

Day One

Alternative Sentencing: Rehabilitative and Punitive Models and Evidence-Based Policy

*Moderator: **Honorable Dabney L. Friedrich**, Commissioner, U.S. Sentencing Commission*

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SUMMARY

This panel addressed the extent to which policy changes are needed in order to better allocate resources, reduce crime, and assist those who have been convicted of crimes to improve their circumstances. Panelists varied in their views concerning appropriate policy changes, but were unanimous in affirming the benefits of rigorous evidence-based research to determine which policy changes to make and which programs to try and the importance of quality implementation. Panelists discussed a number of statistics. One panelist noted that one in 28 adults in the United States between 19 and 65 years old is in prison, in jail, or on supervision; and that of the 8.1 million people who comprise this group, 5.6 million face substance abuse problems. Another panelist cited statistics showing that from the 1930s to the mid-1970s, incarceration rates remained fairly static—with the United States incarcerating approximately two people per 1,000—but that incarceration rates increased significantly after that. While some panelists stated that there is little correlation between incarceration and crime rates, another panelist asserted that 27 percent of the reduction in crime during the 1990s was due to tougher sentencing policies.

In addition to evaluating research in order to reveal the problems with existing programs, panelists maintained that evidence-based research is critical in guiding policy makers to cost-saving solutions. They reviewed several reports from various states. Among the types of programs that have been shown to be effective by evidence-based research are programs or methods of communication that give the individual under supervision a voice; programs which attentively match individuals to treatment they need; drug courts (one panelist noted that drug courts across the nation, on average, reduce crime by eight percent); and certain juvenile programs.

**ALTERNATIVE SENTENCING: REHABILITATIVE AND PUNITIVE
MODELS AND EVIDENCE-BASED POLICY**

COMMISSIONER FRIEDRICH: Welcome to our next panel, which is entitled “Rehabilitative and Punitive Models and Evidence-Based Policy.” This panel of experts will be discussing various alternatives to imprisonment and discussing measuring the effectiveness of these programs in reducing recidivism.

Our first speaker today will be Dr. Faye Taxman. She is a professor in the Administration of Justice Program at George Mason University. She is a principal investigator for two studies devoted to understanding adoption of science-based practices in criminal justice and juvenile justice systems. She is also the senior author of *Tools of the Trade, a Guide to Incorporating Science into Practice*, which is a publication of the National Institute of Corrections that guides implementation of science-based concepts into practice.

Mr. Steve Aos is the assistant director of the Washington State Institute for Public Policy, which is a nonpartisan research group of the Washington State Legislature. He has 32 years of experience conducting cost-benefit analyses and communicating results to policymakers in a wide range of public policy areas. His current work focuses on identifying and evaluating the costs and benefits of programs and policies that reduce crime, improve educational outcomes, reduce substance abuse and reduce child abuse and neglect. He also has experience in energy economics and regulatory policy.

Our next speaker, Dr. Pam Lattimore, is a principal scientist at Research Triangle Institute International. She is a co-principal investigator of the National Institute of Justice-funded Evaluation of the Serious and Violent Offender Reentry Initiative. Dr. Lattimore was a professor of criminology and criminal justice at the University of South Carolina; and, prior to joining the Research Triangle Institute, she was director of the Criminal Justice and Criminal Behavior Division of the Office of Research and Evaluation at the National Institute of Justice.

Mr. Kent Scheidegger has been the legal director of the Criminal Justice Legal Foundation since 1986. He has also served as vice chairman of the Criminal Law and Procedure Practice Group of the Federalist Society since 1996. He has published a number of articles on criminal and constitutional law, and his legal arguments have been cited in several U.S. Supreme Court decisions.

We’re going to start this panel by having each of the panelists make a brief presentation. We hope to allow time for questions from the audience at the end.

Dr. Taxman.

DR. TAXMAN: Thank you. Good morning. I’m very pleased to be here, and I’m actually very honored to be able to share with you the research that I’ve been doing for a long time. I could probably say that as for most of us who have been doing research over the last 30 years, it’s kind of ironic that we’re at a point here in which people are starting to say, “Wow, maybe some of the things you guys have been doing makes some sense, and maybe we should begin to think about how to put these things into practice.”

So I want to begin to go over some of the issues related to what works in corrections and strategies to reduce recidivism. As you saw by this morning's conversation in the first panel, we are kind of in a difficult spot nationally. We are kind of squeezed in between policy and a desire to break out of that policy. And we're not quite sure how and in what directions to go in many cases, but as you saw in Pennsylvania, and we can give you examples from around the country, there's a lot of movement to begin to think about how we could better spend our very scarce resources, reduce crime, and also help people who are caught up in the criminal justice web.

Now you've heard this morning about the "1 in 100." I actually find that disconcerting, because it's really a problem about "1 in 28." And I say that because, if you add the number of people under probation and parole supervision, people involved in alternatives to incarceration diversion programs, actually in this country one in 28 adults between 18 to 65 is under criminal justice control. In a recent survey that we actually did, we have the first count of the percentage of youth that are involved in the juvenile justice system, which is about 4½ percent of all kids between 13 and 18 years old, and this far exceeds the number of kids in our foster care system. So we have a large beast out there, which is the criminal justice system, which really is very difficult because of some of the remarks that we've heard this morning about the push about politics and crime and the issue about what really to do in order to have more healthy, productive citizens.

The one thing I want to point out to you is in this chart we know that of these 8.1 million people under the correctional control, 5.6 million adults have some sort of substance use disorder. And the more we are finding out about this population through a number of studies, the more we know that people caught up in the criminal justice system have two to four times the likelihood of mental health disorders, they have much more systemic health issues, and much higher rates of HIV and AIDS. They have higher rates of TB than the general population. And these are all matters that should cause us some pause in our public policy to begin to think about new ways of doing business. The other thing I want to point out is that in this recent survey we did, we actually were able to estimate the percentage of adults that are involved in some sort of treatment services, you know, some sort of treatment services in the community or in prison or jails on a daily basis; and that's 7.6 percent. Now that is nowhere near a tipping point where the criminal justice system can actually help reduce crime and achieve some of the goals that our prior panelists talked about. So that's a major challenge for us is to think about how we can collectively deliver a different body of services for the offender population.

