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## Finding Their Feet: How Reentry Court Changes the Path of Returning Citizens in the District of Minnesota

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“These individuals need and deserve our attention, our care, and our compassion, even though it is also our responsibility to supervise and hold them accountable. Re-entry court serves this precise purpose.” – Judge Donovan Frank<sup>1</sup>

### Introduction

The courtroom is the center of the American adversarial criminal justice system. Neatly divided, the prosecution sits to one side, the defense sits to the other, and the judge quite literally presides above them all. In this separated structure, attorneys argue, judges rule, and defendants have their fates decided for them. Twice a month, however, one courtroom in the Warren E. Burger United States Courthouse disrupts this adversarial model.<sup>2</sup> Here, the black robe-clad judge steps down from the bench and sits in a circle comprised of defense attorneys, prosecutors, probation officers and—to the surprise of many—recently released former prisoners.<sup>3</sup> These returning citizens have all been labeled as “high risk,” meaning that they are the most likely to reoffend and end up back in prison.<sup>4</sup> The goal of these twice-monthly Reentry Court sessions is to beat those odds by working together to ease the transition as former prisoners reenter society, making them less likely to reoffend.<sup>5</sup>

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1. Ruben Rosario, *They Did Hard Time at a High Price. They Don't Want to Go Back. This Re-entry Team Helps*, PIONEER PRESS (Oct. 27, 2017, 9:27 AM), <http://www.twincities.com/2017/10/29/rosario-they-did-hard-time-at-a-high-price-they-dont-want-to-go-back-this-re-entry-team-helps/> (last visited Feb. 8, 2019).

2. *Id.*

3. *Id.*

4. Interview with Rocky DeYoung, Cmty. Res. Specialist, Office of Prob. and Pretrial Serv., in Minneapolis, Minn. (Oct. 30, 2017) (on file with author).

5. *See id.*; *see also* Rosario, *supra* note 1.

The District of Minnesota Reentry Court (Reentry Court), the focus of this Note and the only federal reentry program currently available in the state of Minnesota, began in November 2015 as a two-year pilot project.<sup>6</sup> The program started at the urging of two federal district judges in St. Paul, Donovan W. Frank and Susan Richard Nelson.<sup>7</sup> Judge Frank and Judge Nelson each lead their own sessions of Reentry Court.<sup>8</sup> Magistrate Judge Steve E. Rau assists as well.<sup>9</sup> Kevin Lowry, Chief U.S. Probation and Pretrial Services Officer for Minnesota, and Rocky DeYoung, Community Resource Specialist,<sup>10</sup> played major roles in starting and maintaining Reentry Court.<sup>11</sup>

As of October 30, 2017, there had been forty-four participants in the Minnesota Reentry Court program and forty-four participants in the “control group,” those who were eligible for the program, but opted not to participate.<sup>12</sup> The Reentry Court program is led by the “Reentry Team,” which is a collaborative effort between the Minnesota U.S. Attorney’s Office, Federal Defender’s Office, U.S. Probation and Pretrial Services Office, U.S. District Court, and community resource agencies, in order to make the transition from prison to the community easier and more successful.<sup>13</sup> Mentors also play an important role in helping participants navigate the waters of reentry.<sup>14</sup> Eligible participants are invited to participate after their release from prison and while they are still in halfway houses.<sup>15</sup> Participation is completely voluntary, and all eligible<sup>16</sup> returning citizens who are evaluated to be “high risk”<sup>17</sup> are given an opportunity to join the group unless they have a mental illness or are a sex offender.<sup>18</sup>

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6. Interview with Rocky DeYoung, *supra* note 4; *see also* Rosario, *supra* note 1.

7. Interview with Rocky DeYoung, *supra* note 4.

8. *Id.*

9. *Id.*

10. Rocky DeYoung was the Community Resource Specialist as of the writing of this Note but transitioned to an outside role with Montage Solutions in April 2018.

11. Interview with Rocky DeYoung, *supra* note 4.

12. *Id.*

13. *Id.*

14. *Id.*

15. *Id.*

16. Interview with Rocky DeYoung, *supra* note 4. High risk returning citizens who are mentally ill or were convicted of a sex crime are ineligible for Reentry Court because they are placed in a more tailored program to aid in their reentry.

17. *See id.* (stating that eligible participants are those who score as “high risk” on the Post-Conviction Risk Assessment (PCRA)).

18. *Id.*

This Note is the first discussion of the creation and evolution of the District of Minnesota's Reentry Court Program. Part I will discuss the state of incarceration in the United States and factors contributing to the high rates of recidivism. Part II will evaluate the Reentry Court program's methods over its inaugural two years using the Federal Supervision Model<sup>19</sup> as a guide. Finally, this Note will compare this reentry court program to the two programs that inspired it and suggest practices moving forward.

## I. Background

Prior to the 1970s, the American approach to probation and parole reflected a "rehabilitative focus."<sup>20</sup> In the early 1970s, however, a "tough on crime" rationale began to edge out a rehabilitative focus, resulting in a more punitive approach characterized by "more heavily emphasized surveillance."<sup>21</sup> In 1984, President Reagan signed The Comprehensive Crime Control Act into law, which eliminated parole at the federal level and created the U.S. Sentencing Commission, which "promulgate[d] determinate sentencing guidelines."<sup>22</sup> The 1990s saw a shift from indeterminate to determinate sentencing at both state and federal levels.<sup>23</sup> More people were sentenced to prison time, prison sentences themselves got longer, and the national rate of incarceration increased nearly fourfold between 1973 and 1999.<sup>24</sup>

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19. *Chapter 1: Authority (Probation and Supervised Release Conditions)*, U.S. COURTS, <http://www.uscourts.gov/services-forms/authority-probation-supervised-release-conditions> (last visited Feb. 8, 2019).

20. Jessica A. Focht-Perlberg, *Two Sides of One Coin - Repairing the Harm and Reducing Recidivism: A Case for Restorative Justice in Reentry in Minnesota and Beyond*, 31 HAMLINE J. PUB. L. & POL'Y 219, 226 (2009).

21. *Id.*

22. See Devin T. Driscoll, Note, *Solving the Problem of Problem-Solving Justice: Rebalancing Federal Court Investment in Reentry and Pretrial Diversion Programs*, 102 MINN. L. REV. 1381, 1394 (2018) (citing Leslie Maitland Werner, *Getting Out the Word on the New Crime Act*, N.Y. TIMES (Nov. 15, 1984), [https://www.washingtonpost.com/archive/politics/1984/12/28/the-harder-line-on-federal-crime/1abdc57c-d120-4d50-b0d9-f25b95fcdb8/?utm\\_term=.4cb4e3783599](https://www.washingtonpost.com/archive/politics/1984/12/28/the-harder-line-on-federal-crime/1abdc57c-d120-4d50-b0d9-f25b95fcdb8/?utm_term=.4cb4e3783599) (last visited Feb. 8, 2019); see also Pub. L. No. 98-473, 98 Stat. 1976 (1984).

