

Day One

Practical Approaches to Supervision (Non-Incarceration Alternatives)

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SUMMARY

This panel discussed the importance of individualized case management and supervision, appropriate use of technology to complement this supervision, and changes being implemented within probation offices in order to meet these goals. Panelists observed that individualized, personal supervision should be tailored closely to a person's needs, which can be assessed through a combination of risk-assessment tools, mental health screening, and substance abuse screening. Conditions of supervision ordered by courts should be relevant to the offense, specifically related to individual needs and goals, and research-based. One panelist noted that people on supervision must comply with an average of 40 conditions; this high number can set individuals on a path towards failure and unduly stressful workloads for probation officers. Supervising officers should be trained in motivational interviewing and should understand that reinforcing positive behavior can be as important as punishing negative behavior. Appropriate technological means of supervision should complement individualized supervision. One panelist urged greater use of technology, stating that of the approximately 7.2 million individuals presently under supervision, less than two percent are being monitored through technological means. Another panelist commented that while technology can complement quality supervision by officers, it cannot replace it and can sometimes unduly increase officers' workloads by providing too much information about people under supervision. All panelists expressed the need for evidence-based research to guide supervision techniques.

Panelists addressed the difficulties probation offices face when making the transition from old to new models of supervision. In the District of Hawaii, the federal probation office intentionally underwent a transformation from a model in which officers cast themselves as overseers to a model in which officers perceive themselves as invested in an individual's successful reintegration into society. In the end, the district employed all aspects of a model funded by the Administrative Office of the United States Courts, which includes cognitive behavioral development, motivational interviewing (where officers are trained to ask open-ended questions, provide affirmations, solicit reflections from supervisees, and assist them to summarize what they have articulated), post-conviction risk assessment, and other components.

**PRACTICAL APPROACHES TO SUPERVISION
(NON-INCARCERATION ALTERNATIVES)**

JUDGE SESSIONS: My name is Bill Sessions and I'm a judge in Vermont and vice chair of the Commission, and I've been on the Sentencing Commission since 1999, and I do want to say that the discussions that we are engaged in now are new, to say the least.

At the end of 2006, more than five million men and women in the United States were under probation or parole supervision, a 30-percent increase compared to 1995. Community service supervision programs involve a complex system of multi-tasking that ensures public protection, prevents re-offending and facilitates the supervisee's role as a productive member of the community and also enforces supervision conditions.

Even with reasonable workloads and endless budgetary and personnel resources, supervision is a formidable task. This panel will discuss the necessary elements for successful supervision, the role of the community, successful programs, and how technology assists officers. The District of Hawaii's innovative program provides a real world example of successful supervision.

First, let me introduce the panel members. To my right, which means to your left, is Linda Connelly, who is president and CEO of Leaders in Community Alternatives, Incorporated. She has over 35 years' experience in the criminal justice field, both in the private and public sectors.

In 1991, she founded Leaders in Community Alternatives, Incorporated, a San Francisco-based private community corrections agency that contracts with the public sector to provide community-based correctional programs. Services have included residential substance abuse treatment, electronic monitoring, continuous alcohol testing, GPS case management, day reporting centers, and consulting services.

She is on the board of directors of the International Community Corrections Association, a member of the California Department of Corrections and Rehabilitation Reentry Advisory Council, a member of the San Francisco Safe Communities Reentry Council, California Agenda Responsive Strategies Commission, the American Correctional Association, the American Probation and Parole Association, and the California Association of Drug Court Professionals. That is more participation in more commissions than any one person deserves.

Next, to my far left, that is to your right, is Richard Crawford. Mr. Crawford has been chief U.S. probation officer for the District of Hawaii since 2005 and was the chief U.S. probation and pretrial services officer in North Dakota for seven years prior to that. For some reason he chose to leave North Dakota for Hawaii. Can you imagine such a change?

Mr. Crawford began his career in Minnesota in 1974 as a juvenile probation officer. Since then he has served as an adult felony officer, a district supervisor and a court services director. He has extensive experience in developing program applications for restorative justice and evidence-based services. He served as an associate professor in criminal justice at Bemidji—is it Bemidji?

MR. CRAWFORD: Bemidji.

JUDGE SESSIONS: —Bemidji State University in Bemidji, Minnesota, and is an adjunct faculty member in criminal justice programs at Morehead State University in Morehead, Minnesota, and also at North Dakota State University in Fargo, North Dakota.

In 1995, he was selected by the Minnesota Corrections Association as the Corrections Person of the Year. He holds a bachelors degree in sociology from Morehead State and a master's degree in probation and parole studies from Fordham University in the Bronx.

And now, finally, Carl is to my right. [Off topic.] Carl A. Wicklund. Mr. Wicklund has 35 years experience in corrections and the human services field. He is the executive director of the American Probation and Parole Association. He served as a director of a three-county adult and juvenile probation and parole department, as well as developed and managed a variety of community-based private sector programs for juveniles and adults involved with the justice and social services systems.

He served or is serving on numerous nationally-oriented advisory groups and is currently vice chair of the Global Justice Information Sharing Initiative Advisory Committee which advises the U.S. Attorney General. He received the first annual Minnesota Citizens Council on Crime and Justice Award in 1984, for humane and creative treatment of juvenile delinquents. That means there are two members of our panels who have received awards from Minnesota—the 2001 Florida Community Corrections Association Lifetime Achievement Award, the first U.S. Congressional Crime Victims Rights Caucus Allied Professional Award in 2006, and in 2007, the Justice Leadership Award from Family Justice.

It is a real honor for me to participate and I appreciate all of your service and, first, Ms. Connelly.

MS. CONNELLY: Thank you, Judge Sessions. Good afternoon, everybody. We all know the statistics about our criminal justice system, and we know who's coming back to our homes or to our communities without skills for employment, without housing, with serious substance abuse and mental health issues. I think we all recognize that we've been caught in a web that has to change.

And, interestingly enough, of the 7.2 million offenders under supervision today, less than two percent are using any kind of electronic technology, and the Bureau of Prisons has an equivalent of five percent of their beds in the community for halfway houses, so I think across the country we've seen a real underutilization of alternative programs, and we have to look at why this is happening and look at what we need to do. And I think one of the first things that's happened is that we're letting this soft on crime/tough on crime rhetoric, which is essentially a sound byte, dictate our policy over the last 25 years, and that's just not going to be able to keep working.

There's a lot to talk about in alternatives, and what I wanted to do in this talk is sort of break it down into an overview of the technology and non-technology alternatives, and I'm going to do it very briefly because some of you were just in a workshop that talked about the electronic monitoring.