All right, so this chart just basically summarizes the substance use disorder issues related to this calculation and how much it is compared to the general population.

The other thing that I want to note about services that are available, our recent survey also reported to us that there is an imbalance in the nature of the service compared to the needs of the population. I should remark that this imbalance actually exists in the general population, too, in the sense that most substance abuse services that are available in the population are either low intensity counseling services or alcohol and education programs. What that means is that there is a mismatch between what the client needs and what the systems are able to provide; and that's both within the criminal justice system as well as within the public health system. And so if we really want to make a difference in this calculation, we not only need to consider issues related to capacity for care, but we also need to consider the types of services that we need to be delivering to actually help people become more successful.

So what can we do? Well, you've heard about this term "evidence-based practice," the new—I call it the new "correctional *du jour*," you know, the new fad in corrections. I say that only because if you look at the history of corrections and the pendulum and how it swings, we go through fads for programs and services. And so, you know, when people talk about evidence-based practices, what we have to really consider is whether or not this is the new fad or whether or not this is actually a new way of doing business. And I think as Chairman McVey talked about in her experience in Pennsylvania, she's thinking about it as a new way of doing business that's embedded in the organization. So that becomes one of the things that we can think about doing. The next thing is we need to really think about how organizations, public organizations, private organizations move ahead in adoption and increase programming.

All right. So what is this evidence-based practice literature? So this is my color-coded-red-yellow-green-stop-proceed-with-caution-move-ahead chart. Red being the things that basically we have scientific evidence that suggests that it does not work; and yellow being those things that there is some literature out there on that is promising, yet some studies where you see it shows reductions in recidivism, some studies where you don't see reductions. A lot of that has to do with implementation. And the green being those initiatives that actually we have evidence that work.

Given my time limitations today, I can't go through these, but I want you to be aware that the majority of our practices today nationwide fall in the red area. And so that needs to cause us pause because we really need to begin to think about how we build infrastructures that can support some of the modified versions of intensive supervision that are more treatment-focused, some of the other drug court or reentry type programs. Similarly, on the clinical side, we also have a body of literature about what works. Now what's important here on the clinical side is that again you have things in red. These things in red here are those initiatives that are actually the most frequently provided in most communities in the United States. This is our challenge, to help the treatment providers actually convert some of their technologies and techniques so they can begin to do some of the more advanced work with the clients. And then we have things that don't work. And what these things are that don't work are the things that oftentimes the criminal justice system uses to be tough, to basically indicate that—let the offender begin to kind of self-explore, that the things we know about this population are that they have cognitive deficits and they have literacy issues that impede their ability to do some of the things that we would expect that adults would be able to do. And I think that becomes part of the challenge for the criminal justice system, that is, to really think more clearly.

So if we summarize here, what we know, what we've learned over the last 30 years, is that most of our control-oriented interventions do not change behaviors. What we know is that, when you add a clinical component and wrap it in the criminal justice system services, you're more likely to get changes in recidivism, you're more likely to get reductions in technical violations, and you're more likely to have people become more productive. It's not only this particular person, but it's also his or her family members, because the average offender has, I think, 1.8 or two children. So we have an opportunity here to really help a very large body of people. The thing also to note here is that we have also learned, and this is what I'm going to spend most of my next ten minutes on, rushing through this, is what does it take really for organizations to move ahead? And you heard this this morning, but I'm going to focus a little bit more on these issues that relate to how we get positive results. So there are three areas I want to go through. The first one is procedural justice. The second one has to do with a risk needs responsivity model or matching offenders to the correct services that are appropriate for them. And the third one is a behavioral management model that's really focused on shaping behavior. Underscoring all three of these

is really the need for us to begin to consider the tone of how the criminal justice system interacts with a particular person. Now I raise this because there are a number of studies, and I'm going to talk about policing for a second, that question, you know, the participants in the communities who are affected by high crime rates, the people who are arrested, they question the issue about whether or not the criminal justice system is legitimate. Now that's a very difficult issue for us as professionals to recognize and think about. In the sense that the people who work in the system—we all know people who work in the system—they care about the offender population, they care about doing what's best for the communities that they serve. But what the research literature is really suggesting is that there's more and more evidence in which the people involved in the criminal justice system, the communities, feel that they are being treated unfairly, and that there is a collateral problem with that in the sense of them accepting the legitimacy of a punishment that they actually are being exposed to or even treatment services that they're being exposed to.

You heard Chairman McVey talk about this notion of reshaping how her parole officers are working with the clientele. A lot of that is based upon this notion about really helping the parole officers understand that it's okay to have empathy, it is okay to develop some sort of rapport with the offender population if you want that person to be invested in his or her own recovery or recidivism reduction activities. And this is not something that the criminal justice system easily does, and it's not something that is done in the backdrop of how we begin to think about handling the offender population.

In my own study, we have done a lot of work around this issue about fairness and legitimacy, and we're doing more work. In one study, we basically were able to show that when offenders believe they have a voice, even if they don't like the outcomes, that they have choices that they are making, you can see tremendous reductions in negative outcomes. So this concept of how the parole officer or how the treatment provider deals with the offender population becomes a very critical component. And you'll hear a lot of people in the field talk about the wonders of motivational interviewing. That's kind of one of those *du jour* issues. But really what motivational interviewing is, it is really a technique that people can use to really begin to engage the offenders in a process in which they're taking responsibility for their own behavior. So instead of telling adults that they need to go to treatment, the process that probation officers, parole officers, treatment providers can use is really to help people understand that their lives could be better if they actually pursued recovery or pursued job training programs that could end up in a useful employment situation. When I talk to probation and parole officers, and I've been talking about this issue for about ten years, at first the notion about not being harsh or not being authoritarian was always the major backdrop. But now there's much more realization in the field that it's really about training our staff and preparing our staff to deal with the complex lives that offenders present us with, and also provide us with an opportunity to be able to help them take more accountability for being involved in some sort of treatment program. Because there are two issues about offering services. One issue is getting people access. The other issue is keeping people engaged.

I also want to mention that actually one of the analysis issues is this notion that rapport is actually one of the largest factors that accounts for outcomes. It's even greater than the treatment technique. And so for the criminal justice system, that becomes an engaging factor.

