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Meeting 06-01-2010

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REENTRY COURT FOCUS GROUP

Facilitators:  
Judge Jeff Tauber/Al Siegel

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Sheraton Hotel  
39 Dalton Street  
Boston, MA 02199

Tuesday, June 1, 2010

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2	<p>1 PROCEEDINGS</p> <p>2 JUDGE TAUBER: The first thing we need to</p> <p>3 do, and this will probably be the easiest thing to do,</p> <p>4 is for us to introduce ourselves.</p> <p>5 I'm wondering if we can start on the left,</p> <p>6 and if you could tell us not only who you are but</p> <p>7 perhaps why you think you're here. And, finally, why</p> <p>8 would you give up your Memorial Day vacation to be here?</p> <p>9 JUDGE SAUNDERS: I was thinking that</p> <p>10 myself, but a little late.</p> <p>11 My name is Terry Saunders. I'm the Chief</p> <p>12 Administrative Law Judge for the Administrative</p> <p>13 Division of Parole. I was the initial judge in the</p> <p>14 parole reentry court which Al was talking about, in</p> <p>15 Harlem. And I guess that's why I'm here.</p> <p>16 MS. TAYLOR: I'm Nancy Taylor. I'm with</p> <p>17 the California Administrative Office of the Courts.</p> <p>18 I staff all of the Judicial Council's Oversight</p> <p>19 Committee for problem-solving courts, and we are</p> <p>20 responsible on the staff side for implementing the</p> <p>21 reentry court project in California that Judge Tauber</p> <p>22 referenced.</p>	4
3	<p>1 So, I'm here to fully participate and</p> <p>2 learn as we're rolling this out.</p> <p>3 MS. BANKS: I'm Kathy Banks. I'm with the</p> <p>4 National Institute of Corrections, and I'm here</p> <p>5 representing Chief George Kaiser who was unexpectedly</p> <p>6 called away on a family matter, and I see as</p> <p>7 interested in all things related to reentry and</p> <p>8 transition of offenders from all ends and anything</p> <p>9 that promotes interstate practices, good use of risk</p> <p>10 instruments, and advancement into the whole field.</p> <p>11 JUDGE SOROKIN: My name is Leo Sorokin.</p> <p>12 I'm a Federal Magistrate Judge here in Boston and,</p> <p>13 for the last four years or so, I've run a reentry</p> <p>14 drug court at our court.</p> <p>15 MS. BRADY: My name is Mike Brady. I am</p> <p>16 the Director of Programs for the Department of</p> <p>17 Corrections and Rehabilitation. I have been involved</p> <p>18 in reentry courts with Judge Stanley and Judge Tauber</p> <p>19 for a long time, probably about the last seven or</p> <p>20 eight years. I've worked as, actually, a deputy</p> <p>21 commissioner, administrative law judge in Judge</p> <p>22 Manley's courtroom prior to my current appointment.</p>	5
	<p>1 I'm here because in California we have</p> <p>2 just begun a statutorily authorized reentry court</p> <p>3 project sponsored by the AOC and the Department of</p> <p>4 Corrections. And, for us, this is probably one of</p> <p>5 the most important projects that we've had in some</p> <p>6 time because we violate about 60,000 parolees a year.</p> <p>7 It represents about 45 percent, 50 percent of our</p> <p>8 current prison population. We've discovered that</p> <p>9 over the years that four-month returns to custody</p> <p>10 without any program don't help anybody. So we're now</p> <p>11 under a three-judge panel, federal consent to</p> <p>12 pretrial, where we have to reduce the population by</p> <p>13 45,000. So we're looking for creative ways to reduce</p> <p>14 the prison population without putting the public at</p> <p>15 risk.</p> <p>16 MR. LEITENBERGER: My name is David</p> <p>17 Leitenberger. I'm Project Director for the Reentry</p> <p>18 Court Program. We were one of the early pilot</p> <p>19 projects for the DOJ back in 2000. It's been an</p> <p>20 ongoing partnership between the court and the</p> <p>21 Department of Corrections, both local, probation, and</p> <p>22 parole. And after ten years, it's become kind of</p>	
	<p>1 just regular business, but it's worked very well for</p> <p>2 our community to help focus all the community</p> <p>3 corrections, not just community corrections but all</p> <p>4 of the treatment and the law enforcement together,</p> <p>5 and it's been a very healthy partnership and ongoing.</p> <p>6 MR. JOHNSTON: I'm Scott Johnston. Now</p> <p>7 that I'm here, I'm excited to be here. I'm the Chief</p> <p>8 State Supervisor for the Missouri Board of Probation</p> <p>9 and Parole, and I've been involved in a number of</p> <p>10 reentry court efforts throughout the state of</p> <p>11 Missouri. And prior to the current position, I was</p> <p>12 very involved in the drug court movement in Missouri</p> <p>13 from its inception in the area of treatment. So I</p> <p>14 really think this is a good direction for Missouri to</p> <p>15 go, and I want to further those efforts, but also</p> <p>16 nationally. So it's good to be here to learn and</p> <p>17 share.</p> <p>18 JUDGE MANLEY: Hi, I'm Steven Manley, and</p> <p>19 I am from California. I'm a Superior Court Judge. I</p> <p>20 have a parolee reentry court. I've had it for --</p> <p>21 presided over it for a number of years. And from the</p> <p>22 first day, we work only with high risk, high needs</p>	

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<p style="text-align: right;">6</p> <p>1 parolees, regardless of the seriousness of the 2 offense, and it's a large court. 3 In addition, I work and have worked for 4 years on policy and legislation, and I drafted 5 legislation for California about six years ago -- 6 that's about how long it takes to get things done in 7 California, usually -- for reentry courts. And in 8 the last two years, bills have been passed. And last 9 year, the budget committee passed and approved 10 legislation for the creation of reentry courts in 11 California to work directly with parolees and solved 12 many of the problems relating to jurisdiction of 13 responsibility. 14 So I am very, very interested in this 15 area. 16 MS. WILLIAMS: I am Teresa Williams. I'm 17 the Deputy Director for the Dow County Probation 18 Department, and we supervise about 54,000 offenders, 19 many of which are currently on parole. I worked with 20 John Caruso and Robert Francis in Dow County to open 21 two of the first reentry courts in the state. Ours 22 are a little different, which I'm sure we'll get into</p>	<p style="text-align: right;">8</p> <p>1 last three years we've been working with a pilot 2 project for reentry, along with two other counties, 3 one in the St. Louis area, and one in the Kansas City 4 area. And so we have an evaluation and, very 5 interestingly, similar results as the Harlem 6 evaluation, which I have been kind of surprised 7 about. 8 MR. SIEGEL: There will be presentation on 9 that, by the way, this afternoon. 10 JUDGE CARPENTER: I went over their 11 evaluation last night, summary, and reviewed my own, 12 and it was very interesting. I think that will be 13 something very good to talk about today. 14 So we are hoping to continue our program 15 and hoping that we'll survive the funding cuts at 16 stake, and we're very interested in sharing what 17 we've learned in the last three years and learning 18 from you as well. 19 MS. KNOPP: I'm Melissa Knopp. I'm the 20 manager of the Specialized Docket Section of the 21 Supreme Court of Ohio. It's the section devoted to 22 all of our problem-solving court specialized dockets.</p>
<p style="text-align: right;">7</p> <p>1 a little bit later. But I also had the good fortune 2 to do the research on that. I have a PhD in 3 psychology and have done quite a bit of research on 4 those two courts and now part of a larger statewide 5 effort to expand reentry courts across the state 6 because of the outcomes we had in the early efforts. 7 And we have 16 of our courts in Dow County, a number 8 of them are set up in conjunction with people coming 9 out of either lock-down treatment programs or 10 residential treatment programs, one of which is a 11 mental health court, reentry court, as well, which 12 has turned out to be very, very effective, and the 13 others are primarily targeting high risk offenders, 14 repeat offenders. So that's basically the short 15 version. 16 JUDGE CARPENTER: I'm Christine Carpenter, 17 and I'm a judge in Columbia, Missouri. It's where 18 the university is. It's in the middle of the state. 19 It's about halfway between St. Louis and Kansas City. 20 So we're kind of an I-70 stop along the way. I've 21 been a drug court judge since 1999. We now have a 22 mental health court, also a DWI court. And for the</p>	<p style="text-align: right;">9</p> <p>1 We have seven operating reentry courts in the state, 2 and they are various types. A couple of things that 3 we're working on in Ohio is we have a statewide 4 reentry coalition with our Department of Rehab and 5 Corrections. And then at the Supreme Court, we 6 established last fall the Advisory Committee on 7 Specialized Dockets. The approach we're taking for 8 standards in our state is really to look at the court 9 procedural issues of specialized dockets. And in 10 Ohio, the court part works the same. The way we deal 11 with it is the target populations are different for 12 the specialized docket programs. So we are going to 13 be releasing this fall standards that will cover all 14 of our programs in Ohio. And we are actively working 15 with the Department of Rehab and Corrections and 16 getting more programs up and running. And we have a 17 prison population in Ohio of over 51,000, which, for 18 a state our size, is pretty big. 19 MS. DOUGAN: I'm Elaine Dougan. I am with 20 the Pennsylvania Board of Probation and Parole. I'm 21 a parole manager working in our Offender Reentry 22 Bureau. One of the projects that I do is our reentry</p>

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10	<p>1 courts. The Pennsylvania Parole Board has three</p> <p>2 post-conviction non-conversionary reentry courts</p> <p>3 operating right now. And I'm also honored to be on</p> <p>4 the NADCP Reentry Court Committee.</p> <p>5 MR. PRINCIVALLI: I'm Mike Princivalli.</p> <p>6 I'm from Columbia, Missouri. I'm a drug court</p> <p>7 administrator for two counties there. I also work,</p> <p>8 have worked closely with the reentry court during</p> <p>9 this pilot process. And once that is up, I will also</p> <p>10 be taking over that.</p> <p>11 I've been working with the drug court</p> <p>12 program for about ten years. I've worked on the</p> <p>13 correctional side in treatment, as well as out of</p> <p>14 court.</p> <p>15 MR. WATLER: Good morning, everyone. I'm</p> <p>16 Chris Watler. I'm the Project Director of the Harlem</p> <p>17 Community Justice Center. I've work with Al at the</p> <p>18 Center for Court Innovation. I'm really happy to be</p> <p>19 here with everyone, really looking forward to</p> <p>20 learning a lot.</p> <p>21 So, I oversee the Harlem Parole Reentry</p> <p>22 Court, and like we are Second Chance Act grantees,</p>	12
11	<p>1 working very closely with CSG and others. I'd like</p> <p>2 to say we're kind of in the process of putting the</p> <p>3 reentry court on evidence-based steroids, and I'm</p> <p>4 happy to talk about what that means in our evaluation</p> <p>5 later.</p> <p>6 The other thing we do at Harlem that may</p> <p>7 be of interest to folks is we convened the Upper</p> <p>8 Manhattan Reentry Task Force. It's kind of a</p> <p>9 multi-state political collaborative. And so there's</p> <p>10 a whole other interesting story there.</p> <p>11 JUDGE SURBECK: I'm John Surbeck. In my</p> <p>12 real job, I'm a Criminal Court Judge in Fort Wayne,</p> <p>13 Indiana, which is Northeastern Indiana, and hear</p> <p>14 serious felony cases. I also began with our</p> <p>15 Community Corrections Agency a reentry court in 2000</p> <p>16 and have been dealing with returning offenders since</p> <p>17 that time. Our evaluations indicate that we have</p> <p>18 been effective.</p> <p>19 MS. HUDSON: Good morning. My name is</p> <p>20 Mary Kay Hudson. I'm the Administrator for Problem</p> <p>21 Solving Courts for the Indiana Judicial Center. The</p> <p>22 Judicial Center is a Supreme Court agency, but we are</p>	13

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<p style="text-align: right;">14</p> <p>1           So that gives you an idea of what we're 2 going to be doing today, and I think it's time to get 3 into it. 4           This is something I don't think we need to 5 spend a lot of time with because you all know what 6 the problems are. But can we put down some of the 7 major issues that we see as we look at the reentry 8 system and why it needs to be changed, not 9 specifically to reentry court, but just in general. 10          Let me start with Scott. You've been 11 doing this for a long time in Missouri. Can you tell 12 us what some of the key obstacles that you find are. 13          MR. JOHNSTON: With the reentry courts? 14          JUDGE TAUBER: Well, not with reentry 15 courts, with the reentry process. 16          MR. JOHNSTON: Well, I think what the 17 challenge is is to take what we know works and to 18 apply it to the right people at the right time. And 19 the drug court model is a great model and certainly 20 makes a lot of sense in reentry, but what we've got 21 is, I think, transitioning from a drug court model to 22 applying some of the evidence-based interventions</p>	<p style="text-align: right;">16</p> <p>1           JUDGE TAUBER: So if we're talking about 2 implementation, are we talking about not having the 3 right structure, not having the right people in 4 place? 5           MS. BANKS: Probably all of the above. I 6 think that when you're targeting -- I think when the 7 targets are the same and consistently applied, then 8 you're going to find your consistency, and you're 9 going to find that the success rate goes up. 10          JUDGE TAUBER: Mike, you've been with 11 parole for some time. In fact, I've watched you do 12 your work, and this is very interesting. It was at 13 San Quentin. And I think they did the parole 14 revocation hearings, if I'm not mistaken, in the 15 children's visiting room. 16          MS. BRADY: Correct. 17          JUDGE TAUBER: I think you were on one of 18 those small chairs, as well as your parolee, and I 19 have that vision in my mind when I think of -- 20          MS. BRADY: That's one I'd like to forget 21 about. 22          JUDGE TAUBER: Yes. And it seems to me</p>
<p style="text-align: right;">15</p> <p>1   with a higher risk population and getting people to 2 understand that it's a different population, and it 3 requires a different approach and better screening 4 and assessment. So I think those are some big 5 lessons we're learning in Missouri. 6          JUDGE TAUBER: Kathy, you're with the 7 National Institute of Corrections. I've been told 8 about a recent study that has come out. It was a 9 long-term study -- I think Doug Marlowe is going to 10 be talking about it this afternoon -- which suggests 11 that reentry has not been successful over the past 12 years, over the past several years. Forgive me, but 13 I forget the name of the study, but we'll be citing 14 it this afternoon. 15          What's your perspective on the success or 16 failure of reentry, in general? 17          MS. BANKS: I think, from NIC's 18 perspective, reentry works and the models work if 19 they're consistently applied. And I think it's all 20 in the implementation piece where it falls short. 21 And I think that's what the studies will show you 22 that you're going to talk about this afternoon.</p>	<p style="text-align: right;">17</p> <p>1   that you're something of a nay sayer in regards to 2 the existing system. Can you tell us how you see it. 3          MS. BRADY: Well, we send people back to 4 -- parolees back to prison for technical violations, 5 misdemeanor offenses, under the influence of drugs; 6 we send them back to basic -- to perception centers 7 in California. We place about 10,000 parole boards a 8 month in California. We have 130,000 parolees, 9 active parolees, 170,000 inmates. And, frankly, the 10 lack of resources that are available in the community 11 to serve these folks and lack of structured 12 environments and then being able to see these folks 13 on a regular basis to support their reentry, like the 14 drug court model provides, is really a breakdown. 15 I'm not a big fan of our system at all, and I'm 16 actually a big fan of what Judge Manley does in 17 California because he doesn't give up on these men 18 and women even though they're high risk. 19          So, our system has failed in California, 20 and this system, this new pilot, I believe, will help 21 us to deal with this better. 22          Let me specifically address the issue that</p>

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<p style="text-align: right;">18</p> <p>1 we -- the lack of structure you're talking about, but 2 also -- we also have a big political problem, and I'm 3 sure all of you have the same political problem, and 4 that's factualism. Victims groups are opposed to 5 keeping parolees in the community. Unions in 6 California were heavily unionized by CCPOA, and that 7 cost them jobs when we keep people in the community. 8 We also have political parties with public safety 9 issues. Every time you have a high profile crime in 10 California, it becomes a law, Marcie's law, Jesse's 11 law, Samantha's law. There's all these different 12 laws that are knee-jerk reactions to a single case 13 and, therefore, it's difficult to get any program 14 sustainable because, with this population, as you all 15 know, we're always going to have a poster child. So 16 -- and the reaction is to kill the program. 17 The other large issue for us is resources, 18 direct care resources for services to provide the 19 community. You have to have treatment matching. 20 Judge Manley faces that in his courtroom. We fight 21 about that all the time. And then the investment, 22 the political will to invest the dollars up front for</p>	<p style="text-align: right;">20</p> <p>1 also this issue of employment and the fact that there 2 continues to be a lot of problems for men and women 3 who are coming out to secure employment and very 4 little kind of being done to address that. In New 5 York, we have a really good law that prevents 6 discrimination against people who have criminal 7 convictions. But, you know, every day we get 8 stories, even in the work force system, of men and 9 women being turned away because the work force 10 system, for example, is very much a kind of, you 11 know, I describe it often as a kind of back office 12 service for businesses reducing hiring costs. And 13 it's great, they get people the jobs. But when we 14 send folks to our work force, they're often getting 15 discouraged, you know, because they are high needs, 16 and you have to spend more time on them. 17 So we need to do more on the ground to 18 educate the public and, in this case, educate 19 business leaders about the benefits. It's not all 20 kind of doom and gloom. There are actually real 21 benefits to helping men and women readjust to 22 society.</p>
<p style="text-align: right;">19</p> <p>1 the long-term gain, I think, has really hit difficult 2 economic times. We're facing those problems. 3 JUDGE TAUBER: Anyone else who would like 4 to speak to the general problems facing reentry? 5 Chris. 6 MR. WATLER: I want to agree with a lot of 7 what I heard Mike talking about. I think, you know, 8 this whole idea of kind of, structurally, the 9 fragmentation of systems is a critical one. You 10 know, I want to applaud the work that NIC has done. 11 New York State is one of those states where at the 12 upper levels of government there's real coordination. 13 And some of the things that I think are very helpful, 14 for example, in New York, they're moving to what they 15 call transitional accountability plans. And that's 16 going to be very helpful. That information about 17 someone who is in prison preparing to come out is 18 going to follow them, and it will be centralized in a 19 way and, hopefully, automated in a way that would 20 allow partner organizations to work together on that 21 person's needs as they're coming into the community. 22 Another big piece for me is, you know,</p>	<p style="text-align: right;">21</p> <p>1 JUDGE TAUBER: Let's talk about doom and 2 gloom for a minute, because I think it's important to 3 have some kind of a baseline understanding of some of 4 those problems that you're alluding to. 5 I'm just wondering, is there anyone who 6 has -- who sees some fatal or basic flaw in how 7 corrections or parole deals with the offender? For 8 example, someone might suggest that there's no 9 transparency, that you're in a room, whether it's in 10 the San Quentin kiddies' play room or somewhere else, 11 with an offender, and there's no one else there, and 12 there can be an issue in terms of equity or fairness, 13 at least in the mind of the parolee. 14 Mike. 15 MS. BRADY: Well, for us, it is really 16 kind of a closed -- the public can come, but they 17 have to have the permission of the executive officer 18 of the Board of Parole Hearings 19 But the problem I see in California is a 20 couple of things. One is there are parallel systems. 21 One is the judicial system handles the parolees until 22 they get sentenced in the Department of Corrections.</p>

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<p style="text-align: right;">22</p> <p>1 Then the revocation process is handled by the 2 Department of Corrections, and there's no 3 accountability locally to the local people. And so 4 what ends up happening is we have these duplicative 5 systems, and then the District Attorney's office 6 locally does not prosecute cases because we give them 7 more time on parole and send them back to prison. As 8 an example, DUI, you get a DUI in California, you get 9 48 hours in custody. You come before a hearing 10 officer in corrections, you get five to nine months. 11 JUDGE TAUBER: So there's a disproportion? 12 MS. BRADY: The dispositions are 13 disparate; there is no local accountability; and it 14 really makes for an inefficient process. And the 15 system that we have, in my view, until recently, has 16 not been supportive. We're more of a law enforcement 17 agency than a therapeutic department who's supposed 18 to be doing what they said in Morrissey versus Bird 19 in 1972, which is to really support the reentry of 20 the parolee when they come back. Ours, we're looking 21 for technical violations, and we're looking for ways 22 to send you back.</p>	<p style="text-align: right;">24</p> <p>1 is if you cannot solve this problem through the 2 existing system -- we are now granting -- and, of 3 course, we use -- in California, we have to use words 4 that are meaningless -- it's called non-revokable 5 parole. And what it means is that if you're on 6 parole, you finish your term, you must be granted 7 parole in California; it's mandatory. You're given 8 non-revocable parole. That means there are no 9 conditions, no parole agent, no nothing. You are 10 subject to search and seizure, but you cannot be 11 returned to prison for a parole violation. So it 12 doesn't mean if it's technical or a new offense. 13 That then has to go through the court system. 14 So what's happening -- and if you were 15 doing it in a small way, it would not have a great 16 impact, but that's not what's happening in 17 California. When you're moving thousands of 18 offenders back into the community with nothing other 19 than the right to search and seize, what that 20 demonstrates to me is not a question of whether 21 reentry can or is working; it's an admission that 22 it's meaningless.</p>
<p style="text-align: right;">23</p> <p>1 JUDGE TAUBER: Steven, what's wrong with 2 reentry as it exists -- let's not talk with your 3 court specifically -- but I know I'm going to get a 4 good response from you. 5 JUDGE MANLEY: Well, I mean, Michael has 6 laid it out. What happens, you know, from a 7 practical standpoint -- and I guess what I would 8 start with is if you want to really think about 9 reentry -- we talk about it. We assume that the 10 parole system is about reentry, and it isn't. It 11 isn't at all about reentry; it's about return to 12 prison, and it's solely about that. It's about how 13 do you prove yourself beyond a reasonable doubt to be 14 someone who should not be returned to prison? It is 15 not about rehabilitation or about reentry into the 16 community and, therefore, there is really never any 17 meaningful reentry for someone from prison. 18 Now, when you reach a situation in 19 California with a system built that way -- and you 20 will see this, I predict, in other states unless 21 there is a change -- what we are doing now that 22 Michael has not mentioned, which is what the result</p>	<p style="text-align: right;">25</p> <p>1 You see, if you take 30 to 40 percent of 2 people, individuals who are granted parole, gone to 3 prison and then must be on parole, you simply cut 4 them loose. Now, why did you need parole in the 5 first place? It's meaningless. 6 And so you reach that point where you 7 can't afford it. And what I always point out is that 8 the costs in California are astronomical. The system 9 Michael described, the board -- and I'm not talking 10 about the cost of parole; I'm talking about the board 11 -- 140 million or more a year. 12 Now, the budget for the court is less than 13 three billion for the entire court system. If you 14 simply move that function away from corrections and 15 into the courts, you could do it leaving everything 16 else aside at a much lower cost. 17 JUDGE TAUBER: Could you just hold that 18 thought for a moment. We're going to be getting to 19 that in a bit. 20 Scott, we started with you. Let's get 21 back to you. The statement, as I recall, was that 22 you need proof beyond a reasonable doubt or something</p>

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26	<p>1 of that nature not to be violated or, basically, the  2 deck is stacked against the parolee who comes before  3 the revocation board or simply is returned to the  4 community.</p> <p>5       What's your response to that?</p> <p>6       MR. JOHNSTON: I'm glad I'm in Missouri  7 and not in California. I mean, each of our states  8 and jurisdictions are very different. And, in  9 Missouri, I think we've done some very good work with  10 reentry. I mean, I think parole is more about  11 reentry and success than it's ever been in Missouri.  12 It's less and less about returning to prison. But  13 the big gap we have is involving the courts and the  14 local prosecutors. I think Mike really hit the nail  15 on the head when he talked about that separation.  16 But we've got 35 teams across the state that are  17 involved in reentry at the local level, the  18 community, great collaboration efforts with people  19 coming out of prison, great efforts in our  20 institutions preparing people for release, but we  21 have this gap involving the local courts and the  22 prosecutors in identifying certain people for them to</p>	28	<p>1 poor judgment, and that's how they got there. Most  2 of the people I deal with are as a result of bad  3 judgment, not because they're truly evil people. And  4 so they don't deal in the community any better when  5 they come back than when they went in, unless you do  6 something for them, unless you support them somehow.  7 And so that's what we try to do is create services  8 around these people and underneath these people.</p> <p>9       JUDGE TAUBER: John, let me just ask you  10 this. There are lots of options out there. I think  11 Scott was talking about there are some 37 -- I don't  12 know if I got the numbers right -- but 37 communities  13 that have -- I'm assuming something -- that they have  14 coalitions or groups that are set up to work with  15 responding offenders. You've got actually a court,  16 and I think Missouri has, perhaps, three pilots, and  17 I may be mistaken about that. Why would you want a  18 court involved rather than simply, you know, pick one  19 of the other probably dozen options that are out  20 there?</p> <p>21       JUDGE SURBECK: As I sometimes half  22 jokingly say, that black robe of ours brings a lot to</p>
27	<p>1 get involved with and how their involvement can make  2 a difference in certain groups of people coming out  3 of prison.</p> <p>4       JUDGE TAUBER: Well, those are two verging  5 points of view, and I think that they're both valid,  6 obviously, and important.</p> <p>7       Let's see if we can move on.</p> <p>8       Well, okay, if we have the problem, why  9 will the reentry court make a difference? Why would  10 a reentry court be the option of choice?</p> <p>11       Let me go to someone who has been doing  12 this since 2000, John Surbeck.</p> <p>13       JUDGE SURBECK: I've started with or I've  14 come, I suppose, since I started reentry from a  15 philosophy -- I was a defense lawyer, and then I've  16 been on the bench about 20 years -- and once a person  17 is found guilty, there is some presumption, not a  18 hard line, but there is some presumption the folks go  19 to penitentiary, because that's what you do with  20 them. That's an extraordinary environment; it's not  21 anything like the community. These people,  22 obviously, many of them are there because they have</p>	29	<p>1 the table, both for offenders and the whole drug  2 court protocol process has proven to be effective,  3 and I think that's the main thing about drug courts,  4 judge involvement and services and treatment, and you  5 use that same reasoning with folks returning to  6 penitentiary.</p> <p>7       JUDGE TAUBER: So you think there's sort  8 of an extension from drug court on through  9 problem-solving courts, reentry courts, that there  10 are great similarities?</p> <p>11       JUDGE SURBECK: It's a totally different  12 population, and sometimes I wonder if folks don't  13 confuse that. But, in the meantime, it's the  14 process. The process is what's valuable. And drug  15 courts developed a very effective process.</p> <p>16       JUDGE TAUBER: Chris, what's your sense?  17 Now, you run both a drug court, a mental health  18 court, and a reentry court. Why do we need a court  19 to do reentry work? Why can't the community itself  20 -- I mean, virtually every city has community  21 coalitions that are dedicated to dealing with people  22 reentering from institutions.</p>



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30	<p>1 JUDGE CARPENTER: Well, I agree with the</p> <p>2 judge that, you know, when in doubt, I always go back</p> <p>3 to the ten key components, one of which is the</p> <p>4 involvement of the judge. Something that I read last</p> <p>5 night -- I think it was in the Harlem evaluation --</p> <p>6 had some key issues that they thought were valid with</p> <p>7 regard to reentry courts, and one of them was the</p> <p>8 participation involvement of the judge. And as I</p> <p>9 reemphasize all the time to people, both in and out</p> <p>10 of our field, we are trying to give people structure</p> <p>11 and support to ensure success and escape from the</p> <p>12 world they've created for themselves. But the bottom</p> <p>13 line is that we are in criminal justice, and this is</p> <p>14 still a court. And so we will go very far with you,</p> <p>15 but this is a court, and there are consequences. And</p> <p>16 I think that works.</p> <p>17 JUDGE TAUBER: Does a court provide a</p> <p>18 sense of focus for community services and community</p> <p>19 agencies in your community?</p> <p>20 JUDGE CARPENTER: Yes, I think so.</p> <p>21 JUDGE TAUBER: How does that work?</p> <p>22 JUDGE CARPENTER: Well, when I first</p>	32
31	<p>1 different in terms of what it adds to the reentry</p> <p>2 process?</p> <p>3 JUDGE SOROKIN: I don't know that if as a</p> <p>4 Federal Court we necessarily add -- this is being</p> <p>5 recorded -- anything. Essentially, what we did was</p> <p>6 we went to state court and looked at what some of the</p> <p>7 state court judges were doing here in Massachusetts,</p> <p>8 and we copied it, and we adapted it in the sense that</p> <p>9 the in the federal system, if you don't know,</p> <p>10 everybody who goes to prison is on what we call</p> <p>11 supervised release, which is simply probation after</p> <p>12 jail, and that's under the supervision of the court.</p> <p>13 There are a few people on parole, but they are all</p> <p>14 people who were sentenced prior to 1984. So there's</p> <p>15 really no parole system anymore, as a practical</p> <p>16 matter. So they're within the authority of the court</p> <p>17 to revoke. And what I think that the court adds is I</p> <p>18 think the black robe adds a lot. I think that people</p> <p>19 when they have the interaction, the encouragement</p> <p>20 coming from an authority figure, and particularly the</p> <p>21 people -- actually, I run a reentry drug court, and</p> <p>22 my colleague runs a reentry reentry court, if you</p>	33
31	<p>1 started this and I was made aware of the fact that</p> <p>2 the role of the judge was considered to be so vital</p> <p>3 and that that really sort of tied a lot of other</p> <p>4 things together, I thought it was a typical judicial</p> <p>5 perspective of we're so important, and we run the</p> <p>6 world, and it kind of surprised me, and I thought,</p> <p>7 well, maybe we should step back from that a little</p> <p>8 bit. But the longer I do it and the more I realize</p> <p>9 that just in the one-on-one that you have with the</p> <p>10 participants that it's very important to them that</p> <p>11 they are speaking to a judge.</p> <p>12 JUDGE TAUBER: So, once again, it's the</p> <p>13 persona and symbolic power of a judge.</p> <p>14 Let's turn to the federal bench. Leo,</p> <p>15 you're tenured as a reentry court judge for --</p> <p>16 JUDGE SOROKIN: A little more than four</p> <p>17 years.</p> <p>18 JUDGE TAUBER: About four years. And, in</p> <p>19 some ways, you're following the state drug court</p> <p>20 example.</p> <p>21 JUDGE SOROKIN: (Nodding.)</p> <p>22 JUDGE TAUBER: How is a Federal Court</p>	33

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<p style="text-align: right;">34</p> <p>1 the road. So I think that's also helpful.</p> <p>2 JUDGE TAUBER: Sounds like there's some</p> <p>3 consensus about the importance of the judge.</p> <p>4 MS. BRADY: Before you leave that, I think</p> <p>5 that's really an important question because one of</p> <p>6 the things that -- one, there's a physical issue here</p> <p>7 of actual, a location of the county jail next to the</p> <p>8 courthouse or close to the courthouse for flat</p> <p>9 incarceration or graduated sanctions, however you</p> <p>10 wanted to phrase that. That's very important,</p> <p>11 because we have to transport people to the state</p> <p>12 prisons, which sometimes are hundreds of miles away.</p> <p>13 But the other piece of this is I do want to say, and</p> <p>14 as a former criminal defense lawyer, I very rarely</p> <p>15 had anything positive to say about judges, but I have</p> <p>16 a different feeling about them now in this context</p> <p>17 because I do think it adds value, significant value,</p> <p>18 not just because of the robe, but because of judicial</p> <p>19 temperament, because of concepts of minimum due</p> <p>20 process, confrontation, and evidence that people</p> <p>21 understand that -- I work with 94 other</p> <p>22 administrative law judges, over 70 of which were not</p>	<p style="text-align: right;">36</p> <p>1 court part, you mentioned an accountability situation</p> <p>2 with the offenders. Well, I also see that compared</p> <p>3 to just bringing them out to the community and</p> <p>4 letting the community help them out, the court</p> <p>5 actually makes the treatment provider, probation</p> <p>6 officers, the community resources that we're using</p> <p>7 more accountable to where the individuals are getting</p> <p>8 better instead of getting a little bit here and then,</p> <p>9 you know, you make a couple of appointments and</p> <p>10 whatever, and you just kind of go away. We can</p> <p>11 actually keep the people that are helping our</p> <p>12 individuals more accountable.</p> <p>13 MR. WATLER: A couple of things that I</p> <p>14 think are interesting and important. One is this is</p> <p>15 about -- this has to be about system change. And,</p> <p>16 unfortunately, the general view is that it's all from</p> <p>17 the top down. And I think you need kind of local or</p> <p>18 small experiments. I think what we've learned with</p> <p>19 courts, you're not going to change judges or court</p> <p>20 administrators by just giving them theory and, quite</p> <p>21 frankly, research. We need to show people how things</p> <p>22 can be done differently. And for me, thinking about</p>
<p style="text-align: right;">35</p> <p>1 attorneys. So when you have evidentiary issues like</p> <p>2 probable cause, you know, things like that, a lot of</p> <p>3 people, they go from the gut. Well, you probably did</p> <p>4 it, so I'm going to send you back anyway. And those</p> <p>5 kinds of concepts really have no place when you're</p> <p>6 talking about somebody's liberty. So I think those</p> <p>7 are really big issues, and transferring it back to</p> <p>8 the local, I think, is very important.</p> <p>9 JUDGE TAUBER: Let's move on.</p> <p>10 MR. PRINCIVALLI: There's a couple of</p> <p>11 things I want to say about why reentry courts. With</p> <p>12 doing both drug court and reentry court, I've seen</p> <p>13 both negatives and positives. At the drug court, at</p> <p>14 times, I might get an individual back into the court</p> <p>15 program. Just recently had someone out since last</p> <p>16 September and got lost in the shuffle, changed</p> <p>17 probation officers a couple of times, and the next</p> <p>18 thing you know, they're told to come into this court</p> <p>19 program now, and it's this long, and it builds up a</p> <p>20 resentment, and we're already behind the eight-ball</p> <p>21 on that part.</p> <p>22 Also, with why reentry courts and why the</p>	<p style="text-align: right;">37</p> <p>1 the culture of parole, the culture of the agencies</p> <p>2 and organizations that we work for, there are huge</p> <p>3 barriers. In New York, again, we reduce crime and</p> <p>4 incarceration, but the next phase of that, drilling</p> <p>5 deeper, you know, in terms of changing the culture</p> <p>6 and parole, these are huge undertakings that are not</p> <p>7 going to happen if we don't have local or small</p> <p>8 experiments that people can visit and see and get to</p> <p>9 know.</p> <p>10 And the other piece of this, too, that I</p> <p>11 think is important is how we use these projects to</p> <p>12 provide the evidence, because there's not enough</p> <p>13 evidence. And the thing I'm most harping on is the</p> <p>14 lack of transparency around data and availability</p> <p>15 around data. So we're being told to drive towards</p> <p>16 evidence based, but getting data from agencies and</p> <p>17 putting it in the places useable, not just for</p> <p>18 government, but also for communities to understand</p> <p>19 why these programs are effective is critical.</p> <p>20 So, on a whole bunch of levels, a reentry</p> <p>21 court is also about system change, you know, how</p> <p>22 we're changing systems, changing the relationships of</p>

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38	<p>1 the different actors.</p> <p>2 JUDGE TAUBER: You used the phrase, and</p> <p>3 I've heard you use it before, "digging down," and use</p> <p>4 it in terms of working with the offender, how the</p> <p>5 judge was able to dig down to the real issues or to</p> <p>6 the issues that mattered. And it sounds like it's</p> <p>7 something that's important in a reentry court on a</p> <p>8 number of levels.</p> <p>9 MR. WATLER: Yeah, I think this is why</p> <p>10 techniques like motivational interviewing are</p> <p>11 critical not just for clinical staff but also for</p> <p>12 parole officers and why we train our judge and our</p> <p>13 parole staff in addition to our clinical staff on</p> <p>14 motivational interviewing and cognitive management,</p> <p>15 behavioral management stuff. Because in the way that</p> <p>16 the judge interacts with folks, the clients in the</p> <p>17 court, that has a huge impact on how folks feel about</p> <p>18 the process and, you know, their ability to kind of</p> <p>19 understand what's going on. You do want to drill</p> <p>20 down.</p> <p>21 I think many of our clients are very</p> <p>22 skilled at gaining the system because it's a</p>	40
39	<p>1 fragmented system. And what they can't do in the</p> <p>2 reentry court is gain the system because the</p> <p>3 collaboration is there, and we all know what's really</p> <p>4 going on. It's just a matter of when that person is</p> <p>5 going to, you know, kind of have a harmony and say,</p> <p>6 okay, I need to get onboard with my treatment and my</p> <p>7 goals.</p> <p>8 JUDGE TAUBER: Thank you.</p> <p>9 JUDGE SOROKIN: Can I say one other thing</p> <p>10 related to that?</p> <p>11 I think that the notion that you know</p> <p>12 what's going on is really important because people</p> <p>13 are used to gaining the system, and that's one of the</p> <p>14 -- with a collaboration and information, it's</p> <p>15 important. But I think the other thing that's</p> <p>16 interesting about reentry courts and drug courts,</p> <p>17 too, there's a focus on an affirmative positive</p> <p>18 objective, that is, sobriety, employment, law-abiding</p> <p>19 behavior. And the focus on that doesn't mean you</p> <p>20 don't impose sanctions, doesn't mean there isn't</p> <p>21 accountability, doesn't mean people aren't going to</p> <p>22 go back to jail, depending on what they do, for a</p>	41

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<p style="text-align: right;">42</p> <p>1 because judges were going to the legislature and 2 saying: Give me some more options; I want to be able 3 to do things differently; I want to suspend 4 non-suspendable sentences and give people access to 5 what they really need. So I think it really serves 6 judges learning more about the process and increasing 7 the level of communication between the judiciary, 8 DOC, the transition of probation and parole. 9 JUDGE TAUBER: That's a great segue. 10 Thank you. Because what I'd like us to do is take a 11 look at what sometimes are thought of as a single 12 system but really are, in a sense, two different 13 approaches to reentry court, obviously, people coming 14 back from state prison, and then there are those 15 folks who are in county jail for a substantial period 16 of time, and they're coming back from county jail. 17 And I'd like you to think of it in those broad terms, 18 even though I think that it's very simplistic. And 19 we're going to tear this apart as we go through the 20 day, because there are so many hybrids and so many 21 programs that don't fit under those easily 22 recognizable categories.</p>	<p style="text-align: right;">44</p> <p>1 number of people who are returned to custody is -- 2 actually, and the people who churn back, which are 3 generally the drug offenders and the mentally ill. 4 JUDGE MANLEY: I want to ask something 5 because Michael is on it. You see, I worry about 6 when we sit around and say, who is our target 7 population, like there must be one. In this world, 8 you must grant the greatest flexibility because, as 9 Michael said, and it's absolutely true, this is not 10 driven by what I think or this group thinks is the 11 right, you know, this high risk, high need. It's 12 driven by what policymakers in this state that 13 control the Department of Corrections, state parole. 14 It's what's driven by the local level of what the 15 courts and other stakeholders focus on as the 16 greatest need for them. So that if a legislature 17 decides to release a whole group of state prisoners 18 with nothing, no safety net, and they see that 19 doesn't work, that they're seeing these people 20 reenter the system right away, then they will expect 21 us to provide the intervention for that group, which 22 may not be the group that we identify in some</p>
<p style="text-align: right;">43</p> <p>1 So, that's just to put that out there. 2 And let's talk for a moment about, in general, what 3 is the population that we want to reach? And let me 4 just throw this out. I think that everyone would 5 agree that it's the high-risk offenders. Is there 6 anything beyond that that needs to be said? 7 MR. BRADY: Well, there is because, in 8 California, our -- the largest population that we 9 have of returnees are actually low-level drug users 10 who are churners. They come back three times a year 11 for 90 days or two months. And so you can't just 12 target the high risk, high needs unless we 13 categorize. My view of high risk is -- you have to 14 break it up -- high risk to public safety or high 15 risk to re-offend? Because if your targeting high 16 risk to re-offend, then I agree. But does high risk 17 mean to public safety, crimes of violence, stuff like 18 that? Then I don't think you could really break it 19 out. The research would say that targeting high risk 20 means public safety violence, offenders where you get 21 your biggest bang for your buck. But for us, dollar 22 wise, our biggest bang for our buck in reducing the</p>	<p style="text-align: right;">45</p> <p>1 abstract philosophical way or even one that we all 2 agree on is the most needy of these services. In 3 other words, you have to be flexible to meet what the 4 need is and what the direction is given you by the 5 those who set policy. 6 JUDGE TAUBER: So there's a divergence 7 between what is ideal or needed and what is happening 8 on the ground? 9 JUDGE MANLEY: Right. 10 JUDGE TAUBER: Is there anyone else who 11 wants to speak to the issue of what a target 12 population ought to be, what it is? 13 MS. WILLIAMS: Judge Tauber, I just want 14 to talk about risk for a couple of minutes. You 15 know, we went through quite a transformation in Texas 16 in 2006-2007 because we were looking at building 17 three more prisons. Our legislative budget board was 18 estimating that we needed another 17,000 prison beds 19 by this year, and you know the costs are 20 astronomical. When we talk about high risk and also 21 policy, we also look at high cost. And the turnover 22 of inmates in and out of the system are very, very</p>

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46	<p>1 costly.</p> <p>2 Texas invested in community supervision</p> <p>3 and, along with that, came a lot of joint efforts</p> <p>4 with reentry courts, drug courts. To target the</p> <p>5 population I think you're talking about, which, in</p> <p>6 our state, circle in and out of state jail, you know,</p> <p>7 it's people that get possession charges, properties</p> <p>8 crimes, those kinds of things, but many of them had</p> <p>9 many of those. We use an empirical measure for risk</p> <p>10 called the lower service inventory. And I think</p> <p>11 probably some of you are familiar with it. So I</p> <p>12 don't view risk necessarily as violent or lower level</p> <p>13 offenders. I understand from a legal standpoint it</p> <p>14 may look differently. But a lot of these folks that</p> <p>15 are circling in and out aren't high risk and are</p> <p>16 costing the community and the state hundreds of</p> <p>17 thousands of dollars.</p> <p>18 By actually measuring risks and targeting</p> <p>19 the factors that are keeping that person circling in</p> <p>20 and out of the system, regardless of what</p> <p>21 classification their offenses were in, has shown to</p> <p>22 be very effective in Texas. So we went from a</p>	48
47	<p>1 projection of needing to build three more prisons for</p> <p>2 17,000 more offenders by this year to having 3,000</p> <p>3 vacant prison beds. So, it was a very effective</p> <p>4 methodology, and it centers around agencies and</p> <p>5 criminal justice officials, judges, actually</p> <p>6 measuring, empirically measuring risk and targeting</p> <p>7 those factors.</p> <p>8 JUDGE TAUBER: So you've been able to get</p> <p>9 your judges and your practitioners on the ground to</p> <p>10 apply these standards across the state?</p> <p>11 MS. WILLIAMS: Yeah. I think, obviously,</p> <p>12 there are some jurisdictions, if you look at their</p> <p>13 numbers, and they are held out, who have not done</p> <p>14 that. But, overall, the jurisdictions that took</p> <p>15 money, there were strings attached, which meant</p> <p>16 you're going to use empirically-validated methods;</p> <p>17 you're going to use graduated sanctions, or you're</p> <p>18 not going to get your money back. And it's been an</p> <p>19 education process for judges, for legislators, for</p> <p>20 probation officials, for probation officers, for</p> <p>21 attorneys.</p> <p>22 JUDGE TAUBER: Who's in your reentry</p>	49

1 court? What's the profile?

