

**THE FIRST LINE OF DEFENSE: REDUCING  
RECIDIVISM AT THE LOCAL LEVEL**

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**HEARING**  
BEFORE THE  
SUBCOMMITTEE ON CRIME AND DRUGS  
OF THE  
COMMITTEE ON THE JUDICIARY  
UNITED STATES SENATE  
ONE HUNDRED ELEVENTH CONGRESS  
FIRST SESSION

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## **THE FIRST LINE OF DEFENSE: REDUCING RECIDIVISM AT THE LOCAL LEVEL**

**THURSDAY, NOVEMBER 5, 2009**

U.S. SENATE  
SUBCOMMITTEE ON CRIME AND DRUGS  
COMMITTEE ON THE JUDICIARY  
*Washington, DC.*

The Subcommittee met, pursuant to notice, at 2:05 p.m., in room SD-226, Dirksen Senate Office Building, Hon. Benjamin L. Cardin, Chairman of the Subcommittee, presiding.

Present: Senators Cardin, Specter, and Sessions.

### **OPENING STATEMENT OF HON. BENJAMIN L. CARDIN, A U.S. FROM THE STATE OF MARYLAND**

Senator CARDIN. I have been informed by Senator Graham's staff that we can get started. Senator Graham will be joining us, the Ranking Republican on the Subcommittee.

First, let me thank Senator Specter, who is the Chair of the Subcommittee, for allowing me to chair today's hearing. This is a subject of great interest not only to me, but I think to all the members of the United States, and that is, the "First Line of Defense: Reducing Recidivism at the Local Level."

When one looks at the incarceration rates in the United States, there is reason for concern. Our incarceration rates are five times the international average, and we are the United States of America. In the Federal and state prisons between 1980 and 2001, there was a 240-percent increase in the prison population. We now have somewhere around 2.3 million people, Americans, behind bars, 95 percent of whom will ultimately return to our community. And two-thirds of those who return to our community will be rearrested within 3 years.

Now, if our principal objective is to improve public safety, we are not doing a very good job. We are incarcerating people over and over again who are committing criminal offenses, jeopardizing the safety of the people in our community.

As we look at the reentry programs and services as a way to deal with these numbers and to make our communities safer, in a figurative sense, we have a captured audience when they are in our prison systems. They have our attention. They cannot go anywhere. We have the ability to provide services, whether that be education or counseling, in order to try to make reentry successful. And this is particularly true in our local jails, and I say that because one of the real challenges in reentry is to be able to deal with the community in which the person is going to be returning. Our local jails

are much more likely to be the venue that people who are released from prison will end up in that community. So it is a particularly opportune place to have a reentry program based at local facilities in order to deal with the realities that the people will be returning to that community. If you are operating a Federal prison, the person is released and goes to another State, yes, you can do some reentry there, but you need to work with the local community.

So local jails to me provide a real opportunity for dealing with successful reentry. The current census indicates that there are about 12 million admissions and releases per year in our local jails. That is 34,000 a day.

Now, I have had a chance to visit the Montgomery County reentry program this past week, and, Chief, thank you for your hospitality. It was a real opportunity for me to see firsthand a program that works in the local community, but in coordination with the State and Federal facilities in order to deal with people who are going to reenter into Montgomery County, Maryland. I have also been to Frederick City in the State of Maryland and looked at their reentry program, which is a lot smaller and is somewhat more limited because of resources. But both in Montgomery County and in Frederick, they have successful reentry programs. Their numbers are much, much better than the national average, and I know we will be hearing more examples of that today as we look at ways of improving reentry services.

We have real challenges. We have challenges because 60 percent of the people that are in our prisons lack a high school diploma. Well, if you are going to try to get a job today and you do not have a high school diploma, you are limited. If you have been convicted of a crime, you have a limit as to being able to find a job. But if you do not have education, it makes it much more difficult. So we need to deal with the realities of education.

The vulnerability on health, in the target groups that are in our prisons, two-thirds have some form of substance abuse. Well, you need to deal with that. Once again, how is the person going to be a reliable employee and successfully reenter society if they have a substance abuse issue that is not under treatment.

Housing is a significant problem. I remember talking to my friends in Frederick about the stigma of someone coming out of prison to try to find a home in a community. The resources in order to be able to afford housing are limited. It made it very, very complicated.

The location of facilities, it was interesting. The Montgomery County facility is located in a very interesting area, a very fine area in Montgomery County. It was there before the area was developed. Now when you try to put a reentry program in a community, it is a very difficult challenge politically to locate these facilities, and it all comes down to resources. Are we going to invest the resources to make reentry work? There are a lot of competing needs out there for budgets, and I would be very interested to see what progress we are making in getting the necessary resources out to our community in order to have a chance for these programs to be successful.

It is for that reason I am very pleased that we have the real experts who are before us who have devoted their lives to dealing

with reentry issues and dealing with trying to help our community through public safety through the programs that each of you have been responsible for. And I welcome you to the Committee.

Let me introduce our panel, and then we will start in with the hearing, and let me say from the beginning that your statements all will be made part of the record. You will be able to proceed as you would like, and at the conclusion of the last person on the panel, we will open it up for some questions and discussion.

We are joined by Andrea Cabral who is the sheriff of the Suffolk County Sheriff's Department in Boston, Massachusetts; Hon. Harvey Bartle III, the Chief Judge, United States District Court for the Eastern District of Pennsylvania; Stefan LoBuglio, who is Chief of the Pre-Release and Reentry Division, Montgomery County (Maryland) Department of Correction and Rehabilitation, from Rockville, Maryland; Doug Burris, the Chief Probation Officer, United States District Court for the Eastern District of Missouri; Amy Solomon, the Senior Research Associate from the Urban Institute in Washington, D.C.; and David Muhlhausen, the Senior Policy Analyst from the Heritage Foundation, a frequent witness before our Committee from Washington, D.C.

Sheriff Cabral, we will start with you. Turn your microphone on, please.

**STATEMENT OF ANDREA J. CABRAL, SUFFOLK COUNTY  
SHERIFF, SUFFOLK COUNTY, MASSACHUSETTS**

Sheriff CABRAL. Thank you, Chairman Cardin.

Senator CARDIN. Turn your microphone on, please.

Sheriff CABRAL. I am sorry. I did not realize it was off. Thank you.

In Massachusetts, there are two types of correctional facilities for adults: prisons and houses of correction. Prisons are run by the State Department of Correction and hold offenders convicted and sentenced in the Commonwealth's superior courts for very serious felonies, like rape, murder, drug trafficking, armed robbery, et cetera. There are 20 State prison facilities in Massachusetts and 13 county-based houses of correction. These facilities hold offenders who have been convicted and sentenced in the district courts for mid-level misdemeanors and certain felonies for which the district courts' jurisdiction is conferred by statute.

Unlike State prisons, which can hold offenders for any period of years, up to and including life, sentences to the house of correction cannot exceed 2½ years for conviction on any single count of a criminal complaint. Offenders sentenced to the house of correction are eligible for parole upon completion of half their sentence, and 80 percent of the State's criminal business is resolved in the district courts. Thus, roughly 80 percent of incarcerated offenders are held in these houses of correction at the county level.

In Massachusetts, the county sheriffs lead the way on reentry programs. Of the 14 sheriffs in the Commonwealth, 13 operate county jails and houses of correction. As public officials elected county-wide every 6 years, the sheriffs are most knowledgeable about and most closely tied in to their communities. In addition to providing mutual aid to State and local law enforcement, the sher-

iffs also create the kinds of partnerships outside of law enforcement that result in strong, effective reentry programs.

The potential impact of these reentry programs on the Commonwealth's cities and towns is clear. Collectively, the sheriffs hold in excess of 70,000 inmates and pre-trial detainees in their facilities in Massachusetts. Every year, more than 65,000 are released from county jails and houses of correction through bail, case resolution, parole, or release upon completion of sentence. By contrast, the State Department of Correction releases just over 3,000 inmates from Massachusetts State prisons annually.

State prisons release offenders from facilities located in every corner of the State. Some make their way back to their communities, and some do not. By contrast, the majority of offenders held at county houses of correction hail from neighboring cities and towns and return immediately to those communities. In Suffolk County, for example, the house of correction holds approximately 1,500 inmates, 95 percent of whom live within 5 miles of the facility. The decisions they make within the first 48 hours after release will largely determine whether, if at all, they return to custody within 6 months to a year. The goal of reentry programs is to provide support, skills, resources, and more opportunities to make positive choices.

As you indicated, Senator Cardin, many inmates, especially those who present with persistent drug and alcohol addictions and those that have extensive involvement with the criminal justice system, live on life's margins. They have little or no job history, no stable housing, are grossly undereducated. We approximate that about 50 percent of our inmates are high school dropouts. They have suspended or revoked driver's licenses and no form of State-issued identification. This is also a persistently "sick" population, presenting with a number of chronic diseases like high blood pressure, diabetes, asthma, HIV and other sexually transmitted diseases, and hepatitis. There is also a high incidence, as you mentioned, of mental illness in this population. In the Commonwealth, the sheriffs estimate that approximately 42 percent of their populations present with some form of mental illness; 26 percent of that 42 percent present with a major mental illness.

We have, in fact, become the de facto mental health institutions, principal providers for drug detox and substance abuse treatment, and we often function as the primary care medical providers for those incarcerated at the county level.

Good reentry programs have three components: a comprehensive assessment tool; evidence-based employment and life-skill-building programs that use community providers and resources; and case management and discharge planning. I have attached to my written testimony a detailed description of the four reentry programs we have for both men and women in Suffolk County as well as the results and the impact on recidivism that we get from those programs.

In short, Senator, unless there is national leadership on reentry that includes support and funding for initiatives that involve collaboration between law enforcement and community service providers, tax incentives and other incentives for employers to hire ex-offenders, and sweeping changes to Federal and State drug laws,

our recidivism rates will stay at more than 50 percent, and we will continue to spend more than \$49 billion a year on incarceration.

Thank you for hearing me.

[The prepared statement of Sheriff Cabral appears as a submission for the record.]

Senator CARDIN. Thank you very much for your testimony.

Judge Bartle.

**STATEMENT OF HONORABLE HARVEY BARTLE III, CHIEF JUDGE, UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA, PHILADELPHIA, PENNSYLVANIA**

Judge BARTLE. Senator Cardin, thank you for the opportunity you have given me to be here today.

The purpose of the reentry program of the United States District Court for the Eastern District of Pennsylvania is to help those who have completed their prison sentences to reenter society as productive and law-abiding citizens and in this way to reduce recidivism and enhance public safety in the community we serve.

As you know, all convicted felons in the Federal system must serve a term of supervised release, usually 3 to 5 years, once they are released from prison. During that time these offenders are under the supervision of a Federal probation officer. As Federal judges, my colleagues and I must deal on a regular basis with those who violate the terms of their supervised release. If the violation is also a crime, as is often the case, the court is likely to revoke the supervised release and send the individual back to prison with, of course, additional cost to the taxpayer. Then there are those who have completed their supervised release, are later convicted of new Federal crimes, and again are incarcerated. Consequently, our court decided that it was time to look for innovative ways for us to try to cope more effectively with this recurring problem of recidivism.

The court, after full consideration, voted unanimously in the fall of 2007 to institute our reentry program now in place. Since then, the program has achieved an unprecedented and ongoing level of cooperation within the criminal justice system. This program has intensive court involvement. We are fortunate to have two superb magistrate judges to oversee and participate in the program in a hands-on manner.

The candidates for the program are Philadelphia residents on supervised release who usually score 5, 6, or 7—on a scale of 0 to 9—that is, medium to high risk, on Federal Probation's Risk Prediction Index for future crimes. Initially, the probation officers will screen the candidates and recommend those suitable for participation, with input from the United States Attorney's Office and the Federal defender. No candidate, however, is placed in the program unless he or she is willing to participate. The program typically lasts 1 year with intensive efforts to provide a candidate with training and employment, if necessary, and to offer guidance and assistance with other aspects of life in which the individual needs help.

To aid the candidates, the program has developed partnerships with the local bar association, universities, law schools, and career

training and placement centers. There is a probation officer specifically designated to the program, as well as an Assistant United States Attorney and an assistant public defender.

For any who do not comply with the strictures of the program, the magistrate judge may deprive a candidate of credit for a certain period of time in the program and also impose a curfew, halfway house confinement, up to 7 days' imprisonment, or drug treatment. If a serious infraction occurs, the individual can be evicted from the program and referred to the sentencing judge for further action.

The only incentive that is offered, in addition to the intensive assistance given to each ex-offender, is a reduction of year in the term of supervised release if the program is completed successfully and the judge who sentenced the individual agrees to the reduction.

The magistrate judge holds sessions of the reentry court twice a month at which time all current participants in the program appear as a group. Beforehand, the magistrate judge has met privately with the probation officer, an Assistant United States Attorney, and a public defender to review the progress in each case. At the court session, each participant approaches the lectern and has a conversation with the magistrate judge. Family members and friends are encouraged to attend, and each session, of course, is open to the public. At the court session the magistrate judge listens, encourages, offers advice, and, if necessary, imposes certain sanctions. Finally, there is always the all-important "graduation" event in the courthouse for those completing the course. Usually, the sentencing judge attends and at that time formally signs the order reducing the term of supervised release. On one occasion, Mayor Michael Nutter of Philadelphia spoke. Family members and friends are always in attendance. It is a very uplifting experience for all concerned, as I can attest from having participated in several graduations.

Since its inception, our reentry program has been a great success. As of July 2009, 76 former offenders have either graduated or are currently participating in the program. Only 12 or 16 percent have had their supervised release revoked based on new criminal activity or other violations. The revocation rate is well below the 47.4-percent rate for the period 2003 to 2008 for the same category of high-risk ex-offenders.

The program also saves significant taxpayer dollars. In 2008, it was estimated that the annual cost of incarcerating a person in the Federal prison system was \$25,000, roughly, and \$3,700 for each year of supervised release. This program in our district has saved the government, we estimate, over \$380,000. Finally, we have enlisted Temple University to study the long-term success rate of the program.

The Eastern District of Pennsylvania strongly endorses its reentry program and highly recommends it to our sister Federal and State courts. Thank you very much.

[The prepared statement of Judge Bartle appears as a submission for the record.]

Senator CARDIN. Judge, thank you for your testimony. Impressive results.

Chief LoBuglio.

**STATEMENT OF STEFAN LOBUGLIO, CHIEF, PRE-RELEASE  
AND REENTRY DIVISION, MONTGOMERY COUNTY, MARY-  
LAND DEPARTMENT OF CORRECTION AND REHABILITA-  
TION, ROCKVILLE, MARYLAND**

Chief LOBUGLIO. Thank you, Senator Cardin, for my being able to offer testimony. My name is Stefan LoBuglio, and I am Chief of Pre-Release and Reentry Services for the Montgomery County Department of Correction and Rehabilitation in Maryland. In my position, I oversee a work-release program that transitions prisoners back into the community. Today our program is supervising 175 male and female prisoners who are all within 1 year of release and who will complete their sentences in our community-based program.

Our population includes today 26 prisoners from the Federal Bureau of Prisons, 5 prisoners from the Maryland State Division of Corrections, and 144 prisoners from the local jails in Montgomery County. These individuals have committed crimes ranging from misdemeanor petty offenses like theft and traffic offenses to Part I felony offenses for rape and homicide. They may be serving sentences ranging from 30 days to 30 years. They are all within 1 year of release. A conviction for escape is the only offense that would disqualify a person from consideration for our program.

We strongly believe in Montgomery County—and this is supported by research—that if prisoners are returning back to our area, we enhance public safety by transitioning them through a community-based program regardless of the offense types and whether they are returning from the Federal, State, or local correctional systems.

The pre-release program requires offenders to follow a customized reentry plan of work, education, treatment, and family engagement. They pay program fees, taxes, child support, and restitution. Most reside in the 177-bed community correctional facility that is located 15 miles from this hearing room in Rockville, Maryland.

For almost 40 years, the program has served to keep our jail undercrowded by managing 16,000 clients in our center. In concert with the other operational divisions of Montgomery County, the program serves as a vital component of our county's investment strategy to effectively and judiciously use community-based programs and jail beds to maximize public safety and to minimize social and economic costs. We are part of the first line of defense that is the subject of today's hearing.

Our program is one of many successful models of prisoner reentry that exist across the county, and our field has seen an explosion of interest. However, with all of the accumulated knowledge of and interest in what works in prisoner reentry, there is a question of why hasn't reentry penetrated the core of correctional practice. Perhaps some delay is to be expected because of the change of complex correctional operations that have grown so large in recent decades. A second and less examined reason, though, concerns the lack of incentives for correctional programs to fully embrace a commitment to reentry and to take responsibility for reducing recidivism rates. Providing care, custody, and control in our jails and prisons is challenging to be sure, but fully within the scope and

ability of correctional professionals. By definition, reentry extends the focus of corrections into the community and beyond the safe confines of the prison walls, which makes it feel risky to many correctional practitioners. Adapting this new orientation is inhibited by the fact that the results are not easily measured, understood, or controlled.

In my written testimony, I suggest two critical roles that the Federal Government can and should play to expedite the development and adoption of robust reentry strategies in our correctional systems. The first involves providing States and local jurisdictions with incentives to develop an infrastructure of One-Stop Reentry Residential Centers, like our Montgomery County Pre-Release Center that you saw on Monday, in conjunction with the Federal Bureau of Prisons. The centers are needed because prisoners return from all three correctional systems at different frequencies and times. But inmates from all three systems present similar public safety risks and have similar transitional requirements. Within a community, the centers would serve as the nexus for social services and for public safety monitoring.

Federal incentives can change the landscape of corrections. In 1994, the truth-in-sentencing legislation tied Federal subsidies for construction of prisons to sentencing reforms and helped spur a boom in prison construction. Under this proposal, the Federal Government could use the same strategy by offering incentives to build and coordinate the operations of one-stop reentry residential centers.

The second role involves developing robust data systems and analytical capabilities that would allow jurisdictions at all levels to measure key reentry performance measures in real time and to re-adjust resources and policies as needed. The COMPSTAT model of informational analysis and resource deployment that transformed the New York City Police Department in the 1990's and that has fueled the growth of community policing nationwide provides the example of what is needed to spur development of reentry strategies. Unfortunately, the myopic focus on recidivism rates as the single measure of success of reentry programs often obscures other key measures of community well-being and public safety. Also, recidivism proves surprisingly difficult to measure and interpret. For a recent study in Montgomery County, we encountered significant challenges in measuring our own recidivism outcomes. The sheer effort it took and the accompanying time until results are known mean that this type of research will be done sporadically, not routinely, and it is the routine rapid feedback loop that is a cornerstone of the COMPSTAT and related innovations that have improved law enforcement performance in other areas and which could do the same for reentry.

Thank you.

[The prepared statement of Chief LoBuglio appears as a submission for the record.]

Senator CARDIN. Chief LoBuglio, thank you very much for your testimony.

Mr. Burris.

**STATEMENT OF DOUG BURRIS, CHIEF PROBATION OFFICER,  
UNITED STATES DISTRICT COURT FOR THE EASTERN DIS-  
TRICT OF MISSOURI, ST. LOUIS, MISSOURI**

Mr. BURRIS. Thank you. I first must start off by expressing my sincere gratitude for allowing me to testify today. It truly is an honor. I am here representing the Eastern District of Missouri, where I serve as the Chief U.S. Probation Officer. I have held this position for over 9 years and believe that I have the best job on the planet. I wake up without an alarm clock at 5 o'clock every morning and cannot wait to get to work.

With well nearly 2,400 people on our caseload, my district ranks th in size of the 94 districts that make up the Federal system. In spite of ranking 18th overall, we rank in the top ten in the number of people on supervision for firearms, methamphetamine, and crack cocaine convictions. Specific to firearms cases, we rank seventh. More people are on supervision for a Federal firearms conviction in St. Louis than are on supervision for the same crime in Chicago, Los Angeles, or New York City. As to drug cases, Eastern Missouri ranks sixth in size for crack cases. In fact, early in 2008 our district hosted one of two Federal crack summits, where people from throughout the Nation convened to prepare for the retroactive change that took place with the crack laws in March of 2008. I hope to discuss these cases in detail later.

Having shared this information, it is probably no surprise that the Eastern District of Missouri has one of the most at-risk caseloads in the system. We also have one of the top ten revocation rates. Last year, 2008, our risk prediction average was second in the Nation of the 94 districts.

We decided to try to take a look at reducing recidivism, and a wave of change took place in our district when we began collaborating with various community partners and doing what we could in eliminating barriers to success. The first area that we concentrated on was employment.

To share the importance of employment on recidivism, all one has to do is examine the impact of having a job at the time of a case closing. Federal statistics show that individuals who have the highest risk and are unemployed at the time supervision starts and ends have a revocation rate of 78 percent. However, the same individuals with the highest risk levels who start and end supervision unemployed had a revocation rate of only 23 percent.

We started our ex-offender employment program, and our unemployment rate in the community at the time was 3.6 percent. Our caseload unemployment rate at that time was 12.1 percent. Aiming to lower the caseload rate, we received training from the National Institute of Corrections on an Offender Workforce Development curriculum. This set the foundation for our program. We began seeking employers who offered a living wage and health benefits, not minimum wage and part-time fast-food positions. At the beginning, we had a lot of doors slammed in our face. However, with the help of various incentives and promises to employers that we would do all we could to eliminate barriers, we began having some success. Nothing breeds success like success, and we eventually achieved something that I never dreamed possible. Local governments and law enforcement groups began endorsing ex-offender

employment as a crime reduction strategy. Additionally, nearly 5 years ago, our caseload—once again one of the most at-risk caseloads in the entire system—experienced an unemployment rate less than that of the community. For the last 47 months now, our caseload unemployment rate has been less than the community unemployment rate. When a snapshot was taken last month, our caseload unemployment rate was 4.3 percent, while the general population unemployment rate was 9.5 percent.

As mentioned previously, our revocation rates have decreased as well. While we had a risk prediction average that ranked second nationally, our revocations did not rank the same. In fact, our revocations ranked 53rd instead of second. The number of people under our supervision has more than doubled since 2000, yet we file less violation reports now than we did 9 years ago.

Earlier in my testimony, I mentioned wanting to further discuss the subject of those released from prison because of a crack reduction. Thus far, nearly 200 people have returned home to Eastern Missouri because of this change in law in my district, again ranking in the top ten nationally. More than half of those who benefited from this retroactive change have been home more than a year. In total, only six of those released to Eastern Missouri by way of a crack reduction have failed supervision and returned to prison. Thus far this is a failure rate of only 3.2 percent.

Every day I get to go to work with an outstanding group of judges, probation staff, and community partners who create stories that would just amaze you. I truly do have the best job on the planet.

Thank you again for this opportunity.

[The prepared statement of Mr. Burris appears as a submission for the record.]

Senator CARDIN. Well, Mr. Burris, those are certainly very impressive numbers. It is a pleasure to have you here.

Ms. Solomon.

**STATEMENT OF AMY L. SOLOMON, SENIOR RESEARCH  
ASSOCIATE, URBAN INSTITUTE, WASHINGTON, DC**

Ms. SOLOMON. Thank you. Senator Cardin, thank you for the opportunity to speak here today.

For the past years, we have focused on the more than 700,000 prisoners returning home each year from State and Federal prisons. Only recently have the 12 to 13 million releases from local jails gained attention.

The traditional approach to incarceration is to keep inmates locked up away from society to keep us safe. With little treatment and transition planning, most are released with the same problems that they were locked up with.

To be clear, business as usual does not produce the results we want. Since almost everyone in jail will eventually return home, the big question is how do we imprison and release people in a way that makes them less likely to reoffend and more likely to work, support their families, pay taxes, and be productive members of society?

It is not easy. Jail stays are brief. Less than 20 percent of inmates stay less than a month. Many are jailed only a few hours

or days. This is not a lot of time for services and release planning. Also, jails house a variety of populations, most of whom have not been convicted of a crime. This means jails cannot easily predict when many people will be let out, which adds another complication. But the need for treatment in jails is acute.

As you mentioned, many who cycle in and out of jail face multiple problems like substance abuse and mental illness, and they would benefit from interventions that begin in jail and continue in the community. Yet most jails do not have the time or capacity to help people overcome these serious deficits.

Also, unlike prisoners who are typically released to supervision, most jail inmates are simply let out on their own. No single person or organization is responsible or held accountable for reentry assistance or oversight.

There are also unique opportunities alongside these challenges. Short jail stays mean that people are not disconnected for long from their families, jobs, and churches, and because jails are locally sited, they can facilitate in-reach with nearby service providers. These agencies, such as health and human service organizations, are likely already working with the very people who cycle in and out of jail. Not only are most repeat offenders using jail space over and over again, but they are also repeatedly using human services.

Over the past 4 years, the Department of Justice has made strategic investments to assist the field. In 2006, the Bureau of Justice Assistance funded a local jail reentry roundtable. More recently, the Urban Institute has been working with the National Institute of Corrections to develop a transition from jail to community model, TJC, that can be adopted in jurisdictions large and small, urban and rural. TJC is not a program but a systems change approach, a way for jails and communities to work effectively together on a day-to-day-basis.

So what does effective transition involve? Screening and assessment to quickly flag high-risk individuals; a transition plan to identify what people need most and how they will get it; and targeted interventions like drug treatment and job training that begin in jail and continue after release. The goal is to match the right treatment and requirements to the right individuals, focusing scarce resources on the interventions that are most effective and on the people who need them most.

We are evaluating the TJC pilot sites so we can help guide jurisdictions toward success and document it when it occurs. In both TJC and the new Second Chance sites, we hope to see lower recidivism rates, higher employment, better health, and less drug abuse.

The progress is real, but it is too soon to declare victory. While dozens of jurisdictions are working on reentry, there are more than 3,000 jails across the United States. Through hearings like this one and by passing bipartisan legislation like the Second Chance Act, Congress signals to communities around the country that new directions are in order.

Of course, funding through grants makes a difference, too. It fosters collaboration, seeds innovation, and funds real services. Congressional attention and funding signal to cities, counties, and States that a proactive approach to reentry is the way of the future—and they should not wait or they will be left behind.

At the same time, we have much to learn about what works, so funding should also be used to rigorously evaluate new reentry efforts. It is critical that we figure out what approaches are most effective so that lessons learned can benefit the broader field.

The work ahead is complex and implementation is difficult. But I am optimistic that well-implemented, research-informed reentry efforts will lead to safer, healthier communities for all Americans.

Thank you for inviting me to speak.

[The prepared statement of Ms. Solomon appears as a submission for the record.]

Senator CARDIN. Ms. Solomon, thank you for your testimony.

Mr. Muhlhausen.

**STATEMENT OF DAVID MUHLHAUSEN, SENIOR POLICY ANALYST, CENTER FOR DATA ANALYSIS, HERITAGE FOUNDATION, WASHINGTON, DC**

Mr. MUHLHAUSEN. Thank you. My name is David Muhlhausen. I am a policy analyst in the Center for Data Analysis at the Heritage Foundation. I thank Chairman Benjamin Cardin, Ranking Member Lindsey Graham, and the rest of the Committee for the opportunity to testify today on prisoner reentry issues. The views I express in this testimony are my own and should not be construed as representing any official position of the Heritage Foundation.

Congress's desire to weigh in on the recidivism rates of former prisoners is easy to understand. In 2007 alone, over 725,000 prisoners were released back into society.

While opponents of incarceration often argue that too many offenders are incarcerated in prison and that prisons are a burden on State budgets, they rarely recognize two important details: First, as a percentage of State and local expenditures, the cost of corrections is not a burden on State budgets. In fiscal year 2007, corrections accounted for 3.4 percent of total State expenditures. Second, increased incarceration rates have reduced crime. Several studies have demonstrated a link between increased incarceration and decreases in crime rates.

To address the issue of offender recidivism, the Federal Government should limit itself to handling tasks that fall under its constitutional powers and that State and local governments cannot perform by themselves. First, the Federal Government should operate evidence-based reentry programs for offenders formally incarcerated in the Federal correctional system. By evidence-based programs, I mean programs that have undergone rigorous scientific evaluations and found to be effective. Second, the Federal Government should not assume responsibility for funding the routine operations of State and local reentry programs. Providing basic services through Federal agencies that States themselves could provide for State and local prisoners is a misuse of Federal resources and a distraction from concerns that are truly the province of the Federal Government.

Unfortunately, most reentry programs have not undergone scientifically rigorous evaluations. Despite the need for more rigorous evaluations, two recently published evaluations shed some light on the potential of these programs.

An experimental evaluation of the Center for Employment Opportunities Prisoner Reentry Program found that placing recently released prisoners immediately into transitional taxpayer-subsidized jobs had underwhelming results. After 2 years, the transitional job program failed to yield lower arrest rates. However, the intervention did have a lower effect on conviction rates. While this difference appears to be driven largely by the fact that participants were less likely to be convicted of misdemeanors, disappointingly, the program appears to have had no impact on felony convictions. I will add, though, the program did lower the conviction rate of participants.

However, there is another program that may have more potential of reducing recidivism. The Boston Reentry Initiative used mentoring, social service assistance, vocational training, and education to help offenders reintegrate into society. A quasi-experimental evaluation of the program that used a strong research design found that participants experienced a reductions of 30 percent for arrest rates, including violent arrests.

What is astounding about this effect is that rather than selecting participants most amenable to rehabilitation, officials selected what they considered to be the highest-risk offenders for their participation in the program.

While this evaluation found positive results, this program and others found to be effective need to be replicated and rigorously evaluated in other settings before policymakers and academics can conclude that these interventions are effective. Too often, criminal justice programs that have been deemed “effective” and labeled as “model” programs have often been implemented under optimal conditions. When evaluated under real-world conditions and circumstances, these programs often fail to produce the same results.

All levels of Government need to operate reentry programs for former prisoners under their respective jurisdictions. However, the Federal Government should not assume responsibility for funding the routine operations of State and local reentry programs.

Thank you for the opportunity to testify.

[The prepared statement of Mr. Muhlhausen appears as a submission for the record.]

Senator CARDIN. Well, let me thank all six of you for your testimony. I found this extremely helpful and very interesting.

Sheriff Cabral, let me start with you, if I might, because you said something that really stuck with me, and that is that basically the fate of a person who reenters will be largely determined in the first 48 hours, that if you do not successfully reenter within 48 hours, then the vulnerabilities are too great.

Now, I am going to ask, does that depend upon whether the person has a job or the person has a place to go as far as housing, whether the person has a family to go back to, whether the person is healthy enough to make it outside of the institution, all of the above? Or what are the indicators on those first 48 hours?

Sheriff CABRAL. All of those things have an impact. If you have comprehensive reentry programs-in addition to the Boston Reentry Initiative that was referenced by the gentleman to my left, we have three other programs for men and women—and they are all gauged toward different levels of offenders. What you might put in place

for a low-risk non-violent offender is not the same for what we call a high-impact player, someone who has an extensive criminal history, violates the law repeatedly, frequently uses a weapon. Those are the people that would be in the Boston Reentry Initiative. And you tailor your program based on the needs of the individual. You are constantly doing a “risk to the public versus needs” analysis.

In some people’s cases, what they need, they have stable or relatively stable family life, but they need to reenter the job market or start in the job market. Some need housing. Some need both.

What we have also found, our programming for women is gender specific. In order for reentry programs to be effective for women, they need to be gender specific. Women have very different needs and very different reactions and responses to inmate programming, and you have to build in a lot of things around self-esteem and trauma. I think the Bureau of Justice Statistics says that over 70 percent of women who are incarcerated have experienced domestic violence or sexual assault before the age of 17 or by the age of 17. Trauma plays a huge role in criminal behavior. And it is not an excuse, being victimized oneself is not an excuse for victimizing, but we continue to ignore the fundamental causes of criminal behavior at our peril, so that by the time you get to the back end—and I would disagree with the gentleman to my left. I think that there is an enormous burden on State budgets for incarceration and an additional burden with regard to reentry programs. Many of us who are doing them are doing them with money that we are taking out of our own budgets because we see it as so necessary to having a positive public safety impact on our communities.

But you really need to have comprehensive services in pre-release so that people will make those good choices within the first 48 hours. Their options within the environments to which they return are limited, and all the negative influences are right there in those environments. They are the same places that the criminal behavior sprang from. So what we try to do is give people alternatives and opportunities and reasons to hope that their lives will be better and that they will be better parents, that they will be productive members of society. And if they make good choices within the first 48 hours and a little bit beyond, then they are at least on the road to continuing to make them and have an impact on reducing our recidivism rates.

Senator CARDIN. Mr. Burris, as I commented earlier, your numbers are really very impressive, and I see your enthusiasm is paying off for the people that you supervise.

Mr. BURRIS. Thank you.

Senator CARDIN. And congratulations for your service. It is just incredible numbers. But you also are showing something that I think we all understand, and that is, if a person has an employment opportunity, their chances of successful reentry are much greater than if they do not have an employment opportunity. If they come to the penal system with skills and jobs, they are much more likely to return successfully to the public. Whereas, if they do not, the challenges are much greater.

Mr. BURRIS. That is absolutely correct. In fact, the Bureau of Prisons has run some studies on recidivism, and the RDAP program, the 500-hour drug treatment program that so many people

get to use—which is a fantastic program—shows a 16-percent reduction in recidivism. The vocational training programs within the Bureau of Prisons show a 33-percent reduction in recidivism.

Senator CARDIN. Well, you know, these are numbers—I think this is what Mr. Muhlhausen and Chief LoBuglio both are agreeing on, and that is, we need better statistical information to evaluate what works and what does not work. I found agreement between both of your testimonies on that point.

Chief, it seems to me that there has not been enough of this evidence-based review or oversight in order to really understand best practices, in order to establish national models from what is being done in our local jails. Is that a fair statement?

Chief LOBUGLIO. Sure. It is just very difficult right now to use Federal data, State data, local data, court data, corrections data to do an overall analysis of recidivism. Ann Peale, who is a professor at Rutgers University, made a comment at the recent national conference on sentencing guidelines where she said that doing recidivism analyses in 2009 is as difficult as it was 20 years ago, despite the fact that information technology has transformed other aspects of our lives.

So as correctional managers, we have difficulty right now getting our hands on this data and using this data in real time. I am interested as much in recidivism for the statistic as for understanding what belies it. What is the flow of individuals, of offenders within our correctional system? Is it in a given month or year I am seeing high numbers of recidivism because of changes in probation or parole practices or police practices? That would be helpful for me to know. It would be helpful for me to be able to engage probation and parole and police, and it might be that it is very reasonable and not necessarily a bad thing.

So I think there is an appropriate Federal role to get our informational systems up to snuff, and in my written testimony, I said one of the most sort of discouraging aspects is that when we looked at the FBI NCIC data, which is the repository for our most serious crimes, that was not a complete record in comparison with the Maryland State arrest records, and neither was complete. Both needed to be accessed.

Senator CARDIN. Let me just ask you, the other recommendation you made is for Federal incentives to set up one-stop shops. The facility you operate is a residential facility that deals with inmates that are ready to be released within a short period of time, months to a year before they are released. Many come from the local jail. Some come from State and some come from Federal under arrangements, and all are basically being released into Montgomery County, Maryland.

My question to you is—I do not know if you know this or not, but how many of these facilities do we have in Maryland? How many of these facilities are nationwide where we truly have one-stop shop pre-release or reentry areas that are available, that could provide somewhat comprehensive services in a residential capacity before an inmate is released? How many of these exist?

Chief LOBUGLIO. Very few. The pre-release center, which was built in 1978, was meant to be a model for Maryland, and in the

statutory legislation there was an expectation that they would be replicated in all the other counties. It has not happened.

Now, there are halfway houses that are used in jurisdictions. Typically, the Federal Bureau of Prisons is using many of those beds.

What we find and what I describe in my paper is that we have this unusual situation where in some jurisdictions we will have the Federal Bureau of Prisons using halfway house beds, but the State and the local jurisdictions are not using any type of pre-release residential center.

You know, the recommendation of creating these one-stop reentry residential centers is really to respond to the fact that the Federal Government has a significant interest in having well-structured, strong programs that are strong on services and strong on accountability placed throughout the country.

There are jurisdictions where the Federal Bureau of Prisons, which has done a good job in placing individuals in our type of programs, they do not have any beds available. And Northern Virginia is an example. I was speaking to Doug Burris. He was mentioning in Oklahoma, in one of the cities, there is no infrastructure right now.

It is no surprise over the last 30 years we have built prisons, but our infrastructure of the residential centers is sort of dilapidated. It is aging. Many of them are owned by nonprofits that do not have the capital to invest, to meet higher building codes and higher correctional standards.

Also, many halfway houses have not met the standards of what I think our program meets of strong accountability and strong services. They are not completely coupled with the mission of the correctional agency.

I have not found more than a dozen to 20 programs like ours in the country where the staffing is sufficient, the funding is sufficient to really do both the public safety piece and the service piece well.

Senator CARDIN. Well, that is a shocking number, because you are a county facility, you are not even a State—I mean, you represent a relatively small part of the entire State of Maryland, so it is—we could use in Maryland alone perhaps as many as if each county had a similar facility.

Chief LOBUGLIO. Right. Those smaller counties could—

Senator CARDIN. But at least that would save maybe—six to ten probably would be the adequate number for Maryland if we were to provide comprehensive—

Chief LOBUGLIO. Right.

Senator CARDIN. You have got to be close to where the person is being released.

Chief LOBUGLIO. That is right. And local jurisdictions face the challenge right now that the Federal inmates, they are coming out. They may serve years in prison, but they are coming out at some point. The State inmates that are serving a little bit less time, they are coming out at some point. And the jails, they are coming out more quickly.

There needs to be that first line of defense, and I think that one-stop reentry residential center is that place where we can stabilize them.

In my testimony, I provide some results of our first recidivism analysis, and, you know, there is a chart in there—it is Figure 3—that actually sort of demonstrates the question that you were asking a few minutes ago about the high risk of recidivism right near the time of release. And what we find—and it is graphically presented—is that the risk actually increases after release, and then it dramatically decreases.

So our challenge from a policy standpoint is to get individuals stabilized in the community, and that is going to involve the housing and the employment, the mental health, the substance abuse. No better place to do that in a one-stop reentry residential center like the one that you saw on Monday.

Senator CARDIN. Thank you.

Senator SESSIONS.

Senator SESSIONS. Thank you, Mr. Chairman.

I would just agree with you. I think perhaps you and I have discussed the need for better statistical information. The Department of Justice in the Bureau of Justice Statistics has worked hard over the years and produces large amounts of information. But I am not sure—it is of a general nature sometimes and not so much intensely focused on the kind of reviews of programs that work and which ones do not work. And that is what we have to do. We periodically go through a spasm of concern over prisons, and we spend money, and then, I do not know, it just goes all out, and a few years later nothing has changed, and we are back here having the same kind of hearings that we are having today.

I would say to you that Norm Carlson—some of you might remember him, former prison commissioner, and he said there is no area that he knew of in which more people thought they had the one answer to fix it than incarceration and prisons and crime. Everybody has an idea that they are convinced if it were done just like they suggested, this problem would—well, we have been trying. Ever since I have been in law enforcement since the late 1970's, everybody has had this program, that program, and another program, and it is supposed to work. I would just say this is a Bureau of Justice Statistics 2002 release that says within 3 years of their release—in 1994 they did a major study—67 percent were re-arrested. And most of the recidivism occurs in the first year, two-thirds of it in the first year.

