

THE MISSING PIECES IN FEDERAL REENTRY COURTS:
A MODEL FOR SUCCESS

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ABSTRACT

With incarceration rates at an all-time high and over-criminalization rampant, there is a growing need for programs aimed at rehabilitating ex-offenders following release from prison. These programs are critical to combatting the collateral consequences associated with imprisonment. Perhaps the most significant of those collateral consequences ex-offenders face are housing and employment. More specifically, due to ex-offenders' criminal histories, landlords may refuse to rent spaces to ex-offenders, and employers may discriminate against them. Although there has been significant progress in the area of employment by way of "Ban the Box" legislation, which prohibits employers from requiring applicants to disclose criminal history, there is still much progress to be made.

There is a growing trend toward combating collateral consequences and assisting ex-offenders in successfully rehabilitating following release from prison through a collaboration between courts and correctional institutions. Specifically, local, state, and federal reentry courts are cropping up throughout the country with the goal of assisting ex-offenders in securing housing and employment, and addressing additional issues ex-offenders face following reentry into the community. While all of these programs are a step in the right direction toward providing necessary assistance to ex-offenders, some are more effective than others, and Philadelphia's Federal Reentry Court has proven to be especially successful.

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INTRODUCTION

Every person who goes to prison has a story – a history. That story usually involves obstacles or challenges, including poverty, substance abuse, lack of access to education, or a family tragedy, leading that individual down a path riddled with illegal activity.¹ In Francis Justiniano’s case, the story of her journey to federal prison began with the death of her brother Jorge.² Francis was eighteen when her brother Jorge was tragically murdered.³ The circumstances of the murder are, unfortunately, all too common. Jorge was reportedly taking a walk at 3:00 a.m. when a car approached him and three men began shooting.⁴ The shooting allegedly stemmed from a

1. See generally CRIME AND PUBLIC POLICY 130-40 (James Q. Wilson & Joan Petersilia eds., 2011).

2. Jamie M. Ware, *The Supervision to Aid Reentry (STAR) Program: Helping Previously Incarcerated Federal Prisoners Succeed in Transitioning Back to the Community*, PHILA. SOC. INNOVATIONS J. (Mar. 2011), <http://philasocialinnovations.org/journal/articles/what-works-and-what-doesnt/253-the-supervision-to-aid-reentry-star-program-helping-previously-incarcerated-federal-prisoners-succeed-in-transitioning-back-to-the-community?showall=&limitstart=>.

3. Dave Racher, *2 Face Trial in Slaying Victim Gunned Down on N. Phila. Street*, PHILLY.COM (Sept. 21, 2000), http://articles.philly.com/2000-09-21/news/25583001_1_gunshot-wounds-face-trial-preliminary-hearing.

4. *Id.*

fight between Jorge and one of the shooters a week earlier, over a woman.⁵

Prior to Jorge's death, Francis had planned to become a federal employee or join the Air Force.⁶ However, Jorge's death devastated Francis, as her brother was the primary male presence in her life, and in the years that followed, Francis made a series of poor life choices, culminating in her arrest.⁷ Although Francis did not actively participate in the commission of a crime, her presence at the scene of the crime was sufficient for the prosecutor to charge her.⁸ After serving almost six years in prison, Francis was released with few resources and very limited support. The government provided no assistance in helping her transition back into the community, other than assigning a probation officer to oversee her supervision.⁹ Francis learned about the Eastern District of Pennsylvania's Supervision to Aid Reentry ("STAR") program in November of 2008, enrolled, and graduated in August of 2009.¹⁰ According to Francis, "[t]he STAR Program opened up so many avenues for me In addition to getting one year off of my probation time, they assisted me with job searches, signed me up for computer courses, and gave me the motivation to keep going and do better."¹¹ Since enrolling in the STAR Program, Francis has worked as an administrative assistant and as a receptionist at a doctor's office.¹² Despite her success, Francis must disclose her conviction on employment applications until 2024, and she will never be able to hold a federal position due to government restrictions.¹³ These shortcomings demonstrate the need for resources like the STAR Program to address the many obstacles ex-offenders face in securing employment following release from prison.

Francis's story shows that one mistake, or even a series of mistakes, does not define an individual. While the criminal justice system determines how an individual should be punished for his or her participation in illegal activity, it fails to address the rehabilitative needs of ex-offenders following release from prison. If society hopes to end recidivism, the criminal justice system must help ex-

5. *Id.*

6. Ware, *supra* note 2, at 8.

7. *Id.* at 6.

8. *Id.*

9. *Id.*

10. *See id.* (noting that Francis found out about the STAR Program approximately six months following her release home in May of 2008).

11. *Id.*

12. *Id.*

13. *Id.*

offenders reintegrate into the community after prison, to ensure that they are able to secure housing and employment, and positively contribute to society.

This Note presents an overview of the existing landscape of challenges faced by ex-offenders reentering the community after release from prison. Part II provides an overview of the overwhelming state of incarceration in this country, along with a description of both the direct and collateral consequences that result from incarceration, including widespread barriers to housing and employment, and the judicial and legislative landscapes maintaining those barriers. Part II also describes the ways in which reentry courts provide solutions to these problems, and briefly summarizes the key features of reentry programs operating throughout the country. Part III suggests that the Eastern District of Pennsylvania's STAR Program is an ideal model for other jurisdictions because of its focused attention to areas that are critical to participant success. Finally, Part IV briefly concludes that the STAR Program should be replicated nationally to address the collateral consequences ex-offenders face following release from prison.

I. BACKGROUND

A. Incarceration and Collateral Consequences

Approximately 1.5 million prisoners are under the jurisdiction of state and federal correctional authorities in the United States.¹⁴ Over 600,000 individuals are discharged from correctional institutions each year,¹⁵ and 4.7 million adults are currently under community supervision following release from correctional institutions.¹⁶ Thus, there is a significant need for successful reentry programs to rehabilitate ex-offenders after prison and support them throughout reintegration into the community.

Due to extended isolation from the general population during incarceration, ex-offenders face both direct effects and collateral consequences of reintegration, including obstacles to housing and employment. Direct consequences include the actual punishment handed down by the court, including jail or prison sentence, parole

14. E. Ann Carson, *Prisoners in 2013*, BUREAU OF JUST. STAT. 1 (Sept. 2014), <http://www.bjs.gov/content/pub/pdf/p13.pdf>.

15. Anthony C. Thompson, *Navigating the Hidden Obstacles to Ex-Offender Reentry*, 45 B.C. L. REV. 255, 257 (2004); Carson, *supra* note 14, at 10.

16. Erinn J. Herberman & Thomas P. Bonczar, *Probation and Parole in the United States, 2013*, BUREAU OF JUST. STAT. 1 (Oct. 2014), <http://www.bjs.gov/content/pub/pdf/ppus13.pdf>.

eligibility, or imposition of fines.¹⁷ Collateral consequences, on the other hand, are the indirect social and civil restrictions that result from criminal convictions, but are independent from the conviction and sentence itself.¹⁸ There are many types of collateral consequences; however, the most detrimental include “employment discrimination, bans on certain types of professional licensing, housing discrimination, ineligibility for public housing and other benefits, ineligibility for federal financial aid[,] and voting restrictions.”¹⁹

Direct and collateral consequences of incarceration are roadblocks to reintegration, and become exponentially worse as sentence length increases. When combined, they contribute to the overwhelming rate of recidivism in the United States. For example, one study conducted across forty states found that more than four in ten offenders “returned to state prison within three years of their release.”²⁰ Of the collateral consequences identified, housing and employment stand out as particularly difficult challenges for ex-offenders to overcome because society imposes numerous restrictions in these areas against people with criminal records.