2 MS. WILLIAMS: It's a high-risk offender.

3 Most of them have had prior pen trips. A large

4 number of them are drug offenders, property crimes,

5 those kinds that would be circulating in and out of

6 the system over and over. These are people that are

7 reentering from one of our probably most stringent

8 drug programs that's operated by the Texas Department

9 of Corrections. They get in; they're locked up for

10 six to nine months; come out into a transitional

11 treatment facility; and then we add the reentry court

12 structure on top of that.

13 To us, on the case that we've been able to

14 make to the state is that it's much more cost

15 effective than sending this prison person to state

16 jail, which is a two-year sentence -- most of them

17 don't do the whole two years -- over and over and

18 over again.

19 And Judge Caruso and I will be talking

20 about some of the data tomorrow, but we've seen

21 revocations go down by over 50 percent by targeting

22 these folks.

1 JUDGE TAUBER: Chris, what's your

2 population?

3 JUDGE CARPENTER: Our population is a

4 very mixed bag. Without going into our whole

5 sentencing structure, the people that we get are

6 coming back from 120 days in the Department of

7 Corrections. And, in our jurisdiction, they don't

8 get sent unless it's either the nature of the offense

9 or it's the nature of their number of priors or --

10 you know, and we do have sentencing advisements and

11 structures, and our judges don't follow them,

12 particularly. Some do, some don't. Some do

13 sometimes, some don't. Some people are sent to our

14 program -- to drug court on probation completely out

15 of the blue because at sentencing the judge just

16 decided they needed to be in our program, and they

17 haven't been screened; they've just been sent there

18 as an order.

19 The people that come back into our reentry

20 range from -- you know, I have a 67-year old man who,

21 you know, was sort of lost and wandering around, and

22 we have middle-aged women who have embezzled a

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50	<p>1 hundred thousand dollars, and we have young drug  2 dealers. I mean, we have everything. And there  3 seems to be little rhyme nor reason to it. But when  4 they come back from 120 days in the Department of  5 Corrections, they're in this program, and our pilot  6 was a year. They would be there for a year, frankly,  7 whether they needed it or not. Some of them didn't  8 need much; some of them needed a whole lot. So, with  9 what we learned in the three years is that instead of  10 trying to sort them out by assessing them at the  11 beginning, do they need reentry, do they not need it,  12 we're going to continue to take everybody and then,  13 as we go through, we're going to decide who needs to  14 stay there for a longer period of time.</p> <p>15 JUDGE TAUBER: So you're doing, actually,  16 almost like a process evaluation over the course of  17 the program in determining what tracks they ought to  18 be in, what services they need and so forth.</p> <p>19 JUDGE CARPENTER: Exactly. Because we're  20 not just getting high risk. We're getting them, but  21 we're also getting, you know, we're getting people  22 who frankly are there because they want them to pay</p>	52	<p>1 Parole Board, it is in their file that they fall  2 under the category; they're eligible for the reentry  3 court. And at that time, if the board member, the  4 decision-makers, make the decision, they put that as  5 a special condition on their parole, that they must  6 participate in and successfully complete the reentry  7 court program.</p> <p>8 JUDGE TAUBER: Okay. And, John, what's  9 your target population? Do you take all offenders  10 coming back from prison?</p> <p>11 JUDGE SURBECK: High risk. We use as our  12 front end for our count, we use as the front end what  13 we call -- community transitions was created by the  14 legislature in 1998 or '99 as, candidly, an early  15 release to save us some money. And, of course, they  16 called it transition. It didn't have any transition  17 services connected to it.</p> <p>18 In our county, we've used that as a front  19 end. Anybody that wants to partake or take advantage  20 of community transitions has to come through reentry.  21 Community transitions applies to anybody with two  22 years or more of a sentence at the DOC.</p>
51	<p>1 their restitution, and they want me to make sure that  2 they show up with the money every week.</p> <p>3 JUDGE TAUBER: Is that a good idea, or do  4 you see a better system if you could eliminate or  5 sidetrack some of those.</p> <p>6 JUDGE CARPENTER: I can tell you that if  7 what we're trying to do is keep people from being  8 sent back, then having them in our program is going  9 to prevent that.</p> <p>10 JUDGE TAUBER: Whether they're high risk  11 or perhaps --</p> <p>12 JUDGE CARPENTER: Exactly, because they  13 would get sent back on technical violations.</p> <p>14 JUDGE TAUBER: Elaine, you wanted to --</p> <p>15 MS DOUGAN: I do. In Pennsylvania, we  16 also determine the risk and need. For the reentry  17 courts, we take medium to high risk offenders that  18 have a drug and alcohol history, and are they  19 identifiable; are they still incarcerated? We have a  20 parole officer inside every state correctional  21 institution. Our parole staff identifies them before  22 they see the Parole Board. And when they see the</p>	53	<p>1 JUDGE TAUBER: Let's jump ahead, if we  2 can, for a moment to state issues. We have some  3 people from the state administrative office of torts  4 and state Supreme Courts, and what I hoped we could  5 focus on for a moment is those state prison-based  6 reentry courts as opposed to county jail probation  7 programs.</p> <p>8 There are a number of states that have  9 gravitated towards split sentencing programs, and I'm  10 wondering, Melissa, is Ohio one of those states?</p> <p>11 MS. KNOPP: The way we define reentry  12 court in Ohio is that if you're going to state prison  13 and you come back out, you'll be in reentry court.  14 If you're going to county jail and you come back out,  15 then you just go into drug court, and that will help  16 whatever your target.</p> <p>17 On the reentry courts in Ohio, they do  18 vary, though. And we are very home ruled in our  19 state. We look at risk means. And one of the  20 projects we have going right now with the University  21 of Cincinnati, a risk assessment tool that's  22 validated under Ohio and Ohio population. And so the</p>

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<p style="text-align: right;">54</p> <p>1 idea is we work with our Department of Rehab and 2 Correction is that we, too, for the specialized 3 dockets, will be targeting the medium to high risk 4 people. 5 One of the things that we found in Ohio is 6 in our prison system, 60 percent of the people have 7 only been imprisoned there for a year or less. In 8 Ohio, if you go to prison for a year or less, you 9 receive no programming in prison. So, because, 10 again, we are a home-ruled state, we let the county 11 courts decide, kind of what they were saying earlier, 12 what's the need in your community; who is the biggest 13 population of people that you need to work with? 14 Some have chosen a post-release control, which are 15 people coming out from prison who are under the 16 Parole Board's authority. Some have judicial release 17 population where people need to go to prison for 18 three or four months and then come back out on 19 probation. David can probably talk about this issue. 20 That's obviously their program. 21 The thing to look at, too, is also when 22 they are coming out, like I said, the risk needs</p>	<p style="text-align: right;">56</p> <p>1 prison, and if you agree to keep, you know, this 2 number of this people in your community and not send 3 them to prison, we'll attach money to that. 4 JUDGE TAUBER: That's more or less county 5 based. 6 MS. KNOPP: Yes, it's a county-based 7 system to keep people out of jail. 8 JUDGE TAUBER: I believe Missouri has 9 split sentencing, doesn't it? 10 JUDGE CARPENTER: Yes, we do, and it's a 11 process by which -- the history of it is kind of 12 interesting. It used to be when a judge would 13 sentence someone to the Department of Corrections, 14 the judge had the authority, discretion to require 15 report after 90 days and then make a decision to 16 release after 120 days. Jurisdiction was retained. 17 And then they would come back into the community on 18 probation, not on parole. That was changed to now 19 the judge doesn't have the discretion. They come 20 back automatically unless the judge blocks it and 21 still get the 90-day report. But now, unless there's 22 some really egregious reason why they shouldn't come</p>
<p style="text-align: right;">55</p> <p>1 assessments will be mandatory from January 1 of next 2 year. So, 2011, we're really interested to see if, 3 you know, who we think the target population should 4 be, really shakes out to be, that is, we keep using 5 this tool. 6 JUDGE TAUBER: Sounds like, at least from 7 what I've read, your strategic plan is to increase 8 from eight to 14 reentry courts by 2014 or something 9 like that. 10 MS. KNOPP: Yeah, what we've gotten a 11 commitment from -- DRC has taken the approach with 12 the money that they're paying to community 13 corrections is working directly with counties and 14 looking at -- our biggest, like I said, population in 15 prisons are fourth and fifth degree felonies, which 16 are lower-level felonies. They're the most expensive 17 people because they do just kind of revolve in and 18 out. 19 So the deal that our DRC departments made 20 with counties is basically they're telling them -- 21 you know, they'll look at how many people that fall 22 into that category that the county is sending to</p>	<p style="text-align: right;">57</p> <p>1 back, they come back. 2 JUDGE TAUBER: Now, is this for drug 3 offenders or for all offenders? 4 JUDGE CARPENTER: This is for all felony 5 offenders, well, unless there's mandatory minimums 6 doing 85 percent or, you know, they've got some kind 7 of sentence where they're not going to come back for 8 a very long time. 9 JUDGE TAUBER: So you take a look-see at 10 how a person is doing and whether they should be 11 returned to community corrections after 90 days in 12 most instances? 13 JUDGE CARPENTER: Correct, that's what 14 the sentencing judge does. But now it's automatic 15 that most of them come back unless the judge 16 specifically blocks that from happening. 17 But one thing that I've been thinking 18 about since we've been talking about this that we've 19 already found out is the strength -- one of the 20 strengths of drug courts is how individualistic and 21 unique they are from jurisdiction to jurisdiction, 22 and you never find two drug courts that are alike,</p>

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<p style="text-align: right;">58</p> <p>1 and that's always been perceived as a strength. And 2 our state in particular is, I think, consistent with 3 not wanting to interfere with local decisions on how 4 a drug court should be structured. Well, we found 5 with our reentry court that very quickly the 6 offenders figured out that if they came back to Boon 7 County, they were going to be in this program. So 8 they started saying, oh, when I get out, I'm going to 9 go live with my grandma three counties away, and then 10 I have nothing; I just come back. 11 So, you know, the idea of this unique 12 program is great except people were figuring out how 13 to avoid it. 14 JUDGE TAUBER: That's a really good point. 15 You know, it seems to me -- I just wanted to go to 16 Scott just for a moment -- it seems to me that some 17 folks would say that state involvement and actually 18 direction is important for a reentry court in a way 19 that it simply isn't for other problem-solving 20 courts. I'm wondering if you had that sense. 21 Because Chris is saying that being a single -- being 22 an individually unique court can be a disadvantage.</p>	<p style="text-align: right;">60</p> <p>1 saying, and I think this really is something that you 2 have to internalize is where you're talking about the 3 definitions of the target populations, then when you 4 start dealing with it in your court, for example, in 5 Missouri, on an individualistic basis, you're also 6 talking about redefining success for the offender, 7 and that also has to be factored in on flexibility. 8 JUDGE TAUBER: Mary Kay, Indiana in some 9 way has taken the lead in providing state involvement 10 and state initiative and maybe even some 11 responsibility toward the direction of reentry 12 courts. Can you tell us what your experience is. 13 MS. HUDSON: Well, as far as the state 14 oversight is concerned, we patterned the oversight 15 and the support responsibilities from that of drug 16 courts which our office assumed responsibility for in 17 2002. And then when the reentry court statutes were 18 adopted in 2006, we did the same thing. 19 We do have the split sentencing option in 20 Indiana, so our ranks, of course, are a combination 21 of probation, parole, CTP, and a number of different 22 things. But I think one of the things that we are</p>
<p style="text-align: right;">59</p> <p>1 MR. JOHNSTON: Well, the judge makes a 2 real good point. I think the issue for us is how do 3 you encourage courts, at the same time not forcing it 4 down the courts' throats, I mean, in terms of 5 legislation? And it was said earlier, these pilot 6 projects, I think, are really important. So I think 7 it's a good point that we need to have these projects 8 so judges and prosecutors in communities can see that 9 these can make a difference. And I think what's been 10 mentioned earlier and I think it needs to stay in 11 front of us is there is an issue of resources and 12 workload. And so I think the involvement of the 13 court is very important. But in Missouri we define 14 high risk as folks that are more likely to fail under 15 supervision and return to prison. 16 So I think the idea here is to make sure 17 that, like Judge Carpenter is doing in Boon County, 18 is figuring out how to sort folks out so you're not 19 treating everyone the same, that you've got judicial 20 involvement when they're returning from prison to the 21 community. 22 MS. BANKS: Well, I think what you're</p>	<p style="text-align: right;">61</p> <p>1 really looking at in Indiana, and Indiana is adopting 2 the Indiana version of the Ohio state risk 3 assessments -- yes, we call it the IRA -- so we are 4 in the process of launching that. And what I think 5 we're really wanting to look at when you're talking 6 about target population is the principles of 7 effective intervention and sorting out who do you 8 have? Arguably, everybody coming out of the 9 Department of Correction needs something, any 10 corrective thinking, any housing. So it's a matter 11 of figuring out what that is and then putting them 12 into intervention services that are appropriate with 13 their level of need. 14 I do agree that everyone coming out of 15 prison should be able to access something, but I know 16 the research also says that if you provide too 17 intensive levels of supervision, you're going to make 18 things worse. So, really relying on the right to 19 need assessment and the appropriate programming, 20 looking at supervision as a continuum from the 21 standpoint of regardless of where somebody is in the 22 criminal justice system, whether they're pretrial,</p>



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<p>62</p> <p>1 whether they're post-release, serving who's in front 2 of you, not putting labels on your program. I've got 3 judges who want to take mentally ill offenders 4 returning from prison who are addicted to drugs, what 5 program do they go into? I don't know. So we're 6 going to have to sort through some of those policy 7 decisions. And one of the policy decisions is if you 8 are providing intensive services to an individual, 9 should it be mandated that they are high risk and 10 high need? And I think that that's going to be a 11 question that's posed to our problem-solving courts 12 committee because of the resource issue.</p> <p>13 JUDGE TAUBER: It seems that the state, at 14 least in my mind, the state has a much larger role in 15 terms of reentry court than other problem solving.</p> <p>16 For one thing, it would seem -- let me ask 17 Melissa -- it would seem to me anytime you give a 18 county or a county court a mandate that they do 19 something and you don't give them the resources to do 20 it, I'm wondering how Ohio is approaching that.</p> <p>21 MS. KNOPP: We don't mandate any 22 specialized dockets in Ohio. We have no state</p>	<p>64</p> <p>1 budget problems like everybody else.</p> <p>2 So, really, the approach I think we're 3 going to see as we start our next biannual budget, 4 because as we all know we could have been far worse, 5 stimulus money and all that stuff, is to say, you 6 know, to put dollars on these prisoners and to force 7 people to work with them in the community because 8 it's cheaper from the state point of view than 9 housing these people, knowing that they're coming 10 back anyway.</p> <p>11 JUDGE TAUBER: It sounds like you're not 12 mandating the program, but you are providing some 13 carrots to get counties involved.</p> <p>14 MS. KNOPP: Exactly. And it's been pretty 15 effective.</p> <p>16 JUDGE TAUBER: I wanted to ask Nancy, 17 California hasn't had any, as I understand it, any 18 institutionalized approach to reentry court. Of 19 course, you have a number of them that have started 20 on their own. What's your belief about the 21 importance of the state in this process?</p> <p>22 MS. TAYLOR: Well, we're just moving into</p>
<p>63</p> <p>1 legislation because we viewed them as a key 2 management tool and, under our state constitution, 3 the Supreme Court has sole authority for the 4 administration of the court. So we have actively not 5 sought intervention or action by the legislature 6 because we don't want them to come in and muck it up, 7 to be honest with you. So we don't mandate these 8 programs. Our approach has been always in any of the 9 programs we have in Ohio to set minimum standards and 10 tell the courts that if you want to do this program, 11 whether it be mediation or whatever, these are the 12 known standards you must meet. Once you meet that 13 threshold, then you'll be counted or certified as 14 that type of a program. It's the approach that we're 15 taking with specialized dockets. Standards will be 16 coming out in the fall.</p> <p>17 It's the approach -- you know, with DRC, 18 how they've approached the reentry, you know, trying 19 to encourage people to do that is really with money, 20 and they control the community correction funds. And 21 the last money on budget in Ohio, that was the only 22 general line item that increased, and we have severe</p>	<p>65</p> <p>1 a statewide program in the area of reentry. We had a 2 statewide program in the area of other types of 3 problem-solving courts almost since 2000, and we're 4 approaching it in a similar way to the way that we've 5 approached the other, the growth of other 6 problem-solving courts in California. And we call 7 them collaborative courts in California, which is, 8 the role of the legislature has traditionally been 9 permissive and supportive in the sense of where we 10 have legislation. There's some definition on what a 11 given type of collateral report might be, but the 12 greater focus from the legislature has been that 13 there be something and there be funding for it. And 14 the role that the state court system has played is in 15 getting it implemented, coordinated, providing 16 educational opportunities for judges and teams and 17 then also evaluation. And we think that the strength 18 of the statewide system will be evaluation and that, 19 with that, we can go back, talk to the legislature 20 about what seems to be working, what isn't, and also 21 talk to other courts in providing that, the pilot 22 court, mentor court, opportunity that helps spread</p>

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<p style="text-align: right;">66</p> <p>1 the growth of a given court type. In this case, it's 2 reentry. 3 JUDGE TAUBER: So your approach would be 4 sort of provide guidance and assistance where you can 5 or where it's requested? 6 MS. TAYLOR: Well, I think a little more 7 active than that, but provide support, coordination, 8 evaluation. And, eventually, I mean, we have 9 standards for drug courts, so, eventually, I think 10 we'll be moving into a broader framework for 11 standards through our judicial administration 12 standard system within, say, the next year or so. 13 That's where we're going. So legislature itself did 14 define what they wanted reentry courts to be in 15 California in terms of the funding that they're 16 providing, and they were very clear; they want it to 17 be drug and mental health focused, and that's what it 18 will be. And we also are using the evidence of high 19 risk, high need, but we are taking into account the 20 idea that high risk, high need as being defined in 21 the probation system for probationers coming into 22 drug and mental health courts may be a different sort</p>	<p style="text-align: right;">68</p> <p>1 addiction and high risk, high need, medium as well, 2 looking at those individuals. But we really are 3 working very hard in Dow County and across the state 4 to have assessment drive what we do. We believe Ed 5 Latessa -- I've seen his instrument, by the way, and 6 we're thinking about adopting it for the state, 7 because we have to pay for the LSAR. But Ed Latessa 8 has done some excellent work, and there's a robust 9 amount of research out there that says, clearly, you 10 need to use an empirically validated instrument to 11 determine who you're going to target. And one of the 12 things we're trying to get people away from is 13 looking -- not just looking at type of offense as a 14 measure of risk. That's probably with judges and 15 with defense attorneys and prosecutors, even 16 probation officers, for all the hardest thing to do. 17 I think it's a mistake, you know. I start looking at 18 low scores and types of offenses. Everyone knows you 19 can see one person with an aggravated assault with a 20 deadly weapon charge that's going to look very 21 different than another person, depending on the 22 circumstances. If you worked with the mentally ill</p>
<p style="text-align: right;">67</p> <p>1 of group or a different assessment level than high 2 risk, high need coming out of prison. That's why I 3 was interested in the community as a hybrid. So, 4 prison assessments may be more immediate to high 5 risk, whereas, our local probationer assessments may 6 be high risk, high need. So it's kind of getting 7 sensitive to those assessment tools and so forth. 8 JUDGE TAUBER: Teresa, what's going on in 9 Texas, especially in Dallas, in regards to your split 10 sentencing? 11 MS. WILLIAMS: I'm not familiar with split 12 sentencing other than what we call shop probation. 13 Sounds like your earlier version in Missouri. 14 The range of court I mentioned earlier, I 15 told you, it's really a prison-run treatment program 16 that's locked down, and people go as a condition of 17 probation. It's operated by the Texas Department of 18 Correction. They get their jobs just like anybody 19 else. It's no fun being there. They are using 20 cognitive programming, and that's a group that we are 21 really targeting in terms of reentering. They have a 22 drug addiction problem. We're looking at severe</p>	<p style="text-align: right;">69</p> <p>1 population, a lot of those individuals have 2 assaultive offenses. And for years and years and 3 years a lot of the focus on, I think, reentry court, 4 drug courts, mental health courts, have been let's 5 target those non-violent offenders. It sounds good, 6 but it's not realistic. The people we need 7 assistance with, especially even the mentally ill 8 population, have assaultive offenses. And we have 9 found by coming in and doing a very, very sound 10 evaluation risk assessment in a clinical evaluation 11 in combination with that to get a proper diagnosis 12 that we're much more effective with our mentally ill 13 population in terms of reducing a return. 14 JUDGE TAUBER: You've got something that 15 at least from my perspective is quite unique. It's 16 sort of a hybrid, would you say, because, in a sense, 17 your judge is using probation to place someone in a 18 prison facility that's separated from the main 19 facility over on the prison grounds -- the court 20 never loses jurisdiction -- and then is returned to 21 the court after a period of -- is it a year, 22 typically?</p>

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70	<p>1 MS. WILLIAMS: It's six to nine months.</p> <p>2 JUDGE TAUBER: Six to nine months?</p> <p>3 MS. WILLIAMS: Right.</p> <p>4 JUDGE TAUBER: And do you think that</p> <p>5 keeping jurisdiction makes a difference to the court</p> <p>6 or to the offender?</p> <p>7 MS. WILLIAMS: I do. Our judges, one of</p> <p>8 the things we work very hard with them is having</p> <p>9 confidence, first of all, in the front end that what</p> <p>10 they're using is going to be effective, and that</p> <p>11 person is not going to come back to haunt them. I</p> <p>12 think the judge maintains jurisdiction and is</p> <p>13 extremely important. I mean, we even have judges</p> <p>14 that will do, you know, sanctions via video in the</p> <p>15 institution if the person is acting up just to kind</p> <p>16 of get them back on track. There is, a lot of it, as</p> <p>17 mentioned earlier, the black robe syndrome. As a</p> <p>18 psychologist, I think that's extremely powerful. I</p> <p>19 have seen, you know, time after time people are going</p> <p>20 to respond; they're going to listen a lot differently</p> <p>21 when somebody is sitting with that robe on because</p> <p>22 they know they have control over their fate.</p>	72
71	<p>1 I also think that one of the things I</p> <p>2 really like about reentry courts that comes out and</p> <p>3 also the practicality of it is for people who are</p> <p>4 coming out of a really regimented, structured</p> <p>5 environment like a prison environment where they're</p> <p>6 being told what time to get up, how long they can</p> <p>7 eat, what to do, when to go to the bathroom, what to</p> <p>8 do all day, they need to come out in some structure.</p> <p>9 And the reentry court concept, the drug courts</p> <p>10 provide a very, very solid structure that's real</p> <p>11 consistent. And I see it analogous to preparing. If</p> <p>12 you look at the research on kids that do fine, the</p> <p>13 most effective parity are those that are consistent,</p> <p>14 provide structure, not overly rigid. There's got to</p> <p>15 be some flexibility, but it's consistent, it's</p> <p>16 predictable. They know what's going to happen; they</p> <p>17 know what's expected. And they're also able to see</p> <p>18 in the reentry court a judge deal with a number of</p> <p>19 people, you know, on an even ground and consistently</p> <p>20 apply those principles. I think it literally changes</p> <p>21 the way the offender views the whole system, and it</p> <p>22 changes the judges over time that get involved in it.</p>	73

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74	<p>1 time that they come in a somewhat, you know, positive</p> <p>2 experience.</p> <p>3 JUDGE TAUBER: Let me turn to the original</p> <p>4 Harlem reentry court judge.</p> <p>5 Terry, what's the experience that you had,</p> <p>6 and I suppose you're still having, as an</p> <p>7 administrative judge? Do you see it as being</p> <p>8 different from a state judge and how?</p> <p>9 JUDGE SAUNDERS: I suppose the judicial</p> <p>10 function would be similar, but the structure in which</p> <p>11 we have to operate is totally different.</p> <p>12 JUDGE TAUBER: Tell us about it.</p> <p>13 JUDGE SAUNDERS: The other judges who</p> <p>14 don't operate in the administrative setting have a</p> <p>15 lot more control over their situation than the judges</p> <p>16 in the administrative setting. In the state of New</p> <p>17 York, we, the administrative law judges for the</p> <p>18 Division of Parole, work for the Division of Parole,</p> <p>19 and there's the political football of where we belong</p> <p>20 in the agency. And I believe it was that, as Mike</p> <p>21 pointed out, we're not quite as bad as California.</p> <p>22 We do have -- we're schizophrenic, okay? Half of us</p>	76
75	<p>1 are social workers, and half of us want to lock</p> <p>2 people up. And that puts the administrative law</p> <p>3 judge who actually works for the agency sort of in a</p> <p>4 box politically, but we're also in a box based on the</p> <p>5 structure. We have change of command in the Division</p> <p>6 of Parole. The administrative law judge has no chain</p> <p>7 below them. We can't tell parole officers what to</p> <p>8 do, even in the context, I found, when I was the</p> <p>9 judge at the reentry court in Harlem, which caused</p> <p>10 quite a bit of conflict, at least for myself -- I</p> <p>11 don't know about the rest of parole -- that I</p> <p>12 couldn't do exactly what I wanted to do in certain</p> <p>13 cases, and we had -- when we started the program, we</p> <p>14 had a retreat. Everyone who entered -- who was going</p> <p>15 to be involved volunteered. And what I found,</p> <p>16 though, that this team concept which the program was</p> <p>17 supposed to be based on, and I guess the judge was</p> <p>18 the first among equals, found out that I was</p> <p>19 basically by myself in the context the only control I</p> <p>20 had was the ability to influence and the relationship</p> <p>21 I had with parolees.</p> <p>22 But, generally, the parole officers have a</p>	77
	<p>1 chain of command to the senior parole officer right</p> <p>2 up through the Division of Parole. The</p> <p>3 administrative law judges, in order to have some</p> <p>4 neutrality, we're sort of off by ourselves. And, for</p> <p>5 the most part, they leave us alone, but, as I say, we</p> <p>6 lack control and the power to mold the program</p> <p>7 exactly the way we might want to see it.</p> <p>8 JUDGE TAUBER: I think I note a certain</p> <p>9 amount of disappointment in that, is that fair to</p> <p>10 say?</p> <p>11 JUDGE SAUNDERS: Yes, quite a bit.</p> <p>12 MR. BRADY: Judge, can I ask a question?</p> <p>13 Are you the parole authority or is the administrative</p> <p>14 law judge the parole authority? Because in</p> <p>15 California, we're the parole authority.</p> <p>16 JUDGE SAUNDERS: I don't know. What's</p> <p>17 authority?</p> <p>18 MR. BRADY: Well, parole authority means</p> <p>19 that we make release decisions, return decisions.</p> <p>20 JUDGE SAUNDERS: No, we have a Parole</p> <p>21 Board who makes release decisions. We make return</p> <p>22 decisions.</p>	
	<p>1 MR. BRADY: Let's say you're in California</p> <p>2 Penal Code 3056, a parole hold. You come before --</p> <p>3 we call them deputy commissioners or commissioners</p> <p>4 which are administrative law judges in California,</p> <p>5 and then they make the decision whether or not to</p> <p>6 release you or to send you back to prison or to send</p> <p>7 you to a program. We also make release decisions</p> <p>8 with regard to indeterminate sentences.</p> <p>9 JUDGE SAUNDERS: That's left to the</p> <p>10 Parole Board. The former is done by us.</p> <p>11 MR. BRADY: Okay. So, that is the Parole</p> <p>12 Board; we are the Parole Board. The administrative</p> <p>13 law judges in California, that section of it is the</p> <p>14 Parole Board.</p> <p>15 JUDGE SAUNDERS: Well, our authority</p> <p>16 comes from the Parole Board members. The Parole</p> <p>17 Board members are a lot more -- everything is getting</p> <p>18 pretty political in the state at this point.</p> <p>19 MR. BRADY: Join the crowd.</p> <p>20 JUDGE SAUNDERS: It's generally a lot</p> <p>21 more political than the administrative law judges.</p> <p>22 JUDGE TAUBER: Elaine could jump in here.</p>	

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<p style="text-align: right;">78</p> <p>1 Elaine, as I understand, Pennsylvania is a 2 parole-based reentry court. Could you describe what 3 that means. 4 MS. DOUGAN: Correct, the Parole Board 5 retains control of the case because the offender has 6 been sentenced; he's served his time in prison; he's 7 been paroled; and now he's in the reentry court. So, 8 in our three courts there is a common pleas judge and 9 a Parole Boards member that sit on the bench 10 together. Okay, the judge has a lot of influence 11 within the county, and also a lot of the offenders 12 are familiar with him. And just the offender being 13 in the court routinely in front of the judge and the 14 board member has a big impact on them. 15 JUDGE TAUBER: Now, who has the authority 16 between the two? 17 MS. DOUGAN: The Parole Board member. 18 JUDGE TAUBER: Do you find that there may 19 in fact be concurrent authority and that there may be 20 a new case or a probation matter in front of the 21 judge while the parole matter is in front of the 22 parole officer or the parole judge?</p>	<p style="text-align: right;">80</p> <p>1 account. 2 JUDGE TAUBER: How does that work, I mean, 3 in reality? 4 MR. LEITENBERGER: Well, actually, it's 5 been very good. We have not had many issues at all, 6 really. It's the best collaborative I think we've 7 had in the Department of Correction. Seems like both 8 get along very well. And then with Ohio laws 9 changing, giving reentry judges more, you know, input 10 into parole decisions, and the Parole Board itself 11 actually agreeing that sanctions can be done at the 12 parole -- at the reentry court hearing, it has been a 13 big help. So it doesn't go through the normal chain 14 of revocation as formal as it did before. Now the 15 decisions are generally made, so it's up to the 16 parole system. 17 JUDGE TAUBER: So who does make the final 18 decision; it is the Parole Board ultimately? 19 MR. LEITENBERGER: Ultimately, yes. They 20 follow the guidelines. 21 JUDGE TAUBER: Now, there's something else 22 about Mansfield that's very interesting, if I've got</p>
<p style="text-align: right;">79</p> <p>1 MS. DOUGAN: We have not encountered that 2 yet. Our longest reentry court is five years, so 3 we're still a work in progress. The ones that we 4 have, the one -- and, actually, just so the members 5 of the Focus Group know, one of our Parole Board 6 members is with me, Judith Vigilonis, one of the 7 Pennsylvania Parole Board members. And as far as the 8 Parole Board also recommits. If an offender 9 violates, it's the Parole Board that recommits. 10 MR. BRADY: Right. 11 JUDGE TAUBER: I see. 12 Let's go on to the last, before the break, 13 collaborative courts. And I know that in Mansfield 14 County you have -- you also have a dual-headed 15 process. 16 MR. LEITENBERGER: Right. 17 JUDGE TAUBER: Could you describe that. 18 MR. LEITENBERGER: Yes, our reentry is 19 headed by our common pleas criminal division judges 20 and a representative of the Parole Board. And when 21 we have our reentry court, both sit at the bench and 22 review all the cases as they give their individual</p>	<p style="text-align: right;">81</p> <p>1 my courts correct, and that is that you have, as I 2 understand it, prisons that are located in county. 3 MR. LEITENBERGER: Right. 4 JUDGE TAUBER: And you actually send out 5 your coordinator to monitor people in the prison 6 while they're still in the process to make a decision 7 as to whether or not they should be coming out, when 8 they should be coming out, and the like. Can you 9 describe that. 10 MR. LEITENBERGER: Yes, for us, reentry 11 starts, really, at sentencing. We pretty much 12 identify who's going to be probably sent to prison, 13 which ones will probably be eligible to come out 14 earlier if they follow certain guidelines that we 15 give them ahead of time. We do a pre-entry plan when 16 that individual is sent to the institution. We have 17 two prisons, one on our camp in our county, so we try 18 to send the majority of persons there so they're 19 close to the community except for women who are 20 usually down in Columbus. That's only seven miles 21 away. Our coordinator stays in touch with the people 22 that we send to the institution. The ones who have</p>

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<p style="text-align: right;">82</p> <p>1 been identified for early release that come out on 2 judicial release, real shock probation, or on split 3 sentences, the judge may have them serve one 4 sentence, have them come out, probation on the second 5 sentence. She'll stay in touch with those people and 6 get updates from the institution, social workers and 7 staff, whether they've been doing well in prison, 8 entering the type of programs that we requested they 9 go to, anger management, substance abuse, sex 10 offender treatment, whatever. And then if they come 11 up for -- first of all, for the judicial release 12 people, if they come up, they get a good report, 13 things look good, the judges will release them on 14 probation, on community control, and they will come 15 into reentry court. The others, maybe they're not 16 eligible, they're going to serve time, they're going 17 to come out on parole or what we call post-release 18 control in Ohio. They will come in the reentry 19 court. The rule in our community, if you're from our 20 community, you go to prison, you come back out, you 21 will be in reentry court, and we don't let them move 22 to grandma's house two counties away.</p>	<p style="text-align: right;">84</p> <p>1 looking at holistically where you've got a TPC and 2 you're following reentry from commitment on. We 3 don't do that. We do that in our juvenile justice 4 system where reentry begins upon commitment. But we 5 don't do that in California. So the legislature is 6 empowered to make the laws, and, of course, we're 7 doing it in a piecemeal fashion, which really is a 8 recipe, in my view, for disaster. Because if you do 9 it based on political bull rather than good 10 evidence-based practices, then it fails; then we 11 don't try again. You only get one shot at this 12 because it's a particularly expensive investment. So 13 this is really important that we get the legislature 14 and the governor and the courts all on the same page. 15 And I do think the NIC can help us with that 16 significantly in California. 17 But the second thing that I'm advocating 18 in California, and Nancy and I were at a meeting 19 recently about this, is that the Parole Board should 20 be part of the treatment team in the reentry model, 21 not have simultaneous jurisdiction, but actually to 22 be part of the treatment team. We still retain</p>
<p style="text-align: right;">83</p> <p>1 JUDGE TAUBER: Let me ask Kathy. It 2 sounds like Mansfield is following what I understand 3 is an NIC policy or recommendation of seamless 4 control or seamless involvement from the time of the 5 sentencing. 6 MS. BANKS: That's right. It's following 7 our TPC models, transition prison community, where 8 we're starting the reentry process from the day that 9 they enter prison and follow through, monitor back 10 and forth all along the way so that there is no gap. 11 JUDGE TAUBER: Now, your TPC model, does 12 it include the county judge in the process, or does 13 it begin at the time of entry into prison? 14 MS. BANKS: I'm not sure in all of the 15 states, because there are some states where it's got 16 a county judge involved in the very beginning and all 17 the way through. I'm not so sure on some of the 18 other TPC states. I'm not sure about Kentucky, in 19 particular. 20 MR. BRADY: Judge, the one thing -- first 21 of all, one of the dangers in California that we have 22 is we're doing piecemeal legislation rather than</p>	<p style="text-align: right;">85</p> <p>1 jurisdiction over the parolee that we can, if we 2 disagree with a judge, which it should be rarely, 3 that we would still retain jurisdiction to send them 4 back, exclude them from the program in certain types 5 of cases. But as a member of the treatment team, the 6 judge should have the final decision rather than 7 having, at least the way I'm advocating it, because 8 of this whole concept of the authority, and it just 9 works better for us. We've done this for the last, 10 how long, Judge, three years, four years? 11 JUDGE MANLEY: Three years. 12 MR. BRADY: Three years with Judge Manley, 13 and it's worked very well. 14 JUDGE TAUBER: Let me ask Judge Manley, 15 how was it like working with Mike, personally? 16 MR. BRADY: Don't tell him, Judge. 17 (Laughter.) 18 JUDGE MANLEY: It's fine working with 19 Mike, wonderful. Does that answer the question? Am 20 I free now? 21 JUDGE TAUBER: You can go on from there. 22 You've got what Mike described as a collaborative</p>