I wish this were not so. I mean, I wish it were not so. But I am not aware that there is any silver bullet.

Now, Mr. Burris, you have got a program that you believe works, but you are not the first person that has come in to Congress and testified they have got a program that has dramatic results, but somehow it seems difficult to replicate it.

Mr. Muhlhausen, you are sort of a—I do not know if you are a skeptic, but let me ask you, have you seen the Department of Justice or anyone else produce any studies that can help us see that this technique or process in working with prisoners can have significant improvements in the recidivist rate and their success on the outside?

Mr. MUHLHAUSEN. Well, I believe that the Federal Government has a large role and has done some—

Senator CARDIN. Please turn your microphone on.

Senator SESSIONS. Push your microphone button there.

Mr. MUHLHAUSEN. I believe the Federal Government has done some evaluation in this area. It could do more. But the prisoner re-entry program, CEO, Center for Employment Opportunities, was funded by the Federal Government. The study of the Boston Re-entry Initiative was funded by the Federal Government, and one program, the transitional job program, CEO, in my opinion found some effects, but it really was not impressive. But the Boston Re-entry Initiative had really impressive effects.

Now, as the skeptic is me is concerned, the evaluation was not a randomized experiment, which is the gold standard of finding causal effects; it was not done for that study. Even though it was, in my opinion, a very good study, my question would be: Can we replicate those impressive findings of a 30-percent drop in arrest rates for participants in another area under an even stronger research design? And maybe that is something the Federal Government could help State and local government do.

Senator SESSIONS. I think that is good, Mr. Chairman. Some of this money, we need to think about how to do that because we have seen dramatic things. I remember the Boston project with juveniles in which the probation officers stopped just having the juveniles come in once or twice a month and report. They would go out at night with the police officer, and if the curfew was 7 o'clock and they were not at home where they were supposed to be, they would do something to them. There was a consequence to that. And they claimed dramatic improvements, 90-percent reduction and all this.

I suspect some of that was exaggerated, but if you had a 30-percent reduction, that would be worthwhile.

Mr. MUHLHAUSEN. That was the Boston Operation Cease-Fire, and that program, elements of that have been replicated in Chicago, and there is some research that they are actually having some success in Chicago with former offenders who are gang members and who were very likely to be suspected of committing violent offenses after release. And they have gone to them and told them, "We know who you are, and if you make mistakes, we are going to come down on you." And so there is a real deterrent effect, and there is some research to suggest that that program has a positive effect in reducing recidivism in another jurisdiction.

Senator SESSIONS. That strikes me as similar to the drug court programs for adults in which you go from—the alternative to incarceration is very intensive supervision, and they require the drug offender to come in, and most of these had drug problems and were not major traffickers, or they are not supposed to be. And the judge monitors them, drug testing regularly, and if they do not do what they are supposed to do, there is a consequence immediately. They are supposed to go and apply for a job. They do not. They get fired because they did not show? There is a consequence. You want to not be in jail? We will let you work. But if you do not show up and you get fired or you get caught stealing, we put you back in jail, and those kinds of things. But it takes a lot of intensity.

Mr. Burris, do you think that is a fundamental model that has some potential for taking a chance on a prisoner that you might otherwise put in jail?

Mr. BURRIS. Absolutely, Your Honor. In fact, we have a post-release—

Senator SESSIONS. You can call me “Your Honor,” but I am—  
[Laughter.]

Mr. BURRIS. I am sorry.

Senator SESSIONS. I can tell you have testified in court, which gives me some confidence in your real experience.

Mr. BURRIS. Sorry, Senator. But your question, absolutely yes. In fact, we proudly stole a drug court model to use on post-release defendants and implemented it about a year and a half ago. And one of the programs we visited was Philadelphia, and I am sure the judge could talk about the incredible success they have had. We have reviewed the Temple study, the Temple University study, and it is showing some amazing results.

Also, we have done exactly several of the things that you have discussed. In my district, probation officers have mandatory evening and weekend hours. They are not going to just see someone across the desk from them. The worst example of what can happen with that—

Senator SESSIONS. What did you say about evening hours?

Mr. BURRIS. The probation officers are required to go into the field on the weekends and evenings as opposed to seeing them across a desk in a probation office. And the example that we—

Senator SESSIONS. Well, that is not a little bitty thing for State employees who prefer not to work on weekends and at night. Has that transition worked?

Mr. BURRIS. Absolutely. Absolutely. And we were able to see problems start early and do interventions before they became huge, and we were able to get good relationships with family members, employers, things along those lines, and it is really producing excellent results.

Senator SESSIONS. Per defendant, per probation officer, it is a lot more hours committed. Is that correct?

Mr. BURRIS. It is.

Senator SESSIONS. I mean, it is one thing to have 10 to 20 people come into your office for 30 minutes. It is another to go out to 10 people’s homes at night. That takes a lot more time in resources and costs.

Mr. BURRIS. It is, Senator. Yes, it is.

Senator SESSIONS. Judge, I would just say 20 years ago, gosh, I supported—in Mobile we were able to replicate, one of the first places in the country to replicate the drug court that started in Miami, Judge Goldstein and that group in Miami, and they made national news and so we just did it. And I think it was pretty—it worked some, but you just do not bring somebody in and they cease being an addict, they do not cease being a thief the next day just because—I wish it were that easy.

Judge, maybe you would comment, and that will be all.

Judge BARTLE. Well, our program is very intensive. It involves two magistrate judges who are constantly monitoring those offenders who are in the program. It is not limited simply to those who are either drug addicts or who have committed drug offenses. We have many who have committed other offenses, gun offenses, other violent offenses, and the key is the supervision by the magistrate

judge who not only is someone there to punish but is there as a mentor and counselor and guide for the people in the program. And I think it is extremely important that someone in high authority takes an interest in someone and guides them and encourages them.

One of the other factors in our program is that we encourage family involvement, and the sessions that are held each month, family members participate. They come to court—girlfriends, spouses, mothers and fathers, and so forth. And I think that is another very important aspect of our program. And as I mentioned earlier, we have a wonderful graduation program at the end of the year where we give them certificates, recognize their achievements, and the sentencing judge participates and at that time formally signs an order reducing supervised release by a year, and the sentencing judge usually makes a statement about the individual and says how pleased he or she is that the ex-offender has graduated and has become a productive member of society.

So these intangible factors I think are extremely important in any successful program to reduce recidivism. But it takes a lot of effort. We have a probation officer assigned specifically to this, and we have two magistrate judges who, in addition to their regular duties, are participating in these afternoon programs. They begin at 4 o'clock. Prior to that time, each magistrate judge will meet with the probation officer and Assistant U.S. Attorney and a defender to review the progress in each case. So it is very time-consuming, but our program is one which has not involved an extra dime of Federal money. We have been able to reallocate our resources to maximize the benefit to the offender and to reduce recidivism in the cases that participate in the program.

Senator SESSIONS. I think that is a similar project to the methods of the program that was established 20 years ago, and I do think it works. In general, I do believe that, but it is not a cure-all. It just does not eliminate crime, but if you can get a measurable improvement, we should consider it, and I think you do get a measurable improvement.

Judge BARTLE. Yes, we do. We do not claim that we have eliminated all recidivists as a result, but the reduction in recidivism is significant, taking into account particularly the high-risk offenders who participate in the program.

Senator CARDIN. I think your numbers are very impressive, a 70-plus completion rate, only a 12- to 16- percent revocation rate. That is a pretty impressive number, your program. We have been joined by the Chairman of the Subcommittee, Chairman Specter. I thanked him earlier for allowing me to have the gavel for this hearing.

Senator Specter.

Senator SPECTER. Well, thank you very much, Mr. Chairman, and thank you for convening this hearing with this distinguished panel of witnesses. I am sorry I could not be here earlier, but the subject matter of the "First Line of Defense: Reducing Recidivism at the Local Level" is a subject that I have been interested in for a long time.

I have long believed that the problem of violent crime in America can be substantially ameliorated—it is never going to be solved—

by doing two things: one, life sentences for career criminals; and, secondly, realistic rehabilitation for reentry. And the grave difficulty has been to find the resources on reentry for detoxification, job training, literacy training. No surprise if you release a functional illiterate from jail without a trade or a skill, the person goes back to a life of crime. So that has been the battle.

We legislated and signed into law last year the Second Chance Act which applies to State and local government, and the program which has been described by Chief Judge Bartle is enormously impressive, with tremendous statistical results. And it shows it would be of great potential savings. We are penny-wise and pound-foolish not to utilize these programs to try to reduce recidivism. So I thank you for convening this hearing.

Let me take a moment to note my long association with Judge Bartle, a very distinguished career—even if he went to Princeton.

[Laughter.]

Senator SPECTER. He partially redeemed himself by being a Penn Law graduate and joined a very prestigious law firm, which became even more prestigious, Dechert, Price & Rhoads, and was Insurance Commissioner and Attorney General. And among the pitfalls of his professional career, he practiced law with me for a while.

[Laughter.]

Senator SPECTER. I had the opportunity, along with Senator Heinz, to recommend him for the district judgeship. He has served there with great distinction since 1991, so I am especially pleased to see him in Washington today as a key witness, and I congratulate him on his outstanding career and what he is doing on this program, and I congratulate all of you for the work that you are doing.

I like to limit my speeches to 3 minutes, and I am 4 seconds over. Thank you, Mr. Chairman.

Senator CARDIN. Well, I just really wanted to point out that Judge Bartle's program is saving us a lot of money. The numbers that you gave about incarceration versus those who are in this program is incredible direct savings, and then the success rates of reentry save us even more money. So your judge is doing good work.

Ms. Solomon, if I may ask you a question, you said something that had me thinking about the fact that we have a brief opportunity for individuals released from local jails. They may only be there a short period of time, and trying to develop a reentry program for a person who may only be incarcerated for 30 days or 45 days or 60 days.

How do you deal with that? How can you successfully have reentry when you have a very limited exposure in dealing with that person and that person knows that he or she is going to be released very shortly, may not have the same incentives? Do you just give up, or do you try something? What do you do?

Ms. SOLOMON. I think the key is to very quickly assess people, to screen them, find out who the high-risk people are, so that either the jail providers or the community providers who are coming inside the jail to start the work can work with the right people. And I think that one of the reasons we have the results we heard of from Boston and Chicago is because they are focusing on the

highest-risk people who most warrant the resources, and that is where you can get the biggest bang for the buck.

So I think the key is early screening and assessment, and then making sure if people are going to be out quickly that community providers are expecting their return and can start that work.

If I can, I just want to weigh in very briefly on the evaluation issue and say that Joan Petersilia estimates we have got 10,000 or more reentry programs, and less than two dozen have rigorous evaluations. So there is so little out there, and I think that we have an opportunity with the Second Chance grantees that Senator Specter just spoke about to look at 67 new sites and grantees who have a very high bar and a rigorous approach to how they are going about reentry. And right now there is no funded evaluation. I think we need to look hard at what they are doing so we can learn lessons there.

I also want to just quickly talk about the CEO evaluation that was referenced. For the group of people who are brought into the program early, within their first 3 months of release, they actually did have bigger results. They had bigger results in terms of their recidivism, and it gets at the moment of release issue that the sheriff was talking about. If we catch people early, I think that there is a big opportunity to make a difference.

Senator CARDIN. That is an important point. Thank you for bringing that out.

We have talked about jobs and education and services dealing with addiction and health care. I do not want this hearing to conclude without mentioning housing. I mention that because when I was in Frederick, which has a relatively small reentry program, they told me how extremely difficult it is to find affordable housing for someone who is not connected, who does not have a place to return to; that there is a stigma, first of all, in finding housing with someone who has a criminal record; and, second, there is just a shortage of affordable housing.

I want to give you, any of you who want, an opportunity to talk about how serious an issue housing is for a successful reentry and whether there are models out there that we can look at to try to deal with this potential obstacle to successful reentry.

Chief LOBUGLIO. I would be glad to say that it is indeed a huge issue for us. There are no magical solutions. The benefit of having residential community correctional beds is that you provide immediate housing, and then you allow an individual to work and earn money.

In our experience, the best way to prevent homelessness is to have an individual get some money in the bank so that he or she can go through listings and find that apartment or opportunity to live. There is no magic solution, but you are advantaged if you have money in your bank account, and you do not typically if you are leaving a prison setting. That is one of the great advantages of a community correctional residential center. You have that opportunity. All residents can leave with \$500 to \$5,000 if they have been with us for a couple of months.

Senator CARDIN. You require your residents to actually save money. They are required to do it?

Chief LOBUGLIO. That is right. They pay us a program fee, and they are also required to save 10 percent of their gross income, which is given at the time of release, and it is typically used for the housing piece, a deposit.

Senator CARDIN. Most of you talked about partnerships, that you cannot do this alone, you have to bring in other players. Are there nonprofits that are out there helping on housing?

Sheriff CABRAL. May I weigh in on that one?

Senator CARDIN. Yes, certainly.

Sheriff CABRAL. Thank you, Senator Cardin. I think I am on this time. I was not the last time.

I wanted to talk about our CREW Program. I had mentioned earlier about gender-specific programming for women. We have partners on all of our programs. They are critical because corrections—we just do not have the budget in corrections to do it alone. But the CREW Program has two partners: the South End Community Health Center and Project Place. Project Place deals as a nonprofit with issues around housing and job placement, and they literally get housing for female inmates. And the reason we brought in the South End Community Health Center is because of the health care piece, which is so critical. If we can get women to go to their local health care providers, they will also bring their children, and that has a generational effect.

But just to give you an idea of some of the numbers, once you get the person in the program, in pre-release, and you are building job skills and you are building life skills—and it is application that they do not open checking accounts. So even if they do have jobs, 15 percent of their checks are being taken by a check-cashing place because they do not have bank accounts. I mean, there are real fundamental life skills that most of us take for granted that are just absent in this population.

But in terms of housing, we had, since we started the program, 260 inmates enrolled and 216 have graduated, and these housing statistics are for fiscal year 2009. Within 3 months of release, we had placed 66 percent of those graduates into housing, and we had placed 100 percent of them into housing within 6 months of release.

We do a lot of residential treatment programs within the first 6 months as well, and one of the glitches here is that they get out of a residential treatment program after 6 months, and in order for Project Place to place them in permanent housing, they have to become homeless again and go back into the shelter pool. We try to get them out of the shelter pool immediately. It is not a very long transition. And then we can place them in permanent housing. But there is a gap between residential treatment, which everyone needs—and that is so critical to their success—and being able to move them smoothly into permanent housing, even with a nonprofit partner like Project Place.

But our numbers for recidivism—nationally, they are 30 percent—for the CREW Program graduates (and CREW is one of the few programs that has a 2-year follow-up and after-care component, so we can literally track people for 2 years in the CREW Program) the recidivism rate is 20 percent, so it is 10 percent less than the national average.

So the support, the wrap-around services, and the after-care are effective.

Senator CARDIN. Thank you. I appreciate that.

Mr. BURRIS. Senator, I know of a program, a faith-based program that we have utilized in St. Louis called the St. Patrick Center, and they have a program called Release to Rent for people that are released and have no place to go where they will pay for the first couple months of an apartment and then pro-rate it over the next year where the amount that they have to pay keeps going up and up.

Part of the requirement for that is they have to participate in an intensive counseling and job training program, though, and we have had some real success with this program as well.

Senator CARDIN. That seems to be an alternative to what is done in Montgomery County where you have it all in one location through the county government. That seems like it is certainly a very valuable asset for that community.

Mr. BURRIS. Yes.

Senator CARDIN. Senator Sessions.

Senator SESSIONS. Ms. Solomon, you mentioned 67 programs. Are those going to be rigorously evaluated? Is that what you were saying that under the Second Chance—

Ms. SOLOMON. They need to be.

Senator SESSIONS. Need to be. Could be.

Ms. SOLOMON. Yes, correct.

Senator SESSIONS. Would provide nice laboratories for us if we studied effectively.

Ms. SOLOMON. Yes. They were just funded and the evaluation—

Senator SESSIONS. Well, one of the things that happens in the program that I—a couple things happen with grants. One of them is that people do not do anything until they get the grant. But you, Judge Bartle, like they did in Mobile, they just decided we needed to do the drug court and did it. It did not take any real extra money to make it all happen. And a lot of these programs can be done with existing staff if they are just focused with new ideas.

Now, new money is necessary to do certain things. there is no doubt about it. But I just worry that people sit around waiting for somebody to give them a lot of money so they can take on a new effective program that they could probably do on their own.

Mr. Muhlhausen, do you think we are—well, I will just back up. A number of years ago, we helped get some Federal money for a juvenile program, and I think we had local evaluators, but everybody seemed to have an interest in the program being successful. It did not have—what do you call it?—the competitive environment where somebody is really rigorously questioning the program. Because the program leaders wanted it to be successful, they tended to see success and ignore lack of success.

So I am really interested if you think we could do a better job of creating the kind of rigorous evaluations that we could then say to the 90 percent of prisoners in State and local jails who have been arrested by State and local officials that these programs, properly managed by you, will work. Where are we on that?

Mr. MUHLHAUSEN. Well, I think we need to do a better job, and, unfortunately, I think a lot of people do not want program evaluations to be done because they are afraid of bad results.

Senator SESSIONS. I think that is true.

Mr. MUHLHAUSEN. But I think also that if Congress gives grants to State and local agencies to do reentry programs, they should be evaluated, and Congress can help out by providing the funds and also mandating it in legislation, but also not only mandating it but following through, because this reminds me, when the Workforce Investment Act was passed in 1998, it mandated a randomized experimental evaluation of Federal workforce programs. Well, the Clinton administration never got around to doing it, and the Bush administration never got around to doing it, and Congress never seemed to care that evaluation of the workforce investment program based on a randomized experiment was done. They did a quasi-experimental evaluation that was done like a year or two ago, but if you really want to know if these programs work, the emphasis needs to be on randomized experiments.

Senator SESSIONS. Well, Mr. Burris, and all of you, I would just say commitment by the people in charge with creativity and some skills in human nature seem to be the key to success. Would you agree, Mr. Burris? And what is your experience in that regard?

Mr. BURRIS. Absolutely. To give you an example, Senator, one of our big obstacles has been transportation, and we do not have any funding for transportation, so we have actually held bake sales in our Federal courthouse to provide bus passes so people could get to and from work, to and from treatment, to and from home.

Senator SESSIONS. And what do you think about—was it you or Mr. LoBuglio who talked about the intensive supervision? I would like maybe both of you to talk about fundamentally do you think that we could take money from incarceration and place it in intensive supervision of releasees and that that could have a positive effect.

Mr. BURRIS. I would say yes, that it would have to be a community approach, though. As you stated, there is no silver bullet, magic bullet. You are going to have to pull every type of program, drug treatment, everything into it, along with the intensive supervision, and not just having a probation officer there 6 days a week. That will not work. But if you bring in the various programs, education, drug treatment, drug testing, everything like that, with the high-risk offenders, I think it can have a result.

Chief LOBUGLIO. I think it is having results. I know the Council of State Governments, NACo, and others have been pushing this concept of a justice reinvestment strategy of looking at how much money is being spent in a jurisdiction, at the State level and at the local level, for corrections, for probation, for all sorts of things, and how best should it spend. And I think they have demonstrated some excellent results in Kansas and in Texas.

I think it is enormously promising. I think the challenge is to make sure that jails are included and that local jurisdictions are included in that partnership.

Senator SESSIONS. Well, local is where the action is. I mean, 90 percent of the people are prosecuted locally.

Chief LOBUGLIO. That is right.

Senator SESSIONS. So the Federal system should be done right, but so if you take money—the problem with States is—one of the problems is that the probation officers in Alabama are paid by the State of Alabama. The district attorneys are paid by the State and local supplements, and the police chiefs operate from the city. And there are all these different budgets, and so it is just not easy to take money from probation officers and move it over to prisons or vice versa. And they have Congressmen and Senators and State representatives that protect turfs, and it is hard to get it done in a rational way. But I think what I hear you saying is that without placing the public at any real greater risk, maybe marginally, you could put more people under intense supervision and have a net gain for the public interest.

Chief LOBUGLIO. Absolutely.

Senator SESSIONS. But not just report in once a month to the probation officer.

Chief LOBUGLIO. No.

Senator SESSIONS. That is not what we are talking about.

Chief LOBUGLIO. And it is going to be, you know, a customized strategy. Some individuals will have a house that is fine and they need employment issues and that is what needs to be focused on. Others will not. So we have to be very clever in how we do the re-entry strategies. But I think there is tremendous promise.

You know, in Montgomery County, three out of every ten sentenced offenders is managed in the community, and these are individuals that have committed Part I felonies as well as misdemeanants. And I think we demonstrate every day that you can place individuals—with proper services and proper monitoring, you can manage a large portion of your population.

You know, one other thing that we have not talked about is that there are enormous benefits for these programs for the correctional officers and the correctional professionals in our Nation's systems. When you have programs that provide opportunities for individuals, inmates, that incentives them to work hard, to comply with the program, to get stepped down, to get to that ability where they can be with their—visit with their children and to work, you are having more compliance in our correctional facilities. You are also doing what I think Senator Specter alluded, that you are providing a greater sorting mechanism. Those who are most violent, most risky, should be using that hardened cell. Those who don't need that hardened cell, we should treat this as a scarce resource, can be managed in the community.

Our metrics in 2008 is that collectively our prisoners earn \$2 million. They paid taxes of \$400,000. The same in program fees. They paid child support of \$200,000. They paid restitution. They would not have paid any of that if they were incarcerated. We can manage some of our current—some of the individuals that are currently incarcerated with these types of intensive supervision programs and some of the programs with residential components.

Senator CARDIN. And I would also point out, Mr. LoBuglio, that your incarceration rates in Montgomery County, which is a very diverse county, a very urban county, is much lower than the national average. So you are also showing success in that respect, and it is impressive.

I take away from this that we clearly need more information. I could not agree more with Senator Sessions and with the witnesses about evaluating the way programs are currently working. I think Senator Sessions' point about these hearings have been going on for decades is absolutely correct. And we do lay on programs, and we do not evaluate programs, and I think that is a very valid concern that has been expressed by most of the witnesses here, and it is something we need to take a look at.

I do, though, agree that we have a real shortage of residential programs available for inmates who are going to be released in our communities that can provide comprehensive services so that a person has the best chance for successful reentry. I think the Montgomery County model is the right type of model. I also think you need adequate supervision, and I think the Pennsylvania model is the type of model that I would like to see in more jurisdictions around the country.

So I think there are good examples of—and, Sheriff, your program is very, very effective. If I could bottle Mr. Burris' energy—he not only goes out at night and weekends; he gets up at 5 o'clock in the morning without an alarm clock, so this guy is—

[Laughter.]

Senator CARDIN. We need that type of energy in the probation office, and it is a tough job. Unfortunately, the budgets for a lot of the probation departments are so strained that you do not have enough probation officers to do the type of work that they need to do. And I think Senator Sessions' point about budget is absolutely accurate. We have a problem in Maryland, as Mr. LoBuglio knows, that we could take more State prisoners into the county program, but the State does not have the budget to pay for it. And the State does not have the program. It is a county program. And the State is not encouraging other counties to develop these programs because the State is not really anxious to pay them the fees to deal with the reentry, even though it is going to cost our State a lot of money because we do not provide these services.

So the budget accountability is certainly lacking in our system, and that is the main reason we wanted to hold this hearing, is to take a look at the local services. Senator Sessions is absolutely right. These programs are really local. I mean, our jails are local. The crimes are local. And it affects our Nation, and it is important that we establish a record here today, and I really do thank all of our witnesses for their participation.

Senator Sessions.

Senator SESSIONS. Thank you, Mr. Chairman. You have got mental illness questions, you have got alcohol. I remember a Department of Justice study that surprised me how many people commit serious crimes after being on a binge of 2 or 3 days of heavy, uncontrolled drinking, and they do something, like murder, and the next thing they are serving life in prison at the taxpayer's cost. So anything we can do to see that, I do think that we ought not to forget also that punishment is a legitimate part of the incarceration process, and if you see the criminal is merely somebody that has got a problem with trying to help, sometimes that is not the only approach to it either. Discipline is a big part of success in these programs.

I thank you, Mr. Chairman, for your depth of interest in this, and we need to do better, and I appreciate your openness, and this is a good panel.

Senator CARDIN. Thank you very much, Senator Sessions.

We have received statements from Chairman Leahy, Mary Lou Leary, the Acting Assistant Attorney General, Office of Justice Programs at the Department of Justice; Hon. Stephen Manley, Superior Court of California; Goodwill Industries of Frederick, Maryland. Without objection, those statements will be made part of the record.

[The statements appears as a submission for the record.]

Senator CARDIN. The record of the Committee will remain open for 1 week. Again, I thank our witnesses, and with that, the Subcommittee will stand adjourned.

[Whereupon, at 3:33 p.m., the Subcommittee was adjourned.]

[Questions and answers and submissions for the record follow.]

## SUBMISSIONS FOR THE RECORD

TESTIMONY BEFORE THE  
SUBCOMMITTEE ON CRIME AND DRUGS  
BY CHIEF JUDGE HARVEY BARTLE III  
OF THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

November 5, 2009

I am grateful to the Senate Judiciary Subcommittee on Crime and Drugs for its interest in the re-entry program of the United States District Court for the Eastern District of Pennsylvania and for the opportunity to testify before the Subcommittee about the formation, operation, and success of this program.

In a word, the purpose of our program is to help those who have completed their prison sentences to re-enter society as productive and law-abiding citizens and in this way to reduce recidivism and enhance public safety in the community we serve.

Not surprisingly, our court has been deeply concerned with the number of repeat offenders in our country generally and in Philadelphia and other areas of our district in particular. As you know, all convicted felons in the federal system must serve a term of supervised release, usually three to five years, once they are released from prison. During that period, these offenders are under the supervision of a federal probation officer. As federal judges, my colleagues and I must deal on a regular basis with those who violate the terms of their supervised release. If the violation is also a crime as is often the case, the court is likely to revoke the supervised release and send that individual back to prison with, of course, additional cost to the taxpayer. Then there are those who have

completed their supervised release, are later convicted of new federal crimes, and again are incarcerated. Consequently, our court decided that it was time to look for innovative ways for us to try to cope more effectively with this recurring problem of recidivism.

In the early part of 2007, a working group consisting of Judge Anita B. Brody of our court and representatives of the U.S. Attorney's Office, the Federal Defenders Association, our Probation Office, the criminal defense bar, and the U.S. Marshal, with my enthusiastic support, began its efforts to formulate a court re-entry program. Input was obtained from as many groups involved in law enforcement and the criminal justice system as possible to devise a realistic program that would not increase the drain on the federal treasury. At the same time, we wanted something that would make a real difference. Our court, after full consideration, voted unanimously in the fall of 2007 to institute our re-entry program now in place. Since then, the program has achieved an unprecedented and ongoing level of cooperation within the criminal justice system.

This program has intensive court involvement. We are fortunate to have two superb Magistrate Judges, Timothy R. Rice and L. Felipe Restrepo, to oversee and participate in the program in a hands-on manner. This is in addition to their other responsibilities. We owe them both a deep debt of gratitude.

The candidates for the program are Philadelphia residents on supervised release who usually score 5, 6, or 7 (on

a scale of 0 to 9), that is, medium to high risk, on Federal Probation's Risk Prediction Index for future crime. Initially, the probation officers will screen the candidates and recommend those suitable for participation, with input from the U.S. Attorney's Office and the Federal Defender. No candidate, however, is placed in the program unless he or she is willing to participate. The program typically lasts for one year with intensive efforts to provide a candidate with training and employment if necessary, and to offer guidance and assistance with other aspects of life in which the individual needs help. To aid the candidates, the program has developed partnerships with the local bar association, universities, law schools, and career training and placement centers. There is a probation officer specifically designated to the program, as well as an Assistant United States Attorney and an Assistant Public Defender.

For any who do not comply with the strictures of the program, the Magistrate Judge may deprive a candidate of credit for a certain period of time in the program and also impose a curfew, halfway house confinement, up to seven days' imprisonment, or drug treatment. If a serious infraction occurs, the individual can be evicted from the program and referred to the sentencing judge for further action.

The only incentive that is offered, in addition to the intensive assistance given to each ex-offender, is a reduction of one year in the term of supervised release if the program is

completed successfully and the judge who sentenced the individual agrees to the reduction.

The Magistrate Judge holds sessions of the re-entry court twice a month at which time all current participants in the program appear as a group. Beforehand, the Magistrate Judge has met privately with the probation officer, an Assistant United States Attorney, and a public defender to review the progress in each case. At the court session, each participant approaches the lectern and has a conversation with the Magistrate Judge. Family members and friends are encouraged to attend, and each session, of course, is open to the public. At the court session the Magistrate Judge listens, encourages, offers advice, and, if necessary, imposes certain sanctions. Finally, there is always the all-important "graduation" event in the courthouse for those completing the course. Usually, the sentencing judge attends and at that time formally signs the order reducing the term of supervised release. On one occasion, Mayor Michael Nutter of Philadelphia spoke. Family members and friends are always in the audience. It is a very uplifting experience for all concerned, as I can attest from having participated in several graduations.

Since its inception, our re-entry program has been a great success. As of July, 2009, 76 former offenders have either graduated or are currently participating in the program. Only 12 or 16% have had their supervised release revoked based on new criminal activity or other violations. The revocation rate is well below the 47.4% rate for the period 2003-2008 for the same

category of high risk ex-offenders. The program also saves significant taxpayer dollars. In 2008 it was estimated that the annual cost of incarcerating a person in the federal system was \$25,894 and \$3,743 for a year of supervised release. This program in our District has saved the Government, we estimate, over \$380,000. Finally, we have enlisted Temple University to study the long-term success rate of the program.

The United States District Court for the Eastern District of Pennsylvania strongly endorses this re-entry program and highly recommends it to our sister federal courts. We find it to be an innovative effort which not only greatly assists former offenders to become integrated into society as law-abiding citizens but also helps to reduce recidivism and enhance public safety with the added benefit that it saves taxpayer dollars.

Again, thank you very much for the opportunity to appear today before the Senate Judiciary Subcommittee on Crime and Drugs.

UNITED STATES DISTRICT COURT  
Middle District of North Carolina  
251 North Main Street, Suite 248  
Winston-Salem, North Carolina 27101-3984

Chambers of  
Chief Judge James A. Beaty, Jr.

Telephone: 336-754-2540  
Fax: 336-631-5004

December 17, 2009

Senator Arlen Specter  
711 Hart Building  
Washington, DC 20510

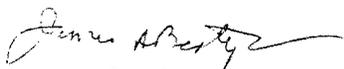
Dear Senator Specter:

Thank you very much for your letter describing the re-entry court program for the Eastern District of Pennsylvania. I agree that the court should have a vested interest in assisting former offenders to become integrated into society as law abiding citizens. I am pleased to inform you that we implemented a re-entry program in the Middle District of North Carolina on February 12, 2009. We also have high hopes for the success of our program. I am impressed that the Eastern District of Pennsylvania has involved Temple University to evaluate the long-term success rate of their program.

I will speak with our Chief Probation Officer to see if we can develop a measurement tool to determine the success rate of the re-entry program for the Middle District of North Carolina.

Again, thank you for your letter and your interest.

Sincerely,



James A. Beaty, Jr.

*Judiciary*

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NORTH CAROLINA  
Post Office Box 27504  
Raleigh, North Carolina 27611**

**W. Earl Britt  
Senior Judge**

**Telephone: (919) 645-1745  
Facsimile: (919) 645-1753**

26 December 2009

Senator Arlen Specter  
Senator Benjamin L. Cardin

Re: Re-entry court programs

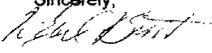
Dear Senators:

Chief Judge Louise Flanagan of our court has asked me to respond to your letter to her dated December 9, 2009, regarding Re-entry court programs.

In the summer of 2008 I attended a Federal Judicial Center Workshop in Boston and heard a presentation on the Re-entry court programs. Being favorably impressed by what I heard, I proposed to our court that we consider adopting a similar program. Our judges agreed and we immediately began assembling a team, consisting of representatives of the office of the United States Attorney, Federal Public Defender and, of course, Probation. Magistrate Judge James E. Gates and I are the judicial representatives on our team. A delegation visited the United States District Court for the Eastern District of Missouri, in St. Louis, and observed a program in progress and sought their advice. We then began the process of establishing our own Re-entry court and in the summer of 2009 our first court session was held with five participants.

Our Re-entry court team, which also includes representatives from the contract treatment provider, meets weekly, and has been very diligent in pursuing the goals of the program. Four of the five participants have responded well to the program and have been promoted to phase two, with one being scheduled to be promoted to phase three in another week or two. One new participant was recently added and is doing well. Our team is optimistic that the four original participants will successfully complete the program and, hopefully, avoid future contact with the criminal justice system. We are continually trying to identify new candidates for the program and hope to gradually expand it as personnel and resources permit.

I am convinced that the program will be a benefit and will result in a lessening of the recidivism rate of federal offenders.

Sincerely,  
  
W. Earl Britt

Testimony  
Chief United States Probation Officer Doug Burris  
Eastern District of Missouri  
Before the Senate Judiciary Committee  
Subcommittee on Crime and Drugs  
“The First Line of Defense: Reducing Recidivism at the Local Level”  
Thursday, November 5, 2009

I first must start out expressing my sincere gratitude to the Members of this Subcommittee for allowing me to testify today, it truly is an honor. I’m here representing the Eastern District of Missouri, where I serve as the Chief U.S. Probation Officer. I’ve held this position for over nine years and believe that I have the best job on the planet. I wake up without an alarm clock at 5:00 every morning and can’t wait to get to work.

With well nearly 2,400 people on our caseload, my District ranks 18<sup>th</sup> in size of the 94 Districts that make up the federal system. In spite of ranking 18th overall, we rank in the top ten in the number of people on supervision in the federal system for firearms, methamphetamine, and crack cocaine convictions. Specific to firearms cases, we rank seventh. More people are on supervision for a federal firearms conviction in St. Louis than are on supervision for the same crime in Chicago, Los Angeles, or New York City. As to drug cases, Eastern Missouri ranks sixth in size for crack cases. In fact, early in 2008 our District hosted one of two federal crack summits, where people from throughout the nation convened to prepare for the retroactive change that took place with the crack laws in March 2008. I will discuss these cases in detail later. While Missouri Eastern ranks in the top ten for federal gun, crack, and meth cases, there is one area where we rank number one. Unfortunately it is with new sex offender indictments. Over the last two years, our District has experienced more indictments on sex offenses than any other Federal District.

Having shared this information, it probably is of no surprise that the Eastern District of Missouri has one of the most at-risk caseloads in the system. In fact, with every single offender under our supervision, Federal Probation utilizes the Risk Prediction Instrument, or "RPI." This is a points-driven instrument that scores such items as drug addition, violence, and lack of education and family support. The higher the score, the more likely an individual is to recidivate. Of the 94 Districts in the system, last year Eastern Missouri had the second highest RPI average.

With this caseload being so at risk, it was no wonder that we often had one of the higher revocation rates in the system. Revocations are defined as when someone fails community supervision and returns to prison. However, a wave of change took place in our District in 2000, when we began collaborating with various community partners and doing what we could in eliminating barriers to success. The first area that we concentrated on was employment.

To share the importance of employment on recidivism, all one has to do is examine the impact of having a job at the time of a case closing. More than 200,000 federal offenders had their cases closed from 2002 through 2006 by successfully completing supervision or by being revoked and returning to prison. Of those who started and ended supervision unemployed, 53% failed and returned to prison. Of those who started and ended supervision employed, only 7% returned to prison. These results included those at the highest risk. Individuals who possessed the highest risk prediction scores and were unemployed at the start and end of supervision had a revocation rate of 78%. However, the high risk individuals who started and ended supervision employed had a revocation rate of only 23%.

When we started our ex-offender employment program, the unemployment rate in the community was 3.6%, while our caseload unemployment rate was 12.1%.

Aiming to lower the caseload rate, we received training from the National Institute of Corrections on an Offender Workforce Development curriculum. This set the foundation for our program. We began seeking employers who offered a living wage and health benefits, not minimum wage and part-time fast food positions. At the beginning we had a lot of doors slammed in our face. However, with the help of various incentives and the promise to employers that we would team with them to ensure that we would do all we could to eliminate barriers so that the ex-offenders could be excellent employees, we eventually began having some success. Along the way we had to adapt our approach. For example, we found that an employee had to possess an interest in a position, and those who did not like their jobs did fail in those positions - regardless of how much a job paid. We also had to strengthen our options for drug and mental health treatment and bring forth a cognitive program to teach individuals to stop and think before reacting. Transportation was often a big hurdle, and we even held bake sales in the federal courthouse to use the proceeds for bus passes. We worked with faith-based groups, private agencies, unions, and educational and vocational training programs. As our partners grew and our network of employers willing to give someone a second chance increased, the successes began to multiply. Those who had jobs they enjoyed caused less problems and adapted to the community. Our caseload unemployment rate began to decrease, and at the same time, so did our revocations and violations.

Nothing breeds success like success, and we eventually achieved something that I never dreamed possible. Local governments and law enforcement groups began endorsing ex-offender employment as a crime reduction strategy. Additionally, nearly five years ago, our caseload - again one of the most at-risk caseloads in the system - experienced an unemployment rate less than that of the community. For 47 months now, our caseload unemployment rate has been less than the community unemployment rate. When a snapshot was taken last month, our caseload unemployment rate was

4.3%, while the general population unemployment rate was 9.5%. As mentioned previously, our revocations decreased as well. While we had a risk prediction average that ranked second nationally last year, our revocation ranking was not the same. In fact, our revocation rate ranked 53<sup>rd</sup>, not 2<sup>nd</sup>. The number of people under our supervision has more than doubled since 2000, yet we file less violation reports now than we did nine years ago.

Earlier in my testimony, I mentioned wanting to further discuss the subject of those who were released early from prison because of a crack reduction. Thus far nearly 200 people have returned home to Eastern Missouri because of this change in law, with my District again ranking in the top ten nationally. More than half of those who benefitted from this retroactive change have been home more than a year. In total, only six of those released early to Eastern Missouri by way of a crack reduction have failed supervision and returned to prison. Thus far this is a failure rate of only 3.2%.

I'm very pleased to report that other agencies throughout the country are following this community approach to helping ex-offenders with employment. Research of a nearly identical program in the District of Delaware conducted by a local university there found a 56% reduction in re-arrests when compared a similar group who was not referred to this employment program.

While the numbers discussed above speak loudly, they do not share the impact on individuals and families. People who have throughout their lives taken from the tax base are now contributing to it. Children now see their fathers leave for their jobs in work uniforms, rather than see them in a prison uniform. Our program has become so successful that we have started a home ownership program.

One of the individuals who took advantage of this program stands out as an

excellent example. This man, Walter, tells about how one of his very first memories growing up was of his mother being excited when the heroin dealer showed up to make a delivery. Walter reports how he began dealing drugs at a young age. He had repeated trips through the juvenile and state systems and institutions before finally receiving a lengthy federal prison term. Upon his release, Walter took advantage of the second chances afforded him. He received training in a local trade and became employed in that profession. His starting pay was over \$25 an hour, plus generous benefits. At the age of 32, he traveled with his family and went on the first vacation of his life. He also purchased a home for his wife, and their three children. When giving a tour of his new home, he had to ask what a dining room was because he never lived in a place that had one. Above all else, Walter gained self respect and dignity. He is now an excellent husband, father, neighbor, and citizen. Walter has fully redeemed himself and broke the generational cycle of crime.