The other issue I want to talk about is the importance of matching. There are valid tools that can be used at sentencing. They can be used at probation decisions, parole decisions, to really be able to help us look at how much of a risk factor a particular person is, and also what the drivers are that lead them to their criminal behavior. If you look at the research literature, the "what works" literature consistently

shows that sometimes nothing works. Some of the reason behind that is that we have a mismatch between the people placed in certain services. It's not their problem behavior. And so we don't yield the outcomes that we would normally expect to get. So it's very important for us as a field to begin to think about how to use valid diagnostic tools at different decision points. And so one of the things the Sentencing Commission may want to think about is a risk assessment tool that's different than thinking about criminal history, but really about someone's probability for continued involvement, and also looking at the whole notion of criminogenic needs and how to match the offender in his or her sentence with different target areas that the offender actually has. Now what's important about that is that everything we know about this field is that matching can increase the odds in which people do better. And so it becomes part of our initiative to really begin to think about changing our decision-making to be focused much more on smart practices that are focused on getting the offender into the appropriate treatment programs and services that are matched to their criminogenic needs or the reason that they're involved in criminal behavior.

Finally, I want to go through this concept of behavioral management approaches. You've heard some discussion this morning about carrots. It's kind of interesting that we're talking about a carrot and stick model, but actually the research literature is very strong on this notion that people, regardless of whether you're an offender, you're a student in my class, you're in your work situation, people respond to positive reinforcers. You get more smiles on people's faces when you give them a compliment than when you tell them they should improve how they're doing something. Now we know that, and that's a very strong psychological concept, but the question is, "Can we actually bring that into play in our policies and procedures?" And this is where reentry courts and drug courts have led the way to beginning to think about how you can actually encourage or incentivize offenders to give them the kind of drive and desire that they can actually perceive. I want to mention this because one of the most important aspects of what happens when we have a system in which the participants may not feel that they are being treated fairly, is that people look for all the negatives, and they interpret those negatives as basically being a message that the person can't succeed. And so oftentimes in my class I often talk about this concept of how we've built a criminal justice system to dissuade people from engaging and actually encouraging them that their lives can be meaningful. And the behavioral management techniques that are out there can help us really begin to shape that.

So these are a couple of studies by Carolyn Petrie that basically demonstrate continuously that these improved models have better outcomes for offenders.

And these are the results of a study that I did in Maryland in a model in which they reshaped their probation system, and we've actually got reductions in recidivism rates for offenders.

So the question is, "Is it feasible to do that?" In looking at this issue, what we do know is it is feasible to move ahead with these evidence-based practices. We have recent survey findings that show that implementation is not impossible; there are actually very smart policies and practices that can help organizations move ahead. And there are some things that probably would be very useful for the Commission overall, but that would be to pursue some of the things that we've recently learned from the series of studies on adoption of evidence-based practices. The two things that I would recommend to the Commission, and one of them you're accomplishing today, is to become more knowledgeable about EBPs, but also to begin to focus on what's called a "performance-driven culture," in which you're really focused on trying to meet targeted goals and objectives around this particular area.

For my last minute, I want to encourage you because I think this is a wonderful opportunity, a good starting place. There are lots of small steps that the Commission can take that can help us really move ahead. There's a lot going on in the federal probation system, and you'll hear about that from Scott VanBenschoten this afternoon or tomorrow. They've taken a lot of steps to really think about reshaping probation supervision, adopting some of these evidence-based practices. So these are some small steps. You have copies of these Powerpoints in that CD-rom. And I also encourage those of you who are interested to download the manual (I think it's also on the CD-rom) that basically helps you see how this can be woven into your current practices.

So I thank you this morning for this opportunity to kind of share with you these three ideas, and hope that we can get to a different tipping point in the system.

COMMISSIONER FRIEDRICH: Thank you, Dr. Taxman. Our next speaker will be Mr. Aos.

MR. AOS: Good morning everybody. Thanks for having me here today. I'm going to talk today a little bit about just three things really: crime, money, and some good news. That's, I guess, the theme. We want to be crime fighters, want to have less crime. But what we want to do is spend less, fewer taxpayer dollars getting to less crime. And there's some good news that we found from the work in Washington State. That's what I'll be talking about today, that there are some options out there that you can exercise as a Commission or legislatively or in the executive branch to accomplish those roles. To be a crime fighter, to have less crime, but to spend fewer taxpayer dollars getting that result.

Let me just say quickly, the institute that I work for is a nonpartisan branch, a research group for the Washington State legislature. All the work that we do, including the work that I'm going to talk about today, were projects assigned to us by our legislature. We have a nonpartisan board. Republicans and Democrats are equally distributed across our board of directors. And, again, all the work comes from the legislative assignments in bills. So if I don't deliver on those projects, I'm going to end up being one of those prison statistics you see here.

What I'm going to do today is talk about some of the things that we've looked at in Washington State. We'll kind of put things into three pots, if you will: one is prisons and jails; police is another resource; and the stuff that we've been talking about, evidence-based programs. What we know from the research literature is that economically all three cost money. It costs a lot of money to build prisons. It costs money to run programs. It costs money to hire police. So nothing is free. I'm an economist. Every economist will tell you that there's no such thing as a free lunch, and that's the case in this business as well. What we do know from evidence-based research is that all three can be effective at affecting your crime rate. There is research evidence that building more prisons, which we'll talk about, can affect your crime rate; hiring more police can affect your crime rate; and running the right kinds of programs can affect your crime rate. So there's evidence that they can be effective, and there's equally good evidence that they can be ineffective if you use them incorrectly. So you have to be a smart investor. This is like any other business. There are good investments out there, and there are bad investments out there, and you can't just say, "Oh, we're going to do this stuff." You have to actually be a pretty smart investor to work your portfolio. And that is the fourth point, portfolio. You've got to think about what combinations of those resources are going to deliver lower crime rates and less spending on your taxpayers. So today I'm just going to talk very briefly about prisons, and a little about the programs, and about the portfolio that we've put together and implemented in Washington, and the effect that it's having, we think, on our crime rate and our total amount of money we're taking from taxpayers to fund the criminal justice system.

