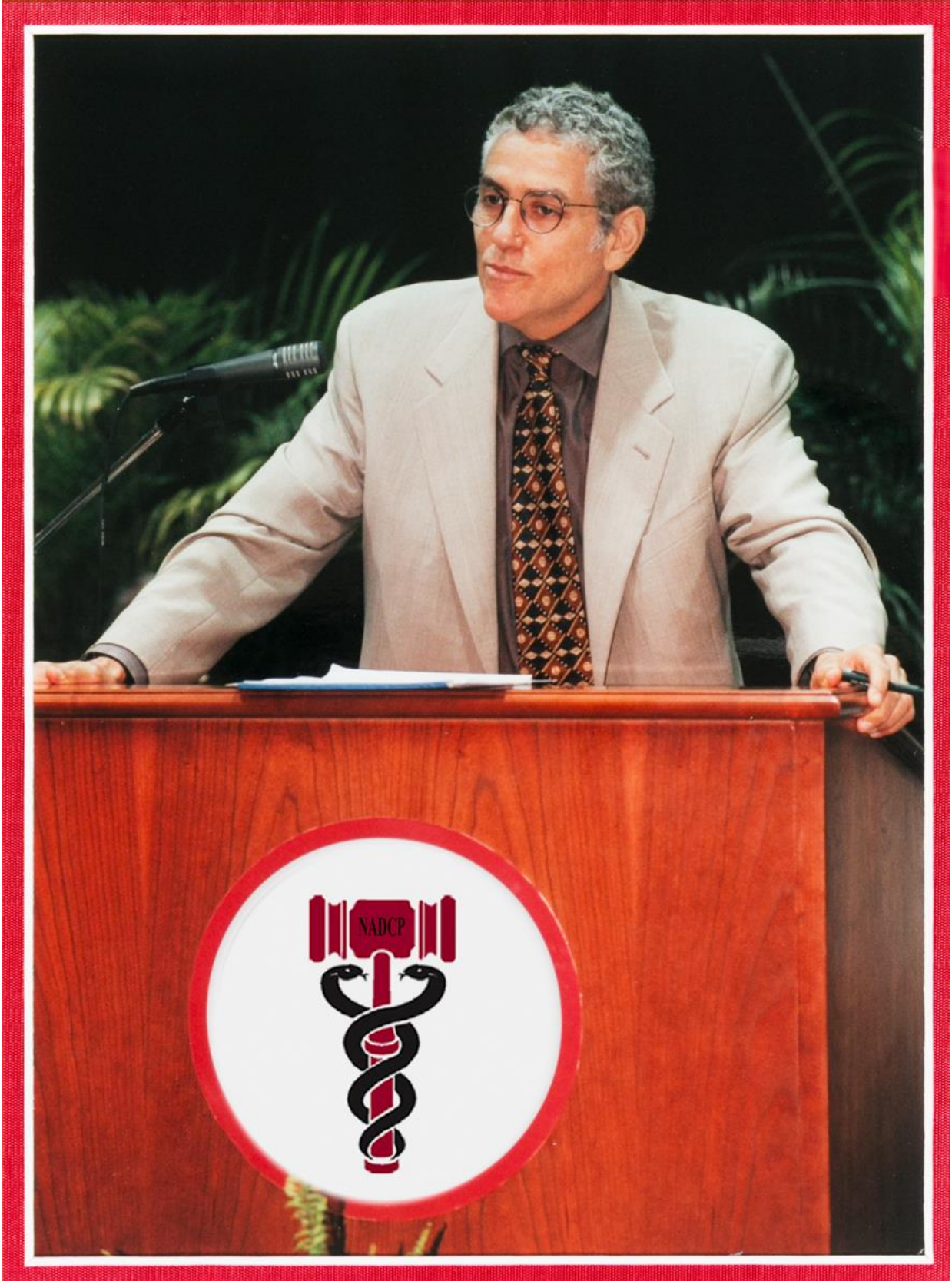


**SERIALIZATION: NADCP AND THE DRUG COURT
MOVEMENT: A FIRST PERSON ACCOUNT, 1990-2001 (Judge
Jeff Tauber ret.)**

EXCERPT NO. 3: THE DECISION TO LEAD; 1994-5

<http://www.reentrycourtsolutions.com/2015/07/27/serialization-nadcp-and-the-drug-court-movement-a-first-person-account-1990-2001-excerpt-4-making-the-decision-to-lead/>