Every day I get to work with an outstanding probation staff and community partners who help create stories like Walter's. I truly do have the best job on the planet.

Thank you again for this opportunity to appear before you today, and I look forward to answering any questions.

Written testimony of Suffolk County Sheriff Andrea J. Cabral  
The Senate Committee on the Judiciary, Subcommittee on Crime and Drugs  
"The First Line of Defense: Reducing Recidivism at the Local Level"  
Thursday, November 5, 2009, Room 226 of the Senate Dirksen Office Building  
Senator Benjamin Cardin (D) Maryland, Presiding.

Senator Cardin and Honorable Members of the Subcommittee:

Good afternoon and thank you for having me here today and allowing me to present testimony on this very important topic.

Re-entry is the term commonly used to describe the process by which criminal offenders are reintegrated back into their communities. Effective re-entry programs are critical to any effort aimed at increasing public safety through the reduction of recidivism and productive transition of ex-offenders back into society.

In any good correctional system that is so focused, re-entry programming begins on the offender's first day of incarceration. These programs and services are particularly effective at the county level, in correctional institutions where the average length of sentence is relatively short and the offender's ties to family and community are not as severely or irretrievably broken by lengthy periods of incarceration.

According to a 2008 report by the Pew Charitable Trusts Center on the States, 2,319, 258, or one in 99.1 adults were incarcerated in prisons and jails. Of that number, the 794,417 attributed to jails is estimated as there are more than 3000 jails nationwide and the Bureau of Justice Statistics does not compile exact numbers for this population.<sup>1</sup> The actual numbers for those incarcerated in facilities not classified as state prisons are likely much higher.

Our correctional institutions must learn to more competently deal with the 95% of offenders, state and federal, who are released from custody. In many cases, this involves fundamental reform of correctional policy, which, given widely divergent community and local standards and attitudes, is a considerable challenge. However, this is a growing population whose social and economic impact on society becomes more profound every year. With

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<sup>1</sup> **One in 100: Behind Bars in America**, Pew Center on the States, 2008

the exception of those in state or federal prison who are serving life sentences or death, all incarcerated people will, at some point, be released. Housing, employment and opportunities to pursue higher education are all significantly diminished for those with a criminal history, especially if that history includes incarceration.

Without national leadership on re-entry that includes support and funding for initiatives that involve effective collaboration between law enforcement and community service providers, tax and other incentives for employers to hire ex-offenders and sweeping changes to federal and state drug laws, recidivism rates will stay at more than 50% and we will continue to spend more than \$49 billion dollars a year on incarceration. (See footnote 1, above.)

### **MASSACHUSETTS**

In Massachusetts, there are two types of correctional facilities for adults – prisons and Houses of Correction. Prisons are run by the state Department of Correction and hold offenders convicted and sentenced in the Commonwealth's Superior Courts for very serious felonies, e.g. rape, murder, drug trafficking, armed robbery, home invasion etc. There are 20 state prison facilities in Massachusetts and 13 county-based Houses of Correction. These facilities hold offenders who have been convicted and sentenced in the District Courts for mid-level misdemeanors and certain felonies for which the courts' jurisdiction is conferred by statute.

Unlike state prisons, which can hold offenders for any period of years, up to and including life, sentences to the House of Correction cannot exceed two and one-half years for conviction on any single count of a criminal complaint. Offenders sentenced to the House of Correction are eligible for parole upon completion of half their sentence. Eighty percent of the state's criminal business is resolved in its District Courts.

In Massachusetts, the county Sheriffs lead the way on re-entry programs. Of the 14 Sheriffs in the Commonwealth, 13 operate county jails and houses of correction.<sup>2</sup> As public officials elected county-wide every six years, these sheriffs are most knowledgeable about and closely tied in to

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<sup>2</sup> Nantucket County is the exception. Inmates and pre-trial detainees from Nantucket are held in neighboring Barnstable County.

their communities. In addition to providing mutual aid to state and local law enforcement in the form of task force, gang and other intelligence officers, 911/emergency dispatch services and transportation on DUI and default warrant sweeps, the sheriffs also create the kinds of partnerships outside of law enforcement that create strong, effective reentry programs.

The potential impact of these re-entry programs on the Commonwealth's cities and towns is clear. Collectively, the Sheriffs hold in excess of 70,000 inmates and pre-trial detainees in their facilities. Every year, more than 65,000 are released from county jails and Houses of Correction through bail, case resolution, parole or release upon completion of sentence. By contrast, the State Department of Correction releases just over 3,000 inmates from Massachusetts state prisons, annually. State prisons release offenders from facilities located in every corner of the state. Some make their way back to their communities, some do not. By contrast, the majority of offenders held at county Houses of Correction hail from neighboring cities and towns and return immediately to those communities. In Suffolk County for example, the House of Correction holds approximately 1,500 inmates, ninety-five percent of whom live within five miles of the facility. The decisions they make within the first 48 hours after release, will largely determine whether, if at all, they return to custody within 6 months to a year. The goal of re-entry programs is to provide support, skills, resources and more opportunities to make positive choices.

#### **COMPONENTS OF AN EFFECTIVE RE-ENTRY PROGRAM:**

Many inmates, especially those who present with persistent drug and alcohol addictions and have extensive involvement with the criminal justice system, live on life's margins. They have little or no job history, no stable housing, are grossly undereducated - approximately 50% of Suffolk County House of Corrections inmates are high school drop outs – have suspended or revoked drivers licenses and/or no form of state-issued identification. This is also a persistently "sick" population, presenting with a number of chronic diseases like high blood pressure, diabetes, asthma, HIV and other sexually transmitted diseases and hepatitis. There is also a high incidence of mental illness in this population. In this Commonwealth, Sheriffs estimate that approximately 42% of their populations present with some form of mental illness with approximately 26% presenting with a major mental illness.

In Massachusetts, the county Sheriffs' Departments have become *de facto* mental health facilities, a principal provider for drug detoxification and substance abuse treatment and often function as the primary care medical providers for those incarcerated at the county level.

At the county level, effective re-entry programs for this population have three essential components: 1) a comprehensive assessment tool; 2) evidence-based employment and life skill building programs that use community providers and resources; and 3) case management and discharge planning. A detailed description of our re-entry programs is below.

The process of re-entry must begin at intake and an assessment should be done of every inmate every time he or she is incarcerated. All Massachusetts Sheriffs classify inmates to particular units and programs based upon some form of risk vs. needs assessment.

Moreover, many offenders have been victims at some point in their lives and while being victimized is never an excuse for victimizing another, we cannot, as a matter of good public policy, ignore the role that trauma and trauma-based emotions like anger, grief and depression play, along with inadequate parenting, lack of education and lack of physical and mental health care in recurrent criminal behavior.

In Suffolk County, we use three assessment tools. Two of them, The Level Service Inventory Revised (LSIR) and The Adult Substance Use Survey (ASUS) are based on national standards and the third was created internally for the Suffolk County Sheriff's Department. These instruments measure education levels, substance abuse history and prior treatment, criminal history (including juvenile history and past institutional discipline) family and marital status, employment history and mental health history. Service provision and eligibility for certain programs is prioritized according to need, program duration and the length of the inmate's sentence.

SCSD utilizes a number of internal and external case managers. Most are full time-employees who also provide case management for those inmates who enroll in educational, vocational and substance abuse treatment programs not connected to specific re-entry programs. We also have several external case managers who work for specific programs pursuant to state and federal grants. Discharge plans, which vary in content and level of resources

depending on the programs in which the inmate participates, are provided to every inmate upon release.

### **Gender-focused Re-entry Programs for Women**

Though incarceration rates for women are rising, their sentences, at least at the county level are shorter than their male counterparts. In Suffolk County, the average length of sentence for males is 13 months; for females it is 9 months.<sup>3</sup> Effective re-entry programs for women, especially those that also focus on attitudinal change, require sufficient time in pre-release so that the full benefits of the program can be realized.

The Bureau of Justice Statistics reports that 70% of women incarcerated in the United States have experienced domestic violence or sexual assault before the age of 17. The impact of trauma on criminal behavior in this population should not be ignored.

In Suffolk County, re-entry programs for women are gender-centric. Prior to creating and implementing our programs, we reviewed the research and literature and surveyed our female inmates and pre-trial detainees to find out what types of programming they thought would better equip them to transition back to their families and communities. What they told us was supported in the literature and national research. Program components that deal with self-esteem, anger and addiction relapse management, trauma associated with sexual and physical violence were especially important. Unlike their male counterparts, only a very small percentage (15%) of female inmates and pre-trial detainees, enroll in programs to earn credit for time off their sentences. Women participate in programs to discuss the negative experiences in their lives and better understand what drives their behavior. Not surprisingly, their success in these programs is closely tied to the relationships they develop with and the support they derive from program facilitators and each other.

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<sup>3</sup> In the last year, we have seen some inversion of those numbers, with larger numbers of men being sentenced to 30 and 90 day terms of incarceration. We attribute this to the rise in lower level criminal behavior that often accompanies a severe economic downturn. In other words, men who might not otherwise become involved in criminal behavior, resort to it more frequently in difficult economic times.

### **Follow-up and Aftercare**

Because supervision and support are so crucial to successful transition, follow-up and aftercare are extremely important components of effective re-entry programs. Ex-offenders have limited options regarding the environments to which they return, post-release. These environments hold all of the negative influences and temptations that contributed to the criminal behavior in the first place. Unfortunately, the cost of incarceration is so high; few institutional programs have the resources to fund these tools. In Suffolk County, our most successful programs all have a follow-up and aftercare component. We rely heavily on our community partners to provide resources, e.g. mentors, faith-based groups and relapse prevention programs that support ex-offenders and encourage them to continue making productive and positive life choices.

## **THE SUFFOLK COUNTY SHERIFF'S DEPARTMENT RE-ENTRY PROGRAMS**

### **The Common Ground Institute (CGI)**

#### **Program Partners:**

**STRIVE, (Boston Employment Services)** a rigorous job preparation and training program that combines hard skills with intensive attitudinal training.<sup>4</sup>

**Massachusetts Department of Revenue**

**Massachusetts Registry of Motor Vehicles**

**Gould Construction Institute**, a consortium of instructors who provide occupational safety training.

The Common Ground Institute is the Sheriff's Department's newest re-entry program. It is a skills-based, vocational certificate program for inmates classified as low-risk offenders. The program works in conjunction with the Department's Community Works Program (CWP).

CGI began in May of 2005 and completed its 29<sup>th</sup> cycle in October 2009. It requires 150 hours of instruction in four vocations:

<sup>4</sup> Due to a significant decrease in funding, earlier this year, STRIVE was forced to withdraw its services from the CGI program. We are working on obtaining funding for their return, or in the alternative, creating an internal program that replicates their services.

landscaping/ground maintenance, carpentry and building maintenance and 15 hours of instruction in occupational safety (OSHA) training. Each cycle is ten weeks long. The first five weeks consist of morning classes facilitated by the STRIVE job preparedness and training program. Running concurrently, in the afternoons and evenings, are competency-based academic training classes in the four vocations. The second five-weeks provide performance-based training and practical field experience in public buildings and on public land, which also constitutes community restitution. SCSD partners with the cities of Boston and Revere to provide materials and work sites for CWP crews.

The CGI program also works with the state Department of Revenue to resolve outstanding child support issues before inmates are released so that they are not re-arrested on outstanding warrants. Because a valid license to drive is also essential for both a job search and many types of employment, we also work with the state Registry of Motor Vehicles to resolve outstanding traffic and parking violations so that inmates' licenses can be restored.

The Department is working to add entrepreneurial and financial literacy courses to the program, as well as expanding it to include female inmates. The Department has also recently built a successful relationship with various trades unions, placing two former offenders in union jobs just this year.

Inmate work performance and attendance are regularly evaluated in each cycle and every CGI student must pass a final examination in each academic discipline. Those who fail to attend or perform to standards are removed from the program. Upon completion, inmates are awarded graduation certificates and OSHA-certified safety cards. OSHA certification cards enable otherwise qualified ex-offenders to secure employment at any federal worksite.

To mitigate the negative impact of their criminal histories on prospective employment, the Sheriff's Department's Division of External Affairs has an on-staff Job Placement Specialist, who recruits employers willing to hire CGI graduates. To date, over a dozen individual employers and companies have expressed interest in providing or actually provided jobs to these ex-offenders.

Since its inception, 412 men have been accepted into the program, 314 (76%) have successfully completed the program and 202 (63%) have been successfully employed because of CGI. As of September, 2009, 76 graduates (37%) were still employed with their original employers. Because we have limited resources for aftercare and follow-up for this program, we do not know how many graduates are also employed, but with other employers.

In 2006, CGI became the first correctional facility program in the Commonwealth to be certified by the Massachusetts Department of Workforce Development as a sponsor of apprenticeship training. CGI graduates now receive apprenticeship credits that can be accepted by employers statewide.

#### **CREW (Community Re-Entry for Women)**

##### **Program Partners:**

**Project Place**, an established multi-service center that provides re-entry services, job readiness and life skills instruction;

**The South End Community Health Center**, a respected provider of comprehensive health care that provides trauma education and health and nutrition life skills; and

**The Massachusetts Society for the Prevention of Cruelty to Children**, which provides parenting skills.

Staff training and preparation for this program began in the spring of 2004. Though currently fully funded by the Suffolk County Sheriff's Department, the program was initially funded through a grant from the United States Department of Education. In this community partnership, the SCSJ provides a Mental Health Clinician, a Recovery/Substance Abuse Clinician and six trained correctional officers to provide care, custody and control of the female inmates in the unit.

CREW provides job readiness, life skills training, case management, health management, housing and job search assistance to incarcerated women who then transition to the community with the support and supervision of the partners for up to two years. This level of aftercare and follow-up is essential to the success of this program. Employment and housing are program priorities.

Since enrolling its first class in October 2004, 260 female inmates have enrolled in the CREW Program and 216 have graduated. The housing statistics are for fiscal year 2009:

**Employment and Housing Placement and Recidivism Rates:**

Employment:

- Percentage placed in jobs within three months of release: 41%
- Job Retention rates:
  - Three months: 56%
  - Six months: 44%
  - Twelve months: 39%
  - Twenty-four months: 23%

Housing:

- Percentage placed in housing within three months of release: 66%
- Percentage placed in housing within six months of release: 100%  
(This is because we work with our partners to place all graduates in six-month residential treatment programs. After six months, the placement number drops to 50% because the residential programs end. Graduates who have no place to live return to the shelter pools and are classified as homeless. We are then able to place them in real housing. )
- Percentage placed in housing at 12 months: 66%.

In 2005, only 11% of CREW graduates were placed in jobs. The placement rate has increased by 30% in 4 years. We constantly tailor the program curriculum, modify our job readiness workshops and expand our transitional job opportunities to better meet the needs of the participants.

The national recidivism rate for female offenders is 30%. For CREW graduates, it's 20%. From mid-2006 to early 2008, Project Place supplied \$10,000 of additional program funds to provide wrap-around case management services and small monetary stipends to supplement the wages of graduates who found employment. Ninety women benefitted from these

grant monies. Seventy-six (85%) of these women did not re-offend within 1 year.

**The Boston Re-entry Initiative (BRI)**

**Program Partners:**

**Boston Police Department**

**United State Attorney's Office**

**Massachusetts Department of Probation**

**Massachusetts Department of Parole**

**Massachusetts Department of Revenue**

**Suffolk County District Attorney's Office**

**Youth Opportunity Boston**

**Whittier Street Health Center (Mass. Dept. Public Health)**

**Dorchester Bay Economic Development Corporation**

**10 Point Coalition (Consortium of African-American clergy)**

**The Nation of Islam**

BRI candidates are inmates whose crimes involve the use of firearms, violence, gang activity and/or drug dealing. They are considered "high impact players." Because of their criminal histories, the recidivism rate within this population is believed to be 100 percent. Upon release, these inmates are almost certain to have a negative impact on any community to which they return.

Eligible inmates are identified within the first 45 days of their sentence. Each month, panels of twelve are oriented to the BRI, the significant consequences of any post-release criminal conduct and then offered rehabilitative programs and services. Post-release, they are provided with follow-up programs, services, mentors and support.

BRI statistics are compiled by calendar year. Statistics for 2009 have not yet been compiled. In calendar year 2008, 238 male inmates, each of whom was considered 100% likely to re-offend, participated in the BRI Program.

- Of the 238 who participated, 140 (59%) have remained arrest-free or have been rearrested on minor (non-serious) charges.
- 97 (41%) have been arrest free for a year or more.
- 7 (3%) were rearrested on more serious or violent charges.
- 12 (5%) were rearrested on similar charges.

- 2 (1%) are deceased.

**Offender Re-entry Program (ORP) Adult Male offender Program and Women's Resource Center**

**Program Partners:**

**Bunker Hill Community College  
Youth Opportunity Boston**

These programs provide life skills, GED, literacy classes, computer and job placement counseling for male and female inmates. Inmates who participate in this program are 13% less likely to be arrested after incarceration than those who do not participate. The re-arrest rate for ORP participants is 28% compared to 41% for non-ORP participants who are not enrolled in other SCSD re-entry programs.

**Brooke House, McGrath House and the Community Supervision Unit**

**Program Partners:**

**Community Resources for Justice (CRJ is a not-for-profit organization that works with adult offenders to provide services and support to those transitioning from incarceration back to their communities.)**

**Massachusetts Trial Court Office of Community Corrections  
Department of Probation  
Massachusetts Department of Parole**

Forty-five male inmates are classified to the Brooke House, a residential facility in the Fenway neighborhood of Boston. Brooke House residents attend classes/programs at the Suffolk County Community Correction Center at 33 Bradston Street. This program serves hundreds of pre-release inmates, offenders on probation and parolees each month. A GED program, classes in computer graphics, resume writing, adult literacy, life and employment skills and random drug/alcohol testing take place at the center.

McGrath House serves up to fifteen women in a residential house located in the South End of Boston. They attend the Women's Resource Center where they participate in life and job skill programs. Residents are required to work or attend programs while actively seeking work or housing.

The SCSD Community Supervision Unit is staffed by trained deputy sheriffs who are responsible for the day-to-day supervision of pre-release inmates classified to halfway houses. These deputy sheriffs work closely and effectively in the communities of Suffolk County to assure that these pre-release inmates are working or participating in programs.

United States District Court

EASTERN DISTRICT OF VIRGINIA  
401 COURTHOUSE SQUARE  
ALEXANDRIA, VIRGINIA 22314-5799

TELEPHONE (703) 299-2110  
FACSIMILE (703) 299-2248

CHAMBERS OF  
JAMES C. CACHERIS  
SENIOR DISTRICT JUDGE  
JAN -4 PM 2:43

December 16, 2009

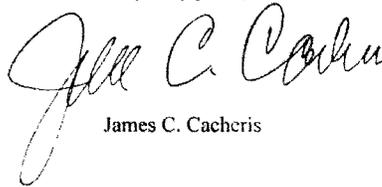
Senator Arlen Specter  
Senator Benjamin L. Cardin  
509 Hart Senate Office Building  
Washington, DC 20510

Re: Re-entry Court Programs

Dear Senators:

Thank you for your letter of December 9<sup>th</sup>, regarding the re-entry court programs. The Richmond Division of the Eastern District of Virginia started a re-entry program under the supervision of Magistrate Judge Dennis Dohnal in January of this year. The program is successful and we are pleased with the results. I am forwarding a copy of your letter to the current Chief Judge James Spencer in the Richmond Division as well as to Magistrate Judge Dennis Dohnal. You can have your office contact Magistrate Judge Dohnal who can collaborate on the success of our program.

Very truly yours,



James C. Cacheris

JCC:agg

cc: Chief Judge James R. Spencer  
Magistrate Judge Dennis Dohnal



**United States District Court**

United States Courthouse  
350 South Main Street  
Salt Lake City, Utah 84101

**Tena Campbell, Chief Judge**  
United States District Court  
District of Utah

Phone: (801) 524-6170

Senator Arlen Specter  
711 Hart Building  
Washington D.C., 20510

RE: District of Utah Re-entry Court and Work Development Program

Dear Senator Specter:

Thank you for your letter dated December 9, 2009 outlining the very successful re-entry program for released federal offenders begun two years ago in the Eastern District of Pennsylvania as a project to reduce recidivism and the attached copy of the November 5, 2009 testimony given by Chief Judge Harvey Bartle of the United States District Court for the Eastern District of Pennsylvania before the Senate Subcommittee on Crime and Drugs in which he describes the collaborative effort utilized to establish the Eastern District of Pennsylvania's program and endorses its goals.

The purpose of this letter is to let you know of a similar successful effort undertaken in the District of Utah. Utah, along with the districts of Oregon, Massachusetts, Eastern District of Missouri and the Eastern District of Pennsylvania, have been pioneers in establishing federal reentry court programs. In February 2007, the United States District Court for the District of Utah established its RISE court (Reentry Independence through Sustainable Efforts). The establishment of RISE, also fully supported by the judges of this district, was also a collaborative effort several years in the making: the Utah District Court, the United States Attorney, the Utah Federal Defender, United States Probation and Parole and the United States Marshal's Service. Our court, however, remains unique in that we have two distinct approaches to our reentry court. In addition to a specialized drug court docket, we are the only federal reentry court to have a specialized mental health court docket. Both RISE courts are presided over by United States Magistrate Judge Brooke Wells. We are proud of our graduates and professional team which now also includes the Veterans Administration and Federal Bureau of Prisons. Our RISE team members have been active participants and trainers in national conferences and training programs including a presentation before the United States Sentencing Commission. Materials related to RISE are attached.

Additionally, because employment is acknowledged as the single best predictor of successful reentry and recidivism reduction, United States Probation and Parole and the Utah Department of Corrections, as leaders in a unique collaboration, have embarked upon a federal/state workforce development program for both the federal and state offender population known as UDOWD (Utah Defender/Offender Workforce Development). United States Magistrate Judge Brooke Wells is chair of the Advisory Board for this state/federal multiple-agency task force. New program partners include the Federal Bureau of Prisons, Utah Federal Defenders Office, United States Attorney's Office, Utah Office of Rehabilitation and the Utah Department of Workforce Services. The objective of UDOWD is to identify and eliminate employment barriers for the offender population (whether state or federal), enhance job development through the education of potential employers as to the benefits associated with hiring former offenders, assist offenders with job readiness training and ultimately to reduce recidivism. Materials related to UDOWD are attached.

The District of Utah has pioneered two exceptional reentry programs and with the State of Utah is a partner is developing a meaningful workforce development program to combat unemployment among offenders. Through these programs we hope to help to reduce recidivism, stabilize lives and increase public safety. We urge your support of these programs and would be happy to speak to you or others as you might find helpful. For further information, please contact United States Magistrate Judge Brooke Wells at 801 524-3290 or at [utdecf\\_wells@utd.uscourts.gov](mailto:utdecf_wells@utd.uscourts.gov).

Sincerely,



Tena Campbell  
Chief Judge

United States District Court, District of Utah

REENTRY INDEPENDENCE THROUGH SUSTAINABLE EFFORTSRISE

First Annual Report

March 1, 2009

(Updated February 2, 2010)

On March 1, 2009, the United States District Court for the District of Utah completed the inaugural year of its unique reentry program RISE, Reentry Independence through Sustainable Efforts. RISE is among the first federal problem-solving courts established. It is further unique among federal reentry courts in that it encompasses two separate, distinct reentry paths: a specialized court for qualifying criminal offenders with severe mental illness; and a second specialized court for qualifying criminal offenders on supervised release with serious substance abuse issues. And, RISE is the pioneer for federal mental health re-entry programs. United States Magistrate Judge Brooke C. Wells presides over both dockets. Almost half of federal district courts either now have or are considering implementation of a reentry court program.

RISE program goals are straight forward: to provide assistance in insuring community safety, reduce the rate and cost of federal offenders returning to corrections facilities, and, for participants (stated in the most simplistic terms) to facilitate a stable, healthier, non-criminal life style.

The two programs of RISE have different objectives and approaches for assisting populations with very different needs and abilities. We individualize and intensify case management, treatment, and access to community services. The tone of the program and court sessions is non-adversarial, interactive, personal and most often positive. Unless necessary, our approach is supportive—not punitive. A collaborative model of decision making by the court and treatment professionals is utilized. Successes are appropriately rewarded, and sanctions are imposed when necessary. Help is offered in untraditional ways. We have had moments of fun and laughter.

Development of the RISE reentry program took 18 months, a collaboration among our United States District and Magistrate Judges, the United States Attorney and staff, the Utah Federal Defender and staff, management and staff of the United States Probation Office, the Clerk of the Court and staff, representatives of the United States Marshal Service as well as consultants and contract treatment professionals from Valley Mental Health. Subsequently representatives from the Veterans Administration, NAMI (National Alliance for the Mentally Ill) and Bureau of Prisons have joined the court group as treatment professionals and advisors. We continue to work in a collaborative model; it is how we problem solve and how we help our participants problem solve. The level of cooperation among the participating agencies in the development of the RISE programs has been unprecedented. Unity towards a common goal has engendered an unparalleled camaraderie among agencies within this district.

We have learned, not surprisingly, that the greatest obstacles to the successful reentry federal offender are: unemployment (due to lack of skills, work history or felon fear), lack of housing, continued drug addiction, inability to access appropriate medical, mental health and addiction treatment and an inability to traverse the bureaucratic maze. We do our best to provide individualized assistance with these as well as personal collateral matters.

The following briefly summarizes each of the two reentry paths:

#### Mental Health Court Specialized Docket

This specialized court docket is held weekly, with up to 10 participants at any one time. Each participant has a severe mental illness or condition, in some cases rendering an individual incapable of self advocacy or obtaining basic necessities. Each participant has a case manager specializing in the supervision of clients with such disabilities. Prior to each week's court, acting in collaboration, the professional team screens each participant's case prior to court. We identify issues and problem solve for and with RISE clients. While we recognize serious mental illness is cannot usually be cured, during the period a participant is under continued federal jurisdiction we can assist in reentry and stabilization. Through the individual and combined efforts of the Team (including treatment providers, VA case workers, and a representative of NAMI) we have helped mentally ill RISE participants secure: housing (everything from temporary emergency housing to residence at the VA's first Utah "foster care" residence—and everything in between; a set of new dentures; a hearing aid; new glasses; even the possibility of a prosthetic leg; transportation, effective treatment and appropriate medication. We measure our success by seeing stability and lack of repetitive criminal conduct.

#### Specialized Substance Abuse Docket

Those targeted for the RISE specialized drug court docket are high risk, drug addicted ex-offenders on supervised release. This group presents one of the more difficult populations the federal criminal justice system faces. Conventional methods of intermittent confinement during terms of supervised release have failed to resolve core issues related and collateral to substance abuse. The RISE substance abuse specialized docket is designed to provide the judiciary with options for a more therapeutic approach to drug related recidivism. Participation is voluntary but candidates must meet certain eligibility criteria and are required to successfully complete a one year, highly structured program including intensive outpatient treatment, abstention from drugs and alcohol, employment or schooling and attendance at weekly court hearings. Successes are acknowledged and celebrated. Successful completion establishes eligibility to receive up to a one-year reduction in the term of supervision. Failures to comply may result in termination from the program, a return to temporary custody as a sanction and referral back to the district court resulting in possible return to BOP custody. This court meets weekly. It is highly interactive. Based upon current resource allocation, a maximum of 24

## Myths about Hiring Offenders

Offenders represent a cross section of the workforce. Many have useful skills and qualifications. Some of the more common myths are

- Offenders are high-risk. **Offenders may not be any higher risk than the average employee.**
- Offenders are untrustworthy. **In most cases, offenders are average people who made a mistake and are ready to put the past behind them.**
- Offenders are uneducated. **Nearly one in three has graduated from high school.**
- Offenders have to be watched closely. **In most cases, offenders have worked through their punishment and want to make a fresh start.**
- Offenders are not conscientious workers. **Most feel they have something to prove and are loyal, hard workers.**

## Did You Know?

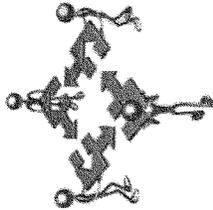


Nationally, 650,000 offenders are released from prison annually, and current statistics from the Department of Justice reports one in every fifteen people in this country will serve a prison term during their lifetime. Of those released, 67.5% will be re-arrested within three years. Having a meaningful job with an adequate wage has proven to reduce the likelihood of re-offending. In Utah 3,281 offenders are released annually. Of those released 65% will return to prison within three years of release.

## Utah Defendant Offender Workforce Development Taskforce



Building Community  
Connections that make a  
Difference



Working together is essential to solve the puzzle.

### Key Partnerships

The Utah Defendant Offender Workforce Development Taskforce is comprised of multiple State and Federal agencies in order to offer improved services to help offenders re-integrate into the community. Some of the agencies involved are:

- Utah Department of Corrections
- United States Federal Probation and Pretrial Services
- Department of Workforce Services
- Utah State Office of Rehabilitation
- The Federal Bureau of Prisons

### Incentives

Among the many reasons to hire offenders there are two that benefit employers more directly than others. Those benefits are:

- **Work Opportunity Tax Credit:** This is available to private employers who employ offenders. Employers can receive up to \$2,400 for each offender employed with no limit on the number employed. For more information please contact Lanelle Windley at 801-526-9480
- **Federal Bonding Program:** This program provides bonding insurance from \$5,000 to \$25,000 to employers willing to hire certain perceived high-risk applicants. The bonds help protect employers against potential theft, forgery, larceny, and embezzlement.

### Benefits of Hiring Offenders

Businesses, communities, families, and society as a whole benefit when the nearly 25% of Americans with criminal records are employed. Offenders who are employed are less likely to commit crimes. Nationally taxpayers pay \$25,000 per year to house an inmate; in Utah it costs \$30,615.26 per year to house one inmate. Conversely, an ex-offender that is employed will be earning a living and contributing to the tax base. With respect to offenders under supervision, employers receive the following added benefits.

- **Drug Testing:** Drug testing is a standard condition for all offenders under supervision.
- **Condition to Maintain Employment:** Each offender under supervision is required to be employed or involved in an educational or training program.
- **Probation or Parole Officer as a Resource:** The Taskforce officer will work closely together with employers to ensure job retention and success.
- **Community Safety:** When offenders are employed, community safety is increased.

We hope you will give offenders a chance to make a difference in their own lives and your company. One of the primary ways we are going to be successful as a cooperative group is to enlist the help of employers who are willing to take a chance on offenders and help provide them with additional stability in their lives. If you would like additional information regarding this program, please feel free to contact your U.D.O.W.D. representative.



**ANRICO DELRAY**  
U.S. Probation Officer

U.S. Probation & Pretrial Services Office  
United States District Court  
District of Utah

160 U.S. Courthouse    toll free 1-866-222-2665 x 2739  
350 South Main Street    office (801) 636-2739  
Salt Lake City, UT 84101    fax (801) 826-1225

Utah Department of Corrections  
Utah Department of Workforce Services  
Utah State Office of Rehabilitation

**Utah Defendant/Offender Workforce  
Development Task Force**

U.S. District Court, District of Utah  
U.S. Probation and Pretrial Services  
U.S. Attorney's Office  
Federal Bureau of Prisons  
Utah Federal Defenders



Dear Agency Head,

In a collaborative effort to reduce the rate at which offenders are returned to custody, at times due to a lack of employment, the Utah Defendant/Offender Workforce Development Task Force (UDOWD) has been developed. This effort is in connection with the Defendant/Offender Workforce Development Program (DOWD) which has been implemented by the National Institute of Corrections on a national scale.

As a system that directly influences the offender population, we are asking for agency participation on this task force. Experience has shown that a collaborative approach to issues surrounding the offender population directly benefits the partnership agencies and the community as a whole.

The primary objectives of the UDOWD Task Force are to:

- 1) Identify and eliminate interagency procedural barriers through standardization, increased communication, and resource sharing;
- 2) Enhance job development by educating employers and the community about the economic benefits associated with the hiring of ex-offenders;
- 3) Utilize existing resources and develop cooperative services to assist offenders and provide job readiness training as needed; and
- 4) Lower recidivism.

In an effort to strengthen the UDOWD Task Force's ability to succeed, we are asking for a representative from your agency who administers policy to join other agency leaders on the task force advisory board and make a difference. Current membership includes the U.S. Probation and Pretrial Services Office, Federal Bureau of Prisons, Utah Federal Defenders Office, U.S. Attorney's Office, Utah Department of Corrections, Utah Office of Rehabilitation, and Utah Department of Workforce Services.

The advisory board will set the policy and direction of the task force. The task force is chaired by the Honorable Brooke C. Wells, U.S. Magistrate Judge, and co-chaired by a representative from the U.S. Probation Office and the Utah Department of Corrections. It is anticipated that the task force will meet quarterly, for two hours, to coordinate this effort. Meetings would be held at the Frank E. Moss Federal Courthouse located at 350 South Main Street.

If you have questions related to the UDOWD Task Force, please contact:

Anrico Delray, U.S. Probation Officer, at (801) 535-2739, or Daniel Chesnut, Utah Department of Corrections, at (801) 330-8946.

Sincerely,

Honorable Brooke C. Wells  
U.S. Magistrate Judge

Craig Burr  
Division of Programming  
Utah Department of Corrections

David G. Christensen  
Chief U.S. Probation Officer



**United States Probation and Pretrial Office  
Defendant / Offender Workforce Development  
(DOWD)  
District of Utah**

**District of Utah  
Workforce Development Program**

**OVERVIEW**

With the enactment of the Second Chance Act of 2008, the expansion of available resources for defendant/offender development with the provision to increase employment opportunities for defendants/offenders has been delegated by Congress. The Administrative Office in Washington D.C. has placed special emphasis on the development of Defendant/Offender Workforce Development nationally and is viewing it as an integral part of the services we provide.

Offender employment is one of the more difficult challenges faced by our defendants/offenders, but it is also one of the most salient predictors of success on supervision. The promotion of long-lasting and positive change in our defendants/offenders requires the reinforcement of their efforts to obtain and maintain meaningful employment.

The association between unemployment and recidivism is evident. Our efforts to help sustain defendant/offender employment will increase the likelihood of supervision success and promote community safety. The following is a procedural guideline for officers to apply with all unemployed/underemployed defendants/offenders and describes the roles and responsibilities of pretrial officers, presentence investigators, supervision officers, and Workforce Team Members in the mission to secure meaningful employment and/or educational opportunities for defendants/offenders.

**At the initial interview:**

The Pretrial/Presentence/Supervision Officer needs to:

- Determine if a third-party risk may be associated with the defendant's/offender's employment.
- Assess the defendant's/offender's barriers to employment (e.g., education, vocational training, mental health/physical limitations, and substance abuse) utilizing a variety of basic assessment tools (Attachment 1- Barriers and Strengths Worksheet).
- Assess the defendant's/offender's satisfaction with current employment or disability status.
- Determine if the defendant's/offender's income is meeting their family's needs.

Before a referral is made to the Workforce Development Team, the supervising officer must make every effort to exhaust their own resources in attempting to assist their defendant/offender in securing employment, as follows:

- Officers encourage compliance through emphasizing the fact that employment is a standard condition of release which requires them to aggressively seek and secure employment.
- Defendants/offenders need to provide documentation regarding their employment search efforts, utilizing a DOWD Job Search Log. If a defendant/offender is chronically unemployed, they must report to the office, in person, every week with a listing of applications and a contact person to verify their representations (Attachment 2 - DOWD Job Search Log).
- Officers need to express the desire to avoid the potential consequences of revocation for non-compliance, but assure that action will result if the defendant/offender fails to secure employment.
- The officer provides the defendant/offender with an Employment Packet (Attachment 3 - Employment Packet), and carefully explains and reviews its contents.
- The officer formally refers the defendant/offender to the Department of Workforce Services, an employment agency, or other employment assistance program.
- Officers continually cultivate potential employment opportunities while in the community and share resources with the entire office.
- Officers and clerks enter and update employment information in PACTS as it develops or changes.

The responsibilities of the Workforce Development Team include:

- The ongoing development of new resources in the community, the maintenance of current resources, and an update of Employment Packets for officers.
- Respond to inquiries from officers, employers, and other external stakeholders concerning workforce development resources and opportunities.

- Conduct training for officers, employability workshops for defendants/offenders, participate in interagency and specialized training.

### **SUPERVISION ACTIVITIES**

Prerelease efforts primarily focus on defendant/offender employment from the moment they arrive at the Residential Reentry Center. The offender should be employed when he/she starts supervision. If an offender is unemployed at the start of supervision, or at any point during the term of supervision, the supervising probation officer is expected to work within the parameters set forth in this program, and persist in their efforts to ensure the defendant/offender maintains employment.

#### **1. Case Planning:**

Defendant/Offender employment is one of the cornerstones of the case planning process. All officers focus on defendant/offender employment as one of the most critical elements in the case planning process. All initial and case plan updates need to:

- Assess the defendant's/offender's current employment to ensure it meets the definition of meaningful employment.
- If a defendant/offender is underemployed, the case plan needs to clearly articulate the steps that are necessary to upgrade the offender's employment (resource/referral, job training, education, etc.).
- If a defendant/offender is unemployed, the case plan needs to clearly articulate steps that need to be taken to address the unemployment status. The officer needs to closely track the efforts to secure employment until employment is secured.
- In all matters related to defendant/offender employment, careful consideration needs to be given to the parameters set forth in the policy statements that follow:

#### **2. Unemployment:**

If a legitimate medical disability exists that precludes employment, the officer needs to assess the underlying causal factors and determine whether the defendant/offender is eligible to receive SSDI assistance in connection with that disability. If the medical condition is legitimate, the defendant/offender needs to be referred to the Social Security Administration for an eligibility assessment.

This will require documentation from a doctor confirming the condition that would qualify for benefits. If the defendant/offender is unemployed, the officer needs to institute the following actions:

- Establish weekly personal contacts with the defendant/offender in your office to address progress toward employment goals.
- Provide the defendant/offender with an Employment Packet and review job-seeking strategies with them.
- Refer to community employment resources to assist in structured job-seeking activities and verify compliance.
- Require and document the defendant's/offender's daily job-seeking activities on a DOWD Job Search Log.

**3. Extended or Chronic Unemployment:**

If the defendant/offender remains unemployed after 30 days, the U.S. Probation Officer needs to:

- Staff the case with a member of the Workforce Development Team to establish an employment plan (Attachment 4- Action Plan).
- Refer the defendant/offender for an Employability Workshop.
- Monitor the defendant/offender closely until employment is secured.
- Utilize correctional strategies up to and including revocation if the defendant/offender is not in compliance with the employment plan.

**4. Seasonal Employment:**

In the event an offender is employed full-time in a seasonal job such as construction, landscaping, etc., and draws unemployment in the off-season, the following guidelines apply:

- The defendant/offender should not be allowed to be unemployed during the off-season. Unemployment compensation, while it may provide adequate income, does not instill discipline or provide the necessary structure and accountability in the community that is essential for supervision. The expectation must be emphasized that full-time employment or enrollment in

school or training or engaged in community service in accordance with this program (see number 5).