Let's just review the statistics. We've already seen a couple of them. This is presented in a little bit different way. This is the incarceration rate in the United States, and also in my state of Washington, from 1930 to 2005. So there's the rate. You've heard that notion about one out of 100 adults, that's what you see on this line here. For decades, from 1930 to 1980 or so, the mid-'70s, we had a pretty constant rate of incarceration in this country; about two people per 1,000 adults were incarcerated. You can see what happened after that. I'm going to plot Washington's rate on there as well. Washington was just like the other states on average. We had about two people per 1,000. Back in the year of the Depression and World War II, and before the Beatles and before the Internet, we had about two people per thousand. And now you can see what's happened to our incarceration rates. Washington's rates have grown a little bit more slowly than the nation as a whole, but that last line in there is what scared our legislature. The sentencing laws that our legislature had passed were going to have us continue to increase our incarceration rate, and that was putting a real fiscal strain on our ability to fund K-12 education and other things they wanted to fund. And that was the genesis for the study that we did, were commissioned to do, and then I'm going to report on the results today.

One other piece of background information. Let's take a look at some more time trends, crime rates and taxpayer costs. These are going to be data just for Washington State. They're similar to what we might expect if you looked at it across the country as a whole. We'll go back to see how things have changed since 1980. Got good news and bad news. Every economist comes at you with good news and bad news. Here's the good news. Crime rates are down. Part one, FBI-kind of crime rates—the things that get reported every year by the FBI—serious felony and violent and property crimes are down. In Washington State, they're down to about 26 percent. So if you visit Seattle this summer, and I hope you do, hope it doesn't take ten hours the way it took me yesterday to get here, what's normally a five-hour flight. But if you do visit Seattle this summer, you'll have about a 25 percent less chance of being a victim of crime, a violent or property crime than if you visited back in 1980. So that's terrific. That's good news.

Here's the bad news. The bad news is the amount of money that we're spending in Washington State to finance the whole criminal justice system in our state, all the way from police to prosecutors to public defenders, local corrections, state corrections, juvenile side, adult side. Add them all up, all the money. Take inflation out. Divide by the number of households, Bill Gates's household and my household, the whole thing. We spend, in today's dollars, about \$1,100 per household to pay for all that stuff per year, \$1,100 per year, when we used to spend about \$589 per household in today's dollars. So we've had almost a 100-percent increase in the amount of money that we have to spend on the criminal justice system and crime rates are down. Now part of the reason that crime rates are down is because we're spending more money on the criminal justice system. That's important. All those dollars haven't been wasted. They've been funding certain kinds of resources. And on average, they've been helping to drive crime rates down. There are other reasons crime rates are down. Of course, because of baby boomers like we are, getting gray hairs out here or would-be gray hairs, if you allowed them to be, and that's part of the reason too, another economic cycle. But after you do all the controlling for that stuff, you find out that some of those resources do affect the crime rate.

So if we were to meet back here in another ten years or so, what I'd like to come and be able to report to you is that Washington State has put the policies in place that will at least keep crime rates stable if not going down. What we learned when we did our analysis is that we have some options. Depending on which kind of portfolio of resources we decide to invest in, we can either begin to move that crime rate

back down so we are not taking so much money to finance the system or we can continue to increase it. So the question is, what kind of portfolio do we need? And that's what I want to address now.

Let's talk about prison. Most of that increase in money that we've spent in Washington State has been to increase our prison systems. We're also spending some money on evidence-based programs. But there are three points I want to make about prison, I think, that the research would indicate. Incarceration rates do affect the crime rate. The most credible research studies out there, including ones we've conducted in Washington State, indicate that on average, if you change your incarceration rate by ten percent or so, you will affect your crime rate by two to four percent, something like that, on average for the part one kinds of crime that we measure with the FBI statistics. Just do a little thought experiment in your head. If you had a 100-percent incarceration rate, the FBI crime rate would go to zero. And if you had a zero percent incarceration rate, that is, we let everybody that's in prison today out, the crime rate is going to be higher next year. So the question is where on that curve do we want to be? And economics, I think, is going to play an important part there. The second point is that specific incarceration rates matter. I think this was touched on a little bit earlier in the morning. We all tend to specialize. Baseball players specialize. Pitchers specialize. Batters specialize. Outfielders specialize. Turns out, offenders specialize. If you incarcerate violent offenders, more violent offenders, you're going to get a bigger reduction in your violent crime rate. Property offenders tend to specialize in property crimes. Drug offenders also do property crimes and other drug crimes. So it's important to take advantage of the research that exists out there to note that how you incarcerate, who you decide to incarcerate, and what risk factors you use, are going to influence the crime rates in your state.

And then, finally, the third point here, and this is an economist thing, diminishing returns really do happen. They happen in every industry. They happened to Starbucks. I own Starbucks stock, and I'm not happy because the stock price is down. But what's happened, I should have sold it awhile ago, Starbucks, as you know, is closing stores, and that's because they expanded too much. And so the profit per extra store that they were opening wasn't generating the kinds of returns that make me happy as a stockholder. So Starbucks is scaling back. Every business faces diminishing returns, and the prison business is no exception. As you saw that incarceration rate increases higher and higher, the amount of extra reduction in crime rates is beginning to get smaller and smaller as time goes on. It affects the prison industry in the same way it affects any other industry that we can know about.

So let's take a look at some of the economic factors here, and ask the question, "Are there evidence-based alternatives that reduce crime, but at less cost than continuing to build the prison system?" Here's what we did. We analyzed every rigorous study that we could get our hands on. We found 571 comparison group studies. We then did the economics of those studies, asking that cost-benefit question about how much do you spend, and how much do you get in terms of crime reduction. And then we did the investment or Merrill Lynch kind of thing. We said, "What kind of portfolio could Washington State put in place that would reduce crime rates?" Legislators could go back to their constituents and say I'm fighting crime, evidence-based crime reduction, but doing so at less cost to taxpayers. So we do consumer reports lists. This is our list of education, child abuse, crime, whatever, outcomes. You can go to our web page and get our consumer reports list. We rank programs. We rank options. Some of them work, some of them don't work. All of them are evidence-based, and we do it on the economics there. I'm going to talk about just a couple right now in the few seconds we have here. We're going to look at some adult offender programs, some juvenile offender programs, and some prevention programs. These are all evidence-based programs that reflect your crime rate.