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86	<p>1 court.</p> <p>2 JUDGE MANLEY: Well, I mean, we are a</p> <p>3 collaborative, but it's with a memorandum of</p> <p>4 understanding. See, what I don't believe in -- in</p> <p>5 California, you can't have two judicial officers from</p> <p>6 two different jurisdictions as a team deciding things</p> <p>7 unless you're willing to pay two people to do the</p> <p>8 same thing. That makes no sense to me. It would</p> <p>9 never sell in California. We have no money to pay</p> <p>10 for that kind of luxury.</p> <p>11 What Mike's talking about is if you make</p> <p>12 an initial decision that you're going to give</p> <p>13 jurisdiction to the judge, the parole -- and</p> <p>14 depending on how it's structured in the state -- but</p> <p>15 in a state like California where it's driven by rules</p> <p>16 that are so complex and so mandatory, that absent the</p> <p>17 active involvement of parole, you really can't</p> <p>18 effectuate the changes you need to effectuate. You</p> <p>19 need the close cooperation of parole in this time,</p> <p>20 and the Parole Board member -- for example, many</p> <p>21 referrals -- you see, we talk about how do we get</p> <p>22 people moving? If it's a mandatory referral to the</p>	88	<p>1 back to prison; we know it. Okay, this is the person</p> <p>2 who's on parole and has a new criminal offense, for</p> <p>3 which we know based on the data, one hundred percent</p> <p>4 go to prison either from the judge or parole. That</p> <p>5 person goes to the reentry court. Why? Because</p> <p>6 there you can consult. And that's why if you don't</p> <p>7 recognize -- it's an error we make in California. We</p> <p>8 focus and do a lot of blame about parole and our</p> <p>9 parole system. We don't recognize the fact that</p> <p>10 there are two ways to get to prison, parole or the</p> <p>11 judge on a new case. Now, if you lock those two</p> <p>12 together in one place, then you can have an impact on</p> <p>13 the outcome.</p> <p>14 We don't need an assessment. The issue is</p> <p>15 is this person extremely likely to go back to prison?</p> <p>16 Yes. He's in reentry. See, that's what you should</p> <p>17 be doing.</p> <p>18 JUDGE TAUBER: We're going to take a short</p> <p>19 recess. There's refreshments. I'd like you to</p> <p>20 consider the following. I think Steve was alluding</p> <p>21 to it. And that is, what's the cost of a reentry</p> <p>22 court when you bring together sometimes as many as</p>
87	<p>1 board, if it's mandatory this and mandatory that, we</p> <p>2 have statutes and rules. And like Mike said, we have</p> <p>3 so much legislation in California, you can't get</p> <p>4 anywhere unless you work closely with parole. But in</p> <p>5 terms of working closely with them, it's very</p> <p>6 effective in my view because the member, a</p> <p>7 representative of the Parole Board is there to</p> <p>8 facilitate what the judge is trying to get done, lift</p> <p>9 parole holds, allow people to move, which is a big</p> <p>10 problem in many states, particularly in California</p> <p>11 where you must reside in the county where you came</p> <p>12 from.</p> <p>13 JUDGE TAUBER: Does it help you in the</p> <p>14 sense that you also have control, I would assume,</p> <p>15 over probation violations and new offenses as well,</p> <p>16 so you're, in a sense, consolidating all these cases</p> <p>17 in a central place?</p> <p>18 JUDGE MANLEY: See, that's the most</p> <p>19 important aspect to me. Going back to your initial</p> <p>20 question about what's a target group; what is high</p> <p>21 risk and high need? To me, it's very simple. Who do</p> <p>22 you know? Well, we've got a guarantee they're going</p>	89	<p>1 six to ten people as compared to a probation or</p> <p>2 revocation hearing where you've got a single officer,</p> <p>3 and can we justify that cost and minimize it in some</p> <p>4 way?</p> <p>5 Let's take 15 minutes and come back at ten</p> <p>6 after 11.</p> <p>7 (Short break.)</p> <p>8 JUDGE TAUBER: We're going to get going.</p> <p>9 We will be going until noon, and then there will be</p> <p>10 lunch with a presentation from Doug Marlowe.</p> <p>11 I know that Elaine had something she</p> <p>12 wanted to add.</p> <p>13 MS. DOUGAN: I did want to clarify that</p> <p>14 when I answered your question about who would retain</p> <p>15 jurisdiction when there was a probation involved, in</p> <p>16 Pennsylvania, most often, when a judge sentences</p> <p>17 someone to a term of incarceration with a probation</p> <p>18 to follow, the county will petition state parole to</p> <p>19 continue supervision of that offender for the</p> <p>20 probation period, even if they've finished their</p> <p>21 state sentence. In that case, in a reentry court,</p> <p>22 when we got to the probation time, then the judge</p>

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<p style="text-align: right;">90</p> <p>1 would have the final say in that case.</p> <p>2 JUDGE TAUBER: Okay. I wanted to turn to</p> <p>3 what I think is one of the key issues, and I spoke of</p> <p>4 it just before we left, and I'd like some thoughts.</p> <p>5 I've been to problem-solving courts around the</p> <p>6 country over the years and, in some cases, I'll see</p> <p>7 as many as 12 staffers doing staffings and then going</p> <p>8 to courts, family courts, and so forth and so on.</p> <p>9 And I'm just wondering, can we really sustain a</p> <p>10 reentry court which, in many instances, will have as</p> <p>11 many as six or eight participants replacing a system</p> <p>12 where there's a parole officer sitting across the</p> <p>13 table from a parolee?</p> <p>14 Who has some thoughts about that?</p> <p>15 Mike.</p> <p>16 MR. BRADY: Well, I know in Judge Manley's</p> <p>17 court there are about eight people at the table, DA,</p> <p>18 public defender, people between. So, in these</p> <p>19 difficult times, I think people have a tendency to</p> <p>20 want to go pare it down.</p> <p>21 I think this is going to be the biggest</p> <p>22 problem facing reentry courts in California is the</p>	<p style="text-align: right;">92</p> <p>1 it cost money. But you have less arrests, and you</p> <p>2 have less incarceration time. And those are -- the</p> <p>3 problem is those come from different budgets. Those</p> <p>4 are expensive. If they go out and arrest somebody on</p> <p>5 a warrant, at least in the federal system, what</p> <p>6 happens -- it's not just later they get picked up --</p> <p>7 that's five people, typically, for anybody. And so</p> <p>8 that's an expensive process, and jail is very</p> <p>9 expensive.</p> <p>10 So I think that there are other costs.</p> <p>11 It's just that, you know, really, if you're going to</p> <p>12 do this on a large scale, you're shifting moneys from</p> <p>13 different budgets, and that's really what it comes</p> <p>14 down to.</p> <p>15 JUDGE TAUBER: Steven.</p> <p>16 JUDGE MANLEY: In terms of the team and</p> <p>17 the costs that are associated with putting together a</p> <p>18 reentry court, I think one of the things we have to</p> <p>19 be very careful about is to not fall into the trap</p> <p>20 that drug courts fell into, and that is, start small,</p> <p>21 stay small, never change. If you're not prepared to</p> <p>22 work with a large number of offenders in a reentry</p>
<p style="text-align: right;">91</p> <p>1 cost of direct care services versus incarceration,</p> <p>2 including staffing these courts, because it is a very</p> <p>3 expensive proposition.</p> <p>4 So I think there is a way to cut it back,</p> <p>5 but I think the judge has more experience in the cost</p> <p>6 associated with that. But I do think that it is a</p> <p>7 real problem, expense.</p> <p>8 JUDGE TAUBER: How far can we cut it back,</p> <p>9 Leo?</p> <p>10 JUDGE SOROKIN: I don't think it's a</p> <p>11 problem. I think it's a perception problem. You</p> <p>12 walk into the room and you see six or seven people</p> <p>13 there, and it looks like a lot of resources, and it</p> <p>14 is a lot of resources, but I think it's sort of an</p> <p>15 allocation problem because, presumably, in our</p> <p>16 research, at least as our model shows, that these</p> <p>17 programs are more effective than the alternative.</p> <p>18 And, so, on one hand, it's more expensive because you</p> <p>19 have six or eight people sitting in the room,</p> <p>20 although if they're not doing one case, they're doing</p> <p>21 however many people there are in the program. So</p> <p>22 it's more money, no question. Paying those people,</p>	<p style="text-align: right;">93</p> <p>1 court, you will have no impact. You can show</p> <p>2 statistically how this saves money. We've shown it</p> <p>3 in drug courts. The drug courts are serving no more</p> <p>4 offenders in California now than they were eight</p> <p>5 years ago. They're serving slightly more, but not --</p> <p>6 so the view you have to have is you have to -- the</p> <p>7 fact that the team is only eight, the way we get this</p> <p>8 reputation of being far too expensive is because we</p> <p>9 have such small client groups.</p> <p>10 If you take -- I supervise 1700 offenders,</p> <p>11 one judge. I mean, this is not impossible to do if</p> <p>12 you work at it. If you dedicate a judge or two</p> <p>13 judges a number of days per week, you can do large</p> <p>14 numbers. You'll never get anywhere, particularly in</p> <p>15 a state like California, working with parolees, if</p> <p>16 you don't take on the numbers. And I think that is</p> <p>17 the real critical issue.</p> <p>18 JUDGE TAUBER: And you need staff to do</p> <p>19 that.</p> <p>20 JUDGE MANLEY: You do, but you do not need</p> <p>21 27 people on your team because you're doing 2700</p> <p>22 offenders. It's the same eight.</p>



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94	<p>1 JUDGE TAUBER: Who are your eight?</p> <p>2 JUDGE MANLEY: Well, I have the District</p> <p>3 Attorney; I have the defense; I think that there must</p> <p>4 be the defense there; I have parole agents, liaisons</p> <p>5 who work with the other parole agents, with the</p> <p>6 parolees; I have the probation officer who relates to</p> <p>7 those folks who are on probation; I have mental</p> <p>8 health, substance abuse, and employment and other</p> <p>9 services, and that's it.</p> <p>10 JUDGE TAUBER: I have a question, and it's</p> <p>11 coming up in California and other places. In a state</p> <p>12 prison-based system, county public defenders and</p> <p>13 district attorneys don't necessarily have to be; they</p> <p>14 certainly are not required to be. Some places have</p> <p>15 them. As I look around the country, and a very</p> <p>16 unofficial count that I have made, it seems like the</p> <p>17 great majority do not have district attorneys or</p> <p>18 public defenders. I think it's a significant issue.</p> <p>19 I see Elaine shaking her head.</p> <p>20 MS. DOUGAN: No, we do not. The members</p> <p>21 of our team are a commonplace judge, a board member</p> <p>22 or decision-maker; for the board, the specialized</p>	96
95	<p>1 parole agent. Our reentry court agents only serve</p> <p>2 reentry court clientele, so they don't have a regular</p> <p>3 case load in addition to the reentry court, so</p> <p>4 they're a specialized agent. Their supervisor is</p> <p>5 there as part of the team as well because the</p> <p>6 supervisor is involved and invested in the</p> <p>7 sanctioning process.</p> <p>8 JUDGE TAUBER: It sounds like you have a</p> <p>9 stand-alone reentry court, and Steven has almost what</p> <p>10 I might describe as an add-on to the drug court.</p> <p>11 Is that fair or not, Steven?</p> <p>12 JUDGE MANLEY: No, it's separate,</p> <p>13 entirely separate, different team.</p> <p>14 JUDGE TAUBER: Different team as well.</p> <p>15 Michael, what's the circumstance in Boone</p> <p>16 County in terms of staffing? You're the coordinator</p> <p>17 in Boone County, right?</p> <p>18 MR. PRINCIVALLI: Correct. I mean,</p> <p>19 obviously, I would like to have more staff, more</p> <p>20 people at the table. And we have a couple of</p> <p>21 probation officers for each of our alternative</p> <p>22 sentencing programs. A lot of our treatmentS</p>	97
	<p>1 overlap. We use the same providers, so we have that</p> <p>2 overlap. And we also have prosecutor, lower drug</p> <p>3 courts, mental health court.</p> <p>4 JUDGE TAUBER: Do you have defense</p> <p>5 attorneys?</p> <p>6 MR. PRINCIVALLI: We have recently</p> <p>7 regained their cooperation from the public defender's</p> <p>8 office.</p> <p>9 JUDGE TAUBER: And, Chris, in your court,</p> <p>10 what's the staffing like, and what level of, let's</p> <p>11 say, representation is there?</p> <p>12 MR. WATLER: Well, first of all, thank</p> <p>13 goodness for the Second Chance Act because that</p> <p>14 funding has really allowed us to both expand the</p> <p>15 numbers of the service in order to add to it and to</p> <p>16 hire some additional staff. So we have two case</p> <p>17 managers and the court coordinator, and we also have</p> <p>18 a person who will run the cognitive behavioral</p> <p>19 therapy groups. On the parole side, we'll provide</p> <p>20 two parole officers and the administrative law judge</p> <p>21 and part of the senior parole officer's time. But</p> <p>22 those assets would normally follow these cases</p>	
	<p>1 anyway, so.</p> <p>2 JUDGE TAUBER: Now, I heard -- well, we've</p> <p>3 had some discussions, and my understanding, in a</p> <p>4 number of jurisdictions, as well as New York City,</p> <p>5 there aren't, as I heard it explained, there aren't</p> <p>6 the public defender or District Attorney because if</p> <p>7 it gets to that point they would be handed over to</p> <p>8 the parole agency where they would have</p> <p>9 representation. Is that how it works?</p> <p>10 MR. WATLER: Absolutely. The clients are</p> <p>11 represented. There are revocation hearings, as Judge</p> <p>12 Saunders kind of referenced. Those happen in Ryker's</p> <p>13 Island in the city's jail, essentially, and there</p> <p>14 they are represented by counsel. So there is a</p> <p>15 process, you know, due process is in place when</p> <p>16 someone's liberty is at stake.</p> <p>17 JUDGE TAUBER: Anyone have any different</p> <p>18 view of that? In other words, it would seem that, if</p> <p>19 I understand Chris, when one enters the reentry</p> <p>20 court, one is basically waiving one's right to</p> <p>21 representation at some level. Now, I understand that</p> <p>22 that may not be in New York, but it may be some other</p>	

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98	<p>1 places. And then regains it if they are to be sent  2 back to prison or at least subject to the possibility  3 of being sent back to prison.</p> <p>4 MR. WATLER: Well, in our case, they're  5 not waiving their right; we are simply grafting onto  6 the supervision process a kind of enhancement to the  7 program, both in terms of supervision and services.</p> <p>8 JUDGE TAUBER: They've got no choice.</p> <p>9 MR. WATLER: Yeah, they've come into the  10 program; they don't have any choice. But at the  11 point of which they would be considered for  12 revocation, they're being treated the same way all  13 parolees are being treated in terms of their due  14 process.</p> <p>15 JUDGE TAUBER: Now, is there an advantage  16 or a disadvantage in having a defense attorney there  17 that you can tell us about or you think --</p> <p>18 MR. WATLER: Other than legal aide is  19 really their vigorous defenders and, you know, we  20 don't have experience with them in our program. I  21 think it is important, as I do with all  22 problem-solving courts, you know, for there to be due</p>	100
99	<p>1 process, you know, as part of the process. And, you  2 know, I think legal aide and other defenders are also  3 moving in this direction of really trying to think  4 about good outcomes for their clients beyond just  5 getting them off. And so there's ferment on that end  6 also. I think we often think of the defense bar as  7 kind of out in left field, but they also are very  8 interested in good outcomes for their clients.</p> <p>9 JUDGE TAUBER: John, you have ultimate  10 command, is that correct?</p> <p>11 JUDGE SURBECK: No.</p> <p>12 JUDGE TAUBER: Do not?</p> <p>13 JUDGE SURBECK: So far, I've been lucky.</p> <p>14 JUDGE TAUBER: Tell us how it works.</p> <p>15 You've been doing this since 2000, as I understand?</p> <p>16 JUDGE SURBECK: Yes.</p> <p>17 JUDGE TAUBER: You started the program  18 basically out on your own certainly within the  19 county?</p> <p>20 JUDGE SURBECK: Yes, in partnership with  21 the Parole Board. Effectively, the first -- until  22 2006 when we got formal jurisdiction and legislation,</p>	101

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102	<p>1 comfortable that due process is covered in that kind</p> <p>2 of set phase.</p> <p>3 JUDGE TAUBER: Let me ask you this.</p> <p>4 You've been a drug court judge as well?</p> <p>5 JUDGE SURBECK: No.</p> <p>6 JUDGE TAUBER: Because I'm wondering, you</p> <p>7 mentioned that there's some hardship involved in</p> <p>8 having attorneys present. What's the difference,</p> <p>9 although you have been a drug court judge, what do</p> <p>10 you perceive as the advantage in not having advocates</p> <p>11 in court?</p> <p>12 JUDGE SURBECK: The lawyers perceive me</p> <p>13 advocacy.</p> <p>14 JUDGE TAUBER: So they're going to be in</p> <p>15 some ways standing in front of or protecting your</p> <p>16 clients and maybe even obstructing the communication</p> <p>17 with you and the offender, is that fair to say?</p> <p>18 JUDGE SURBECK: Yes.</p> <p>19 JUDGE TAUBER: To some extent?</p> <p>20 JUDGE SURBECK: Yes.</p> <p>21 JUDGE TAUBER: Looks like Mary Kay has</p> <p>22 something to say.</p>	104	<p>1 with a parolee, the court does not have the</p> <p>2 jurisdiction, but our committee is looking at it from</p> <p>3 the standpoint of, legislatively, our courts have</p> <p>4 jurisdiction over these people. It is a court</p> <p>5 program. And there is an argument that they should</p> <p>6 have access to all the due process that a person on</p> <p>7 probation would have, even though, ultimately,</p> <p>8 they're under the jurisdiction of the Parole Board.</p> <p>9 JUDGE TAUBER: Let me turn to Scott</p> <p>10 because, as I understand it, Missouri does not have</p> <p>11 defense attorneys in the problem-solving courts, and</p> <p>12 I'm just wondering if you have any opinion as to</p> <p>13 whether or not that is of some help to your courts in</p> <p>14 general or to your problem-solving courts in general</p> <p>15 or you would prefer to have them?</p> <p>16 MR. JOHNSTON: I really don't have an</p> <p>17 opinion on that. I mean, I haven't heard -- Judge</p> <p>18 Carpenter may be the better one to speak to that.</p> <p>19 JUDGE CARPENTER: We've had a historical</p> <p>20 problem getting defense counsel to participate, and</p> <p>21 to the point where -- our public defender system</p> <p>22 considers themselves to be in crisis, and there's</p>
103	<p>1 MS. HUDSON: We have been taking a look at</p> <p>2 this issue for a couple of different reasons, one in</p> <p>3 light of the NACDL report talking about</p> <p>4 problem-solving courts, drug courts in particular, as</p> <p>5 well as some of the practices that our officers see</p> <p>6 in the field. And not necessarily just with reentry</p> <p>7 courts, but primarily with drug courts, is that there</p> <p>8 are some jurisdictions who are requiring defendants</p> <p>9 to waive right to counsel as part of the admission to</p> <p>10 the program. We have had some concerns about that.</p> <p>11 The committee has had some concerns about that.</p> <p>12 Now, I think there is three different</p> <p>13 tiers. Some courts provide access to counsel</p> <p>14 routinely as part of the team. Some courts permit</p> <p>15 them to access counsel. And I know Judge Surbeck</p> <p>16 does do that when they're facing violation, although</p> <p>17 he doesn't have people on the team, and then there</p> <p>18 are the courts that prohibit access to counsel and</p> <p>19 provide the waiver. So we've had discussions at our</p> <p>20 committee level about really making sure that the</p> <p>21 model is protected, making sure that it will</p> <p>22 withstand criticism from defense attorneys. Yes,</p>	105	<p>1 some debate about that. They economically are</p> <p>2 suffering. But they took it to a next level and said</p> <p>3 that it was an advocacy problem and that they would</p> <p>4 not be participating on the team in which they would</p> <p>5 be part of the decision to incarcerate their client</p> <p>6 if their client didn't want to be incarcerated</p> <p>7 because they would be going against the wishes of</p> <p>8 their client. Well, nobody wants to be incarcerated.</p> <p>9 So they got an ethical opinion from the Attorney</p> <p>10 General, and they fell back on that.</p> <p>11 We have recently made overtures to the</p> <p>12 public defender's office, and I kind of regret that</p> <p>13 we didn't do it sooner. Because I think that when</p> <p>14 they took that position many years ago, we were a</p> <p>15 diversion court, primarily. I think they never</p> <p>16 really got it. They never really understood what we</p> <p>17 were about or what we did. They never attended any</p> <p>18 of the educational programs. They never read the</p> <p>19 materials that were provided by Americorps</p> <p>20 Association on ethical issues for defense lawyers.</p> <p>21 They just said, we're not doing this, and they were</p> <p>22 out.</p>

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106	<p>1 So, we have recently made overtures. We</p> <p>2 have explained to them how the courts have developed</p> <p>3 over the last ten years, how we now are dealing with</p> <p>4 things in a very particular way, particularly dealing</p> <p>5 with who is participating. And they've agreed to</p> <p>6 come back on the team. And that's in our county.</p> <p>7 And I'm very hopeful that since our -- you know, in</p> <p>8 our local guide -- I mean, they send us people; they</p> <p>9 just won't be on the team. But they are now ready to</p> <p>10 be onboard; they are now accepting the education that</p> <p>11 we're giving them. And that's filtered from the</p> <p>12 bottom up to the state guys, and they are -- they're</p> <p>13 coming around.</p> <p>14 JUDGE TAUBER: Let's talk about the state</p> <p>15 guys for just a moment.</p> <p>16 Mary Kay, what role does the state play in</p> <p>17 Indiana, and what do you see as the role of the state</p> <p>18 in these prison-based programs, state prison-based</p> <p>19 programs?</p> <p>20 MS. HUDSON: Well, our office certifies</p> <p>21 the programs, which means that we ensure that they're</p> <p>22 in compliance with rules and statutes related to the</p>	108	<p>1 another. There's a high level of job satisfaction</p> <p>2 with this. So that's how we've been getting people</p> <p>3 involved and staying involved.</p> <p>4 But I do want to say one thing related to</p> <p>5 the defense counsel issue. We met with our public</p> <p>6 defender, our state public defender counsel we met</p> <p>7 with, who was at the time the acting director of the</p> <p>8 disciplinary commission about some of these issues.</p> <p>9 And our office feels we need to have the support of</p> <p>10 these agencies to continue to promote the</p> <p>11 problem-solving court model. And they believe that</p> <p>12 you can waive your right to counsel as long as your</p> <p>13 waiver is knowing and voluntary; it cannot be</p> <p>14 coercive. I think a lot of the times when people say</p> <p>15 things about the reaction of defense counsel to drug</p> <p>16 court, they say things like, well, they just don't</p> <p>17 understand drug court, for example. Our disciplinary</p> <p>18 commissioner and our public defender counsel says,</p> <p>19 you're a defense lawyer, regardless, so you represent</p> <p>20 however you represent. So we're really trying to</p> <p>21 promote that. I suppose we're going to be asking for</p> <p>22 an advisory opinion to be able to give courts a</p>
107	<p>1 reentry courts that will also be permanent models, so</p> <p>2 that's what we do. We assist the courts in getting</p> <p>3 started. We provide training resources for the</p> <p>4 judges and the team members. And so we're really</p> <p>5 with the court pretty much every step of the way.</p> <p>6 What we don't provide is funding. There is no</p> <p>7 funding in Indiana for any of the problems on the</p> <p>8 court.</p> <p>9 JUDGE TAUBER: So how do you get courts to</p> <p>10 open reentry courts, knowing that they're going to be</p> <p>11 relying on their own resources for what has</p> <p>12 traditionally been a state budget?</p> <p>13 MS. HUDSON: Well, there is some funding</p> <p>14 available through the Department of Correction and</p> <p>15 community corrections grant funds. Judge Surbeck's</p> <p>16 program is a recipient of that. So it's not to say</p> <p>17 that there isn't any money, but it doesn't come from</p> <p>18 the judicial branch.</p> <p>19 I think that we have a number of counties</p> <p>20 that are really just committed to doing things</p> <p>21 differently. And it's a slow but steady pace.</p> <p>22 There's interest generating. People talk to one</p>	109	<p>1 little better direction because it's really --</p> <p>2 there's quite a spectrum of practices in the</p> <p>3 jurisdictions.</p> <p>4 JUDGE TAUBER: It just seems like it's a</p> <p>5 significant issue. I'd like to stay with it just for</p> <p>6 a moment. We're talking about state systems with</p> <p>7 professionals who are typically on a state level,</p> <p>8 parole, parole officers and the like, and not folks</p> <p>9 that are attached to the county, like the District</p> <p>10 Attorney or public defender.</p> <p>11 What's the Pennsylvania position in that</p> <p>12 regard?</p> <p>13 MS. DOUGAN: We also have on our team</p> <p>14 mental health, drug and alcohol providers as well.</p> <p>15 Two of our three courts, two of them were started</p> <p>16 with grant money, but one was not. One began</p> <p>17 operation and is still operating with no extra funds</p> <p>18 for the reentry court because that judge firmly</p> <p>19 believes these offenders are coming back to live in</p> <p>20 their community, regardless, and being in the</p> <p>21 structure of the reentry court with the assistance</p> <p>22 that we give them, getting them into career link and</p>

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110	<p>1 connecting as many services for them as we can that</p> <p>2 they need, it just benefits them to become productive</p> <p>3 members of society rather than just being released</p> <p>4 from prison and coming back to that area anyway.</p> <p>5 JUDGE TAUBER: And do you have a District</p> <p>6 Attorney or public defender?</p> <p>7 MS. DOUGAN: No.</p> <p>8 JUDGE TAUBER: Is there a reason for that?</p> <p>9 MS. DOUGAN: Yes, because it is parole;</p> <p>10 they've already served their time, so there's no</p> <p>11 purpose for a District Attorney or a public defender</p> <p>12 because they've already had their sentence, served</p> <p>13 their time of incarceration. In Pennsylvania,</p> <p>14 there's no early release from prison or parole.</p> <p>15 JUDGE TAUBER: It seems like -- yes, sir,</p> <p>16 I'm sorry.</p> <p>17 JUDGE SAUNDERS: New York is the same.</p> <p>18 Our people are on parole. However, I think that in</p> <p>19 the lives of most of these people, the most important</p> <p>20 recurring figures are the DA, the judge, and their</p> <p>21 defense counsel. I think that the idea that if we</p> <p>22 could somehow incorporate that, get past the</p>	112	<p>1 one thing, if you're going to do things from the</p> <p>2 court, you have to be transparent. You cannot sit</p> <p>3 and tell me that I'm going to sit as a judge and have</p> <p>4 a parolee in front of me where I am going to be</p> <p>5 talking to a sex offender with a strike who is facing</p> <p>6 15 to 20 years in prison for screwing up in a very</p> <p>7 technical way, and I am going to be given the power</p> <p>8 to just sit there and arbitrarily screw him. See,</p> <p>9 our existing system doesn't work that way in</p> <p>10 California. You've got a right to counsel. They may</p> <p>11 waive it all the time, and that's why it is viewed as</p> <p>12 such a hidden secret system outside of the</p> <p>13 mainstream. If you're going to bring it into the</p> <p>14 courts, then you have to give the right to defense.</p> <p>15 You have to get the defense in there and prosecution,</p> <p>16 because, otherwise, the judge is too arbitrary. I've</p> <p>17 seen it again and again. It happens all over this</p> <p>18 country in drug courts. You talk about sanctions, 90</p> <p>19 days, six months. What's a sanction? Whatever the</p> <p>20 judge wants to make it, unless there's somebody there</p> <p>21 to say, wait a minute, judge; that's a little bit too</p> <p>22 much; maybe you ought to think about it; maybe it's</p>
111	<p>1 institutional or objections that the defense counsel</p> <p>2 might have, I know in Manhattan now we have a new DA</p> <p>3 who is very much into reentry and all these kind of</p> <p>4 things, and the idea that you might have a DA and a</p> <p>5 defense counsel as part of the team, I think, would</p> <p>6 be an enhancement to the program. I think it's just</p> <p>7 another source of someone, a position they're</p> <p>8 familiar with, an authority figure, and that they're</p> <p>9 more likely to listen to that. So, I would like to</p> <p>10 see that incorporated.</p> <p>11 JUDGE TAUBER: Steven.</p> <p>12 JUDGE MANLEY: Seriously, somebody has</p> <p>13 got to speak out here about -- I mean, you have to</p> <p>14 have an underlying policy or objective that you will</p> <p>15 have defense and prosecution present. And I will</p> <p>16 tell you why. One of the reasons there's so much</p> <p>17 objection to the existing system, why do we even need</p> <p>18 reentry courts? Because of the terrible outcomes.</p> <p>19 The terrible outcomes are due to a system that is</p> <p>20 hidden, is not transparent. Arbitrary decisions are</p> <p>21 made. Why do we create drug courts, and why do we</p> <p>22 have defense and prosecution on the team? Because</p>	113	<p>1 all wrong; maybe this guy didn't do something.</p> <p>2 That's why you have a team. See, you work those</p> <p>3 things out. Somebody has got to stand up for these</p> <p>4 principles.</p> <p>5 MR. BRADY: I designed the adult and</p> <p>6 juvenile program, the current process for California,</p> <p>7 and we added attorneys. There's two cases, one Morse</p> <p>8 versus Bird, and the other one is Gagnot versus</p> <p>9 Scarbelli, that talks about people have a right to</p> <p>10 counsel, and those that cannot -- have ADA issues or</p> <p>11 the case is too complex. But there's a couple of</p> <p>12 things about it. I got tremendous resistance from</p> <p>13 everybody to do this, but it actually has worked out</p> <p>14 to our advantage because, one, it's become more</p> <p>15 efficient, because in dealing with the parolees, in</p> <p>16 discussing the cases, we found that there's a</p> <p>17 relationship between the attorney and parolee where</p> <p>18 the parolee is less likely to contest it. So we've</p> <p>19 gone down from about 60 percent parole revocation</p> <p>20 hearings to 20 percent parole revocation hearings</p> <p>21 because we've worked out dispositions with the</p> <p>22 attorney present. So they can be collaborative; they</p>

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<p style="text-align: right;">114</p> <p>1 can work. But there is that contentiousness. And as 2 the Judge suggests, if you don't have the counsel -- 3 and California is like probably ten states -- in 4 California in some of the counties, if you go to 5 Curran County and commit a parole violation, you go 6 to state prison. You go to San Francisco, you 7 probably get opera tickets. So we have different 8 political leanings. 9 JUDGE TAUBER: Tickets to the symphony. 10 MR. BRADY: So I do think they have a 11 place in the system to protect the integrity of the 12 process. 13 JUDGE TAUBER: I think there's a lot of 14 interest in this issue, and I hope we can continue to 15 discuss it, but we do have an agenda, and I think 16 it's important to try to get through some of these 17 items. 18 What I was hoping we could talk about is, 19 let's see -- 20 MR. WATLER: Can I say something, because 21 I don't want to lose the fact that the courts are 22 part of the problem. They were part of the problem</p>	<p style="text-align: right;">116</p> <p>1 also serve that term in your community and then have 2 a seamless transition to community corrections; 3 what's your feeling about that? 4 MR. WATLER: As you can probably judge 5 from my -- I think that that is an important 6 component of all of this. Reentry courts are not and 7 should not be considered in a vacuum. They should be 8 part of the larger effort. This is part of the 9 larger effort to reform the way we do criminal 10 justice in this country. So, on the front end, we 11 should be looking at ways of addressing the treatment 12 issues that folks bring and looking for sanctions 13 that will, you know, create some restoration of the 14 community, because that's a big part of it. I don't 15 think any DA or any community member is going to say 16 -- you know, in Harlem, I've got to tell you, some of 17 the most conservative folks in terms of sentencing 18 are the grandmothers and moms, and the kids in my 19 youth court, forget about it. We need to have other 20 ways of addressing particularly low-level non-violent 21 substance-addicted offenders, you know, than prison 22 or jail. And you need in the jails, quite frankly,</p>
<p style="text-align: right;">115</p> <p>1 at the beginning in terms of -- you know, so our 2 adversarial process is very important, but it has 3 also produced the very problem that we're talking 4 about. It's on the front end, you know. And 5 particularly in communities like Harlem and the 6 neighborhood where I am, one in 20 guys go to prison. 7 You know, the courts on the front end in the 8 adversarial process is part of the problem. I don't 9 think you can just put this all on parole or 10 corrections, you know, as deserving of blame as they 11 are; the courts are also part of the problem. The 12 courts need to reform the way that they work on 13 sentencing folks and the way that we look at these 14 issues to begin with. We shouldn't be sending so 15 many folks into prison and jails as we do. 16 JUDGE TAUBER: Which is what we're going 17 to deal with right now. You're going to be the first 18 respondent. Let's talk about pre-entry courts, last 19 best chance to avoid prison. How important, Chris, 20 is it to have a system that has a back stop before 21 you go to prison and provides an opportunity perhaps 22 to go into jail, serve a term, but be released, but</p>	<p style="text-align: right;">117</p> <p>1 you need some capacity to provide treatment and 2 assessment. I know the other administrators talk 3 about the challenge of doing that as well. 4 JUDGE TAUBER: I think there's a number of 5 courts that are doing that right now. 6 Steven, I know that your court is dealing 7 with a lot of folks who are high risk serious 8 offenders and focusing on keeping them out of prison 9 in the first place. Can you tell us about that. 10 JUDGE MANLEY: Well, I mean, I agree with 11 what has just been said, that a major part of the 12 problem is the courts. 13 Now, in our court, for example, we 14 concentrate on what is called the violation of 15 probation count because that as a court count has 16 nothing to do with jail or prison. The way you get 17 to prison is screw up on probation. And in many 18 courts in California, all of those cases are heard by 19 a set group of judges. And then you become very 20 similar to what a parole officer would be for the 21 state system. In other words, here's someone who has 22 been sent to jail, put on probation, now they've</p>

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118	<p>1 screwed up, technically or new events. That offender 2 can be sent to prison by the judge. If you intercede 3 there and bring that offender into a reentry court, 4 you see, as an alternative to being sent to prison -- 5 because, in all honesty, in my experience, all the 6 things you've been talking about, they had public 7 defenders; oh, yes, they had counsel; but the 8 outcomes are terrible. The likelihood of going to 9 prison from a probation violation calendar is just as 10 hard many times as the likelihood of going from a 11 Parole Board hearing. So you need to intercede at 12 both points. And what we do is bring those offenders 13 over into the reentry court, because the 14 understanding is this. They come with a suspended 15 sentence. The judge gives the sentence and says, if 16 you complete the program, you do not go in; I give my 17 jurisdiction to the other judge. So, in that way, 18 even if the offender fails, you are not in a position 19 of being forced to send them to prison. And in that 20 way, you see, you can intercede. And I think it's a 21 very important concept, because you have to stop 22 people from being sent back by judges.</p>	120	<p>1 biggest problem coming from our Department of 2 Corrections; that's our biggest headache -- and, of 3 course, what we've tried to do is create a local 4 sentencing policy for those low level offenders where 5 we will, upon violation, maybe spend a few days in 6 the county jail until we can arrange for them to be 7 placed in a local community-based correction 8 facility, maybe up to four months, five months. From 9 there, they step down to our community alternative 10 center which is located in our community and sort of 11 run by the courts. And so we sent them back into the 12 community. We start addressing some of their reentry 13 needs in housing, family issues, drug and alcohol 14 setup for them. And they serve their time out, and 15 they're done.</p> <p>16 JUDGE TAUBER: Teresa, I saw you shaking 17 your head.</p> <p>18 MS. WILLIAMS: We're doing essentially the 19 same thing. In fact, probably the biggest paramount 20 shift in Dow County has been getting the assessment, 21 risk assessment, PSI, clinical assessment, all 22 together. And we start looking at, in terms of the</p>
119	<p>1 JUDGE TAUBER: This is something that I 2 believe very simply is the best way to deal with 3 prison overcrowding and failures is not to put people 4 in prison, and I think that's what Steven is talking 5 about.</p> <p>6 Who else has experienced -- and I see, I 7 think, talking about that when they talk about having 8 a seamless process, I know that there are a number of 9 counties, and I just want to throw it out. Who is 10 actually getting involved at the time of arraignment 11 or the time of plea?</p> <p>12 David.</p> <p>13 MR. LEITENBERGER: Yes, in reentry, we had 14 talked about earlier about trying to identify people 15 prior to sentencing and to do our risk and needs 16 there, and, you know, getting people out or keeping 17 them from going in, identify them for return to 18 reentry early on rather than later to serve the 19 majority of their sentence.</p> <p>20 Also, what we have also done recently is 21 with the low-level offenders who may only have six 22 months or so to serve -- and that's probably the</p>	121	<p>1 alternatives, I told you, we have 16 problem-solving 2 courts, and a number of them are reentry courts that 3 are attached to residential treatment programs or the 4 prison-based program I talked about. And a person 5 can go, obviously, in lieu of a motion for probation, 6 which often happens as part of the deal, or they can 7 go right up front with a plea. So the assessment is 8 going to drive not only which residential treatment 9 program they come through but whether or not they're 10 going to come back out in a reentry court. What 11 we've realized was some of the courts were really 12 targeting or some of the programs were really trying 13 to serve the higher risk offenders in a reentry 14 court. So we have a couple of programs where 15 everybody comes out into a reentry program. The 16 planning always starts from the point of entry in 17 terms of figuring out where they're going to live, 18 how they're going to reside, assessing what their 19 needs are, their progress, what kind of treatment.</p> <p>20 JUDGE TAUBER: And this is actually before 21 sentencing?</p> <p>22 MS. WILLIAMS: Yes.</p>