- Exceptions may be considered on a case-by-case basis and should be staffed with a member of the Workforce Development Team, the officer, or SUSPO.

**5. School, Vocational, or On-The-Job Training:**

Many defendant/offenders choose to pursue school or other types of job training while on supervision. This section provides guidance to officers when faced with that situation.

- The supervision officer needs to verify the defendant's/offender's enrollment in school, obtain a copy of their school schedule, and monitor performance. Officer provides positive feedback on school performance, if appropriate.
- If a defendant/offender is enrolled in school or vocational training (part- or full-time), it is within the officer's discretion to require the defendant/offender to maintain part- or full-time employment, based on outstanding Court financial obligations.

**6. Self-Employment:**

As a general rule, self-employment should be discouraged. However, it should be left to the officer's discretion, contingent on the defendant/offender's prior criminal record and work history. Self-employment issues should be staffed with a SUSPO and need to consider the following:

- Ensure that no special conditions exist that prohibit the defendant/offender from engaging in self-employment.
- Ensure that there are no third-party risk considerations that may exist which would prevent the defendant/offender from being self-employed.
- If the supervising officer is satisfied that he/she will be able to verify and document the legitimacy of the defendant's/offender's self-employment, the officer needs to secure all business-related records (documents relating to the corporation/business structure, occupational/business licenses, personal financial records with a thorough description of how the enterprise is structured, how the enterprise operates, entities involved, and the defendant's/offender's role in the company). The defendant/offender must

provide copies of their monthly/quarterly earnings and personal and/or corporate/business income tax returns.

Note: Refer to the Financial Desk Reference for U.S. Probation and Pretrial Services Officers for further guidance on supervising self-employed defendant/offenders.

**7. Offender Employment and Restitution:**

Officers are expected to develop a payment plan in order for the defendant/offender to meet their Court-ordered financial obligations. The plan is based on the offender's employment and financial circumstances. Failure to comply with the established plans will result in the application of correctional strategies as determined by the supervising probation officer, their SUSPO, the AUSA, and the Court.

**8. Employability Workshop:**

Employability Workshops will be offered quarterly in the Salt Lake City office. The Employability Workshops will address: barriers to employment, résumé writing, job-searching techniques, and interviewing skills. A schedule of workshops will be posted within the Lotus Notes calendar. Class size will be limited to 10 defendant/offenders (Attachment 5 - Workshop Syllabus).

The supervising probation officer will:

- Schedule the defendant/offender for the next available Workshop and confirm that the defendant/offender is aware of the place and time, with emphasis that the requirement to attend is not optional.

The Workforce Development Team members will:

- Schedule workshops and maintain the web-based program to allow officers to schedule their defendants/offenders.
- Conduct Employability Workshops.
- Notify officers if their defendant/offenders failed to attend the scheduled workshop.

**9. Post-Workshop (0 to 60 days):**

Officers need to:

- Monitor and encourage defendant/offender job-search efforts.
- Maintain contact with a representative at the employment agency.
- Reassess barriers and develop strategies to address and overcome these barriers.
- Hold defendants/offenders accountable for daily job-search efforts.
- Schedule a meeting with the supervising officer, the defendant/offender, and a member of the Workforce Development Team. This Correctional Strategy meeting is essential for all defendants/offenders who are unemployed, but employable, for more than 60 consecutive days post-workshop.
- Impose additional controlling strategies as needed including, but not limited to, administrative staffing, community service, curfew, or location monitoring.
- Explain to the defendant/offender that continued non-compliance will compel the initiation of violation proceedings.
- When the defendant/offender obtains employment, enter employment information in PACTS.

The Workforce Development Team member will:

- Provide officers with resource updates, strategies, and training.
- Be available for consultations with the defendants/offenders/officers and SUSPOs.
- Be available for scheduled 3-way meetings.

**10. The Consultation Meeting:**

The officer will:

- Submit Offender Employment Referral (Attachment 6 - Offender Employment Referral).
- Schedule the defendant/offender for the meeting at a time convenient to the officer and a member of the Workforce Development Team.

- Discuss defendant/offender employment barriers, strategies, and other relevant issues with the Workforce Development Team member prior to the meeting.
- Ensure that the defendant/offender is aware of the meeting time and location.

The Workforce Team member will:

- Have assessment tools available as needed.
- Be prepared to discuss the needs, barriers, and limits of the defendant/offender.
- In conjunction with the defendant/officer, develop a Compliance Contract (Attachment 7 - Compliance Contract for Employment) to be signed by the defendant/offender which includes:
  - ▶ Task(s) to be completed.
  - ▶ Time frames within which the defendant/offender will be required to complete the task(s).
  - ▶ Clear step-by-step instructions on how to complete the task(s).
  - ▶ Possible consequences if the defendant/offender fails to complete the assigned task(s).

**11. Continued Program Development:**

The supervision officer will:

- Regularly discuss ways to improve delivery of services with their SUSPO and the members of the Workforce Development Team.
- Continuously ensure that PACTS employment information is current.
- Routinely cultivate potential employment opportunities while in the community, and provide that information to a Workforce Development Team member.

The Workforce Development Team member will:

- Gather statistical information from officers, PACTS, Employment Agencies, and other sources.
- Remain current with employment trends, practices, and resources.
- Modify practices and procedures in response to constructive feedback and ongoing program assessment.
- Maintain documentation of the Team's efforts to remove barriers, assist the individual defendant/offender to find meaningful employment, and provide this information to officers.
- Provide officers and defendants/offenders with relevant training.
- Regularly provide updates regarding new programs or employment opportunities.
- Actively cultivate potential employment opportunities, while in the community, and share them with the entire office.

Attachments

Barriers and Strengths Identification Worksheet  
DOWD Job Search Log  
Employment Packet  
Action Plan  
Workshop Syllabus  
Offender Employment Referral  
Compliance Contract for Employment

Utah Department of Corrections  
Utah Department of Workforce Services  
Utah State Office of Rehabilitation

**Utah Defendant/Offender Workforce  
Development Task Force**

U.S. District Court, District of Utah  
U.S. Probation and Pretrial Services  
U.S. Attorney's Office  
Federal Bureau of Prisons  
Utah Federal Defenders



Dear Sheriff Jim Tracy,

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If you have questions related to the UDOWD Task Force, please contact:

Anrico Delray, U.S. Probation Officer, at (801) 535-2739, or Daniel Chesnut, Utah Department of Corrections, at (801) 330-8946.

Sincerely,

Honorable Brooke C. Wells  
U.S. Magistrate Judge

Craig Burr  
Division of Programming  
Utah Department of Corrections

David G. Christensen  
Chief U.S. Probation Officer



Utah Department of Corrections  
Utah Department of Workforce Services  
Utah State Office of Rehabilitation

**Utah Defendant/Offender Workforce  
Development Task Force**

U.S. District Court, District of Utah  
U.S. Probation and Pretrial Services  
U.S. Attorney's Office  
Federal Bureau of Prisons  
Utah Federal Defenders



**Executive Summary**

The Utah Defendant/Offender Workforce Development Task Force (UDOWD) continues to make significant progress toward achieving its mission to remove the barriers that prevent offenders from finding and maintaining gainful employment, with the ultimate goal of reducing recidivism.

UDOWD continues to build support from several allied governmental agencies, community and faith based organizations. The following highlights some of the achievements that have been realized through UDOWD in the brief period of time that it has been in operation.

- The UDOWD working group is comprised of representatives from the Utah Department of Workforce Services, Utah State Office of Rehabilitation, Utah Department of Corrections, Utah County Sheriff's Office, Utah Federal Defenders Office, U.S. Probation and Pretrial Services Office, and Federal Bureau of Prisons, Salt Lake County Criminal Justice Services, and is in the process of reviewing barriers that can be removed or mitigated. For example, the working group has created a team to look at the barriers created by offenders who do not possess a valid form of identification. The team will examine the stake holders involved and seek to create a collaborative approach to mitigate and resolve this barrier.
- UDOWD has created a team that is currently attending Defendant/Offender Workforce Development training, designed and provided by the National Institute of Corrections. This extensive training opportunity brings nationally recognized experience, training, and knowledge back to Utah to further enhance UDOWD's mission. The expertise provided by this training opportunity will then be shared with community partners statewide.
- Specific to the district of Utah, has been the creation of collaboration with the Utah Department of Workforce Services regarding job development. Job development is the process of creating a network of employers who are interested in hiring populations with unique characteristics, such as offenders. A team of job developers, serving several populations, is beginning to work together to create best practices, enhance communication, and create efficiencies within the job development community. While this effort is in its formative stages, it possesses the promise of creating powerful results.
- UDOWD has also implemented standardization of an Employability Workshop for defendants and offenders that utilizes one curriculum and is co-facilitated utilizing staff comprised of Federal and State Agencies. Additionally, a Pilot Project has been established with Workforce Services which provides more specialized services to defendants and offenders. The referral process is standardized by UDOWD and consists of a single referral packet that will be utilized by all referring correctional agencies.

UDOWD is unique in its approach to resolving issues surrounding offender employment and provides a model others can emulate. The UDOWD advisory and working groups believe this effort will create efficiencies and create an environment in which offenders will find and maintain meaningful employment and become contributing members of society.

**Vision Statement:**

We the members of Utah/Defendant Offender Workforce Development Task Force unite to facilitate collaboration between Federal, State, and Local agencies in an effort to eliminate commonly perceived historical, informational, and procedural barriers between agencies.

The focus of this united effort is to lower recidivism by assisting offenders in gaining and maintaining meaningful long term employment. This effort will increase community awareness regarding offender employment, educate employers about the economic benefits of hiring an offender, and provide job readiness courses to offenders in need of assistance.

**Goals:**

- 1) Identify and eliminate inter-agency procedural barriers by increasing communication and sharing resources
- 2) Enhance job development by educating employers and the community about the economic benefits of hiring ex-offenders
- 3) Utilize existing resources and continue to develop cooperative services to assist offenders and provide job readiness training as needed
- 4) Lower recidivism

**Mission Statement**

We unite to facilitate collaboration between Federal, State, and Local agencies in an effort to eliminate barriers between agencies, increase community awareness, assist offenders with increased employment opportunities, and reduce recidivism.

Statement of

**The Honorable Benjamin L. Cardin**United States Senator  
Maryland  
November 5, 2009

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OPENING STATEMENT OF  
SENATOR BENJAMIN L. CARDIN  
SENATE JUDICIARY SUBCOMMITTEE ON CRIME AND DRUGS  
"THE FIRST LINE OF DEFENSE: REDUCING RECIDIVISM AT THE LOCAL LEVEL"  
November 5, 2009

The Subcommittee will come to order. Let me thank Chairman Specter for allowing me to chair today's hearing. He is a long time champion on these issues and truly understands how important re-entry services and programs are for increasing public safety.

The United States has the highest reported incarceration rate in the world. It is about five times the world's average. Federal and state prisons have grown by nearly 240% between 1980 and 2001. There are 2.3 million people behind bars and 95% of them will return to our communities. Yet the most recent national study on recidivism rates among state prisoners reflects that more than two-thirds are rearrested within three years of release. Something has to be done to reduce the high level of recidivism.

The goal of the justice system is to reduce crime and improve public safety. If recidivism rates remain at these levels we have failed the overall goal and intent of our criminal justice system. These statistics reflect a dark reality – our criminal justice system is failing to prepare inmates for life after lockup. If we want to increase public safety, successful reintegration of offenders into the community is necessary. If we fail to provide the necessary services, individuals will continue to move up and remain in system.

While reentry programs and services are being discussed at the national, state and local levels, much of the attention has focused on prisoners and not local level inmates. Unfortunately, reentry services at the local jail level have not received the same attention during larger policy discussions. Reentry services at the local level should be an integral part of our overall national strategy to increase public safety and reduce recidivism. They can operate as our first line of defense in protecting communities by immediately assessing an inmate when they first enter the criminal justice system.

Today's hearing will focus on local jails and the important role they have in reducing recidivism. Each year local jails process 12 million admissions and releases. That translates into about 34,000 people a day moving in and out of our criminal system. This can also translate into

34,000 opportunities to assess an inmate, link an inmate with community services, and provide an inmate with mental or physical health consultations. These 34,000 opportunities a day can be used effectively to increase public safety, minimize future criminal activity, and operate as the first line of defense against recidivism.

Successful reintegration into society is often difficult for inmates because most lack the necessary skills to prosper after incarceration. For example, the majority of the jail population is made up of young minority males. About half of which have had another family member incarcerated, and more than two-thirds of which have a substance abuse problem. 60% lack a high school diploma. Many also suffer from mental illness and physical health problems. Without programs available to inmates prior to release and after release, individuals are being returned to the community the same as when they left. Jails are unique because they are the entry and exit point for inmates. With effective programs and community programs in place, jails can facilitate successful re-entry programs that have shown to reduce the rates of recidivism.

In my own state of Maryland, the Montgomery County Department of Correction and Rehabilitation operates a pre-release and reentry center that not only provides services to local inmates within one year of release, but also assists with the rehabilitation of federal and state prisoners six months prior to their release date, who will return to the Montgomery County community. The program helps inmates find jobs, housing, and provides social services based on individual needs, thus giving them the opportunity to return to the community as productive members of society. In Suffolk County, Massachusetts, the Boston Reentry Initiative has successfully reduced recidivism rates. The Allegheny County State Forensic Program in Pennsylvania, which provides mental health services and support for individuals released from jail and those detained in local jails, has seen reductions in recidivism. There are many other local jurisdictions running successful re-entry programs, which tells me, it is possible, it does work, and we should support the expansion of local reentry programs throughout the country. We must also remove the scarlet letter attached to local re-entry facilities within our communities. Facilities located within the community allow for local employers, doctors, community based service providers, and family members or mentors to work with the inmate prior to release as well as after release. Having successful links with the community in which the inmate will return is essential in reducing recidivism and increasing public safety.

Local jails have an opportunity. They have an opportunity to stop inmates from coming back into the system or moving up in the system. We should make sure resources reach our local jails. The hearing today is intended to shed light on the important role our local jails have in the criminal justice system and to find out additional ways the federal government can partner in increasing reentry programs throughout the nation. I look forward to the testimony from all our witnesses.

United States District Court  
NORTHERN DISTRICT OF TEXAS  
1100 COMMERCE STREET, RM. 1528  
DALLAS, TEXAS 75242

10 JAN 27 PM 3: 53

CHAMBERS OF  
SIDNEY A. FITZWATER  
CHIEF JUDGE  
(214) 753-2333

January 15, 2010

The Honorable Arlen Specter  
United States Senate  
711 Hart Building  
Washington, DC 20510

Re: Reentry Court Programs

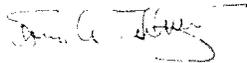
Dear Senator Specter:

I am writing to thank you for your joint letter, with Senator Cardin, of December 9, 2009 concerning reentry court programs. As you are aware, there is evidence that indicates that these programs significantly reduce recidivism among individuals under community corrections supervision. Because of our interest in the successful reentry of federal inmates in our communities, our court initiated such a program in September 2008.

Before we initiated our program, we considered reentry court programs at both the federal and state level and modeled ours after the one in the Eastern District of Pennsylvania, which you reference in your letter, and in Boston. While our program is in the pilot stage, we are already experiencing success, and we are confident that it will reduce recidivism among high-risk ex-offenders.

The judges and probation officers of the Northern District of Texas are committed to impacting lives in a positive manner to keep our communities safe. We greatly appreciate your support of these efforts.

Respectfully,



Sidney A. Fitzwater  
Chief Judge

cc: Judge Irma Carrillo Ramirez  
Ms. Jolene R. Whitten



**Goodwill® Industries of Monocacy Valley, Inc.**

400 East Church Street  
 Frederick, Maryland 21701  
 301-662-0622  
 www.gimv.org

**November 5, 2009**

## **Goodwill's Response to the Recidivism of Offenders**

### **STATEMENT OF PROBLEM**

Since 1972, the number of people incarcerated in federal and state prisons has steadily increased by an alarming 666 percent – from 196,092 in 1972<sup>1</sup> to 1,595,034 in 2007.<sup>2</sup> In addition to the nearly 1.6 million people who are incarcerated in prisons, another 766,010 people are currently incarcerated in local jails.<sup>3</sup> This has resulted in more than 2.3 million people – 750 people per 100,000 (midyear 2007) – currently incarcerated in federal and state prisons, and local jails.<sup>4</sup>

As the rate of incarceration has increased, the local, state, and federal budgets have had to keep pace with this growth rate. According to Theresa Benner, Director of Community Services at the Frederick County Work Release Center (MD), it costs \$8.21 per day plus medical and transportation costs to incarcerate people in the detention center. In contrast, if inmates eligible for work release are employed and stay employed throughout their sentences, the inmates **pay** the county \$14.00 per day and cover for their own medical and transportation costs.

The U.S. Department of Justice has concluded that nearly every person incarcerated in jail, and 95 percent of state prison inmates, will someday be released.<sup>5</sup> Often, when ex-offenders are released, they cannot find employment or do not maintain their employment, and end up violating their probation or

<sup>1</sup> Sourcebook of criminal justice statistics online. Table 6.28.2006. Number and rate (per 100,000 resident population in each group ) of sentenced prisoners under jurisdiction of State and Federal correctional authorities on December 21. By sex United States. 1925-2006.

<sup>2</sup> Sabol, William J. Minton, Todd D. and Harrison, Paige M. *Prison Inmates at Midyear 2007*. U.S. Department of Justice, Bureau of Justice Statistics, June 2008.

<sup>3</sup> Sourcebook of criminal justice statistics online. Table 6.13.2006. Number and rate (per 100,000 U.S. residents of persons in State and Federal prisons and local jails. United States, 1990-2006.

<sup>4</sup> Sabol, William J. Minton, Todd D. and Harrison, Paige M. *Prison Inmates at Midyear 2007*. U.S. Department of Justice, Bureau of Justice Statistics. June 2008.

<sup>5</sup> Hughes, Timothy and James Wilson, Doris. *Reentry Trends in the United States*. U.S. Department of Justice Bureau of Justice Statistics. Accessed on November 5, 2008 from <http://www.ojp.us.doi.gov/bjs/reentry/reentry.htm>.

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 Frederick, Maryland 21701  
 301-662-0622  
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parole and return to jail or prison. According to the Frederick County Sheriff's Office, Frederick County's recidivism rate from January 1st through September 30<sup>th</sup> 2009 was 56.33%. This means that over fifty percent of people being released from the Frederick County correctional system are committing a new crime or are violating their parole/probation within 1 year of release and return to the correctional system.

There are many barriers to successfully reentering society after being incarcerated, including substance abuse issues, illiteracy, physical and/or mental disabilities and child support debt. According to a report issued by the Urban Institute, nearly all of the people who leave prison have a physical health, mental health or substance abuse problem.<sup>6</sup> The Bureau of Statistics (2002), reports that 95% of all prisoners are released without employment, or an adequate support system to assist them with their transition back into society.

For ex-offenders returning to the community after a period of incarceration, employment can make the difference between succeeding and returning to prison. Research shows that employment is associated with reduced recidivism.<sup>7</sup> Employed individuals are challenged to maintain a job. Eight months after release, 65 percent of respondents said they had been employed at some point since their incarceration but less than half were currently employed. Furthermore, while those individuals who had a job lined up while still in prison did work more after release, they were no more likely to be employed eight months out than those who did not have a job lined up.<sup>8</sup>

According to Ms. Benner, approximately 120 inmates are scheduled to be released from the Frederick County Work Release Center per year. With an over 50% recidivism rate as stated above, 60 of the individuals are expected to return to the system within 1 year of release. With it costing \$3,000 plus transportation and medical expenses to house an inmate in the system, Frederick County would be spending a minimum of \$180,000 to board 60 people reentering the correctional system. This does not account for the costs to society for the crimes committed against other citizens and the potential tax revenue that could have been collected if they had been employed. With intervention, these individuals have an opportunity to successfully transition into society and become productive citizens, instead of returning to a criminal lifestyle. Therefore, helping these

<sup>6</sup> Kamala Mallik-Kane, Christy A. Visher, *Health and Prisoner Reentry: How Physical, Mental and Substance Abuse Conditions Shape the Process of Reintegration*, Urban Institute. February 2008.

<sup>7</sup> Jennifer Fahey, Cheryl Roberts, Len Engel. *Employment of Ex-Offenders: Employer Perspectives*, Crime and Justice Institute. October 31, 2006.

<sup>8</sup> Christy Visher, Sara Debus, Jennifer Yahner, *Employment after Prison: A Study of Releases in Three States*, Urban Institute. October 2008

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individuals successfully transition benefits the individual, their families, county residents and the county budget.

**VALUE OF COUNTY GOVERNMENT FUNDING**

According to Ms. Benner, Frederick County's recidivism rate has stayed at or near the 50% level for at least the last few years. Although the correctional system is working as much as possible with inmates to ensure they are able to find jobs and other trainings if the inmates are work release eligible, they are not able to provide services to people at the work site or in the community once released. Maryland's parole and probation staff are stretched thin and can barely stay connected to their caseloads; they certainly cannot provide training and on-the-job assistance.

With revenues raised through its retail sales, Goodwill® has been able to offer some level of supports to inmates with a goal to break this cycle. However, with limited resources, Goodwill® is unable to provide the work site supports that county staff believes are essential to ensuring inmates stay employed in the community. Goodwill's experience with similar populations has proven that these additional supports can make a difference in an individual's ability to stay employed. Research shows that employment is a very important factor in whether an ex-offender returns to criminal activity or becomes a productive member of society. Without these programs, counties will continue to pay the cost to housing "revolving-door" individuals in the correctional system for years to come, and will suffer the consequences of a section of the population disengaged from work.

**RESPONSE TO PROBLEM**

Earlier this year, Goodwill® Industries of Monocacy Valley, Inc. (Goodwill®) based in Frederick, MD, expanded an existing partnership with the Frederick County Sheriff's Office at the Work Release Center with a goal to provide job retention and transitional services that will ultimately reduce the county's recidivism rate. Goodwill® has been providing Microsoft Word and Excel classes as well as life skills workshops to inmates at the Work Release Center since 2007.

Limited revenues from Goodwill's retail operation currently fund this initiative. Using its own funds, Goodwill® began providing transitional services to the inmates beginning in February 2009. The Frederick County Sheriff's Office has three counselors that can provide job readiness and job placement assistance to inmates, but they are unable to support inmates at the worksite. With Frederick County's support, Goodwill® now offers job coaching and retention services to

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the inmates to ensure they stay employed and successfully transition back into society, thereby preventing their return to jail, thus transforming them into productive Frederick County citizens.

Since beginning the new services, Goodwill® has found that almost all of the individuals being released into the community are extremely unprepared for this transition. Without Goodwill's® support, most of them would not have had a place to live, no access to medication, and no plan to get themselves back and forth to work. Many of these individuals have disabilities that have contributed to their inability to maintain employment and function in society. With Goodwill® staff's intervention, the individuals were given the tools to manage their disabilities and the resources to live in the community and maintain their employment, a key factor in their ability to succeed. Financial support of this type of programming is critical to reducing the high rates of incarceration in the United States.

**SUCCESS STORY**

James sat in the workshop hoping the time would go fast. He did not really want to be in the class. He was assigned to attend and he had nothing else to do but watch TV so he thought he would just sit through it. The first question discussed in class was "Who is responsible for you being where you are in life"? James knew the answer to this one, "not me". The second question was "What does 'Self-Determination' mean to you"? For this question, James did not have a clue!

James was asked by the instructor to make two lists, the first one to include "what he had been responsible for" and on the second list "what everyone else had been responsible for" to reach this point in his life. As James developed and reviewed his two lists, he was not very happy. He came to realize that he was responsible for where he was in his life. James wanted to point a finger at his past employers, friends, partners and the law for his unhappy state (being in Work Release) but the finger just would not go that way. James felt he was trapped and no matter how much he wanted to move forward, it just was not in the cards for him.

James started to think; "If I really want to change my life, if I am determined to be more than what I am, how do I start?" With support from the instructor in the Self-Determination Workshop James started to set goals, read material on self-confidence and began to believe that he could change his life with the right steps. James starting understanding that the term "Self-Determination" does not mean being stubborn, hardheaded or that things have to be your way. It is being determined to change and control your life.

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For the first time in his life, James applied for a job and used "positive self-talk" during the interview. To his surprise, James was offered the job. It was not a surprise to his support team but James was not used to believing in himself or being positive that anything good would come his way. James began his new position with a great attitude. His self-esteem started to build and James became more determined to change his life. James realized that he had been responsible all along for his life but had wanted to blame everyone else!

As James was getting closer to his release date, he met with Goodwill® staff to assess his needs and plan his transition back into the community. James needed a place to live, furniture, a rent deposit and so much more. He did not even want to think of being homeless but he knew there was a good chance of it. James did not believe anyone would want to rent to him given that his job was new; he had a criminal background; no real references; and other barriers. James knew he had to pick himself up and not waste time feeling sorry for himself. James was determined to achieve his goals.

With support and determination, James found a place to live upon release and did not spend one night homeless. He is growing in his job and his Manager speaks highly of James. James understands there will be "speed bumps" in life; however with support he is determined to make it this time.

Goodwill® has other cases studies of the effectiveness of pre-release and support services; we are in consultation for our fellow Goodwill® organizations throughout the state of Maryland in order to address these issues, and design effective and meaningful service delivery as part of our agencies' overall missions. We need funding to ensure that these services are designed to be responsive, accessible to those who need them, designed with achievable and measurable outcomes, and have built-in evaluative mechanisms to allow a high level of accountability.

We ask that lawmakers throughout the country at the local, state and federal levels, consider the capacity of organizations such as ours, with our networks of service providers and service system colleagues, and our ability to maximize funding through strong collaboration and quality service provision.

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400 East Church Street  
Frederick, Maryland 21701  
301-662-0622  
[www.gimv.org](http://www.gimv.org)

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CHAMBERS OF  
JAMES F. HOLDERMAN  
CHIEF JUDGE

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
219 SOUTH DEARBORN STREET  
CHICAGO, ILLINOIS 60604

TELEPHONE  
312-435-5600

December 14, 2009

The Honorable Arlen Specter  
United States Senate  
711 Hart Senate Office Building  
Washington, DC 20510

The Honorable Benjamin L. Cardin  
United States Senate  
509 Hart Senate Office Building  
Washington, DC 20510

Re: Starting a Re-entry Program in the  
Northern District of Illinois

Dear Senators Specter and Cardin:

Thank you for your letter of December 9, 2009. I received it today.

We judges in the Northern District of Illinois are happy to report that over the last few months, we have been preparing to commence a re-entry pilot program in our district in early 2010.

United States District Judges Joan Gottschall and Ruben Castillo co-chair our district's Re-entry Program Committee. They have been working diligently and harmoniously with personnel from the other pertinent governmental offices to put our re-entry program plan into action.

I applaud your work in this area and the success you reported in the Eastern District of Pennsylvania. Chief Judge Bartle is a friend, and we intend to call on him for advice as we move forward.

We appreciate your support and look forward to similar success in the Northern District of Illinois.

Thank you again for your support and interest.

Sincerely,

James F. Holderman

cc: The Honorable Richard J. Durbin  
Chief Judge Harvey Bartle III

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF PENNSYLVANIA

CHAMBERS OF  
YVETTE KANE  
CHIEF JUDGE

FEDERAL BUILDING & U.S. COURTHOUSE  
228 WALNUT STREET  
P.O. BOX 11817  
HARRISBURG, PA 17108-1817

December 16, 2009

Hon. Arlen Specter  
United States Senate  
711 Hart Senate Office Building  
Washington, DC 20510

Dear Senator Specter:

Thank you for your letter of December 9, 2009, and for your recommendation that the Middle District of Pennsylvania implement an offender re-entry program.

I am pleased to report to you that the Middle District of Pennsylvania is already served by such a program. Our C.A.R.E. (Court Assisted Re-Entry) program offers extensive support and supervision to at-risk offenders as they return to their homes and families, and strive to rebuild their lives after incarceration. We believe that such a program serves our community and is an important part of fulfilling the mission of the court.

C.A.R.E. is a fully volunteer effort that imposes no additional costs to the taxpayers. The dedicated judges, prosecutors, public defenders and probation officers who participate do so without additional compensation or consideration.

I am proud of the cooperative spirit this program evidences, as I am sure you will be. I invite you to visit our district to learn more about C.A.R.E. whenever your schedule will allow.

Sincerely,



Yvette Kane, Chief Judge  
United States District Court  
Middle District of Pennsylvania

YK/dmm

cc: Leonard R. Bogart, Chief, U.S. Probation Officer  
Dennis C. Pfannenschmidt, United States Attorney  
James V. Wade, Chief, Federal Public Defender

Statement of

**The Honorable Patrick Leahy**United States Senator  
Vermont  
November 5, 2009

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Statement Of Senator Patrick Leahy (D-Vt.),  
Chairman, Senate Judiciary Committee,  
Subcommittee On Crime And Drugs Hearing On  
"The First Line Of Defense: Reducing Recidivism At The Local Level"  
November 5, 2009

I thank Senator Cardin for holding this important hearing focused on reducing recidivism through improved programs at the local level for those reentering the community from jails and prisons. I have worked hard over the years to make progress on this issue, including working with now-Vice President Biden, and Senators Brownback and Specter and others to pass the Second Chance Act last year to support and strengthen prisoner reentry programs in communities around the country. I am glad that Senator Cardin is joining this important effort.

As a former prosecutor, I strongly believe in securing tough and appropriate prison sentences for people who break our laws. But it is also important that we do everything we can to ensure that when these people get out of prison, they enter our communities as productive members of society. We must begin to reverse the dangerous cycles of recidivism and violence.

In recent years, Congress and the States have passed a myriad of new criminal laws creating longer sentences for more crimes. As a result, this country sends more and more people to prison every year. There are currently more than two million people in jail or prison, and there are more than 13 million people who spend some time in jail or prison each year. Most of these people will at some point return to our communities. What kind of experience inmates have while incarcerated, how we prepare them to rejoin society, and how we integrate them into the broader community when they get out are issues that profoundly affect the communities in which we live.

I look forward to hearing the testimony of today's witnesses on ways we can reduce recidivism by focusing on reentry at the local level. These ideas will be important as we consider reauthorization of the Second Chance Act next year. I hope that Senator Cardin will join with Senator Brownback and me as we consider ways to improve and expand upon the success of that important piece of bipartisan legislation.

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**Department of Justice**



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**STATEMENT FOR THE RECORD OF  
MARY LOU LEARY  
ACTING ASSISTANT ATTORNEY GENERAL**

**BEFORE THE  
SUBCOMMITTEE ON CRIME AND DRUGS  
COMMITTEE ON THE JUDICIARY  
UNITED STATES SENATE**

**ENTITLED  
"THE FIRST LINE OF DEFENSE: REDUCING RECIDIVISM  
AT THE LOCAL LEVEL"**

**NOVEMBER 5, 2009**

**MARY LOU LEARY  
ACTING ASSISTANT ATTORNEY GENERAL  
OFFICE OF JUSTICE PROGRAMS  
U.S. DEPARTMENT OF JUSTICE**

Mr. Chairman, Ranking Member Graham and Members of the Subcommittee: I am pleased to have the opportunity to discuss the Department of Justice's (DOJ) efforts to reduce the nationwide recidivism rate, decrease the billions of dollars spent annually on incarceration and ensure returning offenders have the tools they need to become contributing members of their communities. We appreciate this Subcommittee's interest in this issue.

My name is Mary Lou Leary and I am the Acting Assistant Attorney General for the Office of Justice Programs (OJP) within the Department of Justice. OJP's mission is to provide leadership and services in grant administration as well as criminal justice policy development to support local, state and tribal justice strategies to achieve safer communities.

According to OJP's Bureau of Justice Statistics, there are currently more than 1.5 million individuals serving time in federal and state prisons and another 786,000 incarcerated in local jails. About 725,000 offenders are released from prison and millions of people cycle through local jails every year. Ninety-five percent of all prisoners incarcerated today will eventually be released and will return to their communities. In the vast majority of cases, these offenders have received little or no preparation for their return to society. As a result, many return to prison, having committed more crimes and victimized more people. This is a serious matter of public safety, and at OJP we're responding to this challenge in a number of ways.

First, as a general matter, we believe we have a responsibility to be not only tough on crime, but – more importantly – smart on crime. This means supporting programs that are backed by evidence of effectiveness. Second, we need to make sure that returning offenders have the tools they need to become contributing members of their communities. Our role is to facilitate partnerships between community groups and corrections and other justice system agencies to make sure services, such as job training, substance abuse and mental health treatment, and housing and employment assistance, are available beginning at an offender's incarceration and continuing after release.

At OJP, we're working toward this goal through our Second Chance Act Offender Reentry Initiative. In Fiscal Year (FY) 2009, OJP's Bureau of Justice Assistance (BJA) and Office of Juvenile Justice and Delinquency Prevention (OJJDP) solicited applications under five grant programs: Second Chance Act Mentoring Grants to Nonprofit Organizations; Second Chance Act Prisoner Reentry Initiative Demonstration Grants; Second Chance Act National Adult and Juvenile Offender Reentry Resource Center; Second Chance Act Youth Offender Reentry Initiative; and Second Chance Juvenile Mentoring Initiative.

These comprehensive programs are designed to assist individuals' transition from prison back into the community through a variety of services for adult and juvenile offenders such as mentoring, literacy classes, job training, education programs, substance abuse, rehabilitation and mental health programs. Specifically, the Mentoring Grants to Nonprofit Organizations and Youth Mentoring Grants are designed to support organizations that provide mentoring services for adult and juvenile offenders. The Youth Offender Reentry Initiative and the Adult Offender Demonstration Projects provide grant funding to local, state and tribal entities and may be used

for a constellation of services promoting successful reentry among juvenile and adult populations, such as pre-release planning and coordination, employment services, substance abuse and mental health treatment, housing, family programming, mentoring, victims services, and methods to improve release and revocation decisions using risk-assessment tools. The National Adult and Juvenile Offender Reentry Resource Center provides technical assistance and training in policy development, offender reentry programs and research.

In October 2009, OJP announced more than \$28 million in grant funding to states, local governments and non-profit organizations through these five initiatives, which support reentry programs throughout the United States. OJP also announced the creation of the National Adult and Juvenile Offender Reentry Resource Center with a national partner, the Council of State Governments (CSG) Justice Center. Through the Reentry Resource Center, OJP, the CSG Justice Center and many other national organizations will provide valuable training and technical assistance to states, localities and tribes to develop evidenced-based reentry programs that will help reduce the recidivism rate, while still protecting the communities they serve. Grants awarded under these five initiatives were based on a program's evidence-based process and the delivery of evidence-based services during and after confinement.

For example, the Center for Children and Families (CFC) in Ohio received a Second Chance Act Mentoring for Non-profit Organizations Grant to establish a mentoring program that aims to assist individuals who are currently incarcerated as they transition back into the community. Working closely with other reentry organizations and the Ohio Department of Rehabilitation and Corrections, the program uses a four-phase structure, beginning with

assessment and identification of needs. In the second phase, the clients, mentors and service providers create a reentry plan and begin GED certification if necessary. Education and employment training occur in the third phase, and placement occurs in the fourth phase. Mentors ensure the clients are transitioning successfully for at least 180 days, but mentors are meant to serve as positive role models and assist the clients throughout the process, and will remain in contact with the clients for a year.

Another example is in New York, where Adult Demonstration grant funds will be used to support and expand Harlem Parole Reentry Court operations. Specifically, the funds will support: Pre-Discharge Planning, including conducting comprehensive pre-release assessments of potential participants to identify service needs to develop customized treatment and supervision plans for each participant; Assessment, using the Correctional Offender Management Profiling for Alternative Sanctions (COMPAS) within first week of release, at 3 months, at 4.5 months and at 6 months, which will refine supervision plans (COMPAS is a statistically based risk and needs assessment specifically designed to assess key risk and needs factors in adult and youth correctional populations); Judicial Monitoring, including required appearances at the court so compliance and progress can be monitored; Collaborative Case Management and Coordinated Services; Cognitive Behavioral Therapy; Job Readiness and Employment; Family Support; Housing; Victim Services; Graduation and Case Transfer; and Aftercare. This program relies heavily on collaboration with the New York Office of the Criminal Justice Coordinator, the Division of Parole, the New York State Department of Correctional Services, the City's police, fire, correction, probation and juvenile justice departments, the Center for Court Innovation and the Upper Manhattan Reentry Task Force.

The Administration is committed to furthering the goals of the Second Chance Act. The President's FY 2010 budget request includes \$100 million for the Second Chance Act Offender Reentry Initiative. This funding level represents an increase of \$75 million over the FY 2009 funding level. In addition, the budget proposes to set aside \$10 million for research authorized under the Second Chance Act, furthering our goals in supporting evidence-based initiatives.

OJP is committed to focusing on better outcomes for communities and not relying exclusively on punishment. Problem-solving courts are one way to do this. Drug treatment courts, for instance, place non-violent offenders in treatment, not in prison, so that the underlying cause of their criminality – addiction – can be addressed.

Research supports the conclusion that drug courts significantly improve mental health and substance abuse treatment outcomes, substantially reduce crime, and produce greater cost benefits than any other justice strategy. In May 2008, with support from BJA, the National Drug Court Institute released its National Report Card on Drug Courts and Other Problem-Solving Court Programs in the United States. This report shows that problem solving courts, such as Drug Courts and Mental Health Courts are demonstratively effective. Also, in February of 2005, the Government Accountability Office (GAO) issued its third report on the effects of adult criminal drug courts. Results from 23 program evaluations confirmed that drug courts significantly reduced crime (<http://www.gao.gov/new.items/d05219.pdf>).

To assist state, local and tribal governments in implementing successful Drug Court programs, OJP awarded more than \$28 million under the Adult and Juvenile Drug Court Discretionary Grant Programs in FY 2009. During that same fiscal year there was a 147 percent increase in adult drug court grantees - BJA reviewed 162 applications and \$19.9 million was awarded to fund 93 adult drug court grants. In addition to these awards, \$2.4 million was set aside to fund training and technical assistance initiatives; \$400,000 was used to fund an Adult Drug Court Research to Practice Initiative; \$4.8 million for a supplemental training and technical assistance program; \$80,000 for the National Drug Court Conference; \$1.25 million was awarded to the National Drug Court Institute and to the Model State Drug Laws each; and \$10 million was transferred from BJA to OJJDP for juvenile and family drug court programs.

In pursuing its goals of reducing recidivism and increasing desistance from criminal activity, the Department recognizes the need to partner with states to help them reduce incarceration while maintaining, or even improving, the safety of their communities. Research shows that spending more on prisons does not mean more public safety. We are working with state probation and parole agencies to help them focus their efforts and their criminal justice dollars on targeting high-risk offenders, reducing prison populations and using the money saved on efforts that better serve public safety.

Despite some of the progress we're making, recidivism remains a complicated problem and we need to acknowledge that there is a lot more to learn in this area. At OJP, we are committed to investing in research to make sure we spend our public dollars wisely. For instance, one study we funded recently published results that could fundamentally change the

way we view ex-offenders and their potential for reintegration into society. In that study, researchers found that, if first-time arrestees remained “arrest-free” for 3 to 8 years, they were no more likely to be arrested in the future than individuals who had never been arrested. Statistically speaking, they had been “redeemed.” Think about what that could mean for ex-offenders in areas such as employment, housing, and loans. Perhaps just as important, think of what that means in our efforts to reduce crime and protect communities.

