



# The Benefits and Operations of Federal Reentry Courts

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**T**he sentencing of criminal defendants is a common practice that occurs daily in federal courts across the country. It is uncommon, however, for a criminal defendant to thank the sentencing judge for their sentence and initiate a hug with the judge who then comes off the bench to greet the defendant. This occurs with some frequency in federal reentry courts. In many districts, federal judges—working with probation officers, prosecutors, federal defenders, and nonprofit agencies—have established reentry court programs that utilize numerous creative strategies designed to accomplish the same goal: decrease recidivism while positively, and safely, reintegrating a restored citizen back into the community.

The means and methods by which federal courts structure and implement reentry court programs vary greatly. This article presents a summary of the ways in which some federal courts have set up their reentry court programs. This is by no means an exhaustive list of the districts that have reentry courts or the manner in which they operate within each district.

### **Southern District of Ohio**

Successful reentry into the community, after serving a term of imprisonment, is a critical goal to achieve in the Southern District of Ohio. Programs have been instituted, and court-wide efforts have been made, in each of the three divisional offices within the district (Cincinnati, Columbus, and Dayton) to assist returning citizens in their efforts at successful reintegration. The programs focus on elements of pro-social engagement opportunities, support and encouragement, personal responsibility, and services provided by local nonprofit agencies. These programs have helped restored citizens build trust and begin believing that the criminal justice system is genuinely invested in their success.

### **Dayton**

The U.S. District Court in Dayton has two programs that assist individuals coming out of prison. The first program is Reentry Court in which a specific number of individuals serving terms of supervised release voluntarily participate. The second program is the Dayton Restored Citizens Safe Haven Summit (“Restored Citizens”), which is open to anyone and is aimed at assisting individuals reintegrating into their communities following their release from incarceration,

whether that incarceration was in the federal or state system. Both efforts are staffed with district judges, magistrate judges, probation officers, and other court personnel. The Reentry Court in Dayton started approximately four years ago, whereas the Restored Citizens effort has been ongoing for approximately three years.

The Reentry Court is presided over by a district judge and a magistrate judge who work together with the U.S. Attorney’s Office, the Federal Public Defender Office, U.S. Probation, and a number of community partners to assist supervised releasees overcome obstacles that face those returning home from prison—such as assistance furthering their education; finding employment; managing child support obligations; obtaining a driver’s license; learning parenting skills; and obtaining mental health and drug treatment. The community partners in Dayton include, among others, Goodwill/Easter Seals of the Miami Valley, the Ohio Bureau of Motor Vehicles, and the Montgomery County, Ohio Office of Ex-Offender Reentry.

Reentry Court participants are generally expected to complete their term within 12 months. To complete a term, an individual must accumulate 40 points on the court’s point system—a system in which participants can earn up to five points during each monthly court session for: (1) being in compliance with the terms of their supervision; (2) being free of substance abuse; (3) attending all appointments with probation and outside agencies; (4) working or seeking employment; and (5) attaining any specific goals set by the court. Following graduation from Reentry Court, participants can apply for a reduction of up to 18 months in their term of supervised release, provided that they remain violation-free for the remainder of their term of supervision. In Dayton, 25 participants have successfully

graduated from Reentry Court—many of whom continue to participate as mentors to subsequent participants and as public speakers in the Dayton community.

The Dayton Restored Citizens effort has no term, and individuals are free to participate for as long as they wish. Similar to the Reentry Court, in operating the Restored Citizens effort, District Judges, Magistrate Judges, probation officers and other court personnel partner with many of the same community agencies involved in the Reentry Court. Restored Citizens events are held monthly at the Potter's House-Dayton International Ministries—a collaborative partner of the Restored Citizens effort—where community agencies, along with the court, all gather in a single location to assist individuals with many issues such as, again, finding employment, obtaining a license, and furthering their education. Many Restored Citizens events are attended by employers in the community who are ready, able, and willing to hire individuals with felony records to immediate employment.

Significantly, both efforts link individuals with mentors who have successfully returned to their communities after serving terms of incarceration, some of whom are graduates of the Reentry Court. Both efforts build a relationship between the participants and the court, prosecutors, and supervising probation officers, to ensure individuals that the justice system is invested in seeing them succeed post-release.

## Cincinnati

The U.S. District Court in Cincinnati has several programs to assist individuals transitioning from prison to the community, such as Reentry Court and the Restored Citizens project. The first program that was implemented is Reentry Court, which began in 2011. Reentry Court is designed to help reduce recidivism of federal offenders released into the Greater Cincinnati area. The Reentry Court is presided over by a district and Magistrate Judge who work together with the U.S. Probation Office, U.S. Attorney's Office, the Federal Public Defender's Office and a number of other community partners to assist with the obstacles individuals face returning home from prison. Reentry Court focuses on reentry issues such as employment, education, housing, and pro-social activities while providing support to each participant. With a judge actively involved in overseeing the transition of the offender from a dysfunctional member of society to a productive member of society, there is hope for growth in the moral reasoning of each participant that leads to a reduction in recidivism.

There are five core elements of this program. The first is assessment and planning of individuals who are eligible for the program. The hope is to identify individuals soon to be released from a halfway house, or those recently released from the Bureau of Prisons, who present a high risk but are motivated to change their lives.

The next element is the active and frequent oversight of the participant. The participant and the committee discuss the overall goals that are to be accomplished throughout the year and work to ensure that those goals are being achieved. Reentry Court sessions are held once per month. However, the person will be in contact with various members of the committee or other community partners throughout the month to ensure the individual is completing goals and staying in compliance with the program and the terms and conditions of their supervision.

One of the most important elements of the program is management of supportive services. There are several members involved

with Reentry Court who are able to refer or provide the participants with information to overcome the obstacles he/she may be facing. The committee has a broad array of supportive services available including housing options, on-the-job training programs, educational programs, and substance abuse treatment.

The third component is graduated sanctions. It is important for participants to understand there are consequences for every decision or action he/she takes. The Reentry Court has established and explained to participants the range of sanctions that could be swiftly imposed based upon the nature of the violation.