1. Challenges to housing

It is much more difficult for ex-offenders to secure housing than it once was.²¹ Private property owners have always had the ability to inquire about a potential tenant/buyer’s background, reserving the right to deny housing to those with criminal records.²² However, while public housing was once a potential solution to the problem, this is no longer the case.

17. Michael Pinard, *An Integrated Perspective on the Collateral Consequences of Criminal Convictions and Reentry Issues Faced by Formerly Incarcerated Individuals*, 86 B.U. L. REV. 623, 634 (2006).

18. 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 HAMLIN J. PUB. L. & POL’Y 219, 229 (2009).

19. *Id.*

20. *NRRC Facts & Trends*, JUST. CTR., <http://csgjusticecenter.org/nrrc/facts-and-trends/> (last visited May 5, 2016). The study was conducted by the Pew Center on States in collaboration with the Association of State Correctional Administrators (ASCA), and the survey asked states to report three-year return-to-prison rates for all inmates released from their prison systems in 1999 and 2004. PEW CENTER ON THE STATES, *STATE OF RECIDIVISM: THE REVOLVING DOORS OF AMERICA’S PRISONS 2* (2011), http://www.pewtrusts.org/~media/legacy/uploadedfiles/pes_assets/2011/pewstateofrecidivism.pdf.

21. See Heidi Lee Cain, Comment, *Housing Our Criminals: Finding Housing for the Ex-Offender in the Twenty-First Century*, 33 GOLDEN GATE U. L. REV. 131, 149–50 (2003).

22. *See id.*

Federal public housing was first established through the passage of the U.S. Housing Act of 1937.²³ While federal regulations set strict standards for tenant eligibility during the Act's early years, the Housing Act of 1949 provided an influx of funding for public redevelopment projects, resulting in relaxed standards.²⁴ As such, between the 1950s and the 1980s, public housing was available to, and therefore populated by, primarily poor, minority tenants.²⁵ Crime in public housing developments rose to an epidemic level by 1988, with an astounding 7,000 serious crimes recorded that year.²⁶ In response to this epidemic, Congress passed the Anti-Drug Abuse Act of 1988, which provided funding to public housing authorities in order to combat the drug trade associated with high crime rates.²⁷ Subsequently, in his 1996 State of the Union address, President Clinton stated that criminal gang members and drug dealers were disrupting the ability for law-abiding individuals to enjoy the benefits of public housing, and introduced what is now referred to as the "one strike" policy.²⁸ Following his address, the United States Department of Housing and Urban Development ("HUD") passed the one strike regulation, codified at 24 C.F.R. § 966.4.²⁹

The "one strike" eviction policy states that no tenant shall engage in "(A) Any criminal activity that threatens the health, safety[,] or right to peaceful enjoyment of the premises by other residents; or (B) Any drug-related criminal activity on or off the premises."³⁰ As such, the policy effectively excludes ex-offenders from consideration for public housing, while also allowing the federal government to evict individuals from public housing for engaging in certain types of criminal activity, including drug-related offenses.³¹ These barriers in both the public and private sectors make it exceedingly difficult for ex-offenders to obtain housing—a necessary step in the effort to reintegrate into the community.

23. Michael Zmora, *Between Rucker and a Hard Place: The Due Process Void for Section 8 Voucher Holders in No-Fault Evictions*, 103 NW. U. L. REV. 1961, 1965 (2009).

24. *See id.* at 1965–66 (noting that the screening criteria during the Act's early years excluded single-parent households, families with illegitimate children, individuals or families with criminal records, and individuals who demonstrated improper housekeeping).

25. *Id.* at 1966.

26. *Id.* at 1968.

27. Jim Moye, *Can't Stop the Hustle: The Department of Housing and Urban Development's "One Strike" Eviction Policy Fails to Get Drugs Out of America's Projects*, 23 B.C. THIRD WORLD L.J. 275, 279–81 (2003).

28. Adam P. Hellegers, *Reforming HUD's "One Strike" Public Housing Evictions Through Tenant Participation*, 90 J. CRIM. L. & CRIMINOLOGY 323, 324 (1999).

29. *Id.*

30. 24 C.F.R. § 966.4(f)(12)(i)(A)-(B) (2010).

31. 42 U.S.C. § 1437f(d)(1)(B)(iii) (2014).

2. Challenges to employment

Employment is another critical component in an ex-offender's ability to become a contributing member of society. Housing and employment are inextricably linked; without a telephone number and address to list on employment applications, it is difficult to secure employment, making it difficult to maintain housing.³² However, challenges to obtaining employment alone are significant even without the added complications of challenges to housing. First, restrictions on the ability for ex-offenders to obtain professional licenses are well established throughout our nation's history.³³ Further, in the 1980s, in conjunction with the adoption of the "tough on crime" attitude discussed above, many states implemented policies restricting ex-offenders from working in particular professional careers.³⁴ However, the legislative and judicial landscape of employment discrimination has shifted tremendously in recent years toward protecting the rights of individuals with criminal records.³⁵ More specifically, prior to 1971, when the Supreme Court established a disparate impact theory of discrimination in its *Griggs v. Duke Power Co.* decision, discrimination based on criminal history was not protected by the Civil Rights Act of 1964.³⁶

Criminal history is still not a protected category. However, after the establishment of disparate impact law, protection for individuals with criminal records expanded, since excluding applicants with a criminal record is proven to have a disparate impact on African American and Hispanic populations.³⁷ The EEOC's recent guidelines

32. See Thompson, *supra* note 15, at 279 (noting that "[a]lthough it is tempting to think in isolation about each of the problems reentering ex-offenders face, they tend to be linked. For example, the difficulty in finding housing also affects the ability of ex-offenders to secure and maintain employment").

33. *Id.* at 258, 273.

34. See Nora V. Demleitner, "Collateral Damage": No Re-entry for Drug Offenders, 27 VILL. L. REV. 1027, 1038 n.76 (2002) (discussing California's prohibition against parolees and ex-offenders working in real estate, nursing, or physical therapy, and noting that at least six states have prohibitions against ex-offender employment in public employment, including Alabama, Delaware, Iowa, Mississippi, Rhode Island, and South Carolina).

35. See generally U.S. EQUAL EMP'T OPPORTUNITY COMM'N, ENFORCEMENT GUIDANCE: CONSIDERATION OF ARREST AND CONVICTION RECORDS IN EMPLOYMENT DECISIONS UNDER TITLE VII OF THE CIVIL RIGHTS ACT OF 1964, NO. 915.002, 2012 WL 2031244 (2012) [hereinafter EEOC ENFORCEMENT GUIDANCE].

36. Michael Connett, *Employer Discrimination Against Individuals with a Criminal Record: The Unfulfilled Role of State Fair Employment Agencies*, 83 TEMP. L. REV. 1007, 1017 (2011).

37. See EEOC ENFORCEMENT GUIDANCE, *supra* note 35, § V.A.2. In order to bring a disparate impact claim, the plaintiff must first establish that taking into account applicants' criminal records has a disparate impact on a particular protected class. *Id.* § V.A.1. Next, the burden shifts to the employer to prove that the criminal record in question is related to the job for which the applicant has applied. *Id.* § V.B.1. If the employer is able to do so, then it has raised

on criminal history in the employment context demonstrate significant progress in limiting discrimination by employers against individuals with criminal records, but states are not required to follow these guidelines. For this reason, ex-offenders still face significant barriers to employment following release from prison, and much work is left to be done in order to provide sufficient support with respect to rehabilitation.