23. See Beth Schwartzapfel, *How Parole Boards Keep Prisoners in the Dark and Behind Bars*, WASH. POST (July 11, 2015), [https://www.washingtonpost.com/national/the-power-and-politics-of-parole-boards/2015/07/10/49c1844e-1f71-11e5-84d5-eb37ee8aa61\\_story.html?utm\\_term=.ca1c8f39b68e](https://www.washingtonpost.com/national/the-power-and-politics-of-parole-boards/2015/07/10/49c1844e-1f71-11e5-84d5-eb37ee8aa61_story.html?utm_term=.ca1c8f39b68e) (last visited Feb. 8, 2019) (discussing how sentencing shifted to "determinate sentencing schemes" after both the federal government and several states either eliminated or drastically cut down on parole).

24. Focht-Perlberg, *supra* note 20, at 225; see also Daniel M. Fetsco, *Reentry Courts: An Emerging Use of Judicial Resources in the Struggle to Reduce the Recidivism of Released Offenders*, 13 WYO. L. REV. 591, 592 (2013) ("Beginning in the 1970s, indeterminate sentencing fell under attack from both liberal and conservative groups, and as a result, many states abolished parole and enacted determinate

This new model's sentencing system meant "many courts were left with little to no involvement in either the preparation for an inmate's release or the transition of an inmate back into society."<sup>25</sup> Furthermore, there is no conclusive causal link between higher rates of incarceration and less crime.<sup>26</sup> While the number of people admitted each year to federal prisons has been slowly declining, those imprisoned during the incarceration boom of the 1970s are still trickling out of the prison system, meaning that millions of people each year still emerge from the harsh but structured world of incarceration to make their way into the "real world."<sup>27</sup> At the end of 2015, approximately 4.7 million former inmates were on probation or parole.<sup>28</sup>

The goal of probation is to help former inmates readjust to their community by "maintaining awareness of a defendant's activities" and by "establish[ing] an environment designed to prevent noncompliance before it occurs."<sup>29</sup> According to the Federal Supervision Model, "good supervision" is purposeful, individualized, proportional, multidimensional, proactive, and responsive to changes.<sup>30</sup> However, innumerable factors and obstacles make compliance with supervised release conditions difficult. Research indicates that convicted persons who spend time in jail are

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sentencing schemes and other 'truth-in-sentencing' principles that required inmates serve a mandatory amount of time in prison prior to release. As a result of this 'get-tough-on-crime' approach, from 1980 to 2000, the prison industry exploded in America, with a seventy percent increase in the number of prisons and a quadrupling of the number of inmates."); THE SENTENCING PROJECT, <http://www.sentencingproject.org/criminal-justice-facts/> ("There are 2.2 million people in the nation's prisons and jails—a 500% increase over the last 40 years. Changes in law and policy, not changes in crime rates, explain most of this increase.").

25. Fetsco, *supra* note 24, at 592.

26. Vikrant P. Reddy & Marc A. Levin, *Right on Crime: A Return to First Principles for American Conservatives*, 18 TEX. REV. L. & POL. 231, 237–38 (2014) (exploring international incarceration rates and information about crime rates in American states).

27. *NRRC Facts & Trends*, NAT'L REENTRY RES. CTR., [https://csgjusticecenter.org/nrrc/facts-and-trends/#\\_ftnref5](https://csgjusticecenter.org/nrrc/facts-and-trends/#_ftnref5) (last visited Feb. 8, 2019) (noting that "[t]he Bureau of Prisons admitted 4,000 fewer people to federal prisons in 2015, an 8% decrease from 2014" and "[a]t the end of 2015, the number of people in U.S. federal and state prisons was its lowest since 2005."); *see also* JOAN PETERSILIA, *WHEN PRISONERS COME HOME: PAROLE AND PRISONER REENTRY* 3 (2003).

28. *Id.*; *see also* Jeremy Travis, *But They All Come Back: Rethinking Prisoner Reentry*, SENT'G & CORRECTIONS: ISSUES FOR THE 21<sup>ST</sup> CENTURY, no. 7, May 2000, at 1 ("This increase in the movement from prison door to community doorstep comes at a time when traditional mechanisms for managing reentry have been significantly weakened.").

29. U.S. COURTS, *supra* note 19.

30. *Id.* (stating that "[r]esearch has demonstrated that a blending of controlling and correctional strategies is far more effective than selecting one strategy over the other.").

ultimately faced with two kinds of consequences: direct and collateral.<sup>31</sup> Direct consequences to conviction are considered the consequences to crime and consist of “the actual punishment handed down by the court, including jail or prison sentence, parole eligibility, or imposition of fines.”<sup>32</sup> Collateral consequences are less obvious. They “can be defined as the indirect social and civil restrictions that emanate from a criminal conviction, but are legally distinctive from the conviction and sentence.”<sup>33</sup> Though these former inmates have “served their time,” they often find that their past incarceration creates barriers to their successful reintegration into society, effectively forcing them to continuously “pay” for their crime.<sup>34</sup> These barriers, sometimes referred to as “civil disabilities,” include employment discrimination, narrowed options for jobs, housing, federal financial aid, and a reduced ability to participate in the community by way of voting or jury duty.<sup>35</sup> “Whether it’s finding a job or a place to live or figuring out how to make and keep appointments, the risks to a returning prisoner are formidable,” said Judge Nelson, “[t]he former inmates have generally grown up with no support that helped them avoid gangs or addiction, and prison life is extremely structured. It’s too much to ask these people to just get back on their feet.”<sup>36</sup> Procuring stable housing is particularly challenging to those who do not have family to stay with after release, as “[p]otential housing options for former prisoners are often limited or even barred to those with a record.”<sup>37</sup> Many returning citizens cite family support as a major reason why they have avoided reoffending, and at least one study indicates that

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31. Kristin Brown Parker, *The Missing Pieces in Federal Reentry Courts: A Model for Success*, 8 DREXEL L. REV. 397, 401 (2016).

32. *Id.*

33. Focht-Perlberg, *supra* note 20, at 229.

34. *Id.*

35. *Id.*; see also Christopher Uggen et al., *6 Million Lost Voters: State-Level Estimates of Felony Disenfranchisement, 2016*, SENT’G PROJECT (Oct. 6, 2016), <http://www.sentencingproject.org/publications/6-million-lost-voters-state-level-estimates-felony-disenfranchisement-2016/> (last visited Feb. 8, 2019) (finding that approximately 6.1 million Americans were ineligible to vote in 2016 due to felony disenfranchisement).

36. Barbara L. Jones, *Court Program Works with Parolees to Ease Transition*, MINN. LAWYER (Oct. 27, 2017), <http://minnlawyer.com/2017/10/26/court-program-works-with-parolees-to-ease-transition/>; see also Robert Blecker, *Heaven or Hell? Inside Lorton Central Prison: Experiences of Punishment Justified*, 42 STAN. L. REV. 1149, 1190–1202 (1990) (discussing stories of inmates struggling to resist the same temptations that led to their original incarceration after their release from structured prison life).