The participants are also rewarded for their successes. Positive judicial reinforcement is incorporated into the program as the fourth factor of Reentry Court. Based on their efforts and results, the participant may be awarded up to 30 points each month for the next twelve months. Once the participant accumulates 360 points, he/she can graduate from Reentry Court and earn 12 months off of their supervised release term. If the participant continues in the program as a mentor and is continuing to do well on supervision, he/she can be granted early release from supervision.

Finally, the program focuses on accountability to the community. The purpose of this element is to develop both community service and support opportunities. Participants of Reentry Court are also involved in volunteer opportunities with the Church of the Living God and they participate in pro-social activities held by the U.S. Probation Office or community agencies, such as Restored Citizens events.

The Restored Citizens project is the second program that serves as a vehicle to promote positive change. This program is also a collaboration of the departments and community partners stated above. Everyone that is on supervised release in the Southern District of Ohio is eligible and encouraged to attend these events. There is no term, and participants can attend for as long as they wish. This initiative brings those formerly incarcerated, their families, community agencies and service providers together to participate in events and programs held at the Church of the Living God. The Restored Citizens project is designed to support and strengthen the drive to succeed and become Restored Citizens who give back and play a positive, active role within the community. There are various events held throughout the year such as resource events, workshops on how to successfully transition back into the community, and community service events.

Reentry Court and Restored Citizens provide an environment that fosters positive change. Individuals on supervised release are provided various opportunities that support their efforts in becoming law abiding citizens. Both efforts build a relationship between participants the court, attorneys, and supervising probation officers to ensure individuals that the justice system is invested in seeing them succeed post-release.

## Columbus

The U.S. District Court in Columbus, Ohio runs several programs to assist those returning from federal prison in successful rehabilitation. While the Probation Office links up with returning offenders in advance of release, many returning citizens need continued help with employment, transportation, housing, medical care and addiction treatment. Each program is designed to address the broad range of challenges facing a re-entering citizen.

For the last seven years, the district has run a non-traditional drug court. In each group, 10 individuals recently released from fed-

eral prison are selected with the concurrence of the Probation Office, the U.S. Attorney's Office and the Federal Defender. The program is designed to help those still struggling with addiction, but who are committed to sobriety and in need of support services. During the course of a year, the participants and federal officials form a mentoring group that becomes a source of support during a critical period of recovery.

Each returning citizen is given intensive supervision and required to attend a monthly meeting with a district judge or magistrate judge, probation officer, federal prosecutor, and federal defender. During the meetings, each participant is reviewed for progress or setbacks. Other members of the group weigh in and offer support and suggestions. The entire group, including federal officials, help devise solutions to the many hurdles confronting re-entering offenders. Members know there are consequences for infractions, particularly relapses. Candidates who successfully graduate from the program receive a reduction of one year from their term of supervised release. Not all members are able to meet the conditions of the program; typically, 70 percent of those who begin are ultimately successful.

The district court in Columbus also runs a Restored Citizens Program in conjunction with the Christian Valley Missionary Baptist Church. The program began at the suggestion of Reverend Donald Fitzgerald, who asked the court to begin a program designed to help returning offenders untie the many knots that snag successful rehabilitation. For the last four years, the program has served hundreds of returning citizens with a wide range of services designed to address specific problems of those returning home from prison. For example, many restored citizens did not take steps to stay child support orders while in prison. After a period of delinquency, the State of Ohio automatically suspends the individual's driver's license. Upon release from prison, the same person is now unable to legally operate a car. The Ohio Bureau of Motor Vehicles cannot restore the license without approval from the Child Support Enforcement Agency. To a person unfamiliar with state and local government, this is the kind of knot that prevents employment or family contact.

The Restored Citizens Program has enlisted both agencies to come to the Christian Valley Missionary Baptist Church basement, where the court has supplied Wi-Fi and computers, and have the two separate branches of government create a current child support payment plan on the spot, thereby allowing the immediate issuance of a driver's license. The program is designed to remove such roadblocks to rehabilitation. The same techniques have been used in providing sign-up for Medicaid insurance, which allow individuals, many for the first time, to access drug treatment and mental and physical health care.

Each month, Restored Citizens has a different focus. Periodically, the focus is on jobs, encouraging employers to attend and asking the court's law clerks to assist in resume writing. Other programs focus on housing, health, mentoring and stewardship. The program also encourages participants to give back to the community. Each year, participants help with two large events focused on children. The first is a back-to-school function, where each child is given a backpack and an ample amount of school supplies. The second is a large holiday party replete with Santa Claus, a full meal, a live band, and lots of toys. Large numbers of court employees, including judges, law clerks, probation officers, U.S. Marshals, Clerk's Office personnel, and support staff help make this program a huge success.

Finally, the court has instituted a Vivitrol Court. This particular

drug is in the form of a 30-day Vivitrol shot, which blocks any craving for heroin. Participants are opiate addicts who are in violation of their terms of supervision. Often, the first shot is administered while the individual is in jail, which frequently is used to prevent deadly drug usage. Once the shot is administered, the person is released and enrolled in a specialized court that monitors continued administration of Vivitrol in the following months. The people involved in this program are at the greatest risk. Vivitrol has not proven to be a solution that works across the board, as poly-substance users can simply move to other drugs, typically crystal meth. Nonetheless, a number of participants have been able to overcome years of opiate addiction through Vivitrol, which is why the court will continue using this program as one more option to address the heroin epidemic.

### **District of Massachusetts**

The District of Massachusetts has two Reentry Court programs. These are the Court Assisted Recovery (CARE) program and the Restart Program (Reentry: Empowering Successful Todays And Responsible Tomorrows). Both of these programs are administered by magistrate judges with significant support from the district court.

The CARE program is a nationally-recognized reentry drug court program now in its 11th year. The program is open to individuals who are on supervised release who also have a serious substance use disorder, and whose PCRA score<sup>2</sup> indicates they are either at moderate or high risk to recidivate.

The program seeks to prevent recidivism, promote public safety, and assist high-risk ex-offenders with the many social, family, and logistical issues they face after spending years in prison. The program's emphasis is on stabilizing, treating, coaching and building social supports for the participants so that they can be sober, law-abiding, and employed. In order to help participants achieve these goals, the CARE program offers incentives and support from attorneys, probation officers, and a judge. The program also imposes sanctions for using drugs, breaking the rules of CARE, or getting in trouble with the law. The CARE program is a completely voluntary program, and participants can withdraw at any time.

