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Working Paper

UNLOCKING THE POTENTIAL OF REENTRY AND REINTEGRATION

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INTRODUCTION

The purpose of this policy brief is to describe a new approach to reentry practice and policy in the context of the processing of a criminal case. We view reentry planning as ideally being incorporated into activities taking place at six points during the pendency of a criminal case and service of a sentence: decision making regarding pretrial release; plea bargaining and sentence negotiations; sentencing; jail and prison programming; the provision of supportive services at the time of release; and decision making regarding parole revocation. If such planning were systematically incorporated into these six phases of criminal case processing, people involved in the criminal justice system would be more likely to reintegrate into their communities successfully and maximize their capacity for productive citizenship.

This approach to reentry planning is consistent with the perspective of the Center for Community Alternatives (CCA), a community-based organization whose principal mission is to reduce society's reliance on incarceration. This is accomplished through CCA's direct service programs; advocacy for individuals who are involved in the criminal justice system; and research and policy advocacy through its Justice Strategies division. CCA views its refinement of conceptualizing the reentry process as being integral to its mission and a natural outgrowth of its direct service programs and research activities. Specific examples of its experience are sentencing advocacy services to defense attorneys (Client Specific Planning); outpatient drug treatment services to court-mandated women (Crossroads); employment and HIV-related services to reentering inmates; aftercare services for people in recovery who have a history of involvement in the criminal justice system (Syracuse Recovery Community Support Program); trainings for reentering people and defense attorneys; and evaluations of reentry programs.

In this policy brief we describe our vision of reentry planning, as a six-stage approach, clarify how it differs from the traditional reentry planning model, and explain the advantages of this approach. To unlock the potential of reentry we propose transforming traditional sentencing by incorporating reintegration into the American sentencing model, by adding it to the four traditional goals of sentencing. (This proposal will be more fully developed in a future policy brief). We conclude by tying our redefinition of reentry to our advocacy perspective.

REENTRY AND REINTEGRATION

The Prevailing Model

The growing numbers of people released from prison - 650,000 people each year according to the Bureau of Justice Statistics (Hughes and Wilson 2003) (Bureau of Justice Statistics 2002) - have engendered a surge of empirical and conceptual work in the area of reentry. From this recent work has emerged a view of reentry that defines reentry as the process and experience of leaving prison after serving a sentence and returning to society and includes the activities and programming conducted to prepare prisoners to return safely to the community and to reintegrate as law-abiding citizens. The related concept known as reintegration is the

process by which the reentering former prisoners adjust and reconnect to employment, families, communities, and civic life.

Most current reentry models focus on providing reentry services to people immediately upon their release from service of the incarcerative portion of the sentence. More advanced models recognize the need to prepare for the transition back to the community prior to release from incarceration and envision that reentry planning begins when the person enters prison. Although the reentry planning differs between these two models, the definition of reentry remains the same in both models.