I want to look at who's appropriate for alternatives and how do you make decisions about who's appropriate for an alternative, and then we want to look at the benefits of alternatives, and then also I want to leave you with some next steps. And I hope at the end of the presentation you recognize we really have a lot of options available. They are out there right now. We've had them available for 20 years, but we haven't taken good advantage of them. And in order to change how we sentence and to change how we use alternatives, it's a steep learning curve, but we can do it and we have to just, you

know, make a commitment. All of us are change makers in this room. We all have the ability to start changing the way we sentence and the way we make release decisions, and so it's incumbent upon us to do it.

Very briefly, with the electronic technology options—and I apologize for not having a Power Point. I just didn't have time to put it together. You know, we have traditional electronic monitoring that just monitors curfew, when someone comes home and leaves home.

We have alcohol testing that's come up with some very unique technology recently, one of which was a continuous alcohol monitoring device. A defendant wears an ankle bracelet that measures alcohol. Every half-an-hour a test is taken to measure alcohol as it evaporates out of the skin, and those tests are stored in the bracelet and then downloaded into a modem over a phone line and each day we can tell whether someone drank or if they attempted to tamper with the device, and that's been really effective. There are about 7,500 people around the country who are on continuous alcohol monitoring right now.

There are two other types of alcohol testing. In the home we have video cameras, and a phone call will be placed to the offender at home, and we'll say, "Give me a picture. I want you to take a deep, long breath test, similar to what the highway patrol gives." And a picture is taken of the person giving that breath test, so we're confirming the identity, and then that test goes through a phone line, and we're seeing the results of the test. And, likewise, in the home we have voice recognition that does essentially the same thing.

The last alcohol device I wanted to mention is Interlock and I think we're all familiar with that, where you're not allowed to start a car until you give a test. The problem with that has been there's no way to identify who the person is, so anyone can take that test. Well, just recently the technology for the Interlock now has a video camera attached to it so we can at least see who it is who's taking the test.

And then the last major device to talk about with technology is global positioning, and I think most people now are very familiar with that, so I'm not going to go into a lot of detail. If there are questions later, I can certainly answer them, but GPS has improved significantly over the years. It is very different today than it was just two years ago, and we're going to see a lot of change over the next few years, as well. But, in essence, we're able to track offenders wherever they go and can establish inclusion and exclusion zones—where we want offenders to be and where we don't want them to be.

Also, GPS has been used with crime scene correlation very, very successfully, where we're able to work with police departments and know where our offenders were vis-à-vis the crime that's happening. As a matter of fact, one of our clients was in Riverside, California, and the police called to say that there was a rape and a murder of an elderly victim and the person had on a bracelet. They caught him through a video camera and they thought it was our youth, that young person that was on our bracelet. They were convinced of it, and we were able to demonstrate that he was, indeed, not at the scene when it happened, so there's been a lot of interesting work with GPS around that.

Some of the pitfalls of GPS—you can't ignore any of the pitfalls of this technology because it is technology and technology doesn't always work—there are dead zones. Inside this building, most of the GPS equipment will not work. If you're in an urban canyon where you have a lot of tall buildings, GPS equipment often won't work well. Some of the new technology has what's called AFLT, Assisted

Location Tracking Technology, that allows you to track indoors. It's not perfect, but it's definitely better. So all of the equipment is improving substantially.

We also now with GPS have one piece units that you wear on your bracelet so you no longer have to carry a fanny pack or the other tracking device on your hip, which adds its own list of problems.

And then the other big pitfall with GPS is cellular technology, and I think we all know how cell phones often will drop our phone calls. Well, all the communication, all the information, that we're gathering from the satellite tracking has to be communicated through a cell phone, cell technology. So if we don't have that cell technology, we don't know what the offender's doing. So those are just some of the pitfalls.

There's a great future for this technology. It has to be used in conjunction with case management and with treatment and programming. All the research tells us that alone electronic monitoring and GPS is not going to ever work. When you do combine it with treatment and good case management so we can hold the offender accountable, then you can have some success with it.

Some of the non-technology options I just briefly want to talk about, and Carl will probably talk about intensive supervision with probation. I recently read about a program in Boulder that is really worth mentioning here as an alternative. A youth killed his stepparent when he was 13, in Boulder, Colorado, and was sent to Juvenile Hall until age 21. At 21, he was then going into an adult institution for the next 35 years. They decided to take a chance on him and they put him on intensive supervision. He had technology and he had to report several times a week to his officer. He had a lot of treatment programs and it's going well. So that particular program is targeting high risk offenders and they're seeing some really good success. I just thought that was a very creative, useful way of trying to salvage a life that might be salvageable.

And then some of the other types of programs available right now are day reporting programs, and those range from intensive, seven day a week programs from early in the morning until late at night. We have day reporting programs where you see people once a week. And a lot of the services are on site at the day reporting center, so you're getting substance abuse education, employment help, education, lots of on-site services. Other day reporting programs are designed so that you go out to referrals, to services in the community, but you have case management that's going on. So there's a whole range of day reporting programs that we have.

Residential treatment programs are all over the country, and those are typically for substance abuse treatment and mental health treatment and they last six months to a year.

We're also seeing a lot of gender-responsive programs. Usually the females are sort of put into the back side of a program. They get the same program the guys get. And, luckily, over the last ten years or so the research has very much demonstrated that if we want to impact women and reduce recidivism, we have to have gender-responsive programs, and those programs have been very successful, focusing on trauma and a lot of the issues that women in particular have.

We have halfway houses that are available to us that typically help people get employment and transition back into the community. We have transitional housing and sober living houses that we're beginning to see a lot of. And when I say we, I'm talking about we as a system.

We can do great work with outpatient programs and day reporting programs, but if someone has an unsafe place to go at night and they don't have a safe place, then everything we've done for them in the treatment program is for naught because they're going to get back into the habits. It's just the pull is too difficult.

Someone mentioned this morning about reentry courts and I think we're seeing a lot more reentry courts. I would also call them revocation courts because many of those courts are designed to work with people in lieu of going back to prison on a probation or a parole revocation, and I think those are going to be highly successful. We know the problem-solving courts work, and if we can use these courts as an alternative to going back to jail and prison, I think we're going to be very successful with it on non-technical and non-violent offenses. And then, of course, we have work release, restorative justice programs we heard about this morning, and community service.

So who's appropriate for these alternative programs? And, you know, we've heard also this morning about risk and needs assessments, and every offender poses different risks and has different needs, and we have to look at the individual case. There is no one criterion that says this is who fits into an alternative program. If you look at the four over-arching principles, what's going to protect the public? Is the public going to be safe if we let this person out on an alternative program? What kind of program is going to give this person the best opportunity to change? That's another way we need to make a decision on what kind of program.

And then, what's available in your community? There are some communities that don't have a lot of alternatives to incarceration, and then there are others that have a myriad of services, so you have to be realistic about what you have.

And then, lastly, what can you afford? If a judge sentences a person to residential drug treatment and they have to pay for it themselves and they're unemployed; well, that's obviously not going to work. We have to be sensitive to the financial aspect of all of this.

