

*Day One*

## **Drug Courts/Treatment Options**

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## SUMMARY

Across the nation, drug courts have taken various forms. Some limit the types of offenders; others vary the types of treatment. Some programs allow defendants to avoid prosecution or prison for the crime; others begin after the sentence is served as a condition of post-incarceration release. This panel considered some of the ways that drug courts have been implemented in three states, including differences in admission criteria, responses to violations, and rewards for positive behavior.

The Dallas Initiative for Expedited Rehabilitation and Treatment (DIVERT Program) is an 18-month program designed for low-level drug offenders with no prior felony or violent misdemeanor convictions. This program has resulted in a 68-percent reduction in recidivism rates and has been the model for more than 80 drug courts throughout Texas. Another Texas program, the Substance Abuse Felony Program, was established to address felony high-risk offenders. These offenders are first sent to transition treatment centers, such as those operated by the Salvation Army, and upon their release, have specialized officers assigned to them to monitor their progress and assist them with reintegration into the community. Three years after the initial cohort was released, it appeared that recidivism rates for low-level drug offenders had dropped significantly.

The Washington, D.C., Superior Court has a diversion program that focuses on community efforts to avoid the collateral consequences of conviction by preparing defendants for reentry through skills training. This program handles almost all misdemeanor offenses east of the Anacostia River except those involving domestic violence. These offenses include drug possession and distribution (crack, heroin, PCP, marijuana), theft, prostitution, and assault. The specifics of the program are tailored based on the type of offense and the defendant's prior record but may include community service, job training, and restrictions on activities that could lead to recidivism. Unlike in a drug court, which specifically focuses on treatment, participants must be drug-free for three weeks before entering this program.

In Brooklyn, New York, prosecutors lead the efforts in community court, in collaboration with entities outside the criminal justice system. One program, Drug Treatment Alternative to Prison (DTAP), takes prison-bound addicted felony offenders into long-term residential drug treatment. Here, defendants plead guilty to a felony and accept a substantial sentence, which is deferred during treatment. If the program is completed, charges are dismissed; if the candidate fails, the sentence is executed. In order to graduate from the program, participants must complete treatment, obtain housing, and a job. Another program, Community and Law Enforcement Resources Together (ComALERT), is a reentry program that focuses on employment and housing opportunities. Both programs have been favorably examined by Columbia and Harvard Universities. In addition, they have contributed to a noticeable decrease in violence in Brooklyn.

The National Institute of Justice (NIJ) reports that although programs like these show some room for improvement, the overall assessment is that these programs have very promising results.

## **DRUG COURTS/TREATMENT OPTIONS**

MR. SCHMITT: Welcome to our first breakout session of this afternoon. In this room, we will be discussing drug courts and treatment options. As most of you know, there have been a number of specialty courts that have been devised over the years. Drug court is the most common and probably the most frequently used name, and is a name that is all-encompassing for a number of different sorts of innovations. Today we're going to talk about several different flavors of that. I will be delighted to introduce each of our panelists as they present, but I'm going to go one at a time.

I guess I should introduce myself. I'm Glenn Schmitt, and I'm the director of the Office of Research and Data at the Sentencing Commission, and I join all my colleagues in welcoming you here today.

With respect to drug courts, there are many types of participants in these courts that you're going to hear about. Sometimes they're drug offenders; sometimes they're offenders who have drug problems; sometimes they're limited to only certain types of offenders. At times, the types of treatment vary. Some of these programs focus exclusively on drug treatment. Some of these programs focus exclusively on reentry after the completion of a drug treatment program, and sometimes it's a combination of those two. The points in the system at which this innovation is given also vary from program to program. Some of these programs focus on probationers, people who are not going to go to prison. Some focus on pretrial inmates, and focus on whether the decision is going to be whether they go to prison or not, in part based on how well they do in this sort of a program. And many of these programs are then focused on post-release inmates, whether they are on supervised release in the federal system terminology or on parole in the state system terminology. Finally, there are many different providers of these programs. The most common one that we see and you're going to hear about are ones in which the court is running the program and a judge is involved. But there are also flavors where the probation office runs these sorts of programs, and there are even ones that are very innovative where the prosecutor runs the program. And you're going to hear about all of that today.

Our first presenter this afternoon is the Honorable John Creuzot, who has been on the bench in Texas for 17 years, and is currently the presiding judge of Dallas County's Criminal District Court Number Four. As such, he is also the presiding judge of the 17 felony courts in Dallas County. He has been involved in the drug court area for some time and was named a pioneer by the National Association of Drug Court Professionals in 2000. He served on the Texas Board of Criminal Justice, Judicial Advocacy Council, a committee that advises the Board of the Texas Department of Criminal Justice on matters relating to probation, and he's also been appointed to the American Bar Association's Commission on Effective Criminal Sanctions. As you can see, he is involved in a number of ways in innovative thinking in the area of punishment.

Won't you welcome Judge John Creuzot?

JUDGE CREUZOT: Good afternoon, and thank you for having me. I really appreciate being here. As stated, my name is John Creuzot. I preside over a felony criminal district court in Dallas. I started as a lawyer back in 1982 in the District Attorney's Office in Dallas, and I was there from 1982 until 1989 and went into private practice for about a year and a half. And then I was appointed by Governor Ann Richards to preside over the court that I preside over now and I have been there since 1991.

I like to tell people about my own personal evolution before I start talking about what we're doing. You know back in 1982 most folks that came through that wanted to get a little jail time on a marijuana charge, a small amount of drugs, we did it. That was fine. When I moved to felony courts, if you've got a felony probation, you've got a dirty UA for marijuana, we have one response, and that was two years in the penitentiary. And we did that in Dallas and throughout the State of Texas; and in two weeks, you were gone and in the penitentiary. Well, that thing started to break down by the late 1980s and early 1990s because then we had so many people in penitentiaries that we were actually letting murderers and rapists out to make room for these small violators, low-risk violators. And so we started rethinking what we were doing. We unfortunately built 150,000 prison units, which are full today.

But the other thing that we did was we started thinking about how to impact the underlying reasons that offenders come into the criminal justice system. And we had a task force back in the early 1990s called the Texas Punishment Standards Commission, a commission, and we developed a lower-level prison facility or jail. We called it a state jail facility. And the maximum sentence you could get there was two years. And when we started that, we had two different modes of facilities; one run by the State, and one, under certain circumstances, run by the local judges and justice officials in a county. And the one that was locally run, we could bid out to vendors what they were going to do as far as programming is concerned, and how it was going to be run, and the types of things we were going to do to meet the underlying needs of offenders. Well, Ann Richards was defeated in 1994. George Bush became the Governor, and within the next two sessions all that went away, and those facilities became nothing but another prison. And so we were back to where we started, loading up prisons with low-level offenders, who probably didn't need to be there.

