



RELAPSE PREVENTION COURT (RPC)

EASTERN DISTRICT OF PENNSYLVANIA

February, 2018

Background Information

Problem-solving courts seek to reduce recidivism and improve outcomes for individuals, families, and communities by using methods that involve ongoing judicial leadership; a collaborative or team-based approach among criminal justice professionals including the prosecutor, defense attorney, probation officer, and treatment provider; the integration of treatment and/or social services with judicial case processing; close monitoring of and immediate response to behavior; multidisciplinary involvement; and collaboration with community-based and government organizations.

Drug Courts

First implemented in Florida during the late 1980s, drug courts have become popular in local and state jurisdictions. They arose out of necessity due to overcrowded dockets and high recidivism rates. Drug courts provide a judicially supervised regimen of drug abuse treatment and case management services to offenders who are typically nonviolent and who abuse drugs.

Studies show drug courts are successful. In 2003, there were more than 1,500 drug courts nationwide, operating or in the planning stages. According to a May 2004 report of the Bureau of Justice Assistance, National Court Institute, drug courts provide numerous benefits to the government, the participant, and the community at large. The National Institute of Justice's 2003 study found that out of 17,000 drug court graduates nationwide, only 16.4% have been re-arrested or charged with a felony offense.

Studies of the effectiveness of drug courts in the states have concluded that they offer a promising strategy for reducing recidivism if implemented with key components and if certain implementation challenges are adequately addressed. The Bureau of Justice Statistics (BJA), National Association of Drug Court Professionals (NADCP), Government Accountability Office (GAO), and the National Academy of Sciences (NAS) recently reviewed a large number of evaluations of drug court programs to assess their effectiveness. The BJA concluded: "When these courts are implemented in an evidence-based manner, they have reduced recidivism and substance abuse among high-risk substance-abusing offenders and increased their likelihood of successful rehabilitation."

In a Philadelphia Inquirer article on February 19, 2017, a Drug Enforcement Agency (DEA) representative talked about the heroin epidemic in Philadelphia, pointing out specifically the area between Kensington and Fairhill. DEA considers this area to be the "East Coast's largest heroin market." According to that same DEA representative, the

DEA representative was quoted as saying “I questioned whether I was still in the United States. It’s like a third world country.” The article discussed the local impact in the Philadelphia and surrounding communities, which can be measured by the more than 900 reported fatal overdoses recorded in 2016 in Philadelphia; 35 of them alone in December 2016.

In reviewing these statistics and taking into consideration our drug offending population on supervised release, we believe the proposal below is a timely one.

Proposal for a Pilot Program

This memorandum proposes establishing a Post-Conviction Supervision Drug Court in the Eastern District of Pennsylvania. This would be a court in which a Drug Court judge would assist the Probation Office with the supervision of certain offenders with a significant history of drug abuse and relapse. Specifically, the judge would conduct bi-weekly court sessions attended by all offenders in the program, at which the judge would review and respond to the achievements and failures of each participant. Based on the experiences with our Supervision to Aid Reentry (STAR) Court, this program has the potential to reduce the number of revocations proceedings before District Judges and improve the participants’ compliance with the conditions of supervised release. However, we propose that with this Court, hereafter known as Relapse Prevention Court (RPC), the improvement with compliance would be centered around the successful completion of drug therapy and we would concentrate our efforts on stabilizing, treating, motivating, and building social supports for the participants so that they can live sober and law-abiding lifestyles.

The proposal is modeled after programs implemented in other courts including the District of Massachusetts and the District of Connecticut, and a number of courts in state and local jurisdictions. However, the crux of the pilot stems from the success that the Probation Office has experienced with the STAR Court since 2007. By way of history, it is noted that this success led to the implementation of our district’s second Reentry Court in 2008; followed by the implementation of the Mental Health Protocol in 2011. We believe RPC would allow us to concentrate on a certain percentage of our offenders who do not qualify for STAR Court participation and who account for a considerable amount of revocations per year. It is noted that in calendar year 2016 alone, there were 189 revocations; of which drug use in combination with a new arrest and/or absconding was charged in 48.6 % of those cases and 16% of those revocations were solely the result of drug use, a technical violation.

We have developed a model to enable participants to transition from a lifestyle dominated by substance abuse to a law-abiding, substance-free lifestyle.

