LEX QUOD ORDO

Association of Prosecuting Attorneys Quarterly Newsletter | LATE SUMMER 2011 Volume II Issue II

WELCOME TO THE SECOND EDITION OF VOLUME II OF LEX QUOD ORDO (LAW AND ORDER), THE ASSOCIATION OF PROSECUTING ATTORNEYS' (APA) QUARTERLY NEWSLETTER DEDICATED TO THE FIELD OF COMMUNITY PROSECUTION. AS THE SUMMER PROGRESSES, APA'S COMMUNITY PROSECUTION AND VIOLENT CRIME DIVISION HAS CONTINUED TO DEVELOP AND EXPAND NEW PROJECTS IN FIELD OF COMMUNITY PROS-ECUTION. AGED TO ATTEND AS TEAMS OF CRIMINAL JUSTICE PRACTITIONERS (SUCH AS JUDGE, PROSECUTOR, PUBLIC DEFENDER, COURT ADMINISTER, PROBATION AND PAROLE SUPERVISOR, CHIEF OF POLICE AND OTHER LAW ENFORCEMENT OFFICERS).

THE INNOVATIONS IN CRIMINAL JUSTICE SUMMIT IS SUPPORTED BY THE AMERICAN PROBATION & PAROLE ASSOCIATION, IN-TERNATIONAL ASSOCIATION OF CHIEFS OF POLICE, NATIONAL

This summer, APA has been busy planning and preparing for our next national conference. The Association of Prosecuting Attorneys (APA), in partnership with the Center for Court Innovation and the U.S. Department of Justice's Bureau of Justice Assistance, is hosting the Innovations in Criminal Justice Summit highlighting 10 innovative criminal Justice practices.



CRIMINAL JUSTICE ASSOCIATION, NATIONAL LEGAL AID & DE-FENDER ASSOCIATION, UNIVERSI-TY OF CHICAGO CRIME LAB AND THE URBAN INSTITUTE. THE SUM-MIT WILL BE HELD AT THE PALMER HOUSE HILTON IN CHICAGO, IL-LINOIS SEPTEMBER 28TH-30TH, 2011. WE ENCOURAGE ALL PROSECUTORS INVESTED IN THE FIELD OF COMMUNITY PROSECU-TION, TO CONSIDER PARTICIPAT-ING IN THIS UNIOUE TRAINING

These innovative practices focus on probationary strategies, community and intelligence-led prosecution programs, policing practices, judicial procedures, reentry, mental health courts, holistic defense (public defender initiative), homicide review commissions and addressing chronic offenders. This summit is open to all criminal justice partners and those interested in learning about innovative practices which are creating a more effective and efficient system of justice. Jurisdictions are encourOPPORTUNITY. PLEASE VISIT OUR WEBSITE <u>WWW.APAInc.org</u> TO REGISTER NOW. SCHOLARSHIP REQUEST FORMS ARE ALSO AVAILABLE ON OUR WEBSITE.

In other training news, APA is continuing to organize a number of upcoming regional community prosecution trainings. Later this summer and throughout the early fall, APA will be hosting trainings in a number of jurisdictions, including: Fulton County (Atlanta), GA; Multnomah County (Portland), OR;



[CONTINUED ON PAGE 2]



AND THE CITY OF DALLAS, TX. IF YOU ARE INTERESTED IN AT-TENDING ANY OF THESE ONE-DAY SESSIONS PLEASE CONTACT GENA GONZALES AT GENA.GONZALES@APAINC.ORG FOR MORE INFORMATION.