37. DEMELZA BAER ET AL., UNDERSTANDING THE CHALLENGES OF PRISONER REENTRY: RESEARCH FINDINGS FROM THE URBAN INSTITUTE’S PRISONER REENTRY PORTFOLIO 8–9 (2006).

returning citizens with strong family ties have improved employment outcomes.<sup>38</sup> However, not all prisoners have family waiting for them, and those that do often find that both the returning citizen and the family struggle to readjust to life together.<sup>39</sup>

Research indicates that returning citizens with employment are less likely to reoffend and that “higher wages are associated with lower rates of criminal activity.”<sup>40</sup> However, finding lasting employment is another pervasive barrier to reentry.<sup>41</sup> Though Minnesota does not allow private employers to include conviction history questions on job applications,<sup>42</sup> which can help mitigate the stigma of a criminal conviction,<sup>43</sup> ex-offenders have several other hurdles to overcome before a job search is complete.<sup>44</sup> After long periods of structured incarceration, high risk former inmates frequently feel overwhelmed by a myriad of newfound responsibilities and a lack of “social capital” or healthy networking connections in their community.<sup>45</sup> Criminal records bar job-seekers from pursuing many professional licensures due to federal and state bans and “good moral character” requirements.<sup>46</sup> Compounding these difficulties, former offenders, who often have “low levels of

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38. *Id.* at 12.

39. See Blecker, *supra* note 36, at 1202 (discussing the challenges that family members have when a former prisoner moves in with them full-time).

40. BAER, *supra* note 36, at 4.

41. Parker, *supra* note 31, at 403.

42. Beth Avery & Phil Hernandez, *Ban the Box: U.S. Cities, Counties, and States Adopt Fair Hiring Policies*, NAT'L EMP'T LAW PROJECT, <http://www.nelp.org/publication/ban-the-box-fair-chance-hiring-state-and-local-guide/> (last visited Feb. 8, 2019). For a discussion of how the expansion of protections for those with criminal records against employment discrimination, see Parker, *supra* note 31, at 403–04.

43. See Avery & Hernandez, *supra* note 42 (stating that initiatives such as Minnesota's mandate to prevent private employers from asking criminal history questions gives job applicants a “fair chance” to be considered without the stigma of their arrest). *But see* Adrienne Lyles-Chockley, *Transitions to Justice: Prisoner Reentry as an Opportunity to Confront and Counteract Racism*, 6 HASTINGS RACE & POVERTY L.J. 259, 271 (2009) (explaining that employers “are more likely than ever before” to assume Black male job candidates have a criminal background and fail to make a job offer on that basis); Ingrid Lederhaas-Okun, *As a White-Collar Criminal, All I Want Is a Second Chance*, HUFFINGTON POST (Apr. 07, 2017, 12:40 PM), [https://www.huffingtonpost.com/entry/as-a-white-collar-criminal-all-i-want-is-a-second-chance\\_us\\_58e19dd6e4b0ca889ba1a779](https://www.huffingtonpost.com/entry/as-a-white-collar-criminal-all-i-want-is-a-second-chance_us_58e19dd6e4b0ca889ba1a779) (discussing how “a simple search” on Google allowed any potential employer to see her felony record).

44. Parker, *supra* note 31, at 403.

45. See Interview with Rocky DeYoung, *supra* note 4 (explaining how high risk participants are particularly ill-equipped to handle life outside of prison); *see also* Focht-Perlberg, *supra* note 20, at 232 (citing Lyles-Chockley, *supra* note 43, at 292) (identifying “wasted time of incarceration” and damaged “social capital” as major roadblocks to offender employment that reentry must address).

46. Focht-Perlberg, *supra* note 20, at 231.

education, limited work experience, and limited vocational skills” to begin with, are additionally deprived of the opportunity to network and gain many new job skills while incarcerated.<sup>47</sup> This is especially true for Black males, who face the “double stigma” of having a criminal record while also being a person of color.<sup>48</sup> With such frequent and pervasive roadblocks to community reintegration, it is perhaps unsurprising that approximately seventy-six percent of former inmates will reoffend within five years of their release.<sup>49</sup> This recidivism is costly. In 2017, almost one third of the budget for the Department of Justice went towards federal prisons.<sup>50</sup> Chief U.S. Probation and Pretrial Services Officer Lowry stated that federal prison in Minnesota “costs \$34,770 a year, and \$4,392 for [probation] supervision” per individual.<sup>51</sup> This figure—nearly \$35,000—is high, but still fails to encompass both the financial cost of prosecuting the defendant and the social and emotional cost to victims, the offender’s family, and the community as a whole.<sup>52</sup>

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47. BAER ET AL., *supra* note 40, at 2–4.

48. See Lyles-Chockley, *supra* note 43, at 269–70 (discussing how the stigmas that follow offenders and Black males compound and are “nearly impossible to overcome”) (quoting Regina Austin, “*The Shame of It All: Stigma and the Political Disenfranchisement of Formerly Convicted and Incarcerated Persons*,” 36 COLUM. HUM. RTS. L. REV. 173, 178 (2004)).

49. See Office of Justice Programs, *Recidivism*, NAT’L INST. OF JUST. (last visited Feb. 8, 2019), <https://www.nij.gov/topics/corrections/recidivism/Pages/welcome.aspx> (describing a study that tracked over 400,000 prisoners in 30 states after a 2005 prison release and found that 76.6% of those prisoners were rearrested); see also Jay-Z, Opinion, *The Criminal Justice System Stalks Black People Like Meek Mill*, N.Y. TIMES (Nov. 17, 2017), <https://www.nytimes.com/2017/11/17/opinion/jay-z-meek-mill-probation.html> (using Meek Mill’s recent re-incarceration to illustrate how probation can be particularly problematic for people of color, and stating that “[i]nstead of a second chance, probation ends up being a land mine, with a random misstep bringing consequences greater than the crime. A person on probation can end up in jail over a technical violation like missing a curfew.”).

50. Compare Barack Obama, *The President’s Role in Advancing Criminal Justice Reform*, 130 HARV. L. REV. 811, 833 (2017) (discussing how the rise in our national prison population “deprives businesses of talented workers, and it deprives communities in desperate need of more role models who are gainfully employed.”), with Reddy & Levin, *supra* note 26, at 238 (suggesting that, at a certain point, money spent on incarceration “is better spent on improved law enforcement strategies, substance abuse treatment, or community supervision monitoring.”).

51. See Rosario, *supra* note 1; see also Obama, *supra* note 50, at 817 (“The federal government spends more than \$7 billion a year to house prisoners. . . a figure that crowds out spending on other critical public safety initiatives.”); see also Annual Determination of Average Cost of Incarceration, 80 Fed. Reg. 12523 (Mar. 09, 2015) (stating that “[t]he fee to cover the average cost of incarceration for Federal inmates in Fiscal Year 2014 was \$30,619.85 (\$83.89 per day).”).

