



NORTHERN DISTRICT OF CALIFORNIA

Conviction Alternatives Program – San Jose Court

Participant Guide

Table of Contents

San Jose CAP Court	Section 1
Introduction	
How the Program Works	
Expectations	
Noncompliance	
Sanctions	
Incentives	
Weekly Assessment	
Program Phases	Section 2
Phase Components	
Phase Goals	
Graduation and Beyond	Section 3

San Jose CAP Court

Introduction

CAP is a comprehensive program designed to provide rehabilitative services to individuals under federal supervision.

You have been selected to participate in the Northern District of California's Conviction Alternatives Program. We believe you have the ability to succeed in this program, which may have significant benefits for you.

The purpose of the program is to help you live a successful life free of crime. You will have access to community-based resources, such as job training and placement, education, treatment, and counseling. You will report frequently to your pretrial services officer, who will match your needs with available resources and help you take advantage of them. You will also appear twice monthly before a Federal judge, who will talk with you, your family, and/or those who are in support of you about your progress.

The program is intended to last one year. However, the program may take longer for some participants to complete than others, depending on their performance. For instance, some participants may have a better record of satisfactory performance than others and may be able to complete the various components of the program faster than others. To complete the program you must have 12 months of satisfactory performance. The judge will give a participant credit for two weeks of satisfactory performance for every two-week period of satisfactory performance (sobriety, crime free, etc). A participant will not get credit for any two-week period of non-satisfactory performance (e.g., failing to attend CAP or counseling sessions, missing office visits, failing to submit to drug tests as required, etc.) but the judge may offer you an opportunity to earn back some good time so you can get credit for satisfactory performance.

Satisfactory performance will require a total of eight months of sobriety during the one year program. It may take some participants longer to achieve this than others. Satisfactory performance will also require that a participant not get arrested or be involved in any criminal activity. The judge may view a participant's failure to complete program components as non-satisfactory performance.

The program consists of four phases. In order to move from one phase to the next, you will need to meet the minimum requirements as outlined in this guide. In order to be eligible to graduate from the program, you will need to have accumulated 12 months of satisfactory performance.

How the Program Works

The Program is different from standard bail supervision.

Instead of reporting to an individual pretrial services officer, and only seeing a judge if you commit a violation, you will meet with the CAP team every other week. The team is made up of a group of court officials, including Federal judges, Pretrial Services Officers, Assistant Federal Public Defenders, and Assistant United States Attorneys. There will also be several treatment providers working with the team to provide the necessary treatment.

After you successfully complete the four phases of the program, you will graduate and move on to the sentencing phase of your case. If you are not sentenced by the CAP Court judge, he or she will make a recommendation to your sentencing judge regarding how you should be sentenced. The sentencing judge will take this information into consideration when deciding on a sentence for you. For some participants, the plea agreement will contain the promises made to you by the United States Attorney's Office to incentivize your participation in CAP. If that promise includes a dismissal of your charges then the U.S. Attorney's Office will file a motion with the Court to have the charges dismissed against you in light of your graduation from the program.

The members of the CAP team will assume different roles than their traditional roles while interacting with participants during CAP court. The program very often addresses conduct that would be considered violations of bail supervision, like drug use and otherwise failing to abide by the conditions of your release. Generally, these matters will be handled by the CAP judge with advice and guidance from the CAP team members. These matters will not be referred to the U.S. Magistrate Judge who released you, as would normally be the case.

All members of the CAP team participate in CAP court with the goal of helping you succeed through the various program phases toward graduation. The prosecutor is not participating in the CAP team to gather evidence against any participants. The goal of every team member is to encourage you to be completely honest. However, you should be aware that you do not receive special immunity for criminal conduct to which you admit. Further, participation in the program does not immunize you from prosecution for other criminal conduct that occurs outside of CAP court. Although the statements you make during the CAP court sessions will not be used against you in your underlying criminal case, your statements may result in the judge giving you sanctions for certain unacceptable behavior.

Expectations

It is important for you to understand both what the court expects from you while you are participating in CAP Court, and what you can expect from the CAP Team.

The members of the CAP team have specific roles and responsibilities. The judges, attorneys, pretrial services officers, and treatment providers play a part in your success. It is important to understand how each group affects the program and how they can help you be successful in the program.