ON JUNE 12, 2011 APA'S VICE-PRESIDENT STEVEN JANSEN MET WITH COMMONWEALTH ATTORNEY (CA) GREG UNDERWOOD FROM THE NORFOLK COMMONWEALTH'S ATTOR-NEY'S OFFICE (NCAO) IN VA TO PREPARE FOR A MEETING IN WHICH MR. JANSEN WAS REQUESTED TO PRESENT ON COMMUNI-TY PROSECUTION BEFORE THE MAYOR AND CITY MANAGER IN AN EFFORT TO ASSIST CA UNDERWOOD IN ESTABLISHING A COM-MUNITY PROSECUTION (COMMUNITY JUSTICE INITIATIVE) PRO-GRAM BY MID-SUMMER OF THIS YEAR. MR. JANSEN EXPLAINED THE PHILOSOPHY OF COMMUNITY PROSECUTION AND HOW NOR-FOLK'S INITIATIVE WOULD BE IN LINE WITH OTHER PROSECUTORIAL INITIATIVES ACROSS THE COUNTRY. AS ALWAYS, THE COMMUNITY PROSECUTION DIVISION IS DEDICATED TO BRINGING TOGETHER PROSECUTORS, LAW ENFORCEMENT AND COMMUNITY PARTNERS IN THE CONTINUAL EFFORT TO REDUCE CRIME AND CREATE SAFER NEIGHBORHOODS.



PICTURED: NORFOLK COMMONWEALTH ATTORNEY (CA) GREG UNDERWOOD, DEPUTY COMMONWEALTH ATTORNEY, LINDA BRYANT AND APA VICE-PRESIDENT STEVEN JANSEN



PICTURED: APA VICE-PRESIDENT STEVEN JANSEN EXPLAINS COMMUNITY PROSECUTION TO MEMBERS OF THE NORFOLK GOV-ERNMENT OFFICIALS.

We would like to thank and recognize all who contributed to this newsletter. As always, we encourage you to reach out to us at our website www.APAInc.org, connect with us on our Facebook Fan page and follow us on Twitter. Please feel free to contact me at Robert. Hood@apainc.org if you need assistance, have questions, or suggestions for future issues, trainings and publications.

-Robert Hood, APA Director, Community Prosecution & Violent Crime Division







MENTAL HEALTH COURTS: WHY PROGRAM EVALUATION MATTERS BY LINDSEY MELODY, LEGAL INTERN, APA & ROBERT HOOD, DIRECTOR, APA COMMUNITY PROSECUTION DIVISION

The Bureau of Justice Statistics reported midyear in 2005 that more than one-half of all prison and jail inmates experienced mental illness¹ and nearly a quarter of those had served time for three or more prior convictions. Mentally ill individuals have traditionally been prosecuted in the same manner as those defendants without mental illness, many of them re-offending not long after release. Hence, traditionally, the underlying causes of criminal behavior were not addressed, and a significant number of mentally ill persons made their way back into the criminal justice system without ever receiving proper treatment.

A relatively new approach to dealing with such offenders is the idea of a mental health court. Although it is difficult to determine which "mental health court" was the first in the nation, mental health courts grew in popularity in the last decade in much the same way that drug courts became ubiquitous a decade earlier. Some researchers argue that Broward County, Florida, created the first mental health court in 1997, while others cite Marion County, Indiana, as having the first mental health court program in the early 1980s. These "problem solving courts" were designed to address the underlying mental health issues that many offenders have which may contribute to their criminal behavior. Regardless of which is the first "official" program, mental health courts have exploded in number, with as many as 200 reported mental health courts functioning in large and small jurisdictions across the country currently.

Mental health courts have received excellent general feedback for their work in giving defendants an opportunity to avoid prosecution and receive treatment and assistance with their illnesses, while still being monitored by the criminal justice system to prevent further criminal behavior.



Despite this fact, there is a surprising absence of publicly accessible program evaluations of such courts, both in terms of their processes and outcomes.There is, however, a slowly growing body of evidence that suggests that such courts can indeed improve defendant treatment outcomes and reduce defendant recidivism.² A major shift towards evidenced-based practices in the criminal justice system calls for a more quantitative data assessment of such programs to determine their effectiveness and practicability compared with traditional prosecution.

To encourage this development, it is necessary for individual mental health courts to increase the frequency of their self-evaluations of their processes and outcomes, and to make them publicly available in order to improve not only their own effectiveness, but also provide valuable data that will help improve programs in other jurisdictions.





Self-evaluation is necessary in determining if the practices employed are the most appropriate and practical, and to hold the managing entity (i.e., the court system) accountable. The implementation of a mental health court program requires judges, prosecutors, defense attorneys, and a wide array of social services staff members to divert their time and resources to the program and its clients, who may need more attention for longer periods of time than traditional offenders. Training for the staff in mental illness education is also usually necessary, adding additional time and costs to the operation of the program. It also requires diversion of taxpayer money towards a program that defers prosecution for criminal offenders and releases them back into the community (for treatment or hospitalization) under supervision rather than incarceration. While studies show that mental health courts may actually be less costly for taxpayers than continued incarceration in the long run,³ community costs for an ineffective program could outweigh the fiscal benefits if mentally ill offenders do not improve from their participation.