The CARE team is made up of three probation officers, a probation supervisor, a drug treatment provider, a representative of the U.S. Attorney's office, a defense attorney and the magistrate judge. The team engages in regular training and tries to conform to the National Association of Drug Court Professionals' Best Practices.

The program has worked with approximately 300 total participants since its inception. The program limits the number of participants per session to about 15 so that individual time can be spent working with each participant. The program meets two times per month; in the court sessions the participants step up one at a time and talk about how they are doing. In a typical CARE session, 10 or more participants will talk about their progress, sharing their problems and receiving support from the other participants and the CARE team.

The team meets prior to each court session to talk about each participant. If a participant does not seem to be on track, adjustments are made to their drug treatment or other programming.

Each person referred to CARE is screened to determine whether they are eligible. This ensures that prospective participants are stable enough to engage in outpatient recovery prior to beginning CARE and that they meet the program requirements. A person who is actively using substances, refusing to participate in drug treatment

or is testing positive, likely will need a greater level of support to stabilize before starting the program, such as inpatient treatment.

The CARE program is designed to be completed in approximately 12 months over four phases. Each week that a participant is enrolled in the program, they have the ability to earn credit, so long as they are in compliance with their conditions of supervision and the expectations of the program. Phases One through Three are designed to last 12 weeks each. Phase Four is designed to last 16 weeks. These time frames can be reduced if a participant earns extra credit for accomplishments, or they can be extended due to losing credit for noncompliance.

The assignments and expectations of each phase are concrete and clear. Each phase has a specified purpose with distinct, achievable goals that are consistent with the stages of recovery. The phases encourage participants to develop an understanding of addiction and recognize their patterns of use, triggers, factors that influence use, and the impact of use on self, family and community. The main goal of the program is for participants to achieve extended sobriety. With this goal in mind, the program requires that each participant remain substance free for the final 32 weeks of their time in the program. As a result, anyone who tests positive for drugs or alcohol after they have progressed past Phase Two—Week 8, will be returned to Phase Two—Week 8, without exception. These concrete guidelines were developed to be consistent with best practice stages of change model of care. These monitored 32 weeks of sobriety ensure a solid foundation for an individual upon graduation from the program.

Participants are challenged to accept responsibility for the impact of their drug using behavior on others, and are provided access to recovery resources, the tools necessary to facilitate and maintain their sobriety, as well as other forms of assistance where appropriate to support them in becoming productive members of the community. Throughout participation in CARE, participants work toward the development and expansion of a community-based sober support network. Finally, participants complete written and oral presentations at the beginning and end of each phase as well as prepare a comprehensive relapse prevention plan prior to graduating from the program.

The Restart Program is a reentry court program created in 2009 that aims to reduce recidivism among high-risk defendants. The participants are all individuals who are serving terms of supervised release and have PCRA scores that indicate they are either at moderate or high risk to recidivate.

New participants undergo an initial assessment to determine their needs/risks. Presently, this is done through a partnership with an agency that also helps to provide participants with a variety of support services thereafter, such as GED studies, job training and mental health counseling. The number of active program participants at any given time can vary substantially but the program overall averages about six to seven individuals at a time.

The program is divided into three phases. Participants receive a credit for each week of successful participation. As each of the three phases consists of 26, 14, and 12 weeks respectively, it is possible to complete the Restart Program in 52 weeks (*i.e.*, one year), although most participants typically take longer to do so. Broadly speaking, all three phases include close supervision by a probation officer and regular court sessions with direct judge-participant contact, but the level of supervision and required court attendance gradually lessens (as appropriate) as participants progress through the program.

Participants are also frequently drug tested, engage in cognitive behavior therapy through either the MRT (Moral Reconation Therapy) program in a group setting, or through interactive journaling in a private setting, and complete a community service component.

Because one of the goals of the program is to promote consistent, positive-oriented behavior, participants must complete the last four weeks of each of the first two phases incident-free in order to move to the next phase, and typically must complete the entire third phase incident-free in order to graduate. Examples of the types of activities that may impede a participant's receiving full credit include failure to attend or arrive timely at a required meeting or court session, lack of full candor in interacting with their probation supervisor, drug use or other unlawful behavior. Depending on the behavior at issue, discipline may be handled within the context of the Restart program, by the Restart judge, and may include sanctions ranging from loss of credit to community service to brief periods of custody. More serious conduct typically will be handled through the formal supervised release revocation process, by the original sentencing court, and may result in the participant's removal from the Restart Program.

Looking forward, the program always seeks to identify other community groups and organizations it can partner with to provide additional opportunities and resources to the participants. These efforts include ongoing conversations with nonprofit agencies, area law schools and local bar associations. Among other things, for example, participants benefit from a local bar association's reentry education program, where volunteer attorneys conduct mock interviews and offer constructive guidance on resumé drafting, and hold one-hour classes on topics such as family law, affordable housing, and public benefits.

### Eastern District of Louisiana

The Eastern District of Louisiana is involved in a number of initiatives to help all offenders as they are released from prison. In most cases, offenders released from the Federal Bureau of Prisons are placed at the Residential Reentry Center (RRC) (*i.e.*, Volunteers of America), for the purpose of assisting in their reintegration back into the community. While at the RRC, the court's probation office meets with each offender prior to the start of his or her supervised release for the purpose of orientating the offender on supervision expectations. This process involves collecting data related to risk assessments, identifying specific skill sets that may assist with employment ventures, and flushing out other needs in preparation of case planning for supervision. In all of those cases, the judge to whom an offender is assigned for sentencing is notified of any issues that arise during supervision and issues sanctions accordingly.

The district's signature reentry program is the post-conviction Rise & Recover Reentry Program. The program began in March 2012 under the leadership of the Hon. Ginger Berrigan, now retired. Upon Judge Berrigan's retirement, Judge Nannette Jolivet Brown took over her section. Judges Susie Morgan and Jane Milazzo initiated an additional section of the reentry program in 2015.