And alternative sentencing is used at all entry points into the system. We have successful programs at the pretrial stage as a condition of bail. We have them as a graduated release from prison and jail. We have them in lieu of going to jail, and then also with the revocations. So the alternative sentencing can happen at any level along the way.

How do you make the decision about who's going in? Most jurisdictions in this country are jam-packed. Every single day the dockets are full. And so as a judge I can imagine you're saying well, how do I have time to even think about who's appropriate and then to figure out what all the alternatives are, and it is daunting. I mean there's no question about it, but I think that we have to begin to look at what the barriers are to making these kinds of decisions and go forward with them.

A lot of people think that alternative sentencing is soft on crime. Well, it's just absolutely untrue and it's a myth. And I was just in a workshop where they said doing time in prison is "PC," and what it was was a piece of cake, and it really is a piece of cake for people that have been in and out of the system for their whole life. They can do jail and prison standing on their head. But when you put them in an alternative and they have to work, they have to pay taxes, they have to be responsible, they have to be accountable, that's not easy for somebody who's not done that most of his or her life.

Of course, we have to have a good measurement tool to decide who goes into an alternative. And these risk/needs assessment tools [abound]. There are many of them that are available to us, so we have great choices and they're high quality, research-based risk assessment tools that really give us the information we need about what somebody's risk level is and what his or her needs are.

Some of these tools take a long time. They might take an hour-and-a-half to give, so you go, "Well, what is an alternative to that?" Some of the risk/needs tools have a shortened version that will do a prescreening of the individual so that we can say, "Okay, this person really is low risk. Let's put them over into this category; let's do a more thorough comprehensive risk/needs assessment on this person who's higher risk." The research tells us we need to put our resources with those higher risk/higher need offenders anyway. So the assessment is absolutely critical to make the right decision.

The benefits of the alternative programs are many. Certainly with electronic monitoring and GPS it's a fraction of the cost of jail and prison. And when you have programs that are funded by the offender on a sliding scale, there is zero cost to the community, so that's absolutely true.

We free up bed space for violent and high-risk offenders in jail and prison when we put the non-risk offenders or the non-violent offenders into alternative programs. I really don't believe we need to build one more jail or prison cell. We've got a lot of them. We've got a lot of people locked up who could safely serve their time in the community and so, again, it's about assessing that.

Technology can really help with supervision of probation caseloads. Many, many jurisdictions have all their DUI cases on a banked caseload, and no one is paying attention to those people because they're realizing we need to put our resources into our higher-risk offenders. So we're putting the DUIs into a banked caseload. Well, if you put those people on continuous alcohol monitoring, we're going to know if they're drinking. We're going to be able to assist that supervision and that accountability, and I think that's really important.

Community programs help the offender make decisions, because when they go to jail and prison, they're told when to get up, when to go to sleep, and what to eat. They don't have to be accountable. Well, when they're in an alternative program they have to decide, "Do I go to this treatment today? Do I go take my UA test? Do I comply with my program?" They have to literally sit there and make a decision every day about what they're doing. And when they practice that pro-social behavior, then they're able to begin to make some changes, and then they can prove it themselves—"I can be successful with what I'm doing in the community." And so I think all of these alternative programs play a huge role in trying to help the offender change behavior in the long term.

Certainly with our drug treatment programs, substance abuse is huge. In the residential drug treatment program I ran, a hundred percent of the offenders/parolees in that program were drug addicts for long term. There is no way we can expect someone who is an addict to change that behavior, unless we give them the treatment that they need. That pull of addiction is just too strong, so we have to address that.

And we certainly need programs that deal with the employment issues. We can't expect someone to come out of jail or prison who's never had a job before, and expect he's going to compete in the job market. I mean, the job market is terrible. We have to give them the skills and the tools to be able to learn how to compete. And they can compete. In all my 35 years in this field, I have seen huge success

with people when they're given the right tools and the right opportunities to change, so we know that we can help. We know that we can help.

There are nine things I want to leave you with that we have to do, in order to begin to use alternatives and to make our system more effective. One, we have to assess the risk and needs. Two, we have to provide comprehensive case management. Nothing alone is ever going to work. We have to have case management to handle it. Three, we have to have access to the latest and best equipment on the market. There's a lot of equipment on the market that doesn't work well. There are a lot of people trying to make a lot of money selling all this new technology, and you have to test it because some of it just doesn't work like it needs to. Fourth, there's no cookie cutter program. There is nothing that's going to be right for every single person. We need to individualize and put the person in the right program based on their needs. Five, we have to educate the public. How many "NIMBY" stories do we have to keep hearing when we're trying to open residential programs in the communities? Today when we're talking about restorative justice, the communities understand when we educate them and we explain to them the purpose of these programs. Then they become our allies and our support. Six, we have to do comprehensive research studies, and we've done a lot of research on evidence-based practice. We know what works on the residential side.

On the technology side, we still need to do a lot of work, and NIJ is in the process of doing some great studies on electronic monitoring and GPS. I think we'll be able to do well with that. We have to provide the right technical assistance to jurisdictions, and NIC has set the gold standard and George Keiser's here. They've done a fabulous job in teaching and helping jurisdictions do things differently, but we have to really expand that opportunity and organizations like ICCA, International Community Corrections Association, and APPA can really help jurisdictions learn how to do things differently. It's not rocket science. We know what we need to do, but we need to help garner the energy and the support in the local community.

And, lastly, each community really needs to set up a reentry council. It's not just a reentry council to look at who's coming back into the community, but who the offenders are in your community, who you are sending to jail and prison, and what the impact of that offender population is on your community. Bring the stakeholders together. Bring the judges, the law enforcement, treatment, health, education. Bring all the stakeholders together and say, "Let's sit down, and let's look at what's going on with our offender population, and let's figure out how to make the changes."

They're happening around the country. We've got a great one in San Francisco. It's really making a difference—we're getting rid of the turf war. This problem is all of ours and we all need to work together to resolve it.

In summary, I really think that we do have a great future with alternative sentencing. We have to get through the barriers—you know, the soft on crime. It's a steep climb. We've got to put one step in front of another. We've got the ability to make the changes and we all have to do it as our responsibility. Our system is failing. Our recidivism rates are out of control and it's not justice. In order to get that justice we need to work together, and we need the political will and the courage to do it. Thank you very much for your time.

JUDGE SESSIONS: Okay. Next, Richard Crawford.

MR. CRAWFORD: Thank you, Judge Sessions. [Off topic.] I'm going to talk today about the District of Hawaii, where I'm the chief. I've been chief there three-and-a-half years. When I first came to Hawaii from the District of North Dakota, it was attractive to me because, for one thing, it was 2,500 miles away and actually 4- or 5,000 miles away from Washington. So what we tried, we might have permission to do, or they wouldn't know about it, either one.