We look forward to working with Congress on reentry initiatives and continuing innovative, evidence-based approaches to reducing crime. Thank you for the opportunity to submit a statement for the record on this very important issue.

UNITED STATES DISTRICT COURT  
DISTRICT OF MARYLAND

BENSON EVERETT LEGG  
Chief Judge

101 West Lombard Street  
Baltimore, Maryland 21201  
410-962-0723

December 30, 2009

Senator Arlen Specter  
Senator Benjamin L. Cardin  
Hart Senate Office Building  
United States Senate  
Washington, DC 20510

Re: Re-Entry Court Programs

Dear Senators Specter and Cardin,

Thank you for your letter of December 9<sup>th</sup> concerning the nationwide problem of recidivism. The purpose of my letter is to report on the situation in the District of Maryland, including our current statistics and our plans for the future.

The recidivism problem in our district is, fortunately, less bleak than elsewhere. In the federal system, after a defendant is released from prison, he is actively supervised by a probation officer for a period that typically lasts two to five years. This period is called "supervised release."

Our district's Probation and Pretrial Services Office, which is led by William Henry, offers a number of drug treatment, educational, and vocational training programs. In most cases, the defendant's participation in one or more of these programs is mandatory. Moreover, the Probation Office is aggressive in helping the former defendant find work. This active supervision bears fruit, and 75 percent of the former defendants complete their term of supervised release without being re-arrested.

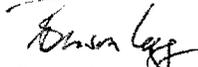
Despite the successes of our system, we are always looking for ways to improve. Last summer, our district sent a delegation to Chief Judge Bartle's court to study their program. That delegation was headed by Judge Alexander Williams, Jr. and included Senior Judge Marvin Garbis, William Henry, and others. The delegation's observations led to the implementation of a pilot program under Judge Williams, who will, after a study period, report to the bench in early 2010.

Re-entry court programs  
December 30, 2009  
Page 2

Finally, we understand that the Federal Judicial Center, the research and education arm of the Federal Courts, is conducting an analysis of existing re-entry programs, such as the one in the Eastern District of Pennsylvania. This study will provide useful information about what works in federal re-entry programs.

As always, we would be happy to discuss this, or any other issue concerning our court, with either you or your staff. Best wishes for the New Year.

Very truly yours,



Benson Everett Hegg

UNITED STATES DISTRICT COURT  
DISTRICT OF RHODE ISLAND  
ONE EXCHANGE TERRACE  
PROVIDENCE, RHODE ISLAND 02903-1779

MARY M. LISI  
CHIEF JUDGE

February 9, 2010

Honorable Arlen Specter  
United States Senate  
711 Hart Senate Office Building  
Washington, DC 20510

Honorable Benjamin L. Cardin  
United States Senate  
509 Hart Senate Office Building  
Washington, DC 20510

Re: Re-entry Court Programs

Dear Senators Specter and Cardin:

Thank you for your letter dated December 9, 2009, encouraging federal district courts to consider creating reentry programs. The judges of the District of Rhode Island share your commitment to lowering recidivism rates and helping individuals released from prison become productive members of society.

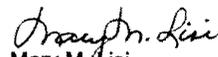
I refer you to the letter dated February 1, 2010 from Judge Anthony J. Scirica, Chair of the Executive Committee of the Judicial Conference, in which he noted that the districts of the federal judiciary are diverse. Rhode Island's District Court is one of the smallest in the nation; our criminal caseload for fiscal year 2009 consisted of 164 cases, while our civil case load consisted of 1,057 cases. Since Judge Ernest Torres took senior status in 2006 (and then fully retired in early 2009) my colleague, Judge William Smith, and I have managed the caseload of three active judges. This caseload includes a large number of complex, product liability cases. In doing so, we have tapped all available resources, including the assistance of our senior judge Ronald Lagueux, and a recalled magistrate judge, to keep current in our caseload. As Judge Scirica described, "maintaining intense court involvement in reentry programs requires the increased time of judges, probation officers, defenders, and prosecutors." Under these circumstances, we do not presently have the resources and personnel necessary to implement a successful reentry program.

Senators Specter and Cardin  
February 9, 2010  
Page 2

Nevertheless, we have been impressed by the success of reentry courts in our circuit and throughout the country. Accordingly, we support the current and future efforts of the Executive Committee of the Judicial Conference of the United States in determining which reentry practices would be most suitable and effective for a small district like ours. We await the results of the study now being undertaken by the Federal Judicial Center and the resulting recommendations from the Judicial Conference and will be happy to devote resources to the issue once we have our full complement of judges.

I thank you, again, for your ongoing support and encouragement of the Federal Judiciary and its programs.

Sincerely,

  
Mary M. Lisi  
Chief Judge

cc: Senator Jack Reed  
Senator Sheldon Whitehouse  
Chief Judge Sandra Lynch

99

Statement by

Stefan LoBuglio, Chief  
Pre-Release and Reentry Services Division  
Montgomery County (Maryland) Department of Correction and Rehabilitation  
11651 Nebel Street  
Rockville, Maryland 20852  
301/240-773-4262

stefan.lobuglio@montgomerycountymd.gov

Hearing before the  
Senate Judiciary Committee

Subcommittee on Crime and Drugs

On

The First Line of Defense: Reducing Recidivism at the Local Level

Thursday, November 5, 2009  
Dirksen Senate Office Building Room 226  
2:00pm

1

Senator Cardin, Ranking Member Graham, and distinguished members of the Subcommittee,

My name is Stefan LoBuglio and I am Chief of Pre-Release and Reentry Services (PRRS) for the Montgomery County Department of Correction and Rehabilitation (DOCR) in Maryland. In my position, I have the privilege of working with a dedicated staff of correctional professionals to oversee a community correctional program that transitions soon-to-be released convicted and sentenced offenders back into our community. Today, PRRS has 175 participants: 26 from the Federal Bureau of Prisons; 5 from the Maryland State's Division of Correction; 144 are from the two jails in Montgomery County; and 20 of whom are women.

PRRS requires participants to work, participate in treatment, and to engage with families prior to release from institutional custody. Most reside in our accredited 177-bed community correctional facility, which is located 15 miles from this hearing room in Rockville Maryland. For over forty years, the program has served over 16,000 individuals. In concert with the other operational divisions of the DOCR, PRRS serves as a vital component of the county's investment strategy to effectively and judiciously use jail beds and community-based programs to maximize public safety and to minimize social and economic costs.

Our program is one of many successful models of prisoner reentry that exist across the county, and our field has seen an explosion of interest in this topic over the past decade. However, with all of the accumulated knowledge about "what works" in prisoner reentry, an important question to ask is why has reentry not penetrated the core of correctional practice for most of the 3,000 jail systems and 50 state prison systems in this country? Some of the delay is certainly a matter of time required to change complex correctional operations. Our country has spent three decades quintupling our incarcerated population and it will take many years before prisoner reentry strategies become pervasive. A second and less examined reason, though, concerns the lack of incentives for correctional agencies to fully embrace a commitment to reentry and to take responsibility for lowering recidivism rates. Providing care, custody, and control in our jails and prisons is challenging enough but fully within the scope and ability of correctional professionals. Reentry, however, requires a community focus and its results are not easily measured, understood, or controlled.

In my testimony today, I want to focus on the incentive problem and suggest two critical roles that the federal government can and should play to expedite and make inevitable the change process towards robust reentry strategies in our correctional systems. The first involves providing states and local jurisdictions with incentives to develop an infrastructure of One-Stop Reentry Residential Centers (ORRC) in conjunction with the Federal Bureau of Prisons. These centers would transition individuals leaving federal and state prisons and local jails through a regimen of work, treatment, and family engagement in the last months of their sentence. Too many of our state and federal prisons and local jails are overcrowded and lack the option to place minimum security inmates into such programs to reduce the prison and jail

populations and to improve reentry services. As described in Appendix A, the Montgomery County Pre-Release Center provides a viable model that demonstrates the considerable benefits that these centers provide to the incarcerated population, their families, the community, and the overall functioning of the correctional system.

The second federal role involves developing robust data systems and analytical capabilities that would allow jurisdictions at all levels to measure key reentry performance measures in real time, and to readjust resources and policies as needed. The COMPSTAT model of informational analysis and resource deployment that transformed the New York City police department in the 1990s and that has fueled the growth of community policing nationwide provides the example for what is needed to spur the development of reentry strategies. Unfortunately, the myopic focus on recidivism rates as the single measure of success of reentry programs often obscures other key measures of community well-being and public safety. Also, recidivism proves surprisingly difficult to measure and interpret. For a recent study in Montgomery County, we encountered significant challenges in using several outmoded criminal justice record systems replete with missing data to compute recidivism rates. While the total three-year recidivism rates appeared high, we found upon further review that recidivism involving serious offenses was only one-third to one-fourth of the total rate. Preliminary results from that study are presented in Appendix B.

I will leave it to the other panelist to describe why jails “matter” in the current discussion of prisoner reentry, and they do because of their size, scope, and the cost and complexity of their operations. In previous testimony that I submitted to the House Judiciary Committee in March 2007 on behalf of the Second Chance Act of 2007, I also addressed these issues at length:

<http://judiciary.house.gov/hearings/March2007/LoBuglio070320.pdf>

#### **One-Stop Reentry Residential Centers**

Federal incentives are needed to spur state and local correctional agencies to collaborate with the Federal Bureau of Prisons (FBOP) to develop the nation’s infrastructure of community-based One-Stop Reentry Residential Centers (ORRC). These centers would offer more structured services and monitoring than typical halfway houses and would transition soon-to-be released prisoners from the federal, state, and local systems. They could be privately or publicly run, would be located near transportation networks and jobs, and would meet minimum standards of facility operations and services along the lines developed by the FBOP. The ORRC would address the fact that prisoners return from all three correctional systems at different frequencies and times but have similar transitional needs and present similar public safety risks. Within a community, the ORRC would serve as the nexus for social services including housing, substance abuse, and mental health treatment, and serve as a coordinating mechanism with corrections, probation and parole, and local law enforcement to ensure that those returning are monitored carefully and appropriately.

Many studies of federal, state, and local correctional systems find that inmates are over-classified – meaning that they are occupying prison and jail beds at a security levels higher than warranted -- often due to the lack of available community correctional beds. This is a costly policy problem and affects public safety through overcrowding. If one considers a medium/maximum prison cell as a scarce resource, good correctional practice would reserve these beds for the truly dangerous and newly incarcerated rather than those classified at minimum security and those soon-to-be released. Increasing community correctional pre-release beds will make all of our prisons safer for staff and inmates by providing much greater incentives for inmates to comply while in custody in order to have a greater chance of being “stepped down” to a community program. Research amply demonstrates the ability of these programs to reduce recidivism and improve institutional operations.

The Federal Bureau of Prisons currently oversees and funds the largest number of ORRC-type programs. Under mandate from the Second Chance Act of 2007 and with the support of its leadership, the FBOP has accelerated its efforts to place federal prisoners in ORRCs when they are within one-year of release. They have developed an excellent system of oversight to ensure that locally-run programs meet the Bureau's strict set of performance and correctional standards. However, the FBOP is constrained by the absence or limited availability of community correctional beds in some jurisdictions such as Northern Virginia, and soon-to-be released prisoners are either placed in ORRCs that are not proximate to their returning communities and/ or spend much less time in the limited community beds that need to be rationed.

There is a chronic shortage of community correction beds in our country yet curiously many go unused on a daily basis due to poorly coordinated practices between the different correctional agencies that contract for them. While the number of prisons vastly expanded in the past 30 years, there has been no proportional increase in community correction facilities. Many non-profits and religious organizations that have operated these centers often lack the financial capital required to bring them up to higher building codes and correctional accreditation standards, and some beds and facilities have been taken offline.

In some jurisdictions, the agency or organization running the community correctional facility may prefer to contract with the FBOP due to its ability to pay a higher contract cost than most state and local correctional agencies. Community correctional beds are not necessarily cheaper than institutional beds, and in tight budget times, state and local correctional agencies often cut these programs first. However, probably the larger reason for the low utilization rates concerns the lack of incentives that state and local correctional agencies have to fully engage in a reentry mission beyond the challenges of running clean, safe, and orderly institutions that meet correctional and constitutional standards.

Simply put, correctional agencies bear the costs and risks of reentry while the benefits accrue to individuals and the general community in ways that are hard to measure. Commissioner A.T. Wall of Rhode Island relates two closely-spaced incidents

in his career that illustrate this paradox. A prisoner from a maximum security institution escaped but fortunately was apprehended. The escape triggered a public outcry for Wall's resignation, which Wall said he could understand. As commissioner he was ultimately responsible for safeguarding the prisoners in his system. By way of contrast, however, when a former prisoner committed a vicious killing just days after release, why no one sought to put blame on him for poorly preparing this individual for release. The lesson, he said, was that correctional agencies will be held responsibility for the actions of individuals while in custody, but not after release. By definition, reentry extends the reach of corrections into the community and beyond the safe confines of the prison walls which makes it feel risky.

The most notorious example of the risk averseness in community corrections was the decision by the Massachusetts Department of Correction to discontinue the use of halfway house beds in 1988 in response to the highly publicized and politicized case of Willie Horton. Horton escaped from a furlough program in Massachusetts and committed a heinous crime in Maryland before his apprehension. Many other correctional systems also retrenched their commitment to community corrections as a result of this case. Under the leadership of a new commissioner, the Massachusetts DOC finally did resume using halfway house beds in March of 2009 after a 21 year hiatus.

To address the concerns about risk, federal incentives could coalesce a wide spectrum of stakeholders from law enforcement to human service providers who have come to understand the public safety and human dimensions of prisoner reentry. Such a coalition could potentially mitigate the risk to correctional agencies in engaging in reentry by taking some ownership and responsibility in the program themselves. The coalition could also prove helpful in overcoming some of the resistance to site ORRC facilities near jobs and transportation. In some jurisdictions, the political will and correctional leadership may prove insufficient, and communities may decide not to allow the development of these community correctional centers. However, other jurisdictions may argue persuasively that ORRCs will prove more effective and safer in reentering local, state, and federal prisoners upon release to communities than the alternative of having them live transiently on the streets, shelters, and on the couches of friends.

Federal incentives can change the landscape of corrections. In 1994, the Truth-in-Sentencing legislation tied federal subsidies for corrections to sentencing reforms and helped spur a boom in the construction of prisons. Under this proposal, the federal government could use the same strategy by offering assistance to build and operate One-Stop Reentry Residential Centers for those state and local jurisdictions that agree to an integrated prisoner reentry strategy in coordination with the Federal Bureau of Prisons.

#### **Develop Reentry COMPSTAT-type Informational Systems**

As more jurisdictions develop reentry strategies, there is a federal role to help state and local authorities develop modern informational systems that can provide real-

time analysis about their operations and effectiveness. Currently, management information systems in many court and correctional systems are poor and prevent professional managers from receiving feedback about what is working in the area of reentry. Many of these systems were designed in the 1970s to handle the custodial and administrative duties of running correctional institutions, and not easily adapted to track key reentry performance measures. Without federal intervention, the prospects for evaluating performance and being smart about the use of resources to further reentry goals are dim. At a recent conference of the National Association of Sentencing Commissions, Professor Anne Piehl of Rutgers University rued that in 2009 the difficulty of understanding and using criminal history data to compute recidivism rates and explore other key performance measures is just as challenging as it was twenty years ago, despite the revolution in information technology that has transformed so many other aspects of our society.

As evidence of this problem, I would like to mention a recidivism study that we recently conducted in Montgomery County in collaboration with a consulting organization and with funding from the Governor's Office of Crime Prevention and Control. The preliminary analytical results are presented in Appendix B; one of the main findings was just how difficult it was to conduct a comprehensive study. Even with four doctorate-level researchers and experts in interpreting criminal records from the local, state, and federal record systems, we had to access seven databases, contact half-a-dozen agencies and establish data sharing arrangements, print and review tens of thousands of pages of RAP sheets, develop algorithms to translate data from paper and from electronic sources consistently into newly created databases, and to double check constantly for inconsistencies and missing data. For instance, we were surprised that the overlap in capturing Part I crimes in the FBI/NCIC databases and the Maryland State Record of Arrest and Prosecution was highly imperfect, and records were needed from each of the systems to complete a comprehensive criminal record for the individuals in our study sample.

Not surprisingly, the harder we looked for criminal records and the more sophisticated our data culling strategies became, the higher became our computed rates of recidivism. This gives credence to concerns that programs that receive funding based on promised reductions in recidivism will have few incentives to conduct exhaustive analyses. In our study, we found that our recidivism rates were one-third higher than would have been measured by the "usual" technique of looking at Maryland state data only. Without access to effective Reentry information systems, it will prove difficult to determine which programs are working for whom and to what extent.

With federal support, we also need to develop information systems that help us use recidivism rates to better understand offender flow within criminal justice and social services systems for policy analysis, rather than as a crude measurement of program success. Recidivism is affected by many factors including changes in police, probation, and parole practices, and requires a nuanced understanding. For instance, in our study, we were surprised that adding measures of Violations of Probation as recidivist events to arrests did not markedly increase recidivism rates, which is contrary to the

experience of other jurisdictions. This finding might lead us to examine our data sources to ensure that we were fully capturing all VOPs and also to confirm with the state probation and parole about their possible use of graduated sanctions.

Similarly, our study found relatively high rates of recidivism by arrest and by conviction within three years of release which were on the order of those measured by national studies. However, a careful analysis of the recidivist offense types found that rates of recidivism based on offenses classified as serious was one-third to one-fourth of the overall rate, which again provides useful information for policy development. Through our use of survival analysis and hazard modeling, we also tracked the timing of recidivist events, which would allow us to explore and determine whether programs might both reduce and delay recidivism.

### **Conclusion**

Prisoner Reentry requires leadership as much as it requires resources. Fortunately, as evidenced by the work of the other panel members in today's hearing, are field has no shortage of excellent practitioners and researchers who have advanced knowledge and understanding about promising strategies to transition soon-to-be released individuals from the country's jails and prisons. We also have many leaders from other government agencies and community institutions ranging from the police and faith-based organization who now strongly support reentry and who have declared a willingness to share the work, costs, and risks. However, as described in this testimony, I believe there is a need for a federal role to accelerate the adoption of reentry strategies in many more correctional systems, and two areas that it can help is by adding to the capacity of community correction beds and by helping usher in new information technology systems that can measure reentry outcomes. Through the careful use of incentives, the federal government can achieve these goals by coordinating and managing the sometimes competing and sometimes concurrent needs of the Federal Bureau of Prisons, the state prison systems, and the local jails systems to develop an integrative strategy of prisoner reentry for communities.

**Appendix A: Montgomery County (Maryland) Reentry Programs**

The Pre-Release and Reentry Services (PRRS) Division of the Montgomery County Department of Correction and Rehabilitation is a work-release residential program that began in 1969 and has served over 16,000 individuals

PRRS operates out of a 177-bed two-story residential community correctional facility that is located close to jobs and transit in Rockville Maryland that has been continuously accredited since 1983 by the American Correctional Association. It also oversees a home confinement program that allows carefully selected individuals – most of whom have first lived and participated successfully in the program at the Center – to complete their sentences in their pre-approved and pre-inspected homes under electronic monitoring. On a given day, the program serves approximately 180 individuals, which comprise almost 30% of the population sentenced to our local correctional system to a sentence of 18 months or less.

The Pre-Release and Reentry Services (PRRS) Division provides residential and non-residential reentry services to convicted and sentenced individuals who are within 12 months of release and who have been incarcerated in the county's correctional system. Additionally, the Division is contracted by the Maryland State Division of Correction and the Federal Bureau of Prisons to serve prisoners in state and federal custody who are within six months of release and who are returning to Montgomery County and the Greater Washington Metropolitan area. The program carefully screens and accepts only those individuals that it assesses can be safely managed in a community setting regardless of offense type with one exception. While the program will accept sex offenders and individuals convicted of violent offenses including homicide, it excludes individuals convicted of prior escape. The Division advances the Department of Correction and Rehabilitation's mission to improve public safety and reduce victimization, and relies on a considerable body of research that demonstrates the cost-benefit advantages of releasing incarcerated individuals through a highly-structured community-based program.

PRRS requires program participants to work, pay room and board, file state and federal taxes, and address restitution and child support obligations. Each client works with several staff members including a case manager to develop an individualized reentry plan that addresses their specific transitional needs including employment, housing, treatment, and medical services. Whenever possible, family members of clients are encouraged to participate in the development of the plan. Additionally, the program holds clients accountable for their location at all times, and clients only access the community with pre-approval. Through the use of the latest technologies in electronic monitoring, substance abuse testing, and by utilizing mobile teams of staff, clients are held to high standards of conduct and compliance. There is a zero-tolerance policy with regard to engaging in criminal activity, using drugs and alcohol, and accessing the community at locations and times that have not been approved. Individuals found in violation of such policies are immediately returned to secure detention. In a given year, the program serves over 700 clients and 85% successfully

complete the program. In 2008, they earned collectively \$1.9 million, paid over \$332,000 in county, state, and federal taxes, paid over \$300,000 in program fees, contributed almost \$200,000 in child support, and over \$10,000 in restitution.

PRRS is but one of four operational divisions of the Montgomery County Department of Correction and Rehabilitation -- one pre-trial division, one central processing unit (CPU) jail, and one longer-term holding detention center -- which work in concert, to carry-out our forty year mission to efficiently and effectively use jail beds and community-based programs to maximize public safety and minimize societal costs. In all aspects of our operations, we are guided by best practices and evidenced-based research.

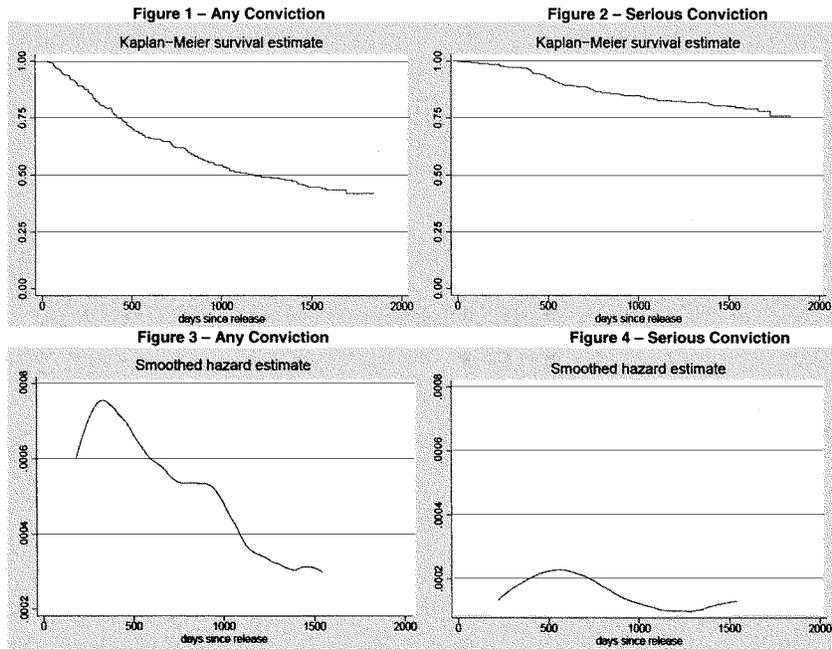
Working with the courts, prosecutors, and the defense bar, the pre-trial division diverts over 2,300 individuals arrested from our jail back into the community before adjudication. They either remain on pre-trial supervision status during which they are closely monitored and drug tested, or they are sentenced to an alternative drug treatment and community services program that will expunge the offense from their criminal record if they successfully complete the program. In our main jail called the Montgomery County Correctional Facility, we fold library services, educational programs, drug treatment programs, job training, and case management partnerships with community providers into an overall reentry strategy for inmates who are within 90 days of release. Sixty-day ID passes are issued as temporary forms of identification and also serve to allow released individuals to ride the county buses and access the county library system. Additionally, the County's Department of Economic Development and the County's Workforce Investment opened up the nation's first One-Stop Career Center located within the secure perimeter of the correctional facility, and staff from the county's workforce agency has worked steadily to place soon-to-be released inmates into jobs.

One of the chief characteristics and greatest strengths of our system is our community and interagency partnerships, and the DOCR has long recognized the vital necessity of reaching out and welcoming other government agencies from law enforcement to human services, to community providers, to faith-based organizations to help us deliver services and assess the risk and needs of our population. In our system, we find that our efforts to develop reentry services add significantly to the community well-being, the improvement of our clients, and well as assisting us with the operational basics of running safe, clean, and orderly correctional institutions for the benefit of our staff. More information about the Montgomery County (Maryland) Department of Correction and Rehabilitation are available on our website: [www.montgomerycountymd.gov/cor](http://www.montgomerycountymd.gov/cor) .

**Appendix B: Montgomery County DOCR Recidivism Analysis – Initial Results<sup>1</sup>**

Recidivism Rates for DOCR Sentenced Inmates Released 2003/2004				
Category	One-Year		Three-Year	
	Male	Female	Male	Female
Any Conviction/Arrest all data	21% / 41%	14% / 32%	49% / 66%	35% / 54%
Any Conviction using only MD data	16%	9.2%	36%	22%
Serious Conviction/Arrest all data	7.4% / 6.4%	6.4% / 5.7%	19% / 17%	15% / 12%

N=294 male inmates & N=282 female inmates released from MCDC, MCCF, or PRRS



Figures 1 & 2 show the survival curves for sample of male inmates, which are the cumulative proportion surviving over time from release. At the moment of release from custody, 100% are out of custody. All those who have not been rearrested as of a given time are considered to have "survived." The curve shows what proportion remain arrest free at any given length of time from release. Survival curves provide more information than recidivism rates for a specified time period (i.e. 1 year or 3 year) because the curve shows how rapidly the recidivism occurs. In comparing curves for different populations, one compares how much and when the recidivism occurs. Figures 3 & 4 provide an alternate way to view the same phenomenon by plotting hazard rates for the male inmates, which show the rate at which people are recidivating. Hazard rates for recidivism generally rise sharply soon after release and then decline to relatively low levels.

<sup>1</sup> Data analysis by Dr. Anne Piehl, Professor, Rutgers University. In the fall 2007, Maryland's Governor's Office of Crime Control & Prevention funded Justice & Security Strategies to conduct a recidivism analysis of sentenced individuals leaving the Montgomery County Department of Correction and Rehabilitation. The study sample of approximately 600 inmates divided equally by gender were randomly selected from the entire cohort of 2000+ sentenced individuals leaving any of the DOCR's three correctional facilities – MCDC, MCCF, and PRRS in 2003/2004. The analysis presented herein was conducted using data from the local, state, and federal criminal administrative databases. The project is led by Dr. Craig Uchida (President, J&SS), Dr. Anne Piehl (Professor, Rutgers University) and Dr. Shawn Flower (Principal, Choice Research Associates) with support from DOCR's PRRS Assessment Manager Teresa Still and PRRS Division Chief Stefan LoBuglio, Ed.D. The soon-to-be released full report presents recidivism rates, survival estimates, and hazard estimates by many categories including age, race, gender, offense type, sentence length and recidivist event type.

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Testimony of the  
Honorable Stephen Manley  
Judge  
Superior Court of California  
County of Santa Clara

Senate Judiciary Subcommittee on Crime and Drugs  
The First Line of Defense: Reducing Recidivism at the  
Local Level”  
November 5, 2009  
Senate Dirksen Office Building, Room 226

To Acting Chairman Cardin, Ranking Member Graham, and distinguished Members of the Subcommittee, I am pleased to submit this statement that speaks one of the most pressing challenges facing our Nation, prisoner reentry. As a judge for nearly 30 years, I have not only seen first hand how the current system of justice has failed to reduce the ever growing rates of incarceration and recidivism but, more importantly, I have learned that if we make basic changes to our existing sentencing policies and parole and probation practices, utilizing an effective reentry court system with responsibility returned to the courts, and judges, we can and do produce better outcomes.

**The Prisoner-Reentry Population is Expanding Rapidly in the U.S.**

Over 650,000 inmates are released from U.S. prisons back into the community each year, and the number of released inmates has been growing steadily over the past few decades.<sup>1</sup> Approximately 93% of all inmates are eventually released from prison and approximately 45% of state prison inmates are expected to be released within a given year.<sup>2</sup> Currently, the ratio of new prison admissions to prison releases is approaching 1:1; that is, for every new inmate sentenced to prison, another inmate is released.<sup>3</sup> In part, this is the result of prison population caps that have been imposed in many jurisdictions, which require the total inmate head-count to remain steady or decrease in designated institutions. Absent the availability of new funds to build new facilities, some inmates must be released in order to make way for new entrants.

**Traditional Parole Supervision Has Been Unsuccessful**

Unfortunately, success on parole has been the exception rather than the rule. Less than one-half of parolees satisfy their conditions of parole supervision, including remaining abstinent from drugs or alcohol.<sup>4</sup> Within 3 years of their release from prison, approximately two-thirds of inmates are charged with a new crime and over one-half are re-incarcerated either for a new crime or for a technical parole violation.<sup>5</sup> Over 85% of drug-abusing offenders return to drug abuse within the first year after their release from prison and over 95% return to drug abuse within 3 years.<sup>6</sup>

Outcomes are even worse for inmates who “max out” on their sentences and are released without parole supervision. Unconditional releases are approximately 10% more likely to be rearrested for a new criminal offense than inmates released under parole supervision.<sup>7</sup>

<sup>1</sup> E.g., McCaskill, C. (2008). Next steps in breaking the cycle of reoffending: A call for reentry courts. *Federal Sentencing Rptr*, 20, 308-309.

<sup>2</sup> Petersilia, J. (2003). *When prisoners come home: Parole and prisoner reentry*. Oxford Univ. Press.

<sup>3</sup> *Id.*

<sup>4</sup> Solomon et al. (2005). *Does parole work? Analyzing the impact of post-prison supervision on rearrest outcomes*. Washington, DC: Urban Institute

<sup>5</sup> Langan & Levin (2002). *Recidivism of prisoners released in 1994*. Washington, DC: Bureau of Justice Statistics, U.S. Department of Justice. Spohn & Holleran (2002). The effect of imprisonment on recidivism rates of felony offenders: A focus on drug offenders. *Criminology*, 40, 329-357.

<sup>6</sup> Hanlon et al. (1998). The response of drug abuser parolees to a combination of treatment and intensive supervision. *Prison Journal*, 78, 31-44. Martin et al. (1999). Three-year outcomes of therapeutic community treatment for drug-involved offenders in Delaware. *Prison Journal*, 79, 294-320. Nurco et al. (1991). Recent research on the relationship between illicit drug use and crime. *Behavioral Sciences & the Law*, 9, 221-249.

<sup>7</sup> Solomon et al., *supra*.

### Reasons for Poor Outcomes on Parole

How do we explain these abysmal outcomes? My observation is that the problem stems primarily from the absence of the continuing authority of the courts over reentry cases. Virtually all offender-reentry programs transition individuals from prison or jail back into the community under the supervision of parole, or probation as in the case of split-sentencing jurisdictions. Although the intent is to place the offenders in treatment and other programs that meet their needs for successful reintegration, there are several major problems with this approach:

1. *Responsibility for supervising the offenders is fragmented and distributed across multiple criminal justice agencies.* The truth is that we do not have a “criminal justice system” in this country; rather, we have multiple systems—perhaps better characterized as fiefdoms—that take turns supervising offenders. After sentencing, the courts are often no longer involved with the case until there is a petition for a violation of probation (v.o.p.) or the offender has been charged with a new crime. (Even then, the case will often be brought before a different judge than the one who originally sentenced the offender, with no familiarity with the offender or the originating case). In many instances, after sentencing the court hands over authority for the offender to another agency. The offender may be sentenced to probation, which depending on the jurisdiction may be administratively housed within or outside the judicial branch, within a separate executive agency, or sometimes within the department of corrections (DOC). If the offender is sentenced to jail, prison or an intermediate sanction, such as boot camp or a community-correctional center, authority over the case is typically transferred to DOC, which is independent of the courts.

This fragmented process virtually guarantees that there will be a lack of continuity in treatment and supervision of offenders. If a careful assessment of the offender was used to craft the original sentencing plan, the assessment results are often not communicated down the line to probation, parole or DOC, and do not necessarily control or influence subsequent decisions made about the offender. As a result, whatever care was taken by one agency to provide the appropriate disposition may be ignored or undermined by another agency within a few days, weeks, or months. What we need is a seamless transition of supervision plans, starting from the point of arrest or sentencing, and continuing uninterrupted through community reentry.

2. *Probation and parole officers often lack the requisite power and authority to control their cases in the community.* It is unacceptably naïve to believe that offenders are ordinarily motivated to receive treatment and other services, and to take responsibility for their rehabilitation. Even those offenders who are motivated to change their behavior often lack confidence that they are capable of doing so. As a result, they may be expected to exhibit poor compliance with treatment and other supervisory conditions. Left to their own devices without close monitoring and meaningful consequences for their non-compliance in treatment, approximately 75% of probationers and parolees drop out of treatment prematurely or attend treatment irregularly.<sup>8</sup>

<sup>8</sup> See, e.g., Marlowe, *Effective strategies for intervening with drug-abusing offenders*, 47 VILL. L. REV. 989 (2002).

Unfortunately, probation and parole officers often lack appreciable power to intervene in this process. Apart from relatively low-magnitude sanctions at their disposal, they are typically required to file a v.o.p. petition with a court or hearing officer. The adjudicative process is often lengthy and there is no guarantee the judge or hearing officer will be familiar with the case or will back up the probation or parole officer's recommendations. Often, the judge or hearing officer may unintentionally undermine the parole officer's efforts. What we need are dedicated court calendars that routinely hear v.o.p. petitions, are staffed by judges who are familiar with the cases and with parole conditions, and are prepared to back up parole officers' decisions with judicial "teeth."

3. *Probation and parole agencies have had considerable difficulty bringing the treatment community to the table.* Although approximately 80% of offenders are substance abusers<sup>9</sup> and nearly one-half are clinically addicted to drugs or alcohol,<sup>10</sup> a recent national survey found that relatively few parolees receive adequate substance abuse treatment to meet their clinical needs. Only about one-half of parole programs offer low-intensity educational services, and less than one-quarter offer an adequate dosage of evidence-based treatment services.<sup>11</sup> Parole agencies are even less likely to offer services for problems other than substance abuse, such as mental illness, medical illness, family dysfunction, or domestic violence. Less than 20% of parole programs offer services addressing these critically important issues.<sup>12</sup>

Many parole agencies have no incentive to even consider local treatment and services because they are never in the position to begin the engagement process with the offender. A recent study in California found that in 2005, fully two-thirds of more than 120,000 California parolees only saw their parole agents once every six weeks.<sup>13</sup>

In my experience, most probation and parole officers direct offenders to find a place to live, get a job, report regularly, enter treatment, drug test, and stay out of trouble. The obligation is put nearly 100% on the offender and if he or she fails to follow directions, the answer is often more punishment. Armed with quasi-police powers of arrest and detainment, the result is often repeated v.o.p.'s for technical violations, resulting in an expensive, revolving-door process of release, followed by re-incarceration, followed by release. Relatively sparse efforts are made to apply treatment-oriented consequences or to administer lower-magnitude sanctions that can maintain the offender in the community while simultaneously protecting public safety.

<sup>9</sup> Belenko & Peugh (1998). *Behind bars: Substance abuse and America's prison population*. New York: Center on Addiction & Substance Abuse at Columbia University.

<sup>10</sup> Karberg & James (2005). *Substance dependence, abuse, and treatment of jail inmates, 2002*. Washington, DC: Bureau of Justice Statistics, U.S. Dept. of Justice. Fazel et al. (2006). Substance abuse and dependence in prisoners: A systematic review. *Addiction*, 101, 181-191.

<sup>11</sup> Taxman et al. (2007). Drug treatment services for adult offenders: The state of the state. *Journal of Substance Abuse Treatment*, 32, 239-254.

<sup>12</sup> *Id.*

<sup>13</sup> California Department of Corrections and Rehabilitation, Expert Panel on Adult Offender and Recidivism Reduction Programming, Report to the Legislature (2007), *A Roadmap for Effective Offender Programming in California*.

This process was clearly exemplified in our experiences with intensive supervised probation and parole (ISP) programs that were implemented in the 1980s. These programs were created to provide closer surveillance of offenders in the community. The parole officers carried lower caseloads and were specially trained to identify and intervene with psychosocial problems faced by the offenders. Unfortunately, in practice many of the programs simply watched the offenders more closely, and were more likely to catch them in the act of committing infractions. As a result, the offenders were more likely to receive technical violations and to be returned to custody, rather than receiving augmented treatment services to help them remain successfully in the community.<sup>14</sup>

Importantly, however, research did find that those ISP programs that actually provided evidence-based treatment services to the offenders were associated with reductions in crime averaging 10% to 20%.<sup>15</sup> Virtually all of the reductions in recidivism were attributable to the parolees' contact with treatment. The more treatment they received, the lower the likelihood of recidivism. What we need is a problem-solving approach that brings parole officers, treatment providers and the courts together as a team to provide the most effective and cost-effective solutions for recalcitrant offenders.

### California's Experience

There is no clearer evidence in my mind of these problems than California's experience with a relatively recent sentencing initiative called "Proposition 36". Simply put, Proposition 36 changed sentencing policy in the State related to nonviolent offenders who use and/or possess drugs (whether they are on parole or newly sentenced). It requires the courts and parole to order the offenders to enter treatment and prohibits incarceration if they attend and complete treatment.

The results over nearly 8 years have been clear. Those offenders on parole have been the least likely to enter treatment and complete it, although they have the most to lose in terms of incarceration. The lion's share of the parolees either failed to show up for treatment or dropped out of treatment prematurely, recidivism rates actually *increased* in our state, and roughly 60% of the parolees ultimately had their parole revoked.<sup>16</sup> In contrast, probationers who were sentenced by the courts and continuously supervised by a judge in a Drug Court-like model were the most likely to succeed and remain safely in the community.

In fact, California Drug Courts have proven to be the most effective model to reduce the number of prison commitments for drug offenders. The California Legislature established two programs for Drug Courts, the Drug Court Partnership Act and the Comprehensive Drug Court Implementation Act, and mandated that Drug Courts only accept Felony offenders with prison exposure.

<sup>14</sup> E.g., Gendreau et al., *Intensive Rehabilitation Supervision: The Next Generation in Community Corrections?*, 58 FED. PROBATION 72 (1994).

<sup>15</sup> Gendreau et al., *The Effects of Community Sanctions and Incarceration on Recidivism*, 12 CORRECTIONS RES. 10 (2000). Aos et al. (2006). *Evidence-Based Adult Corrections Programs: What Works and What Does Not* (2006). Washington State Institute of Public Policy.