Back in 1998, I started a program called Today, that's still in existence, called the DIVERT Program, Dallas Initiative for Expedited Rehabilitation and Treatment. And that program is designed for low-level drug offenders with no felony record and no former violent record of any kind for a misdemeanor, and it's an 18-month program, and I'm telling this to get you up to where I'm going with this presentation. We did a study of that program, and we have a 68 percent reduction in recidivism in that program. It's a phenomenally successful program. It's been the program, it's been the model for drug courts around the State of Texas. And when we started that program in 1998, there were five drug courts or problem-solving courts in the state. Now we have over 80. And the legislature has ordered that other programs model this program and base funding on how our success rates are and how to measure them and what have you. But somewhere along the line I began to think early on that this is nice what we're doing for the front end people, but I've been around too long, and I've seen too many people that I know there are some folks we're missing on the other end of the criminal justice system, and those are the folks who have been in and out and in and out and in and out. We seem to have that same response, which is more time or another little bout of time. And when the Stage L felony offenses came along, the maximum sentence they're going to get is two years. And we knew at the time back in the early 1990s that the average plea bargain was going to be about 180 days. That was just to get rid of the case. And so what's happening is, is folks with a lot of underlying drug issues are coming in, and they're serving some time in jail, they're pleading out their cases, and they wind up doing the balance of it in this facility that initially was designed for drug treatment rehabilitation, which was wiped out, and they're coming back out on the streets and doing the same thing over and over again. Because if you're around more than a couple of years, you see them coming back. That's me. I've been there 17 years. So one of my fellow judges and I, he first, me second, started taking a look at what are we going to do to address those concerns on those folks. He was the first one that started the program. His name is Robert Francis, and he's in this presentation I'm going to make, but his was designed for research. So they took individuals

from all the courts after they were coming back from a facility that individuals can go to in Texas. It's a prison-based treatment facility. We call it a substance abuse felony punishment facility. When we first started, it was a nine-month program. Now it's been down to six months for budgetary reasons. But when they come back to the communities, there's a continuum of care. They have to go to what's called a Transition Treatment Center, and that most often in Dallas is the Salvation Army. That's 90 days of lock-down treatment with an opportunity to go out and get a job. You have to get a banking account, \$500 in the bank, have a sponsor, work your steps, all those things, and then six months of after-care after that. So what he did, what I subsequently did was we grabbed these folks right at that point when they come back from the facility and they go into this Transitional Treatment Center, and we put specialized officers, and we put wrap-around services on them, and we have them come to us every week, and later on they come every other week. But they come to us every week, and we guide them in what they're doing and their recovery and help them reintegrate back into the community. And so that's what this presentation is about, to give you some idea of how well that has gone, how successful it is. When we're talking about folks, and let me give you an idea who they are: burglars, prostitutes, armed robbers, drug offenders, drug dealers and any other variety of felony offense, okay. These are all high-risk individuals. Some of these people have been to the pen on other offenses four to five times. When we did our survey of who they are, some of these folks have up to 35 arrests for criminal offenses. So this is certainly not a diversion program. This is dealing with hardcore, high-risk individuals in the criminal justice system. And the question is, "Can we be successful with them?" And I think based on what I'm going to tell you, the answer is, "Yes, we can."

So we have two courts. The bottom line difference between the courts is these individuals came from all the other courts; all of mine came from my court because I put them on probation. When this program was designed, nobody with mental health issues was allowed into his program; and I took whoever I put on probation in mine, which included a lot of mental health issues in the folks that I have. And I'll tell you right now, the prostitutes are one of the biggest consumers of mental health services in our criminal justice system of who I have. But we have a lot of other folks in there with other mental health issues.

We just kind of looked down there, give you an idea of who they are, or who they were at least at this time, in the two different programs. You can see we both had 70 participants. Age was pretty similar. Range was similar. Gender not that far off. Race, you know, there is for the two programs. There you go. What's the drug use? At that time was crack. Of course, amphetamine, methamphetamine is up a whole lot now. But you can see kind of what, who they are. You've got all the arrests one to 34. Over 20 percent have 15 or more prior offenses. And then we have the Substance Abuse Felony Program. So here were the — what we're looking at, matching by each group by age, gender, ethnicity, education and drug use, which is what you saw. And here's what we're looking for, outcome variables. Probation status, reincarceration in state jail or prison, and new arrests. Timeframe, three years following the entry into the transitional therapeutic community, which is coming back to the community, at that point we started tracking.

My group reduced recidivism by 27 percent. Judge Francis's group reduced recidivism by 41 percent. If you ever meet him, he will crow for about an hour about the difference between those two numbers. He's very proud of that. And you can see new arrests afterwards, percent arrested, and the control group and the reentry group for both programs, total new arrests. And now why is that significant? Who wants to take a chance, especially a judge, on a discretionary grant of probation for these individuals? What's our usual deal? The only way we can be safe is by doing what? Locking them

up. But take a look at this. Who is the control group? Other courts, other people not put into these programs, revoked. A lot of judges in Texas, decreasingly so, but still a lot, think that if you had your one shot, you've got a record and you violate it especially by what, relapsing, that's it. You've had your chance, adios. That's the control group. If you take a look at that total new arrests, our folks are still in the community, because we continue to work with them. They abscond, they relapse, they this, they that. A lot of other things. But if we can see some progress or the opportunity for progress, we'll continue to work with them. So our folks who are in Dallas, Texas all the time, okay, they have fewer arrests, and you can see the reduction is 31 to 47 percent. So the reality is, even though it's a higher risk group, continuing to work with them is what's going to increase public safety, not locking them back up again, which is what they come to expect. Probation status. You can see what we've done. Revoked 61 versus 20, 69 and 33. On probation or complete 30 percent, 73 percent, 20 percent, 60 percent. You can see we have good outcomes all across the board when you look at these groups. And then, of course, you can tell why they were revoked, what percentage and why they were revoked. 67 and 52 percent reduction in revocation. And then of course where they are, in prison or released, percentage of released, rearrested. Okay. You can see once again that we are much lower than the control group. Number of rearrests, if you look at them, is way down. So what are the conclusions? Reduced revocation rates by high risk population led to fewer new arrests and ultimately fewer victims in the community. High revocation rates did not result in fewer victims or new arrests.