By 1994, I had a leadership position among a small coalition of activist drug court practitioners and judges; now I had to decide whether or not to take the leap and attempt to build a major league criminal justice reform organization from the ground up



Barnstorming across the U.S. in the mid-nineties, with our ubiquitous symbol displayed. I reached out to existing Drug Courts and their practitioners, urging them to join NADCP, and encouraged everyone to consider starting a Drug Court in their communities.

LAYING THE FOUNDATION FOR NADCP

By 1994, it was clear to me that drug courts needed education, training, and funding, but most of all a national practitioner-focused organization to lead it. We had already developed a community of practitioners with the political influence to shape legislation and fund programs; also to share information and learn from one another.

It was our community of practitioners (ranging from judges to D.A.s, to defense attorneys, to probation officers, to treatment providers, etc.), that made our informal coalition of drug court leaders and educators so unique and effective (i.e., successfully lobbying for the 94' Crime Act.)

It also was obvious that non-profits and academic organizations in the field were looking wistfully at drug court as an important new field to colonize. These organizations would typically move into a field, and absorb the training and education funds available, distributing them as they would, to cooperative practitioners. It was clear that the money was on its way, and whoever controlled those funds would likely control the field.

PUSHING FOR A FORMAL ORGANIZATION

I met Carolyn Cooper and Joe Trotter of American University's Justice Program's Office sometime in early 1994, at the suggestion of Judge Tomar Mason of the San Francisco Superior Court. I had been asked to join them for dinner in San Francisco at a fine restaurant. They were friendly and solicitous, and interested in my understanding of the drug court concept and its applicability. I didn't know Tomar well, but understood that she was attempting to win her colleagues' approval for a San Francisco Drug Court (a common issue among courts). Over dinner, we discussed the field generally, but also the possibility of the creation of a national drug court organization. They were willing to help.

It was about that time that I was introduced to Robin Kimbrough, a strong drug court advocate and staff member at the American Bar Association. Robin brought to my attention a non-profit organization sited in Alexandria, VA, Community Anti-Drug Coalitions of America (CADCA), a very credible anti-drug organization funded by the Robert Wood Johnson Foundation, that might be willing to accept monies on our behalf and administer expenses for a Drug Court Founder's Meeting.

I was put in touch with a drug testing company in Santa Clara County, called “SYVA”, (then an independent; now part of the SIEMENS Corporation). SYVA was willing to fund a founder’s meeting for a national drug court organization. I was informed that \$50,000 could be made available to fund the formation of such an organization. Most of us in the field (especially us judges) had ethical concerns about holding the money or controlling its direct use.

1994: NADCP’S FOUNDERS’ MEETING

With CADCA agreeing to accept responsibility for the \$50,000 SYVA gift, and handling the logistics, I had the chance to move an organizational agenda forward. I contacted the twenty or so existing drug courts, along with several who were actively developing a drug court, about holding a founders meeting.

Because of my leadership role with the informal “Coalition of Drug Court Judges” (see Excerpt 1), I was in a strong position to set the meeting’s agenda, as well as get drug court leaders from around the nation to the table. Approximately twenty representatives from fifteen jurisdictions (mostly judges) met in the United Way Building in Alexandria, Virginia, on May 9-10, 1994, for the purpose of forming a National Drug Court Organization. I was especially pleased that Miami chose to participate, though I imagined it would be even more difficult for them to stand on the sidelines, as a national organization was formed.

THE STRUGGLE TO APPROVE AN NADCP CHARTER

We met in the United Way’s opulent boardroom, fifteen to twenty of us around the largest redwood tree meeting table I’d ever seen or imagined. We were to leave Alexandria May 10th, whether we were successful in creating a national organization or not. I had scheduled an up or down vote, to force resolution on the organization’s charter, mission, principles and officers, for the second and last day.

