court judge, will have their revocation hearing before another reentry court.]

## **APPENDIX A**

### **MODEL PRE-ENTRY COURT SYSTEM: THE PROCESS**

#### **Early Eligibility Determination, Plea and Sentencing**

Defendants are 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 a reentry 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 Sentence Suspended for a period of five years, under the following conditions: (1) A term in the county jail or an alternative.

The proposed reentry court and its 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.]

#### **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 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.

#### **Incentives**

At court hearings, participants can earn an incentive (technically a “negative incentive”) of a one-month reduction in their jail term every two months in the program. 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 into 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, job training and placement, 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).