I don't know where you are, or who you are—a judge, treatment provider, supervision officer or what, but this is very compelling. I think probably every other program like it that's been run according to a model, as faithfully as we can do it, and has been monitored with outcome results will mirror this.

Now one of our speakers here is Charles Hynes, the D.A. from Brooklyn, and he had about three hours, and I'm being serious about that, to give you the array of services that he is providing through his office. We take this type of group, we'll have the same types of numbers from Texas to New York. They'll differ a little bit, but the outcome, the superior outcomes is the bottom line. So what we're showing is through this collaborative process, is that we can create more public safety, better public safety by continuing to engage these populations, as opposed to saying, "You had your chance, you messed up, see you later, adios."

Thank you very much. I appreciate it.

MR. SCHMITT: Our next speaker is the Honorable Craig Iscoe, who is a judge on the Superior Court of the District of Columbia, which is what we local people call our state court here in Washington since 2003. He began his career as an assistant United States attorney here in the District of Columbia, and prosecuted a wide variety of cases. He then left to teach at Vanderbilt Law School, but heard the siren song of prosecutorial life once again, and returned to the U.S. Attorney's Office shortly thereafter where he began to prosecute cases involving public corruption at the highest levels in federal and local agencies. He also served a number of important details in the government here. He became an associate deputy attorney general in the Justice Department, and then later served as the assistant chief litigation counsel at the Securities and Exchange Commission. He currently teaches both at Georgetown, George Washington, and Catholic University, and currently presides over the Superior Court's East of the River Community Court, which focuses, among many things, on alternatives to incarceration for persons convicted of misdemeanor offenses.

Please welcome Judge Craig Iscoe.

JUDGE ISCOE: Thank you. I'm delighted to be here, and I'm very pleased to see the large audience. I think perhaps it's largely a function of the fact that you could stay in this room and didn't have to find another one to go to, but still we're glad to see everybody here. I notice the program says drug court- slash-treatment options, and I'm not sure how what I do fits into that, so I'm going to be relatively brief. I'm not a drug court judge, but I want to tell you how our community court works, to the extent that I think you can draw some lessons from or at least get some ideas for matters that you handle. Mr. Hynes in a moment will be talking to you about some other things, other options, drug courts and reentry matters. But I should mention that one of the best community courts in the country is the one at Red Hook in Brooklyn. The community court that we have in Washington, D.C., took some ideas from Red Hook, and we have tried to refine them to fit the particular population that we serve. We focus on all misdemeanor offenses east of the Anacostia River with the exception of those involving domestic violence. We have a couple of goals. One is to have diversion programs prior to any conviction for a crime, keeping in mind that for many people who are convicted of a minor crime, once they are convicted, it makes it much harder to get jobs. With each additional conviction, it makes it harder and harder. People who don't get jobs end up needing money, and they end up turning to crime quite often to get that money. So that's one of our goals, to try to avoid a conviction, but to do it within a framework that provides people the skills and the structure that they need to reenter society. I say reenter not necessarily with coming from prison, but to reenter when coming from an encounter with the court process. What kind of cases do we handle? Well, as I said, they are the misdemeanor offenses, although I think in many states some of them, particularly drug offenses, would be prosecuted as felonies. We are talking about possession of various drugs in quantities and packaging that perhaps would lead to felony distribution or possession with intent to distribute charges in many of the states in the United States and many of the federal courts as well. The drugs we deal with are crack cocaine, heroin, an increasing amount of PCP, almost no amphetamines, and a lot of marijuana. The other offenses that come into my court are distribution or possession with intent to distribute [inaudible]. We have lots of theft and shoplifting, similar crimes that are related to people needing money for drugs. We have prostitution cases, huge amounts of prostitution cases. And, as you would imagine, almost every person who is charged with prostitution has a drug problem. We also have the johns, the people who engage the services of prostitutes. We have many simple assaults and assaulting a police officer, which can be prosecuted as a misdemeanor in Washington, D.C., and the term "police officer" includes any law enforcement official. And we have some other crimes as well.

What we have is diversion programs for which eligibility is based in part upon the type of offense and in part upon the person's prior record. If somebody doesn't have a prior record for violent offenses and does not have generally more than one or two prior convictions, he or she could be eligible for a deferred prosecution agreement. A deferred prosecution agreement, of course, means that the prosecutor's office is making the real decision. As a judge, I can't tell the prosecutor what to do, but I can monitor a deferred prosecution agreement. The agreement is designed with the offender's reentry into society in mind. A typical agreement would be this: perform a specified amount of community service east of the Anacostia River, in other words, in the area where the offense occurred, quickly. Maybe a small amount, 16 or 24 hours within three weeks of the date of entry of the agreement. The idea being that it's better, and our experience has shown it's better, to have a smaller amount of community service quickly than a larger amount over a more extended period of time. Have the person enter a job-training program or get full-time employment, and have them either stay away from a particular area, or have other conditions that will both protect the community and avoid having new convictions. When I say protect the community, a community court, as people in drug courts have found, perhaps, is not something that is always popular in the community unless it's explained, well, because when I meet with

community groups they say, in effect, “Well this is all well and good, but the same person that was sitting on the corner smoking crack yesterday is now back on the corner smoking crack today, or the same prostitute is out there.” That’s why we might have “stay-aways,” that’s why we might have other conditions that will help reassure the community.

In order to be eligible for the diversion program, the people that come before my court have to test negative for drugs, and this is different from many community courts. They have to test negative three weeks in a row. If they don’t, then they can go to drug court, and we’ll hear more about drug courts. We’ve already heard some about it. But the drug court will have a number of options, including drug treatment, which is available in my program, but they also have a series of penalties and sanctions for violations. I’m not going to go into the drug court program because we have others to discuss it.

The community court system that we have depends on our probation department and our pretrial services to provide a great deal of drug treatment, a great deal of one-on-one attention, and I think it is successful because of that attention and the availability of the drug treatment program. Without that, it wouldn’t work. Some of the tensions we’ve had, some of the problem is, it’s very easy to order somebody to find a job, but it’s not as easy to find that job for the person. We work to help them find jobs. We’ve found more and more that what we have to have also is job readiness training. I think, as one of the speakers said earlier, many of the people who are in the population that lots of us see, are not really ready to go out and interview for a job. They don’t know how to present themselves, how to explain their background, how to show that they should be depended upon to work, and why they should be hired particularly in an economy that may not be strong. So that’s why we work on those things as well.

Our program could be expanded to other areas and to more serious crimes. We’re working on it in particular crimes that we have right now, and then we’re continuing to assess how it works and to see whether it merits expansion. Our program, I think, would not work effectively without also having a good drug court.