<sup>16</sup> University of California, Los Angeles. (2005). *Evaluation of the Substance Abuse and Crime Prevention Act, 2005 Report*. Los Angeles: UCLA Integrated Substance Abuse Programs;

In 2005, the California Department of Alcohol and Drug Programs, which oversees these programs in partnership with the Judicial Council of California, in a report to the Legislature, noted that Drug Courts reduced substance abuse and saved taxpayers more than \$42.8 million in prison costs between January 2001 and July 2004. The study tracked more than 10,000 Drug Court participants in 46 counties.<sup>17</sup>

#### **Applying the Reentry Drug Court Model**

These undisputed problems with parole call out for the application of the Drug Court Model to offenders reentering our communities. In many ways, our current problems with parole directly parallel those previously faced by probation agencies supervising offenders sentenced to community supervision in lieu of incarceration. Poor treatment compliance and high revocation rates among probationers led the courts to create the Drug Court Model as a community sentencing alternative.

Drug Courts bring the power and influence of the judiciary to bear on the management of drug-involved offenders. Participants are required to appear in court regularly for status hearings, during which the judge may apply gradually escalating sanctions for infractions and rewards for attending treatment, remaining abstinent and meeting other treatment-plan goals, such as finding a job or completing an education. A team-model is followed, in which the judge, probation, treatment agencies and police work together to manage the case and enhance improvements in offenders' functioning. The various agencies do not sacrifice their traditional functions, but rather exercise their functions in a problem-solving manner that enhances their own effectiveness in fulfilling their professional roles.

Drug Courts began as a pre-adjudication program designed to divert nonviolent offenders from incarceration into community-based supervision and treatment. Based on their documented success in enhancing offenders' compliance with treatment and reducing substance abuse and crime, Drug Courts have now expanded to become a viable post-conviction sentencing option, an alternative to revocation for repeat probation violators, and a reentry mechanism for prisoners returning to the community.<sup>18</sup> Reentry Drug Courts are being increasingly developed at the federal, state and local levels. Currently, there are 20 Federal Reentry Drug Courts (although they do not always go by that name) serving either as a condition of supervised release from the U.S. Bureau of Prisons, or as a last-ditch effort to avoid revocation for federal offenders who violate their terms of supervised release.<sup>19</sup>

One might ask what is the value of applying the Reentry Drug Court Model as a successful reentry strategy for offenders? The answer is that it effectively and efficiently resolves the barriers I previously identified. The reentry plan is developed from the outset at the point of sentencing, and is consistently applied throughout the offenders' involvement with the criminal justice system. Authority over the case is not transferred between different agencies, but rather is coordinated by the various actors within a unified system. This ensures continuity of treatment and supervision services over time, avoids duplication of efforts, and prevents agencies from acting at cross-purposes. Moreover, the authority of the court can be called upon at all times to back-up the authority of parole and corrections officers. Knowing that the judge will put "teeth" behind their efforts, parole officers

<sup>17</sup> State of California, Department of Alcohol and Drug Programs (2005) *Report to Legislature*.

<sup>18</sup> Huddleston et al. (2008), *Painting the Current Picture: A National Report Card on Drug Courts and Other Problem-Solving Court Programs in the United States*. National Drug Court Institute.

<sup>19</sup> *Id.*

may be more willing to alter the conditions of community supervision and apply lesser-magnitude sanctions, rather than feeling that they have little recourse but to revoke release. Finally, judges, through the advent of Drug Courts, have demonstrated their ability to bring the treatment community into the process, and to engage their efforts in an integrated manner toward improving offender outcomes. Put simply, when a judge invites treatment providers to a meeting or to a hearing, they usually show up and contribute. This level of cooperation has not been as easy to accomplish or as consistently applied when it has been attempted by correctional officers.

#### **Targeting Reentry Plans According to Offenders' Risks and Needs**

I am not suggesting that all released inmates need to attend a fully constituted Reentry Drug Court program, with all of the services that are ordinarily attendant to this model. Evidence from Drug Courts reveals that a substantial proportion of defendants and probationers can be managed on alternative "tracks" that may require fewer court hearings, less frequent treatment sessions, or lesser schedules of sanctions and rewards.<sup>20</sup> For example, substantial research in Drug Courts indicates that "low risk" offenders who have less severe drug problems, less complicated criminal histories, and better prognoses in standard treatment may not need to be managed on a regular status calendar in court.<sup>21</sup> Instead, they can be effectively supervised by probation officers and brought before the court only if there is a serious problem with their compliance in treatment.

Based on the experiences in California, Hawaii, New York, and consistent with the Second Chance Act, I am calling for is the development of a Reentry Court System that would involve, first, the court assuming full responsibility for managing offender outcomes, and next, assigning offenders to separate calendars or tracks called by a group of judges who conserve resources and at the same time keep offenders in rehabilitation and treatment through to completion. If appropriately structured and applied, such a model should be capable of monitoring and supervising large numbers of offenders in each jurisdiction through different levels of structured court intervention.

Once we have eliminated from consideration those offenders who pose a true threat to public safety, and thus who should be retained under correctional control, we can fashion a broad spectrum of treatment, rehabilitation and supervision tracks that can be clearly defined and efficiently implemented. Some of these tracks may, for example, focus on mentally ill offenders, others may focus on offenders who have a generally good prognosis for standard treatment, and others may focus on offenders with the worst prognoses, who need to be kept on a short rein with frequent status hearings and intensive treatment services. In terms of day-to-day practice, some of the tracks might be managed primarily by treatment providers within their own clinical programs, others might be supervised by parole officers using a graduated schedule of sanctions similar to H.O.P.E, and the most serious offenders would be supervised closely by the judge in collaboration with parole officers and treatment providers.

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<sup>20</sup> Marlowe (2006). Judicial supervision of drug-abusing offenders. *Journal of Psychoactive Drugs, SARC Suppl. 3*, 323-331.

<sup>21</sup> Marlowe et al. (2007). Adapting judicial supervision to the risk level of drug offenders: Discharge and six-month outcomes from a prospective matching study. *Drug & Alcohol Dependence, 88S*, 4-13.

Regardless of whatever track an offender is initially placed in, the court would retain continuing jurisdiction over the case and could intervene quickly and meaningfully if there were problems with the offender's performance. This would include ongoing authority to alter the conditions of supervision, place the offender on a different track, or revoke parole.

#### **My Experiences with a Reentry Drug Court System in California**

I have practical experience presiding over a Probation and Parolee Reentry Drug and Mental Health Court in Santa Clara County, CA. In this court, which supervises probationers on leaving jail and parolees on release after commission of a new offense, I see on a daily basis the disadvantages of simply placing offenders under the supervision of a parole agent or probation officer. Our parole system, not unlike those in other states, is driven by rules. In California, an offender who is on parole and commits a technical violation of parole (e.g., fails to report on schedule) or commits a new low-level offense is first incarcerated by the parole agent with a "parole hold" placed, which keeps the offender in custody. This is followed by the filing of procedural paperwork that is driven by a rigid set of rules that cannot be ignored or avoided. The process often leads to the offender waiving his or her rights to a formal hearing and going back to prison, or to a formal hearing often with the same end result. Punishment has been accomplished (and frequently more severe punishment than a judge would normally have imposed), and with no change to the offender's behavior. The result is that nearly 70% of parolees in California are returned to prison within one year. At the same time, treatment beds, job training slots, and psychiatric appointments are not utilized effectively because few offenders take advantage of them.

In my court, the goal is to keep parolees out of prison and to make sure that they keep appointments, stay in treatment, and report regularly to the court. The parole agents are part of a local team that gathers in the courtroom and works together. The orientation of the court is to push the offender to follow his or her rehabilitation plan, which is driven by a personal risk and needs assessment. Housing that did not exist is found and paid for, treatment slots that were empty are now full, offenders are surrounded by so many coercive individuals that they have little choice but to make an effort to succeed. Once they find the beginning of success, they gain confidence. If they slip, the remedy is not necessarily incarceration, but reengagement; and if they need a sanction, they receive one as quickly as they receive praise. Their goals change over time from "getting off parole" to "making my life a success." The advantages of this approach lie in the fact that the most intensive judicial, parole, probation, case management, and treatment services are concentrated on those offenders who have the greatest needs for the treatment and are at the greatest risk to drop out of treatment or fail to enter it.

Because the Parole Division as well as the independent Board of Parole Hearings has agreed to allow a local judge to have the power to supervise parolees, parole-holds can be lifted at my request within a day, and the team (which includes the parole agents, treatment providers and attorneys) work out a treatment plan and decide on an appropriate response to misconduct, which might include a short jail sanction, other accountability requirement or no sanction at all, and move the offender directly into or back into community treatment and services.

This approach to supervising one of the most difficult and expensive cohorts of offenders (specifically, offenders on probation and parole who are seriously mentally ill as well as ongoing substance abusers) has been independently evaluated through a MacArthur Foundation grant. The

preliminary findings indicate that arrests in the 18-month follow-up period are significantly reduced, the time between release from jail on the target arrest and time to re-arrest is longer, and clients experience a significant reduction in the number and length of incarceration stays compared with offenders in the control group.<sup>22</sup>

What I have learned in the Reentry Court process is that if you group offenders into tracks based on a valid assessment of their risks and needs, one judge can manage a very large program. I personally supervise over 1,600 offenders in my Reentry Court, and many of these offenders are seriously mentally ill as well as addicted to drugs or alcohol. The offenders are scheduled on different days and times of the week based on the amount of court supervision and review that is anticipated to be needed, with the important rule that a parole agent, probation officer or treatment provider (or the offender individually) may come to court on any day of the week for immediate intervention.

In California, the independent Legislative Analyst's Office found that leaving aside new sentences to prison, the two factors that have driven the increase in the prison population to its present untenable level over 20 years are (1) parole violators with new felony convictions returned by the courts and (2) parole violators returned by the Board of Parole Hearings, accounting for over 60,000 offenders.<sup>23</sup>

A basic reason to rethink and redesign our strategy in supervising offenders' reentry can be found in the fact that the reason we are locked into overcrowded prisons does not lie only in a failed parole system. We also have a failed court system and probation system in the supervision of reentry. The lesson to be learned is that our traditional practices in sentencing and processing of probation and parole violations has remained for many years driven by a fixation on punishment as the only response. Simply put, the offender is punished when sent to jail or prison, and then punished further once released into the community.

What Drug Courts have demonstrated is that we need a reentry response and an alternative to incarceration to reach the result of meaningful behavior change and meaningful reintegration back into the community. We are now ready to take that concept one step further and apply it through a Reentry Court Systems Model based on Drug Court principles to many thousands of offenders, rather than only a select few.

We have been following a very traditional model of sentencing in most states, and in my many years as a judge I have seen little change in that model until the advent of Drug Courts. As judges, we either punish or we don't punish. What we never do is look beyond the day of sentencing to the reality that nearly every offender will return to our community or remain in it, and we as judges should play a more active role in accepting responsibility for outcomes and viewing the courts as having an opportunity to play a central role in obtaining better outcomes for offenders than our traditional punishment model.

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<sup>22</sup> Steadman and Callahan, MacArthur Mental Health Court Study (2008), *Preliminary Findings*.

<sup>23</sup> California Legislative Analyst's Office (2009) *2009-10 Budget Analysis Series, Judicial and Criminal Justice*.

### New Initiatives for Change in California in 2009

California is now moving in the direction of the Reentry Drug Court Model for parolees, as well as an evidenced based Probation Supervision program for probationers throughout the state. Senator Denise Moreno Ducheny, who is the Chair of the State Senate Budget Committee, and Senator Mark Leno introduced legislation in the most recent session of the Legislature that resulted in the appropriation of \$55 million of new funding, and dedication of demonstrated savings, at a time of fiscal crisis, to support

- (1) The establishment of that Reentry Court programs for parolees using the Drug Court model, who would benefit from community drug treatment or mental health treatment in lieu of serving additional State Prison sentences for violating the conditions of their parole, through Superior Courts with experience in both Drug Courts and Mental Health Courts. The programs will include the key components used by Drug Courts, applying a highly structured model, including monitoring by a judicial officer, dedicated calendars, nonadversarial proceedings, frequent drug and alcohol testing, and close collaboration between the respective agencies involved, including parole, to improve offender outcomes<sup>24</sup>;
- (2) Making grants to county Probation Departments for the purpose of providing evidence-based programs for felons to reduce the likelihood that probationers will commit new crimes or other violations and be sent to prison.<sup>25</sup>
- (3) Creating a state fund consisting of up to 50 percent of the state savings resulting from reductions in felony probation revocation and recidivism rates. The fund is to be distributed to county probation departments based on their success in reducing revocation and recidivism rates among felony probationers under their supervision.<sup>26</sup>

In my view, the essential elements in this legislation are (1) a new direction towards the return of jurisdiction over parolees to the courts; (2) incentivizing Probation Departments to work with offenders in the community to keep them out of prison, rather than violating them; (3) conditioning of any continued funding on evidence of actual improvements in offender outcomes, and savings to the State; and (4) Giving oversight to the Administrative Office of the Courts, recognizing the need for leadership by the Courts, and bringing the Courts, Department of Corrections and Rehabilitation as well as all Probation together, in crossing jurisdictional lines, as partners working to obtain better outcomes at the local level

<sup>24</sup> California Senate Bill X3 18 funded through Budget Act Assembly Bill X4 1, Sec. 67(2) (d) (2009).

<sup>25</sup> California Budget Act Assembly Bill X4 1, Sec. 67(2) (b) (2009).

<sup>26</sup> California Senate Bill 678 (2009).

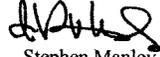
### Recommendations

In conclusion, accomplishing this paradigm shift in community-reentry requires several practical changes to our sentencing policies and parole and probation practices. All of these changes have clear precedent and evidence for success in various state measures, and can be instituted successfully with reasonable effort and expense.

1. The courts must be given continuing authority to supervise offenders following their release from custody. Some models already exist incorporating this concept to a limited extent. For example, some states have split-sentencing provisions which authorize judges to sentence offenders to a period of custody followed by an additional period of probation under the continued jurisdiction of the sentencing court. Others have MOUs between the courts and parole department, which allow judges to supervise cases alongside parole officers. Still others have quasi-judicial officers that are housed within DOC but have court-like authority to issue subpoenas, revoke parole and impose other legally authorized sanctions. What is needed is a clear commitment to place the responsibility directly with the courts to oversee reentry.
2. Between the time an offender is booked into jail and the time of plea negotiations and sentencing negotiations, an assessment should take place as to every felon in terms of (a) the risk that he or she poses now and in the future to public safety; (b) the risk that the offender will not benefit from standard treatment or other available interventions in the community without intensive judicial scrutiny; and (c) the treatment-related needs the offender has in terms of such problems as addiction, mental illness, housing, employment, education and other factors critical to successful reentry.
3. Judges should be required to consider the above risk and needs factors when rendering sentences, and should be required to craft a reentry care plan that takes these factors into account when rendering the ultimate disposition. Although judges should retain discretion to render verdicts and dispositions according the unique issues presented by each case, they should be required to include issues of risk and needs in their calculus of judicial decision-making.
4. Reentry Court Systems should be developed that include a range of alternative tracks suitable to the types of risk-and-needs profiles presented by various offenders. Continued funding of these programs should be made explicitly contingent upon their improving offender outcomes, protecting community safety, and doing so in an efficient and cost-effective manner.

Thank you for the opportunity to share my experience and recommendations in this area.

Respectfully submitted,



Stephen Manley  
Judge of the Superior Court  
State of California  
County of Santa Clara

**United States District Court**

Norman A. Mordue  
Chief Judge

10 JAN 27 PM 1:48

Northern District of New York  
100 South Clinton Street  
P.O. Box 7336  
Syracuse, New York 13261-7336

(315) 234-8570

January 12, 2010

Senator Arlen Specter  
711 Hart Senate Office Building  
Washington, DC 20510

Senator Benjamin L. Cardin  
509 Hart Senate Office Building  
Washington, DC 20510

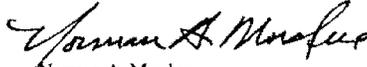
Dear Senators:

Thank you for your letter dated December 9, 2009 concerning Re-entry court programs. I am pleased to report that the Northern District of New York has been running a similar program for over one year and the program is showing some favorable results.

I thank you for bringing this to our attention.

Best wishes.

Very truly yours,

  
Norman A. Mordue  
Chief U.S. District Court Judge

NAM:jml



214 Massachusetts Ave. N.E. Washington, D.C. 20002 (202) 546-4400 [www.heritage.org](http://www.heritage.org)

## CONGRESSIONAL TESTIMONY

Statement of  
**David B. Muhlhausen, Ph.D.**  
 Senior Policy Analyst  
 Center for Data Analysis  
 The Heritage Foundation

Before the Committee on the Judiciary, Subcommittee on Crime and Drugs, of the  
 United States Senate

Delivered November 5, 2009

### “Prisoner Reentry: A Limited Federal Government Role”

#### Introduction

My name is David Muhlhausen. I am Senior Policy Analyst in the Center for Data Analysis at The Heritage Foundation. I thank Chairman Benjamin L. Cardin, Ranking Member Lindsey Graham, and the rest of the committee for the opportunity to testify today on prisoner reentry issues. The views I express in this testimony are my own and should not be construed as representing any official position of The Heritage Foundation.

Congress’s desire to weigh in on the recidivism rates of former prisoners is easy to understand. In 2007 alone, over 725,000 prisoners were released back into society.<sup>1</sup> Further, the nation’s incarceration rate increased from 139 inmates per 100,000 residents in 1980 to 506 inmates per 100,000 residents—an increase of 264 percent.<sup>2</sup> While the U.S. Bureau of Justice Statistics reports that corrections expenditures (including expenditures for prisons, probation, and parole) from 1982 to 2006 increased by 660 percent, this figure is not adjusted for inflation.<sup>3</sup> Corrected for inflation, the increase is actually 264 percent.<sup>4</sup>

Opponents of incarceration often argue that prisons are a burden on state budgets. Rarely do opponents ask how much prisons cost the states compared to other state expenditures. As a percentage of state total expenditures, corrections increased from 3.0 percent in fiscal year (FY) 1988 to 3.4 percent in FY 2007.<sup>5</sup> Limiting expenditures to state general funds, which excludes federal contributions, corrections increased from 5.0 percent in FY

1988 to 6.7 percent in FY 2007.<sup>6</sup> The amount of funds the states spend on corrections—a core function of state governments—is relatively little compared to other state government activities.

While the sheer number of prisoners returning to society is a cause for concern, policymakers should acknowledge the crucial role incarceration performed in the nation's drop in crime and the continued comparatively low crime rates.

#### **The Prison Buildup Decreased Crime**

Over the years, several studies have demonstrated a link between increased incarceration and decreases in crime rates. After controlling for socioeconomic factors that may influence crime rates, research based on trends in multiple jurisdictions (states and counties) over several years indicates that incarceration reduces crime significantly.<sup>7</sup>

Professor Joanna M. Shepherd of Emory University found that truth-in-sentencing laws that required violent felons to serve up to 85 percent of their sentence reduced violent crime rates.<sup>8</sup> Professor Shepherd compared the crime rates of counties residing in states without truth-in-sentencing to the crime rates of counties located in truth-in-sentencing states. Truth-in-sentencing laws reduced murders by 16 percent, rapes by 12 percent, robberies by 24 percent, and aggravated assaults by 12 percent.<sup>9</sup>

Other studies demonstrate the crime-reducing effect of incarceration. Professor William Spelman of the University of Texas at Austin estimates that the national drop in crime during the 1990s would have been 27 to 34 percent smaller without the prison buildup.<sup>10</sup> In another study, Professor Spelman analyzed the impact of incarceration in Texas counties from 1990 to 2000.<sup>11</sup> “Virtually all the reduction in violent crime, and about half of the reduction in property crime,” according to Professor Spelman, “can be attributed to an increase in jail and prison populations.”<sup>12</sup>

Professor Steven Levitt of the University of Chicago found that for each prisoner released from prison, there was an increase of almost 15 reported and unreported crimes per year.<sup>13</sup>

Two studies by Thomas B. Marvell of Justec Research in Williamsburg, Virginia, and Carlisle E. Moody of the College of William and Mary support these findings on the effects of incarceration. In a 1994 study of 49 states' incarceration rates from 1971 to 1989, Marvell and Moody found that about 17 crimes (mainly property crimes) were averted for each additional prisoner put behind bars.<sup>14</sup> In a study using national data from 1930 to 1994, Marvell and Moody found that a 10 percent increase in the total prison population was associated with a 13 percent decrease in homicide, after controlling for socioeconomic factors.<sup>15</sup>

#### **More Ex-Prisoners on the Street, More Crime**

Just as putting criminals behind bars decreases crime, releasing criminals back into society increases crime. The Department of Justice estimates that over 725,000 prisoners were released from federal and state prison in 2007.<sup>16</sup>

Former prisoners have high arrest rates after returning to society. A Justice Department study of 272,111 state prisoners released in 1994 found that two-thirds of prisoners are rearrested within three years.<sup>17</sup> After release, these offenders generate:

- Over 744,000 total arrests,
- 2,871 arrests for murder,
- 2,362 arrests for kidnapping,
- 2,444 arrests for rape,
- 3,151 arrests for other sexual assaults,
- 21,245 arrests for robbery, and
- 54,604 arrests for assault.<sup>18</sup>

The highest rearrest rates were for robbers (70.2 percent), burglars (74.0 percent), larcenists (74.6 percent), and motor vehicle thieves (78.8 percent).<sup>19</sup> Prior to their re-imprisonment, these prisoners accounted for 4.1 million arrests, including 550,004 violent crime arrests.<sup>20</sup>

The high cost that released prisoners impose on society has been empirically demonstrated by Professor Steven Raphael of the University of California, Berkeley and Professor Michael A. Stoll of the University of California, Los Angeles.<sup>21</sup> Professors Raphael and Stoll analyzed the relationship between prisoner releases and state crime rates from 1977 to 1999. Increased prisoner releases were associated with increased murder, rape, robbery, burglary, and larceny rates.

While incarceration is instrumental to public safety, rehabilitative and reentry services should also serve important roles. However, rehabilitation alone is not an effective substitute for the incarceration of serious and violent offenders. Rehabilitative programs can complement incarceration, but they cannot replace incarceration.

#### **Federalism Concerns**

To address the issue of offender recidivism, the national government should limit itself to handling tasks that fall under its constitutional powers and that state and local governments cannot perform by themselves. First, the federal government should operate "evidence-based" reentry programs for offenders formally incarcerated in the federal correctional system. By "evidence-based" programs, I mean programs that have undergone rigorous scientific evaluations and found to be effective.<sup>22</sup> Second, the federal government should not assume responsibility for funding the routine operations of state and local reentry programs.

The tendency to search for a solution at the national level is misguided and problematic. Offender recidivism is a problem common to all states, but the crimes committed by offenders in the state corrections systems are almost entirely and inherently local in nature and regulated by state criminal law, law enforcement, and courts.

Increasing the national government's involvement in combating the recidivism of state

and local prisoners is detrimental to quintessential federal responsibilities. Using federal agencies and grant programs to provide basic reentry services for state and local prisoners that the states themselves could provide is a misuse of federal resources and a distraction from concerns that are truly the province of the federal government.

A problem that is common to all the states, like offender recidivism, creates an avenue for federal action through the sharing of information and research, including the rigorous analysis of information coming from state and local agencies. Whether it is sharing successful policies and effective innovations or analyzing data, the federal government is well situated to perform this function. The promotion of rigorous research assessing the effectiveness of crime prevention programs is a worthy cause.

#### **Offender Reentry**

Policymakers on the national, state, and local levels need to understand the complicated nature of the reentry process. The reentry process begins in correctional facilities as inmates prepare for release and continues with their release back to society.

In addition to reentry public policies, other factors that influence successful transition of offenders from prison to community are individual characteristics, family and peer relationships, and community circumstances.<sup>23</sup> Establishing a law-abiding lifestyle after prison involves locating living quarters (often in high crime neighborhoods), obtaining official identification, reconnecting with family, and finding legitimate employment.<sup>24</sup>

The individual characteristics that influence recidivism include demographic characteristics, prison experience, employment history, education level, criminal record, and substance abuse dependence.<sup>25</sup> For example, one long-term longitudinal study of offenders found that attachment to work is associated with reduced recidivism.<sup>26</sup> Unemployed former prisoners and those without high school diplomas are more likely to drop out of reentry programs than those who are employed and have high school diplomas.<sup>27</sup> Also, recidivists tend to have begun their criminal careers at an earlier age and had more serious criminal histories than those who do not recidivate.<sup>28</sup>

Family and peer support is also important to the reentry process. The previously mentioned long-term longitudinal study also found that marriage was associated with reduced recidivism.<sup>29</sup> Also, former prisoners living with their families are less likely to drop out of reentry programs compared to their counterparts who do not live with their families.<sup>30</sup> However, family conflict can also harm the reentry process, especially juvenile offenders returning to poor family environments.<sup>31</sup> Just like the family, the influence of peers can influence the reentry process. Association with criminal peers can disrupt positive influences of the family.<sup>32</sup>

Like the family and peer relationships of released offenders, the communities where they settle can provide positive and negative reinforcement. Many prisoners return to neighborhoods characterized by high degrees of social disorganization and crime.<sup>33</sup> Socially disorganized, economically depressed neighborhoods tend to be associated with

higher crime rates.<sup>34</sup> Socially disorganized communities regularly lack socialization processes needed to encourage positive behaviors and dissuade negative behaviors.

#### **Importance of Rigorous, Scientific Evaluations**

The principal reason for the existence of reentry programs, obviously, is to prevent recidivism. Scientifically rigorous impact evaluations are necessary to determine whether these programs actually produce their intended effects. Clearly, there is little merit in the continuation of programs that fail to ameliorate their targeted social problems. For this reason, governments at all levels need to adopt “evidence-based” programs. However, the adoption of a program previously found to be effective in other settings is no guarantee that successful results will be replicated. Thus, “evidence-based” programs implemented in new jurisdictions still need to undergo rigorous impact evaluations.

Estimating the impact of programs cannot be made with 100 percent certainty, but with varying degrees of confidence. Thus, all such impact evaluations face formidable control problems that make successful impact estimates difficult. As a general rule, the more rigorous the research methodology, the more confident we can be of the validity of the evaluation’s findings.

Determining the impact of social programs requires comparing the conditions of those who had received assistance with the conditions of an equivalent group that did not experience the intervention. However, evaluations differ by the quality of their methodology to separate out the net impact of programs from other factors that may provide the real explanation for differences in outcomes for comparison and intervention groups.

Broadly speaking, there are three types of research designs: experimental designs, quasi-experimental designs, and non-experimental designs.<sup>35</sup> Experimental evaluations that use the random assignment of individuals to the intervention and control groups represent the “gold standard” of evaluation designs. Random assignment helps ensure that the control group is equivalent to the intervention group. Equivalence means that the intervention and control groups have the same composition, predispositions, and experiences.<sup>36</sup> Experimental evaluations are considered to be superior to quasi-experimental and non-experimental evaluations.

Randomized evaluations ensure that pre-program differences between the intervention and control groups do not confound or obscure the true impact of the programs being evaluated. Random assignment allows the evaluator to test for differences between the experimental and control groups that are due to the intervention and not to pre-intervention discrepancies between the groups. By drawing members of the intervention and comparison groups from the same source of eligible participants, these experimental evaluations are superior to other evaluations using weaker designs.<sup>37</sup>

Under quasi-experimental designs, the intervention and comparison groups are formed by a procedure other than random assignment. Quasi-experiments frequently employ methodological and statistical techniques to minimize the differences between

intervention and comparison groups that influence the outcomes being measured. This design frequently matches intervention and comparison group members together based on factors thought to influence program impacts.

Similar to quasi-experiments, non-experimental designs use statistical methods to isolate the effects of the intervention by attempting to make the intervention and comparison groups as equivalent as possible. Non-experimental designs often employ multiple regression analysis to isolate the effect of the intervention.

In both quasi-experimental and non-experimental designs, failure to remove the influence of differences that affect program outcomes may mean that the net impact of the intervention may not be actually due to the program, but caused by the underlying differences between the groups. While quasi-experimental and non-experimental designs use sophisticated techniques, experimental evaluations are still considered to produce more reliable estimates of program effects.

*Overstating Effectiveness.* After conducting a meta-analysis of 308 criminal justice program evaluations, Professor David Weisburd of George Mason University and his colleagues found that weaker evaluation designs are more likely to find favorable intervention effects and less likely to find harmful intervention effects.<sup>38</sup> Professor Weisburd and his colleagues caution that quasi-experimental and non-experimental designs, no matter how well designed, may be incapable of controlling for the factors that make individuals considered agreeable and allocated to the intervention group. Given that experimental evaluations produce the most reliable results, governments at all levels should use experimental evaluations to assess the effectiveness of their programs.

*Not Enough Evaluation.* To date, the federal government has not placed enough emphasis on the rigorous evaluation of federally funded reentry programs. A recent Congressional Research Service report acknowledged the lack of empirical evidence for the effectiveness of federally funded reentry programs.<sup>39</sup> Given the importance of criminal justice policy, Professor Weisburd argues that there is a moral imperative upon researchers to conduct randomized experiments.<sup>40</sup> The moral imperative is derived from the "obligation to provide valid answers to questions about the effectiveness of treatments, practices, and programs."<sup>41</sup> In my view, this moral imperative also applies to Congress, which spends billions of dollars to subsidize state and local government criminal justice programs. Congress has frequently failed to require or support the experimental evaluation of the grant programs it funds.

*Focusing on Important Outcomes.* When assessing the impact of reentry programs, the most important outcome measure is recidivism. Some have questioned the emphasis on recidivism as a measure of effectiveness compared to other measures that assess adjustment or reintegration of former prisoners back into society.<sup>42</sup> While intermediate measures, such as employment and attitudinal shifts of offenders, are important, these outcomes are not the primary focus of reentry programs. If former prisoners continue to commit crime after going through reentry programs, then the successful effects for intermediate outcomes will still matter little to judging whether the programs are

effective. Impact evaluations relying solely on intermediate outcomes tell us little about the effectiveness of reentry programs in promoting public safety.

### **Reentry Evaluations**

There is considerable debate over the effectiveness of corrections programs. Some have concluded that several types of programs are effective,<sup>43</sup> while others have cast doubt on the ability of these programs to reduce recidivism.<sup>44</sup> Most reentry programs have not undergone scientifically rigorous evaluations. Despite the need for more rigorous evaluations, two recently published evaluations shed some light on the potential of reentry programs.

*CEO Prisoner Reentry Program.*<sup>45</sup> The Center for Employment Opportunities (CEO) Prisoner Reentry Program is an employment-based program that places recently released prisoners immediately in transitional jobs, usually in nonprofit or government agencies. While working their transitional jobs, participants receive assistance in finding permanent, unsubsidized employment.

An experimental evaluation found that CEO Prisoner Reentry Program participants did not have statistically different arrest rates two years after release from prison.<sup>46</sup> After two years, the intervention group had an arrest rate of 37.7 percent, compared to the 41.8 percent arrest rate for the control group—a statistically indistinguishable difference of 4.1 percent.<sup>47</sup> A statistically indistinguishable difference means that the difference between the intervention and control groups cannot be attributed to the program. However, the intervention group did have a statistically significant lower conviction rate. After two years, the intervention group had a conviction rate of 30.5 percent, compared to the 38.3 percent conviction rate for the control group—a statistically significant difference of 7.7 percent.<sup>48</sup> This difference in convictions is explained by the fact that the intervention group was less likely to be convicted of misdemeanors and not felonies.

After two years, the intervention group was less likely to be incarcerated in jail or prison. The intervention group had a reincarceration rate of 49.5 percent, compared to the 55.4 percent reincarceration rate for the control group—a statistically significant difference of 5.9 percent.<sup>49</sup>

The program also appears to be ineffective at moving participants into unsubsidized employment. During the course of the two-year evaluation, 59.6 percent of intervention participants found unsubsidized employment, compared to 62.8 percent for the control group—a statistically indistinguishable difference of 2.7 percent.<sup>50</sup> While the CEO Prisoner Reentry Program produced underwhelming results, the Boston Reentry Initiative may have more potential at reducing recidivism.

*Boston Reentry Initiative.*<sup>51</sup> The Boston Reentry Initiative is an interagency initiative designed to help move violent adult offenders released from jail back to their neighborhoods. Through multiple agencies, BRI uses mentoring, social service assistance, vocational training, and education to help offenders reintegrate into society.

Rather than selecting participants most amendable to rehabilitation, BRI officials selected what they considered to be the “highest risk offenders” for treatment.<sup>52</sup>

While the evaluation of BRI did not use an experimental design, the propensity score analysis used in this quasi-experimental evaluation makes this evaluation more scientifically rigorous than most other quasi-experimental designs.<sup>53</sup> Further, BRI’s focus on targeting high-risk offenders may bias the results of the evaluation to understate the program’s ability to reduce recidivism. Compared to the comparison group, BRI participants experienced statistically significant reductions of 30 percent in overall and violent arrest rates.<sup>54</sup>

### **The Problem of Replication**

While BRI evaluation found positive results, this program and others found to be effective, need to be replicated and rigorously evaluated in other settings before policymakers and academics can conclude that these interventions are effective. In particular, BRI should undergo an experimental evaluation. The criminal justice programs that have been deemed “effective” and serve as “model” programs have often been those implemented under optimal conditions. These programs have been comprised of highly trained professionals operating under ideal conditions. In addition, the conditions under which these programs operate are carefully monitored to make certain that the participants receive the intended level of treatment. In the real world, program conditions are almost always less than optimal.

The success of replicating “evidence-based” programs often depends on implementation fidelity—the degree to which programs follow the theory underpinning the program and how successfully program components are correctly put into practice. A lack of implementation fidelity is often the reason why previously “successful” or “model” programs fail to be effective when put into action in other jurisdictions.

A good example of a “successful” program that has not been found to be effective when replicated in the real world is Reconnecting Youth, a school-based substance abuse program. Reconnecting Youth was designated as a “model program” by the Substance Abuse and Mental Health Services Agency (SAMSHA)<sup>55</sup> and as a “research-based” program by the National Institute on Drug Abuse.<sup>56</sup>

However, Reconnecting Youth was later evaluated under real-world conditions.<sup>57</sup> In a random experiment, 1,370 high-risk youths in nine high schools in two large urban school districts were assigned to intervention and control groups. Overall, Reconnecting Youth had no effect on such measures as academic performance, truancy, and substance abuse. On the contrary, the outcome measures for Reconnecting Youth participants showed statistically significant decreases in conventional peer bonding and pro-social weekend activities (for example, doing homework, club or church activities, and family activities) and a statistically significant increase in high-risk peer bonding.<sup>58</sup> In short, programs found to be effective in a single location “do not provide adequate evidence for widespread dissemination or designation as ‘model’ programs.”<sup>59</sup>

**Conclusion**

Policymakers on the national, state, and local levels need to be concerned about prisoner reentry. Nevertheless, policymakers should acknowledge the crucial role that incarceration has played in the nation’s drop in crime and the continued comparatively low crime rates.

To address the issue of offender recidivism, the federal government should operate reentry programs for offenders formally incarcerated in the federal correctional system. Further, the federal government should not assume responsibility for funding the routine operations of state and local reentry programs. Evidence-based reentry programs should be implemented by the appropriate level of government.

Reentry programs need to be rigorously evaluated to determine their effectiveness at reducing recidivism. Congress needs to do more to ensure that the reentry programs it funds are rigorously evaluated.

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<sup>1</sup>Heather C. West and William J. Sabol, “Prisoners in 2007,” Bureau of Justice Statistics *Bulletin* (Washington, D.C.: U.S. Department of Justice, Office of Justice Programs, December 2007), Table 3, p. 3, at <http://www.ojp.usdoj.gov/bjs/pub/pdf/p07.pdf> (October 29, 2009).

<sup>2</sup>U.S. Bureau of Justice Statistics, “Correctional Populations in the United States and Prisoners in 2007,” at <http://www.ojp.usdoj.gov/bjs/glance/tables/incrttab.htm> (November 2, 2009).

- <sup>3</sup>U.S. Bureau of Justice Statistics, "Direct expenditure for each of the major criminal justice functions (police, corrections, judicial) has been increasing," at <http://www.ojp.usdoj.gov/bjs/glance/exptyp.htm> (November 2, 2009).
- <sup>4</sup>In nominal dollars, correction expenditures from 1982 to 2006 increased from \$9,048,947,000 to \$68,747,203,000—an increase of 660 percent. In 2006 dollars, correction expenditures increased from \$18,912,299,230 in 1982 to \$68,747,203,000 in 2006—an increase of 264 percent.
- <sup>5</sup>National Association of State Budget Officers, *State Expenditure Report, 2007* Washington, D.C., 2008, Figure 4, p. 4, at <http://www.nasbo.org/Publications/PDFs/FY07%20State%20Expenditure%20Report.pdf> (November 2, 2009), and National Association of State Budget Officers, *State Expenditure Report: 1988* Washington, D.C., at <http://www.nasbo.org/Publications/PDFs/1988exrprt.PDF> (November 2, 2009).
- <sup>6</sup>National Association of State Budget Officers, *State Expenditure Report, 2007*, Figure 4, Table 34, p. 58, and National Association of State Budget Officers, *State Expenditure Report: 1988*.
- <sup>7</sup>Steven D. Levitt, "The Effect of Prison Population Size on Crime Rates: Evidence from Prison Overcrowding Litigation," *The Quarterly Journal of Economics*, May 1996, pp. 319–351; Thomas B. Marvell and Carlisle E. Moody, Jr., "Prison Population Growth and Crime Reduction," *Journal of Quantitative Criminology*, Vol. 10, No. 2 (1994), pp. 109–140; Thomas B. Marvell and Carlisle E. Moody, Jr., "The Impact of Prison Growth on Homicide," *Homicide Studies*, Vol. 1, No. 3 (1997), pp. 205–233; Joanna M. Shepherd, "Police, Prosecutors, Criminals, and Determinate Sentencing: The Truth About Truth-In-Sentencing Laws," *Journal of Law and Economics*, Vol. 45 (October 2001), pp. 509–534; William Spelman, "The Limited Importance of Prison Expansion," in Alfred Blumstein and Joel Wallman, eds., *The Crime Drop in America* (Cambridge: Cambridge University Press, 2000), pp. 97–129; William Spelman, "Jobs or Jails? The Crime Drop in Texas," *Journal of Policy Analysis and Management*, Vol. 24, No. 1 (2005), pp. 133–165.
- <sup>8</sup>Shepherd, "Police, Prosecutors, Criminals, and Determinate Sentencing."
- <sup>9</sup>*Ibid.*
- <sup>10</sup>Spelman, "The Limited Importance of Prison Expansion," pp. 123 and 125 (footnote 8).
- <sup>11</sup>Spelman, "Jobs or Jails? The Crime Drop in Texas."
- <sup>12</sup>*Ibid.*, p. 158.
- <sup>13</sup>Levitt, "The Effect of Prison Population Size on Crime Rates."
- <sup>14</sup>Marvell and Moody, "Prison Population Growth and Crime Reduction."
- <sup>15</sup>Marvell and Moody, "The Impact of Prison Growth on Homicide."
- <sup>16</sup>West and Sabol, "Prisoners in 2007."
- <sup>17</sup>Patrick A. Langan and David J. Levin, "Recidivism of Prisoners Released in 1994," Bureau of Justice Statistics *Special Report*, U.S. Department of Justice, Office of Justice Programs, NCJ–193427, June 2002.
- <sup>18</sup>*Ibid.*
- <sup>19</sup>*Ibid.*
- <sup>20</sup>*Ibid.*
- <sup>21</sup>Steven Raphael and Michael A. Stoll, "The Effect of Prison Releases on Regional Crime Rates," in *Brookings-Wharton Papers on Urban Affairs*, eds. William G. Gales and Janet Rothenberg Pack, (Washington, D.C.: Brookings Institution Press, 2004), pp. 207–243.
- <sup>22</sup>For more on the "evidence-based" policies, see Lawrence W. Sherman, David P. Farrington, Brandon C. Welsh, and Doris Layton MacKenzie, eds., *Evidence-Based Crime Prevention* (London: Routledge, 2002).
- <sup>23</sup>Christy A. Visher and Jeremy Travis, "Transitions from Prison to Community: Understanding Individual Pathways," *Annual Review of Sociology*, Vol. 29 (2003), pp. 89–113.
- <sup>24</sup>*Ibid.*
- <sup>25</sup>*Ibid.*
- <sup>26</sup>John H. Laub and Robert J. Sampson, *Shared Beginnings, Divergent Lives. Delinquent Boys to Age 70* (Cambridge, Mass.: Harvard University Press, 2003).
- <sup>27</sup>Shelley Johnson Listwan, "Reentry for Serious and Violent Offenders: An Analysis of Program Attrition," *Criminal Justice Policy Review*, Vol. 20, No. 2 (June 2009), pp. 154–169.
- <sup>28</sup>Edward Zamble and Vernon L. Quinsey, *The Criminal Recidivism Process* (Cambridge: Cambridge University Press, 1997) and Paul Gendreau, Tracy Little, and Claire Goggin, "A Meta-Analysis of Adult Offender Recidivism: What Works?" *Criminology*, Vol. 34, No. 4 (1996), pp. 575–607.
- <sup>29</sup>Laub and Sampson, *Shared Beginnings, Divergent Lives*.
- <sup>30</sup>Listwan, "Reentry for Serious and Violent Offenders."