In addition to judicial progress in preventing discrimination against individuals with criminal records, civil rights advocates are pursuing legislative efforts to eliminate the requirement for applicants to disclose criminal history on employment applications.³⁸ These efforts are more commonly referred to as the “Ban the Box” Movement or Fair Chance laws.³⁹ The twenty-three states that have adopted “Ban the Box” legislation or Fair Chance laws are California, Colorado, Connecticut, Delaware, Georgia, Hawaii, Illinois, Maryland, Massachusetts, Minnesota, Missouri, Nebraska, New Jersey, New Mexico, New York, Ohio, Oklahoma, Oregon, Rhode Island, Tennessee, Vermont, Virginia, and Wisconsin.⁴⁰ Additionally, more than one hundred cities and counties throughout the country have adopted “Ban the Box” legislation or Fair Chance laws, with the numbers continuing to rise.⁴¹ This movement is growing rapidly, and represents a nationwide shift toward evaluating applicants for employment based on qualifications first, without the stigma associated with a criminal record.

3. *Other challenges stemming from collateral consequences*

In addition to the two primary collateral consequences of barriers to housing and employment, collateral consequences faced by ex-offenders in reentering the community following release from prison include: 1) loss of civil rights; 2) impeachment in the court system; 3) inability to travel internationally; and 4) lack of access to fed-

an exception to the disparate impact claim based on business necessity. *Id.* § V.B.4. If not, the EEOC has advised employers to disregard the criminal record in making hiring decisions. *Id.* § V.B.8.

38. Johnathan J. Smith, *Banning the Box but Keeping the Discrimination?: Disparate Impact and Employers’ Overreliance on Criminal Background Checks*, 49 HARV. C.R.-C.L. L. REV. 197, 211 (2014).

39. *Id.*

40. MICHELLE NATIVIDAD RODRIGUEZ & BETH AVERY, NAT’L EMP’T LAW PROJECT, BAN THE BOX: U.S. CITIES, COUNTIES AND STATES ADOPT FAIR HIRING POLICIES 1 (Feb. 2016), <http://www.nelp.org/content/uploads/Ban-the-Box-Fair-Chance-State-and-Local-Guide.pdf>.

41. *Id.*

eral benefits.⁴² For example, an ex-offender may be deprived of the ability to vote, one of the most basic and meaningful civil rights available to U.S. citizens.⁴³ Ex-offenders are also subject to impeachment in any trial or court proceeding, simply based on the presence of a criminal record alone.⁴⁴ Ex-offenders may also be excluded from participation in federal healthcare programs or state-funded federal assistance programs, which are often the only resources an individual may rely on until they can rehabilitate themselves and obtain other employment.⁴⁵ Lastly, ex-offenders are often unable to leave the country for travel or other purposes, sometimes isolating them from visiting family, and thereby cutting them off from the support systems that can be so critical to successful rehabilitation.⁴⁶

The advancements made in recent years, in both case law and legislation, represent significant progress in protecting the rights of individuals with criminal records.⁴⁷ However, there is still much work to be done. The combination of direct and collateral consequences facing ex-offenders is a national concern, given that crime and poverty are linked, and reentry is a necessary step in eradicating both of these issues. One potential solution to this problem is a two-pronged collaborative approach between courts and probation departments, which has proven to be more successful in some states than others.⁴⁸

B. A Solution: The Reentry Court and Its History

1. Foundation in drug courts

The reentry court is one proposed solution to manage the overflow of ex-offenders attempting to reintegrate into the community. Reentry courts are modeled after drug courts, the first of which was

42. Jennifer L. Bahnson & Robert J. Dieter, *Collateral Effects of a Criminal Conviction in Colorado*, 35 COLO. LAW. 39, 42-44 (2006).

43. *Id.* at 42.

44. *Id.*

45. *Id.* at 44.

46. *Id.* at 43.

47. See generally Garrett A. R. Yursza Warfield & David J. Rini, *New EEOC Guidance: Implications for Ex-Offender Reentry and Employment*, or "It is Hard to Articulate the Minimum Qualification for Posing a Low Risk of Attacking Someone," 95 MASS. L. REV. 195, 207 (2013) (discussing the EEOC's guidance released on April 25, 2012, which restricts barriers to employment for ex-offenders to criminal histories that are job-related and consistent with business necessity); RODRIGUEZ & AVERY, *supra* note 40, at 1 (noting that twenty-three states have embraced statewide "Ban the Box" Fair Hiring Laws).

48. See, e.g., Memorandum from L. Felipe Restrepo & Timothy R. Rice to Petrese B. Tucker, Annual Report—Reentry Court Program (Apr. 13, 2015) (on file with author) (discussing the success of the Eastern District of Pennsylvania's STAR Program).

championed by Janet Reno, then-prosecutor of Dade County in Miami, Florida and former United States Attorney General.⁴⁹ Drug courts were created to emphasize treatment rather than punishment, with the mission to “bring an end to the abuse of alcohol and other drugs which will presumably lower the rates of related criminal activity.”⁵⁰ Following the creation of the first drug court in Miami, the model spread rampantly, and by December 31, 2009 there were 2,459 drug courts throughout the nation.⁵¹ As a result of this success, in 1999 Attorney General Reno and National Institute of Justice Director Jeremy Travis announced the introduction of a pilot program for reentry courts, modeled after the successful drug court.⁵²

2. *The first reentry courts*

In 1999, the Department of Justice (“DOJ”) launched the Reentry Court Initiative (“RCI”), and began soliciting applications from interested jurisdictions throughout the country.⁵³ The DOJ chose nine pilot sites including California, Colorado, Delaware, Florida, Iowa, Kentucky, New York, Ohio, and West Virginia.⁵⁴ The DOJ also identified six core elements to serve as the foundation of each reentry court in the selected pilot sites: “1) assessment and planning; 2) active oversight; 3) management of support services; 4) accountability to community; 5) graduated and parsimonious sanctions,⁵⁵ and 6) rewards for success.”⁵⁶ Aside from these core requirements, each state was permitted to administer the program as it wished.⁵⁷ Most states granted this authority to the judicial branch, while others uti-

49. Eric J. Miller, *The Therapeutic Effects of Managerial Reentry Courts*, 20 FED. SENT’G REP. 127, 127 (2007). Janet Reno and Jeremy Travis developed the idea of the drug court when the Florida courts became so inundated with offenders charged with drug offenses that they were unable to set court dates, punish offenders, or treat individuals with drug problems. Att’y Gen. Janet Reno, Remarks at John Jay College of Criminal Justice on the Reentry Court Initiative (Feb. 10, 2000), <http://www.justice.gov/archive/ag/speeches/2000/doc2.htm>.

50. Dwight Vick & Jennifer Lamb Keating, *Community-Based Drug Courts: Empirical Success. Will South Dakota Follow Suit?*, 52 S.D. L. REV. 288, 291 (2007).

51. 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, 594 (2013).

52. *Id.*

53. *Id.* at 595.

54. Reginald A. Wilkinson et al., *Prison Reform Through Offender Reentry: A Partnership Between Courts and Corrections*, 24 PACE L. REV. 609, 621 (2004).

55. This means milder penal impositions in the interest of reducing disruptions in offenders’ lives. See, e.g., OFFICE OF JUSTICE PROGRAMS, U.S. DEP’T OF JUSTICE, REENTRY COURTS: MANAGING THE TRANSITION FROM PRISON TO COMMUNITY: A CALL FOR CONCEPT PAPERS 5 (1999) (explaining that, in the drug court context “[t]he first dirty urine may yield a reprimand, the second a day in the jury box, the third a weekend in jail”).