But, no, seriously, it was an attractive place to be because of the geographical advantage of having all of your service providers close by, all of your partners in law enforcement, all of your court system and everyone else. Plus, at the time, and I didn't know this when I got there, but as soon as I got there, I found out that the State of Hawaii had already begun to embrace a massive effort toward adopting evidence-based practices in their court system, in their department of public safety and parole authority, and everywhere else.

When I first got there it was really interesting to see that they had moved themselves already to that degree. When I first started in federal probation in Hawaii, I sat down with my staff and I said, "So tell me a little bit about what goes on here," and they said, "You need to know two things. We're really good at what we do. We do presentences outstanding. We never get any complaints from our judges. There are very few typos. And we are very well-researched and the guidelines are followed as they should be. And, number two, we catch everybody doing something wrong who does something wrong under supervision, and we report it to the judge instantly." And I said, "Well, those are very, very excellent things. As a chief coming in, I couldn't imagine anything more desirable as far as not having to worry about the pre-sentence quality and making sure that the offenders were being monitored."

But I said, "So what are you doing, though, with offenders, in terms of doing something to get them to reintegrate successfully to the community, to cut down on the risk they pose, *et cetera, et cetera*," and they honestly looked at me and said, "Why do you care about that? That's not our job." And this is true. And I said, "Well, I just think that we're in a different environment."

About that time we started to talk about the organization and some other things, and at the same time the Defendant/Offender Work Force Development Initiative was being looked at as part of early discussions on the Second Chance Act. I said, "You know, I think it's something that we should be looking at. How do we successfully begin to look at providing services like employment to offenders?" Our judges had complained that we have a federal detention center, and that when either defendants or offenders, because we get designated offenders there, as well, were at that institution, virtually nothing was happening other than dead time. And I said, "You know, maybe there's some opportunity there to work with the Bureau of Prisons and work with our local partners, and so why don't we take a look at this whole reentry initiative that was being talked about and see if that might be the part of the model that was missing?"

I got some buy-in from staff, not initially, but I'll talk about that in a minute. We eventually put together a proposal with our partners in Hawaii, not just us, but with the Department of Public Safety and others. We put together a pretty comprehensive plan and talked to the people at the Office of Probation and Pretrial Services in Washington and said, "Do you know what, we think we've got a good plan for doing what we consider to be the reentry continuum." And actually our continuum starts at presentence investigation or upon conviction on the probation side. There is also a pretrial initiative that goes with this that pretrial is doing.

But the belief was that all along that continuum, from the time that [people are] convicted until they are back into the community, there should be some effort to make sure that the offenders are both held accountable, but that they also become more productive, and that we meet their needs. We work with the agencies in Hawaii and we all work together, so when those offenders go back to the community, they stand a better chance to be successful and produce less risk for the community. We would be improving the life of the offender, the community, and of the families, and everyone else.

So we got together with our chief judge, Helen Gilmore, and Ron Houchini who was with the state at that time, and we petitioned our Office of Probation and Pretrial Services. With the assistance of George Keiser from NIC, we were able to secure a meeting at the Administrative Office of the U.S. Courts. And it was really interesting because we thought there would be like six, seven, eight people wanting to listen and the room was full. The director of the Bureau of Prisons, Harley Lappin, was there, Director Thigpen from NIC, Director Duff from the AO, and then all of the seconds and thirds, and a bunch of staff people. And so here we were, little Hawaii, putting on this presentation about this grandiose model and they said, "That is wonderful. If you really want to attempt to do that, we'll support you."

We went back all excited. At the time our chief judge was not in tune with some of what we were talking about because, again, her interests and the judges' interests were more on those technical aspects of sentencing guidelines as opposed to looking at the best way to provide the back end of the services to the offenders.

So we went to Washington, got a good reception, came back, and about two months later the Office of Probation and Pretrial Services said that they're going to open up some internal grants to districts that are willing to look at doing some research to result in evidence-based practices. So we applied for that, and we were one of three districts who took on the whole model. We didn't take on just cognitive behavioral development, or motivational interviewing, or risk assessment. We took on the whole continuum of the model, because we had planned already to be engaged in it.

So this is going to be a fairly quick walkthrough. We went back, met with all of our community stakeholder partners, which was all the agencies in the state and the other people in Hawaii, not just U.S. Courts, but everyone. We said we need to be in this all together. We need to work together—the residential reentry center, the state facilities, the state probation, the state courts—and so we put together a pretty good collaborative. We decided to really get into the real research on evidence-based practices, so we dove in and we looked at the integrated model for the delivery of evidence-based services, and we took all three of these areas on at one time.

What we decided, though, after we got done looking at that for our grant, was that we were going to do a risk/needs assessment. We were going to do a cognitive behavioral intervention program of some kind. We were going to train our staff in motivational interviewing. We were going to do an offender employment program and a formal one, and we were going to do a reentry violations court, which we have begun to investigate, and to initiate something toward that.

Hopefully this year we are going to add day reporting as part of this continuum, as well. So we have been very, very busy and this is in about two-and-a-half to three years.

So this was the next problem. My staff and the organization were truly at what we call the maturity level of an organization. They were very bureaucratic. They were very entrenched. They were exactly comfortable doing status quo and when I came onboard they said, "You know, this just isn't going to happen." That was my management. The subordinate staff, on the other hand, said, "You know what, this would be kind of fun to do," and so we had to reconcile that, and we worked for about two-and-a-half years.

The question we were looking at was, "Do we want to do this? Do we want to back it up slow to get there or do we want to go straight across and get to that prime area quickly?" And we went straight across. And there are a lot of hazards to doing that and there are also some advantages to doing it, but in the end what I asked my staff, because they said the offenders will never do any of these things that you're saying that we're going to be doing with them. I said, "You know, I've been doing this a long, long time. I don't think it's going to be the offenders who aren't willing to do this. My suspicion is it's out here." And so that's how we challenged it. It was a good, healthy, lively discussion that I almost quit twice during, but it was real work that we had to go through.

So, anyway, we started with the organizational development. We worked through all that stuff, but we used the evidence-based guidelines to help us get there. These papers that are written, "Implementing Evidence-Based Principles in Community Corrections," there are three of them that are outstanding that you can use to give you guidance.

We flattened the organization. I told my managers there were seven people who made decisions when I got here. There are now going to be 47 people making decisions and that's not negotiable. So we went through that whole negotiation, going back and forth with whether my managers are going to get onboard or not get onboard. We spent a lot of time talking, working in groups, committees. And finally I said, "Okay, we're at that point where it's either lead or perish." The way I proved it to them was by creating some committees. The group was going to elect the chair people of those committees. And about three groups didn't elect a manager. Those managers wanted to be managers really badly, again, because they were losing their power.