I want to make sure that there’s time for all the other speakers. So I’m going to end this now, and if there’s time I can address questions at the end.

Thank you.

MR. SCHMITT: Our next speaker is Charles Hynes, who is serving his fifth term as the District Attorney of Kings County, New York, which is Brooklyn, for those of you who are geographically challenged. Mr. Hynes has had a long history of service in the law, both as a public defender as well as a prosecutor. He has been involved in a number of very high profile cases in the state of New York. The one that I very much recall is the murder of Michael Griffith in Howard Beach, Queens, which led to a book that he has co-authored, called *Incident at Howard Beach*. He’s been quite involved in the development of innovations for offenders, and has served on the ABA Commission on Effective Criminal Sanctions. He also serves as first vice chair of the ABA Criminal Justice Section, and received their 2005 Minister of Justice Award, and he also serves as the vice president of the National District Attorneys Association.

Mr. Hynes.

MR. HYNES: Thank you, Glenn. So now you know, I've been unmasked as a recovering defense lawyer. And I guess it's one of the reasons that I'm involved in some of these programs that deal with recidivism reduction, which is the sensible way of dealing with public safety. I will not be talking about drug courts. I want to talk about two other programs, which I hope you'll find interesting.

Both deal with eliminating the revolving door in my county of substance abuse leading to crimes committed, leading to incarceration, and then release, and then abuse again, and then crime, and then reincarceration. And a lot of the things that Judge Creuzot and I work on in the Commission for Effective Criminal Sanctions, we talk about these recidivism reduction programs.

So the first program is the Drug Treatment Alternative to Prison. We call it DTAP. And it takes prison-bound addicted felony offenders into long-term residential drug treatment.

The second program we call Community and Law Enforcement Resources Together or ComALERT, and that is a reentry program, which helps the formerly incarcerated by providing counseling for their substance abuse and creating employment opportunities so that they can successfully reenter the Brooklyn community as taxpayers.

Both DTAP and ComALERT have been the subject of separate academic studies respectively by Columbia University and Harvard University. And I'll make sure that the Commission staff gets the website so that you can access it at your leisure.

There are two aspects of these programs that I want to emphasize at the outset. Because I believe that they are integral to the success of the program. First, both models are run by my office. I believe that prosecutors can and should take the leadership role, because they understand the effect of reducing recidivism and leading to higher levels of public safety. Furthermore, citizens tend to have more respect for their chief prosecutor knowing that her or his goal is to reduce recidivism. Therefore, they know that their prosecutors will run the programs in a responsible manner and minimize danger. Second, these programs, while prosecution-led, of necessity must rely on a collaboration with entities normally outside of the criminal justice system. Prosecutors are not clinicians. They don't have the expertise to evaluate or treat the disease of drug addiction. So relying on specialists, prosecutors can successfully address the root causes of the addict's criminal behavior and reduce recidivism.

When I assumed office as Brooklyn district attorney in 1990, drug-related crime, particularly crack cocaine, had made Brooklyn the fifth most violent municipality per capita in the United States. The solution that New York State government offered to drug-related crime was to increase prison beds. For example, in 1990, half of the 34,000 new admissions to the New York State prisons were drug felons. The policy of prison building in New York State for public safety didn't work. It didn't work principally because addicts who went to prison and got out after selling, or the person who sold small amounts of drugs to support their habit, once they got out, they went back to the same lifestyle. So it kept on going on and on. And you would have people going to jail for life on the installment plan.

In October of 1990, following 10 months of planning and design, and in cooperation with two residential drug treatment providers, Daytop Village and Samaritan Village, DTAP was launched. In order to access the program, addicts had to have at least one prior felony conviction, and had to be currently charged with a nonviolent felony offense—typically, but not exclusively, for the sale or possession of drugs. Those with violent backgrounds and serious mental health issues were excluded, so

as not to compromise the safety of the staff and other residents of the drug treatment facility. As an aside, we started the first mental health court in Brooklyn some years ago, and that's now been replicated in 16 other of our 62 counties in the state. Our clinician partners help to assess the severity of the DTAP candidate's addiction and treatment needs. Once approved, the defendant must plead guilty to a felony offense, and accept a substantial sentence, which is deferred while he or she undergoes treatment. The agreement at the time of the plea is very, very clear. If the defendant successfully completes the program, the guilty plea is set aside, and the charges are dismissed. On the other hand, if the candidate fails to complete the program, the prison sentence will be executed. For many DTAP participants the environment where they live is the enabler for their addiction. So the residential drug treatment aspect is significant—typically, 15 to 24 months to measure the success. We receive regular updates from our treatment clinicians, including random drug testing, to help us monitor the progress of each participant. We maintain an enforcement team, which has been able to return to court 90 percent of the DTAP participants who abscond in the median time of 21 days. The program's one-year retention rate is 76 percent. As the Columbia University group reported, the certainty of punishment plays a crucial role in successful rehabilitation. Of course, we recognize that relapse is part of the recovery process, so we do readmit to our program, on a case-by-case basis, participants who have failed.

In order to graduate from DTAP, a participant must have successfully completed all phases of the drug treatment plan and have housing and a job.

As of July 1, 2008, 2,600 defendants have been accepted into DTAP since the program's inception. Of those participants, 342 are still in treatment, and 1,107 have completed the program and have had their charges dismissed. The cost savings for these 1,107 graduates is more than \$44 million, which includes the combined cost of police and prosecution resources, incarceration costs, and overall income tax revenue generated by the graduates.

In its five-year study of DTAP, Columbia University concluded that the program reduced recidivism.

In comparing DTAP graduates to the match group who served prison time, DTAP graduates had rearrest rates that were 33 percent lower and reconviction rates that were 45 percent lower. But the extraordinary conclusion was that 87 percent were less likely to go back to prison within two years after completing the program. In addition, the research found that DTAP graduates were three-and-a-half times more likely to be employed after completing the program as they were prior to the original arrest. That's 92 percent compared to 26 percent. Moreover, these DTAP results are achieved at half the average cost of incarceration—\$33,000 for the DTAP program as compared to \$65,000 for incarceration.

Now let me turn to our reentry program. For almost eight years now the paroled, formerly incarcerated, have been mandated to begin a reentry program in Brooklyn, within two weeks of their release. The problem with the formerly incarcerated can be summed up by two aspects: the job opportunities they must have in order to go in probation are often illusory, based on a false offer many times by potential employers at the behest of a relative of an inmate, or jobs that were so fragile that the job disappeared shortly after release. In addition, often the families of the formerly incarcerated are either estranged or not permitted to have them if they live in public housing, which precludes ex-felons from being residents, at least in New York City. The combination of no job, no family, and no hope produces the predictable reoffense.