56. Fetsco, *supra* note 51, at 595.

57. *Id.*

lized administrative law judges or the probation office/parole board.⁵⁸

Although the reentry programs that participated in the RCI program as initial pilot sites did not receive programmatic funding,⁵⁹ their success led to the Second Chance Act, which was signed into law on April 9, 2008.⁶⁰ The Act was “designed to improve outcomes for people returning to communities after incarceration. This first-of-its-kind legislation authorizes federal grants to government agencies and nonprofit organizations to provide support strategies and service designed to reduce recidivism by improving outcomes for people returning from prisons, jails, and juvenile facilities.”⁶¹

The Second Chance Act is sponsored by the DOJ and funds a variety of programs intended to assist ex-offenders in reentering the community, including reentry programs.⁶² On September 18, 2014, the Senate Committee approved the Second Chance Reauthorization Act, extending its application for another four years.⁶³

3. Methodology of reentry courts

Since RCI's inception in 2000, federal districts throughout the country have implemented reentry courts, which vary significantly in their implementation and methodology.⁶⁴ Of the ninety-four federal districts nationwide, forty-one districts were, or were expected to be, running judge-operated reentry programs by the end of 2010.⁶⁵ Each program is based on a general model that “allow[s] the

58. *Id.*

59. *Id.*

60. Second Chance Act of 2007, H.R. 1593, 110th Cong. (2008).

61. EDWARD J. LATESSA & PAUL SMITH, CORRECTIONS IN THE COMMUNITY 396 (6th ed. 2015).

62. See *Justice Department Announces \$53 Million in Grant Awards to Reduce Recidivism Among Adults and Youth*, U.S. DEP'T JUST. (Oct. 1, 2015), <https://www.justice.gov/opa/pr/justice-department-announces-53-million-grant-awards-reduce-recidivism-among-adults-and-youth>.

63. *Senate Committee Approves Second Chance Reauthorization Act*, JUST. CTR. (Sept. 18, 2014), <http://csgjusticecenter.org/jc/senate-committee-approves-second-chance-reauthorization-act/>.

64. While there are state-run reentry courts operating separately from the federal system, this Note is limited to a review of federal reentry court initiatives.

65. Barbara S. Meierhoefer & Patricia D. Breen, *Process-Descriptive Study of Judge-Involved Supervision Programs in the Federal System*, FED. JUD. CTR. 1, 3 (Feb. 2013), [http://www.fjc.gov/public/pdf.nsf/lookup/judge-involved-supervision-fjc-2013.pdf/\\$file/judge-involved-supervision-fjc-2013.pdf](http://www.fjc.gov/public/pdf.nsf/lookup/judge-involved-supervision-fjc-2013.pdf/$file/judge-involved-supervision-fjc-2013.pdf). This study was undertaken by the Federal Judicial Center at the request of the Judicial Conference Committee on Criminal Law. *Id.* at 1. The purpose was to provide material about the purposes, expectations, design, implementation, and methodology of various judge-involved supervision programs throughout the country. *Id.* at 1-2. While this study provides data and information related to the various studies, it

court to impose graduated sanctions and positive reinforcements in a team setting that typically involves a judge, probation officer, assistant United States attorney, assistant federal defender, and contract services provider."⁶⁶ However, aside from following this general model, reentry courts vary significantly with respect to the focus of each program. The primary differences among programs include: 1) length of enrollment; 2) focus; 3) participant eligibility criteria; 4) team features; and 5) implementation features.⁶⁷

Length of enrollment among programs varies significantly, ranging from twenty-three to over one hundred months.⁶⁸ Program focus is perhaps the most influential and outcome-determinative factor. Program foci of existing federal reentry courts include: 1) traditional drug court model (a majority of which follow this model);⁶⁹ 2) targeting high-risk offenders, regardless of substance abuse history; 3) targeting returning prisoners with a substance abuse history; and 4) targeting high-risk probationers or supervised parolees within the risk parameters identified by the program.⁷⁰ Program participant eligibility also varies, with some reentry courts placing restrictions on individuals with a history of substance abuse or histories of violent crime.⁷¹ This is another interesting and outcome determinative aspect of the various programs described because some programs prohibit participation based on substance abuse issues, while others do not permit admission into the program unless a history of substance abuse is established.

These variations among program models show that successful programs should be tailored specifically to one population or another, and explain why programs that allow an overlap of these populations may not be as successful. The size of the reentry court coordination team ranged from two to six members, and the implementation features included details such as how often participants met with team members and how much time the team set aside to prepare for court sessions.⁷²

does not provide an analysis of the positives and negatives of each approach, or make a recommendation as to which is the best approach.

66. Stephen E. Vance, *Federal Reentry Court Programs: A Summary of Recent Evaluations*, 75 FED. PROB. 2, 110 (2011), available at <http://www.uscourts.gov/file/document/federal-probation-journal-september-2011>.

67. Meierhoefer & Breen, *supra* note 65, at 23–25.

68. *Id.* at 23.

69. *See* Fetsco, *supra* note 51, at 592–95.

70. Meierhoefer & Breen, *supra* note 65, at 23.

71. *See id.* at 23–24.

72. *Id.* at 24–25.

*C. The Current Landscape:
An Overview of Existing Federal Reentry Courts*

As discussed above, existing reentry programs focus on different goals and objectives, depending upon the population they intend to serve. For the most part, programs tend to fall into three categories: 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. This overview will limit its analysis to the first two categories, as most programs that target ex-offenders with a history of sexual assault are limited to that population only and are not relevant to the reentry court model as a whole.

1. Existing programs and target populations

Beginning in 2000, when the Department of Justice launched the Reentry Court Initiative, federal reentry courts began to crop up in federal districts throughout the country.⁷³ While many of the components are based on the Reentry Court Toolkit released by the Department of Justice in 2012,⁷⁴ each program is slightly different from the next. One of the primary ways in which reentry courts differ is the specific population targeted. As discussed above, one difference between program participants is whether the program permits or prohibits ex-offenders with a history of substance abuse.⁷⁵

The United States District Court for the Eastern District of Pennsylvania established the STAR Program on June 3, 2007.⁷⁶ This program targets offenders with a “serious risk of recidivism for violent crime.”⁷⁷ Qualified program participants are identified by the Probation Department based on a Risk Prediction Index (“RPI”) score⁷⁸ of five, six, or seven, on a scale of zero to nine; however, enrollment in the program is voluntary.⁷⁹ The program targets participants with a significant criminal background (most often involving violent crime)

73. Vance, *supra* note 66, at 109.

74. See CHRISTOPHER WALTER & DEBBIE BOAR, CTR. FOR COURT INNOVATION, REENTRY COURT TOOL KIT (2012), available at http://www.courtinnovation.org/sites/default/files/documents/reentry_toolkit.pdf.

75. See Meierhoefer & Breen, *supra* note 65, at 24.

76. Restrepo & Rice, *supra* note 48, at 4.

77. *Id.* at 1.

78. The Risk Prediction Score is “a statistical model that uses information about an offender to produce an estimate of the likelihood that the offender will recidivate (i.e., be arrested or have supervision revoked) during his or her term of supervision.” FED. JUDICIAL CTR., RPI TRAINING AND CALCULATION WORKSHEET APPLICATION GUIDE 8 (Nov. 1997), <https://bulk.resource.org/courts.gov/fjc/0013.pdf> [hereinafter RPI TRAINING].

