



Dispositional Court *A Smart Sentencing Opportunity*

What is a Dispositional Court? A dispositional court is involved in offender release decisions, pleas, trials, sentencing, and sometimes probation violations. When a court fashions a sentence, it has a number of factors to consider: Applicable state laws, constitutional considerations, equity, proportionality, public safety, knowledge of what reduces recidivism, and the individual risk and needs of the offender. Some suggest that the cost of various sentencing options should also be considered. Many of these factors are also relevant to release decisions and plea negotiations.

What are Spokane City and County Doing Now? There are three levels of courts in Spokane County: Municipal Court, District Court and Superior Court. A person arrested by the Spokane Police Department will be seen in Municipal Court for a misdemeanor and in Spokane County Superior Court for a felony. A person arrested by the Sheriff's Department will be seen by Spokane County District Court for a misdemeanor and Spokane County Superior Court for a felony. County Consultant, David Bennett, noted that many individuals have pending cases in two or three courts with different prosecutors and public defenders, which are both confusing and a waste of resources.

Each of the courts will be involved in offender release decisions, pleas, trials and sentencing. Municipal Court and District Court may also see offenders for probation violations. Once a person is sentenced by Superior Court, the person is under the jurisdiction of the Department of Corrections [DOC] and DOC addresses any probation violations.

What is "Smarter Sentencing?" All of the courts in Spokane County (Municipal, District and Superior) engaged in "Smarter Sentencing" training in September 2012. Smarter Sentencing is based upon the fact that an offender can be held accountable without being punished by incarceration. One important goal of Smarter Sentencing is to reduce the offender's future criminal conduct. The hallmarks of Smarter Sentencing include the following:

- **"Make punishment an end in itself** – Identify those offenses and situations that demand punishment as a sanction; do not use punishment as a means of changing offender behavior."
- **Reserve incarceration for those who require punishment or must be removed from society to protect the public**— Incarceration can be used to punish or remove a person from society. It must be understood that incarceration will not have a positive effect on the offender's behavior, but in fact will make them more likely to re-offend when they are released from custody.

- **"Deter criminal behavior through swift, certain and proportionate sanctions for noncompliance and illegal behavior—** Offenders [who are being supervised in the community] must know that for every instance of noncompliance and illegal behavior, there will be swift, certain and unpleasant consequences; focus should be on the swiftness and certainty rather than the severity of the response." This approach will reduce criminal behavior for offenders who are on community supervision.
- **"Focus efforts to change offender criminal behavior on medium and high-risk offenders as measured by ... risk instruments"**— Evidence shows that high-risk high-need individuals are less likely to re-offend if they are sentenced to programs with both treatment and intense supervision/accountability. Low-risk, low-need individuals require little intervention. Giving an individual the wrong level of treatment and supervision/accountability can actually make them worse.
- **"Concentrate behavioral treatment and interventions for offenders on criminogenic needs as measured by ... risk/needs instruments—** Construct conditions of diversion or conditions of probation and parole that address the eight criminogenic needs¹; always pay attention to the top four criminogenic needs; avoid conditions that do not address criminogenic needs."
- **"Create situations where offenders can learn the behavioral, social and cognitive skills required to address their criminogenic needs—** Pay attention to issues of individual learning style, gender differences, cultural and ethnic factors; address severe addiction and mental health issues prior to trying to teach behavioral, social and cognitive skills."

Quoted material from: "Research-Based Smarter Sentencing," September 27-28, 2012.

How Can Spokane City and County Improve? All courts should engage in smart sentencing. The ability to do so is premised on each court having accurate risk and need assessments of the individual and a broad array of alternative sentencing options. See also "Individualized Risk Need Assessment in a Comprehensive Pretrial Service Program."

A procedural solution must be found to address the same individual having pending cases in multiple courts.

How will Spokane City and County Benefit by Implementing Smarter Sentencing?

- Cost savings: If medium and high risk offenders' criminogenic needs are addressed in high-quality support and treatment services the offenders' recidivism will be reduced, thus saving the system future criminal justice costs. In addition, support and treatment

¹ The 8 criminogenic needs are: 1) Anti-social cognition; 2) Anti-social companions; 3) Anti-social personality or temperament; 4) Poor family and/or marital relationships; 5) Substance abuse; 6) Un- or under-employment; 7) Poor performance or failure in school; and 8) Poor use of leisure and/or recreational time. If substance addiction and/or serious mental illness are present, address these issues first.

services offered in the community while the offender is supervised will reduce the need for housing the offender in jail and save approximately \$120 per day.

- **Public Safety:** Public safety will be enhanced as recidivism rates are reduced.
- **Changed lives:** Offenders who fulfill the treatment and supervision requirements can be integrated into their families and the community as healthy and productive members.

Links for More Information:

Washington State Institute of Public Policy -

<http://www.wsipp.wa.gov/topic.asp?cat=10&subcat=0&dteSlct=0> (4.4.12) Many articles on the cost-benefit analysis of alternatives to incarceration and comprehensive support services. The most recent is:

Return on Investment: Evidence-Based Options to Improve Statewide Outcomes

April 2012 Update, 2012 April. Stephanie Lee, Steve Aos, Elizabeth Drake, Annie Pennucci,

Marna Miller, Laurie Anderson. #12-04-1201. <http://www.wsipp.wa.gov/pub.asp?docid=12-04-1201> (9.2.12)

Sources of Information:

David Bennett and Donna Lattin, "Spokane County Corrections Needs Assessment Master Plan Draft," February 14, 2008, Chap. 4, p. 22.

[http://www.spokanecounty.org/data/countysheriff/jep/Needs%20Assessment%20\(5Mb\).pdf](http://www.spokanecounty.org/data/countysheriff/jep/Needs%20Assessment%20(5Mb).pdf)

Douglas Marlowe, J.D., Ph.D., "Evidence-Based Sentencing for Drug Offenders," September 13, 2012, presentation to Spokane Municipal Court, Spokane, WA.

"Research-Based Smarter Sentencing, Training for Prosecutors, Public Defenders, Judges and Community Corrections Professionals," September 28-29, 2012, presentation by Frank Domurad and M. Elaine Nugent-Borakove to Spokane City and County, Spokane, WA.

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