Taxpayers in the community have a strong interest in such courts conducting self-evaluations not only for economic benefit, but for general safety purposes as well. These programs are intended to offer treatment to the mentally ill while still providing the community with the same degree of protection from criminal behavior as incarceration. Producing understandable data of proper evaluations of the effectiveness of practices and the resulting outcomes is imperative to ensuring that taxpayer money is not being wasted, and that the public can see how a program is protecting the safety of the community compared with traditional prosecution and incarceration.

More indirectly but of equal importance, publicly accessible evaluations are highly useful to other jurisdictions that are considering or just beginning their own mental health courts. Although each community is distinct, an increase in examples and models with variations will give these courts more factors to consider as they plan their own efforts. Communities with similar populations can share tested and successful practices, as well as work together to come up with new solutions to extant problems. Such strategies must be flexible in order to be effective in a variety of communities with different resources and populations. The needs of more communities will be met if there are thorough and up to date programs and models for their reference.

While no two programs will be designed and operated in exactly the same way, there are several key componants which courts should look at when evaluating a pretrial diversion program⁴ like a mental health court.







Evaluation of program processes may include: discernable goal(s) for the court and its staff members, and open communication on how to reach those goals; staff qualifications and degree of training in handling mentally ill offenders; appropriate screening criteria for the program to ensure it is reaching the targeted population; and participant response to the program. Outcome evaluations, which focus on whether the program is "working", may include: the percent of participants who complete the program; rate of reoffense and offenses commited while in program; and the status of program participants for several months after they have completed the program. A court should also be sure to track its own changes in the same manner each time and make that data available as well, so that data is consistent and progress easily observable and understandable to others.

Prosecutors should play an instrumental role in encouraging such program evaluations, as they are most often the "gatekeepers" of entry to such programs. An ineffective program may cause a prosecutor to choose traditional prosecution over an alternative resolution. It is essential that prosecutors play an active role in evaluating such courts in which they participate to ensure they are actually accomplishing what they purport to do. These aims are best met when there is open and honest communication among prosecutors and other participants in mental health court programs, as well as with mental health courts in other districts, regarding what works and what does not, and how to solve problems that may arise and persist. To learn more about the intersection of mental health and the criminal justice system, be sure to register for APA's webinar,

"THE MENTALLY ILL OFFENDER IN THE CRIMINAL JUSTICE SYSTEM," August 26th, at 3 pm EST/12 pm PT.

For more information on this webinar please see "Upcoming Events and Announcements" on page 11 or visit www.APAInc.org.

While conducting frequent comprehensive evaluations may seem at first both costly and time consuming, the long term benefit of having confidence that a particular program is effective and appropriately serving all members of the community is invaluable. It also gives other jurisdictions the tools they need to best serve and protect their own communities.

CITATIONS:

^aBureau of Justice Statistics Special Report: *Mental Health Problems of Prison and Jail Inmates.* September, 2006. http://bjs.ojp.usdoj.gov/content/pub/pdf/mhppji.pdf

²Arrests Two Years After Exiting a Well-Established Mental Health Court, Hiday & Ray, Psychiatr Serv 61:463-468, May 2010. Available at http://psychservices. psychiatryonline.org/cgi/content/full/61/5/463. See also Effectiveness of a Mental Health Court in Reducing Criminal Recidivism and Violence, McNiel & Binder, Am J Psychiatry, McNiel and Binder 164 (9): 1395 at http://ajp.psychiatryonline. org/cgi/content/full/164/9/1395

³Rand Corporation Press Release, March 1, 2007: *Mental Health Courts Have the Potential to Save Taxpayers Money*, RAND Study for CSG Justice Center Finds. http://www.rand.org/news/press/2007/03/01.html.

⁴The National Association of Pretrial Services Agencies, Diversion Program Checklist. http://www.napsa.org/publications/diversionchecklist.pdf.