79. Restrepo & Rice, *supra* note 48, at 4.

who need employment training/assistance, or are likely to benefit in some other way.⁸⁰ The program currently serves approximately forty participants, divided into two separate courts, presided over by U.S. Third Circuit Court Judge L. Felipe Restrepo and U.S. Magistrate Judge Timothy R. Rice.⁸¹

The United States District Court for the Western District of Michigan's Accelerated Community Entry ("ACE") Program was established in 2005 with the goal of assisting high-risk offenders in reestablishing themselves in the community of Benton Harbor, Michigan.⁸² The ACE Program targets ex-offenders with an RPI score of six to nine, on a scale of zero to nine.⁸³ This program is similar to the STAR Program; however, it meets less often, on a monthly, rather than biweekly, basis.⁸⁴

The United States District Court for the District of Oregon's Reentry Court, established in 2005, is somewhat unique—not only does it target individuals with a history of substance abuse, it also serves a specific subset of substance abusers: individuals with a history of methamphetamine abuse.⁸⁵ The court was established in response to the widespread methamphetamine epidemic in Oregon at the time.⁸⁶ However, since its inception, the program has expanded to include ex-offenders with a history of alcohol or drug abuse of any type.⁸⁷ Participants enter the program voluntarily after waiving certain due process rights and agreeing to undergo random urine analyses to monitor progress.⁸⁸

The United States District Court for the District of Massachusetts established its Court Assisted Recovery Effort ("C.A.R.E.") in May of 2006.⁸⁹ This program similarly focuses on assisting ex-offenders in

80. *Id.*

81. *Id.* at 5.

82. See Vance, *supra* note 66, at 116.

83. *Id.*; W. DIST. OF MICH., INTENSIVE REENTRY PROGRAM 1 (Mar. 2005), <http://www.miwd.uscourts.gov/sites/miwd/files/Proposal%202005.pdf> [hereinafter MICHIGAN REENTRY PROGRAM].

84. Restrepo & Rice, *supra* note 48, at 5; MICHIGAN REENTRY PROGRAM, *supra* note 83, at 2.

85. *Reentry Court*, U.S. PROB. DISTRICT OF OR., <http://www.orp.uscourts.gov/reentry.html> (last visited May 5, 2016).

86. Vance, *supra* note 66, at 117.

87. See Melissa Aubin, *The District of Oregon Reentry Court: An Evidence-Based Model*, 22 FED. SENT'G REP. 39, 39 (2009).

88. Joan Gottschall & Molly Armour, *Second Chance: Establishing a Reentry Program in the Northern District of Illinois*, 3 DEPAUL J. SOC. JUST. 31, 44 (2011).

89. Vance, *supra* note 66, at 112.

achieving and maintaining sobriety, while obtaining employment as law-abiding citizens.⁹⁰

The United States District Court for the Northern District of Illinois began its own reentry court on April 1, 2010, after observing numerous courts throughout the country and analyzing their methodologies.⁹¹ This program targets individuals with substance abuse problems with at least two years of supervision remaining.⁹² Instead of administering the program on a volunteer basis, the Second Chance Program capitalizes on assistance from the probation officer to identify candidates with high RPI scores.⁹³ The Second Chance Reentry Program Team then interviews candidates to determine whether or not admission to the program is likely to benefit the candidate based on the individual's qualities and characteristics.⁹⁴

2. Program purposes and objectives

The Eastern District of Pennsylvania's Supervision to Aid Reentry (STAR) Program has many objectives, including "preventing recidivism, reducing the high rate of violent crime in the City of Philadelphia, and assisting high-risk ex-offenders with the multiple social, family, and logistical issues they must confront upon their return to society after years in prison."⁹⁵ The program utilizes a comprehensive approach to achieve those goals, and aims to assist each individual in obtaining adequate housing and employment, while addressing many other issues associated with imprisonment and a criminal record.⁹⁶

The purpose of the Western District of Michigan's ACE Program is to "decrease the incidence of crime and drug use for offenders in the highest risk categories by adopting procedures found effective in drug court models," and strives to achieve "safer communities."⁹⁷ The ACE Program is especially unique because the district is geographically large; therefore, the program chose a central location at

90. *Id.* at 113; see also JONATHAN HURTIG ET AL., UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MASSACHUSETTS INTERAGENCY AGREEMENT FOR THE CREATION OF C.A.R.E. (COURT ASSISTED RECOVERY EFFORT) FOR HANDLING OF SUPERVISED RELEASE AND PROBATION VIOLATIONS 2 (June 5, 2006), <http://www.mad.uscourts.gov/outreach/pdf/CARE-Program.pdf> [hereinafter COURT ASSISTED RECOVERY EFFORT].

91. Gottschall & Armour, *supra* note 88, at 31.

92. *Id.* at 55.

93. *Id.* at 56.

94. See *id.*

95. Restrepo & Rice, *supra* note 48, at 4-5.

96. *Id.* at 5.

97. MICHIGAN REENTRY PROGRAM, *supra* note 83, at 1.

which to hold the court, despite the fact that participants were likely to come from all over the district.⁹⁸

The reentry court in the District of Oregon is “a voluntary, *post-release* program requiring enhanced, judicially-involved supervision for individuals who are released in the district after having completed a term of incarceration.”⁹⁹ The primary incentive for participation is that successful graduates are able to reduce their post-release supervision by a full year.¹⁰⁰ The program is focused around six foundational principles:

1. Transitional planning;
2. Multidisciplinary training in evidence-based practices for the reentry court judge;
3. The use of an integrated case management and law enforcement perspective for the reentry court probation officer;
4. The research-informed use of monitoring, sanctions, and rewards;
5. The research-informed use of a continuum of services designed to enhance accountability and reduce barriers to reentry; and
6. The establishment of quality data collection and evaluation systems to measure the effectiveness of the reentry court program at the individual and community levels.¹⁰¹

The purpose of the District of Massachusetts’ C.A.R.E. Program is to counteract Massachusetts’ status as the primary distribution center for drugs intended for New England and to improve the safety of communities and well-being of residents.¹⁰² The program’s focus is on reducing substance and drug abuse in its communities, which seems to drive a large portion of crime in surrounding communities.¹⁰³ The hope is that by reducing drug and substance abuse, crime will also decrease.

The Northern District of Illinois’ Second Chance Program was established with the very broad goal of reintegrating ex-offenders into

98. *Id.*

99. Aubin, *supra* note 87, at 39.

100. *Id.*

101. Vance, *supra* note 66, at 110-11.

102. COURT ASSISTED RECOVERY EFFORT, *supra* note 90, at 2.

103. *See id.*

society and reducing recidivism.¹⁰⁴ The Second Chance Program is also aimed at addressing drug and substance abuse issues, as demonstrated by the fact that the program is non-voluntary and targets individuals with a documented substance abuse problem.¹⁰⁵

3. Structure of programs and makeup of teams

The Eastern District of Pennsylvania's STAR Program's team consists of Assistant U.S. Attorneys Jason Bologna, Jennifer Williams, and Jacqueline Romero; Assistant Federal Public Defenders Rossman Thompson and Elizabeth Toplin; Probation Officers George Reid and Robert Henderson; Supervisory Probation Officer Jana Law; Administrative Assistant Dee Delaney; U.S. Department of Justice Reentry Coordinators Cyndi Zuidema and Elizabeth Powell; Temple Law Professor Robin Nilon; and federal law clerks Maya Sosnov, Esq. (Judge Brody), and Jules Torti (Judge McKee).¹⁰⁶ Once enrolled, participants attend open court sessions every two weeks for the duration of the year-long program.¹⁰⁷ The STAR team (identified above) meets for approximately an hour and a half before each open court session to discuss each participant's progress and identify potential issues.¹⁰⁸ If goals are not achieved or a participant is violating the terms of release, sanctions are imposed and explained to the group.¹⁰⁹ It is critical that the sanctions be uniform so that each participant understands the consequences of failing to satisfy program guidelines.¹¹⁰ If an individual must receive sanctions, the particular facts of the case are reviewed and discussed in order to promote progress rather than hinder the integration process.¹¹¹ Program participants attend the open court sessions as a group, observing each other's progress, which serves as a source of motivation and positive feedback.¹¹² Group dynamic is a critical and unique aspect

104. Gottschall & Armour, *supra* note 88, at 31.

105. *Id.* at 55.