Redefining Reentry

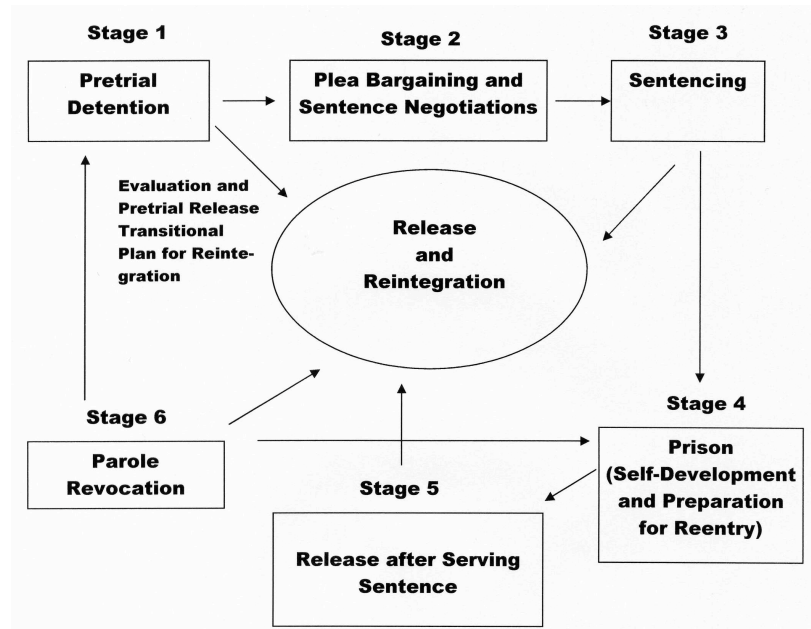
From the perspective of an agency engaged in sentencing advocacy and as a provider of reentry planning and services, the commonly accepted definition of reentry fails to unlock the potential of reentry. To promote a more rational and holistic approach, we propose that reentry be defined as a process that begins at arrest. Conceptualized in this way, reentry is redefined as the process and experience that begins at arrest and continues through community reintegration, including release from jail during pretrial proceedings, release at the time of sentencing, or release after service of the sentence. Reentry encompasses the evaluation, planning, and programming conducted, and support services implemented, to prepare and assist people who are or were previously incarcerated, to return safely to the community and to reintegrate as law-abiding citizens. There is no small significance in conceiving of reentry in this way. If reentry starts at arrest, then that is when the reentry planning begins. By starting reentry planning at the time of a person's arrest, the reentry plan can be an effective tool for both advocacy and reintegration at six distinct stages of the criminal justice process.

Six-Stage Reentry Model

Some of the challenges associated with reentry can be anticipated as early as at the time of arrest. A sentencing advocate working with a defense attorney can identify these challenges and develop plans to address them. Reentry planning can be incorporated into advocacy and specific reentry activities at several different phases of the criminal case. Altogether there are six stages or points at which reentry planning can be effectively used for both advocacy and successful reintegration:

- Pretrial release
- Plea bargaining and sentence negotiations
- Sentencing
- Self-development and preparation for reentry while in prison
- Release after serving sentence
- Parole revocation

Figure 1
SIX-STAGE REENTRY MODEL
REENTRY BEGINS AT ARREST



As illustrated in Figure 1 above, reentry planning is shown to begin at arrest as a plan is constructed to support the advocacy for pretrial release. Reentry planning at any of the six stages of the criminal justice process can either lead to reentry or to the next stage where the reentry plan is again used. Reentry plans established and implemented during pretrial detention offer the benefits of early reintegration and fewer days spent in jail. Once the foundation of a reentry plan has been established, it can be more fully developed and used during plea negotiations and for presentation to the judge at the time of sentencing. This sentencing plan can be used to advocate for a more humane, less punitive, individualized sentence. In those cases where sentencing does not result in an immediate return to the community, the reentry plan can be used as the basis for self-development and preparation for reentry while in prison. If we see reentry only as a back-end process, starting at entry into prison, we have conceded to irrational notions of punitive sentencing. Such policies relegate us, as William Spriggs of the National Urban League suggested, to a reentry process that "pieces together the lives broken by stupid policies" (Travis 2001).

Reasons for a Six-Stage Approach

Reentry planning that commences at the pretrial stage offers several advantages from the perspective of professional practice standards for defense counsel, fiscal responsibility, efficiency, public safety, and social justice:

- it serves as a catalyst for defense counsel to fulfill his or her professional responsibilities to address early diversion, develop a plan for meeting the accused's

- needs and a program for rehabilitation, and develop information that would support a sentence other than incarceration;
- it reduces the use of prison, which is both costly and criminogenic;
- it increases the likelihood of successful reintegration, thus promoting public safety;
- it expedites and facilitates the systematic referral of people in need of services;
- it promotes rational, less punitive, individualized sentences; and
- it promotes efficiency and consistency of planning for reentry.