MISSION STATEMENT

The United States District Court for the Eastern District of Pennsylvania has developed the RPC Team to provide support and structure to participants who struggle with drug and alcohol addiction to assist them in achieving lifelong sobriety. We will connect participants with treatment, employment, educational resources, and pro-social organizations in the community. The RPC Judge will address participants' behavior through meaningful incentives and timely sanctions. The Team, recognizing the nature of substance addiction, will treat participants with dignity and respect, to promote a rehabilitative atmosphere that empowers participants to lead law-abiding lives.

To achieve the objectives of our Mission Statement, the RPC program will invite participation from various community organizations such as pro-social support organizations (faith-based/secular), Alcoholics Anonymous (AA), and Narcotic Anonymous (NA) organizations.

The team would include the assigned RPC Judge, Probation Officer(s), who are Drug Treatment Specialists, two counsel (an AUSA and assistant federal defender named by their offices) and the Department of Justice (DOJ) Reentry Coordinator. It is noted that the Probation Officer(s) will be responsible for communication with the Drug Treatment Counselor/Provider for the participants.

Court Sessions/Court Duration

RPC will be held at a time to be determined by the judge (for example, on the 1st and 3rd Wednesday of the month) and all participants will be enrolled in a random urinalysis testing (RUT) program. The RPC program is designed to be completed in approximately 52 weeks over four phases. Each phase has a specified purpose with achievable goals that are consistent with the stages of recovery. The phases encourage participants to develop an understanding of addiction and recognize their patterns of use, triggers, factors that influence use, and the impact of use on self, family, and community. Each week that a participant is enrolled in the program, they have the ability to earn credit provided they are in compliance with their conditions of supervised release and the expectations of the program. Phases One through Three are designed to last 12 weeks each; Phase Four is designed to last 16 weeks. These time frames can be reduced if a

participant earns extra credit for accomplishments, or they can be extended by losing credit for failing to attend or noncompliance.

The main goal of the program is for participants to achieve extended sobriety. As such, the program requires that each participant remain sober for the final 32 weeks.

These guaranteed 32 weeks of sobriety ensure a solid foundation for an individual upon graduation from the program. After 52 weeks has been earned, participants will be eligible to graduate from RPC and will receive up to one year reduction of their supervised release term. It is noted that anyone that tests positive for drugs or alcohol after they have progressed past Phase Two (Week 8) will be returned to Phase Two.

Selection Criteria

RPC is entirely voluntary and there will be no negative consequences resulting from a decision not to participate.

Ideally, candidates will be identified early prior to the commencement of their supervision while they are serving the remainder of their Bureau of Prisons (BOP) custody sentence at the Residential Reentry Center (RRC). The Reentry Specialist (RS), the probation officer assigned to the RRC, will first identify the individual as a candidate and conduct a home visit to ensure sufficient stability. Secondly, the individual will be screened by an officer trained in the Texas Christian University Drug Screen (TCUDS), an assessment tool used to determine the severity of addiction. Each person referred to RPC must be involved at the RRC level in outpatient counseling and will be screened to determine their eligibility. This will ensure that prospective participants are stable enough to engage in outpatient recovery prior to beginning RPC and that they meet the program criteria. A person who is actively using substances and refusing to participate in treatment will be disqualified as they will likely need a greater level of intervention/support to stabilize before starting the program. Additionally, anyone suffering from a significant Axis One mental health diagnosis or who is a sex offender will not qualify for RPC.

Participants

RPC will serve only people who are on supervised release for at least three years. Participants must observe at least one RPC session before consenting to participate. All statements made by the participant in RPC may not be used in any court proceedings, including revocation hearings.

During the Pilot term, we will not have over 10 participants in RPC. These 10 participants will be individuals identified by the Probation Office who are releasing to supervision and who have a significant history of drug and alcohol. Individuals will have scored between 5-10 on the TCUDS Instrument. These participants will be educated about the various aspects of RPC and will opt to voluntarily participate. If the person opts to become a RPC participant, the participant will sign the RPC Contract on his or her first day of supervision, and immediately begin the program.

RPC Contract

Each participant's involvement in RPC will be confirmed in a written contract to be signed by the Participant and the Probation Office. (*See Attached*). All statements made by the participant in RPC may not be used in any court proceedings, including revocation hearings.