Participants are sentenced or diverted to reentry from a variety of judges, who retain jurisdiction. However, participants are transferred for supervision to the Reentry Court judges while enrolled in the program. Through a team lead by a U.S. district judge, this program offers a creative blend of treatment and sanction alternatives to effectively address offender behavior, rehabilitation, and the safety of the local communities. The goals of this program are to reduce



recidivism and promote successful community reintegration while maintaining public safety. In Judges Morgan and Milazzo's jointly-presided-over sessions, they are robed but sit at eye level with the participants, who are seated in the jury box. Judge Brown sits at the high bench in traditional fashion.

The Reentry Judge meets biweekly with the treatment team to assess the offender's progress and discuss recommendations for sanctions, rewards or variations in treatment. Following the staffing meeting, the offenders formally report their progress to the court as well as discuss any problems they have encountered. After getting the offender's point of view and input on how he or she thinks any problem might be resolved, the judge issues appropriate sanctions or rewards. The number of sessions each participant must attend varies by phase with participants.

The participants are expected to appear in court and be dressed appropriately. They are provided a button down shirt and tie by the probation office. Their appearance in reentry court is an opportunity to enter the courtroom through the front door like all law abiding citizens. The program provides an opportunity, through positive behavior modification and program compliance, to exercise some control over the outcome of their encounter with the criminal justice system.

The following criteria help to evaluate a releasee's eligibility for the Eastern District of Louisiana's Rise & Recover Reentry Court Program:

- Post-Conviction Risk Assessment score of moderate to high risk and personal histories and characteristics reflect the releasee could benefit from the program;
- Have a minimum term of supervised release of two years;
- Prospective participants with Axis I or II psychiatric diagnoses will be accepted as long as they are in treatment (or willing to enter treatment) and their mental condition does not prohibit them from completing the program;
- Completion of the Texas Christian University Drug Screen (TCUDS II);
- Court observation and subsequent completion of the "Getting It Started" cognition based interactive journal exercise;
- Appear before the Reentry Court Judge and team for inquiry;
- Acceptance of the terms outlined in the Participant Agreement; and
- Permission from the sentencing judge.

As part of the screening process, probation officers also review a prospective participant's citizenship, criminal history (*i.e.*, offenses involving a sex offense and threat to national security are precluded), and gang involvement, as these may be potential barriers for enrollment. This information is then reported to the Reentry Judge. The number of participants varies. Typically, the probation office seeks to enroll between 15 and 20 participants in each session. Judge Jolivet Brown has an open enrollment, which usually results in the receipt of participants year round.

The judges are provided with information from a team of individuals including a mental health professional, a drug treatment professional, a representative of the probation office, the federal public defender and the U.S. attorney to assist them in deciding appropriate treatment, sanctions, rewards and advancement through the program. Overall, the specifics of the program involve intense commu-

nity supervision of offenders, which includes a variety of treatment modalities such as, without limitation, Substance Abuse Treatment, Mental Health Programming, Cognitive Behavior Therapy (CBT), Community Service (where necessary), and employment. Depending on individual participant needs, the court may also require enrollment in STRIVE or completion of other educational programming.

To date, the Eastern District of Louisiana's Rise & Recover program has serviced a total of approximately 74 offenders under post-conviction supervision. The program lasts 14 months; however, the time frame may be extended by the presiding judge based on the progress of the participant. Phase four of the program signifies partial completion in preparation for commencement exercises.

Rise & Recover does not utilize a scoring system. A participant's progress is recorded via the court's existing case management system and biweekly progress reports submitted to the reentry judge. Additionally, an individual's success is discussed in open court sessions and, progress is rewarded by the judge accordingly. The tracking of such data remains a work in progress.

Participants' completion of Rise & Recover is celebrated amongst the criminal justice community. The primary incentive for completion of the Rise & Recover Reentry Program is the opportunity for successful participants to have the term of supervision reduced by up to one year. Participants who have more than one year remaining of supervision must continue to comply with all terms of supervision after graduation from the reentry program. If the participant subsequently violates a term of supervision, he or she will be subject to revocation and incarceration by the sentencing judge. The one year reduction is applied six months subsequent to the completion of the program, barring no existing violations of supervision.

With regard to employment assistance, many participants in the Rise & Recover Reentry Court program have enrolled and successfully completed the NOLA 4 Life STRIVE program. The court recognizes that it may be essential, first, to ensure participants possess the skills for acquiring and sustaining employment. As part of the district's reentry programming, the court has contracted with local vendors for the purpose of providing CBT treatment and drug treatment when necessary. The focus of such therapy is to assist offenders change their mindsets for long-term positive change. A participant who is employed, yet fails to change his or mindset, may be at increased risk of recidivating and, thus, having supervision revoked. Therefore, it is necessary for the court to ensure proper skill sets training is provided. Participants often are dedicated to supporting their families, whether it be children or aging parents. This caretaker responsibility can be a source of additional stress, or at worst, a trigger. The CBT therapy helps participants cope with the stress in positive ways, and also teaches life skills that may translate to employment. The court also works individually with participants to address any vocational programming. Through the use of Second Chance Act funds, the court is able to provide funding for offenders to complete multiple educational programming, based on available funding.

The probation office also has an online external website that participants are encouraged to review for job searches ([www.laep.uscourts.gov](http://www.laep.uscourts.gov)). The link titled "JOBView" helps offenders locate specific job opportunities and apply online. Additionally, the court has hosted, in partnership with external stakeholders, a number of career and resource fairs. For example, in August 2016 the district's probation office hosted a town hall meeting for participants, which

included some state offenders, for the purpose of addressing potential barriers to successful reentry. The town hall meeting was led by celebrity chef, author, and ex-offender Jeff Henderson.

The use of the court's Second Chance Act funds also permits the court to sponsor a number of reentry participants and other offenders in various programming: Regional Carpenter's Union Pre-Apprenticeship Program (located in Metairie, La.) and Coastal Truck Driving School. The carpenter's pre-apprenticeship program provides instruction on scaffolding and introduces them to a potential career choice in carpentry; and the driving school is designed to help offenders acquire a commercial driver's license. The court, through its probation office, has also sponsored some participants programming offered at Delgado Community College: Industrial Maintenance Program and Electrical Program.

The probation office works individually, via assigned probation officers, with participants requiring housing assistance, child support matters, and in acquiring or reinstating driver's licenses. The program also works with Volunteers of America to provide provisional housing. This program is designed to offer temporary residence, budget permitting, for offenders in an effort to help them transition to long-term housing while under supervision. As to treatment services, the program's vendors, Holistic Resolutions and Responsibility House, have played a major role in providing mental health and substance abuse counseling.