The Judges

The judge will meet with you and other participants up to twice a month at the courthouse to monitor your progress throughout the course of the program. At the meetings, you will have the opportunity to discuss your progress with the judge and your peers, as well as address any concerns you or your pretrial services officer may have.

The judge will provide encouragement, guidance and support, and will recognize when you are doing well and meeting or exceeding expectations. At the same time, the judge will hold you accountable in the event you fail to comply with the terms of the program.

United States Attorneys (AUSA)

The Assistant U.S. Attorney (AUSA) is a federal prosecutor designated to serve as a liaison from the U.S. Attorney's Office to the CAP team. The AUSA is committed to the success of each CAP Court participant. That commitment includes:

1. encouraging and supporting the successes and accomplishments of each participant;
2. giving constructive input on overcoming hurdles or difficulties; and
3. holding each participant accountable if he or she falls below what is expected of a participant in the program.

Assistant Federal Public Defenders (AFPD)

The Assistant Federal Public Defendant (AFPD) is a federal defense attorney designated to serve as a liaison from the Federal Public Defender Office to the CAP team. The AFPD is committed to the success of each CAP Court participant. That commitment includes:

1. encouraging and supporting the successes and accomplishments of each participant;
2. giving constructive input on overcoming hurdles or difficulties; and
3. helping the CAP team hold each participant accountable if he or she falls below what is expected of a participant in the program.

The AFPD is also a member of the CAP team to help ensure that each participant receives due process during the CAP team meetings and court sessions. It is important to know that the AFPD is available to assist you with your participation in the program and legal referrals but will not provide you legal advice about your pending case unless you are already represented by the office. If you are not represented by the Federal Public Defender, and you believe you need legal advice about your case, you should consult with your normally assigned or retained attorney.

United States Pretrial Services Officers

The pretrial services officer is an employee of the Court. The role of the pretrial services officer is to supervise you in the community, provide you services to help you succeed, and to help the CAP team hold you accountable for any non-satisfactory performance, if necessary. The pretrial services officer will thoroughly assess you to determine your risk and needs and implement a supervision plan based on that assessment. They will work with you to make a plan for your activities during the period of program participation, including employment, education, living situation, and treatment. In addition, he or she will work with you to identify problems that you are facing and propose referrals and resources to help you overcome hurdles you may face.

Treatment Providers

You may be required to participate in group and individual treatment as necessary to assist in your recovery. If so, your treatment provider may serve as a member of the CAP team to provide insight to the other team members about your participation in treatment.

The treatment provider will work with you to help you identify triggers and appropriate responses to those triggers. Additionally, the treatment provider will work closely with the CAP Team to develop a relapse prevention program designed to address your individual needs.

Upon entry into the program, you must sign releases so that the CAP team has access to information relevant to your treatment. You must also sign additional releases as needed to arrange further treatment, counseling or support service referrals. The disclosure of information is for the sole purpose of reports concerning your participation and compliance with CAP requirements.

The treatment provider will conduct random drug and alcohol testing to verify compliance with program rules.

Participant

While you are a participant in CAP court, you will adhere to the following expectations:

1. follow the standard and special conditions of supervision;
2. stay free of drugs and abstain from the use of alcohol;
3. stay in contact with, and report to your pretrial services officer as directed;
4. attend all court sessions with the judge and be open and honest about your behavior;
5. attend all prescribed treatment sessions and submit to drug testing as required;
6. make progress towards full-time employment, schooling, and/or productive involvement with your community in some other way;
7. make progress toward a stable residence and finances;
8. participate fully in any necessary training or treatment; and
9. follow any curfew requirements imposed upon you.

Noncompliance

While participating in the CAP Court Program, you will also be expected to abide by the terms of the program. Examples of violation conduct include the following:

1. Unexcused absences from court sessions;
2. Unexcused absences from meetings with your pretrial services officer or any scheduled treatment;
3. Positive or missed alcohol/drug screens;
4. Attempt to submit or submission of adulterated urine samples;
5. Failure to maintain employment as required (excluding layoffs);
6. Failure to participate in employment, education or cognitive-behavioral programs, or mental health treatment;
7. Failure to complete written assignments;
8. Failure to complete a sanction;
9. New arrest;
10. Failure to provide accurate contact information; or
11. Other violations of conditions of supervision or court orders.

*This list is inclusive and not exhaustive.