We seemed to get off to a slow start, with little accomplished that first day, besides establishing a Mission Statement and General Principles. That night seven or eight of us holed up in a small room at the Holiday Inn. I believe Denver Judge Bill Meyer, Rochester Judge John Schwartz, D.C. Federal Judge Bruce Beaudin, Boston Judge Bob Zimien, Kalamazoo judge Bill Schma, and drug court coordinator, Tammy Woodhams, all volunteered to work through the evening to resolve organizational issues.

I struggled as leader of our small group, in finalizing simple bylaws for a new organization (tasks that typically are quickly completed). It may be ungracious to mention, but there appeared to be an attempt to obstruct efforts to move forward in forming an organization.

In the end, Denver Judge Bill Meyer's presence at the evening's session was the catalyst that broke the stalemate. Though I am quite sure that he was unaware of the drama unfolding around him, his determination, as well as intellectual and mediation skills were the keys to producing a final product (that and the typing skills of Tammy Woodhams).

[I was to remember Bill's extraordinary leadership and intellectual qualities when selecting a chair for the drug court standards committee in 1996]

NADCP IS BORN

As difficult as it was to finalize our organizational structure, it was generally understood that if we didn't get it done at that meeting, we probably never would. In the end, that realization was a powerful motivator.

The name, the National Association of Drug Court Practitioners, NADCP's Charter, as well as all officers were approved unanimously at the second morning session. It was understood that this organization was to represent and be led by individuals reflecting the entire community of practitioners involved in or interested in the Drug Court field (in the end, an idealistic but unrealistic goal, as judges tended to dominate).

I must admit that I wanted to be NADCP's President and was brimming with ideas and energy to move the organization forward; realistically, my election may have had less to do my popularity than my work ethic (the truth be known, there was no competition for the job.)

Claire McCaskill, then District Attorney of Kansas City, Missouri was elected Vice-President. Eugene Hamilton, Presiding Judge for the Federal Court in Washington D.C. was elected Treasurer, Jamie Weitzman, of the Baltimore Drug Court, was elected Secretary; Judge Joel Bennett of the Austin Drug Court, Head Public Defender Michael Judge, of the County of Los Angeles, Jack Lehman, Judge of the Las Vegas Drug Court, and Tim Murray of the Miami Drug Court were elected Board Members at Large.

CADCP PROVIDES THE NADCP SYMBOL



NADCP was born on May 10th, 1994. CADCA issued a press release announcing this momentous occasion on new stationary CADCA prepared for us ([That Press Release and NADCP's Bylaws can be found in the 1994 CJER Publication, Drug Courts: A Judicial Manual, in Appendix D1](#)). For me it was just one of many rites of passage. I stayed on to meet with CADCA staff to discuss future plans. Nelson Cooney, CADCA's Vice-President had previously offered to formally represent NADCP in Washington D.C. He also was willing to seek funding for our new organization. I was extremely pleased with Nelson and CADCA's help to that point, and gratefully accepted their offer of future assistance on behalf of the Board.

Nelson had commissioned a commercial artist to come up with a symbol for the new organization. She showed me several options. One jumped off the page. A brilliantly conceived merger of the Caduceus, the Greek symbol for the healing profession, and the gavel, a symbol of the courts. It embodied the mission of the organization better than anything I have seen since, and helped establish our identity.

A REPUBLICAN CONGRESS COMPLICATES NADCP'S PLANS

The Republicans took back the House and Senate in the 1994 elections, the worst possible time for the drug court field. The 94' Crime Act had authorized one billion dollars for drug courts over a five-year period. Come 1995, the new Congress, under Newt Gingrich's direction, might not fund drug courts at all.

As the newly elected President of NADCP, it was my task to mobilize drug court leaders (judges and D.A.s in particular) to lobby the Congress for an appropriation. The general expectation was that there would be no Republican support for new initiatives coming out of the Clinton Administration. I was counting on existing relationships between our drug court leaders and congressional members and new connections forged during our lobbying efforts for the 94' Crime Act to change that.