The Role of the Judge

The active involvement of the Judge with participants in RPC is essential. When participants are excelling, the Judge will provide encouragement. When participants are in noncompliance or in violation of supervision, the Judge, after receiving the recommendation of the RPC team, will make a determination as to the appropriate sanction based on the nature of the participant's noncompliant behavior. If appropriate, sanctions should be progressive in terms of severity. When the parties determine that the participant has exhausted his or her opportunities to continue in RPC, the Judge will make the final decision to terminate the participant from RPC. The participant then will return to traditional supervision.

Probation Officer Duties

The RPC Probation Officer (PO) is charged with making appropriate treatment referrals with contract and appropriate non-contract treatment agencies based on the needs of the individual. In preparation for RPC appearances, the PO will prepare reports in order to inform the Court of the participants' struggles and achievements. In order to expedite the reporting process, avoid overworking the PO, and to create continuity in reporting, a form called the "RPC Progress Report" will be utilized. The PO will work with the treatment providers to ensure effective communication between the treatment providers and the Court. In RPC, all members of the team will be permitted to have access to the treatment provider and treatment records. It is noted that proper release forms will be executed to permit access to records.

When serious problems in supervision arise, the PO will work with the Assistant Federal Public Defender and the Assistant United States Attorney in order to intervene immediately and address issues with the Participant. The team efforts will be delineated in the RPC Progress Report. The Progress Reports are to be distributed by the PO, along with any attachments, to the Court, the AUSA, and the Assistant Federal Public Defender a full 24 hours before the participant's scheduled court appearance.

Assistant United States Attorney Duties

The role of the Assistant U.S. Attorney (AUSA) is unique in this program context. The AUSA's role is to participate in a team effort with the Assistant Federal Public Defender and the PO to encourage the participant's success in the program. The AUSA may report on the participant's progress during the Court appearance. The AUSA should be involved in decisions about program planning both when the participant is succeeding and when he/she is struggling.

Assistant Federal Public Defender Duties

The Assistant Federal Public Defender (AFPD) is available to assist the PO in encouraging program participants to succeed in treatment, discourage bad decisions and to participate in program decisions about proper sanctions for participants struggling with the program's requirements. The AFPD role will be less adversarial than in non-RPC supervision cases.

Waivers and Hearings

To effectuate the intent of the program to make it a less adversarial system and provide more support to the participants, all parties agree that conduct which would otherwise constitute a supervision violation (technical Grade C violation) will be handled in an informal manner. Except as noted below, all conduct that could otherwise be considered a violation and lead to a supervision hearing will be presented to the District Court and the participant through the PO's monthly Progress Report to the Court. Any "sanction" on such violation, short of a term of incarceration will be handled through a court directive issued at the Court session.

RPC Sanctions

Noncompliant behavior by the participant will result in sanctions. The range of possible sanctions has been drafted broadly to ensure that some level of sanction is available for every violation. Factors which will influence the type of sanction employed include the seriousness of the violation, the number of violations, and the amount of time the participant has remained compliant, either before a first violation, or between violations. In addition, an important factor will be whether the participant voluntarily discloses the violation. Dishonesty on the part of the participant will result in enhanced sanctions. Depending on these factors, any of the sanctions listed below, including termination from the program are available. As a general rule, when there are repeat violations, more serious sanctions will be applied incrementally. Sanctions may include, but are not limited to:

- Participant has a loss of credit, and at times, the credit may be placed “on pause;”
- Participant receives a judicial reprimand in open Court;
- Participant is ordered to provide an explanation for his/her noncompliant behavior, either in writing or some other means (such as why participant failed to attend treatment or tested positive, or about the thing that most often causes participant to relapse and why, or about what the participant will do differently this time so that participant will not fail again, or about someone participant admires and why);
- Participant is ordered to comply with curfew restrictions or home confinement with electronic monitoring;
- Participant is ordered to complete a term at a Residential Reentry Center;
- Participant is ordered to spend up to seven (7) days in jail, provided notice shall be given to the sentencing judge who has the power to reverse the sanction; and
- Participant is terminated from RPC with or without filing of a formal violation.

If appropriate, all sanctions may be ordered more than once during the course of the program and at any time, corrective measures such as Cognitive Behavioral counseling and interactive journaling will be used to bring the individual into compliance.

Program Rewards

Participants who successfully complete RPC earn a one year reduction in their term of supervision. This one year is vested at the time the participant completes RPC. Understanding that some participants may have well over one year left on their

supervision, those participants must still adequately comply with all terms of supervision. NOTE: If there are subsequent violations of supervision, the participant will be subject to traditional modification and revocation proceedings post-graduation.