So now we've rebalanced it, and I don't call them managers anymore. I call them leaders because they are truly on top and leading this effort. The last group of officers that we just hired, I didn't talk to them until the day they walked in, and I said, "Congratulations; you got the job; you're starting date is such."

My staff completely knows what they're looking for. They completely know how to interview people. We've revamped all of our testing to include evidence-based practices and evidence-based measure, and I am 100 percent comfortable in the fact that we have transitioned all the way across that curve. I'm not easy to convince either, so I'm really pleased with where they're at.

The other thing we had to do was make sure that we didn't forget about what's called Monograph 109 which is the federal supervision monograph that we have to live by. And so we had to make sure that we followed that, as well, and that has the three C's. I keep saying there needs to be a fourth C which is called "change" added to this, and I think we're negotiating around that, but control, correct, and follow the conditions of release. And then, like I said, I think how to also implement things in there for offenders to be able to go through a change process. So we had to make sure we kept those in mind and follow them, which we do.

The next one is the eight principles. I'm going to talk just briefly about the actuarial risk/needs assessment because we had to bring in a risk/needs assessment. We were looking for one and found one that's pretty unique. It's called the RMS. And, by the way, these are not plugs for these companies. We use two companies in the materials here.

We chose to use one that is more actuarial than interviewed-based. It's more file-based than interview-based because we didn't want to spend so much time doing those interviews, which are really laborious to do, because we don't have a lot of time. So we found one. We think that it's been validated on the state population. We're trying to validate it now as we collect more data on our population.

But I'm going to just quickly show you how this works because it evaluates our offenders against the large data base. On your left, there are a lot of convicted offenders with data patterns. And what happens when you put that data pattern for those offenders through that instrument is they sort out into either being recidivists or not recidivists in a reference library. There were 88,000 or 80,000 offenders who were known to either have been recidivists or not recidivists, and so that reference library already exists and has these people already added to it.

Then what we do is we take our offender's data pattern. We do 65 questions and we run them against every offender in every one of those 65 questions, so it's a mathematical formula kind of a thing. And then we come up with our offender's data pattern.

Then what this instrument does in its computation, it finds the ten most similar people in those matches there. And then it takes the ten and it builds a composite model out of the ten to represent a model for the instrument. So that model should be as close as we can get out of 80-some-thousand offenders who have been shrunk down, put into a data pattern and matched up against our particular offender.

The next thing is that the offender's data pattern is put against in the instrument, the model pattern, and the offender's pattern there is in red and the model pattern is in blue. And it tells us our offender's risk recidivism score and the scores would either be a one for a non-recidivist or a two for an absolute recidivist, so it's a relative ranking. It gives us a violence score in the same fashion as compared to that group, and then the group, I think, is maybe a little off there, but same thing.

What it also tells us is their three highest criminogenic needs. What are the three things that make this person more likely to be criminal, and what do you need to work on to reduce their risk in terms of their criminality?

So we take this instrument along with our assessment by our probation officer in an interview, if we've done Texas Christian substance abuse evaluation or other evaluations. An officer and a supervisor sit down and they decide that this case then will go based on some of these factors into a high intensive case, a medium case, or a regular case, we call it, or a case bank, which is kind of your low-risk offender. And, again, the key and the research says apply your resources to the people who have the highest risk, and that's what we try to do in this method.

Next thing we did, though, after we found this instrument, is we got Dr. Taxman's report and other reports saying that there are six primary criminogenic needs that they call the "Big Six." Our instrument actually said there were ten or 11. Other instruments say nine, some say eight. But we

decided that we would stick with the Big Six in terms of our focus, so I'll tell you a little bit more about those in the next slide or so.

So we decided how we can get our offenders to do the most work in the areas that are of the highest risk to them. I was familiar with a company—and this is not a plug for them, it's just what we did—called “The Change Companies” in Carson City, Nevada, who had been working with the residential drug abuse program, the 500-hour program in the institutions with the Bureau of Prisons.

So we went to them and asked if they would be able to devise something specific to these Big Six needs out of all the materials you use. They do journaling in all different kinds of areas, not just the criminal areas. They said the idea would be that we would then be able to use those journals specifically to address each criminogenic need individually in the dosage that we wanted, and with the type of modality that we wanted, either individual or a group. We could work on one or two or three at the same time if we chose to do that versus finishing one and starting another or whatever, and so we worked on this with them in the District of Nevada.

We got that program in place and we developed with them a custom-made set of journals. I've got those here, and actually if anybody wants, there's a video that goes with them, but the journals can be completed. They are completed by probation officers and the offender. These are the Big Six criminogenic needs and you'll see we changed the anti-social values to social values, the criminal peers to peer relationships. We made them positive rather than negative.

In research, each journal marries up pretty closely to the research needs. You see the blue column in the first one. That lines up the actual research needs and each journal lines up pretty well with that. This is the likelihood of them becoming future criminals again, the strong, moderate, and low statistical significance. So we covered those in a manner we thought could get those up.

One of the most important things we did is we took a different look at supervision and said that what we want to do is we want to start this differently. Rather than to have an offender sit down the first time with an officer and they talk about probation rules, we're going to go over these and you're going to make sure that you do this, we said no. The first thing we want to do is have them work on and watch a video together. Then the offender works on an orientation video that starts and stops along with the video, the offender journals. He talks to the officer, and as they go on they develop a relationship. It's designed to develop what we call an alliance, not a therapeutic alliance, just an alliance to help the offender do the work and to help the officer make sure that they are doing it.

We've got instrumentation that measures these right now that's actually been built. We're testing it with Dr. Chris Lowenkamp from the University of Cincinnati.

So in the federal system they have journaling, the same type of thing in the Bureau of Prisons. They also are going to use it in all the residential reentry centers, and now we've developed this system that's unique for our offenders.

The officers are absolutely blown away by this because it's taking them places with offenders they never knew they would go before. They have to stick to the journals. They can't freelance. And the offenders are telling us this is unbelievable, that they really didn't know that we thought this would be important. And so now we're having to start to cut back the amount of time and tailor this so that we're

only doing a couple of pages of the journals at one time. The offenders want to keep going. And we're finding that our worst offenders are the ones who want to talk to us the most about the things that are most problematic in their life, so that's an interesting preliminary finding.

Next thing really quickly—we're doing collaboration. We have a program with our federal detention center where we do pre-apprenticeship construction trades training. It's done by the BIA. Building Industries of America comes into the institution and works with the institution staff. They do 12 offenders a session. They're on their second class. And when the offenders are done, they go out as pre-apprentices in the apprenticeship programs in Hawaii, which needs a lot of construction. They're drawing them in. They want them to go to work for them. So this, again, is a transition type program.