I was able to shuttle drug court leaders (read: judges and D.A.s) to visit their Congressional leaders on a rotating basis over a six-month period. The challenge was to match important Republican members of critical Committees, (like Criminal Justice and Appropriations) with drug court judges (and others) from their jurisdictions. There were so many drug court judges (and others) who made herculean efforts to initiate drug court funding in 95/96, though I reluctantly single out just a few (that I can recall):

Judge Richard Geblein of Wilmington (a former Attorney General for the state of Delaware and associate of Senator Joe Biden), Judge Jamie Weitzman of Baltimore, Judge Steven Manley of San Jose, Judge John Schwartz of Rochester, Judge Harl Haas of Portland, OR. Judge Henry Weber of Louisville, Judge Sue Bolton of Phoenix, Judge Ronald Taylor of St. Joseph, and Judge Joel Bennett of Austin.

Drug Courts were funded to the tune of seven million dollars by the Congress. Barely enough to start up a drug court office at the DOJ (and fund staff), initiate needed drug court projects (i.e., training and education, development of standards), or provide funding grants to new drug courts. Still NADCP had flexed its muscles and once again shown its ability to influence Congress.

A BONUS: DRUG COURT ELIGIBILITY FOR BYRNE GRANTS

Curiously, our constant contact with Republicans afforded us an unexpected prize. The Edwin Byrne Grant was being reviewed and revised by the new Republican majority. There was a question as to whether the Republicans would continue its funding. The Edward Byrne Memorial Justice Assistance Grant provided criminal justice funding to individual states annually on a formulaic basis. Almost all funding was funneled directly to law enforcement agencies.

Instead, for the first time, Drug Courts were specified as one of only eight permitted purposes for the approximately half a billion dollars available under the revised law. (An unusual requirement added was that local funding needed to be approved by local community authorities (in most cases, mayors).

This was an unexpected, but noteworthy outcome of continuous and focused lobbying of the Republican Congress. Judges Richard Geblein of Delaware and Baltimore Judge Jamie Weitzman deserve special credit as their unwavering efforts in lobbying the Republican House Majority on behalf of Drug Courts was largely responsible for this surprising outcome. Through NADCP's efforts in general, we were able to cement bipartisan congressional support for drug courts that continues to this day.

It also created a specific drug court funding source for several years (until eligibility was modified once again). Finally, it encouraged drug court judges and other practitioners to reach out to Mayors, City Council Members, Sheriffs, and Police Chiefs, to build critical support for the institutionalization of individual drug courts in their communities.

A REAL ORGANIZATION NEEDS REAL FUNDING

In 1995, NADCP submitted a grant application for drug court education and training funds (funds that our practitioners had lobbied hard for). Instead, it was awarded to a D.C. insider with strong connections to the DOJ, Barry Mahoney's Justice Management Institute.

It was obvious. NADCP would not be directly receiving any significant grants or project responsibilities, just because we had officers and a logo; the facade of an organization (nor because we had successfully lobbied for the funding). To compete in the major leagues, we needed to establish an ability to initiate and implement projects on the ground; and more importantly, establish a real presence in Washington D.C.

As if on cue, the Robert Wood Johnson Foundation and CADCA came to our rescue. CADCA offered to be NADCP's incubator in starting a Washington D.C. office. We would receive approximately \$150,000 in start-up costs, which were intended to cover our cubicles at their Alexandria offices, telephone, office equipment and other services (including partial salaries) Unfortunately, we would need at least double that amount to get a credible criminal justice organization off the ground.

A CHANGE OF HEART

My original bout of Washington fever had focused on working within the Clinton Administration. Originally, I believed the Drug Court Director would be an executive level decision making position, with authorized funding at \$29 million for its first fiscal year, 1995/96 (and as stated in the 94' Crime Bill, one billion dollars over a five year period).