Recognizing that the statistics show a judge, as a person of authority, can have a major positive impact on an offender's recovery and/or transformation, the Court's Rise & Recover program offers both rewards and sanctions issued by the judge to the offender in front of his or her reentry peers and the treatment team. Rewards may vary from healthy snacks to \$25 gift cards. Rewards are utilized to encourage the continuation of the participants' pro-social activities. As Judge Milazzo states, to receive positive reinforcement from the bench is an important contrast from previous experiences at sentencing. Sanctions are used to reinforce program expectations. Sanctions may include a variety of options including up to three days in custody. Ongoing team-based professional development training remains essential to sustaining a quality reentry court program. Annually, the court, through its probation office, sponsors a variety of training, most of which focus on the concept of Evidence Based Practices. The probation office has hosted the following training: "What Works in Criminal Justice" (*i.e.*, an introduction into the realm of Evidence Based Practices), provided by the University of Cincinnati, Institute of Corrections; Moral Reconciliation Therapy, Making It Work, and Interactive Journaling (*i.e.*, all cognitive behavioral therapeutic base training); and "Working With Involuntary Clients" facilitated by Dr. Chris Trotter (*i.e.*, Author and Australian Professor from Monash University). Team members have also attended annual conferences sponsored by the Louisiana Association of Drug Court Professionals and the National Association of Drug Court Professionals.

The court's Reentry Court judges have also participated in training provided by the National Drug Court Professionals, directed at the role judges play in the process. This training develops the skills and techniques needed to be an effective, problem-solving court judge—a role that differs from a federal judge's traditional role. If a participant is non-compliant, the judge has a variety of sanctions at her disposal to address the issue. There is recognition that participants may develop issues that set back their recovery, but the goal

is to teach them to overcome these difficulties. As many participants have a substance abuse history, it is expected that compliance will not be easy and that some will relapse. The goal is to work with each participant to assist in their transition to living a drug-free life. However, substance abuse is not the only issue. When in non-compliance, the response is a graduated sanctions approach. Depending on the type of violation, major or minor, the sentencing judge will be notified and has the option to either allow the participant to continue in the program, or proceed with possible revocation or other sanction.

In November 2016, the Court introduced its first front-end reentry court program, Louisiana Eastern Alternative Program (LEAP). This program is similar and lasts about 24 months. The ultimate incentive for completion of this program is the dismissal of all charges. U. S. magistrate judges preside over LEAP.

With respect to funding, the incorporation of district-wide cost containment initiatives has helped to sustain funding for implementation of various programs and services within the probation office. Although the amount a participant may contribute is small, the court also discusses with participants the need to make co-payments. Further, cognition services were previously, for a period of time, facilitated by probation officers, which helped to offset expenditures. The court has recently solicited lawyers through the New Orleans Chapter of the Federal Bar Association (FBA) to assist participants with clearing traffic tickets and expungements. In conjunction with the FBA, a training seminar for lawyers who volunteer to assist with reentry is being planned. The court may also be able to add other treatment in the future, such as medically assisted drug treatment when warranted.

The court cites the following as the major positive attributes of the Rise & Recover Reentry Court Program:

- Does especially well monitoring and mitigating drug violations;
- Drug and non-drug violations declined steadily from program onset to the 5- or 6-month point, followed by a small increase in violations, then a return to the declining trend seen earlier;
- Participants showed marked improvement on anti-social cognitions and personality, reflecting well on the treatment provided by Holistic Resolutions;
- Highly successful in meeting education needs. In a very limited time frame, all participants improved their education needs; and
- Treatment by Responsibility House successfully addressed substance abuse needs of the majority (70 percent) of the participants.

Another positive is that the participants develop a support system for each other. The program also gives the judges means, other than incarceration, of guiding participants into behavior modification and becoming productive or at least self-sufficient citizens of the community.

Judges overseeing the Eastern District of Louisiana's program have also experienced interactions with participants similar to the positive example in the session summarized in the introduction above. For example, Judges Morgan and Milazzo recall a participant describing that he felt "at peace." They also recall another participant at graduation expressing how he could never have accomplished what he had without the program. According to Judge Jolivet Brown, although it is almost always a long and complicated process, there is no better feeling as a public servant than when she

finally strikes a chord with a participant and he or she recognizes what they can do and in fact, begin to do, what is necessary to turn things around in their life.

### **Middle District of Florida**

The Orlando Division has had a program since September 2009. Tampa and Jacksonville (which are also part of the Middle District of Florida) also have programs. In the Orlando Division, the program helps people who are being released reintegrate into the community. It is a more structured, supervised program. For the first year on supervised release, the participants come to court and meet in phases. First, every other week there is a meeting with a judge and a federal public defender and federal probation officer and an assistant U.S. attorney. It becomes an intensive series of meetings where the offender picks three goals. Every two weeks, a report is required on those three goals. Setbacks also must be reported. The attorneys, judge, and probation officer give the offender feedback. Assistance is given to find resources in the community to reach those goals and offer assistance for secondary issues to help achieve goals (*i.e.*, assistance to get a driver's license back, pay child support on a payment plan, community service in lieu of fines, *etc.*). Later in the program, participants come to court every four weeks.

The Orlando Division's program is staffed by Magistrate Judge Daniel C. Irick and U.S. District Judge Roy B. Dalton. The judges alternate covering the hearings. The program meets on the first and third Thursday of every month at 4 p.m. at the federal courthouse. The participants have found that this is the time the prospective graduates are most able to be excused from professional and personal commitments and this time has the least amount of absenteeism.

The Orlando program accepts up to 10 participants at a time, and that has been the limit since the program's inception. It is estimated that between 100 and 120 participants have participated in the program since its inception. The program is administered on a rolling basis and as one participant graduates or otherwise leaves, another can come in. Points are awarded on a rolling basis based on achieving certain milestones or goals, so not all participants start or end together or are even at the same level at any given hearing.

The program is a credit-based program, just like college. Participants receive credit for working towards certain structured goals. Approximately one credit per week is earned. Once all credits are received, the participant graduates. 48 credits are required to complete the program. In the future, Orlando is considering having a party for current and former graduates once per year to reward their accomplishments.