<sup>31</sup>David M. Altschuler and Rachel Brash, "Adolescent and Teenage Offenders Confronting the Challenges and Opportunities of Reentry," *Youth Violence and Juvenile Justice*, Vol. 2, No. 1 (January 2004), pp. 72–87.

<sup>32</sup>*Ibid.*

<sup>33</sup>Visher and Travis, "Transitions from Prison to Community: Understanding Individual Pathways."

<sup>34</sup>Robert J. Sampson and W. Byron Groves, "Community Structure and Crime: Testing Social-Disorganization Theory," *The American Journal of Sociology*, Vol. 94, No. 4 (January 1989), pp. 774–802, and Richard Rosenfeld, Steven F. Messner, and Eric P. Baumer, "Social Capital and Homicide," *Social Forces*, Vol. 80, No. 1 (2001), pp. 283–310.

<sup>35</sup>William R. Shadish, Thomas D. Cook, and Donald T. Campbell, *Experimental and Quasi-Experimental Designs for Generalized Causal Inference* (Boston: Houghton Mifflin Company, 2002). A fourth research design is the natural experiment. Natural experiments utilize naturally occurring differences between intervention and comparison groups. The author does not know of any examples of natural experiments used to evaluate delinquency and gang prevention programs, so this design is not covered in this testimony.

<sup>36</sup>Peter H. Rossi, Mark W. Lipsey, and Howard E. Freeman, *Evaluation: A Systematic Approach*, 7th edition (Thousand Oaks, Cal.: SAGE Publications, 2004).

<sup>37</sup>Randomized evaluations ensure that pre-program differences between the intervention and control groups do not confound or obscure the true impact of the programs being evaluated. Random assignment allows the evaluator to test for differences between the experimental and control groups that are due to the intervention and not to pre-intervention discrepancies between the groups. By randomly assigning members of the intervention and control groups from the same source of eligible participants, experimental evaluations are superior to other evaluations using weaker designs.

<sup>38</sup>David Weisburd, Cynthia M. Lum, and Anthony Petrosino, "Does Research Design Affect Study Outcomes in Criminal Justice?" *Annals of the American Academy of Political and Social Sciences*, No. 578 (November 2001), pp. 50–70.

<sup>39</sup>Nathan James, "Offender Reentry; Correctional Statistics, Reintegration into the Community, and Recidivism," *CRS Report for Congress*, April 21, 2009.

<sup>40</sup>David Weisburd, "Ethical Practice and Evaluation of Interventions in Crime and Justice," *Evaluation Review*, Vol. 27, No. 23 (June 2003), pp. 336–354.

<sup>41</sup>*Ibid.*, p. 350.

<sup>42</sup>Visher and Travis, "Transitions from Prison to Community."

<sup>43</sup>Steve Aos, Marna Miller, and Elizabeth Drake, *Evidence-Based Public Policy Options to Reduce Future Prison Construction, Criminal Justice Costs, and Crime Rates* (Olympia, Wash.: Washington State Institute for Public Policy, 2006), at <http://www.wsipp.wa.gov/rptfiles/06-10-1201.pdf> (November 2, 2009), and Doris Layton Mackenzie, *What Works in Corrections: Reducing the Criminal Activities of Offenders and Delinquents* (Cambridge: Cambridge University Press, 2006).

<sup>44</sup>David J. Farabee, *Rethinking Rehabilitation: Why Can't We Reform Our Criminals?* (Washington, D.C.: AEI Press, 2005).

<sup>45</sup>Cindy Redcross, Dan Bloom, Gilda Azurdia, Janine Zweig, and Nancy Pindus, *Transitional Jobs for Ex-Prisoners: Implementation, Two-Year Impacts, and Costs of the Center for Employment Opportunities (CEO) Prisoner Reentry Program*, MDRC, August 2009.

<sup>46</sup>*Ibid.*, p. ES-8, Table ES.1.

<sup>47</sup>*Ibid.*

<sup>48</sup>*Ibid.*

<sup>49</sup>*Ibid.*

<sup>50</sup>*Ibid.*, p. 48, Table 4.1.

<sup>51</sup>Anthony A. Braga, Anne M. Piehl, and David Hureau, "Controlling Violent Offenders Released to the Community: An Evaluation of the Boston Reentry Initiative," *Journal of Research in Crime and Delinquency*, Vol. 46, No. 4 (2009), pp. 411–436.

<sup>52</sup>Braga et al., "Controlling Violent Offenders Released to the Community," p. 421.

<sup>53</sup>In propensity score analysis, intervention subjects are compared to comparison subjects that have a similar probability of selection into the intervention. For more information, see Paul R. Rosenbaum and Donald B. Rubin, "Reducing Bias in Observational Studies Using Subclassification on the Propensity Score," *Journal of the American Statistical Association*, Vol. 79, No. 387 (September, 1984), pp. 516–524.

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and William R. Shadish, Thomas D. Cook, and Donald T. Campbell, *Experimental and Quasi-Experimental Designs for Generalized Causal Inference* (Boston: Houghton Mifflin Company, 2002).

<sup>54</sup>*Ibid.*, p. 411.

<sup>55</sup>Steven Schinke, Paul Brounstein, and Stephen E. Gardner, *Science-Based Prevention Programs and Principles, 2002*, DHHS Publication No. (SMA) 03-3764 (Rockville, Md.: Center for Substance Abuse Prevention, Substance Abuse and Mental Health Services Administration).

<sup>56</sup>Elizabeth B. Robertson, Susan L. David, and Suman A. Rao, *Preventing Drug Use among Children and Adolescents: A Research-Based Guide for Parents, Educators, and Community Leaders*, NIH Publication No. 04-4212(A) (Washington, D.C.: National Institutes of Health, National Institute on Drug Abuse, October 2003).

<sup>57</sup>*Ibid.*

<sup>58</sup>*Ibid.*, p. 2257.

<sup>59</sup>*Ibid.*



GERALD E. ROSEN  
CHIEF JUDGE

**UNITED STATES DISTRICT COURT**  
FOR THE EASTERN DISTRICT OF MICHIGAN  
THEODORE LEVIN UNITED STATES COURTHOUSE  
231 WEST LAFAYETTE BLVD., ROOM 730  
DETROIT, MICHIGAN 48226

December 18, 2009

(313) 234-5135

Senator Arlen Specter  
Senator Benjamin L. Cardin  
United States Senate  
Washington, DC 20510

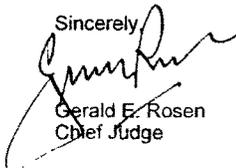
Dear Senators Specter and Cardin:

Thank you very much for your December 9, 2009 letter concerning the court re-entry program, along with Judge Bartle's testimony.

On behalf of my colleagues in the Eastern District of Michigan, I appreciate the Senates interest in these programs and can report that our Court has the same interest. In fact, we have just recently adopted a re-entry program, similar to that discussed by Judge Bartle, which will take effect in the next year. If your subcommittee are interested, I would be happy to report the results of our experience with this program after an appropriate interlude passes and sufficient data is accumulated to make the report meaningful. (I enclose a copy of the program that our Court adopted for whatever use you may wish to use it.)

If you should have any questions, I would be happy to discuss our program with you.

With best wishes, I am

Sincerely  
  
Gerald E. Rosen  
Chief Judge

GER:ddv

enclosure

cc: All District Judges  
David Weaver, Court Administrator  
Philip Miller, Chief Probation Department

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT  
OF MICHIGAN**

**THE H.O.P.E. INITIATIVE  
HELPING OFFENDERS POSTIVELY EXCEL**

**A REENTRY COURT PROGRAM**

### *INTRODUCTION*

Drug treatment courts on the state and local level have been in existence for 20 years. The first drug court began as an experiment in Miami, Florida in response to the growing epidemic use of crack cocaine in that area and the need to find better solutions to incarceration. Drug courts, which are rapidly multiplying across the country in all criminal jurisdictions, rely heavily on treatment services; intensive supervision activities and high accountability, as a way to help substance abusing offenders re-integrate themselves in society versus a prison system.

In the federal court system, these types of programs are called Re-Entry Courts or Problem Solving courts. The federal system, by statute, does not provide for the establishment of drug courts, however, re-entry programs are very similar to drug courts and are made possible in the federal system by making participation in the program a condition of supervised release. Federal re-entry courts are seen as enhancements of the supervised release conditions that facilitate positive lifestyle changes. These programs are primarily designed to focus on the high risk offender population, versus the non-violent, low risk offender population.

High risk offenders face special challenges as they attempt to re-enter a community. Research has shown that the recidivism rate of these offenders is approximately 50%, with many offenders violating their supervision term within the first six months of release. High risk offenders require targeted interventions to address multiple issues.

Re-entry courts represent the coordinated efforts of the judiciary prosecution, defense bar, probation department, law enforcement agencies, social service and treatment communities to actively and aggressively intervene and break the cycle of substance abuse, addiction and crime. They are being established to assist high risk offenders in making a successful transition from the institution to the community. The implicit goal is to reduce recidivism among participants and improve public safety through the use of judicial oversight. Responsibilities generally assigned to re-entry courts include: (1) review offenders' re-entry progress and problems; (2) order offenders to participate in various treatment and reintegration programs, including educational and vocational assistance; (3) random drug and alcohol testing and other controlling interventions to monitor compliance; (4) use of graduated sanctions for offenders who do not comply with program or treatment requirements and (5) provide modest incentive rewards for sustained negative urine screens and other positive behaviors.

Studies show that drug courts are successful in reducing recidivism, increasing retention and successful completion of treatment programs and cost effectiveness to the criminal justice system and community as a whole. However, as with any program aimed at changing and improving behavior and lifestyles, there are inevitable problems that will occur. According to the Quality Improvement for Drug Courts, Monograph Services 9, published in 2008 by the National Drug Court Institute, while the potential effectiveness of the drug court model has been well-documented, completion rates for many remain unacceptably low, ranging from 27% to 66% in selected adult drug court programs (Government Accountability Office, 2005).

These rates were not surprising as follow up information revealed appropriate screening and assessment criteria had not been developed or used in the programs with the lowest rates.

One of the key ingredients in achieving favorable outcomes is the use of objective, evidence-based screening and assessment tools to make informed decisions on who is appropriate for a re-entry program. Basic screening determines the eligibility prior to admission of the program and assessment determines the suitability for specific types of intensity of services and typically occurs after the offender is admitted into the re-entry program. When used in conjunction with collateral data (such as PSI reports and urine results), information gathered during the screening and assessment stage can be used to maximize program resources and facilitate measures of success. The benefits from this approach are clear. Research has shown that individuals with multiple problems have better outcomes when an integrated screening and assessment protocol is used to assess need and assist in referral decisions (Kopoed, Darnia, Walsh and Atkinson, 1986). Utilization of this first important step, along with implementation of additional key elements, is crucial to the long term success of a re-entry program.

*Key Components to a Successful Re-Entry Court Program:* The National Association of Drug Court Professionals has identified ten key components for successful re-entry courts. The HOPE Initiative will also utilize these principles in its program:

- A. Re-Entry courts integrate alcohol and other drug treatment services with justice system case processing.
- B. Using a non-adversarial approach, prosecution and defense counsel promote public safety while protecting participants' due process rights.
- C. Eligible participants are identified early and promptly placed in the re-entry court program.
- D. Re-Entry courts provide access to a continuum of alcohol, drug, and other related treatment and rehabilitation services.
- E. Abstinence is monitored by frequent alcohol and other drug testing.
- F. A coordinated strategy governs re-entry court responses to participants' compliance.
- G. Ongoing judicial interaction with each re-entry court participant is essential.
- H. Monitoring and evaluation measure the achievement of program goals and gauge effectiveness.
- I. Continuing interdisciplinary education promotes effective re-entry court planning, implementation, and operations.
- J. Forging partnerships among re-entry courts, public agencies, and community-based organizations generates local support and enhances re-entry court program effectiveness.

**Risk Prediction, Recidivism, and Supervised Release trends in the ED/MI.**

Historically, the Eastern District of Michigan has always had a significant number of drug and drug related prosecutions. Nearly one in every two sentences involves a drug offense. The probation offender population has decreased, while the post-prison population continues to rise every year. According to United States Sentencing Commission statistics, a total of 340 offenders were sentenced for drug offenses, and received a median custodial sentence of 60 months, in fiscal year 2008. With the widespread downturn of the economic climate in the United States, coupled

with Michigan having the highest unemployment rate in the country, many offenders will leave the structured prison environment and begin a term of supervised released with great uncertainty and limited prospects. Many high risk offenders have limited work experience, low levels of education or vocational skills, unstable housing, weak or no familial ties, and health related issues ranging from mental illness to substance abuse. These factors increase the likelihood of recidivism and present significant challenges for both the offender population and court system.

In an effort to identify offenders who are most likely to violate the conditions of supervision and be returned to prison, the probation office uses the Risk Prediction Index (RPI). This tool was developed by the Federal Judicial Center at the request of the Judicial Conference Committee on Criminal Law. It is a prediction instrument that uses information about an offender to estimate the likelihood of recidivism during the term of supervision.

"Recidivism" is broadly defined as any revocation of probation, parole, mandatory release, or supervised release; any arrest under federal, state, or local jurisdiction during the period of supervision; or any instance of absconding from supervision. The RPI has been tested extensively and has shown to be a reliable predictor of static risk factors.

A standard worksheet, consisting of eight questions, is used to compute the RPI score. The questions are as follows:

- What was the offender's age at the start of supervision?

- How many times was the offender arrested prior to the instant offense (up to 15)?
- Was a weapon used in the commission of the instant offense?
- Does the offender have a history of illegal drug usage or alcohol abuse?
- Has the offender ever absconded from a previous period of supervision?
- Does the offender have a college degree?
- Was the offender living with a spouse and/or children at the start of supervision?

RPI scores range from zero to nine, with scores of five to nine indicating a higher likelihood recidivism. Scores of zero or one typically indicate that an offender has a very high likelihood of successful completion of their supervision term.

According to statistics furnished by the Office of Probation and Pretrial Services, through the Decision Support System (DSS), revocation rates for supervised release cases closed for the time period of 2003 through 2008, are as follows:

<u>RPI Score</u>	<u>Total Number of Cases Closed</u>	<u>Number of Revocations</u>	<u>Revocation Rate</u>
Closed/revoked prior to RPI	500	83	17%
0	1579	147	9%
1	3021	116	4%
2	3475	357	10%
3	3047	573	19%
4	2254	618	27%
5	1585	492	31%
6	1282	501	39%
7	1019	483	47%
8	772	428	55%
9	376	215	57%

The above suggests that approximately one of every two offenders with an RPI score of seven or greater will have his or her term of supervised release revoked and be returned to prison. This statistic alone demonstrates the need for an innovative re-entry program to address this phenomenon.

In 2005, the Eastern District of Michigan began to seriously consider how effective were our current supervision practices and whether we are having any impact on reducing offender recidivism. We began to actively research evidence based practices (EBP) and initiatives which led to our district being chosen by the Administrative Office of the U.S. Courts as one of 18 pilot districts to participate in a Research to Results (R2R) initiative that seeks to incorporate best and evidence-based practices to address and ultimately reduce recidivism. All of the pilot districts are utilizing one or more evidenced based practices, such as, Work Force Development programs, Motivational Interviewing techniques with offender and defendants, Cognitive Behavior Therapy groups and Dynamic Actual Risk Assessment, a needs assessment tool that predicts violence and recidivism rates based on dynamic, criminogenic needs of defendants and offenders. The Eastern District of Michigan utilizes all of the above practices, so the development of a re-entry court for high risk offenders is seen as a logical next step that will operate in conjunction with the current EBPs implemented.

It is proposed that the United States District Court for the Eastern District of Michigan pilot a re-entry program that targets high risk offenders currently on supervised release with RPI scores of 6 -9. This re-entry program will incorporate features from re-entry court programs in the Western District of Michigan, Middle District of Pennsylvania and the District of Oregon and will be known as the *H.O.P.E (Helping Offenders Positively Excel) Initiative*.

### **Program Mission Statement and Overview**

#### **Mission Statement**

The United States District Court for the Eastern District of Michigan, the U.S. Probation Department, United States Attorney's Office, Federal Defender's Office, and Community Resource providers are committed to providing a collaborative re-entry program for certain high risk offenders on supervised release. The HOPE (Helping Offenders Positively Excel) Initiative will address the criminogenic needs and risk factors of these offenders in an effort to reduce recidivism and maximize success during the period of supervision and beyond, while providing the necessary safeguards to protect the community. The HOPE Initiative strives to ultimately reduce recidivism and promote long term positive lifestyle changes in the offender population utilizing evidenced based practices.

**Program Overview**

The Hope Program will link participants with a wide range of social services, including educational and literacy programs, employment and vocational skills training, community resource services, housing assistance, mental health and substance abuse treatment programming. Enrollment in the program is voluntary. Participants will be required to sign a Participant Agreement and abide by the terms. The agreement outlines the program and the responsibilities of the parties.

A designated judicial officer will preside over the program. Participants will be involved in the program for two years. The first year involves an intense regimen of case management, substance abuse treatment, frequent drug testing and monthly court sessions. The HOPE Program Team will monitor the participant's progress.

Upon successful completion of the first year - Phase One, a graduation ceremony will be held and the participants will receive a Certificate of Completion from the program judge. The participant will then enter Phase two of the program and will no longer be required to attend monthly court sessions, but will continue traditional supervision services with the HOPE probation officer. After successful completion of the second year, the probation officer will request early termination of supervision on behalf of the participant.

Non-compliant behavior will result in graduated sanctions, which may range from judicial admonishment to imprisonment or termination from the program. New criminal conduct, unless petty in nature, will typically result in the issuance of a summons or warrant and revocation court proceedings will occur.

The program will begin with 10 participants, with the potential for a maximum group of 20 participants, utilizing two probation officers.

### **HOPE Program Team**

The HOPE Program Team will consist of a Judge, Probation Officer, Assistant United States Attorney (AUSA), Deputy Federal Defendant (FDO), Treatment Provider and possibly a case manager from a Residential Re-Entry Center (RRC). Team members will work jointly in a non-adversarial manner to assist the offender and, when necessary, to determine appropriate sanctions for non-compliant behavior.

### **Identification and Preparation of Participants**

All participants in the program will have a risk prediction score of 6 to 9 as determined by the Risk Prediction Instrument (RPI) developed by the Federal Judicial Center. The United States Probation Officer has the discretion to identify these participants. After the probation office is notified of pending releases to the ED/MI area, the officer will calculate the risk prediction score to identify the participants for the program.

Once the participant is identified and accepted into the program, the officer will request the HOPE program judge to request a transfer of jurisdiction from the sentencing judge to the re-entry court judge.

The United States Probation Officer will request that the participant complete a financial affidavit for appointment to the assigned HOPE defense counsel which will also be forwarded to the court.

#### **Orientation of Participants**

The probation officer, in prerelease planning, will meet with the identified participant at the RRC prior to release. The participant will be informed of the program and its benefits to his/her participation. A copy of the program acknowledgment will be presented to the participant for review. The participant will be scheduled to appear at the monthly court hearing prior to his/her scheduled release. At the participant's request, an appointment with counsel may be arranged prior to the hearing. At that hearing, the participant will be introduced to the HOPE program Team and the acknowledgment will be reviewed with all. The participant will be asked to sign the acknowledgment. Each participant is advised that the HOPE Reentry Program is designed to give them an increased opportunity for success on supervised release. If after consultation with defense counsel, the participant declines to participate in the program, they are reassigned to a probation officer for traditional supervision services.

The acknowledgment will clearly state the conditions of supervision, the expectations of the program, the possible sanctions and rewards. Completion of the first twelve months of the program will result in a reduction to regular supervision

services. After an additional 12 months of satisfactory performance, early termination of supervised release will be recommended to the court and the participant will graduate from the HOPE Program. It is expected that, through this program, these participants will have achieved profitable full time employment, maintained compliance of the supervision conditions, abstinence from drugs and alcohol, and developed positive connections with community resources and family members over the 24 month period, which are all indicators of a successful re-entry.

### **The Role of the Court**

The active involvement of the Court with the participants of the HOPE Program is essential. The judge will both lead and work as a member of the team. He or she will preside at court sessions. When participants are progressing well, the judge will provide encouragement and acknowledge progress made. When participants are noncompliant, the judge, after receiving the recommendation of each team member, will make a determination as to the appropriate sanction, based on the nature of the violation.

If appropriate, sanctions should be progressive in terms of severity. When the parties determine that the participant has exhausted all of his or her opportunities to continue in the program, the Court will make the final decision to terminate the participant from the HOPE Program. The participant then will return to traditional supervision services and be reassigned to another probation officer.

All participants will appear at least monthly before the same federal judge. To ensure continuity, a single Probation Officer, U.S. Attorney, Federal Public Defender,

Treatment Provider and RRC case manager, will be involved in the HOPE Program, and each will appear for all monthly court sessions. The order of participant appearances on the court docket should provide for those who are in compliance with the program to proceed first, while the participants who are struggling with the program requirements appear last.

### **The Role of the Probation Officer**

The probation officer is charged with assessing the needs of participants, developing supervision plans, implementing court-imposed sanctions, linking participants to community resources and treatment services, monitoring participant progress, preparing monthly progress reports (*Attachment 2*), and working closely with employers, family members, and treatment providers. If problems in supervision arise, the probation officer will work with the AUSA and FDO in order to provide timely intervention. Team intervention efforts will be outlined in the monthly progress report.

The probation officer will work closely with the treatment provider to monitor the participant's progress; however, the assigned FDO will also be permitted to have access to the treatment provider and treatment records, after the necessary consent forms have been authorized by the participant. The probation officer will supervise 10 reentry cases in addition to other offenders under traditional supervision conditions. If program demand exceeds 15 cases, a second probation officer will be recruited to assist in the program.

The HOPE Program progress reports are to be distributed by the probation officer, along with any attachments, to the court, AUSA and FDO a full 24 hours before the participant's scheduled court appearance. The scheduling of court appearances will be worked out by the parties to this agreement and may be spread out so that the probation officer has time to work with the treatment provider to ensure the monthly progress reports contain all current and pertinent information. Further, the supervision file of each participant shall contain a separate, clearly marked section for the HOPE Program documents, including contract for participation, progress reports, treatment reports and urinalysis results. The probation officer will also provide the court, AUSA and FDO a copy of the presentence report and judgment order on each participant.

In determining how to handle the judicial aspects of the HOPE Program, the parties agree that it would be most advantageous to have a limited number of judges involved. While we do not believe it is essential to have only one judge, we do believe it is essential for continuity in the judicial role. With respect to the judicial role, pursuant to 18 U.S.C. §§ 3401(i) and 3583(e), supervised release revocation - and therefore Re-Entry Court functions - can be delegated to a magistrate judge with the consent of the parties.

#### **The Role of the Assistant U.S. Attorney (AUSA)**

The role of the AUSA is unique in the Re-Entry Court context. The AUSA's role is to participate in a team effort with the defense counsel and probation officer to encourage the participant's success in the program. The AUSA will protect the public interest by ensuring that each participant is appropriate for the program, in conjunction

with input from the probation officer. The AUSA will assure proper procedure is maintained in the court process, assist with presentation of evidence to the court, when necessary, provide notice to victims of hearings as required under the *Justice for All Act* and provide recommendations to the Court regarding dispositions commensurate with the mission of the project.

**The Role of the Federal Defender Office (FDO)**

The FDO is available to assist the Probation Officer and AUSA in encouraging participants to succeed in their treatment plans, discourage bad decisions and early signs of disinterest by the participants. The FDO also participates with the HOPE team in the decision of sanctions for participants struggling with the program's requirements. The FDO will also assure protection of the participant's rights, provide effective representation of participant in any revocation or modification hearing and provide recommendations to the Court commensurate with the mission of the program and the best interest of the participant.

The role of the treatment provider is to provide information and recommendations regarding the treatment of each participant. The role of the RRC case manager will be to provide information relative to the participant's progress and behavior while a resident of the RRC facility.

**Eligibility Criteria**

In order to be eligible for the HOPE Program, the offender must:

- Have an RPI score of 6, 7, 8, or 9
- Reside in or have a release plan to the Eastern District of Michigan, and be serving a term of supervised release of at least three years.
- Have a documented history of substance abuse.

Exceptions may be made, on a case-by-case basis, for offenders deemed in need of intensive services that do not meet the eligibility criteria.

**Participant Selection**

The probation office is involved in the prerelease planning of offenders up to 120 days prior to their projected release date. Participants will be screened by the probation office and approved for participation in the program by the HOPE Team as follows:

After the probation office is notified of a pending release to the Eastern District of Michigan, the assigned probation officer will calculate the RPI score and review the offender's case file to determine if the offender is suitable for participation in the HOPE Program. Early identification of participants allows optimal time to assess the offender's needs and to begin building the linkages to needed services. If the offender is deemed eligible, the probation officer will submit a brief memorandum (*Attachment 1*) along with the presentence investigation report to the HOPE Program judge. A copy of the memorandum will be provided to the AUSA and the FDO assigned to the HOPE Program Team, as well as the original sentencing judge.

The probation office is to be notified within five (5) working days if the HOPE Program judge, sentencing judge, AUSA or FDO do not concur with the probation officer's recommendation for program participation.

When possible, the probation officer will then meet the offender prior to release from custody, advise the offender of the program and its benefits, and present the offender with the Participant Agreement. To review. If the offender does not have an RRC placement, this will occur during the initial visit to the Probation Office. In either case, the offender will be scheduled to appear at the first HOPE Program court session following release, if agreement to participate in the program is given.

#### **Initial Program Orientation**

At the participant's initial court session, the judge will welcome the participant, explain how the program works, introduce team members, and review the Participant Agreement. Participants and members of the HOPE Program Team will sign the Participant Agreement. By signing this agreement, participants consent to participation in the program and agree to comply with all requirements and stipulations of the program. The judge will also emphasize that noncompliance will not be tolerated and will result in swift sanctions. The participant will also be expected to complete a program goal sheet (Attachment 3), that outlines the goals the participant hopes to accomplish over the next twelve months.

**Length of Program**

The HOPE Program will consist of two phases. Phase One involves intensive supervision by a probation officer with each participant's progress monitored at monthly court sessions. During Phase One of the HOPE Program, participants will earn rewards at the successful completion of time specific milestones at three, six and nine months. Participants must comply with all court directives and program requirements. Upon successful completion of 52 weeks, which need not be consecutive, the participant will graduate from Phase One and a Certificate of Completion (*Attachment 5*) will be awarded by the court. A participant may lose credit toward the 52 weeks each time he or she commits an infraction (e.g., a positive drug test, etc.).

During Phase Two, the participant will remain on supervised release with the HOPE probation officer, but will no longer be required to attend monthly court sessions. As the risk associated with the participant's behavior is reduced with the completion of Phase One, the supervision plan is reduced to traditional supervision services to monitor the participant's application of skills learned in Phase One of the program. If no violations occur on supervision during the second twelve months, further supervision is no longer warranted and termination of supervised release will be recommended, regardless of the length of the court-ordered term of supervision.

Prior to the monthly court session, participants will report to the probation office for on-site drug testing. Failure to provide a specimen for testing will be brought to the court's attention. Any participant who is late for court or fails to report for a monthly

court session will be subject to possible sanctions, unless there are extenuating circumstances.

#### **Pre-Court Session Case Management Meetings**

Before the monthly court session, the HOPE Program Team will meet in the judge's chambers, or other designated place, to review progress reports, discuss possible goals, and ensure the entire team is "on the same page" so that information and messages the participant receives from the judge during court sessions are reinforced by other team members.

The goal is proactive intervention, addressing problems before they escalate into more serious, sometimes criminal behavior.

#### **Waivers and Monthly Hearing**

To effectuate the intent of the HOPE Initiative to be a less adversarial court process and provide more support to the participants, all parties agree that conduct which would otherwise constitute a supervision violation will be handled in an informal manner. Except as otherwise stated, all conduct that would otherwise be considered a violation and lead to a violation hearing will be presented to the Court and participant through the probation officer's monthly progress report to the Court, or a status report to the Court filed on an expedited basis if the circumstances so warrant. Any "sanction" on a violation, short of a term of incarceration, will be handled through a court directive issued at the monthly court session in a non-adversarial setting. When

the parties agree to a particular sanction or treatment intervention, the matter can also be resolved before the participant's next scheduled court session by a modification executed by the participant on an expedited basis.

#### **Monthly Court Sessions**

Court sessions will be held once a month in the Theodore Levin U.S. Courthouse, Detroit, Michigan. All participants will be present for the entire session, so that everyone sees the court encouraging positive behavior, affirming the value of individual efforts, and, when necessary, sanctioning noncompliance with the program's goals. Participants will be encouraged to bring family members, employers, and others who have a sincere interest in the participant's rehabilitation. A court security officer will be present and a deputy marshal will be on call. The proceedings will be tape recorded. The order of participant appearances on the docket should provide for those who are in compliance to proceed first, while those participants struggling wait until last.

The monthly court session will typically proceed in the following fashion:

- The Judge recognizes the attorneys and the probation officer and comments about the purpose of the HOPE Program. If new participants are present they will have an orientation of the program goals, an introduction to the other program participants and formally sign the program agreement to abide by the conditions and rules of the program.
- Probation Officer introduces any special guests in the audience.

- Judge call the first participant to the podium:
  - The participant comes forward with any guests and introduces them;
  - The participant is asked how the last month has progressed;
  - Probation Officer provides a brief summary of the participant's progress;
  - The judge assesses the participant's progress and whether his/her goals were met for that month;
  - The judge asks the participant's guests for comments;
  - The probation officer, defense attorney and prosecutor comment;
  - The judge responds to the achievements and/or failures of the participant, and reinforces the rules of the program; and
  - The judge sets the participant's goals for the next month.

The judge may also make referrals to any programs or services that will assist the participant with his or her reintegration. These may include counseling, education, job training, literacy, and substance abuse programs or services.

- The judge gives closing remarks, sets the next status hearing for all parties and adjourns the session.

#### **Incentives**

Early termination of supervision is the most significant incentive.

Encouragement and positive feedback from the judge are among the most useful components of the program. Achievements will be recognized by the court and publicly acknowledged. Upon successful completion of Phase One, a graduation ceremony will take place at the participant's final, regularly scheduled court

appearance. Family members, sponsors, and friends will be invited to attend. The Court will present graduates with a Certificate of Completion.

### **Violations**

In keeping with the intent of the program, Grade C violations, as defined in § 7B1.1 of the United States Sentencing Guidelines, such as failure to report to the probation officer, missed appointments, positive drug tests, and other technical violations will be handled by the HOPE Program judge in an informal manner. The violations will be reported by the probation officer in the monthly progress report or can be orally reported at the court session. If circumstances warrant, a Probation Form 12A, Report on Offender Under Supervision, or a Form 12C, Petition for Warrant or Summons for Offender Under Supervision, will be submitted on an expedited basis. Additionally, the sanction for these types of violations shall include an unsatisfactory progress report for the month and the participant does not earn a "reward" for the month.

Any violation conduct that constitutes a Grade A or Grade B violation, as defined in § 7B1.1 of the United States Sentencing Guidelines, i.e., conduct punishable by more than one year in prison, will be reported to the program judge, via a Form 12C, who will then determine the appropriate sanction, which could include revocation proceedings. Unless a participant is detained for the violation or supervised release is revoked by the program judge, the participant will continue to attend the HOPE

Program's monthly court sessions. In the event the program judge determines that no violation conduct occurred, the participant will have credit restored toward completion of the program.

### **Sanctions**

Noncompliant behavior by the participant will result in sanctions. Community based interventions are the preferred response to technical violations. Any sanction will be handled through a court directive (*Attachment 4*) issued at the monthly court session. If the participant does not contest the allegation, he or she will be required to waive the traditional protections and procedures afforded to those on supervision. When the participant, the probation officer, the AUSA, and the FDO agree to a particular sanction or treatment intervention, short of a term of imprisonment, the matter can also be resolved by submission of a Probation Form 12B, Request for Modifying the Conditions or Term of Supervision With Consent of the Offender, to the program judge.

Factors which will influence the type of sanction imposed include the nature and seriousness of the violation, the number of violations, and the amount of time the participant has remained compliant, either before a first violation or between violations. In addition, an important factor will be whether the participant voluntarily discloses the violation. Dishonesty on the part of the participant will result in enhanced sanctions. Depending on these factors, any of the sanctions listed below, including termination from the program, are available. As a general rule, when there are repeat violations,

more serious sanctions will be applied incrementally. Sanctions may include, but are not limited to:

- Judicial reprimand in open court;
- Written assignment by participant explaining his or her noncompliant behavior (such as reason for failure to attend treatment, reason for testing positive, triggers that most often cause relapse and why, what steps participant will take to avoid another failure);
- Travel restrictions;
- Increased reporting to the probation officer;
- More frequent drug testing;
- Participation or increased participation in drug, alcohol, or mental health treatment;
- Performance of community service;
- Curfew restrictions or home confinement with electronic monitoring;
- Placement in a residential re-entry facility;
- Extension of program duration;
- Imprisonment for up to seven (7) days per violation behavior, which will be handled in the same informal manner.
- Removal from HOPE Program, with or without filing a formal petition for violation of supervised release.

In addition, the participant may lose credit toward completion of the HOPE Program each time he or she commits a violation.

The sanctions must be completed by the next court appearance, unless the Court allows additional time. Assignments are turned in to the probation officer. If appropriate, all sanctions may be ordered more than once during the course of the program.

A participant, who is returned to prison as a sanction by the HOPE Program judge, will reenter the program upon release and remain in the program until he or she successfully completes a total of 52 weeks and begins Phase Two of the program. Participants retain the right to refuse to accept a sanction and request termination from the HOPE Program. However, their actions may then form the basis of a revocation petition filed by the probation officer with the program judge.

Sanctions resulting from a violation may include either modification of the term and/or conditions of supervision or revocation of supervision with reimposition of supervised release to follow release from imprisonment. Participants will be invited to return to the HOPE Program upon their release from custody and begin the program anew.

#### **Adversarial Hearings**

In the event a participant is alleged to have committed a violation and the participant believes that he or she is innocent of the allegation, the participant can request a hearing before the HOPE Program judge. Such hearings are to be limited to the question of guilt or innocence in the "I didn't do it" sense, rather than an opportunity to offer an explanation for admitted conduct. The HOPE Program Team

agrees that a request for a hearing will not automatically result in termination from the program.

### **Jurisdictional Issues**

#### **Authority to Impose Sanctions**

The consent of the participant forms the basis for this authority. Many of the sanctions fall within the existing authority of the Probation Officer under the standard conditions of supervised release such as increased reporting, more frequent drug testing, or travel restrictions. Curfews, electronic monitoring, and placement in a residential re-entry center are all potential sanctions within the program that the court already imposes. On the same principle, participants will be asked to consent to accept the imposition of a brief term of imprisonment, with the understanding that any participant who declines to consent may be the subject of a petition by the probation office to the program judge.

#### **Authority for Magistrate Judge to Preside**

A magistrate judge may be designated by the district court to preside over a re-entry court pursuant to 18 U.S.C. § 3401(i), and to conduct hearings to modify, revoke, or terminate supervised release.

**Successful Completion of Program Rewards**

Participants who successfully complete the two year HOPE Program will earn the privilege of early termination of supervised release. Participants who successfully complete the first year of the program will no longer be required to attend monthly status reviews in court. A graduation ceremony will take place on the participant's final, regularly scheduled court appearance. In addition to the program participants, family members, sponsors and friends are invited to attend the graduation. The Court will present graduating participants with a Certificate of Completion and other articles of recognition as determined by the HOPE Program Team.

After the successful completion of the first year, the participants are reduced to traditional, less intense supervision services with the assigned HOPE officer for an additional year. After successful completion of the second year, the probation officer will prepare a report to the program judge recommending early termination of supervised release.

**Termination Procedures**

When the team determines that the participant has exhausted his or her opportunities to continue in the program, the Court will make the final decision to terminate the participant. The participant may be terminated as successful or unsuccessful, or be administratively discharged.

Successful Termination: Participants who complete Phase One of the HOPE Program will be given a Certificate of Completion. The participant will then be reduced to traditional supervision services.

Unsuccessful Termination: In recognition of the reality of relapse as a part of the recovery from drug or alcohol addiction, every effort should be made to work with program participants. All parties realize; however, that there will be circumstances in which it is appropriate to terminate a participant as unsuccessful. Unsuccessful termination may be of two types:

(1) Termination With Return to Regular Supervision: Termination may result from a participant revoking his or her interest in the program, or by a joint decision that although the participant has not committed a serious violation of the supervision or program rules, the program is not working. This type of termination from the program occurs simply with a transfer to a supervision caseload without a violation charge or hearing.

(2) Termination With a Formal Violation Charge: Termination may result from serious or chronic misconduct by the participant. The Court will make the ultimate decision that a participant be terminated. Under these circumstances, the participant will terminate, return to a traditional supervision caseload, and may appear before the program judge for a hearing on the misconduct. Such circumstances may include, but are not limited to:

- New law violations,
- Repeated drug use,
- A chronic pattern of refusing to cooperate with the probation officer or treatment provider, or

- Repeated refusal to cooperate with the Court's sanction or to participate in a meaningful manner.

Upon a participant's termination from the program, the probation officer may file a formal violation charge. It will be the policy of the probation office not to allege as a formal violation any conduct that was previously addressed while enrolled in the program. After the participant is no longer affiliated with the program, however, the judge presiding over the violation hearing will be advised of all conduct that has taken place during the period of supervision, including successes, failures, and sanctions that occurred during the program.