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122	<p>1 JUDGE TAUBER: We're going to be moving</p> <p>2 pretty quickly, as you can see.</p> <p>3 This is a very interesting occurrence.</p> <p>4 Governor Schwarzenegger has a plan to send 15,000</p> <p>5 prisoners to county jail and give the jails in the</p> <p>6 county \$12,000 per prisoner to be housed in county</p> <p>7 jail.</p> <p>8 Now, what does that suggest to you? Is it</p> <p>9 a good idea --</p> <p>10 JUDGE MANLEY: That's not fair to our</p> <p>11 governor, who will soon be retiring. No, seriously,</p> <p>12 I had talked with staff in his finance department</p> <p>13 that that is not -- the concept, it is not just jail;</p> <p>14 it also includes drug counts. If you read the</p> <p>15 language, the governor's proposal is basically saying</p> <p>16 this. Now, I don't agree with the dollar amount,</p> <p>17 because that will not cover the cost. But,</p> <p>18 basically, what he is saying is, I don't want to have</p> <p>19 to pay for these people in the state system; I want</p> <p>20 to cut my cost. And he knows the counties are mad</p> <p>21 because he don't speak well of the counties when they</p> <p>22 release them from prison. So I'm going to pay you</p>	124	<p>1 somehow in this dollar figure here that you're</p> <p>2 incentivizing the placement in county jail, I think,</p> <p>3 is wrong-headed.</p> <p>4 JUDGE TAUBER: Sounds like I may have</p> <p>5 misunderstood the language.</p> <p>6 MS. HUDSON: The concept of a per diem is</p> <p>7 something that Indiana's Department of Corrections</p> <p>8 has used for a real long period of time. And between</p> <p>9 transition programs that Judge Surbeck talked about</p> <p>10 and the offers of per diem, early release program,</p> <p>11 there are a number of reentry courts that are taking</p> <p>12 advantage of that per diem that DOC is offering to</p> <p>13 provide the services that the reentry court is</p> <p>14 offering. Now, it's not necessarily for drug court</p> <p>15 enrollment. It's for community-based programming;</p> <p>16 it's not for jail programming; it's for work release</p> <p>17 programming or electronic monitoring or any other</p> <p>18 service that the individual county is able to provide</p> <p>19 through that. So that doesn't seem totally foreign</p> <p>20 to us because we've had that for some time.</p> <p>21 JUDGE SURBECK: And our per diem is about</p> <p>22 the same, \$32 per day, and that's about what our DOC</p>
123	<p>1 \$12,000. You put them in jail; you put them in a</p> <p>2 drug court; you put them in a reentry court.</p> <p>3 JUDGE TAUBER: You take responsibility.</p> <p>4 JUDGE MANLEY: You take it over; let the</p> <p>5 courts have them; let the counties have them. So I</p> <p>6 don't disagree at all with the concept. I don't</p> <p>7 agree they should be put in jail, because that would</p> <p>8 shift overcrowding from the prisons to the jails.</p> <p>9 But the concept of doing things locally, I think, is</p> <p>10 a good one.</p> <p>11 MR. BRADY: If you attach dollars, I think</p> <p>12 Mary said, if you attach dollars at the bottom,</p> <p>13 that's a good concept, because then you're doing it</p> <p>14 for services. So if you say, I'm going to give you</p> <p>15 \$20,000 per -- in California, it's going to take at</p> <p>16 least \$20,000; someplace else, it might take a little</p> <p>17 bit less. But let's say I'm going to send this</p> <p>18 person, parolee, back to the county, and I'm going to</p> <p>19 give you \$20,000 to provide services, incarceration,</p> <p>20 or put him in a drug court. You attach money to the</p> <p>21 body for services. I agree with the Judge, that is a</p> <p>22 better concept than what we have now. But to suggest</p>	125	<p>1 is paying.</p> <p>2 JUDGE TAUBER: Melissa.</p> <p>3 MS. KNOPP: As far as the pre-entry thing</p> <p>4 goes, in Ohio, we're using our specialized docket</p> <p>5 program, kind of a pre-entry on felony cases. It's</p> <p>6 the most intensive form of supervision in the</p> <p>7 community. Actually, we're doing this in Ohio</p> <p>8 through our Department of Rehab and Corrections.</p> <p>9 Like I said before, our biggest problem is 60 percent</p> <p>10 of our population is in our state prison system for</p> <p>11 less than a year. So what our Department of</p> <p>12 Reentering Corrections has started a goal in counties</p> <p>13 is say -- they're looking at how many fourth and</p> <p>14 fifth degree felons is your county sending; what's</p> <p>15 the length of stay? And then they'll attach a dollar</p> <p>16 amount to it if the county keeps them in the county,</p> <p>17 not so much in the county jail, but to keep them on</p> <p>18 supervision in the county. And the good thing I</p> <p>19 really give our DRC department credit for is that</p> <p>20 they're not just saying I'll give you 20,000 and you</p> <p>21 have to hire a probation -- they're not telling their</p> <p>22 counties what they have to use the money for. We go</p>



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126	<p>1 in and we'll do a means resource approach and see, do</p> <p>2 you need more treatment, is that the problem? What</p> <p>3 is it that you actually need to be able to</p> <p>4 effectively supervise these people in the community?</p> <p>5 JUDGE TAUBER: So is this pre-entry</p> <p>6 concept or county-based reentry process, is it as</p> <p>7 significant and important as reentry from prison?</p> <p>8 MR. LEITENBERGER: Absolutely.</p> <p>9 JUDGE TAUBER: Scott.</p> <p>10 MR. JOHNSTON: You know, I'm a community</p> <p>11 corrections person, and so probation and parole has</p> <p>12 this perception that it's been dealing with it for a</p> <p>13 long time, but I really think now a lot through the</p> <p>14 drug court movement we've all learned together what</p> <p>15 works, and so we know that. And I think in Missouri</p> <p>16 we've seen our drug courts drifting towards probation</p> <p>17 violators, working with people coming out of</p> <p>18 institutional drug treatment. And I think the idea</p> <p>19 in community corrections, if we know what works and</p> <p>20 who it works best with, then as people are placed on</p> <p>21 probation, if you're doing a good assessment and</p> <p>22 involving the court in the supervision process, then</p>	128	<p>1 sent to state prison and have better outcomes.</p> <p>2 JUDGE TAUBER: Let me ask you another</p> <p>3 question because I think that you're the perfect</p> <p>4 person to answer. Missouri is a state that combines,</p> <p>5 unifies probation and parole. And, as I understand</p> <p>6 it, your responsibility is as the department head of</p> <p>7 that particular program. Now, over the past ten</p> <p>8 years, it's gone from just a few courts that are</p> <p>9 doing that to 27, 28, I think is what you told me one</p> <p>10 time?</p> <p>11 MR. JOHNSTON: Well, I can't tell you the</p> <p>12 exact number because it's all kind of fuzzy, but we</p> <p>13 have a lot of courts that are moving in that</p> <p>14 direction.</p> <p>15 JUDGE TAUBER: How does that impact these</p> <p>16 concepts, the reentry court, or does it, having</p> <p>17 parole and probation under a single head or having an</p> <p>18 integrator?</p> <p>19 MR. JOHNSTON: Well, I think the fact that</p> <p>20 we're here today in this room and talking together</p> <p>21 and everyone is coming from a different place is a</p> <p>22 very positive sign. I mean, whether or not you've</p>
127	<p>1 you're going to get better outcomes. So this idea of</p> <p>2 evidence-based sentencing or evidence-based</p> <p>3 practices, if you take that concept, we've been</p> <p>4 pushing really hard in Missouri to educate community</p> <p>5 members, judges, prosecutors, defense attorneys, and</p> <p>6 I think there's kind of a natural bottom-up swelling</p> <p>7 of let's do what's right in this community because we</p> <p>8 know it's all about improving the safety of the</p> <p>9 community, improving the success of individuals, and</p> <p>10 so people start to understand what works.</p> <p>11 I just got a proposal from a very small</p> <p>12 county in Southern Missouri to do what they call a</p> <p>13 reentry court, and I think they're calling it a</p> <p>14 reentry court because they want some money, but</p> <p>15 they're talking five to ten people, but it's a very</p> <p>16 small role court. And really what it is is</p> <p>17 court-involved supervision, and it's a strategy in</p> <p>18 its continuum of people who have been put on</p> <p>19 probation by the court but need more structure and</p> <p>20 more involvement from the court. And that makes</p> <p>21 sense, and we support that wholeheartedly, because</p> <p>22 those five or ten people are much less likely to be</p>	129	<p>1 got a combined probation and parole system or not, I</p> <p>2 think the idea is trying to apply what works best at</p> <p>3 the local level and having to stay involved to</p> <p>4 support that. To me, it's very encouraging. But, on</p> <p>5 the other hand, I think we're somewhat on an uphill</p> <p>6 battle, because one of the things that hasn't been</p> <p>7 mentioned yet is success and how you define it and</p> <p>8 who you're comparing yourselves with. And, in</p> <p>9 Missouri, our drug court association is very strong;</p> <p>10 they've had very great results; and they use these</p> <p>11 statistics about their recidivism rate or the return</p> <p>12 rate. As the reentry courts get going or the judges</p> <p>13 get involved and there's evaluations going on, their</p> <p>14 success rate is not going to be in this very small</p> <p>15 percent; it's going to be higher. But you've got to</p> <p>16 be able to show the impact on the public safety and</p> <p>17 on the cost to the state. So we're trying to be very</p> <p>18 involved with the university and the local courts to</p> <p>19 show that you're working with a different group. And</p> <p>20 it's not to diss drug courts and their efforts</p> <p>21 towards sobriety and improved individual success, but</p> <p>22 if you're really targeting smart use of resources as</p>

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130	<p>1 it applies to public safety, I really think the</p> <p>2 efforts of the reentry courts are smart, but your</p> <p>3 success rates are going to be like the drug courts,</p> <p>4 and that's one issue we've got in Missouri is</p> <p>5 hesitancy, I think, for those advocates for drug</p> <p>6 courts to be supportive in the same way with reentry</p> <p>7 courts.</p> <p>8 JUDGE TAUBER: So where does probation and</p> <p>9 parole in Missouri or in other states, how important</p> <p>10 is it and how does it play out?</p> <p>11 MR. JOHNSTON: Well, if we look at reentry</p> <p>12 courts and we look at our other interventions and our</p> <p>13 other strategies with moderate to high risk or high</p> <p>14 risk offenders, whether they're parole clients or</p> <p>15 probationers, the outcomes are as good or better than</p> <p>16 our other community corrections interventions, and I</p> <p>17 don't want that to get lost is that we do have</p> <p>18 community corrections, strategies, and programs that</p> <p>19 are effective and that work. The reentry court in a</p> <p>20 court-involved supervision strategy is as effective</p> <p>21 as those best-run community corrections programs and,</p> <p>22 I think, hold great potential, but it's targeting and</p>	132	<p>1 the court involvement with these moderate to high</p> <p>2 risk offenders because it's the same resources we</p> <p>3 would be spending on them anyway.</p> <p>4 So, as a state agency, supporting reentry</p> <p>5 courts or problem-solving courts with offenders at</p> <p>6 this point makes economic sense more now than ever</p> <p>7 before. Drug courts, it was a little hard because</p> <p>8 you were investing a lot of state resources and state</p> <p>9 time on people, but the evidence really didn't show</p> <p>10 us it was necessary. But we wanted to support the</p> <p>11 local court and the local prosecutor. If they wanted</p> <p>12 to work with an individual, we wanted to be there.</p> <p>13 Does that make sense?</p> <p>14 JUDGE TAUBER: Can I share your e-mail</p> <p>15 address with all these folks?</p> <p>16 MR. JOHNSTON: What?</p> <p>17 JUDGE TAUBER: I want to know if I could</p> <p>18 share your e-mail address.</p> <p>19 MR. JOHNSTON: Oh, sure.</p> <p>20 JUDGE TAUBER: Because I think that your</p> <p>21 kind of advocacy of support is really very helpful.</p> <p>22 Not every state has parole and probation behind them.</p>
131	<p>1 working with the local community to be comfortable</p> <p>2 with this whole practice.</p> <p>3 JUDGE TAUBER: Now, not necessarily every</p> <p>4 parole or probation department is going to be open to</p> <p>5 this concept, the shifting of responsibility,</p> <p>6 authority, maybe even resources. How do you deal</p> <p>7 with that or how should people be thinking about that</p> <p>8 issue?</p> <p>9 MR. JOHNSTON: Well, from Missouri's</p> <p>10 perspective, we've stuck with problem-solving courts</p> <p>11 because we've got mental health courts, drug courts</p> <p>12 from the very beginning. And in the beginning it was</p> <p>13 much harder for me to do that as a head of a</p> <p>14 probation and parole agency because the workload</p> <p>15 associated with the drug court was often much higher</p> <p>16 than what we normally allocate to the lower risk</p> <p>17 case. Over the years, we've seen the cases that are</p> <p>18 handled by these courts, and particularly with</p> <p>19 reentry courts, increasing in terms of the work</p> <p>20 allocation that we would give it. So, to me, it</p> <p>21 makes a lot more sense now that we've stuck with it</p> <p>22 through 15, 20 years to support reentry courts and</p>	133	<p>1 MR. SIEGEL: Can I say one thing? I know</p> <p>2 I'm a facilitator. But there are in places like New</p> <p>3 York some practical ramifications for parole and</p> <p>4 probation being separate and being under different</p> <p>5 government aegises.</p> <p>6 JUDGE TAUBER: Please.</p> <p>7 MR. SIEGEL: Probation is a court function</p> <p>8 or a state function in New York in the sense that</p> <p>9 localities work with courts. You are sentenced to</p> <p>10 probation; you're still under the jurisdiction of the</p> <p>11 court. In parole, you're part of the administrative</p> <p>12 system. And what that means in terms of accesses to</p> <p>13 resources, very practical. If you have a</p> <p>14 jurisdiction that has a drug court or a mental health</p> <p>15 court, there are situations where probationers are</p> <p>16 getting benefit of the services that are available in</p> <p>17 those problem-solving courts because they're under</p> <p>18 the aegis of the court system. The parolees are not,</p> <p>19 and so they are foreclosed by dint of the legislative</p> <p>20 barrier that puts parole as an administrative</p> <p>21 function from accessing court-based services. That</p> <p>22 doesn't happen routinely. It may happen in some of</p>

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134	<p>1 the smaller jurisdictions where you have creative</p> <p>2 judges who are working much more closely with local</p> <p>3 parole administrators. But by and charge, parole</p> <p>4 exists in New York, in places like New York, as a</p> <p>5 separate and distinct system. It has to fight for</p> <p>6 and find its own resources and funding; it doesn't</p> <p>7 have the benefit of what the court system can do.</p> <p>8 JUDGE TAUBER: So there's structural walls</p> <p>9 that are created by economics, politics, history, and</p> <p>10 the rest.</p> <p>11 JUDGE MANLEY: Let me just answer that</p> <p>12 because I realize that many states it's separate, and</p> <p>13 California is no different than the rest. But I'll</p> <p>14 tell you, with this reentry court legislation, what</p> <p>15 we're doing is breaking that barrier down in this</p> <p>16 sense. To me, it has never made any sense for the</p> <p>17 state to try and run a reentry program in terms of</p> <p>18 treatment, services, employment, so forth, at the</p> <p>19 lower level. They're just incapable of doing it, and</p> <p>20 they've never been able to do it. Resources are</p> <p>21 community driven; they're local. So what we've done</p> <p>22 in this legislation is to join the two, take</p>	136	<p>1 monitoring, the state is giving the probation</p> <p>2 departments a percentage of the savings generated if</p> <p>3 the courts send fewer people back to prison. So as</p> <p>4 probation does a better job stopping people from</p> <p>5 going back to prison or going to prison in the first</p> <p>6 place, they are paid a percentage of the savings,</p> <p>7 which is substantial. That leads to change within, I</p> <p>8 think. It's when you give the courts and probation</p> <p>9 and parole an incentive to do things differently.</p> <p>10 JUDGE TAUBER: Steven, I have a followup</p> <p>11 question. A lot of people aren't aware that, I</p> <p>12 think, I believe, you virtually single-handedly</p> <p>13 convinced the legislature to create the reentry --</p> <p>14 this is true -- create this \$10 million pilot</p> <p>15 program. How do you approach the legislature; how do</p> <p>16 you approach corrections; how do you get support in a</p> <p>17 state as big as California, a trial judge with other</p> <p>18 responsibilities, and create the program out of your</p> <p>19 own, you know, your own dedication?</p> <p>20 JUDGE MANLEY: Well, I think the basis</p> <p>21 was there and was demonstrated in drug courts, and</p> <p>22 that is that you can reduce costs. You can reduce</p>
135	<p>1 advantage of the state's psychiatric services, the</p> <p>2 county medications or whatever, the other way around.</p> <p>3 In other words, increase the amount of resources</p> <p>4 rather than limit them that unless you're a parolee</p> <p>5 you can't access this bed; unless you're on probation</p> <p>6 or in the court system, you can't do this. And that</p> <p>7 is a big change.</p> <p>8 The other two things I just wanted to note</p> <p>9 is that -- I'm going back to Governor</p> <p>10 Schwarzenegger's statement. One of the things that</p> <p>11 we have done, actually, two things in California. In</p> <p>12 our reentry court legislation, the funding may be</p> <p>13 spent by the courts, and that is because I believe</p> <p>14 you have to incentivize. If you're going to change</p> <p>15 things, it's not enough to just tell people this is a</p> <p>16 better way to do it like drug courts. Courts are</p> <p>17 busy. They feel that they have too much to do,</p> <p>18 presiding judges do. They do not want to do that.</p> <p>19 How do you convince them that they are to do more?</p> <p>20 Incentivize them, give them funds.</p> <p>21 Our probation system is a starved system</p> <p>22 in California, yet this year, through the AOC</p>	137	<p>1 prison population if you make drug courts require</p> <p>2 them to only serve felons with prison exposure. Once</p> <p>3 you've shown you can do something, then it's a</p> <p>4 question of being patient and waiting and coming back</p> <p>5 again and again with the same concept until you can</p> <p>6 -- and this is what I think is happening in</p> <p>7 California -- the legislature and even the governor</p> <p>8 -- doesn't matter if it's Governor Schwarzenegger or</p> <p>9 a democrat -- because in terms of his proposal, it's</p> <p>10 the same concept that the democrats have that he has,</p> <p>11 which is that, you know, you have to pay something to</p> <p>12 get government to change. And so if you want the</p> <p>13 courts to change, you want probation to change, you</p> <p>14 just go back again and again.</p> <p>15 But I will tell you the real issue, and</p> <p>16 this is why, to me, this is the critical time. Right</p> <p>17 now, everyone is focused on costs. Recidivism is not</p> <p>18 the issue; it's the incredible costs. Our prisons</p> <p>19 cost as much as higher education. All you have to</p> <p>20 say is ten million versus 8.5 million, and if I can</p> <p>21 reduce that number, then I'm with you. So as long as</p> <p>22 you come up with practical ways to reduce the number,</p>

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138	<p>1 the dollar number of costs -- and in California we</p> <p>2 call it scoring savings. They want to be able to say</p> <p>3 they can score this saving this year. And if you're</p> <p>4 doing a reentry court, you see, the minute -- if you</p> <p>5 agree with me and you're the legislature of the</p> <p>6 government that this person in my court is going to</p> <p>7 prison, every day I keep him out of prison -- it's</p> <p>8 not that I have a two percent recidivism rate or 20</p> <p>9 or 50 -- every day I keep him out, I save you money,</p> <p>10 see, every day. So you score those savings and you</p> <p>11 take 50 percent of it, whatever percent you can get,</p> <p>12 and put it back into the program instead of back into</p> <p>13 corrections. That's what it's all about. What it's</p> <p>14 really all about in my view and what I've been</p> <p>15 fighting for for years is shifting money from</p> <p>16 corrections to the local level, to the courts and</p> <p>17 reentry courts and services, treatment and all the</p> <p>18 things we need to go with it, and not being greedy</p> <p>19 and asking dollar for dollar. The state will never</p> <p>20 do that. But they will give you 50 cents on the</p> <p>21 dollar. That's enough.</p> <p>22 MR. BRADY: Judge, before we leave the</p>	140
139	<p>1 cost issue, I think we cheat ourselves as an</p> <p>2 organization, and I mean the criminal justice</p> <p>3 organization, judges, probation, parole, because we</p> <p>4 don't calculate the social cost of crime. So when</p> <p>5 we're talking about making a decision on a fiscal</p> <p>6 decision, we're talking about cost of incarceration</p> <p>7 versus treatment. But what we don't calculate the</p> <p>8 savings to the state is whether you have a crime-free</p> <p>9 day and drug-free day. That means you have 55 less</p> <p>10 burglaries that day, which how much does it cost to</p> <p>11 arrest, incarcerate, and prosecute someone for a</p> <p>12 crime? And I haven't seen any studies that talk</p> <p>13 about the social costs, the cost of arrest, the cost</p> <p>14 of prosecution. They're generally associated with --</p> <p>15 and the victimization, property loss, insurance</p> <p>16 claims. There's a significant dollar figure here</p> <p>17 that's associated with crime, and the nexus between</p> <p>18 -- that people don't get -- between drug addiction</p> <p>19 and crime and mental health and crime is staggering</p> <p>20 as far as economics go. And I said that for the</p> <p>21 Judge's benefit.</p> <p>22 JUDGE TAUBER: We're going to have to cut</p>	141

1 it here. We're going to take 20 minutes to get our

2 food together. Doug Marlowe is here. At 12:30, he's

3 going to be presenting on evidence-based practices

4 and, I think, research, the kind of research that you

5 have questions about.

6 So, at 12:30, if you can return, I think

7 he'd really appreciate it.

8 (Luncheon recess.)

1

2 AFTERNOON SESSION

3 JUDGE TAUBER: It's a great pleasure to

4 introduce Doug Marlowe. Let me tell you a little bit

5 about Doug. Doug has a PhD in clinical psychology.

6 He also has a law degree. He combines the two as

7 director of science, law, and policy -- or is it

8 science, policy, and law -- at NADCP. He's also a

9 researcher at University of Pennsylvania. I think

10 he's one of the few people in the research field that

11 I know and have heard who actually can speak to the

12 layperson and allow us to have some idea of what is

13 going on, and I think it's a marvelous attribute and

14 characteristic, and I give you Doug Marlowe.

15 (Applause.)

16 DR. MARLOWE: I was once introduced as one

17 of the most interesting researchers that somebody had

18 ever heard, kind of like being the tallest dwarf.

19 I do want to answer Mike Brady's question

20 about cost and assessing cost for criminal days and

21 criminal events offset. There's a guy named Michael

22 French who has just published the most recent figures

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142	<p>1 on what are the average cost savings for an avoided</p> <p>2 day of crime based on the severity and the nature of</p> <p>3 the crime. So, if you avoid a theft defense, this is</p> <p>4 how much you save in law enforcement processing; this</p> <p>5 is how much you save, et cetera, et cetera. And if</p> <p>6 you e-mail me, I'll send you the pdf for the article.</p> <p>7 It just came out in 2009-2010. He actually has some</p> <p>8 data for juvenile offenders as well. Michael French,</p> <p>9 he's from the University of Miami.</p> <p>10 So, I've been asked to talk about</p> <p>11 evidence-based practices and reentry programming.</p> <p>12 And since I wasn't here this morning, and I apologize</p> <p>13 for that, but I've been at the -- the NADCP board</p> <p>14 meeting is all day today, and I'm on many committees.</p> <p>15 So, if I'm saying things that you've already talked</p> <p>16 about or that you're going to be talking about later,</p> <p>17 I apologize, and I apologize for having to leave</p> <p>18 after lunch.</p> <p>19 We all know what the problems are. After</p> <p>20 leaving prison, within two weeks, ten percent of</p> <p>21 drug-involved offenders will go back to using drugs</p> <p>22 within a two-week period. These are Bureau of</p>	144	<p>1 been in prison for some period of time and presumably</p> <p>2 are using drugs a lot less often than they did before</p> <p>3 or maybe not using drugs at all, their tolerance goes</p> <p>4 back down. And when they go back out, if they're</p> <p>5 using at their previous rate or a higher rate, they</p> <p>6 are at risk for overdose. And, in fact, the highest</p> <p>7 rates of death among particularly opiate-addicted</p> <p>8 prisoners are within the first 90 days post-release.</p> <p>9 There's an unusual rate of overdose because they</p> <p>10 don't realize that they can't use at that level any</p> <p>11 longer.</p> <p>12 In terms of rearrest rates, you guys are</p> <p>13 all familiar with these statistics. Everybody knows</p> <p>14 that two out of three offenders, inmates, are</p> <p>15 re-arrested within three days. Those are from the</p> <p>16 Bureau of Justice statistics data. And if you look</p> <p>17 specifically at drug offenders, you generally get a</p> <p>18 higher recidivism rate of about 82 percent, just as a</p> <p>19 point of reference so that you can compare it, one of</p> <p>20 the average recidivism rates on probation for all</p> <p>21 offenders and drug offenders through drug court</p> <p>22 programs based on looking at drug-involved offenders.</p>
143	<p>1 Prisons' statistics. Within a month, 15 percent are</p> <p>2 back to drug use; within two months, 30 percent. And</p> <p>3 then if we go out to one year, 85 percent return to</p> <p>4 drug use. And within three years, it exceeds 95</p> <p>5 percent return to drug use. And we are not talking</p> <p>6 about returning to their baseline levels of drug use.</p> <p>7 During this period, this early period of the first</p> <p>8 three to six months, you often get what's called a</p> <p>9 response burst. If you are engaged in a compulsive</p> <p>10 behavior and I stop you so you can't engage in it</p> <p>11 anymore; I put you in prison and you cannot do it;</p> <p>12 and then after some period of time I let you suddenly</p> <p>13 reengage in that behavior, you will reengage at a</p> <p>14 higher rate than you did before. It's called a</p> <p>15 response burst. It's been demonstrated with all</p> <p>16 compulsive behaviors, including drug use. So, if</p> <p>17 somebody goes to prison and they were using an</p> <p>18 average of three times a week, they may be using four</p> <p>19 or five times a week when they first return to their</p> <p>20 baseline use, and then it settles down.</p> <p>21 Now, that is extremely dangerous. Why is</p> <p>22 that extremely dangerous? Because if somebody has</p>	145	<p>1 So what are we going to do about these</p> <p>2 exceptionally high rates of return to both drugs and</p> <p>3 criminal activity?</p> <p>4 There have been a number of efforts, and I</p> <p>5 want to first start off -- and I think we learn a lot</p> <p>6 from failure, so it's a good idea for us to look at</p> <p>7 some of the biggest projects that we have been</p> <p>8 engaged in for federal reentry and figure out what</p> <p>9 went wrong, because we don't want to repeat those</p> <p>10 mistakes.</p> <p>11 The first one was something called Project</p> <p>12 Green Light. It was done in New York. These were</p> <p>13 in-custody transitional services, a large-scale</p> <p>14 project. Offenders who would do state time would</p> <p>15 return to a local jail, I think, in Harlem and</p> <p>16 Brooklyn and Bronx, to local communities for</p> <p>17 transitional services in preparatory for rejoining</p> <p>18 their community, eight weeks of services. And they</p> <p>19 would develop a care plan while they were behind</p> <p>20 bars, and that care plan would follow them to their</p> <p>21 parole office, but there was no continued provision</p> <p>22 from the Green Light Program for those parole</p>

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146	<p>1 services, okay? That's a critically important issue.</p> <p>2 The services they got is something called reasoning</p> <p>3 and rehabilitation, R&amp;R. You may have heard of this.</p> <p>4 This is one of those criminal thinking interventions</p> <p>5 where you get offenders to realize they jump to the</p> <p>6 wrong conclusions; they don't stop; they don't think;</p> <p>7 teach them how to think before they act. But they</p> <p>8 abbreviated this intervention. There's normally like</p> <p>9 20-session intervention; they abbreviated it down to</p> <p>10 eight sessions; I think it was to accommodate the</p> <p>11 eight weeks of transitional services.</p> <p>12 They also give them job readiness</p> <p>13 training, pre-vocational training, learning how to</p> <p>14 develop a resume, how are you going to talk on a job</p> <p>15 interview, what are your job skills, getting ready</p> <p>16 for a job later on.</p> <p>17 Social work family therapy model, called</p> <p>18 social work model, does not follow any structured</p> <p>19 curriculum. They're meeting with somebody who is</p> <p>20 very often social workers that would try to get</p> <p>21 family members to come in, anticipate what the</p> <p>22 problems were going to be, help family members to</p>	148	<p>1 here is that the rearrest rates are actually highest</p> <p>2 for the Project Green Light, statistically</p> <p>3 significantly higher rearrest rates, okay? This was</p> <p>4 also true for revocations, for convictions. On every</p> <p>5 possible outcome they measured, the Project Green</p> <p>6 Light people did worse than the comparison offenders.</p> <p>7 So they found what we call in the research literature</p> <p>8 and clinical literature an iatrogenic effect where</p> <p>9 the treatment actually made people worse. And they</p> <p>10 brought together all senior researchers through all</p> <p>11 of the country, a group like this, to try to figure</p> <p>12 out how do we explain this; how could that have</p> <p>13 possibly happened? They did a special issue in the</p> <p>14 Journal of Criminology and Public Policy where they</p> <p>15 had researchers writing reaction pieces trying to</p> <p>16 understand what led to this iatrogenic effect, and</p> <p>17 nobody was able to rule out based on, you know, this</p> <p>18 wasn't really there; it was an error in the analysis;</p> <p>19 it was a real iatrogenic effect.</p> <p>20 So what we got from Project Green Light is</p> <p>21 that if you provide non-evidence-based services --</p> <p>22 that's first point I want to raise -- they took the</p>
147	<p>1 prepare for their return to the community. And then</p> <p>2 they got some relapse prevention, drug treatment</p> <p>3 regimen sessions, trying to get their motivation</p> <p>4 ready to go into drug treatment if they had a drug</p> <p>5 problem so they would enter treatment when they left</p> <p>6 prison.</p> <p>7 Can everybody see the general model?</p> <p>8 Okay, and this was done in very large numbers of</p> <p>9 subject. A lot of money invested in this project,</p> <p>10 okay? Let's look at what happened. Here you're</p> <p>11 looking at the clients in Project Green Light are the</p> <p>12 green marks, and there are two comparison groups.</p> <p>13 There was a contemporary comparison sample of</p> <p>14 parolees who did not go through the Green Light</p> <p>15 intervention. And this is another upstate parole</p> <p>16 sample that they were able to get. Everybody is</p> <p>17 matched on the severity of the drug problems, their</p> <p>18 history, age, all the risk factors, so that you've</p> <p>19 got a fair comparison of the Project Green Light</p> <p>20 offenders to the non-Project Green Light offenders.</p> <p>21 And here you're looking at rearrest rates at 12</p> <p>22 months and then at 18 months. And what you can see</p>	149	<p>1 reasoning and rehabilitation curriculum and cut it in</p> <p>2 half. Now, with reentry offenders, you don't water</p> <p>3 down your intervention, you build up your</p> <p>4 intervention. They probably need twice as much</p> <p>5 reasoning and rehabilitation as has been worked in</p> <p>6 the community samples. So they cut a good</p> <p>7 intervention in half.</p> <p>8 The social work family therapy model --</p> <p>9 and I'm not putting down social work -- I'm talking</p> <p>10 about the general model of getting the family ready</p> <p>11 and how you're going to be serviced has no</p> <p>12 evidence-based client input whatsoever. The only</p> <p>13 family-based models that have been shown to work for</p> <p>14 offenders are family-based models that train the</p> <p>15 family members how to deal with inappropriate</p> <p>16 activity. What are you going to do if he comes home</p> <p>17 drunk? What are you going to do if he doesn't go to</p> <p>18 his appointment? How are you going to not get into a</p> <p>19 struggle? In other words, teaching them how to do</p> <p>20 effective behavior modification are the only</p> <p>21 interventions, family-based interventions that work.</p> <p>22 The other family-based interventions</p>

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150	<p>1 either don't work or have iatrogenic effects. In</p> <p>2 other words, all you're doing is getting the family</p> <p>3 together and leading very often to higher levels of</p> <p>4 family conflict, higher levels of anxiety in the</p> <p>5 family about the person coming back. If you raise</p> <p>6 anxiety and don't tell them what to do with it, then</p> <p>7 you have somebody going back to a situation where</p> <p>8 it's going to fail, okay?</p> <p>9       Prevocational employment interventions</p> <p>10 have never been shown to have any effectiveness.</p> <p>11 It's on-the-job vocational interventions that are</p> <p>12 effective. People need to learn in a job component</p> <p>13 program. The time to teach somebody how to develop a</p> <p>14 resume is while they're on this job, and you're</p> <p>15 getting them ready because they want a better job</p> <p>16 next, how to help them preparing for their next job</p> <p>17 while they're on the first job. Prevocational</p> <p>18 interventions have an average effect of zero, so,</p> <p>19 non-evidence-based treatments.</p> <p>20       Number 2, minimal community-based after</p> <p>21 care, as I'll show you, if you give services behind</p> <p>22 bars without after care, you get no effect of the</p>	152
151	<p>1 intervention, no effect whatsoever. When you put</p> <p>2 those two things together, non-evidence based</p> <p>3 treatment with no after care post-release, you get</p> <p>4 iatrogenic effects. That's the recipe for increasing</p> <p>5 recidivism. Every program that has ever done</p> <p>6 non-evidence based treatment with no followup has</p> <p>7 been lucky that they escaped with no increase in</p> <p>8 recidivism, okay?</p> <p>9       Now, the question is how do we explain</p> <p>10 this? And if you're interested, we can get into a</p> <p>11 debate about what explains that. What we think is</p> <p>12 going on is that you're creating disillusionment in</p> <p>13 the population. In other words, these offenders know</p> <p>14 what poor quality treatment looks like, and the worst</p> <p>15 thing you can do is give them poor quality treatment</p> <p>16 and then not followup with them once they leave the</p> <p>17 facility. So you raise an expectation; you fail to</p> <p>18 meet that expectation; you create higher levels of</p> <p>19 disillusionment; and they actually do worse. That's</p> <p>20 what looks to be what's going on; okay? That's what</p> <p>21 we think is going on, although I can't prove that to</p> <p>22 you today.</p>	153

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154	<p>1 Now, let's see what happens. They're</p> <p>2 evaluated one month before they leave prison. So</p> <p>3 here you can see this is the proportion of services</p> <p>4 they needed; that's the proportion of services that</p> <p>5 were being delivered behind bars 90 days prior to</p> <p>6 their release. Now, the good news is the SVORI</p> <p>7 clients are getting significantly more services than</p> <p>8 the non-SVORI. That's what the whole idea was; they</p> <p>9 were going to get more service as a result of this</p> <p>10 hundreds of millions of dollars put in. But you can</p> <p>11 see here it's about 35 percent of services being</p> <p>12 administered when they needed about 55 percent. So</p> <p>13 they estimated they were getting about two-thirds of</p> <p>14 what they needed. All kinds of explanations about</p> <p>15 why the inmates weren't getting all the services they</p> <p>16 needed behind bars, but this is the dose they got.</p> <p>17 They were evaluated again three months</p> <p>18 out, and the good news again is the SVORI clients are</p> <p>19 getting more service than the non-SVORI clients, but</p> <p>20 look at the way both graphs are going down, down,</p> <p>21 down, and they're getting closer and closer to each</p> <p>22 other. And by the time you're nine months out,</p>	156
155	<p>1 they're getting about ten percent of the services.</p> <p>2 The SVORI is still doing better than non-SVORI, but</p> <p>3 they're almost beginning to cross. And by 15 months</p> <p>4 post-release, there's no appreciable difference</p> <p>5 between the two groups in the services that they're</p> <p>6 receiving. And the question, of course, the big</p> <p>7 question is why is this? Is it that the</p> <p>8 jurisdictions ran out of service; did they run out of</p> <p>9 money; did they not have services to give? No, the</p> <p>10 answer is that the inmates weren't showing up; the</p> <p>11 released parolees were not going to the services.</p> <p>12 There may have been other barriers and other</p> <p>13 problems. But, for the most part, if anybody thinks</p> <p>14 that if I have an office and all you have to do is</p> <p>15 come to my office twice a week for services that</p> <p>16 inmates are going to be coming to that office</p> <p>17 regularly don't understand the population we're</p> <p>18 talking about, okay? They have to be closely</p> <p>19 supervised; there has to be consequences when they</p> <p>20 don't go to treatment; otherwise, they do not go to</p> <p>21 treatment. There are other problems, but that was</p> <p>22 the biggest contribution. So there's no difference</p>	157

1 15 months out for the males. And, as you can see,

2 really, by the time you're about three months out,

3 they're not getting a meaningful dose of

4 intervention; they're just not. And, by the way,

5 this is what happens in the real world, typically,

6 the amount of interventions they're getting on

7 parole.

8 What about the women? The women did

9 better. Behind bars, the women are endorsing about

10 65 percent of needed services, so they have more

11 services needs when they start. Bigger spreads

12 between the SVORI and non-SVORI females out to about

13 15 months, still statistically significant. So the

14 women have a better show rate in services. By the

15 way, that's a universal finding. Substance abuse,

16 women go to services, avail themselves of services

17 more than men do; that's not a new finding. But,

18 again, you can see that by the time you're nine

19 months out, they're not getting an appreciable dose

20 of treatment, okay?

21 So, what happens? Here, we're looking at

22 the SVORI and non-Savori. The males are in blue; the

1 females are in, I guess, pink or fuchsia. And you

2 can see rearrest rates two years out, no difference

3 for the men, 68 percent versus 71 percent, no

4 difference statistically, no shock they didn't get

5 any different service because, for all intents and

6 purposes, the services degraded very rapidly.

7 What about the women who actually got a

8 bigger differentiation of services? 49 percent

9 versus 60 percent, so there's a substantial

10 reduction, about 15 to 20 percent reduction in crime

11 incidents, and that is statistically significant,

12 okay? So, good sign, more service received for a

13 longer period of time, better outlook, right? That's

14 the good news; now here comes the bad news.

15 Let's look at re-incarceration rates 24

16 months out. Males, no differences, right? There was

17 no difference in their arrest rates, and 42 percent

18 re-incarcerated versus 39 percent, not statistically

19 significant.