The RPC Graduation will take place at the participant's final, regularly scheduled court appearance. In addition to RPC Participants, family members, sponsors, and friends are invited to attend the Graduation. The Court will present graduating participants with a Certificate of Completion.

Termination Procedures

The RPC Participant may be terminated as successful, unsuccessful, or be administratively discharged.

1. **Successful Termination:** Participants who complete RPC will be given a Certificate of Completion, The participant will then be transferred to traditional supervision.
2. **Unsuccessful Termination:** In recognition of the reality of relapse as a part of recovery from drug or alcohol addiction, every effort should be made to continue to work with RPC Participants. All parties realize, however, that there will be some circumstances in which it is appropriate to terminate as unsuccessful a participant from RPC. Unsuccessful termination may be of two types:
 - (1) Termination With Return To Regular Supervision – Termination may result from a participant revoking his interest in RPC or by a joint decision that although the participant has not committed a serious violation of the supervision or RPC rules, the program is not working. This type of termination from RPC occurs simply with a transfer to a supervision caseload without a violation charge or a hearing.
 - (2) Termination With A Formal Violation Charge – Termination may result from serious or chronic misconduct by the participant. The Court will make the ultimate decision that a participant must be terminated from RPC. Under these circumstances, the participant will terminate from RPC, return to traditional supervision, and may appear before the sentencing District Court Judge for a hearing. Such circumstances may include, but are not limited to:

1. New law violations, as ultimately determined by the Court;
2. Repeated drug use;
3. A chronic pattern of refusal to cooperate with the supervising PO;
4. A chronic pattern of refusal to cooperate with a treatment provider;
5. Repeated refusal to cooperate with the Court's sanction or participate in a meaningful manner.

As set forth in this section, upon termination from RPC, the Probation Office may file a formal violation charge. It will be the policy of the Probation Office not to allege as a formal violation conduct that occurred during RPC and which was previously addressed. After the individual is outside of RPC, however, the Court presiding over the violation hearing will be advised of all conduct that has taken place during the period of supervision, including successes, failures, and sanctions that occurred during RPC participation.

3. **Administrative Discharge:** There may be occasions in which discharge from RPC cannot simply be considered successful or unsuccessful. Such circumstances may arise when a participant becomes too ill to participate or has to relocate and it is no longer practical for them to participate. In these situations the participant would be administratively discharged and would be welcome to participate again in the event their circumstances change.

Attachment

PACTS # _____

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA
CONTRACT FOR PARTICIPATION IN RPC**

Name: _____ Today's Date: _____

Offense of Conviction: _____ Date of Conviction: _____

Sentence Expiration Date: _____ Sentence/Special Conditions: _____

INTRODUCTION

You have been invited to participate in Relapse Prevention Court (RPC). Participation is entirely voluntary, and there will be no negative consequence if you do not wish to participate. If you successfully complete RPC, your term of supervision will be reduced by one year.

RPC BASICS

RPC will last *at least* one year. Participants in RPC will be under the supervision of a RPC Probation Officer (PO) rather than a traditional probation officer. Participants agree to participate in a drug and alcohol evaluation, and in any and all treatment recommended. Participants also agree to submit to drug testing as directed by the PO or treatment provider. In addition to the requirements of actively engaging in treatment, you will also be required to comply with the general conditions of supervision.

You will be assigned an attorney from the Federal Public Defenders' Office (AFPD) who is assigned to RPC. In RPC, the Federal Public Defenders' Office will be permitted to have access to the treatment provider and treatment records. An Assistant U.S. Attorney (AUSA) will also be assigned to RPC. Both the AFPD and the AUSA will work with the PO in order to provide additional support and encouragement for your sobriety and success in RPC.

LENGTH OF RPC

RPC will last *at least* one year. Participants who struggle in treatment, but remain dedicated to recovery, may be given extensions in RPC to complete their term of treatment and may still be rewarded with the one-year reduction in supervision.

COURT APPEARANCES

Twice per month, at a time to be determined, you will be required to appear before the RPC Judge to evaluate your progress. Every effort will be made to ensure the time of the appearance does not conflict with your employment or treatment programming. The PO, AFD, and AUSA will be present. Progress reports from your PO and your treatment provider will be provided to the Court and attorneys. These reports will describe both successes and problems you have experienced on supervision, either treatment related, or otherwise.