So there's drug courts. Already talked about those this morning. Here's what the numbers are. You can see, we found about 57 credible studies of drug courts conducted mostly in the United States. Those 57 studies would lead us to conclude that the average drug court reduces crime rates, reduces criminal recidivism rates by about eight percent. Now the advocates of drug courts and maybe my own heart would have said it, "Gee, I wish it would have been an 80 percent reduction in crime rates," but what we found was an eight percent. My head tells me it's an eight-percent reduction. When we look at that, we find out that the economics of drug courts look pretty good. For every dollar we spend, drug courts cost more money, about \$4,300 more per offender to pay for the treatment, and the judge's time, and the prosecutor and defender's time. But that eight-percent reduction in crime rates is going to save us some money. It's going to save us money as taxpayers, and then there are going to be fewer victims, and those are going to have some benefits as well. So we think that you get about \$9,100 in benefit for every 4,300 extra dollars you spend on drug courts. They're going to be in our portfolio. They look like good investments to us. I'm not going to go through the other programs here. You can go to our detail and list there. But we found some programs that work in the adult offender systems and prison-based programs and community programs; and we find programs that don't work, and the economics of those are in red up there. They don't look too good to us. So we don't want to do those. If we're spending money on them, we want to shift money from those programs into things that work.

We've also found a number of programs in the juvenile justice system that work, and it will save us a lot of money in the years in the future in the need to not have to build so many prison systems. And we also looked at the prevention system as well. Preschool programs look very good as crime fighting resources. Some home visiting programs, some call them nurse-family partnership programs also look very good to us. Long-term resources are the way to fight crime. We've put all those programs into our portfolio of investments in Washington State.

So here's what we did. We did a portfolio analysis. We said, "Where are we in Washington State?" We looked out 20 years, 30 years into the future. There's our existing prison system, about 18,000 beds owned, and some that we rent from local communities. There was that forecast just before we published our report before the 2007 legislative session. We were looking at about a two-prison shortfall. Two prisons were on the drawing board at that time, and a three-prison shortfall by 2030.

So we then said, "Okay, what if we did different things? What if the legislature funded a different portfolio of resources?" You can build prisons to meet that line; or, as we found out, you can select the most cost-effective of the alternative programs and start to move that line down. And this is what we found. I won't go through all those economic mumbo-jumbo numbers there, but we found that if we begin to increase our portfolio from a moderate portfolio investment in some of those programs—more drug courts, more juvenile justice programs, more treatment in prison, evidence-based treatment in prison, and some of those prevention programs—we could basically eliminate the moderate expansion of our portfolio. We could eliminate one of those needs to build prisons. And if we did an aggressive portfolio, we could eliminate by 2020 or so the need to build any new prisons beyond what we had already constructed.

By the way, crime rates in all cases are going to go down. We can build prisons and the crime rates will go down. Or we can build some more prisons in combination with those programs, crime rates are going to go down. Or we can do all programs in the aggressive case, and the crime rates are still going to go down. So that's going to be that good news out there ten years in the future. The real trick was on the economic side. That's why I encourage you all to take a look at the economics of these

investments. Because that's where the payoff comes. We can save the Washington taxpayers several billion dollars worth of spending by investing in more cost effective ways to reduce crime. Turns out that there are definitely some options out there that would look very attractive this morning on Wall Street, in terms of rate of return.

What our 2007 legislature did with this evidence is they funded a brand new portfolio, more money for some of the programs. As a result, the official state forecast has been changed, and we've taken one of those prisons that we were scheduled to build off the drawing board now. So now we have to deliver on those programs and those implementations. They funded the program in about the middle course, and want to see how it's going to go here. So we're still planning to build one new prison. We've taken one prison off and substituted in its place a set of programs there.

Summarizing here then, individually when you do the evidence-based thing and when you do the economic thing, you find out that some things work and some things don't. And there's equally strong evidence for both approaches. There are some incarceration policies that work. There are some incarceration policies that don't. There are some of these programs that work. There are some of those that don't. Do the economics of it, and you'll find out you need to be a smart investor and you need both economics and evidence-based stuff to come to that conclusion. And then collectively, if you think about this as a portfolio in the same way I hope you do about your own retirement savings, if you think about the options, what kinds of things can you do in your state or in the nation as a whole, if you rearrange your portfolio, you can end up with some significant reductions as we think in the crime rate in the state of Washington, and a need to take so much money from taxpayers and build as many prisons. And then Washington State, as I just mentioned here, is implementing the strategy; the devil's in the details. Implementing—it's one thing to make the investments, another thing to actually pull the programs off, and all the details that go on there. That's where we're really engaged right now, to try to bring those programs into fruition.

Thanks very much, and I'll be happy to answer questions in a few minutes.

COMMISSIONER FRIEDRICH: Our next speaker will be Dr. Lattimore.

DR. LATTIMORE: Thank you. I also am very pleased to be here today, to have an opportunity to talk with you. [Off topic.] This is a slightly different kind of presentation. Results from "to date" from multi-site evaluation of the serious and violent offender reentry initiative, which was put in place by Congress in the early part of this new century, and provide a little bit of information on what we're finding as a result of the evaluation.

First, I'm going to talk a little bit about what the initiative is, and talk a little bit about implementation. I think there are some important lessons there for everyone in terms of expectations. I think we've gotten some reality checks from the earlier presentations about the fact that at least when you start looking at programs, and eight to ten, 15-percent reductions in outcomes are very good reductions, and they can have big payoffs in terms of crime savings down the road. And then talk about our preliminary findings in terms of impacts.

As I noted, the SVORI, acronym, right, was funded to provide state agencies with money to develop reentry programming for adults and juveniles. Sixty-nine agencies received federal awards [inaudible]. The 69 agencies developed 89 separate, distinct programs as best we were able to determine.

The guidelines for these programs were fairly minimal. There was supposed to be assessment, but basically agencies were told, you know your populations, you know what resources you have available, go out and develop the best program that you can.