APA IN PANAMA



Pictured Left to Right: APA Vice-President Steven Jansen, Secretario General (Secretary General) Ramses M. Barrera Paredes (Republic de Panama Ministerio Publico Procuraduria General de la Nacion), his assistant, and Tom Cullen, Country Director for American Bar Association's Rule of Law Initiative

As of September 1, 2011 the Republic of Panama will be transitioning their system of justice to an adversarial model. At the request of the Panamanian Attorney's General Office, APA's Vice-President Steven Jansen traveled to Panama on July 19th, to conduct an assessment in our efforts to establish training and technical assistance with trial advocacy, business processes and office management.

The American Bar Association Rule of Law Initiative (ABA ROLI) is a mission-driven, non-profit program grounded in the belief that rule of law promotion is the most effective long-term antidote to the most pressing problems facing the world today, including poverty, conflict, endemic corruption and disregard for human rights. For more information visit: http://apps.americanbar.org/rol/.









SECOND CHANCES: KEEPING NEIGHBORS SAFE BY JANE BROWNING PROJECT DIRECTOR, ICCA SITING PROJECT

The Federal Bureau of Prisons (FBOP) is dedicated to the principle of transitioning Federal inmates gradually through community-based Residential Reentry Centers (RRCs). With few exceptions, prisoners nearing the end of their sentence are scheduled to return to their home communities through RRCs, or halfway houses. The opportunities that RRCs provide for work release, family reunification, and establishing local ties with needed health and social services guarantee higher rates of successful reintegration. With incarceration levels at an all-time high, the pressure is on to open up new residential programs, but the going on the road to starting up new facilities can get mighty rough.

In the northeast, repeated bid solicitations from the FBOP went unanswered because agencies responding to the solicitation could not secure zoning approval. Community Resources for Justice (CRJ) in Boston determined that Manchester, New Hampshire was the likeliest site for meeting the needs of Federal reentry candidates. CRJ built support for a new residential reentry center with the Police Chief and the location's City Council member; they attended City Council meetings bringing along local employers in support of the effort; they met with local businesses and potential neighbors; they solicited support form other local service providers;



they won the support of a U.S. Senator; and they secured the services of a local attorney to review the local zoning code and prepare a variance application.

Despite the energetic, strategic efforts of CRJ, the Mayor and City Council voted against the zoning variance. The siting battle generated negative media attention, too.

Having exhausted all other approaches, CRJ took their campaign to the courts. At the end of five long years (and a serious financial investment on the part of CRJ), the New Hampshire Supreme Court ruled against the City of Manchester and cleared the path for finally opening a new Federally contracted prisoner reentry program.





It isn't just about prisoner reentry, though. Halfway houses provide the necessary structure, staffing and supervision for carrying out successful diversion programs intended to achieve alternatives to incarceration. The halfway house setting is ideal for providing mental health and addiction treatment as directed by specialty courts of all kinds. Community members often recognize the value of rehabilitation programs for offenders, but they are adamant about not having those programs situated in their own neighborhoods.

NIMBY ("Not In My Backyard") is an old issue. In 1971, then-President of the International Halfway House Association (IHHA), J. Bryan Riley of Boston, published a paper on the subject of community opposition standing in the way of establishing residential programs. IHHA has since changed its name to the International Community Corrections Association (ICCA), but the NIMBY issue has changed hardly at all.



How it works: Half Way House

- A positive transitional living environment.
- · Residents work and pay rent.
- They also receive counseling and job training.
- · Not yet at full liberty: a gradual, supported re-connection.





Pictured: A halfway House in San Antonio, Texas

When current ICCA President, Dr. Kevin Downey, encountered a wall of opposition to special use zoning requested by a property owner to enable moving a Crosspoint, Inc. facility to a new part of town in San Antonio, the ICCA Board met to discuss what might be done about this issue on a national scale. George Keiser, then Chief of the Community Corrections Division at the National Institute of Corrections (NIC) – the research arm of the Federal Bureau of Prisons – suggested to the ICCA Board that they initiate a multi-media campaign to build broader community support for offender rehabilitation.