20 Let's look at the women, 41 percent of the

21 SVORIs are re-incarcerated versus 22 percent of the

22 non-SVORIs. Now, wait a minute, higher



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158	<p>1 re-incarceration rates although they had lower</p> <p>2 rearrest rates. How could you be incarcerated more</p> <p>3 often if you offend less often? What's the answer?</p> <p>4 MR. BRADY: More serious offences.</p> <p>5 DR. MARLOWE: Well, that wasn't the</p> <p>6 explanation. It could be more serious offenses. The</p> <p>7 other rearrest rates could have been offenses that</p> <p>8 were so low level that there wouldn't be a</p> <p>9 revocation. No, it's technical violations; their</p> <p>10 revocations are technical violations. They're not</p> <p>11 new offenses; they're being yanked by their parole</p> <p>12 officers and returned to custody at a higher rate,</p> <p>13 okay? Very common finding in substance abuse</p> <p>14 treatment that the closer you watch offenders, the</p> <p>15 more often you find them doing things they shouldn't</p> <p>16 do. That's just the reality of it. By the way, a</p> <p>17 number of criminologists nowadays, their theory is as</p> <p>18 follows: The closer you watch offenders, the more</p> <p>19 likely you are to find them offending, and we have</p> <p>20 prison overcrowding rates. So, what should we do?</p> <p>21 What's the remedy? Stop watching them, right? That</p> <p>22 makes sense, makes perfect sense, right? We call</p>	160	<p>1 the caregiver isn't there that week. All kinds of</p> <p>2 things happen behind bars, so they can't deliver the</p> <p>3 intervention behind bars to its full dose.</p> <p>4 Services decline very rapidly post</p> <p>5 release, okay? Within 90 days, there's almost no</p> <p>6 appreciable service provision really worthwhile to</p> <p>7 talk about taking place. What we now have reason to</p> <p>8 think is that the minimum period of monitoring a</p> <p>9 service provision is 180 days minimum, six months,</p> <p>10 and we're probably talking about a full year. And</p> <p>11 the service provision needs to fill 40 to 70 percent</p> <p>12 of their time. In other words, 40 to 70 percent of</p> <p>13 their time they're getting their reintegration</p> <p>14 treatment-oriented job training services. Anything</p> <p>15 less than that, at best, you get no effect. At</p> <p>16 worst, you get an iatrogenic effect where you can</p> <p>17 actually increase criminal activity.</p> <p>18 Lower rearrest rates, but higher</p> <p>19 incarceration rates, which we can only attribute to</p> <p>20 revocations either for their new offense. They're</p> <p>21 more likely to be revoked on a new offense; or, more</p> <p>22 likely, they're being revoked on technical</p>
159	<p>1 that the ostrich policy, okay?</p> <p>2 Another policy would be watch them very</p> <p>3 closely, but you don't have to revoke and put people</p> <p>4 back in prison. There are other ways to respond to</p> <p>5 violations. And that's really probably the biggest</p> <p>6 lesson.</p> <p>7 So here's what we got from the SVORI,</p> <p>8 \$100 million, lack of service provision, meaningful</p> <p>9 service provision to the males, leading to no</p> <p>10 differences in the outcomes; better service provision</p> <p>11 to the females, but higher revocation rates, which we</p> <p>12 cannot explain through higher criminality or higher</p> <p>13 substance use; we can only attribute it logically to</p> <p>14 being more closely monitored.</p> <p>15 Lessons of the SVORI: Prior to release,</p> <p>16 participants received approximately 65 percent of</p> <p>17 needed services. Even behind bars when they are</p> <p>18 literally a captive audience, they're only getting</p> <p>19 two-thirds of the services that they're supposed to</p> <p>20 get in their treatment plans, and that has to do with</p> <p>21 there's some problem on the unit, and there's a</p> <p>22 lock-down on the unit, or the person doesn't come;</p>	161	<p>1 violations. A technical violation, as you guys all</p> <p>2 know, is something that is not an offense in and of</p> <p>3 itself; it's a violation of the terms of their</p> <p>4 parole. So parole can be revoked. But if somebody</p> <p>5 who was on parole did it, it would not be illegal,</p> <p>6 like drinking or not following a curfew, whatever.</p> <p>7 So the biggest thing this suggests to us</p> <p>8 is that we need to have graduated consequences in</p> <p>9 lieu of revocations. And the way parole entities</p> <p>10 have generally responded is either let it go or let</p> <p>11 it go and let it go until there's a revocation, which</p> <p>12 if anyone has studied behavior modification 101 would</p> <p>13 know that that's the last thing you do. You need to</p> <p>14 respond every single time. There needs to be a</p> <p>15 consequence for every infraction. But that</p> <p>16 consequence should be low magnitude and should build</p> <p>17 up progressively in graduated increases in</p> <p>18 consequence, the only thing that changes behavior.</p> <p>19 Otherwise, all you're doing is creating what we call</p> <p>20 habituation, letting people get away with stuff over</p> <p>21 and over again and then finally hitting them with the</p> <p>22 most costly and draconian response. This is business</p>

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<p style="text-align: right;">162</p> <p>1 as usual. And I realize I'm talking to the experts 2 in the field, but this is business as usual in parole 3 and reentering, rapid degradation of services, high 4 revocation rates that aren't justified by new rates 5 of offending. 6 Now, I know that you're going to be 7 hearing from the experts in the Harlem reentry court, 8 so I just wanted to have one slide to just comment 9 because of the similar process that was seen. There 10 aren't a lot of good evaluations yet of reentry court 11 based programs, and I'm a big fan of reentry court 12 based programming because I think the biggest issue 13 here is that there's no accountability for not 14 getting service post release, and they're not using 15 this graduated model. I think that's what drug court 16 and reentry courts could bring to the table is that 17 integration of kind of supervision with services, 18 graduated consequences. That's what the drug court 19 model does; it keeps them in treatment. 20 So the reentry court, this is probably the 21 best reentry court evaluation that I'm aware of, 22 published evaluation by the Center for Court</p>	<p style="text-align: right;">164</p> <p>1 people here from that evaluation, and they can speak 2 more to it. My sense about it is that to the extent 3 that reentry courts don't change the culture, the 4 revocation culture of parole, they're going to have 5 the same effects that parole has traditionally had. 6 What drug courts have to do is come in and change the 7 paradigm, which means graduated consequences, 8 enforced treatment. That whole model keeps people in 9 treatment and keeps them in the community as long as 10 possible. Otherwise, we're going to continue to get 11 these -- I don't know that we could call this an 12 iatrogenic effect; it's just a very costly -- it's an 13 overuse of incarceration effect. It's not serving 14 the purpose of reentry. And, again, this is no 15 criticism of anybody involved in that particular 16 study. I'm saying that this is the first good 17 quality evaluation of a new paradigm, so it's not 18 unusual to have growing pains. 19 The lessons of the Harlem study, 20 equivalent rearrest rates, which is a problem. We 21 want to obviously bring recidivism down, so there's 22 something going on there. Lower re-conviction rates,</p>
<p style="text-align: right;">163</p> <p>1 Innovation in New York, and here you're looking at 2 arrest rates three years out, arrest rates, 3 re-conviction rates, and revocation rates. The 4 reentry court clients are with the yellow, and a 5 matched comparison sample are in the gray. And you 6 can see, first of all, in terms of rearrest rates, 7 three years out, there's no significant difference, 8 67 percent versus 69 percent. And those are 9 basically the same rates that I showed you 10 nationally. The three-month rearrest rates are about 11 68 percent. And so those fall right at those rates. 12 There is a significant effect favoring the 13 reentry court for re-conviction, so re-convictions on 14 new crimes are lower for the reentry court 15 participants. But you see the opposite on the 16 revocations. Higher revocation rates for the reentry 17 court participants versus the comparison sample 18 which, again, they've offended at least at the same 19 rate or maybe less, but they were revoked at a higher 20 rate, which, again, can only attribute logically to 21 an overuse of revocation for technical violations. 22 There may be some other way, and I think there are</p>	<p style="text-align: right;">165</p> <p>1 that's a good thing. But higher revocation rates, 2 again, calls for closer -- you know, raises this 3 whole finding that's been around since the 1970s, 4 that closer supervision leads to greater detection of 5 infractions, and so we need graduated consequence. 6 We need the drug court model of a full slate of 7 intermediate magnitude sanctions, regular weekly 8 status reviews, urine testing every week. And every 9 time you miss a session, you get a consequence, 10 quick, certain, but low magnitude, building up 11 slowly. That's the only way to get control of 12 offender behavior. 13 Now, there is some good news on the 14 Federal Court, and I think Judge Sorokin -- I think 15 he was here, and he left -- but there has been a 16 published evaluation of the CARE, the court-assisted 17 recovery effort, which is the District Court here in 18 Massachusetts. This is a relatively preliminary 19 study, but you're looking here at the clients going 20 through the federal reentry court, the CARE court, 21 versus a matched comparison sample. And here we're 22 looking at the portion that met graduation criteria.</p>

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<p style="text-align: right;">166</p> <p>1 That's the opposite of revocation. In other words, 2 if you revoke, by definition, you don't graduate. 3 But if you graduate without a revocation, then it 4 means successful on conditions. 5 Now, the good news here is that the 6 Federal Court clients in the blue have a higher 7 completion rate, 46 percent versus 31 percent 8 satisfying parole conditions in the comparison 9 sample. That's what you want to see. And a lower 10 rearrest rate post-supervision. So, this is a 11 situation where you're getting higher re-arrests 12 without higher revocations. So it does suggest, 13 perhaps, that the federal model, which we think is 14 pretty -- is adopting much more closely the ten key 15 components of drug courts with the status reviews, 16 the graduated consequences. We'd like to think 17 that's why they're not getting this higher revocation 18 rate. We don't know that. 19 So the results for that study tell us that 20 because it was a small sample at a relatively short 21 followup period, an average of like an 18-month 22 followup period, so we consider this a preliminary</p>	<p style="text-align: right;">168</p> <p>1 So let's get back to the sort of -- what 2 are the basic principles from the evidence-based 3 literature on what you have to do for prisoner 4 reentry? And there's a general rule of thumb that 5 the more severe the population, the less room for 6 error there is. That's just a basic rule of thumb. 7 So, in other words, the more severe the population, 8 the less you can deviate the evidence-based 9 parameters. See, if you guys get drunk in a bar here 10 at the hotel tonight -- although that would never 11 happen -- but if you do, and you get in trouble, and 12 you wind up in my drug court program, I don't have to 13 worry too much about how much service you get, how 14 many times you're drug tested, whether I use the 15 right sequence of graduated consequences; you're a 16 low risk, what we call a low-risk population. I can 17 get away with watering down my intervention. But the 18 more severe the population is, you can't do it. And 19 not only do you not get better effects when you water 20 it down, you get worse effects. It's almost better 21 if you don't intervene, which is what -- this is a 22 very difficult finding that's emerging.</p>
<p style="text-align: right;">167</p> <p>1 finding, but higher completion rates and lower 2 rearrest rates. So this is promising. But this is 3 the first evidence we have that when a ten-key 4 component drug court or reentry court model is 5 applied that you can get -- I'm not suggesting, by 6 the way, that the other courts aren't using the 7 ten-key component; I'm saying this one, there was a 8 process evaluation establishing adherence to the ten 9 key components. 10 Any questions, concerns? 11 MS. HUDSON: In the SVORI study, can you 12 tell me how the needs of the offenders were 13 identified? 14 DR. MARLOWE: I can't tell you what 15 instrument was used, but they did pretty exhaustive 16 assessments, base line. Each one of those interview 17 points, they did a structured interview, and there 18 was an endorsement of a need for services. I think 19 they might have used stuff like ASI, gain kind of 20 levels of problems, how much do you need services in 21 this area? But it was done as a result of structured 22 interviews.</p>	<p style="text-align: right;">169</p> <p>1 So the first issue is discretionary 2 release. The best effects for offenders are the ones 3 who still have revocable conditions over their head. 4 So here you're looking at -- this is a national study 5 done on the Urban Institute, offenders released 6 unconditionally basically because they maxed out on 7 their sentence. The worst thing that could happen is 8 for an offender to max out on their sentence because 9 there's no basis for post-release supervision, and 10 they can do and often will do whatever they want to 11 do. 12 Mandatory parole where parole is a matter 13 of right and then discretionary parole, and you can 14 see that the recidivism rates, rearrest rates, are 15 lower. This is across the board, all else being 16 equal, recidivism rates are lower for individuals 17 released on discretionary parole, and that's because 18 they have something to lose if they don't follow 19 through. That's what we think the reason is. 20 The next issue is after care in the 21 community, and it looks to us like 180 days of 22 sustained service is your minimum point. Anything</p>

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170	<p>1 less than 180 days of sustained service, you're</p> <p>2 probably going to be lucky if you have no effect.</p> <p>3 Literally, you're lucky if you have no effect with</p> <p>4 the population.</p> <p>5 Here we're looking at the average -- these</p> <p>6 are Meta analyses, so just to give you some basis for</p> <p>7 where some of this is coming from. This is a Meta</p> <p>8 analysis done by Al Simmons and his colleagues from</p> <p>9 Washington State, international data. All else being</p> <p>10 equal, what happens if you give in-prison treatment</p> <p>11 with nothing else, how much reduction in re-arrests</p> <p>12 do you get? And if you give in-prison treatment with</p> <p>13 community after care, any amount of community after</p> <p>14 care, what's the average reduction? So any followup</p> <p>15 post-release increases. You're about 20 percent</p> <p>16 greater reduction of recidivism. So, at least giving</p> <p>17 them something after they leave prison. Worst thing</p> <p>18 you do is give them a card, a referral card when they</p> <p>19 leave prison and tell them they really should get</p> <p>20 some service; that's the worst thing you can do.</p> <p>21 Step-down treatment from prison to work</p> <p>22 release or community halfway house, some setting like</p>	172
171	<p>1 that, followed by after-care counseling. If you can</p> <p>2 keep them in a step-down regimen, you will get the</p> <p>3 highest reductions. Here we're looking studies from</p> <p>4 Delaware, but we've seen the same studies from</p> <p>5 Delaware, California, and Texas, and I think New York</p> <p>6 as well, where offenders are either getting no</p> <p>7 treatment; they're getting treatment in a prison,</p> <p>8 R-stat therapeutic community type setting. These are</p> <p>9 not R-stats because those tend to be for the federal</p> <p>10 program, but the same idea.</p> <p>11 Prison combined with work release, they go</p> <p>12 to a step-down center for continued service and then</p> <p>13 continuing in the after care, and you're seeing how</p> <p>14 many of them remain arrest free for at least three</p> <p>15 years. And the point is that when you get out to the</p> <p>16 ends there, the 58 and 60 percent, in other words,</p> <p>17 the recidivism rate is about 40 percent, and the</p> <p>18 recidivism rate generally is about 68 percent, so</p> <p>19 you've cut recidivism in half. If you can keep</p> <p>20 offenders, preparatory treatment behind bars, work</p> <p>21 release step-down, and after care, on average, you'll</p> <p>22 cut recidivism rates in half, and that's the highest</p>	173

1 reduction of recidivism we've been able to find at

2 this point.

3 And here we're looking at the proportions

4 that remain drug free. So, here we're looking at

5 relapse rates to drug use, again, the same group. So

6 93 percent return to drug use in the new treatment

7 conditions. That's what I told you, about 95 percent

8 return to drug use. When you get them some

9 preparatory work behind prison, it's only roughly an

10 80 percent return to drug use. You get a little bit

11 of an improvement with the work release, and then you

12 get your largest reduction in return to drug use,

13 again, if you get each part of the step-down regimen.

14 So, best practices really tells us in-prison

15 preparatory work, work release, after care, okay?

16 And what's the value? Some people have asked, well,

17 what's really the value of the prison TC? If most of

18 the study shows no effects of in-prison treatment

19 alone, what's the value?

20 Here's the value of in-prison treatment.

21 If they go to in-prison treatment, the odds of them

22 showing up for services at the work release center or

1 elsewhere increase. In other words, the biggest

2 value of the in-prison treatment is getting them to

3 the outpatient treatment. That's where the value is.

4 If you don't give them the preparatory work in

5 prison, they don't go to the followup things. They

6 abscond from the work release centers; they don't

7 show up at their appointments; they don't do what

8 they're supposed to do. If it's just after-care

9 treatment, they simply don't go; you know, show-up

10 rates are very low. So that's really where the value

11 of the in-prison preparatory service is. And, as a

12 matter of fact, this is a ubiquitous finding of all

13 substance abuse treatment. In other words, treatment

14 in a confined setting has no long-term value, none.

15 Send somebody to residential treatment for, I don't

16 care if it's a year, without treatment, once they

17 leave, you're going to see rapid return to baseline.

18 Within 12, 24 months, they're going to be right back

19 where they were. The value of in-custody or confined

20 treatment is to get them to their after care, get

21 them to make use of the after care services. But

22 it's after care where all the action generally

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174	1 occurs. 2 Safe and drug free housing, this obviously 3 should go without saying, but this is probably -- 4 it's safe to say that if someone who is being 5 released from prison isn't living somewhere that they 6 are safe and away from other criminal elements and 7 drug-using elements, nothing else matters. That's a 8 minimum condition. If you're not going to get it, 9 they're going back, and if the guy's wife is using, 10 and he goes back home and he's living with a wife 11 who's using or a mother or a friend, the odds of 12 seeing any -- refraining criminal activity are so low 13 that you'd have no basis for predicting success. 14 Now, evidence-based treatments, what I've 15 been talking up to this point is the sort of larger 16 evidence-based practices or evidence-based services, 17 but what should be taking place in the counseling 18 rooms; what should be done with the inmates? And 19 most of what our research tells us is what should not 20 be done with these inmates in the counseling 21 sessions, okay, but I'll try to frame it more in the 22 positive, what should be done.	176
175	1 Point number 1 is the interventions need 2 to be manualized and structured. If you think you're 3 going to walk into a counseling session with a 4 drug-abusing offender being released from state 5 custody and you're just going to talk about whatever 6 is on their mind, you're wasting their time and your 7 time. You need to know exactly why you're in that 8 room; what are we accomplishing today? If it's not a 9 structured manualized intervention, it cannot be 10 evidence-based practices. And the effects of 11 non-manualized interventions are not appreciably 12 different from zero. They're just not. We use those 13 as placebo. If I have a study and I want to see 14 whether my new evidence-based treatment works, I'm 15 going to randomly assign half of the people to go 16 into a room and get drug education or a 17 non-structured group-focused counseling group where 18 people talk about their drug-related issues and 19 whatever, so people sort of process their feelings 20 and their experiences. That's placebo. That's like 21 giving a sugar pill in a medication trial because we 22 know it doesn't work. That's why we use it as	177

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<p style="text-align: right;">178</p> <p>1 whole world is against them; nothing is ever their 2 fault; the first thought that comes into their mind 3 is always the best. It's whichever is first must be 4 the best course of action when the opposite is true. 5 The third thought that comes to your mind on how do 6 you deal with this is probably your best bet; your 7 first thought is probably your worst; don't do it. 8 Don't do it until you call your sponsor, talk to your 9 wife and try out that first thought, the first thing 10 you thought you should do. Talk to somebody else 11 before you do it; it's almost always going to be 12 wrong. Those are the kinds of interventions that 13 work with this population. And if you don't change 14 those processes, they just don't get better. They 15 don't get better long enough, and they don't stay 16 better. They have to think about -- those are 17 rational ways that they deal with their world, okay? 18 You might ask, what are the ones we should be using? 19 Yes. 20 MS. HARRIOT: Are you aware of from a law 21 enforcement perspective what role that they might 22 play in this process? I'm assuming it's around the</p>	<p style="text-align: right;">180</p> <p>1 home visit and they see that the house is clean, the 2 kids are asleep, homework is done, good job. In 3 other words, the police learn to give positive 4 reinforcement. So I would suspect that in the 5 reentry context it would be as important and probably 6 more important for law enforcement to be part of the 7 reentry team. Otherwise, what happens is law 8 enforcement is working at odds with the reentry 9 planning. You know, that's not criticism of law 10 enforcement. 11 MS. HARRIOT: I understand. 12 DR. MARLOWE: So my guess is that law 13 enforcement would need to be part of that team, 14 ideally, be part of the team. 15 Graduated sanctions, I already sort of 16 commented on this, but when it comes to managing the 17 behavior of offenders, you want to think about Goldie 18 Locks and the Three Bears. That's the way I always 19 think about it. So that, in other words, your 20 responses are either too hard or too soft, too hot or 21 too cold. And responses, rewards, and sanctions are 22 always weakest at the two extremes. The weaker they</p>
<p style="text-align: right;">179</p> <p>1 issue of supervision or police intelligence, pro or 2 con. 3 DR. MARLOWE: If I understood the 4 question, what relevance does this have to law 5 enforcement contacts with parolees? 6 MS. HARRIOT: Whether good or bad at all. 7 DR. MARLOWE: Let me tell you something 8 interesting finally about drug rules. This is not a 9 reentry program; these are generally pre. But the 10 best most effective drug courts have law enforcement 11 on their teams, about 50 percent better outcomes when 12 the police and community corrections are part of the 13 drug court team, because this way they are actually 14 -- their encounters with the offenders are an 15 extension of the team's encounters with the 16 offenders. So they're not acting independently in 17 arresting; they're saying, Bill, you weren't supposed 18 to be -- what are you doing on this street; you're 19 not supposed to be here, isn't that right? I'm going 20 to have to let Judge Smith know that I saw you here. 21 Now go home, and we're going to talk about this on 22 Monday, okay? On the other hand, the police does a</p>	<p style="text-align: right;">181</p> <p>1 are, the less effective they are. And the stronger 2 they are, the less effective they are. It's what we 3 call a curvy linear function. The best effects are 4 in the middle spectrum. It's the middle magnitude 5 sanctions that are most effective. So if your choice 6 is a verbal scolding for incarceration, you are at 7 two extremes, too weak and then too hot. It's that 8 whole middle spectrum of graduated consequences 9 building up where all of the action is in controlling 10 behavior. And I think that's one of the reasons why 11 drug courts, not the only reason, one reason why drug 12 courts have that effect is because they have built 13 this whole middle ground of intermediate magnitude 14 sanctions that build up over time. So that if the 15 offender gives me a positive DUI, he's not going to 16 get away with this; there's going to be a 17 consequence. But that consequence is not necessarily 18 return to custody. It might be changing curfew; it 19 might be more probation sessions; it might be using a 20 scram device. You can think about all of the 21 consequences that could be used to respond without 22 necessarily revoking their parole.</p>

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182	<p>1 On-the-job vocational training, as I said</p> <p>2 before, we really can't get a dose response effect</p> <p>3 for prevocational training. I can't find a study</p> <p>4 where teaching offenders how to get a job were</p> <p>5 effective. I think it's almost like a similar kind</p> <p>6 of approach. It doesn't hurt behind bars to get them</p> <p>7 ready for their interviews and that kind of thing.</p> <p>8 But unless you give them the on-the-job training and</p> <p>9 interventions, you don't get any sustained effects of</p> <p>10 the intervention. And what we're really finding is</p> <p>11 that a lot of what we've put up front before they get</p> <p>12 the job should be coming later. In other words,</p> <p>13 teaching somebody how to talk better to their boss,</p> <p>14 how to dress. The best thing to do is get them the</p> <p>15 job and then work with them constantly while they're</p> <p>16 on the job. I have to see what you're going to wear</p> <p>17 to work tomorrow. I want to see, what are you going</p> <p>18 to wear? You have to get up at 7:30 in order to be</p> <p>19 there; who's going to get you up? How are you going</p> <p>20 to get there? But there is a real job to go to,</p> <p>21 okay? Otherwise, what we're finding is not only</p> <p>22 don't they respond well to the prevocational</p>	184	<p>1 family-based interventions, there are only two</p> <p>2 family-based interventions for drug abusing offenders</p> <p>3 that have any evidence of efficacy, only two. The</p> <p>4 first is behavioral contracting. That's where you're</p> <p>5 working with the offender and the family members to</p> <p>6 come up with agreed-upon contracts, agreed-upon</p> <p>7 procedures. Your job is to do this; if you do this,</p> <p>8 I'll do this for you. But if you don't do it, here's</p> <p>9 the consequence of breaching a contract. It's</p> <p>10 working with them very structurally on what everyone</p> <p>11 is agreeing to and what the terms of the contracts --</p> <p>12 and they're literally contracts -- are going to be.</p> <p>13 And reinforcement training, which is where</p> <p>14 you are training the family members to be therapists,</p> <p>15 you are teaching them to do what a good therapist</p> <p>16 would do. He came home last night; he was supposed</p> <p>17 to be home at six; he came home at two in the</p> <p>18 morning; he was obviously intoxicated; and you</p> <p>19 started a fight with him; okay? You started yelling</p> <p>20 at him. Was that a good idea? First of all, was</p> <p>21 that even safe for you? He's intoxicated; it's the</p> <p>22 middle of the night, and you're getting into a fight</p>
183	<p>1 interventions, if you do structured assessments with</p> <p>2 them like we do, they really resent them; they really</p> <p>3 think you're wasting their time. It's like, I need a</p> <p>4 job; I don't need to know how to write a resume.</p> <p>5 They don't even want to hear about GEDs. Get them a</p> <p>6 job and then let them work on their GED after they</p> <p>7 have a job. They resent putting it the other way.</p> <p>8 It's like a Maslow need hierarchy. Your first need</p> <p>9 is you need income; you need a job. And the reality</p> <p>10 is the best place for them to be is at a job because</p> <p>11 they're less likely to be using drugs and acting out.</p> <p>12 And it should not be a high-level job; it should be a</p> <p>13 low-level job with the agreement between you and them</p> <p>14 that this is your first job and, while you're on this</p> <p>15 job, we're going to work with you to get a better</p> <p>16 job. So we're going to do prevocational work</p> <p>17 alongside this job to help you get a job that pays</p> <p>18 better and that you think is more commensurate with</p> <p>19 your abilities. But we're not going to do that until</p> <p>20 you get this job. And while you're on this job,</p> <p>21 we'll work with you. That's the quid pro quo.</p> <p>22 I had mentioned before when it comes to</p>	185	<p>1 with him. What else could you have done? And going</p> <p>2 through teaching them the same way you do with the</p> <p>3 offender to manage the offender's behavior. Those</p> <p>4 are the only interventions that are evidence-based.</p> <p>5 There is no other family-based intervention that's</p> <p>6 evidence-based.</p> <p>7 Oh, by the way, I didn't finish what I was</p> <p>8 saying earlier. So you guys might want to know what</p> <p>9 they are, what are the evidence-based interventions?</p> <p>10 Up at the top, for the criminal thinking adaptive</p> <p>11 problem solving, the best criminal thinking</p> <p>12 intervention with the most empirical support is</p> <p>13 called MRT, moral reparation therapy. It's the one</p> <p>14 that has the most empirical support. Ken Robinson is</p> <p>15 here, the developer is here at the conference; he'll</p> <p>16 be giving some trainings on it. The second one is</p> <p>17 called R&amp;R -- you saw me mention it earlier --</p> <p>18 reasoning and rehabilitation, showing the second-most</p> <p>19 amount of empirical support.</p> <p>20 There is another one that is most commonly</p> <p>21 used, and what we'll often find is that sometimes</p> <p>22 interventions that are most commonly used are the</p>

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186	<p>1 ones that have the least evidence of efficacy.</p> <p>2 There's something called the milkmen, and some other</p> <p>3 guy that has the protocol out, and I'm hearing a lot</p> <p>4 about it, and I'm trying to get better information</p> <p>5 about the evidence, but at least it's structured;</p> <p>6 it's manual. But I can't tell you what the outcome</p> <p>7 data are yet. I'm trying to look into it. I don't</p> <p>8 think there's a lot out there.</p> <p>9 I recommend MRT and R&amp;R for adult</p> <p>10 offenders. For juvenile offenders, MST, multi-stemic</p> <p>11 therapy, multi-dimensional family therapy, and CRAFT,</p> <p>12 Community Reinforcement Approach Family Therapy.</p> <p>13 These are the ones that have -- they have manuals,</p> <p>14 very clear what you're supposed to do, very clear</p> <p>15 what you're not supposed to do. If you're doing this</p> <p>16 in a session, you're not following intervention.</p> <p>17 Don't do that, do this. That's how structured they</p> <p>18 are. They have very good evidence of efficacy.</p> <p>19 The other interventions that are out</p> <p>20 there, and there are thousands of them, have none.</p> <p>21 Either there's no research to support them or the</p> <p>22 research is against them.</p>	188
187	<p>1 And prescribed medications, I will close</p> <p>2 with this. We have to use medications. We have to,</p> <p>3 okay. And I know we have all kinds of feelings about</p> <p>4 medications, but we really have to use them. I think</p> <p>5 there's maybe six studies that have come out in the</p> <p>6 last two years. Here's just one by Ken Locke and his</p> <p>7 group at John's Hopkins or one of the places in</p> <p>8 Baltimore. You've got offenders leaving prison. Did</p> <p>9 some of them get counseling, you know, behavioral</p> <p>10 treatment? Some of them get referred to methadone</p> <p>11 maintenance. When you leave prison, here's a</p> <p>12 referral for methadone maintenance. And then there's</p> <p>13 a group that begins their methadone maintenance</p> <p>14 behind bars before they're released from prison,</p> <p>15 okay? And we're looking at how many actually enter</p> <p>16 treatment. Eight percent of the released inmates go</p> <p>17 to treatment post-release. That's your base rate, by</p> <p>18 the way. If you send an offender to treatment when</p> <p>19 they leave prison, you should expect about eight</p> <p>20 percent to actually go. That's our base rate for</p> <p>21 entry into post-prison camp. 50 percent referred for</p> <p>22 methadone went, and 69 percent who got methadone</p>	189



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190	<p>1 words, even if we say that people didn't really</p> <p>2 change their business as usual, I mean, they did a</p> <p>3 little bit behind bars, a little bit afterwards.</p> <p>4 What you're really saying is they took a lot of</p> <p>5 money, and they spent it, and it was pretty much a</p> <p>6 little better than business as usual, but not much.</p> <p>7 But that gives us a pretty good understanding now</p> <p>8 about what business as usual looks like. Because</p> <p>9 what this did for us, the researchers to do, is</p> <p>10 actually study very closely what happens to 2,900</p> <p>11 offenders pre and post-release. How much service did</p> <p>12 they really get? So under what we could probably say</p> <p>13 is better than business as usual, the answer is</p> <p>14 almost nothing.</p> <p>15 Yes.</p> <p>16 MR. BRADY: So, in California, we just</p> <p>17 started this reentry statutory pilot, I'd call it, a</p> <p>18 demonstration project, and you have grants that were</p> <p>19 just awarded. I don't see in that -- correct me if</p> <p>20 I'm wrong, Nancy -- that there is structure of</p> <p>21 everybody does certain basic things identically other</p> <p>22 than what's required by statute. So I'm a little bit</p>	192	<p>1 these programs look like, if you can just get some of</p> <p>2 them to really do it -- like what would happen if you</p> <p>3 really could sit back and design the program the</p> <p>4 right way, what would it look like? What would the</p> <p>5 preparatory work behind bars look like? What would</p> <p>6 the intervention -- how are we going to make sure</p> <p>7 there's no service degradation? What happens if he</p> <p>8 doesn't show up for his counseling sessions? Law</p> <p>9 enforcement is going to go out, bring him back in.</p> <p>10 Someone has got to sit down and say, what happens</p> <p>11 when everything goes wrong? Because it's going to.</p> <p>12 I mean, you really have to be a little masochistic to</p> <p>13 try to treat this population. You can assume that</p> <p>14 everything is going to go wrong, you know. So at</p> <p>15 least you can get one example of what could happen.</p> <p>16 And the biggest thing is to get the parole officers</p> <p>17 -- and you have the ability to do this -- brought</p> <p>18 into the graduated consequence model. It's the undue</p> <p>19 use of revocation. It's the degradation of services</p> <p>20 and the overuse of revocation that leads to failure</p> <p>21 after failure, and those are the two biggest</p> <p>22 problems.</p>
191	<p>1 concerned here that here's an opportunity for us in</p> <p>2 California to demonstrate that the drug court model</p> <p>3 works with the components, yet we're allowing the</p> <p>4 different counties to do different things along the</p> <p>5 way, and the outcomes -- it may end up the SVORI</p> <p>6 outcome because of the flexibility of the counties to</p> <p>7 do their own thing.</p> <p>8 DR. MARLOWE: If there are 20 counties</p> <p>9 that are making up the number, and all 20 of them do</p> <p>10 sub-standard non-evidence-based work, you're going to</p> <p>11 get SVORI outcomes. If there's enough variability in</p> <p>12 those 20 counties so that four or five counties are</p> <p>13 doing it right, then you could actually show that</p> <p>14 when you do this model you get good effects compared</p> <p>15 to the other models. So it's nice if you get</p> <p>16 variability.</p> <p>17 Now, we expected variability in SVORI. I</p> <p>18 had nothing do with it, but we as a field expected</p> <p>19 with 16 sites that there would be some outstanding</p> <p>20 sites that really did it, and we can't really see a</p> <p>21 lot of that.</p> <p>22 So whoever has the ability to effect what</p>	193	<p>1 MS. HARRIOT: One of the problems we often</p> <p>2 face in federal government is balancing</p> <p>3 evidence-based practices with innovation.</p> <p>4 DR. MARLOWE: With what?</p> <p>5 MS. HARRIOT: With innovation. So while</p> <p>6 we encourage and often times mandate against these</p> <p>7 processes, we also don't want to stunt sort of the</p> <p>8 growth of innovation. I'm wondering if you have any</p> <p>9 --</p> <p>10 DR. MARLOWE: I do, but I have a spiel</p> <p>11 about that. There are evidence-based treatments and</p> <p>12 evidence-based services, and we know what those are.</p> <p>13 And then there are evidence-based principles. And so</p> <p>14 I can innovate, but my innovation needs to be</p> <p>15 consistent with these general principles that are</p> <p>16 very well known and well proven.</p> <p>17 So, for example, the higher the risk in</p> <p>18 the population, the more you have to use cognitive</p> <p>19 behavioral, behavioral intervention. You want to</p> <p>20 create a new cognitive behavioral intervention? Go</p> <p>21 for it, wonderful; we need more. You want to do a</p> <p>22 process group? I'm sorry, that's not innovation,</p>

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194	<p>1 you know, because it doesn't follow what we know our</p> <p>2 promise in practice. It's already disproven. What</p> <p>3 we often find is when people use the word</p> <p>4 "innovation," there are true innovators, and then</p> <p>5 there are people that just don't want to be told what</p> <p>6 to do, and it's those latter people that are more</p> <p>7 common than the true innovators, and they just build</p> <p>8 things that you can't define that are under</p> <p>9 standardized, and you get the Project Green Light. I</p> <p>10 think that's what Project Green Light essentially</p> <p>11 was. So what I would say is innovate, but here are</p> <p>12 the principles that must be included. Fill up X</p> <p>13 percent of time of the offender's day and week with</p> <p>14 services, there's no innovation. You're never going</p> <p>15 to come up with something so wonderful that you don't</p> <p>16 have to take up a lot of their time. You're never</p> <p>17 going to be that effective. There has to be a</p> <p>18 graduated -- graduated consequences in monitoring.</p> <p>19 If that's missing, don't waste your time on anything</p> <p>20 else. If you want to innovate above or beyond that,</p> <p>21 great, but you've got to have that.</p> <p>22 You know, those kinds, the using -- at</p>	196
195	<p>1 least including in your curriculum the interventions</p> <p>2 that we know work, and then if you want to add -- I</p> <p>3 think art therapy is very important for offenders; I</p> <p>4 think they need to express themselves with art.</p> <p>5 Fine, that's fine. Do that. They hold the art</p> <p>6 groups after you finish your criminal thinking</p> <p>7 groups; then you can have your art group. But if</p> <p>8 you're going to have art groups instead of the</p> <p>9 criminal thinking groups, that's not innovation.</p> <p>10 So I think that there are principles that</p> <p>11 we can hold people to that are very well established,</p> <p>12 you know, the work of James Bonta and Don Andrews and</p> <p>13 Ed Latessa. They publish on the general principle</p> <p>14 that there's no research out there that is ever</p> <p>15 disputed. You know, there are no contrary findings.</p> <p>16 And so I think we can -- there's room for innovation,</p> <p>17 but not for doing whatever the hell you feel like</p> <p>18 doing, which is where a lot of the service has been.</p> <p>19 MS. RIVERS: Can you list those names</p> <p>20 again that you mentioned.</p> <p>21 DR. MARLOWE: James Bonta, B O N T A; Don</p> <p>22 Andrews; and Ed Latessa, L A T E S S A. They've</p>	197

1 published thousands of articles on risk needs,

2 responsivity theory, the basic principles of

3 intervention. So, what I would say, if you want to

4 innovate, innovate within those principles. If

5 you're outside those principles, the odds of success

6 -- I don't think the federal government should be

7 giving money to somebody who's not acting within

8 those principles, not that the federal government

9 ever asked anybody --

10 MS. RIVERS: I just did.

11 JUDGE TAUBER: Anyone else have any

12 questions?

13 Apparently not.

14 (Applause.)

15 JUDGE TAUBER: We're going to take a

16 15-minute recess. That will take us to about 1:45.

17 And then we're going to have a presentation on the

18 Harlem reentry court, and then we're going to proceed

19 back to the Refocus Group. So, if you could return

20 back at 1:45.

21 (Short break.)

22 MR. SIEGEL: Between now and, say, 3:30,

1 we're going to discuss a variety of issues, some of

2 which we touched on this morning, which have to do

3 more with the programs themselves. Eligibility,

4 which we've spoken about, in part; the use of

5 sanctions and incentives; working with high-risk

6 offenders; and the infusion of evidence-based

7 practices. And that will bring us up to 3:30. We're

8 going to interrupt briefly for a presentation or

9 discussion from a senior probation officer from the

10 United States District Court here in Boston who's

11 going to speak a little bit about his program and has

12 brought along one of the participants to talk about

13 that experience.

14 And then we'll take a brief break and then

15 we'll speak a little bit about engaging the community

16 in this process; how do we build constituencies for

17 our reentry and reentry courts and how those local

18 supportive forces can be used to strengthen the

19 program. And then we'll end up with a presentation

20 by Judge Tauber around research and evaluation. So

21 that's the schedule for this afternoon.