I'd like to emphasize that the total money that went into SVORI was over \$100 million in federal funds, which sounds like a huge amount of money, but with over 700,000 parolees every year, this \$100 million also was spread over three years. So we're looking at [inaudible] people being released every year. You can do the math. The per capita expenditure, if it had been distributed that way, was very, very low. So, you know, the costs that we're looking at are fairly large. But what programs we're able to do with, again, if you divide a million dollars by three, is you're talking about adding about \$330,000 to a state agency's annual budget to provide programming. So even though the numbers look large in some ways, when you get it down to that level, we're really not talking about that much additional funding. And as I noted, the goal was to develop local programming. This is just a map that shows the post-release targeted areas for SVORI. You can see it was nationwide. You can see also that some states like New Mexico said, "We're going to target people who are being released all over our states." Other states, Maryland comes to mind, their reentry SVORI program was focused in one zip code in Baltimore. So the size of these programs varied a lot, and it's important, I think, to keep that in mind.

So [we have] SVORI, federal money, and a goal for there to be partnerships between various state agencies as well as partnerships established with local community and faith-based organizations. And this \$330,000 per year on average was supposed to be expended really across three different levels of reentry. The idea of reentry being that you start at the time that individuals are in prison, while you've got them there where you can provide programs and services. You have this transitional phase out into the community when individuals are on supervision, again providing services, doing their needs in the risk assessments that Faye was talking about earlier, providing treatment and after-care. And then after that, there was envisioned a post-supervision phase that would involve continued involvement by community-based organizations to assure that individuals were continuing to get the support and services that they needed.

In 2003, NIJ funded RTI and the Urban Institute to conduct a multi-site evaluation of SVORI. This is, I think, one of, if not the largest, evaluation that NIJ has ever funded. It was originally five years. We're now in our sixth year, which was intentional from the beginning so that we could get at least two years worth of follow-up information and analyze the data on everyone who was included in our evaluation. We looked at implementation by doing four rounds of surveys with the program directors. We have looked at impact through a longitudinal study of about 2,500 offenders, adults and juveniles. Unfortunately, we have no girls in our study. The good side of that is we have no girls in our study because the numbers were so small in the states that it just didn't make it feasible for us to be able to develop any kind of reliable information. So we looked at women, men and boys. We're doing a cost-benefit analysis in a few of our sites, and we've also worked very hard at dissemination. I point you to our website. I didn't get my presentation in on time for it to be included on your CD. It will be up this afternoon on our website at www.svorievaluation.org. And there's tons of other material up there, short papers and other presentations that we've given.

The goals for SVORI, which was put forth with relatively little framework, are very ambitious. They were basically to go forth, do all things for all of the people, and effect all of the outcomes that we could possibly think of. So what we wanted to see were improvements in employment and housing, health outcomes, family, better family integration, people start paying their child support, get involved in

their community. Obviously substance abuse is a big issue here. And then, of course, the ultimate goal would be through these things you would observe a reduction in criminality. And also, obviously, the encouragement for agencies to partner and work together, envision the development of a systems change. So that by the time the SVORI funds ran out, there would be a difference in the way of doing business that would be sustained post this initial grant funding.

Now those of you who do evaluations know that this framework is a difficult one. So we're supposed to evaluate a program that varies from place-to-place in terms of its targeted population, in terms of the components of the program, and that's supposed to basically be all things to all people, and we're really supposed to be doing this as the programs themselves are getting started on the ground. Big challenge in terms of measurement. You know, we got a lot of money to do this evaluation, but not an infinite amount of money. And so to be able to get down absolutely on the ground and follow everyone around for three or four years, we couldn't do that. So we had to be very careful with the thinking about what we wanted to measure. The goal of this evaluation was impact, not implementation. But clearly given that people could just go out and do whatever they wanted to do, we had to look at what they were doing. Because in the end, if we found that something worked, people would say, "What worked?" and we would say, "I don't have any idea." So we tried to get an idea of what programs were doing. In general, they basically followed the guidelines, which was to focus on the serious and violent. No definition of that. So you got variation across the states from Maine, saying everybody in our prison is either serious and/or violent, so it's our entire population. To other places like Texas that focused on their admin seg population. So maximum security inmates that would be there until the day they walked out the door. And the program directors also told us they were going to focus equally on the pre- and post-release phases. So they were going to put equal effort and equal resources into what was happening within the institution as they were what was going on in the community.

I am an optimist. We talked about that earlier today. But also a cynic. So I thought, it's going to be a lot harder to do—effect change out in the community with disparate agencies and so forth. So even though the program directors say we're going to focus equally between what we're doing inside—it's hard enough, by the way, in and of itself—and what we're going to be doing out in the community. I thought, "Well, we'll see when we get our information in." They said that they were going to geographically target both sides, so that meant they were focusing on specific institutions, not system-wide. Makes sense given the money that I was talking about earlier, the amount of money that they had to work with. And also generally, although New Mexico was an exception, they were going to focus on specific communities, you know, three or four maybe returning counties or something like that. This meant that they really were trying to take the monies that they had and target it onto a smaller population and sort of try to get the biggest bang for their buck on average, rather than saying we're going spend three dollars on everybody who is getting out; we'll try to spend more money on individuals. And, again, adhering to the "Be all things to all people" credo, 90 percent of them said that they were going to provide people with everything that they needed.

Primary focus, not surprisingly, I think, was employment. This is for the adult offenders. About half the programs said that that was a primary focus; and about another 25 percent or so, 27 percent, said they were focused on community integration, which, in most cases, I think would have included employment.

We measured basically all of the things that we could think of, and if you look at this list, these are actually still very broad categories of things that can be provided for offenders. So we have legal

assistance, we have risk assessment, we have needs assessment. Faye and I were talking earlier; anyone who knows about this knows that there are all different kinds of both of these things. But, again, we were just trying to get, if albeit however crude, some sort of measure of what these programs were trying to incorporate into their programming. And all that list applies. There's one list like that pre-release, and then the other list for post-release. So we were looking at about 16 different services pre- and post-release that could have been included in these programs. This is just what we were told by the program directors in terms of the most common pre-release services that they said that they were providing.