> With planning support from NIC and funding from the Public Welfare Foundation, ICCA undertook the challenge of overcoming NIM-BY from a slightly new direction. Gathering the collective wisdom of veteran community correction professionals from within its own membership,





The committee called upon their colleagues to share their own stories of success and failure in siting campaigns to create a small library of Case Studies for sharing "lessons learned." The group drew up a detailed "Step by Step Guide" to siting programs that serves as the core of the Tool Kit. Including research on recidivism, property values and crime statistics, and cost effectiveness as well as a rich array of media strategies and materials, the Tool Kit is being loaded onto the ICCA website and embedded in a CD for mass distribution. A key element of the package is a professionally produced Power Point presentation, "Returning Home," for local use with business groups, zoning commissions, neighborhood associations, City Councils, and others who might benefit from learning more about offender rehabilitation.

Community support means community collaboration. The corrections field functions within the context of diverse and highly experienced community networks. To fuse its own efforts within the broader social structure, ICCA has been reaching out to collaborate with other national and international organizations with grassroots constituencies. Groups as diverse as MADD and the King County Sexual Assault Response Center, the International Association of Chiefs of Police,



Pictured: Halfway House in Boston, Massachusetts



Prosecutors have an important role in community reentry efforts, especially those working in specialty courts that promote alternatives to incarceration through effective diversion programs. By seeking sentences served in community-based correctional programs and facilities, prosecutors can join in the movement to expand community capacity for treatment facilities, halfway houses, work release programs, and family reunification. In many jurisdictions, prosecutors serve on community corrections agency boards of directors or advisory committees to lend their knowledge and expertise to agency efforts.

ICCA invites you to join us in cultivating community support for prisoner reentry and community-based offender rehabilitation. Please share your own stories of success – or failure – in expanding community capacity for reentry with us. Send ICCA copies of brochures, videos, articles, and interviews you have created on the subject. Invite ICCA leaders to conduct a training workshop at your local, state, or regional meetings on how to use the ICCA Second Chances Tool Kit in building local support in your community. Contact Jane Browning, browningjane54@gmail.com for more information.





Community Corner

NEWEST COMMUNITY COURT OPENS IN NEWARK



Newark Mayor Cory A. Booker speaks in the Municipal Council Chambers at the opening ceremony of Newark Community Solutions.

Newark Community Solutions, the nation's newest community court opened its doors for business June 16, 2011, in Newark, New Jersey. The City of Newark, the Newark Municipal Court, and the Center for Court Innovation, worked in collaboration with the New Jersey Institute for Social Justice and the Center for Collaborative Change among others to design this problem solving court. By combining punishment with help, Newark Community Solutions seeks to reduce the traditional court's reliance on ineffective fines and expensive short-term jail sentences and build public confidence that offenders are held accountable and receive the types of assistance needed to prevent them from committing further crimes. Major funders of the project included the Bureau of Justice Assistance (BJA) at the U.S. Department of Justice, the Nicholson Foundation, and the New Jersey State Bar Foundation.

"We couldn't be more proud to support such an exciting project as Newark Community Solutions in its unique efforts to apply problem-solving justice to an entire city, while at the same time fostering bonds between the court and the community," said Kim Ball, a senior policy advisor at BJA. "This is indeed as ambitious as any community justice initiative we've been part of, and the City of Newark deserves great credit for undertaking such efforts."

"Newark Community Solutions is an ambitious effort to leverage the authority of the court to put offenders back on the path to a productive life and in the process to improve public safety for all Newarkers," said Project Director Jethro Antoine. "The extensive partnership supporting this innovative project will ensure that Newark Community Solutions succeeds at strengthening the ties between the court and community."

Court planners anticipate that the project will hear cases involving approximately 3,500 defendants in its first year of operations. Municipal Court Judge Victoria Pratt will preside over the court.

"Community Corner," highlights programs designed to connect prosecutors' offices with their communities and enhances community relations. If you would like to be featured in future issues, please contact Gena Gonzales at Gena.Gonzales@apainc.org.