SUPERVISION VIOLATIONS & SANCTIONS

Supervision violations and sanctions will ordinarily be handled on the regularly scheduled RPC calendar. The Court, however, can schedule an appearance at any time. Additionally, sanctions and modifications regarding treatment may be handled on an expedited basis with the consent of the parties. If a monthly Progress Report contains an allegation of noncompliance, you may choose to agree that the allegation is true and waive the traditional protections and procedures afforded to those on supervision when they are accused of violating supervision. There will be no hearing on whether the allegation is true. The RPC Judge will decide whether a program sanction is appropriate. As noted above, noncompliance can also be handled outside the presence of the RPC Judge if all parties agree. Noncompliant behavior by you, the participant, will result in sanctions. The range of possible sanctions has been drafted broadly to assure that some level of sanction is available for every violation. Factors which will influence the type of sanction employed include the seriousness of the violation, the number of violations, and the amount of time you have remained compliant, either before a first violation, or between violations. In addition, an important factor will be whether you voluntarily disclose the violation. Dishonesty on your part will result in enhanced sanctions. Depending on these factors, any of the sanctions listed below – including termination from RPC is available. As a general rule, when there are repeat violations, more serious sanctions will be applied. Sanctions may include, but are not limited to:

- Participant receives a judicial reprimand in open court;
- Participant loses one or two weeks of credit or credit is “paused.”
- Participant phase is adjusted or re-evaluated;

- Participant is ordered to provide an explanation for their noncompliant behavior, either in writing or some other means (such as why participant failed to attend treatment or tested positive, or about the thing that most often causes participant to relapse and why, or about what participant will do differently this time so that participant will not fail again, or about someone participant admires and why);
- Participant is ordered to comply with curfew restrictions or home confinement with electronic monitoring; Participant is ordered to complete a term at a residential reentry center;
- Participant is ordered to spend up to seven (7) days in jail; and
- Participant is terminated from RPC with or without filing of a formal violation.

If appropriate, sanctions may be ordered more than once during the course of RPC. If you admit to the violation, you may be able to complete the sanction and remain in RPC. When expedited action is appropriate and the parties agree, a sanction or adjustment in treatment can be imposed through a modification and without an appearance before the Court. The PO's report at the next Court appearance will inform the RPC Judge whether you properly completed the sanction ordered at the last appearance. Failure to complete ordered sanctions may result in added sanctions, or termination from RPC. If you wish to contest the sanction allegation, you may do so. The only permissible contested sanction hearing in RPC, however, is a claim of actual innocence of the alleged violation. If you wish to have a contested hearing, the AFPD will assist you in contesting the allegations. The RPC Judge will ultimately decide whether the allegation is true. It is important to note the PO need not wait until your scheduled Court appearance to address problems in supervision. If you fail to abide by the directions of the PO, the PO will contact you to address the problem. Minor violations may be dealt with by either the PO, or by a team including the PO, the AFPD and the AUSA. If you commit a major violation, a warrant will immediately be issued for your arrest.

TERMINATION FROM RPC

You may be terminated from RPC if you fail to participate in treatment and supervision including repeated technical violations of general conditions of supervision, failure to make your Court appearances, or a new law violation. If you are terminated from RPC, you will return to regular supervision status, and may face a violation hearing. If the Probation Office chooses to pursue a formal violation charge, it will be the policy of the Probation Office not to allege as a formal violation conduct that occurred during RPC and that was previously addressed. After the participant is outside of RPC however, the Court presiding over the violation hearing will be advised of all conduct that has taken place during the period of supervision, including successes, failures, and sanctions which occurred during RPC.

You may also voluntarily discontinue the program and return to traditional supervision status. If the program is discontinued voluntarily, you will not face an allegation of violation unless it is determined that serious violations of supervision have occurred.

GRADUATION & ONE YEAR REDUCTION IN SUPERVISION TERM

Upon successful completion of RPC, your total term of supervision will be reduced by one year. After completing RPC, most participants have an additional amount of time to spend on traditional supervision. If this is true of you, you will be required to continue to comply with any and all conditions of supervision. If you violate the terms of your supervision, you will be subject to revocation.

Participant Signature

Date: _____

Representative of the United States Probation Office: _____