REINTEGRATION-FOCUSED SENTENCING MODEL

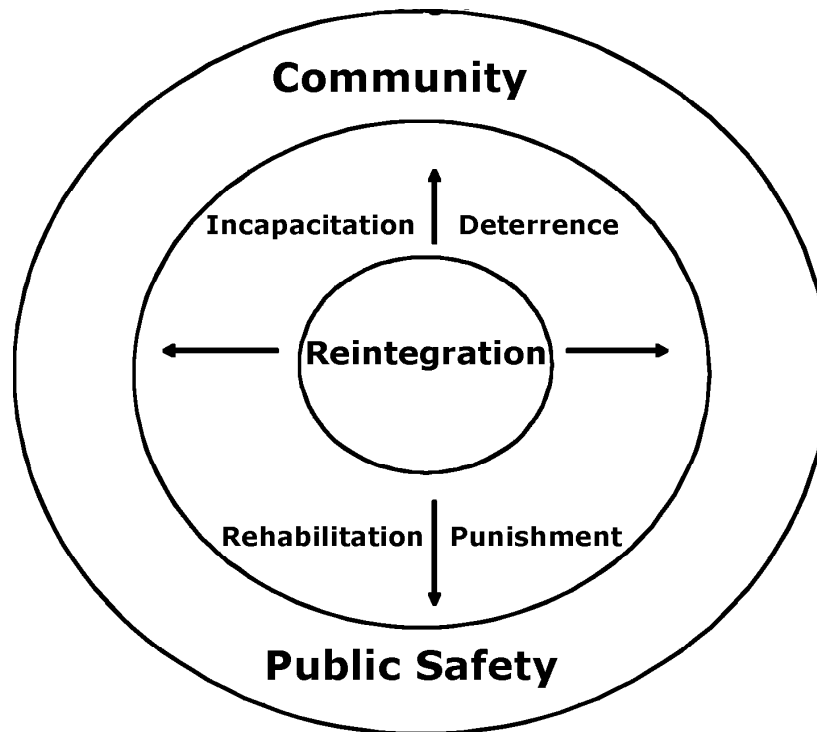
Reintegration as a Sentencing Goal

The focus on reentry over the last few years, culminating in President Bush's highlighting the issue in his 2004 State of the Union address, should be seen as an opportunity. It is an opportunity to reconsider the traditional goals of sentencing which include incapacitation, deterrence, punishment, and rehabilitation. During the past 30 years, as we have filled our old prisons, and built many new ones, the goal of rehabilitation has been all but abandoned, leaving us with little more than punitive sentencing practices (Garland 2001). Reintegration should supersede the much criticized goal of rehabilitation. Reintegration as a sentencing goal changes the focus from "fixing the offender" to a more complex recognition of shared responsibility.

In his address to the American Bar Association on August 9, 2003, Associate Supreme Court Justice Anthony M. Kennedy (Kennedy 2003) called for fundamental changes in current judicial and corrections practices. He implored the American Bar Association to initiate a public discussion about punishment and sentencing. "When it costs so much more to incarcerate a prisoner than to educate a child, we should take special care to ensure that we are not incarcerating too many persons for too long. It requires one with more expertise in the area than I possess to offer a complete analysis, but it does seem justified to say this: Our resources are misspent, our punishments too severe, our sentences too long." Justice Kennedy went on to underscore the need for changes in sentencing practices, perhaps foreshadowing the development of a sentencing model that incorporates reintegration as a sentencing goal. "The debate over the goals of sentencing is a difficult one, but we should not cease to conduct it. Prevention and incapacitation are often legitimate goals. [...] There are realistic limits to efforts at rehabilitation. We must try, however, to bridge the gap between proper skepticism about rehabilitation on the one hand and improper refusal to acknowledge that the more than two million inmates in the United States are human beings whose minds and spirits we must try to reach." (Kennedy 2003). A reintegration-focused sentencing model would bridge that gap.

The opportunity to reconsider sentencing philosophy is provided not only by the emergence of reentry as a public policy issue and an awakening to the severity of mandatory sentences, but by the emerging theories of community justice. Making reintegration the primary sentencing goal is consistent with the theories of community justice explored by Karp and Clear (2000). Community justice, as they conceptualize it, has twin foci: restoration and reintegration. Public safety and the quality of community life are promoted by the restoration of the community and the victim and also by the effective reintegration of offenders. At the same time, community justice places punishment as a sanctioning philosophy in a greatly diminished role (Karp and Clear 2000).