Association of Prosecuting Attorneys

1615 L Street NW, Suite 1100 Washington, DC 20036 202-861-2480 • www.APAInc.org

BOARD MEMBERS

JOHN CHISHOLM, CHAIRMAN DISTRICT ATTORNEY, MILWAUKEE COUNTY, WI PAUL HOWARD, JR., VICE-CHAIRMAN DISTRICT ATTORNEY, FULTON COUNTY, GA THOMAS CARR, SECRETARY CITY ATTORNEY, BOULDER, CO DAVID LABAHN, PRESIDENT/CEO Association of Prosecuting Attorneys STEVEN NAUGLE, TREASURER/CFO Association of Prosecuting Attorneys CARMEN TRUTANICH, DIRECTOR CITY ATTORNEY, LOS ANGELES, CA MICHAEL D. SCHRUNK, DIRECTOR DISTRICT ATTORNEY, MULTNOMAH COUNTY, OR R. SETH WILLIAMS, DIRECTOR DISTRICT ATTORNEY, PHILADELPHIA, PA

Staff

DAVID LABAHN, PRESIDENT/CEO Association of Prosecuting Attorneys STEVEN JANSEN, VICE-PRESIDENT/COO Association of Prosecuting Attorneys STEVEN NAUGLE, TREASURER/CFO Association of Prosecuting Attorneys ROBERT HOOD, COMMUNITY PROSECUTION DIRECTOR Association of Prosecuting Attorneys ROY HUBERT, SENIOR RESEARCH FELLOW Association of Prosecuting Attorneys Kelsey Doty, Staff Attorney Association of Prosecuting Attorneys SYRITA SIMPKINS, EXECUTIVE ASSISTANT Association of Prosecuting Attorneys GENA GONZALES, PROJECT ASSISTANT Association of Prosecuting Attorneys

MISSION

Π

SUPPORT AND ENHANCE THE EFFECTIVENES OF PROSECUTORS IN THEIR EFFORTS TO CREATE SAFER COMMUNITIES.

UPCOMING EVENTS & ANNOUNCEMENTS

REGISTER NOW!

APA's INNOVATIONS IN CRIMINAL JUSTICE SUMMIT is taking place SEPTEMBER 28-30TH at the PALMER HOUSE HILTON in Chicago, IL.

The Association of Prosecuting Attorneys (APA), in partnership with the U.S. Department of Justice's Bureau of Justice Assistance, is hosting the Innovations in Criminal Justice Sum-

mit highlighting 10 innovative criminal justice practices.

REGISTRATION & SCHOLARSHIP INFORMATION: www.APAINC.org



APA "Final Fridays" Webinar Series *NEW* Community Prosecution Webinar

Date: AUGUST 26TH, 2011 Topic: "THE MENTALLY ILL OFFENDER IN THE CRIMINAL JUSTICE SYSTEM"

APA's webinar, "The Mentally Ill Offender in the Criminal Justice System," will highlight two different approaches from the East & West Coast that will help prosecutors, law enforcement and other criminal justice partners effectively handle mentally ill criminal offenders as they enter the criminal justice system. The Seattle Mental Health Court, deals with adult misdemeanor offenders, and the Nathaniel Project, deals with adult felony offenders. Please join us and our experts for this free, thought-provoking and educational "Friday Fridays" webinar on August 26th, at 3 pm EST/12 pm PT. For registration information and other news about upcoming APA webinars please visit www.APAInc.org.

INTERESTED IN FUTURE NEWSLETTER CONTRIBUTIONS OR WANT TO HELP HIGHLIGHT AN INNOVATIVE PROGRAM? PLEASE CONTACT GENA GONZALES AT GENA.GONZALES@APAINC.ORG. FOR FUTURE TRAININGS AND WEBINARS PLEASE REFER TO THE APA WEBSITE AT WWW.APAInc.org.

Facebook

Connect with us through our Facebook Fan page at: www.Facebook.com/APAInc

Twitter

Follow us on Twitter for News and other updates: www.Twitter.com/APAInc

This project was supported by Grant No. 2010-DG-BX-K027 awarded by the Bureau of Justice Assistance. The Bureau of Justice Assistance is a component of the Office of Justice Programs, which also includes the Bureau of Justice Statistics, the National Institute of Justice, the Office of Juvenile Justice and Delinquency Prevention, the SMART Office, and the Office for Victims of Crime. Points of view or opinions in this document are those of the author and do not represent the official position or policies of the United States Department of Justice.