22 So I want to start by talking a little bit

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<p style="text-align: right;">198</p> <p>1 about some of the things we spoke about this morning. 2 Many of you mentioned who's eligible for 3 your programs? And I guess I'd like to start with 4 turning the question the other way around. Who is 5 not eligible for the reentry court programs that you 6 run? 7 Mary Kay. 8 MS. HUDSON: Within our local programs, 9 there is a high degree of diversity in what they're 10 doing. Some of them are focusing on the drug court 11 model, that type of offender, high risk, high need, 12 someone who is using. But, statutorily, the way -- 13 our new problems on the court legislation is when 14 there are no exclusions; it can be anyone. It could 15 be a sex offender; it could be someone connected to 16 murder. And that was deliberate because we knew, 17 like Judge Surbeck's program, there are increasingly 18 going to be more programs within the states. People 19 are coming back into the community, so you need to be 20 able to have mechanisms to serve them. There's 21 absolutely no reason why you shouldn't take someone 22 in a reentry court. We haven't yet seen the</p>	<p style="text-align: right;">200</p> <p>1 issue. 2 We have no overarching exclusions from the 3 program. We let the individual courts decide that. 4 And, like I said, we really take a needs 5 resource-based approach. My office, one of the 6 resources we provide is we work directly with the 7 court's programs. So one of the things we look at 8 when we go in is who do you have returning to your 9 community; what are their service needs; what other 10 service resources do you have? 11 MR. SIEGEL: And if somebody were coming 12 out who did not have a safe, stable home, as 13 Professor Marlowe alluded to, what happens to that 14 person? 15 MS. KNOPP: We would look -- you know, 16 we've been working trying to increase supportive 17 housing. We just look for placement, and there could 18 be several different places, a halfway house; it just 19 kind of depends on what the situation is. 20 We have 88 counties in Ohio. Every county 21 is very different, and the resources are different in 22 each county. Our treatment resources, those kind of</p>
<p style="text-align: right;">199</p> <p>1 development of reentry court services for sex 2 offenders, but I'm sure that we will soon. 3 MR. SIEGEL: Well, I know that at least in 4 our work -- and I'm sure this is not the same with 5 you folks around the country -- two of the most 6 difficult challenges that we face -- and I wonder 7 whether it affects either your programming directly 8 or eligibility for the program -- are the issues 9 around homelessness and mental illness. Particularly 10 in a place like New York, it's impossible for most 11 anybody to find affordable housing, and it becomes 12 particularly exacerbating for folks who are coming 13 back from confinement. 14 How do your programs deal with the issues 15 of homelessness and severe mental illness? 16 Melissa. 17 MS. KNOPP: In Ohio, we're currently being 18 sued right now for when we release mentally ill 19 people into the community. But, actually, the claim, 20 the organization suing the state, says that they are 21 suing us because we do better than most other states, 22 so they figure that we have less to deal with that</p>	<p style="text-align: right;">201</p> <p>1 things are county specific. So, like I said, for 2 each county we have to really take a needs 3 resource-based approach and just kind of look at 4 what's available. 5 MR. SIEGEL: Some of the other 6 jurisdictions dealing with the issue of homelessness? 7 JUDGE MANLEY: Well, in our programs, we 8 actually -- and in the new reentry court program that 9 we'll be rolling out -- it was funded, actually -- 10 there is a priority for offenders or parolees who are 11 mentally ill. So mental illness and substance abuse 12 are not only factors, but they're priorities given to 13 offenders. 14 MR. SIEGEL: So rather than being 15 exclusionary qualifications, they in fact get you 16 into -- 17 JUDGE MANLEY: Right. And the second 18 thing that's happened or happened just recently that 19 will dramatically change in California in our reentry 20 courts, as I referenced earlier, the governor has 21 made a decision to basically eliminate parole for 22 what they call low-level non-serious non-violent</p>

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202	<p>1 offenders.</p> <p>2 MR. SIEGEL: What was the phrase you used</p> <p>3 this morning?</p> <p>4 JUDGE MANLEY: Non-revocable or you can't</p> <p>5 have what hasn't been given to you.</p> <p>6 In any event, what that will mean,</p> <p>7 basically, if you look at the three levels, there are</p> <p>8 those that you're most serious about that are</p> <p>9 probably never going to be paroled or, if so, they</p> <p>10 need absolutely very strict supervision. And then</p> <p>11 you have a group below them that are serious and</p> <p>12 violent. And then at the bottom you have your</p> <p>13 non-violent. If you move all that out of the bottom,</p> <p>14 then your reentry courts will be focused on that</p> <p>15 middle groups, which will include -- in other words,</p> <p>16 to make a simple point here, you're not going to have</p> <p>17 that simple low level drug offender in your community</p> <p>18 reentry court.</p> <p>19 MR. SIEGEL: And what do the interventions</p> <p>20 look like for those who are seriously and</p> <p>21 persistently mentally ill?</p> <p>22 JUDGE MANLEY: Well, what we do is</p>	204
203	<p>1 the way to create the opportunities.</p> <p>2 MR. SIEGEL: What happens in Texas? Is</p> <p>3 that symbolic of what happens there?</p> <p>4 MS. WILLIAMS: It's a little bit</p> <p>5 different. In Dow County, we have, I would say, what</p> <p>6 you would probably classify as one jail reentry</p> <p>7 program that's true diversion. So, it's a program</p> <p>8 for misdemeanor mentally ill offenders that get</p> <p>9 arrested, get put in jail. They call them the</p> <p>10 frequent fliers, generally, folks that come in and</p> <p>11 out because of the homelessness. So this program,</p> <p>12 it's operated by a county court judge, and the</p> <p>13 charges essentially get dropped if they complete the</p> <p>14 program. And what they try to do is divert them to</p> <p>15 the mental health community resources. If they're</p> <p>16 Medicaid eligible, we'll get them signed up on SSI,</p> <p>17 et cetera. And they've had a good amount of success</p> <p>18 with those individuals. And, overwhelmingly, they're</p> <p>19 the one-arrest offenders. I mean, they're just</p> <p>20 bringing attention to themselves.</p> <p>21 On the felony end, we have probably what</p> <p>22 you would call -- I think you had pre-entry up there</p>	205
203	<p>1 basically utilize county local police sources. The</p> <p>2 state has none. They provide a doctor and</p> <p>3 medications. But housing for sex offenders is</p> <p>4 nonexistent. So we have to utilize community</p> <p>5 resources. And what we do is we place parolees</p> <p>6 directly in county treatment, county-funded</p> <p>7 treatment. So, since it's a priority in my program</p> <p>8 to take the homeless and the mentally ill parolees</p> <p>9 and sex offenders, we spend a great deal of time</p> <p>10 trying to find and locate the housing.</p> <p>11 MR. SIEGEL: I hate to get buried in the</p> <p>12 muck of funding, but programming such as you just</p> <p>13 mentioned, was that the product of discreet funding,</p> <p>14 or is it accessed through some sort of slap-dash</p> <p>15 mechanism where it's available and you seize upon it?</p> <p>16 JUDGE MANLEY: Right. I mean, we're out</p> <p>17 of money in California. So the big change that takes</p> <p>18 place is, under existing criteria, most individuals</p> <p>19 who are on parole are excluded from local resources</p> <p>20 unless they're contracting with the Department of</p> <p>21 Corrections and Rehabilitation. What we do is turn</p> <p>22 it around and fight to get them included, and that's</p>	205

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<p style="text-align: right;">206</p> <p>1 Medicaid services, and there's some funding for that. 2 It's a challenge; it's an ongoing challenge. But the 3 biggest thing is that it's seamless. We do not let 4 somebody -- in fact, once they're released from the 5 residential facility, they're driven directly to the 6 reentry court. They don't even drop them off 7 anywhere. That's where their case manager is waiting 8 for them. They meet the judge, and we go through 9 everything with them, and we know where they're 10 living right at that point. 11 MR. SIEGEL: So that's already been 12 arranged? 13 MS. WILLIAMS: It's already been arranged. 14 It took a lot of work and a lot of collaboration with 15 lots of the community's different sources to bring 16 that all together and keep it going. 17 The other one is -- and we talked about it 18 a little bit -- it's the lock-down treatment program. 19 There is a track for drug-addicted offenders without 20 mental illness and a track for offenders with mental 21 illness, and we have a separate court for them. 22 We also start doing the reentry plan for</p>	<p style="text-align: right;">208</p> <p>1 sometimes when they're coming out or hopefully trying 2 to have some continuity. The medical records, we do 3 make sure those come with them. But in terms of the 4 institutional division being amenable to taking 5 information from another psychiatrist, they seem to 6 be resistant to that. So that's probably one of the 7 most irritating things that I run into. But, you 8 know, like everybody has said, the true success of 9 this program has been making sure we have good solid 10 after-care treatment, continuity of care, and 11 supervision. And we work very, very hard to do that. 12 MR. SIEGEL: What Teresa was speaking 13 about, I think, implicates issues around 14 pre-discharge planning, and I know in New York, and 15 I've had ten years of experience with our program, 16 and we've had fits and starts. And to describe what 17 we've done as pre-discharge planning in our narrative 18 doesn't really necessarily correspond to the reality. 19 It hopefully will at some point. We had a vision 20 that it would start much earlier, and I've heard 21 reentry starts at the time of sentencing. That 22 sounds like the way to go. But it certainly doesn't</p>
<p style="text-align: right;">207</p> <p>1 that group before they come out. And generally what 2 we're going to do is reach out to the providers, 3 mental health providers. You may have had them in 4 the past, worked with them before, start re-linking 5 them before they come out. Same concept there. We 6 actually have the sheriff's department pick them up. 7 They're located in institutions all over the state. 8 And drive them directly to court. It takes a lot of 9 time, but the case manager is sitting there. If 10 there are family members, they're there; probation 11 officer is there; counsel is there; the judge is 12 there. 13 MR. SIEGEL: And do you know whether there 14 has been any contact with those providers while those 15 folks were in facilities so that there's some sort of 16 continuity of appraisers? 17 MS. WILLIAMS: You're really hitting on a 18 sore spot for me. That's one of my most frustrating 19 things with dealing with the institutional division 20 is, you know, they often ignore what medications and 21 diagnosis that people were on before they went in. 22 So we're looking at re-stabilizing them</p>	<p style="text-align: right;">209</p> <p>1 happen in New York, by and large. If it happens 2 anywhere, it happens in the juvenile justice system, 3 but not in the criminal justice system. People go 4 away for long periods of time. Nobody is thinking 5 about reentry at the time of sentencing, 6 unfortunately, and it should be. 7 So, what happens in Missouri in terms of 8 preparing both the supervision component, you know, 9 the parole officers or the community officers for the 10 arrival of inmates back into the community and 11 preparing the inmates themselves for what's happening 12 on the outside? 13 MR. JOHNSTON: You made a good point, what 14 is on paper and what model is sometimes -- 15 MR. SIEGEL: This is an open confessional. 16 MR. JOHNSTON: Well, we have a great model 17 written up, and I've been spending a lot of time 18 lately going out visiting with officers in the field, 19 and certainly reality is different, but we've made a 20 lot of progress. We've been using a transitional 21 accountability plan for quite some time and have 22 opened up transitional housing units in most of our</p>

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210	<p>1 prisons where the inmates spend the last six months</p> <p>2 of their sentence in one of these housing units</p> <p>3 developing, you know, honing their plan and trying to</p> <p>4 make connections with the community and transferring</p> <p>5 that plan to the place where they're going to be</p> <p>6 supervised.</p> <p>7 MR. SIEGEL: Is there a lot of</p> <p>8 communication? I mean, is there communication?</p> <p>9 MR. JOHNSTON: That's again, that's the</p> <p>10 plan, and the reality can be very frustrating with</p> <p>11 people just not picking up the phone and doing</p> <p>12 better. It's better now than it was five years ago.</p> <p>13 With the mentally ill, we've been working</p> <p>14 very closely with our Department of Mental Health and</p> <p>15 local community mental health providers to get the</p> <p>16 Medicaid application process going while they're in</p> <p>17 prison to try to get them eligible. We've dedicated</p> <p>18 some funding to closing the gap from when they're</p> <p>19 released so that they can get into treatment</p> <p>20 immediately, get medication immediately from prison.</p> <p>21 So we've made some progress with the severely</p> <p>22 mentally ill. We've also put some money into</p>	212	<p>1 advanced mental health training for probation and</p> <p>2 parole officers. We've worked with our Department of</p> <p>3 Mental Health and outside consultants to help develop</p> <p>4 it. And we're getting mixed results from our</p> <p>5 officers on the training, although we include them in</p> <p>6 the development process. And then we roll it out,</p> <p>7 and we're getting feedback from them to try and</p> <p>8 improve it. But that's a very important point. If</p> <p>9 we survey probation and parole officers, it's always</p> <p>10 the number 1 issue that they report in having</p> <p>11 difficulty with their case load is managing mentally</p> <p>12 ill offenders and getting access to treatment.</p> <p>13 MR. BRADY: I'll tell you how we manage</p> <p>14 our mentally ill; we send them back to prison.</p> <p>15 MR. SIEGEL: That's not a policy, right;</p> <p>16 that's a practice.</p> <p>17 MR. BRADY: No, that's a practice. The</p> <p>18 training that we give parole officers in California</p> <p>19 on dealing with the mentally ill is non-existent,</p> <p>20 essentially. I mean, I hate to say it, but it is the</p> <p>21 truth.</p> <p>22 MR. SIEGEL: That's not unique.</p>
211	<p>1 providing mental health treatment services for folks</p> <p>2 that are mildly mentally ill but, oftentimes, have a</p> <p>3 great deal of difficulty accessing services and</p> <p>4 trouble with abiding by the conditions of</p> <p>5 supervision. And that's been very successful in</p> <p>6 terms of reaching better outcomes and getting some of</p> <p>7 these folks who normally would not have been treated</p> <p>8 in our mental health system getting them into</p> <p>9 treatment.</p> <p>10 MR. SIEGEL: That raises an interesting</p> <p>11 question for me. I was going to touch upon this a</p> <p>12 little later, but we're going to talk a little about</p> <p>13 evidence-based practices, and we're going to talk</p> <p>14 about models that work.</p> <p>15 Who's providing training to the officers</p> <p>16 who are charged with the responsibility of</p> <p>17 implementing those practices? When does that happen?</p> <p>18 How often does it happen? Who's funding the training</p> <p>19 for these things?</p> <p>20 MR. JOHNSTON: Great question. We've</p> <p>21 developed recently some new mental health training.</p> <p>22 We call it journeymen mental health training,</p>	213	<p>1 MR. BRADY: They're the most difficult</p> <p>2 population to deal with, and we actually had a</p> <p>3 decision, if you remember this, Judge Manley, People</p> <p>4 versus Whitley in 1998, because what we used to do is</p> <p>5 walk them around the flagpole and return them to</p> <p>6 custody. So, release them, walk around the flagpole,</p> <p>7 and then return them back, because we knew they were</p> <p>8 going to come back. So now you cannot send the</p> <p>9 mentally ill back to prison simply because they're</p> <p>10 mentally ill. Shockingly, there has to be some</p> <p>11 behavior associated with the violation behavior or</p> <p>12 criminal behavior associated with the return to</p> <p>13 custody.</p> <p>14 MR. SIEGEL: Are you seeing, though, Mike,</p> <p>15 any infusion of services available to the parole</p> <p>16 officers to work with this population?</p> <p>17 MR. BRADY: No. We have an infusion -- we</p> <p>18 do everything -- I shouldn't say this on tape. Our</p> <p>19 model in California is solving the problem before its</p> <p>20 time. We by court order in People versus Coleman --</p> <p>21 it's actually Coleman versus Schwarzenegger now -- we</p> <p>22 had a mandate to provide services to a class action</p>

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214	<p>1 lawsuit which was filed 15 years ago to provide</p> <p>2 mental health services in custody, but it does not</p> <p>3 encompass parole. So we do have a fully outpatient</p> <p>4 clinic which is severely under-funded.</p> <p>5 MR. SIEGEL: Melissa.</p> <p>6 MS. KNOPP: In Ohio, we have probation</p> <p>7 officers that are county officers working for the</p> <p>8 Department of Rehab and Correction. The Supreme</p> <p>9 Court is responsible for training probation officers.</p> <p>10 We actually developed a modified CIT for probation.</p> <p>11 The weird thing is, though, because the parole</p> <p>12 officers are employees, we're not allowed to train</p> <p>13 them. So they're not getting the same training.</p> <p>14 It's not to the same level as what we're training the</p> <p>15 probation officers on. For the severely mentally ill</p> <p>16 coming out of prison, they usually go on the act team</p> <p>17 if they're under supervision. Another big part of we</p> <p>18 have in Ohio is treatment in sentencing, which was</p> <p>19 cycled to the mid-'90s. Some people come out with no</p> <p>20 supervision. It really just depends on how they come</p> <p>21 out of prison.</p> <p>22 MR. SIEGEL: I mentioned earlier today</p>	216	<p>1 MR. SIEGEL: We're going to stop briefly.</p> <p>2 Our guests, I just see them through the crack in the</p> <p>3 door. I'm going to have them come in, and then we'll</p> <p>4 move on.</p> <p>5 (Short pause.)</p> <p>6 MR. SIEGEL: As I mentioned, we're</p> <p>7 fortunate to have as a guest, Andrew Ligotti, who is</p> <p>8 the Senior United States Probation Officer for the</p> <p>9 United States District Court here in Massachusetts.</p> <p>10 He's going to speak a little bit about his program,</p> <p>11 and he's been nice enough to bring along one of the</p> <p>12 participants, Mr. Lawler, who's going to speak about</p> <p>13 his experience in that program.</p> <p>14 MR. LIGOTTI: Hi, everyone.</p> <p>15 ALL: Hi.</p> <p>16 MR. LIGOTTI: So we have a program called</p> <p>17 the Court-Assisted Recovery Effort, CARE. It's a</p> <p>18 federal drug court program that started about four</p> <p>19 years ago here in Massachusetts. We modeled it to</p> <p>20 some degree on a couple of small programs that had</p> <p>21 existed before us in Oregon, in Brooklyn, and I think</p> <p>22 in Michigan. And we started it as a one-year pilot</p>
215	<p>1 that New York, because of this system, is completely</p> <p>2 bifurcated. There are in fact mental health courts</p> <p>3 in the New York State court system.</p> <p>4 MS. KNOPP: We have mental health courts,</p> <p>5 too.</p> <p>6 MR. SIEGEL: But parole can't access those</p> <p>7 courts.</p> <p>8 Do folks who are reentering have the</p> <p>9 ability to get the benefit of those things?</p> <p>10 MS. KNOPP: So what's kind of weird about</p> <p>11 our setup is that we have some counties in Ohio where</p> <p>12 the court does not have county probation, and parole,</p> <p>13 out of the goodness of their heart, supervises all of</p> <p>14 the people on supervision in those communities. So,</p> <p>15 like I said, it depends on how you go in and how you</p> <p>16 come out, who's your supervision agent. It could be</p> <p>17 parole just for the fact that that county has no</p> <p>18 county probation; it could be parole because they're</p> <p>19 coming out of their post-release control. If they're</p> <p>20 coming out on judicial release or shock probation,</p> <p>21 they would go to the county Probation Department. So</p> <p>22 it depends on how you come out and who you're under.</p>	217	<p>1 project. What we as a district wanted to do was be</p> <p>2 more innovative and proactive in helping people with</p> <p>3 substance abuse problems when they first come out of</p> <p>4 prison. So we created a treatment service unit of</p> <p>5 officers dedicated to that goal from various</p> <p>6 different backgrounds and experiences to kind of look</p> <p>7 at what innovative tools and resources existed</p> <p>8 outside of our box.</p> <p>9 And we saw, because Massachusetts is a</p> <p>10 pretty good place for drug courts, that those were</p> <p>11 really successful in the state court system, and we</p> <p>12 decided we wanted to do one.</p> <p>13 Washington wasn't particularly, not</p> <p>14 necessarily in support of it. Problem-solving courts</p> <p>15 didn't exist in the federal system; specialized</p> <p>16 courts didn't exist in the federal system; so it was</p> <p>17 something that wasn't necessarily encouraged, and the</p> <p>18 Justice Department wasn't too excited about what we</p> <p>19 were doing either because they felt that the</p> <p>20 offenders in our population didn't need this kind of</p> <p>21 a service. So we didn't call it a drug court; we</p> <p>22 called it CARE. But, in fact, it was a drug court;</p>

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<p style="text-align: right;">218</p> <p>1 we just gave it a different name to try it out. 2 So we did it as a one-year pilot project. 3 We have the support of all our judges unanimously. 4 Thankfully, it was a great program. It was really 5 well received. It's now a permanent program. As I 6 said, it's four years. And what's been really fun is 7 that people from around the country, as far away as 8 Guam, California, Florida, I think maybe 40 or 50 9 different districts have come to observe; many are 10 going to be here for this conference; and many have 11 modeled their problem-solving courts program based on 12 ours, and there are dozens and dozens around the 13 country right now. We're really excited about that. 14 Our program is a one-year program, at 15 least that's the minimum that it would take to 16 complete it. It could take longer if people don't do 17 well. And you earn credit week to week. There are 18 four phases. As you progress in phases, you come 19 less frequently; you're supervised less frequently; 20 and your drug testing is less frequent. There isn't 21 a cookie-cutter approach to treatment. Treatment is 22 provided based on need, and we have two treatment</p>	<p style="text-align: right;">220</p> <p>1 based in recovery, aid books, things like that. 2 We've had a number of graduates. What was 3 very exciting is even though there was some 4 resistance from the Justice Department at the 5 beginning, our large graduation last year had Eric 6 Holder as our keynote speaker. So the Justice 7 Department has seemed to turn around a little bit on 8 us, and our US Attorney's office is very, very 9 supportive. 10 There have been a number of graduates, and 11 I brought one graduate here with me today, Joe 12 Lawler. Joe graduated a few months ago from the 13 program, and I thought I would tell you a little bit 14 about his story, and then you can ask him some 15 questions if you're interested. 16 Joe was convicted in the District of New 17 Hampshire in 2000 -- 18 MR. LAWLER: 2000. 19 MR. LIGOTTI: -- for possession with 20 intent to distribute, use of a firearm during the 21 commission of a drug offense, and being a felon in 22 possession. His background is he's a native of</p>
<p style="text-align: right;">219</p> <p>1 providers on our team that meet with us weekly so we 2 can review the status of everybody, and we tweak 3 treatment accordingly. 4 Let's see if there's anything else. 5 We started the program with rewards, and 6 our rewards were food-based rewards, and there was 7 some controversy on that. You got a candy bar in the 8 first phase, got a gift card on the second, movie 9 passes on the third; and the ultimate reward, you're 10 off supervision when you complete it. The candy 11 bars, you know, people who weren't really supportive 12 in the beginning jokingly called us "candy bar 13 court," and you'd hear that in the elevators, which 14 sort of takes away from what you're trying to create. 15 So we did away with that. 16 We're at a point now, though, where we're 17 looking at incentives again, and we're going to 18 create new ones that are more treatment focused. We 19 haven't put anything in place in our meetings about 20 that at this point, but, you know, things like a gift 21 certificate for shoes, a certificate for a suit or a 22 tie for an interview, resume paper, rewards that are</p>	<p style="text-align: right;">221</p> <p>1 Charlestown, which is one of Boston's neighborhoods. 2 He comes from a very good family. His dad is a 3 fireman; his mom works for a prestigious Boston 4 hospital and has for many, many years. He's got two 5 sisters, both of whom are professional. He's a high 6 school grad, was a star hockey player in high school, 7 attended some college, was an honor role student both 8 in college and high school, and has a good work 9 history. 10 In terms of substance abuse history, he 11 began to use alcohol and drugs, alcohol first around 12 age 12 or 13, progressed within a year or so to 13 marijuana use around age 14, which was daily use, and 14 then graduated to using LSD, hallucinogens, 15 hallucinogenic mushrooms, cocaine, prescribed 16 painkillers, which is what ultimately was the big 17 problem, including OxyContin, which is a big problem 18 here in the northeast, PCP, angel dust, things like 19 that. 20 He had two prior convictions before his 21 federal offense, age 20 for possession of class D 22 percocet, prescribed medications; and then later that</p>



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<p style="text-align: right;">222</p> <p>1 same year for possession of class D OxyContin. Had a 2 couple of probation violations on his second state 3 supervision and a number of unsuccessful attempts at 4 treatment. 5 His offense conduct was set when he was 6 about 22 years old. He was driving north on Route 95 7 out of Boston up into New Hampshire. He was driving 8 95 in a 65 mile an hour zone. Got pulled over for 9 speeding. Initially, didn't pull over, and then came 10 to an abrupt stop. When officers pulled him from the 11 car, they felt he was under the influence of 12 something. There was no alcohol detected, but his 13 pupils were dilated, and they felt that he was 14 probably under the influence of drugs. They 15 conducted a further search of the car. He failed a 16 field sobriety test. The further search of the car 17 revealed some 4,000 prescription medications, things 18 like OxyContin, morphine, codeine, PCP. Some of the 19 pills were determined to be from a pharmacy robbery a 20 few days before. And under the driver's seat of the 21 car was an unloaded nine millimeter firearm. 22 Based upon that, he was taken into state</p>	<p style="text-align: right;">224</p> <p>1 one of the things he did was he took a creative 2 writing course, and he took an acting course. And we 3 were pretty excited about that. We have an 4 employment division in our office, and so I contacted 5 the employment officer to ask her whether or not she 6 could get us any information on serving as an extra 7 in a movie. Lots of movies are now being filmed in 8 Boston. So we talked about it with Joe. 9 Interestingly, in Charlestown, Ben Affleck was in 10 town, local guy, who was shooting a movie called The 11 Town, which is a robbery-based movie about 12 Charlestown, the town that Joe grew up in. 13 So I think he probably would have done 14 this anyway, but I do remember that he was very 15 reluctant when I first suggested that he go and stand 16 in line and try to be an extra. He said, yeah, 17 maybe, I don't know. He wasn't really convincing me 18 that he was going to do it. But, thankfully, he 19 went, stood in line. And not only did they like him, 20 but they asked him to say a couple of words, and he 21 was real excited to find out a couple of days later 22 that he got a call back for an audition, and then a</p>
<p style="text-align: right;">223</p> <p>1 custody. He apparently was -- had been agitated and 2 got into a conflict with a CO at the state level, 3 punched the CO, and ended up having his case 4 transferred to Federal Court. And this kid from 5 Charlestown that played hockey got 111 months in 6 federal prison. 7 Joe can tell you better than I about is 8 story in federal prison, but he had some choices to 9 make, and he was able to see that choice is what got 10 him to where he was at and that choice could get him 11 out of that. So he weighed out his options in prison 12 and made some different choices. 13 When he came out, our program is a 14 voluntary program; it's not anything that's mandated. 15 And, initially, he was resistant to it, feeling like 16 he maybe didn't need it, but then agreed to do the 17 program. It was a little challenging in the 18 beginning, but then he settled in nicely. And what 19 we try to look for is the hook. What is it about 20 this person that we could tap into to give them some 21 perspective that's different? And Joe had an 22 interest in acting. He had never done it before, but</p>	<p style="text-align: right;">225</p> <p>1 second audition with Ben Affleck himself. What was 2 really exciting is they then wanted to give him a 3 role in the movie. There was a challenge, however, 4 because, as a bank robber, you have to have a firearm 5 as a prop in the movie, and Warner Brothers Studios 6 believes in using real guns, not fake guns. So there 7 was a big dilemma as to what we'd do about that, 8 because we would then be allowing a felon to be in 9 possession of a firearm. So, there were a series of 10 meetings. I went to, actually, the movie site, met 11 with Ben Affleck, met with other people. The 12 producer got in touch with Warner Brothers Studios 13 for us, and we tried to figure out a way to allow it 14 to happen. It's an example of the collaboration that 15 can exist with probation that it's not about policing 16 and catching people, but about trying to figure out 17 the hook in working with people. 18 In the end, we okayed the gun. It was 19 rendered inoperable; it wasn't something that would 20 be possession of a firearm. But Warner Brothers 21 Studios got a bit nervous, given his history, about 22 possible publicity. And while they didn't give him</p>

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<p style="text-align: right;">226</p> <p>1 that major role in the movie, they did give him a 2 role, and the film comes out in September, and he's 3 got the role of an FBI agent, and he's continuing to 4 -- and he carries a firearm, which is actually a fake 5 prop, and did really well. He developed a lot of 6 confidence, was less resistant, and met a really 7 terrific lady. They're in a good relationship. 8 They're living together. He recently proposed. 9 They're getting married in January. 10 So, that's his story. 11 (Applause.) 12 MR. SIEGEL: So, Joe, let me ask one quick 13 question, and then we'll open it up. Officer Ligotti 14 mentioned that you made several choices while you 15 were in prison, apparently made the right choices. 16 What were those choices, and at what point in your 17 imprisonment history did you make them; how long were 18 you there? 19 MR. LAWLER: Well, before I start, I 20 didn't know about this candy bar thing. I never got 21 a candy bar. 22 MR. LIGOTTI: I'll buy you one.</p>	<p style="text-align: right;">228</p> <p>1 support, but I remember hearing before that people 2 are products of, I believe, their family and 3 environment. There might have been one more thing, 4 but I always go back to that, because it's not a 5 cop-out or an excuse, but I look back, and I'm like, 6 what happened? I try to reflect back, and I say that 7 as far as family wise, like I couldn't ask for a 8 better family. They saw me through thick and thin, 9 and they're the best. My relationship with them 10 today it's like -- it's dynamite, you know. They 11 love the girl that I'm with, and everyone is happy, 12 which makes it a lot easier. It just simplifies 13 things. 14 But growing up where I grew up, you know, 15 the environment that I grew up, it definitely had 16 like a negative influence. I ultimately made the 17 choices that I made. And like I'm saying, it's a 18 fact that sometimes I wonder, I'm like, I wonder if I 19 grew up in the suburbs what would have happened, you 20 know? But I try not to like regret or I don't 21 believe in that. You know, everything happens for a 22 reason.</p>
<p style="text-align: right;">227</p> <p>1 MR. LAWLER: Actually, I was speaking to 2 Andrew earlier, and we were kind of going over maybe 3 what we'd talk about today and stuff, and I told him 4 that, growing up, it was always -- and I think every 5 kid, you know, goes through it, every teenager, what 6 not, you know, everyone is just looking to fit in. 7 And I have no shame to say it nowadays, I'm older, 8 mature, and no one ever wanted to admit that maybe 9 when they're a kid, but it's the truth, so everyone 10 is really just looking to find their niche. And the 11 people that I looked up to, the people that I thought 12 were cool, the guys that were doing the things they 13 were doing, it's funny because -- and I don't blame 14 them; it doesn't mean they're bad people or what not, 15 because a lot of them are good guys, and they had the 16 same -- it's just a vicious cycle -- they had the 17 same thing, the generation in front of them. 18 But, like I say, I came from a good 19 family. I was into sports. My family, I needed for 20 nothing. We weren't, you know -- you know, middle 21 income. My father was a fire fighter; my mother 22 worked for Mass General. And I got very good family</p>	<p style="text-align: right;">229</p> <p>1 But what I'm trying to get at, as I was 2 talking to Andrew earlier, and when I was away, I 3 remember doing a lot of thinking, and I'd draw myself 4 with the older guys, and I remember being away for a 5 few years, and the kids that would come in my age, I 6 just had nothing to talk to them about, you know. 7 There was no conversation there. You know, I'd look 8 at them, and it would just go in one ear and out the 9 other. I couldn't really understand their language 10 anymore. And, you know, I'd try tried to draw myself 11 with the right people and guys that would give me 12 good advice and that actually cared, you know, tried 13 to learn from other people's mistakes. And I was 14 telling Andrew that one thing that I wanted to do, I 15 made a conscious decision, I said, you know what, all 16 that, you know, fake respect, all that facade that 17 kids believe is like, oh, I'm going to earn the 18 respect of this person or that person, or Joey did 19 this or Joey did that, and the people that would give 20 you a pat on the back for doing something that is 21 abnormal to a normal person, you know what I mean? 22 That's the environment I grew up, it's like people,</p>

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<p style="text-align: right;">230</p> <p>1 they'd probably -- I mean, they'd shake their heads 2 at things that would be normal to us. 3       Where I grew up in Boston, it was like my 4 neighborhood was known for -- I used to write a lot, 5 and I'd write poems, and I got into that when I was 6 away, and one of the things I said was my 7 neighborhood was known for like angel dust and bank 8 robbers; that was glorified. So, when I grew up, 9 that's what, you know, everyone -- you were something 10 or you were somebody if you were a bank robber, and 11 it was okay to smoke angel dust. I'm sure that 12 sounds crazy to a lot of people, but that's how it 13 was. 14       And when I was away, I just thought about 15 it. I had a clear head. I could finally see I was 16 on the outside looking in. And even when I was out 17 there running around, I'd always -- I'd look at other 18 people, and I was actually -- I look at it as a 19 blessing in disguise, because I went away at a young 20 age, like 23 years old, and I came home when I was 21 30. So I've only been home for a couple of years, 22 but I still see the same kids, you know, I see some</p>	<p style="text-align: right;">232</p> <p>1 groceries, I would help her walk across the street. 2 That wasn't the issue. The only person I say that I 3 hurt was myself and, I'm sure, my family. You know, 4 my mother shed a tear for me, and I disappointed my 5 family and stuff like that. But at the end of the 6 day, I was self-destructive, you know. So I think 7 that's a big difference as far as I never intended to 8 hurt anyone; I never did hurt anybody, you know. But 9 that's just my story. 10       MR. SIEGEL: What did CARE mean to you? 11       MR. LAWLER: Well, I always did good. 12 Even when I was younger and stuff like that, when I 13 started getting in trouble, the structure helped me 14 out; it always kept me on my toes. Some people -- I 15 think I'm smart enough to realize that you can't win 16 against them. But they say, who's they? I'm just 17 one person, so I try to just jump through the hoops, 18 you know. But at the same time -- it was that for a 19 while; it was jumping through the hoops; it was just 20 kind of doing what I was told to do and stuff. But 21 then you realize that -- I was telling Andrew, I was 22 resistant at first to go through the drug courts, the</p>
<p style="text-align: right;">231</p> <p>1 friends, and they're kind of like -- I look at it 2 like I'm kind of glad that I went away when I did 3 because I don't think that -- I mean, I certainly 4 needed a reality check, and I got it. I don't know 5 if I needed ten years, but, I mean, it is what it is, 6 so I try not to look back at it in that respect. 7       But I said to myself when I was away, one 8 thing I thought about a lot is all that stuff, you 9 know, the people, the impression, the impression you 10 try to make or you're portraying this, and I never 11 felt comfortable doing the things I would do and the 12 people I'd be around and stuff like that. And I 13 always say be careful what you wish for because you 14 could become that person. But I never felt right. I 15 never felt like I was -- you know, I always felt like 16 there was something more. I didn't feel comfortable 17 doing the illegal stuff I was doing. But at the same 18 time I always -- I always felt like -- I mean, I try 19 to explain to people, you know, maybe for my own 20 self, but I'd be the first person, you know, the way 21 I was raised, like if I saw an old lady -- I just use 22 this hypothetically -- walking across the street with</p>	<p style="text-align: right;">233</p> <p>1 drug program. And I'm not going to lie, the 2 incentive was to get a year off my probation, and I 3 just wanted to be done with it. I had spent eight 4 and-a-half years locked up. 5       MR. SIEGEL: It wasn't the candy bar? 6       MR. LAWLER: No, but that might have swung 7 me, too. 8       (Laughter.) 9       MR. LAWLER: And I just want to touch on 10 one point, that when I was away, I keep going back to 11 the respect, and I tell Andrew that facade of when 12 you're younger and you think like, you know, you try 13 to earn this one's respect and that one's respect, 14 and I told him that if I put that much effort 15 nowadays into -- you know, I don't want that because, 16 at the end of the day, that all counts for nothing, 17 and it means nothing. And as you get older you 18 realize like, what did that do for me? I didn't 19 benefit from it. So now it's like, when I came home, 20 I said, I'd like to earn the respect of, number 1, 21 myself, you know what I mean, because I was never 22 really -- you know, I wasn't happy doing the things I</p>

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<p style="text-align: right;">234</p> <p>1 was doing. I was kind of lost. I was a lost soul 2 for whatever different reasons, you know. But now 3 it's like to earn that respect of honorable people, 4 people that can help you better yourself and stuff 5 like that, you know, because I believe people need 6 people. And once I -- you know, I was very resistant 7 at first. Andrew, I'm sure he remembers. I told him 8 from the beginning, and he didn't know me from a hole 9 in the wall, and I went in there and I said, I just 10 want to let you know, I don't get high. And he said, 11 yeah, I've heard that before. So now, right away, 12 we're starting off on the wrong foot, because I'm 13 letting him know I don't do drugs. But he's looking 14 at a piece of paper and saying -- I'd say, okay, 15 yeah, I've done drugs, I certainly have, but I 16 haven't done drugs; I don't plan on doing it. So he 17 said okay, and he gave me a urine one day, and it was 18 -- he said, is there a reason your urine is foggy? I 19 said, I don't know; you're the urine guy; you tell 20 me. You know, I don't know. He says, well, is there 21 anything you want to tell me? I said no, there's 22 nothing I want to tell you. I knew that there was</p>	<p style="text-align: right;">236</p> <p>1 MS. RIVER: So you talked about being 2 resistant to the program when you first heard about 3 it, even with, I guess, the one year off probation 4 incentive. Can you just talk a little bit about why 5 you felt that way? What was unattractive about the 6 program? 7 And then the second question is what if 8 anything would you change or add to the CARE program 9 to make it better? 10 MR. LAWLER: Well, I was resistant because 11 I felt like I was away for eight and-a-half years. 12 So, yeah, it's nice to be able to be done with these 13 people, so to speak, in two years rather than three. 14 But someone that was away for that long, what would 15 another year be? I could breeze through my 16 probation. I know how to get by. I know how to get 17 through things. You know, I know how to play the 18 game, so to speak. But I knew that this would be 19 more hands-on. I knew that people -- that I would 20 have to answer to someone; I'd have commitments; I'd 21 have to go in every Wednesday, or I'd have to go tell 22 my boss I've got to go to a urine and stuff like</p>
<p style="text-align: right;">235</p> <p>1 nothing wrong with the urine, but I know that at 2 first, my first thing was defensive. I was like is 3 this guy busting my, you know? And it's funny, 4 because after that -- and I told him again, I told 5 you, I don't get high; I don't do drugs. And after 6 that we kind of -- once I let down my guard and once 7 I said, all right, this guy ain't out to hurt me, you 8 know what I mean? Because I was kind of, you know, 9 people have trust issues with authority and stuff 10 like that. And once I said, you know what, this guy, 11 he ain't my enemy, you know what I mean? And when I 12 did the court, I finally volunteered to do that, and 13 I stuck it out, and Judge Sorokin, who I thought was 14 going to be here today -- 15 MR. SIEGEL: He was here earlier. 16 MR. LAWLER: Yeah, he was a very nice guy 17 and very easy. You didn't feel threatened or 18 anything, you know. I felt like -- and I told him 19 that at the end of CARE that I felt like he genuinely 20 cared, you know. So that was a big thing, too. 21 MR. SIEGEL: Any other questions? 22 Jackie.</p>	<p style="text-align: right;">237</p> <p>1 that. At the beginning, I said, is this really worth 2 it? I questioned if it was worth it, you know. But 3 then when I stuck it out, it gradually got easier. 4 And that's what they say -- Andrew said, he was 5 explaining earlier about the phases and stuff like 6 that. You know, you go through the first phase and 7 the second phase. And I'd be up there. I'd breeze 8 right through. I knew I would get right through 9 because I know -- and this might sound bad -- and I 10 would try to explain to people that were having 11 problems getting through the program, and I'd tell 12 them, listen, if you just want to get through the 13 thing, if that's your ultimate priority, don't do 14 drugs. And I know that's maybe -- just don't do 15 drugs, you know what I mean? Because that's really 16 the basis of it. If you don't do drugs, if you have 17 no dirty urines, then you'll get through the program. 18 That's the minimal that you'd have to do. 19 But as far as -- I thought it was a good 20 program, and I thought it was a nice program. I saw 21 a lot of people struggle and stuff like that. I'd 22 scratch my head and say -- there would be people that</p>