106. Restrepo & Rice, *supra* note 48, at 5 n.6. In addition, Katie Beran, law clerk to Judge McHugh, and Leslie Kramer, law clerk to Judge Rice, assist Maya Sosnov in supervising law student interns from Temple Law School, Penn Law School, Villanova Law School, and Drexel Law School in carrying out the team's traffic court program through which the interns represent reentry court participants in Philadelphia Municipal Court, Traffic Division under the supervision of attorneys from the law firms of Montgomery, McCracken, Walker; Rhoads, Greissing Law, LLC; and Pepper Hamilton LLC. *Id.* at 5 & 6 n. 4.

107. *Id.* at 5.

108. *Id.*

109. *Id.*

110. *Id.*

111. *Id.*

112. *Id.*

of the program; participants attend court as a group and must discuss their accomplishments and identify obstacles, which leads to the establishment of goals for the participant to achieve before the next session.¹¹³ Before the Judge presides, there is often a guest speaker who addresses the group on a specific topic of interest for ten minutes.¹¹⁴

The Western District of Michigan's ACE Program team consists of probation officers, judges, a federal public defender, a U.S. Attorney, a U.S. Marshal, and halfway house staff.¹¹⁵ The program team meets on a monthly basis to identify legal, logistical, or financial issues.¹¹⁶

The District of Oregon's Reentry Court team consists of a district court judge, an assistant U.S. attorney, an assistant federal defender, a substance abuse counselor, a mental health counselor, and a reentry court probation officer, and the team conducts monthly hearings with participants in groups of ten or twelve at a time.¹¹⁷

The District of Massachusetts' Court Assisted Recovery Effort's team is comprised of a magistrate judge, the Probation Office, the United States Attorney, and the Federal Defender Office.¹¹⁸ The program proceeds through three, three-month phases and one four-month phase: "Early Recovery;" "Understanding and Taking Responsibility;" "Healthy Decision Making;" and "Relapse Prevention Planning."¹¹⁹ The first phase of the program is the most intensive, requiring weekly court meetings and mandatory enrollment in substance abuse and mental health treatment, but the program becomes less intensive as the ex-offender proceeds through the phases.¹²⁰ The second phase requires weekly meetings with the probation department, biweekly meetings with the courts, and continued substance abuse and mental health treatment; the third phase requires biweekly court attendance and meetings with probation officers, but less frequent attendance at substance abuse treatment and mental health treatment.¹²¹ The fourth and final phase requires only monthly court attendance and meetings with probation officers.¹²²

113. *Id.*

114. *Id.*

115. Vance, *supra* note 66, at 116.

116. *Id.* at 117.

117. Aubin, *supra* note 87, at 39-40.

118. COURT ASSISTED RECOVERY EFFORT, *supra* note 90, at 4-6.

119. Vance, *supra* note 66, at 113.

120. *Id.*

121. *Id.*

122. *Id.*

The Northern District of Illinois' Second Chance Program's team includes a district judge, a magistrate judge, a U.S. probation officer, an assistant U.S. attorney, a federal defender, a substance abuse specialist, and a deputy U.S. marshal.¹²³ The program requires that participants attend two-hour sessions on the first and third Thursday of every month.¹²⁴ Meetings do not take place in a courtroom, but instead in a large room where participants and team members sit together around a large table and discuss their progress.¹²⁵ Like many other reentry programs, the Second Chance Program operates based on rewards and sanctions, with rewards reducing the length of post-release supervision and sanctions increasing it.¹²⁶

4. Success of programs

The Eastern District of Pennsylvania's STAR Program has had much success since its inception in 2007. Specifically, 176 of the 237 total participants (74.2%) "have either graduated or are currently participating in the program."¹²⁷ Further, only 14 participants (6%) "[have] left the program without completing it for reasons unrelated to criminal conduct."¹²⁸ In addition, "[o]nly 47 participants (19.8%) have had supervision revoked or been arrested for new criminal activity and pending revocation."¹²⁹ Lastly, only 18 of the 155 graduates (11.7%) "have had supervision revoked, [have] been arrested without revocation, or [were] arrested and pending revocation."¹³⁰

An initial evaluation of the District of Oregon's Reentry Court produced concerning results. The study concluded that the comparison group outperformed the reentry court treatment group with fewer sanctions and higher employments rates.¹³¹ However, it is unclear whether these results were due to a small sample size or the inability to effectively and accurately monitor the comparison group.¹³² An alternate explanation is that the comparison group did not include individuals who face the additional hurdle of methamphetamine addiction. Although the program appears to enjoy suc-

123. Gottschall & Armour, *supra* note 88, at 54.

124. *Id.* at 57.

125. *Id.* at 58.

126. *Id.* at 58-60.

127. Restrepo & Rice, *supra* note 48, at 2.

128. *Id.*

129. *Id.*

130. *Id.*

131. Vance, *supra* note 66, at 112.

132. *Id.*

cess among its participants, it is unclear whether this success outweighs that of other substance abuse treatment programs.

Northeastern University's Department of Criminology and Criminal Justice conducted an evaluation of C.A.R.E between May of 2006 and May of 2009.¹³³ Using a comparison group, the study found that "C.A.R.E. group participants were 'more likely to meet the standards necessary to graduate (twelve months of consecutive no new charges, employed, and no positive drug tests) than the comparison group.'"¹³⁴ Overall, the results of the evaluation showed that C.A.R.E. participants were more likely to have positive results than individuals participating in other drug treatment and recovery programs.

Because the Northern District of Illinois' Second Chance Program was implemented very recently, there is little information available regarding its effectiveness. However, at the close of its first full year of operation, the program graduated five participants who continue to be contributing, law-abiding members of society.¹³⁵

II. ANALYSIS

As demonstrated above, federal reentry court programs throughout the country vary significantly with respect to how they are structured and how they expend time and resources. First, each program is created in order to address a specific issue in the geographic location. For example, while the Eastern District of Pennsylvania's STAR Program was implemented with the goal of reducing violent crime in Philadelphia,¹³⁶ the District of Oregon's Reentry Court was established with the goal of addressing the state's rampant methamphetamine epidemic.¹³⁷ Further, each program is implemented with the goal of serving a particular population in the given community.¹³⁸

133. *Id.* at 112-14.

134. *Id.* at 115.