Last, we have a report card we're working on, to try to make sure that when we do these programs that we're sticking to them, and that there's fidelity in how we deliver them. We have measurements against our officers to make sure they're doing it right, our supervisors to make sure they're doing it right, and we also have those in place to make sure that our training is being done and used the way it's supposed to.

We have a charter of excellence in the United States Probation and Pretrial Services System. It's really important that we've kept this in mind. It's at the forefront. We don't do anything unless we cross-reference what we're doing with that. The first part is to just make sure all the kinds of things that we've heard in this conference so far—outcome driven, positive difference in lives of people, pretrial through post-conviction, protect the community, controlling correctional strategies, designing to manage risk, positive changes in defendants and offenders through corrective interventions. Again, treat everyone with dignity and respect.

So this has been a real speedy run-through of this, but essentially that's what our model does. We have had, I think, a real good reception by everybody who we've worked with, and we've gotten a lot of state partners. We're having our second collaboration conference in September and we're going to try to do MOUs. We're requiring our treatment providers to now do treatment agreements that say they're going to follow this scheme and that's it, and if they don't, we're not going to be putting people in their treatment facilities. And they all need our business and they like our business, because the federal government pays the bills.

So in the next RFPs we're just letting out, we have a whole instrumented evaluation component that says, "We're going to let you do the treatment on these conditions, and, by the way, we're going to come in and audit and monitor and make sure that we're getting the results from you that we want."

So we've really implemented a fully evidence-based program, and we're working on the evaluation and the outcome components, to make sure that if it's not working the way it's supposed to, we'll readjust it and go back and learn from what we're doing as we go.

JUDGE SESSIONS: Thanks, Rich. Next, Carl Wicklund.

MR. WICKLUND: Thank you, Judge. I feel like I'm following "Magnum P.O." You know, I was sort of struck when I saw the title of this symposium. It's titled "Symposium on Alternatives to Incarceration," and particularly after listening to the two people before me, I think it should be a "Symposium on Incarceration as an Alternative." And I really do think that. In all seriousness, we need

to reframe the way we talk about things. We keep talking about alternatives to incarceration, yet almost 80 percent of the people who commit crimes are on community supervision, so I think we need to flip that a little bit.

Well, the Minnesota boy did me proud. Just a real quick story—I was just in my hometown which is 60 miles north of Duluth, Minnesota, in an area called the Mesabi Iron Range, and people up there are referred to as "rangers." I hadn't been up there for about 13 years, and I was talking to an old high school friend, and he informed me that I'd been away from there long enough that I was now officially deranged.

You know, it's interesting. A large percentage of our prison population are people who failed to comply with conditions of their supervision, and so I want to take a step back from what the two previous speakers talked about. I want to take a look at conditions of supervision, those conditions that either judges order or that releasing authorities place on people when they are in the community.

There are lots of conditions. I've heard in some places the average number of conditions is about 40. Some places it can be as high as 60. It's rarely less than 30, a whole number of conditions. Some of the general or more commonly imposed are—periodic reporting changes in residence and employment, out-of-state travel, no firearms, obey the law. You know, restitution, abstinence from use of alcohol and drugs, fines and other financial obligations. Sometimes jail time is part of the conditions. Then you get into things like community service, drug and alcohol treatment, mental health treatment, stable housing, stable employment. Then you get into offense-specific ones like exclusion zones for sex offenders, no contact, no fraternizing with other felons. Sometimes they even will tell you the level of supervision that you're going to provide this person, whether it's intensive supervision or you're going to see your p.o. "x" number of times a month.

I do a presentation at the National Judicial College called "What Conditions Are Your Conditions In?" I sit down with these judges and I ask them, for a particular kind of offense, what some of the state-mandated conditions are that they need to place on people, and we make this list. And I ask them what some of their favorite conditions are to put on these people and we make another list. I remind them that the law pretty much indicates that conditions of supervision must be reasonable, must be related to rehabilitation and/or related to public safety, that any kind of treatment that you send somebody to must meet the Eighth Amendment standards of cruel and unusual punishment, and that it must be related to the offense in some way.

We go through this whole list and I start asking them who supervises these people. They said, "Well, probation or parole." I ask what their caseload is, and usually about 50 to 60 percent know what the average caseload is on their probation officer. It drops down to about 30 percent those who can actually talk about what a probation officer does every day, all the different duties that they have. So we get all that figured out and I say, "Okay, you have all these conditions. You have caseloads that are this high, workloads that are this wide. Do you really think anybody's paying attention to them?" So we talk about how you track compliance, what their expectations are as judges or releasing authorities, if you will, and if it's reasonable to expect supervision and tracking of compliance given all of these things.

Also, Linda talked about different electronic supervision tools. Yes, they are tools, but I'll tell you what, they're also information overload. Ignorance was bliss at one point. We're finding out a lot of things about people on caseloads that we didn't know before, and now we have to deal with it.

Basically my point is that conditions of supervision can set up failure, and often do. So what I present is what I refer to as the “three Rs of supervision conditions.” Are they realistic, are they relevant, and/or are they supported by research?

Let’s start with the easy one, realistic. Is it reasonable to expect compliance and a successful outcome given the condition that’s placed on somebody? Linda talked about available resources. I can’t tell you how many times I hear that somebody is ordered to drug treatment, and they have to wait six months before they can get in. Now what are the chances that person is going to succeed? Is it reasonable if they have to travel long distances? You know, a lot of what we hear, a lot of federal initiatives, and I don’t mean OJP or NIC—I mean just a lot of the discussion we hear is very urban-biased.

Well, let me tell you, there are a lot of people who are on caseloads in rural areas, and they may have to travel 60 miles to get in to see a probation officer, or the probation officer has to travel 60 miles to see them. If they have to go see the probation officer, and they’ve lost their license or never had a license, then they have to get somebody to give them a ride. Or what if they have to leave their job early in order to do this? It starts to affect their job stability. What if they have childcare issues and they’re expected to be in treatment, and they don’t have anybody to take care of the kids? What if they don’t have the income to pay restitution at the level that the court orders?

Here’s a good one for you—abstinence, a very common condition. Is it realistic for someone who’s addicted? Perhaps a better condition might be successful completion of treatment, assuming that treatment is available. So there’s a question of what resources are available also and when they’re going to be available. Then there’s also the question of who pays. That’s a challenge.

Linda talked about offenders paying for a lot of these things, which reduces the cost to the system or the agency, but not many of the people that we’re working with have the wherewithal to pay for that. Do you want them to pay for that, or do you want them to pay restitution? Do you want them to pay for that, or do you want them to pay child support? So all these kinds of things come into play about a realistic condition and how that’s set up.

No contact with felons. Now there’s one where we can have an urban bias. Someone lives in a housing project in— you name the large city—and they’re not supposed to have any contact with felons. They can’t even get out of their apartment without having contact with felons. They may have felons in their family who are living in the home.