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<p style="text-align: right;">238</p> <p>1 would be ready to graduate, and they'd come in with a 2 dirty urine. I couldn't fathom it, you know. But 3 that's me, and everyone is different, you know what I 4 mean? 5       So, as far as changing it, what I would do 6 differently? That's a tough one. I never really 7 thought about that. Get rid of this guy, first of 8 all. 9       (Laughter.) 10       MR. LAWLER: I don't know. I think it 11 works good. I think that you need receptive people; 12 you need people that -- me and Andrew, when we 13 grabbed lunch earlier, we were talking about being 14 able to -- you know, he's in the trenches, you know, 15 so he goes out there and he speaks with people to try 16 to get -- you know, he's hands-on, so someone that -- 17 rather than it's something that you come in -- when 18 someone thinks that you care or someone thinks that 19 you have their best interest and not that they're 20 just going to lock them up or slap their hand -- if 21 someone thinks that you're out to get them, of 22 course, that's human nature. But if they think</p>	<p style="text-align: right;">240</p> <p>1 soft spoken, you know, and he was in an environment 2 where he saw another 12 people or however many people 3 were in the program. So he'd look back behind his 4 shoulder. And now if it's just him and the judge and 5 the probation officer, he's not probably going to say 6 much; he's going to be closed-mouthed, you know. But 7 when he sees other the people there and realizes he's 8 not alone and that there's other people there telling 9 the same story or a similar story and that they were 10 all there for the same reason, you know, he did, he 11 opened up and stuff like that. So I think that's a 12 good thing, too. 13       MS. RIVERS: Thank you. 14       MR. LIGOTTI: You know, Joe points out 15 that he felt he didn't have a problem with drugs, and 16 he does. And for those of us that do this you know 17 that, pretty much, everyone thinks that. So I don't 18 want folks to think that we picked somebody that we 19 didn't think was for the program anyway; it was more 20 about, okay, we know you're not going to do that, so 21 we're going to make sure you have the support and not 22 go back to that. So let's find a hook; let's find a</p>
<p style="text-align: right;">239</p> <p>1 you're willing to help, you know, it just makes the 2 transition that much smoother, you know, because 3 people do need that after being away. 4       And I was talking to a friend of mine, and 5 he said the same thing. He said, you know -- he was 6 away for a long time, and he said, you know, I think 7 everyone that's away should go talk to someone. 8 Because some people don't. I think that it's good to 9 -- there's a lot of stuff you don't talk about, 10 especially being a guy in that environment, you know. 11 People don't express themselves; people don't talk 12 about stuff like that, you know. So whatever the 13 case may be, you know, and to realize -- I was 14 telling Andrew earlier, we were talking. There was a 15 big guy, he was from a neighborhood in Boston, 16 Roxbury, tough neighborhood. And if you looked at 17 him, I said, he would be -- first impression, he 18 might be a little intimidated, a little stand-offish. 19 That's his portrayal. Subconsciously, he might just 20 do that because that's how he was brought up; that's 21 how he was raised; that's his environment; that's his 22 defense mechanism, you know. But this guy was so</p>	<p style="text-align: right;">241</p> <p>1 plan for you; let's give you some guidance and 2 structure so you don't go back to that lifestyle and 3 that environment and making those same choices. 4       MR. SIEGEL: Thank you. This is why we do 5 this. 6       (Applause.) 7       MS. HANDLIN: And if I could comment that 8 out of the federal courts there have been two federal 9 drug court evaluations, and Boston's federal drug 10 court evaluation, by far, superseded all of the 11 others and shows a very positive success that they 12 are using at the federal level to help guide the next 13 evaluations that will be coming out. 14       MR. SIEGEL: I would suggest we take a 15 short ten-minute break now, and then we'll reconvene. 16 We'll do a little bit on incentives and sanctions, 17 picking up on the presentation and talking a little 18 bit about evidence-based practices and going right 19 into the community stuff. 20       So, let's take ten minutes. 21       MR. LIGOTTI: For those that are 22 interested, there's a seminar tomorrow at our federal</p>

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242	<p>1 courthouse to be able to observe our drug court</p> <p>2 program.</p> <p>3 MS. HARDIN: You won't get priority on the</p> <p>4 bus because we have a substantial amount of people</p> <p>5 who signed up for the conference that are federal, so</p> <p>6 they get priority on the bus, so I want to tell you</p> <p>7 that.</p> <p>8 (Short break.)</p> <p>9 MR. SIEGEL: All right, I've got another</p> <p>10 40, 45 minutes of my time, so I wanted to pick up on</p> <p>11 some of the things we heard about earlier and sort of</p> <p>12 weave them into the conversation.</p> <p>13 Mike, you mentioned a phrase that I've</p> <p>14 heard before, "the churners," earlier today, you</p> <p>15 know, the folks who recycle.</p> <p>16 What are some of the approaches California</p> <p>17 is utilizing now to address those in terms of, put it</p> <p>18 in the rubric of sanctions and rewards in lieu of</p> <p>19 returning them to prison?</p> <p>20 MR. BRADY: Well, we have a couple of</p> <p>21 pilots that we're doing, and one is in San Diego.</p> <p>22 And, of course, the one Judge Manley and I do,</p>	244	<p>1 JUDGE MANLEY: You can't use the words.</p> <p>2 MR. BRADY: You can't use "early release"</p> <p>3 and you can't use "early discharge" because they're</p> <p>4 not acceptable terms in California.</p> <p>5 JUDGE TAUBER: It's also a search</p> <p>6 condition.</p> <p>7 MR. BRADY: So what we did, in order to</p> <p>8 placate the police agency, local law enforcement in</p> <p>9 all the counties, we kept them on searchable parole.</p> <p>10 So, really, those are the only things that</p> <p>11 we do in California right now, although we are moving</p> <p>12 toward and hope to expand this new program with AOC.</p> <p>13 And what we're doing here is we are actually</p> <p>14 transferring jurisdiction of these parolees from the</p> <p>15 parole authority to the courts.</p> <p>16 MR. SIEGEL: So when the churning, using</p> <p>17 your phrase, a lower level offender in terms of the</p> <p>18 nature of their offenses, not necessarily in terms of</p> <p>19 their risk re-offend, fails to appear at the parole</p> <p>20 office or fails to call in or however you're having</p> <p>21 that person report, is there a response to that</p> <p>22 misconduct?</p>
243	<p>1 really, we did on our own; I wouldn't call it a state</p> <p>2 sanction. The judge, as he always does, is very</p> <p>3 difficult and so --</p> <p>4 MR. SIEGEL: So this is a program that you</p> <p>5 two make up?</p> <p>6 MR. BRADY: Yeah, we just made it up.</p> <p>7 MR. SIEGEL: It is evidence-based.</p> <p>8 MR. BRADY: He actually was having a</p> <p>9 difficult time, and so he'd contact me, and we</p> <p>10 finally got together and got the parole department to</p> <p>11 put together an MOU to include parolees in his</p> <p>12 program. Judge Tynan has one in Los Angeles. Some</p> <p>13 of the reentry courts are females that Nancy is</p> <p>14 familiar with. And then we do another ad hoc one in</p> <p>15 San Francisco. But we now have, as the Judge</p> <p>16 mentioned, we have non-revocable parole.</p> <p>17 MR. SIEGEL: I love that phrase.</p> <p>18 MR. BRADY: It is really a fiscal reaction</p> <p>19 to the low level offenders continuing to come back on</p> <p>20 a regular basis.</p> <p>21 MR. SIEGEL: Just as an aside, why is</p> <p>22 early discharge not a possibility?</p>	245	<p>1 MR. BRADY: It's an arrest.</p> <p>2 MR. SIEGEL: It's an arrest.</p> <p>3 MR. BRADY: It's an arrest.</p> <p>4 MR. SIEGEL: Always?</p> <p>5 MR. BRADY: I would say unless -- we try</p> <p>6 to reach out to that parolee, make a phone call. If</p> <p>7 we can't find that parolee, depending on their level</p> <p>8 of supervision, if they're high control, if we don't</p> <p>9 know where they are within 24 hours, we issue an</p> <p>10 arrest warrant.</p> <p>11 MR. SIEGEL: When you make that arrest,</p> <p>12 does it go before Judge Manley?</p> <p>13 MR. BRADY: Those cases that are on his</p> <p>14 case load, what we do is we call him after we place</p> <p>15 the hold; he replaces his own hold, and then we lift</p> <p>16 our hold.</p> <p>17 MR. SIEGEL: What do you do in that case?</p> <p>18 JUDGE MANLEY: Well, what I've learned is</p> <p>19 most people -- most parolees are used to what I call</p> <p>20 being over-sanctioned for conduct. And under the</p> <p>21 existing system, if they weren't in the reentry</p> <p>22 court, they will sit in jail forever, and then they</p>

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<p style="text-align: right;">246</p> <p>1 will go to prison for a set fixed term that is 2 negotiated, and they will stay in six months or 3 whatever. But what I've learned is fast immediate 4 sanctions work if they're very short. So letting 5 someone out of jail with the understanding they'd go 6 right back every time they screw up, you see very 7 quick responses. 8 MR. SIEGEL: So you'll put them in for a 9 very short period of time? 10 JUDGE MANLEY: Yeah. First, you let them 11 out immediately. 12 MR. SIEGEL: So-called therapeutic rehab. 13 JUDGE MANLEY: Well, for a short time. 14 And many times, I have learned, it doesn't pay to put 15 them back in. You need -- because the incentives are 16 far more powerful than the sanctions, so you need to 17 incentivize. And the kind of sanctions that work, 18 for example, effectively are having them come back to 19 see you more often because it drives them crazy. 20 I've found parolees do not like to have a lot of 21 pressure on them. They don't like to go to the 22 parole office. They constantly get punished for</p>	<p style="text-align: right;">248</p> <p>1 words, it's followup, repeated followup, and not 2 asking that much be done. Lowering the bar way down, 3 particularly with my clients, because so many of them 4 are mentally ill. I don't expect much. So just 5 reporting to your agent today before five PM. 6 MR. BRADY: One of the things that happens 7 in that model that we can't do as a hearing officer, 8 I can't do, is he sees these folks weekly, the 9 churners. Early in their recovery, he sees these 10 folks weekly. When they come before me, I see them 11 once, because if I send them to treatment, they are 12 released from the gate of the prison with a hundred 13 dollars, and they're told to report to a drug 14 program. So most of them -- half of them bolt from 15 the gate. And then when they're in the program -- 16 now, I used to check on my guys because that is 17 something I did personally. But for the other 89 18 people that we have doing this job, we never see them 19 again until they come back on a violation. The 20 benefit you have with that program is he sees them 21 weekly. And then when they progress every other week 22 and once a month, there's a structured setting there</p>
<p style="text-align: right;">247</p> <p>1 that, over-punished. So if you shorten everything 2 down and let them see the relationship between doing 3 what you've asked them to do and not being bugged by 4 you or their parole agent, the better they do. 5 MR. SIEGEL: That all sounds entirely 6 logical to me. How does that play out? This lower 7 level offender -- and I'm not defining him in terms 8 of his risk for re-offending, chronic recidivist -- 9 he fails to appear once; he fails to appear twice; 10 what are the sanctions that you're utilizing and what 11 are the incentives that you're utilizing; what have 12 you found are effective in altering behavior? 13 JUDGE MANLEY: Now you're talking about a 14 low level offender who is not causing a risk to the 15 community. See, I don't have many of those. But I 16 think what you're talking about, you're not getting a 17 change in behavior, so there will be a short 18 sanction, a very specific task that's very clear, and 19 you can accomplish it, a very quick turn-around. If 20 that's done, a reward. If that isn't done, probably 21 no additional sanction at that point if we can offer 22 something else to get you to do that. In other</p>	<p style="text-align: right;">249</p> <p>1 with immediate consequences which we don't have the 2 ability to do. 3 JUDGE CARPENTER: I do something that's a 4 little counterintuitive to what we've always learned 5 in drug court, and I've found it to be very effective 6 as far as a sanction. Because the way we start to do 7 things, we do contact them prior to the release from 8 the facility, and they are transported directly to 9 our local reality house, which is a secured facility 10 that we can use for housing only or for lock-down. 11 So they never hit the street. They come from 12 corrections to there; they meet with our coordinator; 13 they come to court. They're always released on 14 Tuesday; they always are interviewed and given all 15 the information on Wednesday; they come to court on 16 Thursday. And if their home plan has been approved, 17 we know that ahead of time; it's checked off. If 18 it's approved, we release them when they appear in 19 court on Thursday. And very, very rarely, but it has 20 happened, they haven't shown up at their home place. 21 They decided to go out to do whatever they wanted to 22 do, and that is immediate jail sanction; it's not a</p>

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250	<p>1 graduated sentences.</p> <p>2 MR. SIEGEL: When you say that's an</p> <p>3 immediate jail sanction, that's your policy; that's</p> <p>4 your written policy that parole --</p> <p>5 JUDGE CARPENTER: No, that's me, because</p> <p>6 they've come from a highly-structured environment.</p> <p>7 They've been around the block. They come in, and</p> <p>8 they're basically seeing what they can get away with.</p> <p>9 Well, I'm going to stay out one night, and I'm going</p> <p>10 to pretend that I didn't get it or I didn't remember</p> <p>11 or I got loss.</p> <p>12 MR. SIEGEL: They're testing you.</p> <p>13 JUDGE CARPENTER: Yeah, they're going to</p> <p>14 see how far they can go. Wham, they're back in jail.</p> <p>15 Then we say, now let's start over again. And that's</p> <p>16 choice, 24 hours or 48 hours, whatever. But that's</p> <p>17 not what we would normally do. You wouldn't start</p> <p>18 off with a jail sanction. But with these guys, I</p> <p>19 think that's called for, and then they know you're</p> <p>20 not playing.</p> <p>21 MR. BRADY: Right.</p> <p>22 MR. SIEGEL: I know this is a model that</p>	252
251	<p>1 a little bit about incentives.</p> <p>2 I'm sorry, Mary Kay.</p> <p>3 MS. HUDSON: Well, I think one of the</p> <p>4 things we have encouraged our courts to do, and this</p> <p>5 is consistent with what Doug Marlowe presented on,</p> <p>6 which is what Judge Carpenter is talking about, which</p> <p>7 is when someone doesn't show up, you hammer them.</p> <p>8 When it's about staying clean or other things that</p> <p>9 are not quite as accessible, they look at things a</p> <p>10 little bit differently. So we're trying to support</p> <p>11 our courts implementing sanctions in that manner as</p> <p>12 quickly as possible.</p> <p>13 MR. SIEGEL: You've expressed interest</p> <p>14 before in exactly that, the matrix. Does something</p> <p>15 like that exist in Indiana now?</p> <p>16 MS. HUDSON: We have courts that have</p> <p>17 developed sanctions --</p> <p>18 MR. SIEGEL: Individual courts?</p> <p>19 MS. HUDSON: -- and incentive schedules.</p> <p>20 Yes. And I think, generally, they work. Generally,</p> <p>21 they're pretty consistently followed. They're</p> <p>22 usually developed by the team so there's consensus</p>	253
251	<p>1 Hawaii is now using very, very extensively. It</p> <p>2 involves very rapid response to minor infractions as</p> <p>3 a way of shaping behavior.</p> <p>4 And in Pennsylvania, I think one of the</p> <p>5 things -- certainly, places like New York -- are</p> <p>6 offenders who are re-arrested sometimes for low level</p> <p>7 misdemeanor. Is an arrest always occasion for</p> <p>8 revocation, or are there situations where you have</p> <p>9 the latitude to treat those with other types of</p> <p>10 sanctions?</p> <p>11 MS. DOUGAN: We do have the latitude. We</p> <p>12 will sometimes put them in jail for 48 hours. If we</p> <p>13 arrest the parolee, a hearing must be held within 14</p> <p>14 days. So we can technically keep them in jail for</p> <p>15 almost two weeks without having a hearing. It all</p> <p>16 depends, you know, what the situation is. And that's</p> <p>17 not a first sanction. We do use the graduated</p> <p>18 sanctions. But I agree with Judge Carpenter that</p> <p>19 when we're dealing with reentry court, we want to do</p> <p>20 the sanctions swift and hard so they know we mean</p> <p>21 business.</p> <p>22 MR. SIEGEL: Let's turn it around and talk</p>	253



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254	<p>1 sanctions, and then there are the absence of</p> <p>2 sanctions. But the notion of incentives was</p> <p>3 completely alien to them because they felt in a</p> <p>4 natural way that it was somehow rewarding people for</p> <p>5 being compliant, missing, I think, the larger purpose</p> <p>6 of what incentives are meant to do.</p> <p>7 But let's talk about incentives. What</p> <p>8 types of incentives have you found to be effective?</p> <p>9 And I'm not simply talking about the nirvana of</p> <p>10 reducing the amount of time on parole or probation.</p> <p>11 MS. WILLIAMS: Let me try to address that</p> <p>12 in a couple of different ways. As a psychologist,</p> <p>13 what really was interesting to me early on with our</p> <p>14 court is how much it adheres to just the behavioral</p> <p>15 research that we know as psychologists, you know,</p> <p>16 that immediate response to an action, there's going</p> <p>17 to be a consequence. That sends a message that's the</p> <p>18 most powerful thing you can do. When you're raising</p> <p>19 children, you know, if you wait too long to address</p> <p>20 something, you've missed the whole boat. So I think</p> <p>21 the immediacy, timeliness of responding is very, very</p> <p>22 good.</p>	256	<p>1 That's actually, research wise, the most</p> <p>2 powerful way to reinforce, and we call it -- in</p> <p>3 psychology -- I hate to throw terminology around --</p> <p>4 we call it negative reinforcement, which freaks</p> <p>5 everybody out. That's like punishment to us, right?</p> <p>6 But, really, the idea is you're subtracting something</p> <p>7 negative, taking off community service hours or</p> <p>8 taking time off or, you know, you could even build in</p> <p>9 this concept in your program. High risk offenders in</p> <p>10 community treatment, start out with highly structured</p> <p>11 and give them a chance to earn less reporting. What</p> <p>12 you're subtracting is probably the most reinforcing</p> <p>13 thing you can do.</p> <p>14 MR. SIEGEL: And, again, are those</p> <p>15 incentives clearly articulated to the participants?</p> <p>16 MS. WILLIAMS: Yes.</p> <p>17 MR. SIEGEL: So that they know they're out</p> <p>18 there.</p> <p>19 JUDGE SAUNDERS: But that sounds a lot</p> <p>20 like sanctions than absence of sanctions.</p> <p>21 MR. SIEGEL: Yes, except I think in some</p> <p>22 ways it's the way it's presented. I mean, if you're</p>
255	<p>1 That same paradigm, we can talk about</p> <p>2 incentives, and what we're really talking about is</p> <p>3 are we trying to add something positive to them? Are</p> <p>4 we going to try to give them something? I think</p> <p>5 that's one way to provide an incentive. Someone</p> <p>6 talked about candy bars with the federal program,</p> <p>7 gift certificates, bus passes, those are always</p> <p>8 things you can add.</p> <p>9 We can look at the research. The most</p> <p>10 powerful incentive is actually subtracting something</p> <p>11 negative. Judge Caruso, of course, he's always super</p> <p>12 smart, so he gets stuff right off the bat, but</p> <p>13 really, really good at doing this with his clients.</p> <p>14 And one of the things he will do in a graduated</p> <p>15 manner is say, okay, once you did this, you're going</p> <p>16 to have to do two weeks in jail. You don't have to</p> <p>17 report for another week. If you do X amount of hours</p> <p>18 in this program or this county for the next seven</p> <p>19 days, I'm going to subtract two hours off your</p> <p>20 sentence. So they can earn -- they can start</p> <p>21 subtracting some of that negative application and</p> <p>22 sanction.</p>	257	<p>1 creating an earned ability to get them, so you've</p> <p>2 achieved certain milestones, and you're getting a</p> <p>3 reward for that in the sense of something being</p> <p>4 removed as an obligation, it's transmitted and</p> <p>5 interpreted as something that's being given to</p> <p>6 somebody.</p> <p>7 MR. WATLER: Last week, it was great to</p> <p>8 sit between Karl Whitman kind of debating this very</p> <p>9 point. And one thing that kind of came out of</p> <p>10 listening to them talk about this is that the rewards</p> <p>11 need not be monetary. They need not be --</p> <p>12 MR. SIEGEL: Material.</p> <p>13 MR. WATLER: Yeah, material things.</p> <p>14 Something as simple as a letter from the judge or a</p> <p>15 letter from their parole officer or a weekend pass or</p> <p>16 a relaxation of curfew were particularly effective in</p> <p>17 kind of motivating good behavior. And so we have</p> <p>18 been thinking about, what could we do, movie tickets</p> <p>19 or fare cards and, obviously, those things cost</p> <p>20 money, but the things that were most meaningful were</p> <p>21 the things where the parolees felt they were being</p> <p>22 respected and that their needs were being respected</p>

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<p style="text-align: right;">258</p> <p>1 and that the program was respecting them, that those 2 things where you have an incentive where a PO or a 3 judge is praising someone, that those things actually 4 have a lot more value. 5 MR. SIEGEL: You've seen it, I know, 6 because you've officiated the ceremonial graduations 7 that we have where we're handing out certificates 8 that we make up. It's a certificate, right, nicely 9 framed. It has a symbolic value to individuals 10 because they're hearing praise of having accomplished 11 something many times for the first time in their 12 lives. And when they hear it from the administrative 13 law judge, that's even more powerful, because no 14 judge has ever said "good job" to them before. 15 Mike. 16 MR. BRADY: I think one component that 17 Chris touched on earlier today that we're missing, 18 this group, we touch such a very small percentage of 19 the parole and probation population in reentry 20 courts, at least that's my sense. 21 MR. SIEGEL: So far. 22 MR. BRADY: So far. We're missing -- we</p>	<p style="text-align: right;">260</p> <p>1 parolees and by supporting their reentry that it's 2 not soft on crime, that you're not jeopardizing 3 public safety. 4 MR. SIEGEL: And where does that message 5 come from? 6 MR. BRADY: It has to come from the 7 management down. In California, we went in the early 8 '90s from the relocation model -- late '80s, early 9 '90s -- from the relocation model to the punitive 10 model. We went from 11 prisons and 25,000 inmates in 11 1985 to 33 prisoners today, 170,000 inmates, so the 12 whole shift west to locking people up. 13 MR. SIEGEL: If you hang them all, you get 14 the guilties. 15 Chris. 16 MR. WATLER: Just quickly, I'm not a 17 parole staff person, but it's almost as if there's a 18 kind of an appreciation-free environment within the 19 division. I mean, the officers, we thank them for 20 stuff. We have a blog that we actually do interviews 21 with parole staff that no one ever speaks to. No one 22 knows what a regional director does or a bureau chief</p>
<p style="text-align: right;">259</p> <p>1 need to reach out to parole agents and parole 2 officers now that are not involved in drug courts to 3 change this culture. And I think, at least in 4 California, we've missed that, because our juvenile 5 officers, probations are very good about the social 6 worker supportive approach, but our adult parole 7 officers are more like cops. They're looking for 8 technical violations and to send you back. And in 9 order to really change the whole culture, we really 10 have ignored 85 percent of our agents. 11 MR. SIEGEL: So how do we get there? Is 12 that a training issue? 13 MR. BRADY: It's a training issue. 14 MR. SIEGEL: Well, is it also publicizing 15 the results of programs that seem to be effecting 16 change in a way that sort of comes closer to 17 conforming to the goal we all seek? 18 MR. BRADY: I think that's in part of it. 19 But I think what you have to do is you have to 20 actually go to the parole office, the local parole 21 office, and you have to really change the culture of 22 these folks' thinking that by being supportive of the</p>	<p style="text-align: right;">261</p> <p>1 or an administrative law judge. So we try to actually 2 promote the folks who are within the organization -- 3 MR. SIEGEL: Shine a light on them. 4 MR. WATLER: -- who are doing a really 5 good job and letting them know what is successful and 6 involving them in creating that success. In any 7 business, in any endeavor, that's huge. You get 8 people together, and you have those quick wins. 9 People see momentum. So that's our small way of 10 trying to influence the culture towards these kinds 11 of practices. 12 MR. SIEGEL: Terry. 13 JUDGE SAUNDERS: I think that in our 14 agency, I mean, in New York State, actually, we're 15 starting at the top to try to change that culture, 16 and we've had some meetings with different higher-ups 17 in the Division of Parole to try to prepare them for 18 the change. I was at one of those meetings, and I 19 mentioned, because every year we have an award 20 ceremony for parole, and I mentioned to the person 21 giving the talk, I said, you know, we give awards for 22 the parole officers who make the big arrests, who get</p>

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<p style="text-align: right;">262</p> <p>1 on the newspaper and everything. I said, we simply 2 don't have a reward for the parole officers who show 3 success by having people successfully complete 4 parole. And although I got a positive response at 5 that, I've heard nothing since that time. 6 MR. SIEGEL: We keep knocking on that 7 door. 8 JUDGE SAUNDERS: So we do need awards and 9 incentives for the parole officers as well as the 10 parolees. 11 MR. SIEGEL: Well, their recognition can't 12 be understated. 13 MS. BANKS: I would probably take it one 14 step further and say not just change the culture at 15 the post-supervision level but also with the Parole 16 Board themselves, change the culture within the 17 Parole Board, Parole Board chairs, Parole Board 18 members. And that's one of the things that we've 19 been working on, to rebuild the competencies, not 20 just as a political appointee, but as a structured 21 informed decision-making individual and a structured 22 decision-making team.</p>	<p style="text-align: right;">264</p> <p>1 suggest something that we've had success with, and 2 that is this. I have two parole agents who are 3 assigned to the court, but there are many other 4 parole agents whose clients are in the program. What 5 I have found is what is often lacking in these 6 systems, at least it is in California, and I suspect 7 other places, because it's also lacking in probation, 8 is direct communication with the judge. So that, in 9 other words, if a parole agent feels someone is out 10 doing something, they don't know quite what to do. 11 You're put on the line if you screw up as a parole 12 agent or probation officer. And they know they're 13 talking to the judge and a team of professionals who 14 seek a shared responsibility and a shared decision 15 and reinforcement of what the parole agent does. To 16 me, it's much more important that the parole agent 17 see that you care about them doing a good job and the 18 right thing than that they just follow a bunch of 19 written rules and roll people out. 20 You know, I started out, no one ever would 21 refer a case to me from parole. It all came from 22 higher up. Now agents, individual agents, ask for a</p>
<p style="text-align: right;">263</p> <p>1 MR. SIEGEL: That's a fascinating issue. 2 Doesn't that start, though -- and I'm going to say 3 I'm just curious -- with building up, reinforcing, 4 and increasing the competency and capacity of the 5 community corrections agency? 6 MS. BANKS: Absolutely. It goes all the 7 way across. 8 MR. SIEGEL: But it has to start with 9 giving the decision-makers confidence that the people 10 folks are going to be released to are going to be 11 able to take meaningful, thoughtful, and responsive 12 steps towards rehabilitation or whatever phrase we 13 want to apply to it. 14 MS. BANKS: Absolutely. And that's one of 15 the things that we're also concentrating on. It's 16 not just the Parole Boards and Parole Board chairs, 17 that they will take it to decision-makers from the 18 very beginning, the appointing officials. So we're 19 taking it to the decision-makers like the governors. 20 MR. SIEGEL: Yeah, it has to start there. 21 Yes, Judge. 22 JUDGE MANLEY: I was just going to</p>	<p style="text-align: right;">265</p> <p>1 mentally ill client who's screwing up on everything 2 to come into this program, even though they don't 3 have a direct relationship, because they know they 4 then can have some influence over how this person 5 progresses in treatment. 6 MR. SIEGEL: But I assume -- and correct 7 me if I'm wrong -- you've also gotten to the point 8 where the people they report to are supporting the 9 decision to refer those cases? 10 JUDGE MANLEY: Absolutely, but I had that 11 in the beginning. What I didn't have -- because when 12 you've done something so many years one way, it's so 13 hard to change -- but I felt when you can show 14 somebody -- it's just like showing the client in the 15 program that they can trust you and that there are 16 sanctions, but there are a lot more incentives. You 17 show parole agents, here's an avenue we can go 18 directly; you don't have to just slam a hold on them, 19 fill out a paper and send it off to the board. Then 20 you can get that action going that works. 21 MR. JOHNSTON: I just wanted to say I work 22 with a probation-parole agency, and I have an</p>

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<p style="text-align: right;">266</p> <p>1 opportunity to meet twice a year through an NIC 2 network of other probation and parole executives that 3 have combined probation and parole systems. There's 4 about 28 states. And I just want to make sure 5 everyone knows, most probation and parole agencies, I 6 think, are trying to implement evidence-based 7 practices and the way they manage their probationers 8 and parolees, and we certainly have been doing that 9 and working closely with our courts and Parole Board 10 to lift up good practices that are based on the 11 research. 12 MR. SIEGEL: I want to circle back to the 13 question raised earlier. Mary Kay and I were 14 speaking at the break. What are the implications, 15 though, for that in terms of the training that is 16 being provided? I mean, it strikes me, having run 17 the city's probation department way back when, that 18 the officers we recruited and hired at that point 19 were not necessarily going to easily be adaptable to 20 that methodology, absent given substantial training. 21 And even then, I'm not sure that all the officers we 22 hired with a view of the folks who were hiring then</p>	<p style="text-align: right;">268</p> <p>1 like motivational interviewing. 2 MR. SIEGEL: Is it well received by the 3 officers? 4 MR. JOHNSTON: Well, I'd say right now 5 we're about halfway there. Most of our officers come 6 into the job as a broker of resources, as a change 7 agent. But there's still a heavy law enforcement 8 side to it. But I would say we're over the halfway 9 point of officers understanding their role in terms 10 of changing them or effecting success in the offender 11 and reducing crime in the community through effecting 12 change, so. 13 MS. WILLIAMS: I was just going to add to 14 a couple of things. One of the things that Judge 15 Manley said that I believe is very true, when you 16 talk to officers -- I've done a lot of training 17 directly with probation officers before being in an 18 administrative position. One of the most frustrating 19 things for them is having limitations on their 20 ability to impact a case and a client and influence. 21 And for so long, if you listen to them, their biggest 22 threat is I'm going to send your file to court.</p>
<p style="text-align: right;">267</p> <p>1 could do what we were asking them to do, what 2 Professor Marlowe was talking about and others were 3 talking about. Evidence-based practices is not 4 something that everybody can deliver. How is that 5 issue being addressed? 6 MR. JOHNSTON: Wow. Well, I think the 7 issues around that range all the way from your 8 capability of having performance efforts at the 9 officer level and how you define success for that 10 officer when you evaluate their performance to state 11 statute in regards to their role as a law enforcement 12 agent and whether they carry a weapon and effect 13 arrests or not. I mean, there's a whole continuum of 14 issues that surround that. We have been focusing -- 15 we just recently, about two years ago, just 16 completely reinvented APs that work, and our 17 supervision model focused in on applying these 18 evidence-based practices to how we train our 19 officers. And the same things you'll see in 20 evidence-based sentencing, things coming out of drug 21 courts, the reentry court model apply. We're trying 22 to increase the skills of our officers with things</p>	<p style="text-align: right;">269</p> <p>1 Well, that's only as good what the judge is going to 2 do once that file goes to court. And the way they 3 get really angry is when the file comes back and the 4 judge is sending them back. 5 One of the things that we have done, and 6 it's really been very effective, because we have so 7 many different problems in courts, we try to rotate 8 officers through those courts and let them spend a 9 period of time and actually work with the judge in 10 this problem-solving model. That's been a very, very 11 powerful tool. Because once they start, they're able 12 to talk to the judge and start to learn how the court 13 is trying to teach them about the cases and working 14 directly with them, these same officers that go back 15 out into the field are much more likely to think like 16 that when they go back out, you know, to try to work 17 with the court and get them to listen. So I think 18 the judges can play a very powerful role. 19 With 450 probation officers, plus or minus 20 about 50, it does take a long time to, I think, bring 21 people around to motivational interviewing and 22 recognizing there's a different way to do things. So</p>

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<p style="text-align: right;">270</p> <p>1 I can't say that we are where we need to be; we still 2 have a long ways to go, but slowly. 3 MR. SIEGEL: Well, does this direction 4 that we're taking or that we're advocating -- turn 5 this to you, Mary Kay -- change the way you now look 6 at folks that you're going to hire for these jobs? 7 Are the standards somewhat different? Are your 8 hiring practices effective in terms of the skill 9 levels and skill sets you're looking at? 10 MS. HUDSON: We haven't gotten there yet 11 in terms of hiring, hiring preparation, for example, 12 at the local level. But I think that local agencies 13 being really aware of the strengths and limitations 14 of what their staff members are, there are some staff 15 members, the warrant division, bringing people into 16 custody, they'd rather be there. 17 MR. SIEGEL: That's a skill, too. 18 MS. HUDSON: I couldn't do it. I think 19 there are people who are better suited to working 20 with this population in this way, and I think 21 discernment in hiring practices, making sure that 22 you're really hiring the right person for the</p>	<p style="text-align: right;">272</p> <p>1 cost something; but it's definitely out there, and 2 it's available. I find that the probation officers 3 that are on all my programs are volunteers who want 4 to be there because they've spent too many years 5 doing the same work that didn't work, and they're 6 volunteering in the program; they want to be there; 7 and people that come on stay. I don't have probation 8 officers waiting. 9 MR. SIEGEL: Are we considering perhaps 10 changing, at least in some measure, position 11 descriptions and hiring practices, where we recruit, 12 who we're looking for to do some of these things? 13 MS. KNOPP: I know in Ohio, their training 14 branch is the Ohio Supreme Court's Judicial College, 15 and they are actually working on a probation officer 16 -- they do a training academy for new officers. 17 They're actually working on exactly what you're 18 looking for for all officers, not just specialized 19 ones, so I can talk to you over the week about that. 20 It's not probably prescriptive to the point where you 21 want it to be because we just kind of started out. 22 MR. LEITENBERGER: You know, in our</p>
<p style="text-align: right;">271</p> <p>1 position and duties and providing incentives. But 2 what I'd really like to see, if anyone has one and is 3 willing to share it, is a curriculum, a published 4 curriculum for community supervision officers. This 5 is where you start on day 1 when you're hired; you 6 take these classes; and then this year you take this; 7 and subsequent years you take this. And I think -- 8 because we don't really have a prescription for how 9 to get a staff member up to speed in evidence-based 10 practices and delivering these things effectively, we 11 do train in piecemeal. We do probation officers; we 12 do Department of Correction and do community 13 corrections, and it's kind of, well, whoever we can 14 get to speak on this subject on this day, which 15 really is not a coordinated effort, and we're kind of 16 spinning our wheels right now. The same people end 17 up coming in for the same training over and over 18 again. And so we have requirements for these 19 positions. I'm not sure we're going to get anywhere. 20 JUDGE CARPENTER: We need specific 21 training for judges, for prosecutors, for community 22 supervision. I know it's a week-long training; it</p>	<p style="text-align: right;">273</p> <p>1 system, we have a lot of specialized dockets now, and 2 probation isn't like it used to be 20 years ago; it's 3 very specific. 4 MR. SIEGEL: Specialized. 5 MR. LEITENBERGER: And specialized. And 6 you have to look for that kind of staff. To just get 7 a generic PO, you know, that's not what you're 8 looking for. You're looking for someone who fits 9 programs. You want, I think, a good representation 10 of people in your department. We look for, you know, 11 counselors, especially in our drug court, for social 12 workers, as well as the law enforcement background 13 individuals. So, you've got to have a good mix and 14 then train them all to inter-work on these programs. 15 We do the same thing; we sometimes rotate them 16 around. 17 MR. SIEGEL: We're going to talk about 18 here using evidence-based practices. 19 MS. HARDIN: I was going to just comment. 20 There's a couple of things, when you're talking about 21 developing curriculum and different pieces, in the 22 federal system, they have developed evidence-based</p>

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<p style="text-align: right;">274</p> <p>1 training modules for all of their probation 2 departments that they are now implementing. Those 3 departments are getting that. Also, in combination 4 with some of the stuff that NIC has been doing, has 5 been a great product for the federal courts. And 6 with the federal reentry courts, drug courts, we are 7 working with them, all three of us, with the AOC, 8 with the Federal Judicial Center, putting together to 9 make sure that our training that the judge was 10 talking about that we're giving when we work with 11 them is very specific to here's what you're going to 12 be doing, and that's been modified to meet those 13 needs of the federal system. So that's something 14 that their federal AOC is putting out and that a 15 number of those courts are working in. 16 MR. SIEGEL: Judge Sorokin. 17 JUDGE SOROKIN: She basically stole what I 18 was going to say. The Federal Judicial Center also 19 has training for new probation officers that has 20 probably been incorporating some of the sort of 21 change agent principles or evidence-based practices 22 more recently. I don't know if it would be the</p>	<p style="text-align: right;">276</p> <p>1 it works in terms of the reentry participants 2 themselves, but how it's galvanized or how we hope it 3 will galvanize the community to support our work. 4 MR. WATLER: So, quickly, the task force 5 is a state-funded effort. It actually follows the 6 transition from prisoner to communities kind of 7 effort in New York. We're one of 17 around the 8 state, and we actually began doing a community 9 reentry needs assessment, strategic client. So, in 10 that, we really tried to gather data and kind of 11 begin to reach out to the constituency. And then we 12 convened -- the task force includes the District 13 Attorney's office, NYPD, parole, state mental health 14 and substance abuse agency, as well as local 15 treatment providers in Upper Manhattan, and faith 16 leaders. And we meet every quarter. We look at a 17 range of issues. There were kind of seven 18 recommendation areas. The focus for the current year 19 has been on work force of employment -- excuse me, 20 public education and outreach and the development of 21 kind of evidence-based practices around high-risk 22 offenders.</p>
<p style="text-align: right;">275</p> <p>1 Federal Judicial Center or the Administrative Office 2 that would have it, but I think there would be 3 materials that may be right on point or maybe just a 4 start to help you find them. 5 MS. HARDIN: And they're very specific. 6 MS. BANKS: And I would also tell you 7 there's some new policy research out of Carlson 8 University in Canada. In fact, they have their Dr. 9 Ralph Sarin. They have adopted a national probation 10 officer model for training, and they use 11 evidence-based practice. If you contact me, I'll 12 make sure you get in touch with it. They've adopted 13 it as a national training model. 14 MR. SIEGEL: I apologize, I only have a 15 few minutes left, and I haven't gotten close to 16 everything we were going to talk about. 17 I just want to spend five minutes, because 18 that's what I have left, on community issues, on 19 building constituencies for reentry work, reentry 20 courts or other type of work. And only because I'm 21 familiar with it, I'll ask Chris, two seconds, maybe 22 talking about the task force, not so much about how</p>	<p style="text-align: right;">277</p> <p>1 MR. SIEGEL: I think particularly in a 2 place like New York where we have, again, these 3 bifurcated systems, having the District Attorney be a 4 proponent of reentry is, again, a powerful statement. 5 He doesn't have a direct role in the reentry court; 6 he doesn't prosecute folks for violations. But for 7 him to be out there leading the charge saying, we 8 need to invest resources, time, and attention to 9 folks coming back, that that's a public safety issue, 10 that it's not an issue of coddling offenders, but 11 that it's a way to promote public safety, is a lot 12 more powerful than coming from without, frankly. He 13 can bring people to the table that other folks can't. 14 So, with that, I'm going to turn it over 15 to Jeff by introducing the research and evaluation 16 discussion by asking you all, and I'm sure Jeff will 17 talk about the data that you are collecting and how 18 you can use that data to tell the story, to make the 19 case much as we're trying to do in Harlem for the 20 need to invest in reentry programming, telling that 21 story in a way that puts it in the light of being 22 good public safety practice.</p>