In this program, the district judge does not have all of the individual criminal cases transferred to them. As long as the prospective graduate is being supervised by a probation officer in the Middle District of Florida, Orlando Division, they are eligible for the Orlando REP program. There is no transfer of cases and the original sentencing judge—even if in another district court—maintains jurisdiction over the sentencing, probation, and supervised release program.

Assistance through this program is primarily tailored to the individual's three goals. It is a very encouragement-based program. After a goal is finished, another goal is selected. Most of the participants already have a GED (which they earned in prison), but almost all participants either get assistance in getting more education, getting a job, or getting a better job than one they already have. One specific, individualized example was working with a participant who had

serious testing anxiety to take a standardized test and then re-take the test.

The Orlando REP works with other agencies and provides referrals to other agencies in the community. The AUSA participant also has contacts with referrals to other agencies which can help with these problems. As an example, the program recently had a participant who kept testing positive for drugs during supervised release. They (the AUSA, defender, and probation) spent all day calling various agency contacts and found an agency to place the individual in an inpatient detox facility. The participant avoided another positive test and was able to graduate. As another example, the attorneys worked to get an agency to assist a participant from Haiti with previously obtained dual citizenship in getting assistance (including the assisting agency covering the fee) in obtaining the required documentation to enroll in college.

The program works with several outside groups. For example, iDignity has played a helpful role. Many different drug treatment providers (for instance, the Orange County Drug Free Coalition and Aspire) also assist. Other agencies are solicited for help on an ad hoc basis. Goodwill Industries has helped in the past. The program notes that having only 10 participants at a time makes it easier to solicit tailored help.

With regard to non-compliance, the judge can impose sanctions less than removing a participant from the program, like giving the individual no credit for a certain period of time. Other sanctions can be imposed, such as writing exercises and community service. Serious or repeat offenders will be removed and returned to regular supervised release and will receive no reduction.

Participants are eligible if they are within 60 days of release from custody, they have to have a moderate to high risk of reoffending as scored by U.S. Probation, a history of substance abuse, and they have to voluntarily choose to accept the program and sign a contract to this effect. The contract requires, among other requirements, adherence to a strict drug treatment program and substance abuse monitoring. Prospective participants are invited to go to a proceeding before they enter the program and witness a typical session and are then asked again afterwards if they are sure they are interested in participating. This helps to ensure limited resources are put to good use.

At the end of the program, there is a graduation ceremony. The judge will often give the graduate a token such as a coin to remind them of the program and their accomplishments. It takes approximately one year. A participant who completes all requirements of reentry will receive a year's reduction in the supervised release term imposed at sentencing. One person involved with the leadership of the program noted that they viewed the graduation ceremony as one of the major benefits of the program. At graduation, successful participants have the opportunity to give a speech to the other participants about their goals, efforts, and struggles. It was noted that this experience is typically a heartfelt and compelling story, invariably noting that the program has made a major difference in their lives.

Those involved with the program note that one of the most beneficial aspects is having the opportunity to re-shape people's experiences with the court and with the government in general. For example, offenders who, prior to being involved in the program, had a negative association with the court system, have the chance to see the system from a different, more positive, perspective.



## District of Minnesota

In the District of Minnesota, the Reentry Court is run by a team of two district court judges, two probation officers, a reentry court specialist, a public defender, and a member of the U.S. Attorney's Office. Each participant is assigned a mentor from a nonprofit group. Biweekly contact with the mentor is a condition of Reentry Court. In addition to the designated team, if one of the district court judges cannot make a session, there are magistrate judges who are ready, willing, and able to step in to assist.

The program has been in existence since November 2015 under a pilot project. The program estimates that it has worked with 46 individuals to date. The program takes a minimum of 12 months and a maximum of 18 months to complete, and then the participant graduates. Participants in the program are eligible for a 12-month reduction of their supervised release.

Participants are initially identified for the program by the U.S. Probation and Pretrial Services Office. Prior to release from custody, high-risk offenders are identified based on their criminal histories and other factors, screened, and presented to the Reentry Team. The Reentry Team then reviews proposed candidates and either agrees or disagrees to accept them.

The program has four phases, but overall, includes a scheduled court session every other week. There are two sessions each day that the program is scheduled, one in the morning and one in the afternoon, each overseen by a different district court judge. One hour prior to the court session, the mentors and treatment team meet to discuss each participant. At each scheduled court session, the Reentry Team and the participants meet in the courtroom. There are typically five to 10 participants seated with the Reentry Team at a large table. The sessions are not open to the public, and attendance is capped at ten participants per week. Participants can bring family, friends and sponsors to court. Each meeting typically lasts between 60 and 90 minutes. During the meeting, each participant provides updates on progress towards goals and any noncompliance since the prior session.

According to the Reentry Team, participants have indicated that some benefits of the program include knowing that people care and the addition of positive influences in their lives. An unanticipated benefit is that the Reentry Court program appears to have changed some stereotypes and perceptions that the justice system is looking to lock people up for technical violations. The goal of Reentry Court is to maintain community safety, comply with court-ordered conditions, and address technical violations while the participant remains in the community. The peers in the group also act as support and put pressure on each other to not reoffend or get into trouble. They support each other and push each other to improve.

The case stays with the sentencing judge, but there is an agreement that the Reentry Court judges will oversee the case and address Grade B and Grade C violations. The program uses several tools to measure success, including without limitation:

- Provide negative drug tests;
- Maintain stable employment;
- Attend a weekly 12-step program and make good faith efforts to obtain a sponsor;
- Establish and maintain stable housing; and
- Participate in treatment and receive medication.

The judges in Reentry Court use sanctions, such as increased frequency of drug testing, community service, location monitoring, and other options to address noncompliance. If a Grade A violation occurs, participants may be suspended or terminated from the program, due to the serious nature of this behavior.

The Reentry Court program notes that it has seen participants with the highest risk of recidivism make positive changes. Prior to the implementation of the Reentry Court program, high-risk offenders maintained an unfortunate 74 percent recidivism rate. To date, the recidivism rate for participants is approximately 30 percent. While further research needs to be conducted, the program appears to be effective, even under conservative statistics.