135. See Gottschall & Armour, *supra* note 88, at 60-66.

136. Ware, *supra* note 2, at 7.

137. Aubin, *supra* note 87, at 39.

138. *Id.* at 39 (noting that the District of Oregon's Reentry Court was created to address Oregon's methamphetamine epidemic); HURTIG ET AL., *supra* note 90, at 1 n.91 (noting that the C.A.R.E. Program was implemented in order to combat Massachusetts' status as the primary distribution center for illicit drugs in northern New England); Gottschall & Armour, *supra* note 88, at 32, 55 (noting that the Second Chance Program was established to combat substance abuse rampant among ex-offenders); Ware, *supra* note 2, at 7 (noting that the STAR Program was created to address a significant increase in violent street crimes, including homicide).

For these reasons, the critical components of each program vary depending upon the overarching issue they are created to address in their respective communities. Therefore, the criteria utilized to evaluate ex-offenders' participation in the programs are different. For example, programs that target only individuals with a history of substance abuse rely solely on that criteria as a basis for selection.¹³⁹ These programs are also frequently mandatory, as opposed to voluntary. Conversely, programs that select individuals based on a history of violence focus more on enrolling individuals according to the specific problem the program seeks to resolve.¹⁴⁰ In order to successfully implement reentry court programs throughout the country, each program must first identify the specific issue the program will address. In most cases, a program is either created to address substance abuse issues known to be associated with the crime present in a particular area, or to address violent crime rates stemming from other issues.¹⁴¹

Given that substance abuse is an independent and unique issue requiring a specialized and skilled staff, each federal district court would benefit from having two programs in place: one program targeted toward high-risk offenders identified through the RPI; and another program targeted toward ex-offenders with a history of substance abuse. Alternatively, this Note posits that ex-offenders with histories of substance abuse might benefit more from substance abuse counseling, rather than a reentry court program. Specifically, many programs that only admit participants with substance abuse issues have elicited results similar to those of regular substance abuse programs that do not incorporate a collaborative approach between courts and correctional institutions.¹⁴² For that reason, it is possible that ex-offenders with substance abuse issues would benefit from separate substance abuse counseling, alongside a reentry court program that serves to address the other issues associated with successfully integrating into the community following release from prison.

Regardless, the Eastern District of Pennsylvania's STAR Program should be used as a model to create reentry courts targeted toward

139. Aubin, *supra* note 88, at 39–40.

140. *See generally* Restrepo & Rice, *supra* note 48 (aiming to reduce violent crime through the STAR Program).

141. *See id.* at 4 for an example of a program created to address high rates of serious violent crimes in Philadelphia, and Aubin, *supra* note 88 for an example of a program created to address severe substance abuse and drug related issues present in Oregon.

142. Fetsco, *supra* note 51, at 599 (noting that Massachusetts' C.A.R.E. Program was only "marginally more successful than the comparison group" receiving standard substance abuse treatment).

high-risk offenders in federal districts throughout the country. The STAR Program differs from the other programs described above in a number of ways: a team of reentry coordinators is present; selection is based on willingness to participate; and the program follows a comprehensive and interdisciplinary approach to successfully reintegrate ex-offenders into the community.¹⁴³ These differences set the program apart and account for its tremendous success. More specifically, the STAR Program's success in reintegrating ex-offenders into the community after prison can be attributed to its focus on assisting ex-offenders in the areas of housing, employment, prior violations of the law (including criminal record expungement), family life, and overall psychological well-being through cognitive behavioral therapy.¹⁴⁴ Further, the STAR Program team includes a team of reentry coordinators whose leadership is vital to the success of the program.¹⁴⁵ These are the critical areas where ex-offenders need assistance, and the STAR Program's approach to each aspect of the program is superior to others across the country.

A. Program Team

For the most part, federal reentry court teams consist of a core group of members, including a district court judge, an assistant U.S. attorney, an assistant public defender, a probation officer, and, if the program targets ex-offenders with a history of drug abuse, a drug and alcohol counselor.¹⁴⁶ Additional team members sometimes include representatives from community organizations.

The STAR Program differs from other reentry programs in this respect—a full-time team of reentry coordinators plays a significant and indispensable role in the overall implementation of the program.¹⁴⁷ More specifically, the STAR Program's team of reentry co-

143. Compare Restrepo & Rice, *supra* note 48, at 5-6 (noting the presence of a reentry coordinator, the voluntary nature of the program and the interdisciplinary nature of the program in partnering with various organizations, including public housing and employment partners), with Gottschall & Armour, *supra* note 88, at 56, 42-47 (noting that the Illinois program was not voluntary and failed to identify a reentry coordinator or partnerships with various organizations as critical components of the reentry court programs in Massachusetts, Oregon, or Illinois).

144. See Restrepo & Rice, *supra* note 48, at 5-6

145. See Ware, *supra* note 2, at 8.

146. Vance, *supra* note 66, at 110.

147. Interview with Cyndi Zuidema, Reentry Coordinator, E. Dist. of Pa. STAR Program, in Phila., Pa. (Nov. 12, 2014). This is an interview I personally conducted to obtain information that is unavailable via other avenues. Ms. Zuidema provided me with her overall view of the program, as well as a description of its strengths and successes. She pointed out some of the

ordinators obtains community partners in the areas of housing and employment and coordinates other services, such as cognitive behavioral therapy and criminal record expungement.¹⁴⁸ This role is crucial to the overall success of the program because, although each team member administers different program components, the reentry coordinators ensure that each of the components fits together to elicit positive results. The reentry coordinators provide oversight on a day-to-day basis, as well as on a larger scale, reviewing the overall success of the program.

Recall Francis Justiniano from the introduction of this Note. As with all STAR Program participants, Francis is sure to have developed a relationship with the program's reentry coordinator throughout her experience, as it is the reentry coordinator's job to be well-informed of each individual's progress throughout the program and to ensure that each participant is benefiting from all available resources. Without the reentry coordinator's attention to her case, Francis may not have been as successful as she was in the program.

B. Program Participants

The STAR Program also differs in that it does not target individuals with a history of substance or drug abuse.¹⁴⁹ Instead, the STAR Program utilizes the RPI to evaluate potential participants, targeting those with a score of five to seven on a scale of zero to nine.¹⁵⁰ Although RPI does take into account history of substance abuse in determining whether an individual is eligible for the program, it also ranks the individual based on the seriousness and specifics of the crime committed. Research shows that individuals with a history of substance abuse do not benefit from reentry court programs as much as those without a history of substance abuse.¹⁵¹ More specifically, researchers have found that individuals with a history of substance abuse who successfully graduate from reentry court are more likely to also have completed a substance abuse program, making it difficult to determine which program was responsible for the partic-

aspects of the program that make it different from other programs, many of which are referenced throughout this Note.

148. See generally Restrepo & Rice, *supra* note 48 (describing the various services provided by the STAR Program).

149. See Ware, *supra* note 2, at 7.

150. *Id.*

151. BENJAMIN PEARSON-NELSON, REENTRY COURT PROGRAM IMPACT EVALUATION 21 (2008), http://www.in.gov/idoc/files/Allen_ReentryCourt_2008.pdf (finding that offenders who complete substance abuse classes are more likely to complete the reentry program).

ipant's success and suggesting that without the substance abuse treatment, reentry court may not have been successful at all.¹⁵² As such, the STAR Program has demonstrated the importance of tailoring reentry programs to individuals who will benefit most from participation, and assists in reducing rates of recidivism nationwide.¹⁵³

Selecting candidates based on RPI scores is becoming more common. In fact, RPI implementation packages were sent to every federal district in May of 1997, and most if not all offices have completed the training and begun using the RPI as an initial risk assessment tool for all new active supervision cases.¹⁵⁴ The STAR Program demonstrates the benefits of identifying participants based on RPI scores, rather than based on simply targeting individuals with a history of substance abuse.