52. See Rosario, *supra* note 1; see also Obama, *supra* note 50, at 833 (stating that “giving former inmates the tools they need to lead law-abiding lives is also a direct investment in public safety.”); Reddy & Levin, *supra* note 26, at 236–37 (pointing to research indicating that “children with incarcerated parents underperform in

In an attempt to stem the tide of recidivism, the courts have begun to again involve themselves in inmate transitions back into society after incarceration through reentry courts.<sup>53</sup> This movement, which was modeled after state drug courts, began in 1999 and has been growing ever since.<sup>54</sup> Federal reentry courts are relatively new, though their preliminary results are promising.<sup>55</sup> Currently, programs tend to have one of three main focuses: “1) ex-offenders with a history of substance abuse; 2) moderate- to high-risk ex-offenders; and 3) ex-offenders with a history of criminal activity in sexual assault.”<sup>56</sup> Several programs, including the District of Minnesota’s Reentry Court, have determined that it is most beneficial for the judicial branch to run the reentry court.<sup>57</sup>

Every person who is released from the Minnesota Federal Bureau of Prisons is assessed by the Post-Conviction Risk Assessment tool (PCRA) to determine each returning citizen’s level of risk.<sup>58</sup> The Reentry Team then uses the PCRA data to determine who will be invited to join the program.<sup>59</sup> Research indicates that the most effective interventions take three principles into account when attempting to reduce the rate of recidivism: the risk principle, which states that “the level of correctional intervention should match the client’s risk of recidivism;” the need principle, which states that “correctional interventions should target known and changeable predictors of recidivism;” and the responsivity principle, which states that “interventions should involve the treatment modality most capable of changing known predictors of recidivism.”<sup>60</sup> With this in mind, the PCRA was designed to

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virtually every important social indicator. They suffer from lower high school graduation rates, higher teen pregnancy, and higher incarceration rates.”)

53. Fetsco, *supra* note 24, at 592.

54. *Id.* at 595.

55. Hon. Laurel Beeler, *Federal Reentry Courts and Other New Models of Supervision*, FED. LAW., Mar. 2013, at 55, 58. *But see* Driscoll, *supra* note 22, at 1400–01 (discussing how several factors, including the lack of longitudinal studies and the uniqueness of each federal reentry program, make it difficult to definitively assess the long-term effects of these programs on participant outcomes).

56. Parker, *supra* note 31, at 409.

57. Fetsco, *supra* note 24, at 603 (stating that a “reentry court judge” is ideally equipped to leverage authority within the justice system and community, to configure the components required to address reentry barriers, and to foster a new relationship between the offender and the community.”) (quoting Melissa Augin, *The District of Oregon Reentry Court: An Evidence-Based Model*, 22 FED SENT’G REP. 39, 41 (2009)).

58. Interview with Rocky DeYoung, *supra* note 4.

59. *Id.*

60. ADMIN. OFFICE OF THE U.S. COURTS, AN OVERVIEW OF THE FEDERAL POST CONVICTION RISK ASSESSMENT 3 (2011), [http://www.uscourts.gov/sites/default/files/pcra\\_sep\\_2011\\_0.pdf](http://www.uscourts.gov/sites/default/files/pcra_sep_2011_0.pdf).

incorporate these three principles by informing probation officers which returning citizens would benefit from additional intervention, providing probation officers with an idea of what factors should be targeted for change on a case-by-case basis, and allowing probation officers to identify the most effective way of providing the returning citizen with treatment.<sup>61</sup> It was also intended to be more flexible than its predecessor, the Risk Prediction Index (RPI).<sup>62</sup> The PCRA collects information about the person's criminal history, education, employment, substance abuse, social networks, cognition, housing, finances, recreational activities, and responsivity factors.<sup>63</sup> A PCRA score indicates if the person is low, low/moderate, moderate, or high risk, and additionally states what factors "should be targeted for change" on a case-by-case basis.<sup>64</sup> Those who are scored as high-risk are at the most risk for re-incarceration.<sup>65</sup>

From the very beginning, the District of Minnesota Reentry Court targeted high-risk returning citizens. When the program began in November 2015, it had only six participants.<sup>66</sup> Sixteen additional participants had joined the ranks by July 2016.<sup>67</sup> On November 1, 2017, there were twenty total participants enrolled in Reentry Court and five total graduates.<sup>68</sup> In March 2018, the Reentry Team expected four additional graduations by the end of April 2018.<sup>69</sup> High-risk returning citizens in the halfway houses who agree to participate in Reentry Court are guided through the twelve-to eighteen-month reentry court process with the help of the Reentry Team, a mentor who is assigned to them personally, and other participants in the program.<sup>70</sup> The overall process consists of four phases, which focus on the participant's conditions of release, improvement in housing, employment, and treatment as needed, as well as other individualized goals.<sup>71</sup> As participants move through

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61. *Id.* at 8.

62. James L. Johnson et al., *The Construction and Validation of the Federal Post Conviction Risk Assessment (PCRA)*, 75 FED. PROB., 16, 18 (Sep. 2011).

63. ADMIN. OFFICE, *supra* note 60, at 10.

64. *Id.* at 13.

65. *Id.*; *see also* Rosario, *supra* note 1 (stating that there is roughly a seventy-five percent rate of recidivism for high risk offenders).

66. E-mail from Rocky DeYoung, Cmty. Res. Specialist, U.S. Pretrial and Prob. Serv., to author (Mar. 1, 2018, 4:13 PM) (on file with author).

67. *Id.*

68. *Id.*

69. *Id.*

70. Reentry Team, Reentry Ct. Discussion at the Warren F. Burger Courthouse (Nov. 1, 2017) (on file with author).

71. *Id.*

the phases, they are subject to fewer conditions and given more trust and autonomy.<sup>72</sup> Participants are eligible to receive incentives, which can include but are not limited to: a gift card, promotion to the next phase, decreased frequency in court sessions, and, most significantly, up to one year off the term of supervision.<sup>73</sup> If a participant moves through the four phases and satisfies all the conditions, that person “graduates” from Reentry Court.<sup>74</sup> While participants are incentivized by rewards, Reentry Court does not lessen their obligations under their conditions of supervised release.<sup>75</sup> To the contrary, participants find themselves with additional conditions for remaining in the program, including regular meetings with their mentor and attendance at Reentry Court sessions.<sup>76</sup> However, participants meet these conditions with the social support of the group and of their mentors.<sup>77</sup>

The mentor program, one of the unique features of Reentry Court, pairs participants with members of their community to regularly meet and communicate.<sup>78</sup> DeYoung, who trains the mentors and interacts with the mentees, personally matches mentors based on his experiences with both groups.<sup>79</sup> Participants are asked to reach out to their mentor at least twice a month.<sup>80</sup> Mentors are recruited from a variety of sources, including church groups and a program called Montage.<sup>81</sup> “Some of the mentors are former inmates themselves.”<sup>82</sup> Mentors undergo both initial and ongoing training to prepare them for mentoring someone recently released from the prison system.<sup>83</sup> Mentors also submit reports

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72. Interview with Rocky DeYoung, *supra* note 4.

73. U.S. DISTRICT COURT DISTRICT OF MN, REENTRY COURT PARTICIPANT GUIDELINES (2016) (on file with author).

74. *Id.*

75. Interview with Rocky DeYoung, *supra* note 4.

76. *Id.*

77. *Id.*

78. *Id.*

79. E-mail from Rocky DeYoung, Cmty. Res. Specialist, U.S. Pretrial and Prob. Serv., to author (Feb. 26, 2018, 11:19 AM CST) (on file with author).