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278	<p>1 JUDGE TAUBER: All right, this is the last</p> <p>2 lap of today's program, and I think Al has started us</p> <p>3 on the path when he has asked you what kind of</p> <p>4 training you have for evidence-based practices. I</p> <p>5 think that's probably a very good place to start.</p> <p>6 We've had suggestions from NIC's program and DCI, as</p> <p>7 well as, I might add, that National Center of State</p> <p>8 Courts has an interactive program that's on the</p> <p>9 Internet that you can download. I think it's</p> <p>10 actually streaming. And it's about six hours of</p> <p>11 larger warrant and talking about these practices. It</p> <p>12 comes with a curriculum, and it comes with materials</p> <p>13 so that you can work your way through it. As an</p> <p>14 individual or perhaps as a group, that's something to</p> <p>15 consider.</p> <p>16 Let's stay with evidence-based practices</p> <p>17 just for the moment because it seems to me that there</p> <p>18 probably is some confusion about what it is exactly.</p> <p>19 And I'm wondering if the folks who are most exposed</p> <p>20 to the advances in the field are clear themselves</p> <p>21 about what it is we hope to achieve through</p> <p>22 evidence-based practices and how that can be</p>	280	<p>1 best websites I've seen in actually consolidating</p> <p>2 things and putting them in a format that are pretty</p> <p>3 easy to understand. And what I am seeing when I'm</p> <p>4 looking at evidence-based practices is simply that,</p> <p>5 something that has been replicated over time, that's</p> <p>6 been shown to be effective consistently; it's been</p> <p>7 published in peer review journals, and it's very</p> <p>8 robust. When he's talking about analytic studies,</p> <p>9 which, as you guys know, looking at several studies,</p> <p>10 and the overall outcomes of the number of studies use</p> <p>11 certain stats. I mean, that is very powerful stuff.</p> <p>12 You know, it's not that much different</p> <p>13 than when judges -- I don't know what you all call it</p> <p>14 -- when you use a Daubert -- do you all use those</p> <p>15 Daubert hearings? I don't know if you did that or</p> <p>16 not. They taught me that in forensic psyche</p> <p>17 training, but I don't think I've ever been involved</p> <p>18 in one, actually testing out the science behind</p> <p>19 something. I mean, you're looking at what's really</p> <p>20 sound. So that's sort of the short version, I mean,</p> <p>21 looking into something that's very robust.</p> <p>22 The other thing, though, that I like to be</p>
279	<p>1 communicated to the people who do the work. And I</p> <p>2 know we talked about it a little bit, but maybe,</p> <p>3 Teresa, could you give us your impressions as a</p> <p>4 psychologist and a teacher.</p> <p>5 MS. WILLIAMS: Let me try to give this one</p> <p>6 a shot, because I think it is confusing, and I think</p> <p>7 some of us who have had a background in research</p> <p>8 confuse things even further at times. But let me</p> <p>9 tell you in a nutshell the way I view it. One thing</p> <p>10 I think Doug Marlowe mentioned is there are a set of</p> <p>11 principles that we know that are very sound, very</p> <p>12 robust, and have been repeatedly shown over time.</p> <p>13 And certainly that's an example of evidenced-based</p> <p>14 practices.</p> <p>15 From a scientific perspective, you know,</p> <p>16 you can hear a sketch of the spiel at the different</p> <p>17 levels of science that are more valuable from studies</p> <p>18 that have been done, that have been randomly</p> <p>19 assigned. Certain types of studies are more</p> <p>20 powerful. But I think the way Doug put it is the</p> <p>21 best, and that is that there are a certain set of</p> <p>22 principles out there, and NIC has probably one of the</p>	281	<p>1 very cautious about when I talk to people is steering</p> <p>2 folks away from just looking at certain websites or</p> <p>3 lists of things and saying, okay, well, we know that</p> <p>4 evidence-based practice is, you know, used for</p> <p>5 assessments; we know it as motivational interviewing;</p> <p>6 we know that it's cognitive behavioral; we know there</p> <p>7 are certain principles that work. But the other</p> <p>8 thing that I always want to caution folks about is</p> <p>9 that it's also constantly evolving. You know,</p> <p>10 science is, by definition, it's going to be dynamic.</p> <p>11 We wouldn't be where we are, you know, with iPods</p> <p>12 everywhere, high definition TV, without it. Social</p> <p>13 sciences are no different. They're going to continue</p> <p>14 to evolve and get honed more and more.</p> <p>15 So, when you're trying to maintain on the</p> <p>16 cutting edge, you do have to keep an ear open for</p> <p>17 that. So I want to, you know, I want to caution</p> <p>18 folks not to try to just latch onto a list of things.</p> <p>19 This is a very smart, well-educated group of people</p> <p>20 in here. You're going to ask reasonable questions,</p> <p>21 ask about things being published. You can look at</p> <p>22 the data, but you want to keep an ear open for that.</p>

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<p style="text-align: right;">282</p> <p>1 So, it is dynamic. You know, it's not something 2 static. It's always going to be evolving. We're 3 going to get better and continue to evolve in what we 4 do. I mean, look at drug courts; look how far you've 5 come. So we've got a set of principles right now, 6 but we're going to keep pushing them forward. The 7 biggest thing is, it's data driven, data telling you 8 which direction to go. That's the bottom line. 9 JUDGE TAUBER: So it's science-based 10 principles that are behind, you might say, drug 11 courts or problem-solving courts. 12 I'm wondering if Kathy, could you tell us 13 a little more about the website, because I think 14 where we're really focusing now is what kind of 15 resources are available, where we ought to be looking 16 for information. And, you know, evidence-based 17 practices kind of, to a lot of laypersons, is kind of 18 scary. It sounds like it's going to be complicated. 19 But is that necessarily so, and where would you look 20 for information? 21 MS. BANKS: Well, I can tell you that our 22 website contains a plethora of information and</p>	<p style="text-align: right;">284</p> <p>1 it's that informal exchange of information sharing 2 and what works as far as best practices that becomes 3 more valuable to the problem solving and the 4 innovation for developing new ideas. And then we 5 hear about that, and we're able to get out there and 6 market it and help advance the field. 7 The other thing I will tell you is that 8 NIC has made over the years such a comprehensive 9 investment in evidence-based practices because we've 10 put a lot of our own resources into the research, 11 that if any jurisdictions are wanting help with 12 getting started on evidence-based practices, if there 13 is no commitment to reach across the aisle and 14 bringing the stakeholders to the table and then a 15 followup afterwards, not just word of mouth, you 16 know, I think will provide the technical assistance. 17 We have to make sure that we have the commitment from 18 the jurisdictions to do something and put some 19 infrastructure in place for us to put any initial 20 investment for technical assistance. But we will 21 target technical assistance for people that are still 22 struggling. And you're right, there are so many</p>
<p style="text-align: right;">283</p> <p>1 resources. I can tell you that we just entered a new 2 contract with an information center, and they're just 3 revamping it so that it's going to be a lot more user 4 friendly than it has been in regard to our library of 5 resources. So be patient with us as we're trying to 6 do that, update our records and our archives. 7 In addition to the evidence-based 8 curriculums, all of our curriculums are available. 9 Our curriculums are getting so large and so thorough 10 that sometimes we can't put all of them on the Web, 11 and so we're trying to keep two different versions, 12 both print copy as well as Web. And so if you can't 13 download all this stuff from the Web, you can 14 certainly get it hard copy, curriculum. 15 As far as other types of chances for 16 states and other systems for evidence-based practices 17 training or orientations, Scott mentioned the 18 opportunities that exist through some of our networks 19 at NIC, and sometimes what we have found out from our 20 constituents is that you guys learn more from 21 networking with each other in professional 22 organizations than you could ever learn from us, and</p>	<p style="text-align: right;">285</p> <p>1 agencies out there that say, yeah, I think we do have 2 evidence-based, but I'm not really sure what it is. 3 It sounds good. You know, it sometimes works. But 4 if there's no commitment on the part of the 5 jurisdiction, NIC will not invest any dollars. 6 JUDGE TAUBER: It's reentry court or 7 courts. Would this be available to courts as well? 8 MS. BANKS: Oh, yes. There's a huge 9 effort right now, and you alluded to it earlier this 10 morning, on the evidence-based framework that is 11 actually starting with pretrial. 12 JUDGE TAUBER: You also mentioned 13 something about communication, and I wonder what -- 14 you know, when I started in drug court and when many 15 of us started in drug court, there was no Internet 16 or, if there was an Internet, it was pretty mason. 17 And I wonder if it's possible to start a list service 18 that really focuses on reentry courts. Does that 19 ring positive for anyone? Do you think that's a 20 useful thing to have, to be able to share ideas, as 21 well as documents and perhaps contracts or MOUs? 22 MR. SIEGEL: Well, we maintain one for</p>



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<p style="text-align: right;">286</p> <p>1 community courts, and I find it to be incredibly 2 helpful and a real resource for the work that we're 3 doing, and it's constantly accessed by community 4 courts, and there are now like three dozen around the 5 country who are constantly providing updates, 6 information, program ideas, and asking questions, 7 which is actually the most helpful thing because it 8 gives people an opportunity to weigh in. So, 9 absolutely.</p> <p>10 MR. BRADY: Do you have a share point type 11 of website where you can ask questions and then they 12 answer them or the FAQs?</p> <p>13 MR. SIEGEL: Well, not that point. People 14 post the questions and, immediately, there are 15 responses from all jurisdictions.</p> <p>16 MR. BRADY: Oh, okay.</p> <p>17 MR. SIEGEL: They all weigh in.</p> <p>18 JUDGE TAUBER: There's a possibility, 19 certainly, I mean, reentry court solutions is an 20 individual effort, but there's certainly a 21 possibility that it can be used to kind of bring some 22 of this information. Are there any questions?</p>	<p style="text-align: right;">288</p> <p>1 Steven, do you have some thoughts on that? 2 JUDGE MANLEY: Well, I always have 3 thoughts on everything.</p> <p>4 Well, I think that it is -- I think you've 5 hit upon the most important thing. This is a much 6 more difficult population to work with. I've worked 7 with them all. And particularly if you add the layer 8 of mental illness. So you're not just running a 9 mental health court. But a court that has parolees 10 who are seriously violent offenders is a great 11 challenge. To me, the best way to -- you know, I 12 think there's going to be a real need for judges to 13 understand that this is entirely different than drug 14 court, in my experience. In many ways, you must 15 lower the bar. My personal observation, if you have 16 high expectations of people who have been trained to 17 fail, which they have, parolees, in my view, much 18 more the probationers. They're used to always 19 receiving a negative response to everything, and it 20 becomes habitual. And so the techniques, I think we 21 have so much work to do, judges alone. And, to me, 22 the real reaching out -- we talked about changing</p>
<p style="text-align: right;">287</p> <p>1 It does seem to me that there's an 2 enormous amount of information and expertise not only 3 in this room but around the country, and if we can 4 form some kind of capacity to communicate, we're in 5 so much better position than we were 20 years ago or 6 ten years or even five years ago.</p> <p>7 People were talking earlier about MOUs, 8 contracts, contingent -- I have contingency contracts 9 that go back to 1991, not that anybody would want to 10 use them, but I think we all have archives, and some 11 of what we have would be useful to others. And I 12 think that that kind of information, you know, if you 13 have contracts or MOUs, if you have waivers that you 14 use, that may be information that other people can 15 use. And it probably needs to be catalogued and made 16 available. So, let's stay with this issue for a 17 moment.</p> <p>18 What other kinds of technical assistance 19 or education can be provided to the new reentry court 20 program that's just getting on its feet? Maybe they 21 have a drug court already, but they're moving on to a 22 much harder, much more challenging population.</p>	<p style="text-align: right;">289</p> <p>1 parole agents and change probation officers -- we 2 need to change judges. If we do not get judges to do 3 this work, then there's no reason, you know, not to 4 continue the present system. Because we're never 5 going to get to the next step, which is taking on 6 large numbers of people.</p> <p>7 JUDGE TAUBER: So is your feeling that one 8 needs to have trainings and education for judges who 9 are doing this work that's more sophisticated and, in 10 some way, more challenging?</p> <p>11 JUDGE MANLEY: Absolutely, because, 12 otherwise, you have the wrong expectations. And I 13 think -- you know, in other words, when you're moving 14 -- and I know many of the jurisdictions here already 15 joined parole and probation, and so adding on the 16 court is not, to me, that big an issue as it would be 17 in a state like California, which is separate, 18 completely separate. I think there you have to spend 19 a lot of time bringing them all together.</p> <p>20 JUDGE TAUBER: Thank you.</p> <p>21 Mike.</p> <p>22 MR. BRADY: What we need in California, we</p>

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<p style="text-align: right;">290</p> <p>1 have 180 parole officers, 1800 parole agents, and we 2 have -- I mean, we cover 720 lengthy miles from the 3 top to the bottom of the state, 58 counties. We need 4 webinars with competency exams attached to those with 5 the mandatory taking of those kind of competency. 6 You can't manually -- you can't go out and visit 7 these folks. You can't go see everybody. It is not 8 possible to do that. 9 So, for me, today, which we're using in 10 juvenile justice and corrections, are webinar 11 trainings or interactive trainings that work much 12 better for us, because then you don't have to take 13 people off post, because off-post training -- well, 14 you post the bids. If you have to take people off or 15 police officers to go to training, you have to cover 16 behind those folks. 17 JUDGE TAUBER: Money. 18 MR. BRADY: It's very expensive. So if 19 you have it computer-driven and if you make it 20 interesting, I think it's for management as well as 21 maybe judges. 22 JUDGE TAUBER: One question I think that's</p>	<p style="text-align: right;">292</p> <p>1 training and bringing people together to talk about 2 how would this work here? Because, right now, what 3 we hear across the state is people wanting investment 4 in them to get going with this. And the states, at 5 least in this area, we don't have any money to invest 6 to create change. They say, well, take it from the 7 prison side and invest it in the community. Well, 8 the state doesn't have -- I mean, you just can't 9 create that overnight. So I think seed money, 10 planting money, and technical assistance to help 11 people come together and say, okay, let's try this 12 reentry court, because there are so many differences 13 that would need to be pulled together for a 14 jurisdiction to try that. 15 JUDGE TAUBER: Scott, do you see it as 16 judges coming together? Do you see it as teams 17 coming together? Do you see it, you know, being done 18 through webinars and/or in person? 19 MR. JOHNSTON: I see a close parallel with 20 the drug courts where you had teams that were put 21 together with the support of the local court and the 22 local stakeholders that are saying, we're willing to</p>
<p style="text-align: right;">291</p> <p>1 been repeated or at least alluded to a number of 2 times, how do you incentivize? Forget about the 3 parolee. When you start a drug court, there was a 4 saying that the drug offender wasn't the problem; it 5 was the people who were working with the drug 6 offenders. 7 MR. BRADY: I agree. 8 JUDGE TAUBER: They were kind of encased 9 in cement, to a certain degree. And we've broken 10 through that cement to a significant extent, but this 11 is going one step further. 12 MR. JOHNSTON: You're talking about the 13 drug courts and how they got going and started. What 14 I'm thinking is if folks like the people who are in 15 this room right now are doing some of the leg work to 16 create an environment where reentry courts are 17 encouraged and supported, then what is really needed, 18 I think, is when you get a presiding judge or a judge 19 in a local area that's interested and willing to do 20 something like that, it's those planning grants that 21 were used. If you're looking at the federal level 22 for support, it's the investment and planning and</p>	<p style="text-align: right;">293</p> <p>1 try this out, and coming together to develop a plan 2 for trying out a reentry court in a way that would 3 make sense to them and their state and their county 4 or their circuit, whatever. 5 JUDGE TAUBER: There's a huge crisis and, 6 as we all know, and especially recently have been 7 told over and over again, crisis is never the way of 8 thinking about an opportunity, and we certainly have 9 a crisis in prisons and over-population and reentry. 10 How do we use that crisis to incentivize the 11 profession or to, let's say, to further our agenda? 12 Our agenda is the expansion of reentry courts and 13 reaching more and more people through them. 14 MR. WATLER: I'm going to say in the 15 private sector, so you've got a good product, you 16 know, hopefully. We're still trying to figure that 17 out. You want the best people working on it. You 18 want to identify the best people. Not all probation 19 or parole officers are the same; not all judges are 20 the same. And I think we tend, the government, to 21 think of everyone on kind of a level playing field. 22 But here we're being innovative. And I think the</p>

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<p style="text-align: right;">294</p> <p>1 crisis that we're in now is a real opportunity for 2 leadership. I think that's what this gathering 3 represents. And I think building on this, what we 4 have to do in each state is to identify those 5 individuals within the organizations that are stars 6 and promote the heck out of them, you know, get them 7 to events like this. And then for those teams that 8 have been working, you know, develop -- we did this 9 work with APRI around community prosecution -- 10 develop leadership sites where they have already got 11 a program; they have some track record; and then let 12 those sites kind of do peer learning and teaching of 13 their colleagues. 14 JUDGE TAUBER: Any other thoughts? 15 MS. KNOPP: I think one of the things, 16 too, that we really need to start looking at is the 17 research on the reentry courts. You heard Doug say 18 that the Harlem program is probably the best research 19 program. I think what really sells things in Ohio is 20 to demonstrate they're effective. So one of the 21 things that we're looking at at the state level is 22 actually more process evaluations on our seven</p>	<p style="text-align: right;">296</p> <p>1 evaluation, look at it, and share it. And, frankly, 2 doing this pilot project for three years where we 3 were under a microscope and getting every six months 4 an updated report on our numbers has taught us -- I 5 mean, I reviewed all those evaluations, and it all of 6 a sudden became very clear exactly what we were doing 7 right, exactly what we were doing wrong, and what we 8 needed to change. And I think that there is probably 9 data out there; it just hasn't been reviewed and 10 collected and made into an evaluation. I mean, 11 Harlem was great, but that shouldn't be the only one. 12 I mean, we should have all this stuff. 13 JUDGE TAUBER: In some ways, it's probably 14 one of the anchors that's kind of weighing us down in 15 terms of moving forward and the fact that there just 16 aren't the evaluations that there need to be. 17 MR. SIEGEL: Not that there's a wealth of 18 private foundation dollars out there, but there's 19 nothing that resonates more with being able to 20 include in a proposal some data and some evaluation, 21 either independently or otherwise, that confirms the 22 viability of these programs. You know, these types</p>
<p style="text-align: right;">295</p> <p>1 programs so that we can show, hey, this program, here 2 is the outcomes they have; here is the process they 3 use, and be able to create a more solid model so that 4 we have something in a package. 5 JUDGE TAUBER: Is there some need for some 6 kind of a general evaluation model for the reentry 7 court? 8 JUDGE CARPENTER: That's exactly what I 9 wanted to touch on. We've been all taught in drug 10 court to keep our statistics, to keep our data, to 11 keep all this information. Well, we've all got it; 12 do we look at it? I mean, we have it, but we still 13 kind of go by anecdotal how we feel things are going 14 sometimes. And the last thing you want to spend 15 precious dollars on is an evaluation. For whatever 16 reason, it's always the last thing. When we do NDCI 17 stuff, when we're doing the sexy presentations on 18 incentives and sanctions and urine testing and team 19 building, and then we throw in the evaluation piece, 20 and everybody is like, oh, God, let me out of here. 21 The evaluation has got to be there, and you've got to 22 be able to take your data, spend the money for the</p>	<p style="text-align: right;">297</p> <p>1 of programs specifically raise a lot of red flags 2 about, you know, whether they are diverting resources 3 that should be going to others, to folks who are, you 4 know, public safety risks. And it's incredibly 5 useful to be able to tell a story by pointing to the 6 dollars you save, the enhancement to public safety, 7 and foundations respond to that. And it's not just 8 the grants that the government issues, but there are 9 in fact fewer now and, hopefully, as the economy 10 improves, more again in the future, prior foundations 11 that are interested in investing in this stuff. 12 JUDGE MANLEY: You know, I am struck by 13 the fact as I look at it, this is a moment of crisis, 14 and we need to seize it. And if we wait for 15 traditional research, and like in drug courts, how 16 many years did it take to make a point, and where are 17 we after we make a point? And she's absolutely 18 right, how many pieces of data I collected or we have 19 collected over the years that never got seen. 20 There are two things, it seems to me. The 21 first is a major issue. There has to be a shift. 22 We're not going to get any new money. The federal</p>

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298	<p>1 government is not going to be able to sustain this</p> <p>2 anyway. The money has to be shifted within the</p> <p>3 states, from the state correction system locally.</p> <p>4 It's as simple as that. Now, there are two things I</p> <p>5 think you need to do. One, you have to incentivize</p> <p>6 the courts, above all else, because why should the</p> <p>7 trial courts -- I mean, there are states that are</p> <p>8 different, I understand that, but I'm talking about</p> <p>9 most states. We have nothing to do with parole and</p> <p>10 parolees and prisons. Why should I as a presiding</p> <p>11 judge, having been one, have some of my judges do</p> <p>12 your work, Mr. Corrections or State? Why should I?</p> <p>13 What is in it? If you do not share some of that</p> <p>14 money and incentivize the courts by giving them the</p> <p>15 funds so that they can afford to hire the additional</p> <p>16 staffing that's needed, you get nowhere.</p> <p>17 The second thing, the way you drive a ship</p> <p>18 across, as far as I'm concerned, is what we're doing</p> <p>19 in California; that is, take the measurement that the</p> <p>20 legislature and the governor will accept. What is</p> <p>21 the measure in your state that they care about? In</p> <p>22 ours, it happens to be the cost of a prison bed day.</p>	300
299	<p>1 Can you reduce the number of people going to prison?</p> <p>2 There's a formula that's in statute right now in</p> <p>3 California, and I don't necessarily agree with it,</p> <p>4 but, I'll tell you, it's written by the legislature.</p> <p>5 If you reduce the number of people you send to</p> <p>6 prison, you get a percentage of the money.</p> <p>7 Now, that, to me -- that is not complex</p> <p>8 research. That is not complex data. That is giving</p> <p>9 them straight -- for example, you want to make this</p> <p>10 really simple. In California, probation departments</p> <p>11 will get an incentive if they send fewer people --</p> <p>12 they're judges, and they have no control over it --</p> <p>13 send fewer people to prison next year than this year.</p> <p>14 Very straight-forward, just looking at two numbers.</p> <p>15 Don't give up a big percentage, small. But I'm</p> <p>16 saying those kinds of things you can do right away,</p> <p>17 and that will drive you forward a lot more than doing</p> <p>18 complex evaluation.</p> <p>19 JUDGE TAUBER: What other kinds of crisis</p> <p>20 management should we be engaged in to take advantage</p> <p>21 -- did you want to speak?</p> <p>22 MS. HUDSON: Well, I think one of the</p>	301

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302	<p>1 upon very briefly this morning, and it's the role of</p> <p>2 law enforcement. And, in some ways, they're not</p> <p>3 necessarily proponents of reentry programming and</p> <p>4 reentry courts. There's often friction with local</p> <p>5 police who see technical infractions as a way of</p> <p>6 getting people off the streets to prevent the next</p> <p>7 crime or the next several crimes. And we've had some</p> <p>8 of those challenges ourselves, wanting to work with</p> <p>9 them. They see this as a mechanism to get folks out</p> <p>10 of the community rather than endorsing the idea of</p> <p>11 responsive sanctions. They see that the sanctions</p> <p>12 should be, you violate, you're gone. And getting</p> <p>13 them to be cooperative partners is not something that</p> <p>14 happens automatically. There's a bit of a tension</p> <p>15 there.</p> <p>16 JUDGE TAUBER: We heard Steven and others</p> <p>17 talk about incentivizing the program for staff and</p> <p>18 for related agencies. Any success with doing that,</p> <p>19 any plans or models?</p> <p>20 MR. SIEGEL: And I think like any other</p> <p>21 agency, local police, they want to be part of the</p> <p>22 plan. I mean, they want to be involved from the</p>	304	<p>1 Because, as Steven was saying, this is a very</p> <p>2 different population than the typical drug court</p> <p>3 population.</p> <p>4 I'm just wondering if some folks have some</p> <p>5 ideas about how they can get within that margin.</p> <p>6 Chris.</p> <p>7 MS. HARDIN: Can I make a comment before</p> <p>8 we go to Chris to followup with the law enforcement</p> <p>9 comment?</p> <p>10 JUDGE TAUBER: Sure, go ahead.</p> <p>11 MS. HARDIN: One of the things that I was</p> <p>12 going to mention, kind of what Al was talking about</p> <p>13 with getting law enforcement buy-in, that over the</p> <p>14 past year we've had an opportunity to do some of</p> <p>15 that, that, as we're talking about, the ground is</p> <p>16 fertile, that they are very interested in that. Last</p> <p>17 year, we presented at the National Organization of</p> <p>18 Black Law Enforcement Executives to specific -- their</p> <p>19 request was tell us about reentry court; tell us what</p> <p>20 we need to do, because we're seeing so many people</p> <p>21 coming back. How do you partner; what do you do? So</p> <p>22 we talked about that. And with BJA this year, we</p>
303	<p>1 get-go, and maybe there's information they will be</p> <p>2 able to get to pursue investigations. That's</p> <p>3 certainly something that they find attractive. But I</p> <p>4 do think, without harping on the evaluation, because</p> <p>5 I think Mary Kay is right, we need to demonstrate</p> <p>6 that this approach is effective with this population,</p> <p>7 and using Doug Marlowe's advice, I think we can. But</p> <p>8 the police are going to be very, very reluctant in</p> <p>9 large jurisdictions to simply embrace it at first</p> <p>10 blush. They see this again as a hook that works to</p> <p>11 law enforcement's advantage. And if you're going to</p> <p>12 utilize, give people several chances, they see that</p> <p>13 as something that's not promotive of public safety.</p> <p>14 And I think it's a public relations issue for them,</p> <p>15 too.</p> <p>16 JUDGE TAUBER: One of the things that was</p> <p>17 referenced earlier by Doug, and it really stuck in my</p> <p>18 mind, he said that the more serious or the more high</p> <p>19 risk the offender is, the less margin for error you</p> <p>20 have. And that really is a challenge because there</p> <p>21 may be things that we're doing that we probably ought</p> <p>22 to be doing better, stay within that margin of error.</p>	305	<p>1 submitted to present at the International Association</p> <p>2 of Chief of Police to have Doug go in and to talk</p> <p>3 about the high risk, high need and what the</p> <p>4 differences are and the benefits of that to them as</p> <p>5 law enforcement really working with the various</p> <p>6 partners. So there are potentially three different</p> <p>7 law enforcement agencies this year where they will be</p> <p>8 that we have an opportunity, even with the Hispanic</p> <p>9 Native American officers as well that we are working</p> <p>10 with to try to get that information out there.</p> <p>11 MS. TAYLOR: I have a followup comment on</p> <p>12 that. The other thing I heard mentioned is that --</p> <p>13 certainly this is true in California and, I suspect,</p> <p>14 other places -- a large number of parolees and other</p> <p>15 kinds of released individuals coming back to</p> <p>16 communities is very large because the prison system</p> <p>17 has grown so much. In California, we're doing it,</p> <p>18 you know, very quickly. I think there's a pressure</p> <p>19 coming from the community for strategies that work to</p> <p>20 deal with this population that's now, you know,</p> <p>21 landing in the streets and in jail, and the jails are</p> <p>22 so overcrowded. So I think that that's sort of the</p>

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<p style="text-align: right;">306</p> <p>1 crisis piece. Besides the fiscal piece, there's also 2 the community safety crisis piece. And I'm not sure 3 that law enforcement even has the same perspective 4 that they might have had a few years ago because of 5 this pressure. I think it's quite real. So that 6 would be the other kind of thought in terms of policy 7 development. I think there's a ground swell at the 8 base for this. 9 JUDGE TAUBER: Communities in fact were 10 perhaps even ahead of us in regard to the need. 11 MS. TAYLOR: I think probably the thing 12 they're going to want to know, so how many can you 13 serve and how good are your results going to be? 14 Which, I guess, goes right to what you were moving 15 to. 16 MR. WATLER: So, listening to what 17 everyone was just saying, one thing that has occurred 18 to me, we have not touched on it explicitly, but I 19 think it is important, is that not all communities 20 are equal in this conversation, particularly in the 21 black community, in poor neighborhoods. You know, 22 this crisis is a Holocaust, practically. And when I</p>	<p style="text-align: right;">308</p> <p>1 and that we should see in the reentry model, perhaps 2 involving the resource of the community, to convene 3 multiple stakeholders to maybe even have difficult 4 conversations before there are crises, and that can 5 be part of the whole process of educating the 6 community. 7 JUDGE TAUBER: That's an excellent idea. 8 I want to ask BJA a question. This is for 9 Jacqueline. 10 Is there a capacity for BJA to bring the 11 reentry court and this, for example, and mentoring 12 organizations together? Or I know that you do a lot 13 of work with community coalitions and so forth. Do 14 you see the possibility of building on that kind of a 15 framework? 16 MS. RIVERS: I think it's definitely 17 something we could explore. We have an amazing 18 community technical assistance center that could help 19 bring some of those different people together. 20 There's definitely an opportunity. 21 JUDGE TAUBER: Is that something that we 22 can access directly? In other words, if there are</p>
<p style="text-align: right;">307</p> <p>1 walk outside my door at the justice center, half the 2 kids are poor in that community; the schools are 3 dysfunctional. You know, we had a juvenile reentry 4 program. We saw kids in the juvenile reentry 5 program, saw their relatives in the adult parole 6 program. I do think and I do hope that there is more 7 of an effort to really explore the unique qualities 8 of different communities that are in kind of a hiding 9 pattern and how the programming, the things that we 10 do should in some way involve that. 11 So law enforcement is an interesting topic 12 because, in a community like Harlem, the relationship 13 between law enforcement, particularly some of the 14 strategy law enforcement uses in terms of stop and 15 frisk, create a lot of ill-will on the part of 16 community members, ministers, community leaders, 17 elected officials. And so this reentry question in 18 the community takes on racial and class overtones 19 when you begin to do this work. And so, you know, 20 that can be a tough thing for courts to kind of be 21 involved in. But the one piece that I think a court 22 can play is the kind of mutual convener around issues</p>	<p style="text-align: right;">309</p> <p>1 new reentry courts out there that want to connect 2 with coalitions or develop strategies, would they 3 contact that center, and would the center be open to 4 them? 5 MS. RIVERS: Yes, definitely. 6 JUDGE TAUBER: Maybe we can get some 7 information. 8 MS. RIVERS: The website for our National 9 Community and Technical Assistance Center is 10 NCTAC.org. 11 JUDGE TAUBER: Great. 12 So, we're coming to the end of a long day 13 but, I think, a productive day. 14 MS. FADER: Judge, you had started this 15 session out asking about what this group of people, 16 who has probably more experience in reentry courts 17 than any other group in the country, what they would 18 be advising the new grantees that BJA will be 19 awarding, what they would advise them from the 20 experience this group is having. I just wanted to 21 sort of echo that question again to find out if there 22 were other lessons learned or things that you know</p>

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<p style="text-align: right;">310</p> <p>1 now that you wish you had known then or you think 2 that a program starting out now should know? And I 3 know we're towards the end of the day, but it's such 4 an important -- there's so much experience in this 5 room, I would hate to let that drop. 6 JUDGE TAUBER: I think it's an excellent 7 idea. 8 Are there some ideas that you'd like to 9 convey to the new grantees, whether they be the 10 federal grantees or the California grantees or 11 Indiana, Ohio? Who's got the money? 12 JUDGE CARPENTER: I'll make it short; it's 13 not drug court. We talked about the difference in 14 the population, but it's just so many other things 15 than that. And one of the things that I think we 16 have learned is that the technical violations, we 17 really felt protective of our program, and we wanted 18 to establish credibility with the community and with 19 the participants, and so we took probably too hard a 20 line on technical violations, and now we've learned 21 that that's not really what it's about. And we treat 22 dirty tests differently than we do in drug court, and</p>	<p style="text-align: right;">312</p> <p>1 drug court. You have to tolerate things you would 2 never tolerate. Because it's a different group, and 3 you have an outcome that you've got to reach. And if 4 you look at your outcome, then you have to adjust 5 your program in the way you relate to people to reach 6 that outcome. Otherwise, you become just like parole 7 agents. 8 MR. BRADY: That's right. 9 JUDGE MANLEY: Send them back, send them 10 back, because the natural response for these 11 offenders is to pull them up short, and it does get 12 you the outcome you want. 13 MR. BRADY: We're asking for perfection 14 from people who aren't capable of giving that 15 perfection, at least in the beginning, because 16 they've lost their social skills, if they ever had 17 them to begin with. Most of them never had them to 18 begin with. We're not rehabilitating people; we are 19 abilitating people. And so when you're talking about 20 people who come from neighborhoods where their 21 mothers and fathers have been in prison or they're 22 addicted to crack, that's what they've grown up with.</p>
<p style="text-align: right;">311</p> <p>1 we realize that our goals are much different and that 2 our population is much different, and our techniques 3 have to change, and it took us a while to figure that 4 out. 5 JUDGE TAUBER: Is it part of that 6 narrowing of your focus? In other words, there are 7 few opportunities to have errors or to make mistakes. 8 JUDGE CARPENTER: Yeah, exactly. And I 9 look back at some calls that I made that were just 10 wrong, and I did them because I was still treating it 11 like drug court, and I wasn't realizing that my goal 12 was really -- my goal was to keep people out of 13 prison, not to make sure that they were model 14 citizens. It's different. 15 MR. BRADY: It has to be kind of a hard 16 reduction type of deal. 17 JUDGE CARPENTER: Yeah, don't say that out 18 loud. 19 JUDGE MANLEY: I mean, she's absolutely 20 right. You're getting funded to keep people out of 21 prison. It's as simple as that. And to get there, 22 you have to go way over where you would never go in</p>	<p style="text-align: right;">313</p> <p>1 And then you ask them to come out from a prison 2 setting and live by society's rules that they've 3 never abided by before, and we expect technical 4 perfection, then perfection is the ending of the 5 good, as far as I'm concerned. 6 JUDGE TAUBER: Yeah, very good. 7 Leo. 8 JUDGE SOROKIN: I'd say in some ways I 9 agree with what all of you said, but in some ways I 10 don't, and maybe it's just because we're in a 11 different place in the federal system. But our goal 12 in my reentry court is not overtly or covertly to 13 keep people out of jail. We don't get funded the way 14 -- we don't face the crisis quite yet that you face 15 in California -- but our goal is to help people 16 change. And I think it is habilitation more than for 17 many people rehabilitation. And while you can't 18 expect people to be perfect, especially at the 19 beginning, at the same time, I don't think -- if you 20 want them to change, you can't give them, if you 21 will, just a pass -- 22 MR. BRADY: Right.</p>

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<p style="text-align: right;">314</p> <p>1 JUDGE SOROKIN: -- when they do things 2 that aren't what we expect them to do. 3 Two notes that I would add to that is, 4 one, you know, to expect people to "change" either on 5 a dime or in a matter of months and then to sustain 6 that change forever, given 20, 30, 40 years of very 7 different behavior, is unrealistic. And I think it's 8 important to be realistic on what your expectations 9 are. So when you go out and get your grant or you go 10 out and you pull all the constituent stakeholders 11 together, if you tell them, well, we're going to take 12 all those people and turn them all around, then 13 they're all going to be fine forever, then, in a 14 little while, you're going to have a lot of unhappy 15 stakeholders. And I think it's important to be 16 realistic, on the one hand, about what you can 17 accomplish and, on the other hand, try to, within the 18 construct you're in and the constraints of the 19 bureaucracy and how long you've had the people and 20 the like, be long enough to give people a chance to 21 sustain the change. 22 MR. WATLER: Can I just add, having been</p>	<p style="text-align: right;">316</p> <p>1 kind of get everything, the steps in place, and help 2 people see the steps, because those are the small 3 successes that really drive people. 4 JUDGE TAUBER: It would be interesting if 5 we had an archive with some of the plans from the 6 programs that have been successful. I think the 7 possibility -- it always seemed to me that drug court 8 and problem-solving courts and now reentry courts are 9 a reflection of community, the capacity of community 10 to heal itself and to heal its members, and I'd like 11 to think of this group as a community, certainly a 12 fledgling kind of informal group, but one that has 13 the capacity to reach out to one another as we move 14 forward, because this is an amazing dream and an 15 incredible opportunity, I think, given the crisis 16 that exists. 17 MR. WATLER: And demand excellence. We 18 actually have principles. I mean, let's start there. 19 In Dade County, what were the principles? We 20 actually have principles. We actually have something 21 to work with. We could actually demand excellence 22 against a set of criteria. To me, that's very, very</p>
<p style="text-align: right;">315</p> <p>1 through this process, you know, I knew nothing about 2 reentry two years before taking the helm of this 3 project. For me, what's been interesting. And my 4 approach to it is to have a real compelling vision 5 that it is possible to create change in systems and 6 to do this work really well. So I think that there 7 is an appalling lack of leadership around this issue 8 on the ground where people are feeling dispirited and 9 feeling as if there's no hope. A reverend friend of 10 mine calls this redemption work, I do believe, not 11 just for the clients, but also for the people who are 12 working the systems. But some concrete things for 13 me, you know, again, we need to find the leaders and 14 the stars, and we need to really kind of surround us 15 with the best people. We have to look for the best 16 people to do this work. And that could be a stretch, 17 particularly in government organizations. You really 18 do actually need an implementation plan. I know the 19 grants people write those things, because it's 20 fulfilling a grant requirement. But you actually 21 need to have an implementation plan, whether your 22 grant is that detailed or not. You really need to</p>	<p style="text-align: right;">317</p> <p>1 exciting. 2 JUDGE TAUBER: I share your excitement. 3 I hope everyone has enjoyed the day. It's 4 dragged on a bit too long, perhaps, but I want to 5 thank you on behalf of AI and CCI and Jackie. 6 (Applause.) 7 JUDGE TAUBER: And let us see if we can 8 form a way of communicating and kind of continuing to 9 work together. 10 Thank you. 11 (Five o'clock p.m.) 12 13 14 15 16 17 18 19 20 21 22</p>



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I, JUDITH A. TWOMEY, Registered Professional  
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record of the proceedings in the above-entitled matter  
to the best of my ability.

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