In Francis's case, she was selected based on the fact that her conviction fell within the range targeted by the program.¹⁵⁵ She did not have a history of substance abuse, and, prior to her conviction, she lived a law-abiding life, with the goal of achieving employment as a federal employee or joining the Air Force.¹⁵⁶ Her case presents a perfect example of an individual well-suited for the STAR Program due to her prior experiences and dedication to leading a law-abiding life after incarceration. People like Francis need and deserve reentry programs like STAR after release from prison, and Francis's case demonstrates the effectiveness of using the RPI as the primary method for selecting candidates for those programs.

C. Focus of the Program

Many existing federal reentry courts focus on serving a population with substance abuse problems. When these programs have been evaluated, they seem to have similar results as other substance abuse treatment programs that do not incorporate this collaborative approach between the courts and correctional institutions.¹⁵⁷ This suggests that targeting only individuals with substance abuse problems may not be the best model and may not address the various other issues ex-offenders face.

152. *Id.*

153. *See generally* Restrepo & Rice, *supra* note 48.

154. *See* RPI TRAINING, *supra* note 78, at 7.

155. Ware, *supra* note 2, at 8-9.

156. *Id.*

157. Fetsco, *supra* note 51, at 599 (noting that Massachusetts' C.A.R.E. Program was only "marginally more successful than the comparison group" receiving standard substance abuse treatment).

D. Structure of the Program

Further, the STAR Program—with a focus on all of the different aspects of life that impede reentry to the community—demonstrates the importance of using a comprehensive approach. More specifically, the STAR Program has built relationships with various governmental agencies, vocational institutions, and other entities, including:

- Philadelphia Housing Authority: To obtain Section 8 Housing to ensure that program participants are able to maintain housing independent from relying on family or friends;¹⁵⁸
- RISE: Partnership to connect program participants with employers in the Philadelphia area where placements have previously elicited successful results;¹⁵⁹
- Educational institutions;¹⁶⁰
- Cognitive Behavioral Therapy (“CBT”): Used to assist ex-offenders in dealing with the variety of psychological issues that can result from incarceration.¹⁶¹

This comprehensive approach is exactly what allowed Francis to secure gainful employment following her release from prison. Not only did the STAR Program provide her with employment opportunities she would not have had otherwise, it helped her to deal with the psychological and emotional challenges associated with re-integrating into the community, which can sometimes be the most difficult.

Additionally, the STAR Program partners with organizations that provide criminal record expungement and family support services in order to strengthen each aspect of the individual’s life.¹⁶² One of the major issues facing ex-offenders upon reentry from prison is re-learning how to interact with family and friends on a daily basis.¹⁶³ It can be difficult for ex-offenders to remember how to rebuild or maintain relationships with friends and family they had prior to entering prison.¹⁶⁴ While this should be a source of support for the in-

158. Restrepo & Rice, *supra* note 48, at 5.

159. *Id.* at 6.

160. *Id.* at 8.

161. *Id.*

162. *Id.* at 6.

163. *Id.*

164. See Christine S. Scott-Hayward, *The Failure of Parole: Rethinking the Role of the State in Reentry*, 41 N.M. L. REV. 421, 428 (2011).

dividual, it is oftentimes an additional stressor, resulting in further isolation from the community.¹⁶⁵

Criminal record expungement is particularly relevant to obtaining employment following release from prison. Although a large percentage of crimes remain on an individual's record for many years after being convicted or charged, some criminal charges can be removed from the individual's record, making the individual more marketable to employers.¹⁶⁶ The STAR Program partners with Philadelphia Lawyers for Social Equity to identify individuals who may be eligible for criminal record expungement, and to assist those individuals in the expungement process.¹⁶⁷ Unfortunately, Francis Justiniano was not eligible for criminal record expungement, and was faced with having to disclose her criminal record for more than twenty years following her conviction.¹⁶⁸ However, there are many individuals who may have extensive criminal records—including charges prior to the criminal conviction that resulted in imprisonment—that may make them eligible for this service. For those individuals, criminal record expungement is a critical service that must be provided.

The aspects of the STAR Program discussed in this Part set it apart from others throughout the country. Most importantly, courts underestimate the significance of employing a reentry coordinator or coordinators to ensure that each component of the program is functioning as required to serve participants.¹⁶⁹ Next, targeting program participants based on the RPI rather than based on a history of substance abuse has proven to be much more effective in successfully assisting ex-offenders' reintegration into the community.¹⁷⁰ Lastly, forming partnerships with community programs and establishing the legal clinic to provide participants with legal assistance is critical to assisting ex-offenders secure housing and employment in their communities.¹⁷¹ More specifically, identifying opportunities for low-cost housing and building relationships with employers who are willing to employ ex-offenders in a broad array of jobs is essential to program success. For these reasons, the STAR Program has enjoyed significant success since its inception in 2007, and other federal

165. *Id.*

166. James W. Diehm, *Federal Expungement: A Concept in Need of a Definition*, 66 ST. JOHN'S L. REV. 73, 78–80 (1992).

167. Restrepo & Rice, *supra* note 48, at 7.

168. Ware, *supra* note 2, at 9.

169. Interview with Cyndi Zuidema, *supra* note 147.

170. *Id.*

171. *Id.*

reentry court programs throughout the country should consider adding components similar to those discussed here.

CONCLUSION

Incarceration rates in the United States have skyrocketed in recent years, with over 1.5 million prisoners under the direction and control of federal and state correctional institutions nationwide.¹⁷² While the criminal justice system manages offenders' lives when they are incarcerated, that responsibility often ends when offenders are released. There is a growing trend toward establishing federal reentry courts in district courts throughout the country, but the reentry court programs vary from district to district. Although most have adopted the approach outlined by the federal government in the Reentry Toolkit released in 2012,¹⁷³ many programs lack some of the most critical components for success.

The Eastern District of Pennsylvania STAR Program's tremendous success since its inception in 2007 is a result of the incorporation of three critical components. First, the STAR Program demonstrates the importance of employing a team of reentry coordinators to oversee the large-scale administration of the program, including establishing relationships with the community partners in the areas of housing, employment, psychological well-being, and family relationships development.¹⁷⁴ Second, the STAR Program demonstrates the importance of identifying a target population and properly tailoring the program based on that population. More specifically, the STAR Program targets high-risk individuals with an RPI score ranging from five to seven on a scale of zero to nine.¹⁷⁵ This strategy of targeting individuals based on their categorization as high-risk is far superior to targeting individuals with a history of substance or drug abuse.¹⁷⁶ Third, implementing a program with a comprehensive approach to reintegration is critical to success. Ex-offenders not only face the obvious issues of isolation and lack of qualifications, they also face interpersonal issues and issues relating to housing and employment. The STAR Program's comprehensive approach to reentry is critical to its success.

172. Carson, *supra* note 14, at 1.

173. See generally WALTER & BOAR, *supra* note 74.

174. Restrepo & Rice, *supra* note 48, at 6-7; Ware, *supra* note 2, at 7-8.

175. Restrepo & Rice, *supra* note 48, at 4.

176. See generally Aubin, *supra* note 88, at 39 (discussing Oregon's reentry program and sympathetic treatment of drug addiction).

For these reasons, federal reentry courts throughout the country should analyze their own programs and consider adding the key components of the STAR Program that have contributed to its success in the Eastern District of Pennsylvania. Though the STAR Program will continue to grow and expand, establishing similarly successful programs in federal district courts throughout the country is critical to reintegrating former inmates into society on a national scale.