

## Washtenaw Equity Partnership (WEP) Court Process Subcommittee

October 5, 2022 5:30-7:30 pm

### Meeting Notes

[This was a hybrid meeting with most people meeting in person and one by Zoom]

#### Attendees:

Deb Labelle (Co-chair)  
Judge Kuhnke (Co-chair)  
Bonsitu Kitaba  
Nimish Ganatra  
Robert Burton-Harris  
Ted Heaton  
Joe Summers  
Dick Soble  
Alex Roth (Vera)  
Angie Carpio (Vera)  
Ashley Demyan (Vera)  
Jen Peirce (Vera)  
Shahd Elbushra (Vera)

- Alex mentions that some outside MDOC data is coming
- Review of recommendations:
- All RJ programs should track cases by race, evaluate disparities in referral, acceptance, and completion
  - Add race, age, gender, type of counsel (assigned or retained).
- Peacemaking and prosecutor's office should collaborate more
  - Co-chair – why are we building out the peacemaking court?
  - Co-chair – they should both exist because the peacemaking court can take any case
  - Member – asks about other mechanisms.
  - Co-chair – there isn't really a process, but there could be. I've referred people after a plea, before sentencing. There are no parameters or process. It's managed by Judge Connors and he does 90%. What are they submitting themselves to?
  - Member - How about folding this into the other recommendations?
  - Co-chair – the prosecutor's office has narrower criteria than some would like but it sets out clear parameters to the defendant and to the victim. They know what they are getting into – probation, criteria, etc. The peacemaking court has no such protections.
  - Member – mentions Des Moines example where people opt for the victim-offender process in 40% of the cases.
  - \*Suggested text: Establish criteria, etc, for the peacemaking court and other restorative practices.
- Criteria and policies recommendation

- Add on what people should expect, referral process.
  - Does this relate to the next one, where there isn't an identifiable victim?
  - Differentiate diversion/deflection – goal is to do so before conviction – versus this one, which is post plea. Are you eligible without a plea? Are you forfeiting opportunities there?
  - Member – the intention is to dismiss those cases.
  - Co-chair – we scrutinize these cases very carefully; e.g. a dealer who may be pretending to have an addiction but is actually a dealer; we don't want them in our group
  - Member: We are identifying people we want to have in the program – nobody there wants to see convictions. Sometimes we dismiss or reduce from felony to misdemeanor. We are working on educating the defense lawyers to understand what the program, so that they can opt for that instead of pleading to a lower charge to get the case over with.
  - RJ and district court – are they HYTA eligible, are they 7411 eligible? We want people to take advantage of diversion options. Up to 26 yrs old? Make sure that people know people are eligible.
  - Member – the expanding net is the problem; specialty courts should focus on the more serious crimes.
  - Member – specifying the eligibility – asking about mediation, providing information to people about what each option entails.
  - RJ buy-in programs – emphasize who are the stakeholders; do not say “both RJ programs,” use a phrasing that is more inclusive. Roll in to the one on information and educating – wordsmith this a bit more.
- Suggestion:
    - A block on articulating and clarifying current information about criteria, process, etc, and make it more accessible.
    - Looking at the types of criteria and potential changes – goal being to have the right type of cases in the right type of entity, without net-widening.
- Specialty Courts
    - Should be reserved for people who really need court-mandated treatment.
    - Member - If anything, court-mandated treatment can cause delays or obstacles. I tell people not to say they are court mandated. That's the public ones only.
    - Member – I referred a client to CMH, and I was shocked at how quickly the turnaround was.
    - Member – new program, is getting better now
    - Co-chair – there is an assumption built in here. We are not funded by the county, so our program is not removing funds from community-based treatments. No one is purposely committing a crime to get into the court-mandated treatment.
    - Member – other counties have this problem, not us.
    - Co-chair – are the recommendations for Washtenaw or are they broader?
    - Co-chair – drug court has a capacity of 40, there is a waitlist.
    - Co-chair – what about when the drug court is full?
    - Member – If there isn't an opening in the drug court, we tell people to have the attorney file an application to have a review, 2-4 wks., either accepting or not. If they are rejected,

can a district court accommodate someone, at the PCC stage? Knowing this isn't the dismissal from the drug court, but at least it's just a misdemeanor. Doing this with DUI cases as well. Two years ago, we didn't reduce any DUI third cases to a misd., unless there was a tragic issue. Now we have discretion to do that if we think it is the right thing.

- Co-chair – what about spreading info?
- Member – we talk to the bar, the defense bar, judge did it with the drug court. We don't want defense attorneys from out of county to be ignorant of their options.
- Member – can we formalize this? When someone is sentenced, they receive a notice of their rights. Can we do something similar to this at the specialty court?
- Co-chair – people are waiving rights when they enter a plea. We throw a lot at someone and then to put on top of that you may be eligible for a drug court. I think we should trust our teams to talk about it.
- Co-chair – there are different qualities of defense attorneys. They don't all get this opportunity.
- Co-chair – the prosecutor brings it up just as much as the defense attorney.
- Member – the defense attorney is supposed to bring it up in pretrial conference, ahead of court hearing. Sometimes they need time, info, options.
- Co-chair – drug court now looking far closer to the ratio of folks charged with crimes. It is a hybrid drug court. DUI thirds are more of a white crime. If you're looking at drug tx court, it won't be the same ratio as overall crime/court proportions (because more white people are in drug/DUI ??). We did outreach with the bar association and it's changed.
- Member – my take was that the counselling from attorney to client wasn't happening, not being educated from attorney to client. What are the advantages, holistically and pragmatically?
- Member – the judge could ask on the record if the client was informed about the specialty courts?
- Recommendation on referrals to drug court
  - Co-chair – is there skepticism toward the drug court because you have to see a judge more often?
  - Member – this is about clarity, barriers to participation.
  - Co-chair – the court doesn't charge anything, you get a dismissal if you succeed, it's very beneficial, you get your license back.
  - Member – recovery court is \$30 a month, you don't get a dismissal, you have to pay for testing.
  - Member – it's part of the community that people have to give rides, you have to do something in a program, otherwise it's just a dismissal.
  - Member – one sobriety court – only one person of color. We use community corrections for our testing. They go there and test. You have to have a job to be in the community. The focus is on recovery.
  - Co-chair – in drug tx court people are more worried about a docket on neglect, they want to get their kids back. Their responsibility is to themselves and to their recovery. The best thing they can do is be in the program. Bus tokens, bikes. Court pays for testing. After residential tx, if the plan is residential tx, they pay \$500 a month to live in transitional housing, and if they can't afford it court helps them with that.
  - Member – most successfully complete the program.
  - Co-chair – drug tx court has only had one graduation, only 2 years old.

- Co-chair – best practices based on funding, NIDA. Relaxing the requirements of how often you have to be somewhere, testing, might affect funding.
  - How about trying to do a survey of people who are turning down programs?
- Members agree to have additional meeting next Thursday at 5:30pm to go through remaining recommendations.