80. Interview with Rocky DeYoung, *supra* note 4.

81. *Id.*

82. Jones, *supra* note 36.

83. Interview with Rocky DeYoung, *supra* note 4 (describing the multiple ways potential mentors prepare for their role). As of the writing of this note, training mentors shadow already practicing mentors and must complete 1) a three-hour long initial training focused on general mentoring, 2) a three-hour long system training about the criminal justice system, and 3) a less structured quarterly training that addresses any adjustments to the program.

about their mentees to the Reentry Team, which reviews the reports before meeting with the participants.<sup>84</sup>

Reentry Court begins with a private, one-hour check-in between the Assistant U.S. Attorney (AUSA), Federal Defender, probation officers, and the presiding judge in the judge's chambers.<sup>85</sup> They confer about each individual participant scheduled to attend that day, discussing the reports from both the mentor and the probation officer, potential areas of improvement, past and potential issues with the participant, and the participant's progress in the program.<sup>86</sup> The Reentry Team also discusses what individual and achievable goals each participant must complete or progress in before that participant can move to the next phase.<sup>87</sup> In the last fifteen minutes of the session, mentors and shadowing mentors-in-training may join the Reentry Team and discuss mentees and progress with the program.<sup>88</sup>

After this pre-court check-in, the Reentry Team and the mentors join the participants in the courtroom.<sup>89</sup> Though the judge wears his or her robes to the session, the Reentry Team and participants alike sit on equal footing, with all of them sitting in chairs in a circle around a table.<sup>90</sup> Each participant tells his or her story, and members of the group chime in to add comments, questions, or suggestions.<sup>91</sup> Participants are called out, either by one another or by a member of the Reentry Team, when they are caught in a lie or seem to be unduly giving into self-pity.<sup>92</sup> The group also provides encouragement and support, offering advice or personal aid when a participant discloses an issue.<sup>93</sup> DeYoung attributes much of the group's success to the participants' willingness to keep one another honest and motivated.<sup>94</sup> The Reentry Team frequently emphasizes the importance of participants building "social capital," both with other participants and with members of the Reentry Team.<sup>95</sup> More seasoned participants often encourage newer members to take advantage of

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84. Reentry Team, *supra* note 70.

85. *Id.*

86. *Id.*

87. *Id.*

88. *Id.*

89. Reentry Team, *supra* note 70.

90. *Id.*

91. *Id.*

92. *Id.*

93. *Id.*

94. Interview with Rocky DeYoung, *supra* note 4.

95. Reentry Team, *supra* note 70.

this concept, directing them towards DeYoung (who knows a good place to find a job), a mentor (who can help with a credit score problem), the prosecutor (for aid in clearing up an issue with obtaining a driver's license), the Federal Defender (who offers to meet with one participant's daughter, an aspiring attorney), and a fellow participant (who is adept at finding reasonably priced housing that accepts applicants with criminal backgrounds).<sup>96</sup> These words of encouragement, pieces of advice, and pushes in the right direction are invaluable in helping the participant build social capital and successfully move through the four phases of Reentry Court.<sup>97</sup>

Once a participant has completed all four phases of the program, they are eligible to graduate.<sup>98</sup> Successful completion of all the phases means that the participant has shown that they have completed treatment for mental health and/or substance abuse, as needed, secured stable housing and employment, have consistent contact with a mentor, and satisfied the Reentry Team that they are stable in any other individual areas of concern.<sup>99</sup> However, even those who are still a long way from graduating report gratitude for the stability that the Reentry Court program brings them.<sup>100</sup> As of November 2017, two years into the Reentry Court program, the recidivism rate for Reentry Court participants was twenty-seven percent.<sup>101</sup> This recidivism rate is a roughly forty percent decrease from recidivism rates for high-risk non-participants.<sup>102</sup>

## II. Analysis

A dearth of publicly available data, combined with the relative youth of the program, make it difficult to empirically assess the long-term success of this reentry court program. However, Reentry Court is a supplement to probation, not a replacement. As such, this Note uses the Federal Supervision Model's "Principles of Good Supervision" for Probation Officers—purposefulness, tailoring, proportionality, multidimensional, proactive, and responsiveness to

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96. *Id.*

97. Interview with Rocky DeYoung, *supra* note 4.

98. *Id.*

99. Jones, *supra* note 36, at 2.

100. *See id.* (describing a participant who said that the group helped him change his lifestyle and feel pride in his job and ability to stay out of prison); *see also* Rosario, *supra* note 1 (discussing two participants who express gratitude towards the program for providing them with stability and encouragement).

101. Jones, *supra* note 36.

102. *Id.*

changes—as guidelines for assessing this program.<sup>103</sup> According to these principles, purposeful supervision calls for developing “specific goal-directed objectives to be accomplished by [a particular] defendant . . . and the strategies that the probation officer will undertake to monitor compliance and facilitate the accomplishment of those objectives.”<sup>104</sup> It also calls for efficiency—each time the probation officer contacts the participant, it should be “directly related to case objectives.”<sup>105</sup> These plans should be tailored and based on careful assessment of the “risks, needs, and strengths” of each participant.<sup>106</sup> Supervision should only be as invasive as is “reasonably necessary” to achieve supervision goals.<sup>107</sup> Plans should be “multidimensional,” and probation officers are expected to intervene “us[ing] skills from various disciplines.”<sup>108</sup> Proactive officers should know about changes in a participant’s life and actively look for any impact that change has.<sup>109</sup> The officer should be prepared to timely respond to any changes with the returning citizen, either with warnings or sanctions to address signs of potential noncompliance or to praise good behavior.<sup>110</sup> These principles are supposed to “ensure that the majority of supervision resources are dedicated to those defendants who need them most in order to successfully complete their community sentences.”<sup>111</sup> Crucially, the goal of supervised release is the successful reintegration of returning citizens to their community, not to further punish those individuals.<sup>112</sup> Once a person is out on supervised release, they have done their time and should be done paying for their crime.

Looking at the structure of the District of Minnesota Reentry Court, it is clear that the Reentry Team kept these goals in mind

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103. U.S. COURTS, *supra* note 19.

104. *Id.*

105. *Id.*

106. *Id.*

107. *Id.*

108. U.S. COURTS, *supra* note 19.

109. *Id.*

110. *See id.* (“Response to noncompliance should be purposeful and proportionate, certain and timely, realistic and escalating; and should include elements designed to both provide a negative consequence for the behavior and change the circumstances that led to the noncompliance. On the other hand, there is a rebuttable presumption that the intrusiveness and frequency of supervision activities will be reduced over time for stable, compliant defendants who are meeting their supervision objectives.”).