Down at the bottom, you'll see here sort of the most 92 percent. And what this is, is what proportion of people who are in your programs were receiving this? So on average, we had categorical data, which makes it a little bit more complicated. Let's just say on average the program directors told us 92 percent of people who are participating in SVORI programs received a treatment and release plan. And that sounds pretty good. That's close to 100 percent. And you would think that clearly that would be one of the more critical things you would want for reentry programming. And the brown bar here, pink, pinkish brown, is asking them about their status quo. So they said, well, even without SVORI, about two-thirds of the people would have been getting a treatment release plan, and then we see going up to life skills training. Same sort of thing here. Post-release, again, 92 percent saying that they would have a treatment plan moving all the way up to about 67 percent saying, "Well, we're going to help them with resume development and interview skills."

Well, this 30, 28 to 30 services, pre-release and post-release, is a lot to get your head around and, if I extended that little chart, rather than having five or six bars on it, we would have had 30 bars on it and eyes glazed over. And so we tried to look at sort of combining types of services into what we call service bundles in order to try to get again a handle just in terms of what's a variation of cost programs as well as how well they're doing. And we have here four of those bundles; coordination supervision, transition services, health services, and our basically employment skills building bundle. And, again, this was a program director's report. We see that coordination of supervision, they said we're doing most of this for everybody. Transition services, the blue bar starts to drop. It's like we're doing a little bit less in all of these things for everybody. And health and employment and education. And, again, you see a substantial difference between what they say they were doing now with their new programming, basically what they were building on, adding to with respect to the status quo. Post-release, you see the same sort of pattern. Maybe the bars are a little bit lower.

The next two graphs that I'm going to show you are results from our individual interviews with program participants and comparisons. We see immediately, and we asked them, "Did you get this?" And you see immediately that these bars, you saw them drop. These bars are much lower than the program directors sort of report of what their program was supposed to provide. And, if we go to post-release, you see that the bars drop even more dramatically. That the level of service that's being provided—you see two things on these charts. The level of service being provided to people who are participating in the SVORI program is much more than—I mean it's even in these small bars, well not so much on this one, but if we look here, I mean you're looking at basically 50 to even 100-percent differences in terms of percent of people who are getting these services but still the levels are low. So what did we find out from this? In summary—and we also did a set of analyses that have looked at offender needs relative to what they're saying they're getting. But there wasn't really time to get into that today. There's information on that on our website. Program directors reported they were providing more services. This is good news. It's certainly a necessary condition to start to look at impact. And that overall I think we would think, if we had a fully implemented program, fully implemented SVORI

programs, we would expect those levels to be much higher. Again, though, I point back to what I said at the beginning, that we were basically doing this, conducting this, at the time that these Departments of Corrections were trying to basically turn their reentry ship around and start to expand the services that they were providing to individuals. And so you would expect, I think I would expect that, you know, over time that they would have been able to do better.

So we conducted four waves of interviews with more than 2,500 individuals in 14 states in our impact sites. This covered 16 federal programs. Going along with our list of services is this long list of outcomes. And so we were going to look at those. Just in general, you know, we found that the folks were in pretty good shape. These again are the adult males. There are about 1,700 of them in our study. Only about one percent were homeless in our three months—we found that, in contrast to baseline findings, most were not living with people who were criminally involved, and they were more likely to respond positively to questions about reentry programming. And we were a little bit surprised by that, that about three-quarters of them reported having worked since release.

So broad range needs, broad range of potential outcomes. Does SVORI work? We've taken a broad view of outcomes just like we have with service provision, and I'm going to show you an overall chart pretty soon. But we can see here at three, nine and 15 months post-release, a comparison of outcomes for SVORI and non-SVORI participants, these are, the percentage difference in outcomes, positive means of individuals who are in the SVORI program had actually done better than those who were not. We see modest improvements across all of these. A little bit, basically nothing there. The thing that held consistently in our data here is that individuals who were in SVORI were much more likely to say they've found jobs with benefits. This is good in terms of them continuing employment. And that they had less trouble finding a job.

If we look at substance abuse, again we see differences between people in programs, positive differences between the people in programs and those who were not.

So if we look, we actually had about 100 things in our three-month interview that we could consider an outcome. And if we look across these 100 outcomes, again we see the same sort of pattern. In each of these domains and employment, community involvement, family involvement, you see the same kinds of patterns that I was just showing you, you know, sort of at an individual level before. And across all of these, we see that for about 75 to 80 percent of the outcomes, the effects are positive. And, in fact, if we look across the three waves of data collection, we see the same kind of pattern. So it's an indication that we're seeing moderate improvements off of moderate differences in service provision. To me, this is a very positive message. It's a message that says we can continue to build on this—if we don't have sort of this diluted treatment, because not everybody is getting anything—then we've got a place to start. And so from like I say from release of the three-months chart we saw it, the, you know, we see positive effects both in substance abuse and employment in particular.

And in most of our crime measures, we are not recording any of the criminal behavior outcomes yet because we haven't finished the analysis of our administrative data. So all we have right now is self-report, and that's a little risky to rely wholly on that. So we're waiting until we can match that up against our administrative data, which, we've just about finished putting together.

So that's a quick summary of what we have, and thanks very much.

COMMISSIONER FRIEDRICH: Thank you, Dr. Lattimore. Mr. Scheidegger.

MR. SCHEIDEGGER: Thank you very much.

Thank you all for attending. I'd like to thank the Sentencing Commission for inviting me. I appreciate the opportunity. The topic of the symposium as a whole, of course, is alternatives to incarceration, but it's important to discuss that in the context of incarceration itself. I might add some context to that, amplifying some remarks that were made earlier.

Because in terms of what works, well, one of the things that does work, as you've just heard, was incarceration, and it has been an important component in crime decline, and it's important to keep that in mind. There's been a lot of attention given to the statistic of the percentage of the general population that is in prison. And that statistic may have some uses for some purposes, but I think it's an inappropriate statistic as an indication of sentencing policy. The denominator of that fraction is the entire population of the country, most of whom are not felons, and so it doesn't really indicate how tough or how lax we are as far as sentencing policy goes.

I think it's better to focus on incarceration relative to crimes. So what I did was—and this is admittedly still a simplistic statistic, but I think it's a better one—compute the number of people who are in prison relative to the rate of violent crimes. And as you can see on the left side, that rate went down sharply in the '60s there. It then stayed at a relatively low level, came back up, but it was only in the late '90s that we actually had as many people in prison relative to the violent crime rate as we did around 1961. If you use total crime instead of violent crime, you get a similar pattern although it's less dramatic.