Figure 2
REINTEGRATION-FOCUSED SENTENCING MODEL



As illustrated by Figure 2, reintegration is placed at the core of the reintegration-focused model. Reintegration brings the defendant back to the community in a way that promotes public safety. The four traditional goals of sentencing remain, but are all considered in the context of reintegration. Placing the goal of reintegration within the range of goals to be served by sentencing will bring us back to a more individualized approach. It will require each judge, at the time of sentencing, to address several questions. “How will this sentence promote the ability of this defendant to reenter society successfully at the end of her incarceration?” “Will a community-based sentence better serve the end of reintegration?” “How can we best promote public safety now and in the future with a reintegration plan for this defendant?”

A Reason for Hope or Impending Disaster

If reentry is simply implemented as a “program” for those leaving prison, and nothing more, it will provide us with little else than an opportunity to pick up the damaged pieces that our affinity for punishment has created. However, if we carefully attend to the wide range of concerns that effect reentry, we can substantially reduce the prison population, avoid the damage, and promote reintegration. In order to reduce the cost of incarceration in both dollars and human suffering, the most effective way to do so is to begin reentry at the time of arrest. For those who can safely and successfully be reintegrated directly from pretrial detention, the benefits are clear. For those who still face incarceration at the time of sentencing, sentencing must be imposed with reentry in mind. The unprecedented increase in the prison population over the last thirty years is only partially explained by crime rates. Changes in sentencing policy and practice have also

fueled the increase (Blumstein and Beck 1999). If we can control our penchant to punish, we can again change our sentencing policy and practice, embrace reintegration, reduce the prison population, and increase public safety.

Reentry provides us with a vehicle for change. It is a significant departure point from which to begin the discussion of crime and criminal justice practices. In recent years legislatures have disregarded evidence that crime does not readily respond to severe sentences, or new police powers, or a greater use of imprisonment, and have repeatedly adopted a punitive “law and order” stance (Garland 2001). The new focus on reentry provides an opportunity for a dialogue about a less punitive sentencing policy that promises to be smart on crime.

There are sea changes that must be made to make successful reintegration a reality: innovating, advocating, researching, and improving. Reintegration cannot become a reality without changing our sentencing model. We have made prison an increasingly worse place from which to stage reentry. An analysis of 1997 state prison data shows an across the board decrease since 1991 in pre-release treatment, educational programs, and vocational treatment (Mumola 1999). People return from prison to cities where the infrastructure is worse off than when they started serving their sentences. The community-based supports that will be necessary to assist in the reentry effort have been devastated by a budget crisis, driven in large part by a build-up in police, criminal justice, and corrections and the war in Iraq. Judge Nancy Gertner (2004), a U.S. District Court Judge in Massachusetts, recognized the course we are on and the need to change sentencing practices:

“While ever increasing prison terms enable some to vent their spleen about the “crime problem,” they do little or nothing to effect a solution: Lengthy prison terms undermine an offender’s chances for a meaningful life after prison. They destroy communities and decimate families that are already struggling, especially in our inner-cities. And from those decimated communities comes more crime.”

Can we meet the challenge of reentry by transforming American sentencing and corrections or will reentry remain just a concept that applies to the churning of people through our penal institutions and lead to disaster for the men and women locked up in our prisons and jails, their families, communities, and this nation?

CONCLUSION

Reentry, when conceptualized as starting at the time of arrest, provides an opportunity for advocacy on two levels. On the micro-level there is the case-by-case advocacy of six-stage reentry planning that will make the difference in the lives of defendants as they pass before a judge. On the macro-level there is the opportunity for advocacy as we seek to change public policy. This will require us to address a wide range of policy issues including the collateral consequences of imprisonment, developing a new sentencing model, and re-prioritizing investment of our resources, shifting away from expenditures geared towards punishment, and shifting towards investment in support services and redevelopment of the infrastructure of our inner-cities. The time is right to seize this advocacy opportunity and unlock the potential of reentry and reintegration.

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