111. *Id.*

112. U.S. SENTENCING COMM’N, FEDERAL OFFENDERS SENTENCED TO SUPERVISED RELEASE 1, 2 (2010).

when they created it. High risk returning citizens often suffer the greatest challenges to reentry.<sup>113</sup> “Research indicates that the greater the number of a person’s assessed criminogenic needs that are addressed through services, the greater the impact those services will have on reducing the risk of reoffending.”<sup>114</sup> The time immediately after a returning citizen begins supervised release is “a critical period in the prison-to-community transition.”<sup>115</sup> Recognizing this and acknowledging the need for a “multidimensional” approach to helping the participants, the Reentry Team brings a diverse group of people and perspectives to each session.<sup>116</sup> One mentor described the reentry court program as an effective compilation, stating:

You have three different perspectives: the court, which is the voice but also the encouraging voice of authority . . . You have the mentor, who works closely with the individuals coming out, speaks the language of the outside world and knows the lay of the land, and then the mentees themselves. [The mentees] encourage one another and they also call out each other when they hear BS. That’s what makes the re-entry court different.<sup>117</sup>

This collaborative, multidimensional approach also allows support to come from multiple directions—probation officers, judges, attorneys, and mentors. DeYoung opined that this creates “a more level playing field” between the participant and the Reentry Team because the two groups, so frequently in opposition, each got to learn about the other.<sup>118</sup> All these perspectives, combined with the increased time that each member of the Reentry Team spends getting to know each participant, inform the decisions that the Reentry Team makes about setting tailored goals for each participant.<sup>119</sup> At the pre-court meeting in chambers, the Team considers mentor reports, participant compliance with conditions of

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113. Interview with Rocky DeYoung, *supra* note 4.

114. CHIDI UMEZ ET AL., THE NAT’L REENTRY RESOURCE CTR., MENTORING AS A COMPONENT OF REENTRY: PRACTICAL CONSIDERATIONS FROM THE FIELD, 1, 22 (2017). This article goes on to discuss how time-intensive services such as Reentry Court can actually be counterproductive for low-risk participants.

115. See Barbara Meierhoefer, *Judge-Involved Supervision Programs in the Federal Courts: Summary of Findings from the Survey of Chief United States Probation Officers*, 75 FED. PROB. 37, 38 (Sep. 2011); see also U.S. SENTENCING COMM’N, RECIDIVISM & FEDERAL SENTENCING POL’Y 1 (2017), <https://www.uscc.gov/sites/default/files/pdf/research-and-publications/backgrounders/RG-recidivism-overview.pdf> (stating that most offenders who recidivated “did so within the first two years of release.”) (last visited Feb. 8, 2019).

116. Interview with Rocky DeYoung, *supra* note 4.

117. Rosario, *supra* note 1.

118. Interview with Rocky DeYoung, *supra* note 4.

119. Reentry Team, *supra* note 70.

probation, participant progress on goals from the previous session, and general observations about the participants.<sup>120</sup> They consider external factors, such as pressure to have enough money to buy children presents around the holidays, when they discuss what recommendations to make.<sup>121</sup> With all this in mind, the Team checks in with one another about the feasibility of each goal and the participant's future with the program.<sup>122</sup> Importantly, participants who achieve these goals are recognized for their success.<sup>123</sup> Research indicates that this kind of recognition for even minor accomplishments is vital, as it can help participants learn to believe they can be successful and set them up for future lawful achievements.<sup>124</sup>

Studies indicate that mentorship is a powerful way to “address[] criminogenic needs” of returning citizens.<sup>125</sup> Mentors can also be an effective form of social support away from antisocial peers connected to a criminal network.<sup>126</sup> Reentry Court clearly recognizes this opportunity and creates what this Note identifies as two distinct and compelling forms of mentorship for participants to take advantage of. The first form is the individual mentorship model. DeYoung reports that, in his experience, high risk returning citizens frequently struggle to find prosocial ways to spend their free time.<sup>127</sup> The individual mentors actively help with that issue, introducing their mentees to positive activities from church groups to bowling games.<sup>128</sup> Mentors also serve as a positive role model for their mentee to model behavior after. Cordova Jamal Lynch, one of the first graduates of Reentry Court, considers his mentor “a close friend and a key reason why he is now working steadily in the construction industry and has a stable working and home life.”<sup>129</sup>

Mentorship can be especially impactful when the mentor has been incarcerated and can speak to his or her own experiences

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120. *Id.*

121. *Id.*

122. *Id.*

123. *Id.*

124. See Beeler, *supra* note 55, at 59 (explaining how reentry courts can help to alter what participants believe they are capable of.) One judge stated that it was important to set goals high because it's a way of “believing in people until they learn to believe in themselves” through their successes. *Id.*

125. See UMEZ ET AL., *supra* note 114, at 24 (discussing how mentors can be a source of “prosocial support” for participants, often leading to better outcomes).

126. *Id.*

127. Interview with Rocky DeYoung, *supra* note 4.

128. *Id.*

129. See Rosario, *supra* note 1 (discussing Lynch's relationship with court mentor Ken Ehling).

handling the roadblocks of reentry.<sup>130</sup> Some of the individual mentors have this experience and are therefore able to provide that perspective to their mentees.<sup>131</sup> However, participants who are not paired with formerly incarcerated mentors can still achieve some of the benefits of such a relationship through fellow participants' engagement in group mentorship. While group mentoring is not as conducive to forming close and trusting relationships as individual mentorship is, it also ensures that participants are "expos[ed] to insights offered by other program participants, as positive interactions with other participants can also be beneficial to a participant's experience."<sup>132</sup> While the Reentry Team does contribute to the conversation, the group setting also allows the participants to engage directly with one another.<sup>133</sup> As participants share their stories, other group members listen, learn, support, and often hold one another accountable.<sup>134</sup> Importantly, more experienced participants show the others that successful reentry into the community is possible for someone in their shoes.<sup>135</sup>

The Reentry Team uses both these forms of mentorship, as well as the participants' relationship with the team itself, to combat common issues of recent releasees struggling with their lack of "social capital," which impacts their ability to build prosocial community ties, find steady employment, and avoid reoffending. The twice-a-month meetings serve as a chance for the participants to flex their rusty networking skills. Furthermore, the more level playing field between the Reentry Team and the participants gives participants a chance to see a side of the criminal justice system that likely was previously foreign—a side that is willing to help

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130. UMEZ ET AL., *supra* note 114, at 24.

131. See Interview with Rocky DeYoung, *supra* note 4; see also UMEZ ET AL., *supra* note 114, at 24 (exploring how formerly incarcerated mentors are especially impactful for participants because they are relatable and "living proof" that it is possible to live lawfully).

132. UMEZ ET AL., *supra* note 114, at 10.

133. Interview with Rocky DeYoung, *supra* note 4.

134. See *id.* But see UMEZ ET AL., *supra* note 114, at 12 (explaining how group mentorship is less impactful for some participants who are less comfortable speaking in a group setting and are therefore less engaged in the session).

135. See UMEZ ET AL., *supra* note 114, at 24 (discussing the value of peer mentorship and stating that "[t]he prosocial benefits of mentoring are particularly evident in the practice of peer mentoring. By sharing their own stories of transition from incarceration to the community, peer mentors serve as 'people that [participants] can identify with and are living proof that turning away from crime is possible.');" Beeler, *supra* note 55, at 58 ("Peer involvement also builds community and encourages accountability. Participants value the advice and input given by their peers and feel that shared experiences help overcome obstacles and addiction. Mistakes are met not only by admonishment from the judge but also from peers.").

them successfully return to the community they left behind so many years ago.