I believed that I would be offered the Drug Court Director's position. At the same time, the Republican take-over of the House and Senate in the '94 election, made the position substantially less attractive than it had been. I was also beginning to think that the federal government might not be a good fit. I was used to acting and then living with the consequences (which is a character trait that can get one into trouble). I began to consider the possibility that I might not last long as a government bureaucrat.

Finally, if I left NADCP, it would be rudderless. There didn't appear to be anyone of stature within the field, interested in leaving their home and position (read: judgeship), to work around the clock, establishing the primacy of NADCP. I believe to this day, that if I had walked away, the organization would have diminished if not disappear entirely.

1995: PROMISES MADE IN ORLANDO

It was about the time I was presenting at a TASC conference held at an Orlando hotel in 1995, that I learned that the Appropriations Committee had reduced drug court funding to some \$6.5 million.

With that in mind, I had two important, but brief encounters at that conference. I ran into Tim Murray. We sat down for a candid conversation. I offered to support his candidacy for the Drug Court Director's job at DOJ, if he would support funding for NADCP. He seemed surprised at the offer, but accepted.

Later that afternoon, I spied Laurie Robinson at the hotel pool. Till that point, I had only met her once or twice before (once when I made my pitch for the drug court chief's position in Washington) She was the Director of the Office of Justice Programs (OJP), and the third Assistant Attorney' General. It was her agency that would have responsibility for administration and funding under the 94' Act, drug courts included.

I approached her and we exchanged pleasantries. I told her that I was withdrawing my name from consideration for the drug court chief's position in favor of Tim Murray. I told her that I thought I would be more useful to the field as President of NADCP.

I asked her if OJP would support NADCP's education and training projects and she said that they would. Specifically, she mentioned her interest in developing standards for the field.

A BRILLIANT IF UNINTENDED STRATEGY

What might later be seen as a masterful strategic maneuver, amounted to little more than taking advantage of an opportunity that presented itself. Going into the government had been a short-term goal to advance the Drug Court field and my career. With that opportunity diminished, I turned to a vehicle for advancement, outside the government, NADCP.

I was President of NADCP. I had built an organization of community- wide practitioners from across the country. It had strong bipartisan support locally and in

Congress and had demonstrated its ability to marshal political support. It was close to government, where it could lobby for reform (and funding), yet make decisions and create projects that could be quickly implemented (i.e., NDCI).

Most importantly, when administrations changed, the government had no power to directly affect NADCP's personnel, power, structure, or survival.

[Case in point; The Drug Court Office of the Office of Justice Programs was discontinued by the Bush administration in 2001, but NADCP continues its close cooperation with DOJ, HHS and other governmental agencies, as well as its Congressional allies to this day]

FINALIZING PLANS TO LEAVE CALIFORNIA

Once I had both RWJ and Assistant AG Laurie Robinson's commitment to support NADCP, I moved quickly to request a one year's leave of absence from my judicial position. I did not want to give up my career as a judge permanently. With Republican Pete Wilson as Governor, it was unlikely that I, a progressive judge, would be reappointed to the bench (I had run for and was elected to my judgeship).

Enter Pat Morris, the San Bernardino Drug Court judge, a man with contacts on high. I met Pat at the first national Drug Court meeting in Miami Beach, circa December 1993. He was a mentor of sorts, pushing me in the right direction politically, making contacts for me within the California Administrative Office of the Courts (AOC), and introducing me to his good friends the Chief Justice, Ron George and his Administrator, Bill Vickrey.

Pat offered to arrange for a year's leave of absence from the Oakland Bench, "for Educational Purposes". He took care of the details, dealing with the Judicial Council (which had to approve the leave), as well as, Bill Vickrey and the Chief Justice. I would request and be granted a year's leave, constitutionally, the longest period a California judge could be away from the Bench.

FIGHTING FOR A PLACE IN THE MAJORS

My first exposure to the sharp elbows of the D.C. life, was dealing with the Justice Management Institute (JMI), which was based in Denver. Barry Mahoney, its founder and director, was a close friend and collaborator of the recently appointed Drug Court Director at DOJ, Tim Murray.