Now how much of the crime dropped? You see that crime rose steadily here and then dropped there. How much of that drop was attributable to getting tough on sentencing again? Well, it's a very difficult thing to estimate because there are so many factors that go into crime, demographics, and some other factors. The most thorough analysis of that is a book called *The Crime Drop in America*. It is a thorough evaluation, and it is also an evaluation that has a perspective that is different from mine. It's very clear the authors want to minimize the impact of incarceration. Nonetheless, the estimate in this book, which I'll accept for the sake of discussion, is 27 percent of the crime drop in the 1990s was due to the tougher sentencing policies adopted and used.

So what is the impact of that in human terms? In the 1990s alone, that would mean that 340,000 people were not robbed; 27,000 people were not raped; and 12,000 people are walking around alive who would have been murdered. That is not a failure. That is a success. Statements like we saw in the *Detroit Free Press* editorial yesterday that the incarceration policies were a failure are not true. It's important to keep in mind that that's not true. We've also seen some other editorials. There was one last Friday in *The Washington Post*. This editorial did acknowledge that incarceration was necessary for violent offenders, did contribute to the crime drop. But then it says that prisons should be focused on holding the most dangerous criminals rather than on warehousing nonviolent first-time offenders. So the *Post* is apparently under the impression that our prisons are just chocked full of people who are there for the first offense of a nonviolent crime. Well, that isn't quite true. These are the populations of the state prisons. I'm focusing on states because that is the bulk of the prisoners. According to the Bureau of Justice Statistics, the violent prisoners are clearly the lion's share of prisoners. Now among the nonviolent, how many are actually first-time offenders? Well, according to another study by BJS, 80 percent of the first-time [violent] offenders had prior convictions, 95 percent had prior arrests. And

looking at the serious offender indicators, 88 percent of them had at least one indicator of being a serious offender. So it's not accurate to say, as the *Post* implies, that there is a simple solution to the number of prisoners, and that is to just let go all the people who shouldn't have been imprisoned in the first place.

When we talk about violent offenders and nonviolent offenders, the question arises as to whether we can really cleanly separate people that way, whether criminals specialize. The evidence on that appears to be somewhat in conflict. Steve mentioned that he thought that the evidence supported that, but the evidence I was able to find, particularly in a study by Rand Corporation, found little evidence of crime specialization. And a person arrested for a violent one day might be arrested for nonviolent the next or vice-versa. So we cannot assume that a person whose present offense is nonviolent is in fact a completely nonviolent offender and more likely that he'd commit a crime of violence than anyone else.

We hear a lot about the corrections budgets, about how it's soaring out of control and gobbling up the entire resources of the state. From the National Association of State Budget Officers, I have the percentage of total state spending that goes to corrections for the last 12 years. That's not exactly spiraling out of control. Budgets, of course, are always a problem. Resources are always tight, but it's not an impending crisis in the sense that we have often heard.

One final thing I want to address is a statement we commonly hear, that the Europeans are so much smarter than we are, they incarcerate far fewer people, and they have lower crime rates. That's not entirely true either. One more thing on corrections. This is another graphic out of the Budget Officers report. And you see that the slice of state budget that goes to corrections has not been expanding relative to everything else. Everything has been expanding. Okay. On the interjurisdictional comparisons, I used robbery as an index for comparing the different jurisdictions because it's one violent offense that is defined fairly consistently across jurisdictions, and is fairly regularly reported by the victims. Now you can see that in the early days, back in 1995, Americans were at considerably greater risk for robbery than Europeans. But that is no longer the case. And both France and the other line is England and Wales, the rate of robbery is now higher than in the United States. Italy was much more back in '95. It is now close to the same. Germany seems to putter along at a steady rate. I'm not quite sure why that is. But the assertion you always hear that Europe has a much lower crime rate than the United States is no longer correct.

So I just wanted to give that evaluation, that perspective on incarceration. We shouldn't be buffaloes into thinking that our past policies have been total failures. And we need to consider alternatives. We need to consider all the programs you're going to be hearing about at this symposium. They're all worthwhile to be considered. The status quo certainly does need some changes. Some of our sentencing policies are wrong. The 100-to-1 ratio being the best example. And they need to be examined. We shouldn't be stampeded. It was stampeding that created that ratio in the first place.

On the question of evidence-based practices, I'd like to make a pitch for more rigorous methodology in evaluating evidence. We often hear statements made, we have our treatment group and we have our non-treatment group, and the treatment group did so much better than the non-treatment group, and that proves the treatment is effective. Well, not necessarily. We need to take a really hard-nosed look at those assertions. First thing to look at when somebody says something like that is whether the treatment group and the non-treatment group were the same in all other respects going in. If the group that gets the program was selected by the probation officer, people most likely to succeed, and they do in fact succeed, does that mean the program was responsible? The gold standard for this kind of evaluation

is to take your people eligible for a program and assign them at random to one group or another. That's the best way to do it. Everybody agrees on that. An evaluation of drug courts by the General Accountability Office found that out of 117 drug court evaluations, three did it that way. Another 24 had acceptable alternative methodologies, and another 90 weren't even worth further evaluation.

So I'd like to make a pitch for those of you in policymaking positions to really sponsor some hardnosed evaluations of the evidence asserted for programs. We don't want to follow fads. This was mentioned earlier. And I'd like to make a pitch for those of you who are involved in criminal justice at the trial court level to cooperate with researchers in doing the true experimental design, the random assignment to the two groups. Because often we hear from researchers that they couldn't do that kind of evaluation because the people running the program wouldn't let them. That's the way we know whether programs are effective or not. I hope that in the future, we will see more rigorous methodology so we really know what works and what doesn't, because we don't want to pour our money into fads and programs that actually don't do any good.

Thank you very much.

COMMISSIONER FRIEDRICH: Thank you, Mr. Scheidegger.

[Inaudible.]

COMMISSIONER FRIEDRICH: Unfortunately, I think we're all out of time. That's all right. We're going to stay on track today. But I want to thank all the panelists for their informative remarks. We appreciate your participation.