Reentry Court has grown significantly in the past two years. As of March 2018, approximately eleven percent of participants have graduated from the twelve-to-eighteen-month program since it began in 2015.<sup>136</sup> In March 2018, the Reentry Team expected to increase that to twenty percent by April 2018.<sup>137</sup> This Note posits that this substantial increase is due in part to the natural progression of a program that takes up to a year and a half to complete, but is likely also attributable to the program's willingness to address and resolve its own issues.<sup>138</sup> Now that the program has completed its inaugural two years, it can take a look back on the progress it has made and make changes to improve outcomes further.

While developing the Reentry Court program, DeYoung was primarily influenced by two federal reentry programs: Supervision to Aid Reentry (STAR) in the Eastern District of Pennsylvania, and the Harlem Reentry Court (Harlem).<sup>139</sup> STAR is a voluntary, year-long program for moderate to high-risk offenders that allows successful participants to eliminate up to one year of their supervised release time.<sup>140</sup> Assistant U.S. Attorneys, Federal Defenders, probation officers, "Reentry Coordinators," federal law clerks, and judges make up the STAR team.<sup>141</sup> Participants are "intensively supervised" by their assigned probation officer and have group meetings every two weeks before a federal magistrate judge to discuss their progress.<sup>142</sup> At meetings, participants "must discuss their accomplishments and identify obstacles, which leads to the establishment of goals for the participant to achieve before the next session."<sup>143</sup> Prior to each meeting, the STAR team confers about each participant's progress and roadblocks for about an hour

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136. Email from Rocky DeYoung, Cmty. Res. Specialist, U.S. Pretrial and Prob. Serv. to author (Feb. 27, 2018, 9:36 AM) (on file with author). This percentage reflects the total number of people who have participated in the program since it began in 2015, including people who are still participating in the program as of the sending of this email.

137. Email from Rocky DeYoung, Cmty. Res. Specialist, U.S. Pretrial and Prob. Serv. to author (Mar. 1, 2018, 4:13 PM) (on file with author).

138. *Id.*

139. *Id.*

140. *Re-Entry Court*, U.S. PROB. OFFICE E. DIST. OF PA, <http://www.paep.uscourts.gov/re-entry-court> (last visited Feb. 8, 2019).

141. Parker, *supra* note 31, at 413.

142. U.S. PROB. OFFICE E. DIST. OF PA, *supra* note 140.

143. Parker, *supra* note 31, at 414.

and a half.<sup>144</sup> “The Court and Federal Probation Office assist with education, training, employment, and other needs and impose graduated sanctions when necessary.”<sup>145</sup> STAR emphasizes group dynamics as “a critical and unique aspect of the program” that gives participants motivation and positive feedback.<sup>146</sup> The program also partnered with the Pennsylvania Bar Association and local law schools to obtain free legal aid for participants.<sup>147</sup> The 2017 Reentry Court Annual Report revealed that the program, which began in June 2007, has yielded a 76 percent graduation rate with only 11 percent of the 200 graduates who “have had supervision revoked, been arrested without revocation, or arrested and pending revocation.”<sup>148</sup>

The Reentry Team was also inspired by the Harlem reentry court program. This program assesses potential participants prior to their release from prison, allowing parole staff to get detailed information and create “a customized treatment and supervision plan” for each participant.<sup>149</sup> Some eligible persons were randomly assigned to be part of the Harlem program and were required to attend reentry court after their release.<sup>150</sup> Once released, participants attend reentry court “frequently” to report their progress on their post-release plan.<sup>151</sup> This plan evolves as parole officers, service providers, and reentry court staff regularly meet to discuss the parolee’s case.<sup>152</sup> Those who successfully comply may receive rewards, such as fewer travel restrictions and reentry court appearances.<sup>153</sup> Those who do not comply may be sanctioned with “curfews, increased court appearances and, in the most serious

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144. *Id.* at 413.

145. U.S. PROB. OFFICE E. DIST. OF PA, *supra* note 140.

146. Parker, *supra* note 31, at 414.

147. REENTRY COURT SOLUTIONS, *Philly Federal Reentry Court Provides Legal Services* (May 27, 2011) <http://www.reentrycourtsolutions.com/philly-federal-reentry-court-provides-legal-services/> (last visited Feb. 8, 2019).

148. Memorandum from L. Felipe Restrepo & Timothy R. Rice to Petrese B. Tucker, Annual Report—Reentry Court Program (July 20, 2017).

149. *Harlem Reentry Court*, CTR. FOR CT. INNOVATION, <https://www.courtinnovati.on.org/node/20038/more-info> (last visited Feb. 8, 2019). This customized treatment plan is based on “information about medical status (including mental health), addiction, criminal involvement, living arrangements, vocational skills and family composition.” *Id.*

150. LAMA HASSOUN AYOUB & TIA POOLER, CTR. FOR CT. INNOVATION, *COMING HOME TO HARLEM: A RANDOMIZED CONTROLLED TRIAL OF THE HARLEM PAROLE REENTRY COURT 33* (2015).

151. Harlem Reentry Court, CTR. FOR CT. INNOVATION, *supra* note 149.

152. *Id.*

153. *Id.*

cases, return to prison.”<sup>154</sup> Support for Harlem’s participants is not limited to the reentry staff, however. “When appropriate, reentry court staff will meet with the family members of parolees to encourage their assistance and support.”<sup>155</sup> Furthermore, Harlem developed a leadership training program that teaches participants presentation skills.<sup>156</sup>

Studies indicate that several components of the STAR and Harlem programs would improve Reentry Court outcomes and help returning citizens overcome the experiential deficits and obstacles that incarceration creates.<sup>157</sup> According to research, some of the most successful reentry programs begin while the participant is still incarcerated and have some sort of aftercare component post-graduation.<sup>158</sup> Mentor relationships are also often more effective when they begin while the participant is incarcerated.<sup>159</sup> These recommendations essentially extend the timeline of Reentry Court, which would require the Reentry Team to use more resources to increase the efficacy of the program. However, given the great expense both to government coffers and to the community as a whole, it is likely that such an investment would pay for itself as it leads to closer, more effective mentor relationships and a more stable transition to the community.

While mentors and mentees in Minnesota Federal Reentry Court are encouraged to stay in touch after graduation, they are not

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154. *Id.*

155. *Id.*

156. CTR. FOR CT. INNOVATION, *supra* note 149.

157. Though it is not the focus of this Note, this author would be remiss not to acknowledge that, by their nature, reentry courts work with participants who have already been shaped by their time behind bars. Changes to the prison experience itself could give prisoners a better foundation for when they reenter society, reducing their likelihood to recidivate. Compare Obama, *supra* note 50, at 830–33 (discussing how reforms to policies such as solitary confinement and prison education can reduce recidivism); Phil Pruitt & Chance Seales, *Paying for Prisoners’ Educations Could Save Us Millions of Dollars*, NEWSY (Mar. 27, 2018), <https://www.newsy.com/stories/paying-for-prisoners-educations-saves-us-millions/> (last visited Feb. 8, 2019); Francis Cullen et al., *It’s Hopeless: Beyond Zero-Tolerance Supervision*, 15 CRIMINOLOGY & PUB. POL’Y 1215, 1217–222 (discussing the pitfalls of “swift-and-certain” punishment), with Reddy & Levin, *supra* note 26, at 238 (exploring how performance-incentive funding and “swift-and-certain sanctions” are effective prison reform tools). With these in mind, it is likely that a holistic review and overarching change to how and why we imprison people will be needed to most effectively address the recidivism issue.