JMI trainings seemed to be the cost of doing business with Tim Murray. Barry was a somewhat mysterious quantity to me. He apparently had had an important position at

the National Center for State Courts, before a fissure led to his quitting the organization, and setting up a training organization out of his home city, Denver.

After Laurie Robinson had given the go ahead to fund NADCP projects, I received a budget from JMI, which had previously been awarded overall training and education funding for Drug Courts. I had been led to believe and expected to receive sufficient funds to set up a bare bones shop in D.C. I had requested \$250,000. The document that was faxed to Oakland showed NADCP receiving some \$100,000 out of a \$500,000 training budget.

I was floored. It was October of 1995, and I was preparing to leave for D.C. to hire an assistant. I was requesting far less compensation than I was receiving as a judge in California, and my Chief of Staff was to receive approximately half that, for a grand total of \$200,000. The monies that Barry put on the table were half that amount.

I stopped in Denver on my way to D.C., and sat down with Barry, at his home. We sat on his veranda for several hours. We had a direct conversation. I told him that I had a revised budget that split the OJP funding into two. He blanched and said that was impossible. I argued that we could provide the technical support and expertise required for the project. He said that he did not believe that we had the experience or expertise to provide that assistance. We went round and round, with seemingly no resolution in the offing.

I told him that I would be meeting with Laurie Robinson in Washington within the next few days, and would show her the proposed budgets and ask for her assistance. I knew I was going over Tim Murray's head to Laurie Robinson (also a friend of Barry Mahoney), but felt that it was critical to NADCP's survival. I left Denver with a NADCP budget with JMI of approximately \$200,000, enough to survive on, along with resources provided through RWJ/CADCA's incubator funding.

NEGOTIATING WITH THE DOJ DRUG COURT OFFICE

Of course JMI wasn't the only roadblock I had to overcome in establishing NADCP. In 1996, Tim Murray was the recently appointed Drug Court Director at DOJ. Tim and I had meetings on how NADCP was to use its funding. He wasn't friendly (in fact, barely cordial); he didn't think much of NADCP's capabilities or mine for that matter. He agreed to limited support for NADCP.

He reluctantly authorized NADCP's assistance in JMI's trainings, and my plans for regionally focused Mentor Courts. And then he surprised me. He told me he wanted NADCP to develop best practices for the drug court field. It was something on everyone's agenda (including Laurie Robinson, who had mentioned it at our Orlando

encounter). We were to plan and produce, under the aegis of DOJ, National Standards for Drug Courts.

This was something of a coup for NADCP. Practitioners themselves would develop the standards for the field (which was not always the case). It's my belief, that neither Barry Mahoney nor Tim Murray would have provided support sufficient to start up NADC (or provide funding to develop drug court standards) if it hadn't been for Laurie Robinson's commitment to me in Orlando. In my mind, Laurie continued to be NADCP's and my guardian angel.

A NEWLY ELECTED PRESIDENT OF NADCP

I was now President of the National Association of Drug Court Professionals, and on my way to start up a Washington D.C. Office. I guess I was on something of a roll. I was frequently interviewed by the media, presented at conferences, and did meetings with governmental, professional, and business elites. I was working 12 to 16 hours a day. My wife was not happy about my workload nor my plans to temporarily move to D.C., but at the time supported my plans. I think she thought that if I could reach the top of the mountain, I would stop climbing.

It was hard to explain to her then as it is to myself today; why I felt so committed to the field's success and my belief that I, myself needed to lead. I suffered from Stanley Goldstein Syndrome. I was happiest as a judge presiding over my drug court. It was enormously demanding and emotionally draining and I loved it.

That I found myself on the national stage, inspiring others to change the way they treated the drug offender, was surprising and exhilarating. This was more than ambition. I felt blessed to be given an opportunity few would ever know; to create an organization that would be an engine for criminal justice reform. I was beginning to see the Oakland Minister's prophesy "that I would accomplish great things for his community", in a new light. I now had a vision of what a single individual, with conviction, energy, and audacity could accomplish. And I intended to see that vision through.

Judge Jeff Tauber (Ret.)