Excused Absences

There may be circumstances which prevent your attendance. Some examples of valid excused absences are:

- a. Illness or injury which would prevent your attendance/participation;
- b. Family emergency; or
- c. Individual emergencies, addressed on a case by case basis.

Pretrial Services must be notified in advance of any anticipated absences. Pretrial Services and/or the CAP judge will determine if the absence will be excused. You must provide Pretrial Services with verification information to verify the legitimacy of your absence.

Sanctions

The following list contains some of the sanctions the CAP judge may impose upon you if you violate the terms of the program. Some factors that influence the sanction imposed include the seriousness of the violation, the number of past violations, and the amount of time you have remained compliant.

In addition, an important factor will be whether or not you disclose the violation voluntarily. Dishonesty on your part will result in enhanced sanctions. As a general rule, when there are repeat violations, more serious sanctions will be applied.

- a. Letter of apology
- b. Judicial reprimand (a formal disapproval of your conduct)
- c. Geographic and association restrictions limiting the places that you may go or persons you may associate with.
- d. Home confinement with electronic monitoring or community corrections center placement (when violation of the program's conditions is serious)
- e. Imprisonment
- f. Loss of credit for program participation
- g. Referral to the releasing U.S. Magistrate Judge for bail revocation
- h. Termination from the program

*This list is inclusive and not exhaustive. Appropriate sanctions will be staffed by the CAP Team and imposed by the CAP judge.

Incentives

The program has several opportunities to earn incentives. These incentives can be earned throughout the program. They will be earned for individual performance, phase advancement, and program completion.

1. Graduation Reception
2. Public acknowledgement of progress by the Court
3. Promotion certificates
4. Leader's CAP monthly award
5. Fishbowl (small prize) selections

The above incentives are in addition to the individualized sentencing considerations you may receive following your graduation from the program.

Bi-Weekly Assessment

Each two weeks your performance in the program will be evaluated. Credit will be given for each two-week period based on the following categories:

- a. Attendance – you are required to attend sessions and be on time.
- b. Participation – participants will be prepared to fully engage in all session activities.
- c. Dress Code – participants should dress appropriately for court sessions. Examples of inappropriate clothing include no torn clothing, baggy clothing, hats, etc.
- d. Assignments – complete all assignments prior to the start of each session (you will be responsible for assignments regardless of your attendance).
- e. Attitude – courtesy, respect, honesty, patience, and behaviors which promote a positive group process will be expected from each participant.

Program Phases

The program consists of four phases, which will span approximately one year.

Phase Components

Each phase consists of a variety of activities, such as:

- Bi-weekly or Monthly Court Appearances
- UA Testing
- Office Visits
- Home Visit
- Courage to Change
- Employment Workshop
- Individual Therapy
- Group Therapy (if imposed)

The frequency of these activities may decrease as participants advance in the phases and reach individual goals. In addition, other activities will be introduced into the advanced phases.

Phase Goals

Phase One: Early Recovery

Recognize the problem and start the treatment process (at least 90 days).

Phase Two: Understanding and Taking Responsibility

Utilize treatment services to address personal needs. Identify and understand the consequences of drug and/or alcohol use, and begin taking responsibility for your actions (at least 90 days).

Phase Three: Healthy Decision Making

Develop a sober support network to rely upon in making life decisions and dealing with life stressors (at least 90 days).

Phase Four: Relapse Prevention Planning

Continue to build on treatment resources and life skills for pro-social living and independence. Develop a relapse prevention plan (at least 90 days).

Graduation and Beyond

You will graduate once you successfully complete all the phases of the program.

Although graduation is the goal, you will take away many benefits from this program. These include developing a sober network to support your healthy new lifestyle, gaining critical thinking skills aimed at positive change, and a wealth of community resources, which will reinforce the pro-social decisions you have made thus far.

This program will provide you guidance and tools to help you support your continued growth and development into the future. The skills you learn in the program will provide a foundation for positive independent living. Depending on the outcome of your criminal case, you may transition to supervision with a Federal probation officer, who will be informed of your participation and accomplishments in CAP. The probation officer will be able to provide a number of resources and referrals similar to those offered in CAP should you continue to need those services.

After you graduate, you will be an honored alumnus in the Northern District of California's Conviction Alternatives Program. You may be offered the opportunity to return and make presentations to future reentry court groups or to serve as a mentor to new members of the program. Your success will inspire future classes of CAP participants!