In 1999, my office created ComALERT. Our partners were the Counseling Service of Eastern District of New York, a patient drug treatment provider and the Dough Fund, a provider of traditional employment and housing, and the New York State Division of Parole, together with numerous community-based social services providers. Wrap-around services are offered to the formerly incarcerated, including the transitional employment by which a client is paid \$7.40 an hour, a nontaxable grant, from which money is regularly withheld. And during the period of that transitional employment, the client is provided with computer skills, resume writing and interview skills. As they approach the end of the employment, they're given \$1,000 cash, which is part of the withheld funds to help them buy clothing for job interviews and to put a down payment for a lease for an apartment. Educational opportunities are also available through a GED program, community college credit, and matriculating college credit from Medgar Evers College in Brooklyn. Typically six out of ten of the formerly incarcerated return to prison within three years. Professor Bruce Weston of Harvard, who completed the evaluation of ComALERT, found that the percentages for ComALERT graduates returning to prison was substantially better in all categories when compared to those of a matched control group. One year after release from prison, parolees in the matched group were over twice as likely to have been rearrested, reconvicted, and reincarcerated as the ComALERT graduate. Two years out of prison, ComALERT graduates showed far less recidivism than the parolees from the match control group. In terms of employment, ComALERT graduates were four times more likely to be employed and have higher earnings than parolees in the control group. The cost comparison between reincarceration and ComALERT's success is I think astounding. New York State's taxpayers pay over \$2.5 billion a year to maintain prisons. In New York City, for example, it costs \$183 a day to house an inmate. By contrast, ComALERT's drug treatment and case management services cost \$10 a day, and the transitional employment is \$44 a day.

On April 9, 2008, President Bush signed into law the Second Chance Act, which authorizes appropriation of \$10 million to be used for grants to state and local prosecutors to create DTAP programs. It is not clear how much money is available for reentry programs. Whatever it is, it is the proverbial drop in the bucket when you consider that this past March the Office of the National Drug Control Policy found that there were more than 20 million drug users in the country, seven million of whom are chronic users. It is estimated that the economic cost of drug abuse in the United States is over \$180 billion. The two solutions I proposed this afternoon have been demonstratively successful according to studies at both Columbia and Harvard. It remains, not just for the federal government, but for all governments, state and local, to make a commitment to seriously address drug-related crime and to measurably reduce recidivism which will concomitantly lead to a significant increase in public safety. I told you at the beginning, we were the fifth most violent place in America in 1990. Then one out of every 15 of our residents was a victim of a violent crime. And with all of the programs we've instituted, today it's one out of every 68. We had 170,000 violent crimes committed every year from 1988 to 1992. For four consecutive years, we've been under 40,000 serious crimes. So Brooklyn went from the fifth most violent place in America to a place that *Money Magazine* in 2002 called one of the ten best places to live in America. And that was done not by the old traditional "the cops lock them up, we prosecute them, and the judge puts them in jail." Understanding recidivism reduction at its very core is the key to public safety.

Thank you very much.

MR. SCHMITT: Our final speaker this afternoon is Dr. Linda Truitt, who is a senior social science analyst at the National Institute of Justice, which is the research, development, and evaluation agency of the U.S. Department of Justice. There, Dr. Truitt manages a portfolio of research and

evaluation projects on courts, drugs, and crime, addressing issues at federal, state, and local levels. Dr. Truitt previously was a researcher at Abt Associates here in Washington, and has conducted research on adult and family treatment, drug court evaluations, drug abuse issues, and sentencing disparity and guidelines assessments.

Dr. Truitt.

DR. TRUITT: Good afternoon. [Off topic] My name is Linda Truitt. I'm with NIJ, and as Glenn described, I'm working on the court's portfolio, which ranges from pretrials and sentencing and everything in between. My expertise as a researcher was in drug courts and sentencing guidelines. So I am delighted to be here. I'd like to share with you some things from NIJ's portfolio. It is specifically about drug court program research and evaluation, but there are a lot of extensions to other things. So regardless of whether we're talking about pre-plea or post-disposition or diversion or other things, we're talking about a similar criminal population, just at different points in their careers or the system. Very briefly, I just want to give you an overview of NIJ's portfolio on drugs and crime generally. That ranges from epidemiology, prevention and intervention, under which I would put these court-based programs, drug markets, market disruption, and also technology. In addition to the Office of Research and Evaluation, NIJ has the Office of Science and Technology. They study information technologies, tools for law enforcement, for corrections, and through all its protocols and how to use them.

I'd like to give you just a little bit of a foundation. At NIJ we have a long history of drugs and crime research, and two major projects, major investments as well. One was called "Breaking the Cycle." The other was called RSAT or "Residential Substance Abuse Treatment." "Breaking the Cycle" was a demonstration project. It tested the feasibility and impact of system-wide intervention to reduce drug abuse and use among offenders by identifying any intervening felony offenses. The demonstration projects were in three sites between 1997 and 2001, but the research continued long after. The protocol was that offenders reported for drug screening as a condition of pretrial release. Those who reported drug use, tested positive or were rearrested on felony drug charges were placed in drug testing and, when appropriate, referred to varying levels of treatment for drug education classes. There were also some system reforms instituted. Generally those were described as early intervention, judicial oversight, graduated sanctions and incentives, and collaboration among justice and treatment agencies.

There were process and impact evaluations conducted. They identified different strategies. They found that the implementation fell short, less than ideal, and, if anything, it was lessons learned. There were some difficulties in coordinating efforts to reduce drug use among all the defendants released to the community while their cases were pending. Some of the process lessons pertained to strategies for identifying and responding to a range of substance abuse problems, the data infrastructure required to appropriately track the progress of these individuals as they have contact with multiple agencies, and also in managing the interagency collaboration across treatment and justice agencies.

The impact evaluation was a quasi-experiment, not the idea of an experiment, but they did find that compared to similar defendants arrested in the prior year before this demonstration project was rolled out, they did find some evidence of impacts on recidivism. So even with the less than ideal implementation, they did see some results which were very promising.

The other I mentioned is RSAT, "Residential Substance Abuse Treatment," for state prisoners. It's a formula grant program that's currently managed by the Bureau of Justice Assistance. What they do

is they help state and local governments in developing, implementing, and enhancing residential substance abuse treatment programs within state and local corrections and detention facilities, in which prisoners are incarcerated for a period of time sufficient to permit treatment.