Also in the realistic end, what tools are really available to assist in the enforcement of some of these conditions? Linda went through a litany of different electronic tools that are available, but it’s very difficult to, first of all, know which tools are the best for what you need. Ideally you have a whole menu of tools that you can pick from, but it gets very expensive, unless you purchase large amounts or you’re renting large amounts at one time.

Are conditions relevant, are they germane to the offense, are they germane to the offender, and are they supportive of the ultimate goal? Community service, chain gangs—who’s that relevant to and what does it teach? I’m not saying that it’s something you shouldn’t do, but I think you need to ask those questions before you put people on that, or [inaudible] community service, just because they need to pay back in some way. Wouldn’t it be better if that had some relevance to their offense?

Unrelated fees. I once had a court administrator tell me that they're now in the collections business. The American justice system functions on collections. Let's see, I shoplift, so now I am going to have to pay a fee for the Brain Injury Foundation. You know, maybe make a payment to the Loss Prevention Association or work with the Loss Prevention Association.

Drug testing. We're going to test everybody even if they have no history of drug use. Is that relevant to do alcohol treatment when none is recommended or send somebody to A.A. when they haven't been through primary treatment?

Linda talked about gender-specific. You get into rural areas and you don't have a lot to pick from in a lot of cases. I can't tell you how many times I've heard of females who have had a very, very abusive past being ordered into drug treatment that's highly confrontational. It isn't going to work. It isn't going to work to have substance abuse treatment that doesn't include mental health treatment when the need is recognized, or substance abuse treatment that doesn't consider victim services when they're needed.

Exclusion zones for [persons] who by all indications are not likely to offend, or exclusion zones to the point where they have no place to live and you can't keep track of them—like in Miami they're living under bridges and that's their home now.

When you're looking at relevance in conditions and whether it supports the ultimate goal, well, if your ultimate goal is short-term incapacitation, you can do all sorts of things. If your ultimate goal is long-term public safety, then you need to do some other things. Now that doesn't mean that the two can't be married together, but oftentimes I think that what happens is we put conditions on people that aren't relevant to their offense just for short-term incapacitation or just for punishment. And, again, I'm not saying that incapacitation and punishment are necessarily evil or bad, but is that your ultimate goal? If it is, then I think we should be honest about that.

Rich talked about risk assessment tools and actuarial risk assessment tools. You know, car insurance companies use actuarial risk assessment tools. Many use it very effectively. But I doubt that they look at those acute dynamic risk factors on a very frequent basis. And if we know something about an offender, it's relevant for us to take a look at.

A domestic perpetrator might come out on a risk assessment as medium-level risk, but he just got served with divorce papers. That's an acute dynamic risk factor and we need to be able to respond to those kinds of things. We need to up the conditions. Or a kid who just gets kicked out of school, has his license for three months, storms out of school and jumps in his car and tears off. That's an acute dynamic risk factor and we should be paying attention to those kinds of things.

The last of the three Rs—are the conditions that we're putting on people research-supported? Is it an evidence-based intervention as indicated by rigorous evaluation, is the expected outcome supported by previous or current results, and do we take a look at our balance of punishment versus positive reinforcement?

Rich talked quite a bit about the use of assessments to determine type of supervision and the type of intervention, so I'm not going to get into that a lot. Suffice it to say that just looking at risk and need

isn't enough. I think you also need to do mental health screenings and substance abuse screenings. We need to do that because we need to have the information and make good decisions around that.

Ideally, it should be part of a presentence investigation which, by the way, is being used less and less around the country. And if they are being used, oftentimes all they are are checklists, so you're not getting the narrative or getting any kind of recommendations from the people who have done the presentence investigation. They certainly in many cases are not taking a look at the risk levels or the needs of this offender and helping the courts make these kinds of sentencing decisions.

I guess I would argue, and George has heard me say this before, that I think the loss of the presentence investigation has pretty much insured that we don't have individual justice in many places anymore. It's justice by committee, if you will, or actuarial justice.

Are court-ordered or releasing authority-ordered interventions supported by research, and how do they know? Is it just their favorite program and sounded good on paper? What do they know about the program?

The two before me talked about the difference between low-risk and high-risk and we need to be putting our energies toward the high-risk offenders and the medium-risk offenders, and leave the low-risk offenders alone.

I wanted to take some time to talk about the ratio of reinforcements versus punishments. Behaviorists are pretty clear that we should be reinforcing people's behavior four times greater than punishing it. Whenever I bring this up to my federal fellow brethren, I ask them what the sanctions are when somebody screws up, and they just rattle them off—boom, boom, boom, boom, boom. They have them. Okay. What kinds of rewards do you use? Anybody imagine what I hear? Exactly. It's exactly what I hear.

And then when I start talking about it, they say they don't have the money to reward people; they don't have the resources to do those kinds of things. I'm saying, "I haven't even said what they are yet." Simply tell someone that you're glad they're on time or they look nice today.

When I was a director I always maintained a caseload. Just my luck, I always got the ones nobody else wanted to deal with. And I had a guy that was about 6'5", 330 pounds, and a member of the Hell's Outcasts motorcycle gang. Do you remember that group up there, Rich, in Minnesota? I think they were southern Minnesota. He was on probation. Luckily, he had a good plea bargain, but he was a pretty mean guy. And he would come in and I would chart his progress on a sheet and when he'd reach certain points I'd put a star on there, for restitution payments, community service that he was completing, things like that. And he came in one day. This guy was big and looked like an all-star wrestler except not as clean. [Off topic.] You guys know what I'm talking about. Yeah, I don't have time to bleed either. But he came in and we were going through his progress, and he wanted to see his charts. I brought out his chart, and this big galoot almost became a puddle. He got this little kid voice and he said, "You didn't put a star on there." My point is it doesn't take much to come up with positive reinforcement for people that have never, or very rarely, received positive reinforcement, and I think it's an area that we forget about a lot.

Finally, the three Rs, if done with those considerations, set the supervision agency up nicely for developing a very good offender case plan, because case plans are dependent on conditions. They are strategies for compliance and completion, and they're usually done with the offender, using things like motivational interviewing. But case plans fail. I can't tell you how many judges, when I tell them, "Hey, it may not work; you can always change the conditions," or telling a parole board, "Hey, it may not work; you can always go back and readjust the conditions," well, they're shocked. They hadn't thought about the fact that they could go back and do things differently if it wasn't working. Not all case plans are going to work, so you go back to the drawing board.

And then you need to think about non-compliance and how you're going to deal with that. Do you have graduated responses? Note, I didn't say "graduated sanctions" because you also need, as a releasing authority or as a court and as a supervision agency, to recognize when they are doing things well. We shouldn't be just about catching people doing things wrong. We should be catching them doing them right.

So I'll leave you with this thought. We are in the business of correcting people. We should not be in the business of collecting people. Thank you.