158. Focht-Perlberg, *supra* note 20, at 242–43 (“[F]indings suggest that among the factors of the most successful reentry programs are that these programs are primarily community based, that they maintain a rehabilitative focus, that they are intensive and individually tailored, and that they begin in jail or prison, and include an aftercare component, to provide seamless transitional reentry support.”).

159. UMEZ ET AL., *supra* note 114, at 13.

required to do so.<sup>160</sup> Graduates of the program must still comply with the conditions of their remaining probation time (including keeping in touch with their probation officers), but they are no longer provided with the support and structure of Reentry Court.<sup>161</sup> The infancy of the program makes it difficult to determine if the four phases of the program are sufficient to prepare graduates to stay thriving and compliant after graduation. However, resources permitting, expanding the “aftercare” component of the program may help graduates as they continue to face collateral consequences from their long incarceration. One way that the Minnesota Reentry Court has already started this is by asking graduates to come back to the program as guest speakers, which is beneficial for both the graduates and for the participants.<sup>162</sup> As the program continues and graduates become more established members of the community, asking graduates to come back and act as mentors could be an especially impactful way to give current participants a highly relatable mentor to look up to.

Additionally, adopting some form of the Harlem program’s family conferences could be beneficial for Reentry Court participants whose families are struggling with their return. People in conflict frequently benefit from working through their issues with the assistance of a neutral third party. Doing so can help people in conflict understand the others’ perspective, feel validated in their own feelings, and learn to communicate better in the future.<sup>163</sup> The Minnesota Conflict Resolution Center, a non-profit that offers conflict coaching, is one potential partner that could provide volunteers to facilitate this exchange.<sup>164</sup> Leadership and presentation training may also help participants struggling to find a job that they enjoy by helping to overcome the work, networking, and social experience they lost while incarcerated.

To mitigate the drain on resources that implementing these suggestions would initially create, this Note suggests that partnering with the Minnesota State Bar Association (MSBA)<sup>165</sup>

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160. Interview with Rocky DeYoung, *supra* note 4.

161. *Id.*

162. Email from Rocky DeYoung, Cmty. Res. Specialist, U.S. Pretrial and Prob. Serv. to author (Mar. 1, 2018, 11:19 AM) (on file with author).

163. Robin Amadei, *Conflict Coaching*, MEDIATE.COM (Mar. 2011), <https://www.mediate.com/articles/AmadeiR1.cfm> (last visited Feb. 8, 2019).

164. *See About Mediation*, CONFLICT RESOLUTION CTR., <http://crcminnesota.org/> (last visited Feb. 8, 2019).

165. *Government Relations*, MSBA <https://www.mnbar.org/public/government-relations#.WsPmRHd96qB> (stating that the Minnesota Bar Association “spearhead[s] issues that are of interest or concern to the [legal] profession.”).

could lift the burden from the Reentry Team and shift some of it to interested community members. The MSBA prides itself on its involvement in important issues to the legal community and could potentially help to provide funding for career days and leadership and public speaking seminars.<sup>166</sup> The three local law schools—the University of Minnesota Law School, the Mitchell Hamline School of Law, and the University of St. Thomas School of Law—could also be sources of support. Supervised law students could provide legal assistance and could also organize helpful aftercare events such as a resume review day or a business professional clothing drive for participants going to more formal interviews. This would also expand participants’ networks and give them a chance to build social capital with members of the community outside of Reentry Court who could be resources in the future.

Finally, this Note suggests that the District of Minnesota adopt a similarly structured program to act as an alternative to incarceration (ATI).<sup>167</sup> Generalized ATI programs are nonexistent at the state level and uncommon at the federal level.<sup>168</sup> Like Reentry Court, these programs<sup>169</sup> are typically non-adversarial, involve regular meetings, and have a judge-led team that works to “rehabilitate participating defendants and, in a typical defendant’s case, specifically focus on the defendant’s substance use and/or mental health disorder(s).”<sup>170</sup> The average participant who successfully completed these ATI programs “received significantly

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166. See Grant Recipients, MSBA, <https://www.mnbar.org/public/public-resource/s/minnesota-state-bar-foundation/grant-recipients#.Ws5YSnd96gQ> (last visited Feb. 8, 2019) (describing former grant recipients).

167. For further discussion of how pre-trial interventions could successfully co-exist with federal reentry court programs, see generally Driscoll, *supra* note 22.

168. KENNETH P. COHEN ET AL., U.S. SENTENCING COMM’N, FEDERAL ALTERNATIVE-TO-INCARCERATION COURT PROGRAMS 17 (2017), [https://www.uscc.gov/sites/default/files/pdf/research-and-publications/research-publications/2017/20170928\\_alternatives.pdf](https://www.uscc.gov/sites/default/files/pdf/research-and-publications/research-publications/2017/20170928_alternatives.pdf).

169. See, e.g., *id.* at 21–23. The Conviction and Sentence Alternatives (CASA) program in California has a reentry team which works to improve participants’ general lifestyle, helping with employment, family relations, physical health, and more. Participants interested in CASA submit in writing “why they want to be in the program and how the program can benefit them.” *Id.* at 22. Accepted participants must then enter a guilty plea that determines which of the two “tracks” they will be on for one to two years. *Id.* at 21. “Track I results in a dismissal of charges; Track II results in a reduced sentence that does not include imprisonment.” *Id.* Upon release, participants are intensely supervised, attend regular group meetings with the CASA team and judge, get treatment, find a job or education, and participate in “restorative justice programs.” *Id.* at 22. Sanctions “range from required attendance at additional court meetings or treatment sessions to ‘flash incarceration’ (i.e., the defendant is incarcerated for 48 hours).” *Id.*

170. *Id.*

greater downward [sentencing] departures or variances than defendants as a whole who received downward departures or variances,”<sup>171</sup> likely saving taxpayers a significant sum and allowing participants to fully transition back into society without truly having left it. There may be some concern that allowing defendants to escape incarceration will allow the participants to essentially get away with their crimes. However, courts will still be required to seriously and respectfully consider the recommended guideline range before allowing a defendant to become a participant. Additionally, the participant can still be held accountable for any harm they caused by participating in restorative justice programs, such as paying restitution or completing community service. Finally, without the innumerable collateral consequences to the family, career, and community that incarceration creates, it is likely that participants will be able to use the support of their Reentry Team and “find their feet” with far fewer obstacles holding them back.

### **Conclusion**

Reentry courts are one response to the widely acknowledged incarceration and reentry problem in the United States. While the District of Minnesota Reentry Court has room to grow, initial results demonstrate that, while roadblocks to reentry still exist, a solid support group and strong structure can help participants find a way around them. Importantly, the Reentry Court has shown a willingness to adapt and change to the benefit of its participants. This willingness to grow, coupled with the impressive initial findings, creates a very promising path for these participants. With the help of the team, participants will be able to say that they did their time, paid for their crime, and are ready and able to get back on their feet.

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171. *Id.* at 31–32.