All 56 states and territories have RSAT programs. The Bureau of Justice Assistance manages the program as of FY '07. Funding was approximately 9.3 million. At the time that NIJ was involved in the evaluation, those were years FY '97 through '99, and that included a national evaluation as well as different implementation process and impact evaluations that examined many of the sites, including I think, a total of 56 evaluation awards in grant form.

I want to just mention the national evaluation, which I think Faye Taxman referenced in her presentation earlier today, that examined the correlation of evidence-based practices in the facilities and how that affected the outcomes. Very briefly, they did a survey, sampling and drawing 384 of the participating facilities, asking correctional administrators and directors about providing the services, they were surveyed in 2004. They reported of the 15 possible evidence-based practices up to, say, 12 or so. And what they found, however, was that it varied quite a bit. Most programs offered fewer than 60 percent of those available, and so the question was, "How do you attribute that?" Analysis showed that the offender treatment programs that provided more of those practices were community based, accredited, network connected, performance oriented, nonpunitive, had more training resources, and leadership with a background in human services, as well as a high regard generally of the treatment, and also an understanding of those practices. The use of those practices among facility and community-based programs that serve drug-involved offenders has room for improvement clearly. And again, these are lessons learned. Initiatives to disseminate these evidence-based practices might target institutional and environmental domains.

Now specifically, I want to focus on the drug court research portfolio. Since 1993, NIJ has been involved in a program evaluation of drug court programs, beginning with Miami-Dade. Most recently, we worked with our counterparts under Office of Justice Programs, that would be DJS and OJJDP, who deal with family and juvenile drug court programs. We were recently assessed for OMB under GPRA or PART, and we passed, with a lot of help from the research and evaluation that we conducted.

I wanted to also bring your attention to a report that NIJ put out in 2006. It's a nice glossy review of some of the key studies that we've conducted over the past several years. I'll make more of those available. They seem to be going pretty quickly from the desk. Generally I just wanted to highlight some of the factors that affect a program's success. These include proper treatment assessment, planning and delivery, the nature of the offender interactions with the judge, as well as contextual factors such as changes in staff resources and policies concerning criminal process.

In 2006, NIJ hosted a webcast. If you visit our website, you'll see a download available of that webcast, different treatment and court experts discussing drug court research and outcomes, and some of the applications.

Generally the largest part of the history were single site studies. The single programs and those archival data were available for project evaluation because they just have years of data available and enough information to do a good project. The issue, though, is that you have to employ statistical techniques given that you can't do the prospective field experiment. But using the information available, there have been some very solid studies, some I've been involved in. Within a two-year follow-up

period, which is pretty good, one county demonstrated a variation from felony rearrest rate, went from 40 percent to 12 percent after the drug court was initiated in that county, and another from 50 to 35 percent in another county.

I want to bring your attention to one of the impact studies here in the slide. It's Multnomah Drug Court. Ten years of a stable drug court program yielded a lot of information, and MPC research did a project looking at recidivism for a minimum of five years follow-up. They were able to demonstrate changes over each of those cohorts ranging from 17 to 26 percent. Depending on which cohort, which circumstances, which context, they all had different outcomes, but generally very positive ones in terms of recidivism. These laid the groundwork for what is our current project. It is a \$6 million investment for OJP, which is quite substantial in these times, and is a five-year project that is doing a longitudinal process impact and cost study. It is a national sample of 29 different programs across the country, all the comparison groups, and it examines the influence of offender courts and community characteristics on offender perceptions, service access, compliance, relapse, recidivism and other areas including employment. Data for about 1,800 probationers included three waves of personal interviews in the field, administrative records on treatment and recidivism, drug detection tests, court observation, and interviews with staff and other stakeholders, and also budget and other cost information for the cost studies. So far we have posted on our website six-month follow-up interview results. The entire study results will be available next fall, 2009.

Given the need for program accountability and development that exceed local resources, we decided to work with the National Association of Drug Court Professionals to produce a DVD on local evaluation and performance measures, borrowing from our 2008 part. Whether it's diversion, drug court or reentry programs, there are several important methods/concerns that I wanted to raise. These include—comparison groups, program stability and change, adequate sample size for analysis, sufficient follow-up period to observe post-program outcomes, measurable outcomes for relapse and public safety when subjects are not available, and other pertinent cost information so that one can examine investment costs and cost avoidance. Shown here are some of the results from very rigorous impact and cost studies available on drug courts. I want to note here the variation findings. Even among programs that have common policies within a single state, you'll see variation. Just some examples you could read for yourself. In Kentucky, they had no comparison group, but they did find that, among those participants, ranges in daily costs, where it was cheaper in terms of the investment costs, meaning for that case processing, the instant case that got them into that program, as well as the outcome cost, that there was a savings per participant in avoiding costs to society, meaning public costs like treatment, probation, *et cetera*.

In Omaha, they looked at Douglas County Drug Court. They found savings again for investment cost as well as the outcome cost. The ten-year study from Multnomah County, I mentioned already, as well as the one I want to bring your attention to, MPC research using the same methodology, five different courts in Vienna found very different results. All of them were positive, but they range from \$314 to \$7,000 over a 24-month follow-up.

So, clearly, there are some things to watch out for. One is that there are investment costs and savings across these programs. Of course there are some programs that don't do well and are ineffective, and of course you'll find investment costs that have no return, no positive return. In fact, a negative return. Also pre-plea versus post-imposition programs had different costs. For example, there is more of a cost savings in Multnomah County because that was primarily pre-plea, with no probation costs. So,

clearly, if you want to get the biggest bang for your buck, you need to invest in those hardcore returning offenders.

Finally, I want to outline some issues for discussion. Again, regardless of which program or which step in the process, you have to address these issues. It may be frustrating to find that there's such variation. There is no single benchmark, but there are some good studies, like this multi-site adult drug court evaluation that will yield results that are applicable to a range of programs. At the local level, we encourage performance measures as opposed to a rigorous evaluation. It's just too hard to push those small case flow and sample sizes through that kind of rigor. But we do encourage accountability as well as feedback for that program. So we encourage you to look at our DVD and other things. Briefly, identifying the target population, the risk needs assessment, looking at your treatment and ancillary services resources, the experience and training of your judge and other team members, having appropriate swift and sure graduated sanctions or rewards, those are the salient measures and costs. Last is just different resources that NIJ offers for data from all of our grants as well as reports for all of our grants are posted for archive at these addresses. I encourage you to visit those for more information, and I have a few more of these reports, if you're interested.

Thank you very much for your time.