## Northern District of Illinois

The U.S. District Court for the Northern District of Illinois has a reentry court program called the James B. Moran Second Chance Program. The program has been in existence for seven years. Participation in the program typically at least 12 months, but not more than 18 months. At the end of the program, for successful completion for one year participants receive a certificate and a reduction in the length of their court ordered supervised release.

There are typically 12 participants per cycle. Participants are subject to intensive supervision, including having two assigned probation officers. They attend bimonthly meetings with federal judges and representatives of other federal agencies, including the U.S. Attorney's Office, the federal defender, and the U.S. Marshals Service. The marshal's presence adds an important dimension to the program by making the process of implementing sanctions easier and by bringing unique experience and expertise to the discussions. The program also includes a drug specialist on the team. The judges wear robes, but do not sit on the bench during meetings. The goal of the meetings is to encourage and support intelligent life choices among participants. At the meetings, each participant is given the opportunity to speak about current challenges and share their experiences. They are then given feedback, encouragement and suggestions from the group. Participants receive rewards and incentives, as well as sanctions when appropriate, geared toward promoting positive efforts and encouraging a drug-free lifestyle.

The program has many positive aspects and goals, such as reducing recidivism and avoiding the costs that recidivism represents. The reentry experience, however, transcends these concrete goals. Judges, probation officers, prosecutors, defenders, addiction counselors, and deputy U.S. marshals work together, rather than hierarchically or as adversaries, to bring their different training and expertise to bear on solving the problem of crime. All involved in the program have one goal, which is to help the program participants establish law-abiding, satisfying lives—and the program works toward that goal collaboratively, with the team and participants learning from each other.

The program seeks candidates who have a documented substance abuse problem and who have at least two years remaining on their period of post-incarceration, court-ordered supervision. Specifically, participants are to be persons “who were previously convicted and sentenced in a U.S. District Court and who (a) are serving a term of supervision, (b) have a documented substance abuse problem, and (c) a special condition of drug aftercare program (DAP).” Rather than have volunteer participation, the team sought the assistance of the U.S. Probation Office for the Northern District of Illinois to identify potential participants based upon risk prediction

tools, presentence investigation reports, violation history, participation in Bureau of Prisons drug treatment programs, and information from family members and the releasees' supervising district judge. The team draws upon extensive research which indicates that higher-risk releasees are more likely to be successful in the context of a reentry program's intensive supervision. Thus, in identifying candidates, the team's probation officer seeks individuals with a high risk-prediction index (RPI) score. Individuals who indicate an interest in the program are then interviewed by members of the Reentry Program Team.

According to the program, the team members quickly learned during these interviews that the most important question to many of the interviewees was whether the judges had been required to create a reentry program or whether they had voluntarily chosen to do so. When assured that the judges had volunteered to start the program because they believed in it, most interviewees were won over. After 30-minute interviews, in which the team asks questions of the interviewee and the interviewee has an opportunity to ask questions of the team, individuals who indicate that they wish to participate meet privately with the deputy federal defender, who explains the terms of the program—including the potential sanctions, as well as the contract each would have to sign to be able to participate. The contract states that in addition to general conditions of supervision, participants agree to a drug and alcohol evaluation, to the recommended treatment and to drug testing.

Successes are recognized and failures are dealt with by graduated sanctions, depending on the seriousness of the violation and/or its frequency. Between sessions, all participants are required to engage in drug treatment, abstain from the use of illegal controlled substances and find work if able. The team also tries, with the agreement of the participants, to set additional goals for each participant at the close of each meeting, which might include applying for a specific job, finding a new apartment or seeing a doctor to deal with serious health issues. Thus, at the end of each meeting, everyone has a goal to work on in the weeks ahead.

The team developed a punch card as a reward mechanism. When the probation officer reports that a participant, between program meetings, has passed all drug tests, has been compliant with treatment, has com-

pleted any assigned tasks, and has had no new arrests, the participant is rewarded with group applause and a punch on his or her card. When a participant accumulates three punches, he or she receives a gift certificate or some other small token to recognize the achievement. In exchange for successful completion of the program (including sobriety) participants receive a one-year reduction in their term of supervision.

Another key principle of the reentry program is sanctions: swift, sure, but not necessarily (except in the case of repeated failures) severe. The team works hard to tailor sanctions to the needs of the participant, so that setbacks can become opportunities. For example, graduated sanctions may begin with writing a paper on a given setback or spending the day sitting in the courtroom, may increase to electronic monitoring, an outpatient 30-day drug program or some number of hours of community service, and escalate from there to an afternoon in lockup or a short period in jail. The presence of a deputy U.S. marshal, with the ability to take someone's freedom away for hours or for days, serves as a reminder that participation in the program means an agreement to a program of personal responsibility.

While the members of the reentry program team had assumed that their role would be to offer advice and counsel to the participants, the best advice and counsel frequently comes from other participants. Without exception and with extraordinary generosity, the participants offer what resources they have available to them, such as job information and friends in social service agencies who can offer needed assistance, to help each other. Indeed, participants have expressed their desire to be available to each other outside of team meetings. The reentry team has had to specify conditions for such out-of-court contact because most defendants on federal supervision are barred from associating with other ex-felons, unless they have explicit permission to do so. At the meetings, team members and participants sit together around a large table. Meetings are taped so that there is a record, should the need for one arise; the team decided that the presence of a court reporter might make people reluctant to talk freely. The deputy marshal takes attendance to create a record of who comes and when. Members of the team begin by summarizing the

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## Judicial Profile Writers Wanted



*The Federal Lawyer* is looking to recruit current law clerks, former law clerks, and other attorneys who would be interested in writing a judicial profile of a federal judicial officer in your jurisdiction. A judicial profile is approximately 1,500–2,000 words and is usually accompanied by a formal portrait and, when possible, personal photographs of the judge. Judicial profiles do not follow a standard formula, but each profile usually addresses personal topics such as the judge's reasons for becoming a lawyer, his/her commitment to justice, how he/she has mentored lawyers and law clerks, etc. If you are interested in writing a judicial profile, we would like to hear from you. Please send an email to Sarah Perlman, managing editor, at [tfl@fedbar.org](mailto:tfl@fedbar.org).

<sup>32</sup>MARVEL, *supra* note 8, at 459-60.

<sup>33</sup>*Id.* at 460.