#### Administrative Discharge

There may be occasions in which discharge cannot simply be considered successful or unsuccessful. Such circumstances may arise when a participant becomes too ill to participate or has to relocate, and thus participation is no longer practical. In these situations, the participant would be welcome to participate again in the future should his or her circumstance change.

#### **Program Evaluation**

Statistics will be compiled by the probation office for research purposes and utilized for program evaluation.

At the end of twelve months of the program, a process evaluation and a preliminary outcome evaluation will be conducted. At the end of 24 months, the outcome evaluation will be finalized. The probation office will be responsible for assuring the completion of the evaluations.

A process evaluation assesses how closely the actual activity in the program adheres to the policy and procedures created for the program. It is very descriptive in

nature. Information will be gathered through a written survey of the program team members and program participants.

An outcome evaluation will involve tracking the number of violations, including the times they occurred, then comparing the total participants' outcomes with a comparison group of supervised releases of similar RPI scores who did not participate in the program.

The HOPE Program Team will review the program annually for effectiveness and revisions and forward the findings to the Chief Judge.

#### **Conclusion**

The goals of the HOPE Initiative are ambitious and can have a significant impact on the participants who successfully complete the program, which in turn will have a tremendous effect on recidivism and the betterment of society. Offenders, particularly high risk offenders, face many challenges that could impact and determine the success of their supervision terms. The Eastern District of Michigan's HOPE Initiative seeks to utilize evidence based principles and practices to assist offenders in positive, long term, lifestyle changes. By developing partnerships with internal and external stakeholders of the criminal justice system, along with the commitment and solidarity of the HOPE Program Team, the Eastern District of Michigan will be proactively doing our part to effectively reduce recidivism.

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ATTACHMENT 1

*United States Probation Office*  
EASTERN DISTRICT OF MICHIGAN

MEMORANDUM

TO: The Honorable  
United States District Judge

Assistant United States Attorney

Assistant Federal Public Defender

FROM: Philip R. Miller  
Chief United States Probation Officer

DATE:

SUBJECT: Docket Number:  
RPI Score:  
**Recommendation for Placement in HELPING OFFENDERS POSITIVELY  
EXCEL (H.O.P.E.) PROGRAM**

On \_\_\_\_\_, the offender was sentenced by the Honorable \_\_\_\_\_ to a term of \_\_\_\_\_ months imprisonment, followed by \_\_\_\_\_ years of supervised release; supervision commenced on \_\_\_\_\_. This defendant meets the criteria for participation in the H.O.P.E. Program and appears to be a suitable candidate.

Please let me know within five (5) working days if there is any objection. In the event there is no objection, the Participant Agreement will be reviewed with the offender and, if the offender consents, he/she will be scheduled to appear at the first H.O.P.E. Program court session following his/her release. Upon successful completion of the 24-month program, the probation officer will recommend early termination of supervised release.

If there are further questions or concerns, please contact the undersigned.

Respectfully submitted,

\_\_\_\_\_  
U.S. Probation Officer

cc: Philip R. Miller  
Chief U.S. Probation Officer

ATTACHMENT 2  
UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MICHIGAN

HELPING OFFENDERS POSITIVELY EXCEL (H.O.P.E.) PROGRAM

PROGRESS REPORT

PERIOD OF \_\_\_\_\_ TO \_\_\_\_\_

[PHOTO]

Participant: \_\_\_\_\_ Date: \_\_\_\_\_

Pacts No.: \_\_\_\_\_ RPI Score: \_\_\_\_\_ Age: \_\_\_\_\_

Offense of Conviction: \_\_\_\_\_

Date of Sentence: \_\_\_\_\_ Judge: \_\_\_\_\_

Sentence: \_\_\_\_\_

Fine Balance: \_\_\_\_\_ Restitution Balance: \_\_\_\_\_ Special Assessment Balance: \_\_\_\_\_

Custody Release Date: \_\_\_\_\_ TSR Expiration Date: \_\_\_\_\_

Program Start Date: \_\_\_\_\_ Next Court Review: \_\_\_\_\_

Successful Weeks Completed: \_\_\_\_\_ of \_\_\_\_\_ (As of last court session)

Expected Program Completion Date: \_\_\_\_\_

Current Treatment Provider(s): \_\_\_\_\_

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**Last Appearance**

Date of Last Court Appearance: \_\_\_\_\_

Sanctions Ordered at Last Court Appearance? Yes  No  Were the Sanctions Completed?  Yes  No

Prior Program Violations?  Yes  No

Comments:

**Attendance at Treatment**

No Misses                       Excused Absences                       Unexcused Absences

Is a report from the provider attached?  Yes  No

Comments:

---

**Drug Testing**

No Positives                       Positives disclosed before test                       Non-Disclosed Positives                       Other

Number of Tests:\_\_\_\_\_                      Number of Positives:\_\_\_\_\_                      Stalls:\_\_\_\_\_

Comments:

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**Compliance/Noncompliance With Other Conditions Of Supervision**  
(e.g., community service, court-ordered financial obligations, employment, new criminal conduct, reporting, etc. )

Comments:

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**Making Strides**

Does Participant have stable housing?                       Yes  No

Is Participant working?                       Yes  No

Is Participant looking for work or in school?                       Yes  No

Participant making good overall choices?                       Yes  No

Comments:



ATTACHMENT 3

H.O.P.E. PROGRAM  
Goals Sheet

Some of the goals I want to accomplish in the next year are:

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_

Some of the things I can do to meet these goals in the next three months are:

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_
4. \_\_\_\_\_
5. \_\_\_\_\_

Some of the obstacles I may face are:

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_

Some of the ways the H.O.P.E. Program can help me are:

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_
4. \_\_\_\_\_

Some of the ways I can help myself are:

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_

ATTACHMENT 4  
IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MICHIGAN

UNITED STATES OF AMERICA :  
 :  
 vs. : DOCKET NUMBER: \_\_\_\_\_  
 :  
 \_\_\_\_\_ :

**ORDER**

**HELPING OFFENDERS POSITIVELY EXCEL (H.O.P.E.) PROGRAM**

You have been found in violation. Accordingly, the Court imposes the following sanction(s):

- Judicial reprimand in open court today.
- Return to the U.S. Courthouse on \_\_\_\_\_ to observe the following proceedings:  
\_\_\_\_\_
- Provide a written \_\_\_\_\_ -page explanation for noncompliant behavior, as directed.
- Travel restricted as follows: \_\_\_\_\_
- Increased reporting to the probation officer as follows: \_\_\_\_\_
- Increased drug testing as follows: \_\_\_\_\_
- Participation in drug, alcohol, or mental health treatment.
- Complete \_\_\_\_\_ hours community service as directed.
- Comply with the following curfew restrictions or home confinement: \_\_\_\_\_
- Defendant shall reside and satisfactorily participate in a Residential Re-Entry Center for \_\_\_\_\_ days.
- Serve \_\_\_\_\_ days in jail, to be released on \_\_\_\_\_
- Termination from the Helping Offenders Positively Excel Program.
- Changes in current treatment: \_\_\_\_\_

All previously-imposed terms and conditions of your supervised release remain in effect, unless expressly noted otherwise.

Your next H.O.P.E. Program review date is on \_\_\_\_\_ at \_\_\_\_\_ (a.m./p.m.)  
at the U.S. Courthouse in \_\_\_\_\_

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

\_\_\_\_\_  
United States District Judge

**United States District Court  
for the  
Eastern District of Michigan**

*In recognition of your successful completion of the*

**HELPING OFFENDERS POSITIVELY EXCEL (H.O.P.E.) PROGRAM**

**Jonathan Doe**

*We congratulate you and offer our greatest hope for your  
continued success*

*In witness whereof, I have hereunto set my hand and affixed the  
official seal this \_\_\_ day of \_\_\_\_\_.*

[seal]

\_\_\_\_\_  
Honorable  
United States District Judge

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MICHIGAN

HELPING OFFENDERS POSITIVELY EXCEL (H.O.P.E.) PROGRAM  
PARTICIPANT AGREEMENT

Name: \_\_\_\_\_ Facts No: \_\_\_\_\_  
Docket Number: \_\_\_\_\_  
Length of supervised release term: \_\_\_\_\_  
Supervised release start date: \_\_\_\_\_

#### INTRODUCTION

You have been selected to participate in the HOPE Program for the Eastern District of Michigan. Your participation is entirely voluntary and there will be no negative consequences if you do not wish to participate. We believe you have the ability to succeed in this program which may have significant benefits to you as explained below.

**Read this form carefully before you sign it.** If you have any questions, contact the Federal Public Defender's Office. By signing this form, you agree to participate in the HOPE Program and to abide by all program requirements. You may withdraw from the program at any time.

#### PURPOSE

The purpose of this program is to facilitate your reintegration into the community and maximize your potential for success during the period of supervised release and beyond, by addressing your needs and linking you to community-based resources. These resources may include job training and placement, education, financial tools, housing assistance, mental health counseling, substance abuse treatment, etc.

#### HOW THE PROGRAM WORKS

The HOPE Program consists of two phases over a two year period. **Phase One** involves intensive supervision by a probation officer, drug treatment services and frequent drug testing. Once a month, you will appear before the program judge who will talk with you, family members and/or your support person about your progress. The probation officer, prosecutor, and public defender will also be present. Progress reports from your probation officer and treatment providers will be shared with the court and attorneys. You must comply with all conditions of supervision, court directives, and program requirements.

Upon successful completion of 52 program weeks, you will graduate from Phase One. A formal ceremony will be held and a Certificate of Completion will be awarded by the Court. **Please note: You may lose program credit each time you commit a violation of the conditions of your supervision (e.g., a positive drug test, etc).**

During Phase Two, you will remain on supervised release for one additional year with the HOPE program probation officer, but will no longer be required to attend monthly court sessions.

If you participate in this program, you will agree to have a judge monitor your progress and impose certain sanctions if you violate the conditions of supervised release. Supervision violations and sanctions will ordinarily be handled at the regularly scheduled HOPE Program court session. The sanctions will be designed to encourage you to reflect on your behavior, stay away from people and places that get you into trouble, and act responsibly. A public defender will be available at the time of your court session for consultation throughout the program. Additionally, sanctions and modifications regarding the conditions of supervision may be handled on an expedited basis with the consent of the parties.

If the probation officer alleges a violation and you feel you are innocent, you may request a formal hearing with attorney representation. The hearing will be limited to determining whether you violated the conditions of supervision. Otherwise, you may choose to agree that the allegation is true and waive the traditional protections and procedures afforded to those on supervision. There will be no hearing on whether the allegation is true. The HOPE Program judge will then impose an appropriate sanction.

You retain the right to refuse to accept a sanction. Your actions, however, may then form the basis of a revocation petition filed by the probation officer with the program judge. New criminal conduct, unless petty in nature, will typically result in the issuance of a summons or warrant and revocation proceedings.

#### **WHAT YOU CAN EXPECT FROM THE UNITED STATES PROBATION OFFICE**

1. You will be thoroughly assessed and an appropriate supervision plan will be developed and implemented. This plan will be discussed during the first court session and signed by you, your probation officer, and the judge.
2. Your probation officer will work with you to identify problems that you are facing and propose referrals and resources to assist you.

3. Successful completion of the two year HOPE Program will deem you eligible for early termination of supervised release.

#### WHAT YOU CAN EXPECT FROM THE COURT

1. The judge will give you personal attention at the monthly court sessions. He or she will discuss your progress and address any concerns you or the probation officer may have.
2. The judge will encourage you when you are doing well.
3. The judge will hold you accountable. Noncompliant behavior will result in swift sanctions. Factors which will influence the type of sanction include the seriousness of the violation, the number of violations, and the amount of time you have remained compliant, either before a first violation or between violations. In addition, an important factor will be whether you voluntarily disclosed the violation. Dishonesty on your part will result in enhanced sanctions. Sanctions may include, but are not limited to one or more of the following actions:
  - a. Judicial reprimand (a formal disapproval of your conduct);
  - b. Curfew;
  - c. Geographic and associational restrictions, limiting the places that you may go, or persons you may associate with;
  - d. Community service work;
  - e. More frequent drug testing;
  - f. Participation or increased participation in alcohol, drug, or mental health treatment services;
  - g. Extension of program duration;
  - h. Home confinement with electronic monitoring or residential re-entry center placement, when your violation of the program's rules are serious;
  - i. Imprisonment for up to seven (7) days for those who consistently violate the rules and are at risk of being expelled from the program;
  - j. Referral to the program judge for revocation of supervised release, imprisonment, or suspension from the program.

You may lose credit toward completion of the HOPE Program each time you commit a violation of the conditions of your supervision (e.g., a positive drug test, etc.).

**WHAT WE WILL EXPECT FROM YOU**

1. You must adhere to all conditions of supervision, and requirements of the HOPE Program.
2. You must refrain from the possession and use of illicit drugs, and not abuse alcohol.
3. You shall not tamper with the drug testing collection procedure or in any way attempt to dilute or adulterate the urine specimen. Failure to provide a specimen for testing will be reported to the court.
4. You must stay in contact with your probation officer.
5. You must attend all meetings with the judge and be open and honest about your behavior. Your statements to the program judge will not be used against you in a future revocation proceeding. (The probation officer may, based on your admissions, conduct an independent investigation).
6. You must be employed full-time or actively seeking employment, enrolled in school full-time or be productively involved with your community in some other way.
7. You must have stable residence and income.
8. You must participate fully in any necessary training or treatment, and abide by all treatment recommendations.
9. You must make restitution and fulfill other court-ordered financial obligations.



JUDICIAL CONFERENCE OF THE UNITED STATES

WASHINGTON, D.C. 20544

ANTHONY J. SCIRICA  
CHAIRMAN, EXECUTIVE COMMITTEE

(215) 597-2399  
(215) 597-7373 FAX  
ascirica@ca3.uscourts.gov

February 1, 2010

Honorable Arlen Specter  
United States Senate  
711 Hart Senate Office Building  
Washington, DC 20510

Honorable Benjamin L. Cardin  
United States Senate  
509 Hart Senate Office Building  
Washington, DC 20510

Dear Senators Specter and Cardin:

Thank you for your letter of December 9, 2009, encouraging nationwide expansion of the type of reentry court program that has been operating since 2007 in the United States District Court for the Eastern District of Pennsylvania. The Judicial Conference of the United States strongly supports the goal of reducing recidivism, and the Federal Judicial Center has been actively exploring various programs, including reentry courts, to achieve that objective.

This year, the Federal Judicial Center, with the support of the Judicial Conference, has undertaken an empirical study to identify programs that are both validated by evidence and cost-effective. The project will assess innovative reentry programs in various judicial districts, including the program cited by Chief Judge Bartle in his Senate testimony. The study will feature a data-based analysis of existing reentry programs and gather research to guide the judiciary on what techniques best reduce recidivism in the federal criminal justice system. It will also attempt to identify the variables on which courts should focus in designing programs to help reduce recidivism. With the results of this research, the Judicial Conference will be better able to assess the promising statistics cited in your letter.

Given the diversity among the many districts of the federal judiciary, what may work in one district may not be feasible in another. Accordingly, the Judicial Conference will carefully assess existing and new reentry programs to identify not only the practices that have proved effective, but also the approaches best suited to the particular circumstances of different districts.

Operating costs are another important consideration. Maintaining intense court involvement in reentry programs requires the increased time of judges, probation officers, defenders, and prosecutors. If replicated on a larger scale, such programs likely will require additional judicial resources.

Honorable Arlen Specter  
Honorable Benjamin L. Cardin

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In addition to evaluating the cost-effectiveness of reentry initiatives like the one examined in the Senate hearing, the Judicial Conference will continue to explore whether reduced recidivism can be achieved in the course of normal federal supervision, by accurately assessing risk and targeting appropriate criminogenic needs.

I thank you for your interest in the issue of prisoner reentry and for your continued support of the federal judiciary and its programs. Please feel free to contact me if you have any questions.

Sincerely,



Anthony J. Scirica  
Chair, Executive Committee  
Judicial Conference of the United States

cc: All Chief Judges  
James C. Duff

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Statement of

Amy L. Solomon  
Senior Research Associate  
Justice Policy Center  
Urban Institute

Hearing before the  
Senate Judiciary Committee

Subcommittee on Crime and Drugs

On

“The First Line of Defense: Reducing Recidivism at the Local Level”

Thursday, November 5, 2009  
Dirksen Senate Office Building Room 226  
2:00 p.m.

The views expressed are those of the author and should not be attributed to the Urban Institute, its trustees, or its funders.

Senator Cardin, Ranking Member Graham, and distinguished members of the Subcommittee:

Thank you for the opportunity to speak here today on the important issue of jail reentry. I am a senior research associate at the Urban Institute, a nonprofit, nonpartisan research organization in Washington, D.C. I have three goals this afternoon: to describe jail reentry as a compelling problem that warrants increased national attention; to share some of the innovation under way; and to explain how this subcommittee can spur more innovation and evaluation in the area of transition from jail to the community.

#### **Reentry from Prisons and Jails Warrants National Attention**

Incarceration rates are at an all-time high. As of midyear 2008, nearly 2.4 million men and women were incarcerated in this country's prisons and jails.<sup>1</sup> One in every 100 adults in the United States is now behind bars on any given day, according to the Pew Center on the States.<sup>2</sup>

The traditional business-as-usual approach to incarceration is to keep inmates locked up—away from society—to keep us safe. With little treatment and transition planning, most individuals are released with the same problems that got them locked up in the first place. To be clear: business-as-usual does *not* produce the results we want.

- Recidivism rates are unacceptably high. Two-thirds of state prisoners are rearrested within three years of their release, and half are reincarcerated for a new crime or a technical violation.<sup>3</sup>
- Public spending on corrections is at an all-time high. The United States spends about \$69 billion on corrections, up from \$41 billion just 10 years earlier.<sup>4</sup>
- The effect on families and communities is distressing and far-reaching. More than 2.4 million children have a parent in prison or jail.<sup>5</sup> And in some of the most hard-hit communities, as many as 1 out of every 8 adult males is incarcerated.<sup>6</sup>

In the past decade, we have realized that “they all come back”<sup>7</sup>—that almost everyone who is incarcerated will eventually return home. This is especially true of the jail population. The big question is, how do we incarcerate and release individuals in a way that makes them less likely to reoffend and more likely to work, support their families, pay taxes, and be productive members of society?

#### *The unique challenges and opportunities of jail reentry*

For the past 10 years, the criminal justice community has focused growing attention on the more than 700,000 prisoners returning home every year from state and federal prisons.<sup>8</sup> Only recently have the estimated 12 million releases from local jails gained attention.<sup>9</sup> That's 12 million opportunities to intervene in unstable lives and help change their course for the better.

Intervention is difficult in a jail setting, however, for several reasons. First, stints in jail are brief. While prisons incarcerate individuals for an average of 2.5 years, jail populations turn over very quickly. Less than 20 percent of inmates stay more than a

month; some are jailed only a few hours or days.<sup>10</sup> For release planning and service provision purposes, this is not a lot of time to work with.

Additionally, jail populations are diverse in many respects.<sup>11</sup> The majority (62 percent) of jail inmates have not been convicted of a crime (for the current incarceration period).<sup>12</sup> Jails house pre-trial and sentenced offenders, probation and parole violators, and sometimes even state and federal prisoners. All of this means jail administrators cannot accurately predict *when* many will be released, adding another complication for programming and release planning.

At the same time, the need for treatment and assistance in jails is acute. Many people who cycle in and out of jail face multiple and overlapping problems and would benefit from interventions that begin in jail and continue upon release. For example,

- 68 percent meet the criteria for substance abuse or dependence,<sup>13</sup>
- 60 percent do not have a high school diploma or GED,<sup>14</sup>
- three in 10 inmates were unemployed the month before arrest—and almost twice as many were underemployed,<sup>15</sup>
- 16 percent are estimated to have serious mental health problems,<sup>16</sup> and
- one in seven was homeless at some point the year before they were incarcerated.<sup>17</sup>

Most jails don't have the time or capacity to help individuals overcome these serious deficits. The ability to offer extensive treatment programs is compromised by the issues raised above—large numbers of inmates, various legal statuses, and short and unpredictable lengths of stay. Also, most jails are not accustomed to letting community organizations inside to begin the service delivery that could continue after release.

Another critical challenge of jail reentry is that few localities have a designated private organization or public agency to ease the transition process after release. So unlike state and federal prisoners, who are typically released to parole or probation supervision, most jail inmates are simply let out on their own. No single person or organization is responsible—or held accountable—for reentry assistance or oversight once individuals are released to the community.

Finally, from a policy perspective, it's important to note that there are 3,365 independently operated jails in the United States.<sup>18</sup> Jails are typically run by sheriffs or corrections administrators at the county or city level, so policy change is much more complex than reentry reform at the state or federal levels.

However, opportunities exist for addressing reentry from jail. For example, brief stays mean less time away from home communities. Individuals aren't disconnected for long from their families, jobs, and other positive social networks. Unlike prisoners who face longer sentences, individuals incarcerated in jails may be able to return to their homes, churches, or jobs following a brief jail stay.

Because jails are locally situated, they can facilitate “in-reach” with nearby service providers who can continue assisting an individual after release. These agencies, such as

departments of health and human services, workforce development, and family and child welfare services, are likely *already* working with the very people who cycle in and out of jail, as well as the individuals' families. Not only are most repeat offenders using jail space over and over again, but they are also repeatedly using human services.

#### **Progress and Innovation Are Under Way**

Over the past four years, the Department of Justice (via the Office of Justice Program's Bureau of Justice Assistance and the National Institute of Corrections) has made strategic investments to help the field build knowledge and awareness and to develop a jail-to-community model and technical assistance materials.

In 2006, the Bureau of Justice Assistance funded a partnership with the Urban Institute, John Jay College of Criminal Justice, and the Montgomery County Department of Correction and Rehabilitation to convene a roundtable on reentry from jails. The two-day meeting brought together leading jail administrators, researchers, corrections and law enforcement professionals, county and community leaders, service providers, and formerly incarcerated individuals to discuss the unique dimensions, challenges, and opportunities of jail reentry. The roundtable produced commissioned papers, presentations, and two reports—"Life After Lockup: Improving Reentry from Jail to the Community" and "The Jail Administrator's Toolkit for Reentry."<sup>19</sup>

More recently, the Urban Institute and our partners (Kevin Warwick, president, Alternative Solutions Associates, Inc.; Gary Christensen, principal, Corrections Partners, Inc.; and Jeff Mellow, associate professor, John Jay College of Criminal Justice) have been working with the National Institute of Corrections to develop a Transition from Jail to Community (TJC) model that can be adopted in jurisdictions large and small, urban and rural. We developed this model in collaboration with an experienced group of advisors from around the country, including sheriffs, police chiefs, judges, victims' advocates, jail administrators, service providers, and formerly incarcerated individuals. The model was informed by innovative practices already under way—some for many years—in places like Montgomery County, MD; Hampden County, MA; New York, NY; and Allegheny County, PA.

The goals of the TJC initiative are ambitious: improved public safety and better outcomes for individuals returning to their communities. This means fewer crimes, reduced substance abuse, reduced homelessness, improved health, increased employment, and increased family connectedness. TJC is not a program but a systems-change approach—a way for jails and community organizations to effectively work together on a day-to-day basis.

The importance of involving community organizations in transition efforts cannot be overstated. Because people are incarcerated and then return to their home neighborhoods so quickly, community agencies and stakeholders must own the problem and the solution, in partnership with jails. As Martin Horn, the former commissioner of New York City's Department of Correction and Probation, stated,

In New York, we hold individuals for ... brief periods of time, so the solution has to be in the community. They do all return to communities. These are the children of our communities, ultimately—these are the brothers and the sisters, the mothers and the fathers, the children and the grandchildren. And unless communities take ownership of the manner in which they return to their communities, we can't do it by ourselves.<sup>20</sup>

What does effective transition involve?

- **Screening and assessment** to quickly determine an inmate's risks and needs and to flag high-risk individuals for transition planning and services;
- **Development of a transition plan** to identify what people need most (such as substance abuse treatment and a job) and how they will get them;
- **Targeted transition interventions** that begin in jail and continue after release. Interventions can involve multiple service sectors, such as workforce investment boards and health care providers. Community "in reach" is encouraged, both to expand the jail's capacities and to build relationships with individuals before they are released. Informal support networks, such as families and faith communities, and supervision agencies (when applicable) should also be involved.

The TJC model builds on evidence-based principles generated by recent research and the experiences of innovators like those at this hearing. The goal is to match the right treatment and requirements to the right individuals, focusing scarce resources on the interventions that are most effective and on the people who need them most. This is far from business-as-usual in most jurisdictions.

We are evaluating the efforts of the six TJC pilot sites<sup>21</sup> so that we can help guide jurisdictions toward success and document it when it occurs. The new Second Chance grantees, many of which are focused on jail reentry, are using similar principles and provide many reasons for optimism. In TJC and Second Chance jurisdictions, we hope to see lower recidivism rates, improved employment outcomes, better health, and less homelessness.

#### **Congress Can Encourage More Innovation and Evaluation**

It is far too soon to declare victory or to think we've got this public safety problem figured out. While dozens of jurisdictions are working on reentry strategies, there are more than 3,000 jails in the United States. By focusing attention on jail reentry through hearings like this one and by passing bipartisan legislation like the Second Chance Act, Congress signals to jurisdictions around the country that new directions are in order. These are clear signs that jails and their communities must be responsible together for what happens to individuals before *and after* they are released.

Of course, grants and similar financial support make a difference. They foster collaboration, seed innovation, and fund real services, such as substance abuse treatment and job placement. Congressional funding also creates much-needed resources for the field, such as the newly established National Reentry Resource Center.<sup>22</sup> Congressional

attention and funding signals to cities, counties, and states that a proactive approach to reentry is the way of the future—and they shouldn't wait or they'll be left behind.

At the same time, we still have much to learn about what works. Accordingly, funding should also be used to rigorously evaluate new jail-to-community reentry efforts. It is critical that we figure out what approaches are most effective so lessons learned can benefit the broader field.

The work ahead is complex and implementation is difficult. But I am optimistic that well-implemented, research-informed reentry efforts will lead to safer, healthier communities for all Americans.

Thank you for inviting me to speak today. I will be happy to answer any questions you may have.

Respectfully submitted,

Amy L. Solomon  
Senior Research Associate  
Urban Institute

For further information about jail transition, please see:

***Life After Lockup: Improving Reentry from Jail to the Community***

<http://www.urban.org/url.cfm?ID=411660>

**The Transition from Jail to Community Web Site**

<http://www.jailtransition.com>

**Jail Reentry Roundtable Web Site**

<http://www.urban.org/projects/reentry-roundtable/roundtable9.cfm>

**The National Reentry Resource Center**

<http://www.nationalreentryresourcecenter.org>

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<sup>1</sup> As of midyear 2008, there were 1,409,442 individuals in state prison, 201,142 in federal prisons, and 785,556 persons awaiting trial or serving a sentence in local jails. U.S. Bureau of Justice Statistics. No date. "Corrections Statistics." <http://www.ojp.usdoj.gov/bjs/correct.htm>.

<sup>2</sup> Warren, Jenifer, et al. 2008. "One in 100: Behind Bars in America 2008." Washington, DC: The Pew Center on the States. <http://www.pewcenteronthestates.org/uploadedFiles/One%20in%20100.pdf>.

<sup>3</sup> Langan, Patrick A., and David J. Levin. 2002. "Recidivism of Prisoners Released in 1994." Bureau of Justice Statistics Special Report NCJ193427. Washington, DC: U.S. Department of Justice, Bureau of Justice Statistics. <http://www.ojp.usdoj.gov/bjs/abstract/rpr94.htm>.

- <sup>4</sup> These figures are from 2006 and 1996, respectively. U.S. Bureau of Justice Statistics. No date. "Expenditure and Employment Statistics." <http://www.ojp.usdoj.gov/bjs/eande.htm>.
- <sup>5</sup> This is a 2002 figure, the most recent available. Specifically, 822,100 children had a parent in jail, 1,381,900 had a parent in state prison, and 209,700 had a parent in federal prison. "Parents under Correctional Supervision: Past Estimates, New Measures," a presentation by Christopher J. Mumola, Bureau of Justice Statistics, at the NIDA Research Meeting, November 6, 2006. [http://www.drugabuse.gov/whatsnew/meetings/children\\_at\\_risk/pdf/Mumola.pdf](http://www.drugabuse.gov/whatsnew/meetings/children_at_risk/pdf/Mumola.pdf).
- <sup>6</sup> Analysis by E. Cadora and C. Swartz for the Community Justice Project at the Center for Alternative Sentencing and Employment Services (CASES), 1999. For more information, see <http://www.communityjusticeproject.org/>.
- <sup>7</sup> Travis, Jeremy. 2005. *But They All Come Back: Facing the Challenges of Prisoner Reentry*. Washington, DC: Urban Institute Press. <http://www.urban.org/url.cfm?ID=211157>.
- <sup>8</sup> Specifically, in 2007, 725,402 sentenced prisoners were released from state and federal prisons. West, Heather C., and William J. Sabol. 2008. "Prisoners in 2007." Bureau of Justice Statistics Bulletin NCJ 224280. Washington, DC: U.S. Department of Justice, Bureau of Justice Statistics. <http://www.ojp.usdoj.gov/bjs/pub/pdf/p07.pdf>.
- <sup>9</sup> According to the Bureau of Justice Statistics, an estimated 9 million unique individuals cycle through jails some 12 million times each year. Beck, Allen J. 2006. "The Importance of Successful Reentry to Jail Population Growth." Presented at the Urban Institute Jail Reentry Roundtable, Washington, DC, June 27, 2006. [www.urban.org/projects/reentry-roundtable/roundtable9.cfm](http://www.urban.org/projects/reentry-roundtable/roundtable9.cfm).
- <sup>10</sup> The average length of stay in small jails is only 11 days; in large jails, it is 27 days. Beck, Allen J. 2006. "The Importance of Successful Reentry to Jail Population Growth." Presented at the Urban Institute Jail Reentry Roundtable, Washington, DC, June 27, 2006. <http://www.urban.org/projects/reentry-roundtable/roundtable9.cfm>.
- <sup>11</sup> The majority of inmates are charged with misdemeanor offenses. However, on any given day, the offenses for which inmates are incarcerated are evenly divided among four major crime types: public-order, drug-related, property, and violent offenses. James, Doris. 2004. "Profile of Jail Inmates, 2002." Bureau of Justice Statistics Special Report NCJ 201932 (Washington, DC: U.S. Department of Justice, Bureau of Justice Statistics, 2004). <http://www.ojp.usdoj.gov/bjs/abstract/pji02.htm>.
- <sup>12</sup> Beck, Allen J. 2006. "The Importance of Successful Reentry to Jail Population Growth." Presented at the Urban Institute Jail Reentry Roundtable, Washington, DC, June 27, 2006.
- <sup>13</sup> Karberg, Jennifer, and Doris James. 2005. "Substance Dependence, Abuse, and Treatment of Jail Inmates, 2002." Bureau of Justice Statistics Special Report NCJ 209588, Washington, DC: U.S. Department of Justice, Bureau of Justice Statistics. <http://www.ojp.usdoj.gov/bjs/abstract/sdatji02.htm>.
- <sup>14</sup> Harlow, Caroline Wolf, *Education and Correctional Populations*, Bureau of Justice Statistics Special Report NCJ 195670 (Washington, DC: U.S. Department of Justice, Bureau of Justice Statistics, 2003).
- <sup>15</sup> James, Doris. 2004. "Profile of Jail Inmates, 2002." Bureau of Justice Statistics Special Report NCJ 201932 (Washington, DC: U.S. Department of Justice, Bureau of Justice Statistics, 2004). <http://www.ojp.usdoj.gov/bjs/abstract/pji02.htm>.
- <sup>16</sup> Ditton, Paula, *Mental Health and Treatment of Inmates and Probationers*, Bureau of Justice Statistics Special Report NCJ 174463 (Washington, DC: U.S. Department of Justice, Bureau of Justice Statistics, 1999).
- <sup>17</sup> James, Doris. 2004. "Profile of Jail Inmates, 2002." Bureau of Justice Statistics Special Report NCJ 201932 (Washington, DC: U.S. Department of Justice, Bureau of Justice Statistics, 2004). <http://www.ojp.usdoj.gov/bjs/abstract/pji02.htm>.
- <sup>18</sup> Beck, Allen J. 2006. "The Importance of Successful Reentry to Jail Population Growth." Presented at the Urban Institute Jail Reentry Roundtable, Washington, DC, June 27, 2006.
- <sup>19</sup> This information is available at the Jail Reentry Roundtable web site, <http://www.urban.org/projects/reentry-roundtable/roundtable9.cfm>.
- <sup>20</sup> Drum Major Institute for Public Policy, "DMI Marketplace of Ideas: The Power of Restorative Justice," May 16, 2005.
- <sup>21</sup> The TJC sites are Denver, CO; Douglas County, KS; Kent County, MI; La Crosse County, WI; Davidson County, TN; and Orange County, CA.
- <sup>22</sup> The National Reentry Resource Center, established by the Second Chance Act and administered by the Bureau of Justice Assistance, provides education, training, and technical assistance to states, tribes,

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territories, local governments, service providers, non-profit organizations, and corrections institutions working on prisoner reentry. The Center is a project of the Council of State Governments Justice Center, with key project partners: the Urban Institute, Association of State Correctional Administrators, and the American Probation and Parole Association. The Center is also guided by an Advisory Board, which helps coordinate support and services for Second Chance Act grantees and the reentry field.

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
P.O. BOX 36060  
SAN FRANCISCO, CALIFORNIA 94102

CHAMBERS OF  
VAUGHN R WALKER  
CHIEF JUDGE

January 4, 2010

Honorable Arlen Specter  
United States Senate  
224 Dirksen Senate Office Building  
Washington, D.C. 20510

Honorable Benjamin L Cardin  
United States Senate  
509 Hart Senate Office Building  
Washington, D.C. 20510

Re: Re-entry court programs

Dear Senators Specter and Cardin:

Thank you for your December 9 letter and its enclosure of testimony before the Senate Subcommittee on Crime and Drugs by my friend and colleague Chief Judge Harvey Bartle III.

The Eastern District of Pennsylvania program described by Judge Bartle is an innovative and outstanding example of what can be accomplished by the judiciary in cooperation with the United States Attorney's Office and the federal defense bar. Chief Judge Bartle and his colleagues deserve high marks for initiative in undertaking this program.

In the Northern District of California, we have attempted to put together a re-entry program focusing on offenders with substance abuse problems. The United States Attorney in our district has not been convinced of the value of such a program and, therefore, we have not yet been able to enlist his office's efforts in such a program.

With your permission, I would like to convey Judge Bartle's testimony to our United States Attorney and ask whether he might reconsider his position.

Even without the cooperation of our United States Attorney in a substance abuse related re-entry program, our very able chief of probation, Yador Harrell, has implemented and is gearing up to implement, several evidence-based re-entry practices that should assist offenders in reintegrating into the community. Chief Harrell recently described these practices which I summarize below:

Honorable Arlen Specter  
Honorable Benjamin L Cardin

January 4, 2010  
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**Motivational interviewing:** Teaching probation officers interviewing techniques to assist them in highlighting incentives for offenders to avoid recidivism.

**Risk Management:** Adoption of a risk management system to identify offenders who need the most supervision and help target their most pronounced needs.

**Moral Reconciliation Therapy:** Training officers to run cognitive thinking groups possibly in conjunction with the State of California Probation.

**Intervention Programs:** Developing monthly offender intervention classes (credit counseling, life skills, relationships/ violence, victim awareness, etc) for offenders in noncompliance or having special needs.

Of course, the costs and benefits of all programs of offender supervision need to be evaluated. To that end, the Federal Judicial Center has undertaken a study on the efficacy and costs of re-entry programs that should be highly informative in moving forward with them. Our court is taking part in a pilot project to test risk management assessment tools to assist in determining risk/needs scores of offenders while at the same time developing case plans based on these assessments. We intend to focus on using the assessment tool for offenders currently on supervision as well as during the presentence process.

Many thanks for your letter and your keen interest in the administration of justice and support of the judicial branch.

With all good personal wishes and regards,

Sincerely,



Vaughn R Walker  
Chief Judge

cc: Honorable Dianne Feinstein  
Honorable Barbara Boxer  
District and Magistrate Judges  
of the Northern District of California  
Chief United States Probation Officer Yador Harrell

UNITED STATES DISTRICT COURT  
DISTRICT OF MAINE

*John A. Woodcock, Jr.*

JOHN A. WOODCOCK, JR.  
CHIEF JUDGE

202 HARLOW STREET  
P.O. BOX 756  
BANGOR, MAINE 04402-0756  
(207) 945-0549

February 1, 2010

Honorable Arlen Specter  
United States Senate  
Washington, DC 20510

Honorable Benjamin L. Cardin  
United States Senate  
Washington, DC 20510

**Re: Re-entry court programs**

Dear Senators Specter and Cardin:

In response to your letter dated December 9, 2009, urging the federal court in the District of Maine to consider starting a re-entry court, you will be pleased to learn that we have done so. The re-entry program began on December 8, 2008 and has focused on individuals with a documented history of high-risk substance abuse. The program harnessed the combined efforts of the Court, the Probation Office, the Federal Defender's Office, the United States Attorney's Office, the United States Marshal, and the Clerk's Office, and has required regular meetings between the participants and the United States Magistrate Judge. It was never expected that the re-entry program would work a miraculous cure, but the stakeholders have been encouraged by the results.

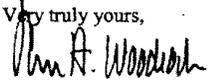
As a member of the Budget Committee of the Judicial Conference, I want to assure you that we are most conscious of the imperative to expend congressionally-authorized funds in a responsible and cost-effective manner. To this end, in Maine, the effectiveness of the re-entry program is being carefully studied by the Muskie School at the University of Southern Maine. I also understand that the Criminal Law Committee of the Judicial Conference has commissioned a study by the Federal Judicial Center to measure the efficacy and cost-effectiveness of the

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Honorable Benjamin L. Cardin  
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numerous federal re-entry programs that have been adopted across the Country. We intend to review the results of the Muskie School and Federal Judicial Center studies to make certain that our impressions of effectiveness are tested and substantiated by evidence-based research and that the taxpayer money that Congress has entrusted to the Judiciary is being spent wisely.

As Chief Judge of the District of Maine, I want to express my thanks for your concern about the problems that individuals convicted of federal crimes are encountering as they re-enter society, and for your commitment to seek ways to avoid the high social and financial cost of recidivism. We join you in that concern and commitment.

Very truly yours,



John A. Woodcock, Jr.  
Chief United States District Judge

JAW/mfs

cc: Senator Olympia J. Snowe  
Senator Susan Collins  
Chief Judge Sandra Lynch  
Chief Judge Mark Wolf  
Chief Judge Steven McAuliffe  
Chief Judge Mary Lisi  
Chief Judge Jose Fuste  
Judge D. Brock Hornby  
Judge George Z. Singal  
Magistrate Judge Margaret Kravchuk  
Magistrate Judge John Rich  
United States Attorney Paula Silsby  
United States Federal Defender David Beneman  
United States Probation Chief Karen Moody  
United States Marshal David Viles  
United States Clerk of Courts Linda Jacobson