MR. SCHMITT: We have time for questions, and I would invite those of you who would like to ask questions of our panel to come to the microphones in the audience and introduce yourself so we'll know who you are, and to ask your questions. As the mass wave is coming forward, I'm going to invoke my privilege to ask Judge Creuzot, Judge Iscoe, and Mr. Hynes to recount for us, if you would, how the participants in your programs are selected, and then what offenders are not eligible to be in your programs, and what the thinking was as to why those folks are excluded.

I know Judge Iscoe, your program is mostly a misdemeanor court, but you mentioned that there is this drug court that people can default to if they don't make it through misdemeanor court. You might speak to that as well.

Folks, please come up to the microphones.

JUDGE CREUZOT: I can start off. I would just say that all of the folks there are charged with felony offenses. They all have a substance abuse evaluation that indicates the need for inpatient treatment. If not, we'll get it done. Sometimes the offense itself determines that they are going to be in this prison-based treatment. For example, an aggravated robbery, aggravated assault, there's nowhere else I can put them because they won't take them. I'm pretty certain on this, most of them are there because I decided that they should go there. Most of these people have rejected plea bargains for time. They had some deal, and I said no. A lot of them are very angry about that, because they want to serve their time and get out, and go back to doing what they were doing. And the answer is no. So the vast majority of them honestly get there that way. The rest have plea bargain agreements. Once again, even if it's a plea bargain agreement, we get an evaluation to make sure that it's the correct placement. So that's the other factor, we want to make a correct placement. Probably the people who are excluded would be the sexual assault folks, because that facility won't take them either, and, of course, murder they're not going to take. So, outside of that, fair game for anybody, and we try to focus on those that have issues that need to be addressed because the system has failed them time and time again.

MR. SCHMITT: Judge Iscoe.

JUDGE ISCOE: For my community court, anybody who is arrested for a misdemeanor offense within the service area—it used to be Anacostia River—goes to my court, with the exception of those charged with domestic violence offenses or sexual abuse offenses. They do not go to the court. Of those who go to the court, persons who have prior convictions for violent crimes or for felony drug distribution related offenses are not eligible for the diversion programs in my court. They are eligible for the drug court under certain circumstances. Those with violent offenses are not. It's fairly complicated. Those who have drug distribution offenses are eligible for drug court, but the resolution of the drug court will be a conviction for an offense, not a dismissal, which they would be eligible for otherwise. But, I should mention, since I'm going to be followed by a prosecutor, the major role that the prosecutor plays in determining eligibility. Even if the standards remain the same, if right now in my court I've been told that by assistant U.S. attorneys in open court that if someone has 18 or 19 Ziplocs of crack cocaine individually packaged, and has a large amount of money, that could still be charged as possession of cocaine, and not as a possession with intent to distribute offense.

So that would make them eligible for programs because they're charged with possession, that they would not be eligible for if they had been charged with distribution. And, again, the prosecutor makes a big difference in deciding the deferred prosecution agreements. It's up to the prosecutor, not to me. All of these programs depend a great deal on careful interaction with prosecutors initially, the defense attorneys as well, and of course, the court.

MR. HYNES: For the residential drug treatment program, anyone who has been assessed by the clinicians to be a drug addict would be eligible. Those who are excluded are people who have a history of violence or a history of absconding, a history of mental problems. As I said before, those with mental issues are now, thankfully, referred to our mental health court, where they get similar programs. With respect to the reentry people, we have 4,000 formerly incarcerated coming back to Brooklyn every year. We began this program with 200 a year for four years. We expanded it to 600, and then this year we're doing 1,200. We exclude sexual predators and arsonists. They have among the highest rate of recidivism, and we can't figure out what to do with them yet. We do refer them to other programs. I always make it clear to my constituents that I don't go into prison and say, "You, you, and you, 'Come on, I've got a great program for you.' You, you, and you are here. You're in Brooklyn, and my choice is either to interact with you, detain you and to see if I can reduce your recidivism, or allow you to wander around and offend and violate my constituents." So the only thing that keeps either drug treatment or the reentry program capped at those numbers is money. We have more than enough money to build prisons in New York State. We even have four prisons in New York State that are virtually empty because the state senator who is from that district refuses to close the four. So that costs us \$33.5 million a year for the staff. They can't find money for drug treatment or reentry, but they can find all this money for prisons, many of which—those four at least—remain empty.

MR. SCHMITT: I'd like to ask each of the panelists to discuss the issue of intermediate sanctions for people who are in these programs. There's a lot of discussion at conferences like this with respect to these programs. What is it you do when people fail in smaller ways in the program? They fail to report, they have dirty urine, and there was even acknowledgment this morning that relapse is part of the recovery process. So, if you would, tell us the sorts of intermediate sanctions that you use in this program, and at what point do people then get reincarcerated? Where do you draw that line?

JUDGE CREUZOT: I have some things that I'm looking for in their behavior, small things. Being to court on time is a big one, because they're not accustomed to being anywhere on time unless the guard took them out of their cell and put them somewhere. So I give them a five-minute grace period. If they're more than five minutes late, that's four hours of community service that has to be done that week. We don't discuss it. I don't fuss at them. It's not to tear them down. It's to reinforce the point of being on time. I have a dress code. Don't come in dressed like you're playing basketball with your buddies out on some street corner, because that's not what this is. This is a court. And I've had some of my drug court colleagues vehemently disagree with me on that, but I just say I'm in Texas, and we have a dress code in Texas. But once again, it's not about me. It's not something personal. It's about you thinking ahead and being an adult, and thinking about going somewhere important, and the perception that the person or persons may have about you. That's what this is about. So come here like you would go to church, or like you were doing something otherwise important. We have an eye scan machine that we require all of our people to be on, and it basically tells us if we should give them a UA. It doesn't tell us if they're dirty, just that there may be some change. Miss that, and it's 72 hours in jail. Getting a dirty UA is 72 hours in jail, with a reassessment of treatment. So there are lots of little things that they do that we respond to. Absconding, of course, is a horrible thing, but my response to absconding is you will not be revoked. You may serve some time in jail. They ran off because they didn't want to change, but I don't have a set response to that, other than you will not be revoked. You may wind up going back to prison-based treatment, but you will not be revoked. And I think really that alone, knowing that they will not be revoked, is a very powerful thing.