<sup>34</sup>*Id.*

<sup>35</sup>*Id.*

<sup>36</sup>SMITH, *supra* note 30, at 506.

<sup>37</sup>ABRAHAM, *supra* note 4, at 102.

<sup>38</sup>SUPREME COURT HISTORICAL SOCIETY, THE SUPREME COURT JUSTICES, ILLUSTRATED BIOGRAPHIES 177 (Clare Cushman ed., 3d ed. 2013).

<sup>39</sup>MARVEL, *supra* note 8, at 461-62.

<sup>40</sup>Lawrence, *supra* note 2, at 166.

<sup>41</sup>MARVEL, *supra* note 8, at 459.

<sup>42</sup>WILLIAM S. McFEELY, GRANT 385-86 (1981).

<sup>43</sup>MARVEL, *supra* note 8, at 462.

<sup>44</sup>*Id.* at 457, 461.

<sup>45</sup>H.W. BRANDS, THE MAN WHO SAVED THE UNION, ULYSSES GRANT IN WAR AND PEACE 87, 513 (2012).

<sup>46</sup>SMITH, *supra* note 30, at 506.

<sup>47</sup>SUPREME COURT HISTORICAL SOCIETY, *supra* note 38, at 177.

<sup>48</sup>Some have suggested that Grant's nomination of Stanton was primarily a strategy to move along his days' earlier

nomination of Hoar to the newly created ninth Supreme Court seat, which languished in the Senate for seven weeks before the Senate rejected the nomination by a vote of 24 to 33. ABRAHAM, *supra* note 4, at 102; Lawrence, *supra* note 2, at 154, 167.

<sup>49</sup>MARVEL, *supra* note 8, at 462.

<sup>50</sup>Edwin M. Stanton in the Supreme Court, PHILA. INQUIRER, Dec. 21, 1869, at 4.

<sup>51</sup>*Id.*

<sup>52</sup>Resigned, DAILY KAN. TRIBUNE, Dec. 21, 1869, at 2.

<sup>53</sup>Judicial Appointment—Significant, WHITE CLOUD KAN. CHIEF, Dec. 23, 1869, at 2.

<sup>54</sup>Mr. Justice Stanton, BUFFALO COM., Dec. 22, 1869, at 2.

<sup>55</sup>Judge Stanton, DECATUR WEEKLY REPUBLICAN, Dec. 23, 1869, at 4.

<sup>56</sup>BELMONT CHRON., Dec. 23, 1869, at 2.

<sup>57</sup>Edwin M. Stanton, DAILY ARK. GAZ., Dec. 22, 1869, at 4.

<sup>58</sup>The New Judge of the Supreme Court, TIMES-PICAYUNE, Dec. 23, 1869, at 4.

<sup>59</sup>NASHVILLE UNION & AM., Dec. 22, 1869, at 2.

<sup>60</sup>LUZERNE UNION, Dec. 22, 1869, at 2.

<sup>61</sup>The Judiciary and the South, BROOKLYN DAILY EAGLE, Dec. 22, 1869, at 2.

<sup>62</sup>ABRAHAM, *supra* note 4, at 102.

<sup>63</sup>Lawrence, *supra* note 2, at 167.

<sup>64</sup>*Id.*

<sup>65</sup>One later author suggests that Stanton's death might have saved Grant the embarrassment of perhaps naming one of the "conspirators" in the Lincoln assassination to the bench, as alleged by various contemporaries of Stanton and Lincoln. More recent scholars have not subscribed to the Stanton "conspiracy" theory. HARPER, *supra* note 21, at 103-04.

<sup>66</sup>SUPREME COURT HISTORICAL SOCIETY, *supra* note 38, at 177.

<sup>67</sup>Obituary, *supra* note 27.

<sup>68</sup>Edwin M. Stanton in the Supreme Court, *supra* note 20.

<sup>69</sup>MARVEL, *supra* note 8, at 464.

<sup>70</sup>*Id.*

<sup>71</sup>H.R. 191, as reported in CONG. GLOBE, 41st Cong., 2nd Sess. 1946 (1870).

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## Reentry Courts *continued from page 35*

progress each participant has made. Each participant has an opportunity to speak about the issues which have most occupied them during the preceding weeks. Team members and participants are urged to offer their thoughts about each report, and the discussion is open and free among team members and participants. Often, other participants have more experience with one another's challenges and issues and thus more to offer their fellow participants than the team members.

### Conclusion

There are many ways to effectively implement a federal reentry court program. The summary above demonstrates that District courts can, and do, customize approaches based upon their particular needs and local practices. As noted above, reentry programs provide a unique opportunity for federal judges to positively impact the lives of the returning citizens and their families. ☉

### Endnotes

<sup>1</sup>Judge Newman, a U.S. Magistrate Judge in the Southern District of Ohio, served as the FBA's national president from 2016 to 2017. Matt Moschella, a partner at Sherin &

Lodgen in Boston, is the FBA Sections and Divisions Council chair and was appointed by Judge Newman as the FBA's general counsel. This article was written, in part, by Judge Newman and Matt Moschella, but also by numerous authors in the federal court districts described herein. These co-authors include, among others: Chief Judge Edmund Sargus, Judge Walter Rice, career law clerk Penny Barrick, Chief Probation Officer John Dierna, and Probation Officers Kristin Keyer and Marquita Howard (Southern District of Ohio); Judge Page Kelley and Judge Donald Cabell (District of Massachusetts); Judge Nannette Jolivet Brown, Judge Jane Triche Milazzo, Judge Susie Morgan, Chief Probation Officer Kito Bess, and FBA Board of Directors member Kelly Scalise (Eastern District of Louisiana); Judge Daniel C. Irick, Michelle Yard, Jim Skuthan, Meghan Boyle, Ali Kamalzadeh, and Michael Vitale (Middle District of Florida); Judge Donovan Frank (District of Minnesota); and Chief Judge Ruben Castillo and FBA President-Elect Maria Vathis (Northern District of Illinois). Judge Newman and Matt Moschella thank these co-authors for their significant time and effort spent on this article and for their dedication to the success of federal reentry

courts nationwide.

<sup>2</sup>PCRA stands for "Federal Post-Conviction Risk Assessment" tool, which is an evidence-based actuarial tool developed by U.S. Probation to predict recidivism.