I'm elected on four-year terms, and that's how I got another four years. If you've got four years to spend in prison-based treatment, that's okay, and that's where you'll be until you get it straight. And that's a powerful tool. Knowing that the judge cares, and that the judge is going to stick with them even when they don't stick with themselves, is a very powerful motivating tool. So we have lots of little things we do. Nothing to destroy them, nothing to tear them down. What we're trying to do is to motivate them to change. One of the other things, if I can just add real quick, I use motivational interviewing as a response to their behavior, too. You know, a lot of times they don't even know why it is that they keep failing. They don't know why it is that their life has taken the trajectory that it has. And so many, many, many times I use motivational interviewing techniques to draw out from them what it is that they've done and why, and I try to develop a plan with them to address these shortcomings or failings in thought and planning that gets them right back to where they are. Those are kind of the tools that I use. Like I said, nothing to tear them down, but things to build them up and help them think through their decision-making process.

MR. SCHMITT: Thank you.

Judge Iscoe.

JUDGE ISCOE: Our drug court has a fairly set procedure for failures to do particular things. We don't have the rule that if you're five minutes late, you do four hours of community service, although I'd be curious to see some study on how well that worked. It might change the excuse I always hear which is, "The line is too long," and I always tell people, "But the line is always going to be long." And we have our own ways of making sure that people do show up on time, which I agree, Judge Creuzot, is clearly very important. In my court, it's more of a judgment call about what kind of sanctions to impose and when. The thing I look for is the defendant's entire history. You often see good reporting and bad. I deal with the pretrial services, the probation officers, and listen carefully to their recommendations

because they're very good. They often know the people pretty well. It's a judgment call, and it's a question of making sure that people know that you want to see them succeed. At the same time, you're not going to be open to every excuse that is offered. We've all probably heard those excuses. Many times people ask for a second chance, and they may get a second chance, but it's not going to be a third, or fourth, or fifth chance.

So let me pass it on.

MR. HYNES: We have, I guess, a similar way of looking at it, because we rely very heavily on the clinicians who advise us on someone absconding from the residential program. I mean, obviously, if someone commits a crime of violence, they're out, and the sentence is executed. With respect to the reentry people, a curious thing has happened. I go to the reentry site every Friday at 1:30, when I can, and they know that I run the program. I'm talking about the formerly incarcerated. And I think that's part of the success. They know that we have the key to send them back, if we have to. When we started this, our initial partners were the state parole people. Of course we made it very clear to them that we understood that they had total authority to send someone back to prison, but we asked, as we began to have this relationship, if they would rely from time-to-time on our advice, and that's exactly what they do. If someone does something that ordinarily would have been a violation, instead of a "got you" response, they'll return to my liaison, who is an experienced trial prosecutor, and ask him what he thinks about it. I think that's something that the people in our program, the formerly incarcerated, know that we have a certain amount of control over whether they go back to prison. I think that's part of the recovery.

MR. SCHMITT: Question here. Would you please come up to the microphone and tell us who you are and state your question?

MS. MEYERS: I'm Marjorie Meyers [inaudible].

JUDGE CREUZOT: Well, we have phase graduations. One of the most important things I use is early termination from probation. Somebody who has been to the pen five times and gets probation, and they didn't want it, they were resistant to it, and they've changed so much that I feel so comfortable about it that I let them off probation early is a powerful thing. And it may be only two weeks early, but to them, that's one heck of an accomplishment. Because they're accustomed to coming down to the courthouse and getting beat upside the head again and again and again. That's what they're accustomed to. So think about how powerful the whole approach is to get them to that point. You know, the research clearly shows that coerced treatment has better outcomes than voluntary treatment. I learned that many years ago, or at least I got an example of it, when we were searching for a vendor for one of those state jail units. We went to Nashville to a vendor and went into a unit, and they had people in there that had been in the normal population, but near the treatment tank and heard and listened and stopped screaming and cursing and talking down to them and eventually got into it.

The other thing is people are afraid of change and people want to go back to what they're accustomed to. And I think that if I just get them out of that and get them in a treatment environment, and they come back resistant, but, you know, once again I tell them, it's up to you. You're not going to get revoked. You're not going to make me mad. I'm not going to get mad at you. I'm just going to watch you. And my favorite expression to them is, "You're on a roller coaster and you're riding it, and I'm not. I'm standing down here on the ground. And when you get through riding and feel like coming down here with me, I'll be waiting on you, but I'm not going to ride with you." And what am I really saying? I'm

not going to get angry, okay, I'm not going to get frustrated, I'm not going to miss. I'm going to continue to work. Now will people get revoked? Yes. I mean there are some people that probably were kept on way too long, that eventually it's obvious they're just going to keep being silly, and I just need to move on. Then, of course, there are people who pick up cases. But the other thing I work with is they're going to get popped and popped hard when I revoke them, and they know that. I did not create show revocations. I don't do it in front of them. They're another day. And the other thing, too, is I just hold this court, I don't sit on the bench and I don't wear a robe, and I don't wear a jacket. They've been through the system. They know me. They know everything. It's nothing new to them. So I actually conduct it sitting on a counsel table talking to them in the gallery. That's how we conduct court, and that's how I go over their reviews and talk to them. So it's an entirely different approach in how I do it. All I can show you is the success that it's had. I was surprised that it was that good actually.

JUDGE ISCOE: Our program is structured a little differently. Because of the scarce resources, if somebody says they don't want a treatment program, that will not be among the options. If they are not willing to be considered that the carrot that's offered is either a lack of ultimate possibility of conviction or, in a drug court setting, it's going to be conviction for a smaller offense if they successfully complete the program. If they don't want that carrot, then they don't have to enter the program, but they face the particular consequences.

Now I don't have access to lots of empirical studies of particular programs. I'm told anecdotally, by both defendants who have appeared in front of me more than once and by the various service officers, that those that don't want the program don't tend to perform very well in it; that those that do tend to. And I've had many people tell me, I'm now ready for the program. I wasn't before. I don't have the empirical evidence, but anecdotally it appears to me that those people who are ready for the program and welcome the chance are more likely to succeed.

MR. HYNES: I knew when I designed the DTAP program, as a former defense lawyer, that no one was going to take a deal on the first offense to go to mandatory drug treatment. I wouldn't have. I don't want to be judgmental about it, but I knew I wouldn't. The design was mandatory jail sentence under the Rockefeller drug laws, if you could say anything good about the Rockefeller drug laws. I can say nothing good about it; it mandates prison, four and a half to nine years, and it's coercive treatment. If you get a chance to read the Columbia report, they concluded, as Judge Cruzot said, that coercive treatment works. With respect to our reentry folks, they're all on parole. So the only way this can really work is in a parole state and a mandate to come to my program. And so that's the hold we have on them.

MR. SCHMITT: This is going to conclude our panel. Please join me in thanking our presenters for their presentations.

It's a little after three o'clock. We have a 15-minute break, and we'll see you at our next round of breakout sessions in 15 minutes.