JUDGE SESSIONS: Thanks. [Off topic.] We have about ten minutes, so let's open it up for questions. I'd ask that you stand and identify yourself. Yes?

MS. BROWNING: Jane Browning, International Community Corrections Association. I've been tracking the journaling project as it has unfolded, and I think it's really wonderful. I do have a question, though, about the degree to which [inaudible] skills interferes with its effectiveness. Could you speak to that a little bit?

MR. CRAWFORD: Well, the real beauty of this being an interactive thing is that the officer is basically compensating for that literacy difference if they're working together, which is how we do most of the journaling. They say they're scripted at an eighth grade level, but I personally think it's much higher, and we've had that discussion. But we have found it not to be a problem yet, because of the fact that it's directly interactive. What's funny about it is that it becomes almost a conversational journaling process. We don't require them to write a lot, and if they're stuck, we just ask them to put something, a word or two, down. Some get more elaborate. Some are comfortable with just doing their thoughts, and then we use that. And, of course, the other thing is our officers are all now trained in motivational interviewing, so they're able to take a little bit of information and examine more of what's being talked about.

MS. BROWNING: Thank you.

JUDGE SESSIONS: Can you just describe what motivational interviewing tips there are?

MR. CRAWFORD: There are, I think, four principles: open-ended questions, affirmations, reflections, and then summarization. Those are the four points. It's called "auras of motivational interviewing." Basically what you do is try to enlist a conversation so that you can, number one, give a lot of affirmations, not necessarily confirmations, but affirmations, that you understand where they're at, or what they're saying. And then you mirror back what they're saying to them, and ask how that guides their choices, for example. If they respond in a way that they're telling you one thing, but they're really

doing another thing, then you point out the discrepancies in that information. Then you say, “Okay, so that’s what you’re telling me, but it would appear that what you’re doing is different, so can you tell me more about how you account for the difference?”

It’s really just constantly working with the offender to get them to evaluate more of their own talk, and then to come up with better choices and evaluate those choices, and then to guide them if they’re stuck. And a lot of times if they’re stuck and they’re starting to ramble, which a lot of them do, you have to stop and do a summarization, “So here’s where we’re at as far as I can tell,” so it stops them in their thought process and you start over. It’s very powerful.

I was a product of the early ‘70s in my first cases and I know a lot of officers who were. I used to feel so good about those conversations with the guys who’d come in to see me. I thought, “Man, we just saved the world again today,” and a week-and-a-half later they would go out and commit another crime, and I’d say, “What didn’t I see?” I think I was always seeing what I wanted to see. We weren’t really focusing on those areas of their behavior and thinking that we’re causing them to have problems.

But I think you use all these skill sets to get at the issues of what is the criminal thinking that’s guiding their actions, and then you begin to work to get them to understand that and to create solutions for it.

So it’s a little different technique than, I think, what a lot of us used to do when we started. People always say, “Well, we’ve been doing that for years.” To some degree, yes, but to an effective degree as it could be now, no, I would say, and I was one who used to say that, you know.

JUDGE SESSIONS: Yes?

MS. MARIANO: Marianne Mariano with the federal defenders. I think my chief probation officer took a trip to Hawaii because I’ve had a recent conversation with him and it sounds like a lot of this is heading my way, but I won’t ask all my questions. I do have one. The risk/needs assessment system, the program that you use—are they employing it in the pre-sentence interview or is it just preliminary?

MR. CRAWFORD: No. We do post-conviction. As a matter of fact, we have just finished training all of our presentence writers to do it because they get the best information from us, and eventually they will, I think, be the ones who give us that information.

Another thing about this model, we are training our presentence officers right now to use motivational interviewing techniques at the presentence level to gain better information for those 3553(a) factors to help the judges come up with a better sense of who they’re dealing with and what the issues are.

We just started this as a special project. Up until recently, our officers were just gathering information. They didn’t have any idea. Yeah, they knew the need for treatment, but they really didn’t understand some of the motivations of the offenders, what’s really making them tick, what are their needs. So now we have a special project in place in Hawaii just to do that in and of itself, and all of our officers are being trained in that area right now. They’re actually going to redo the presentence interview.

MS. MARIANO: Sorry.

JUDGE SESSIONS: Yes?

MS. MARIANO: Do you mean the report; they're going to reorganize the report?

MR. CRAWFORD: To some degree. They can't reorganize much of it, but in those areas around 3553(a), yes, they're going to be doing a different kind of interviewing to get better information.

JUDGE SESSIONS: Yes?

QUESTIONER: Just to follow up on that, how do you find the defense response to the deep inquiry into a client's background?

MR. CRAWFORD: Well, that's always been an issue. Sometimes they say not to answer these questions and that's been the history of that. We met with the defense bar and the council and we just said, "You know what, we're going to be doing this. We think it will be to your advantage, more than likely, more often than not." But, on the other hand, they still have the option to resist, object, or whatever.

We really haven't found it to be as much of a barrier as we thought so far, and, again, I think because we're asking better questions about what some of those need areas are, which then carry into the court with a little bit more potential for those being addressed as conditions.

JUDGE SESSIONS: I would assume there might be reluctance from defense counsel to get into issues like drug quantities, for example, relevant conduct, and anything involving enhancement, I would think.

MR. CRAWFORD: What we found before was, in the substance abuse area, they were told not to talk about that. And then when they went to get sentenced, it was by virtue of not talking about it, they were ineligible for the RDAP Program. So we said, "Well, you've got a choice to make here, too." But we're still working on it. Our public defender and the panel attorneys have been through all of this with us, and I think they understand what we're trying to do differently, so they've been pretty friendly toward the process.

JUDGE SESSIONS: All right. Did you have a question? Yes?

MS. LEARY: Yes. Mary Lou Leary, National Center for Victims of Crimes. Carl, you said that presentence reports are being used less and less, is that right, or presentence investigations?

MR. WICKLUND: Yes.

MS. LEARY: Can you tell me a little bit more about that?

MR. WICKLUND: Well, the more there have been mandatory minimum sentences, judges are saying, "Well, I don't need any information, because they're going to do this much time, and for this crime and I don't need that kind of information." Also, as court dockets fill up, judges are finding they have less time to read an extensive presentence investigation report. Now I know that the federal system is certainly different than a lot of the state systems in that. You know, I'm envious of the fact that they're

still writing pretty extensive pre-sentence investigations, but in a lot of state systems that's not happening, you know. And even with offenses like driving under the influence, or driving while intoxicated, it's rare that you get a presentence investigation on something like that, yet they're probably one of the highest-risk offenders.

So the court basically—no offense, Judge, but they're playing with half a deck in a lot of these situations. I can't blame probation departments for welcoming it, because they don't have the resources and the time to write these reports.

MS. LEARY: And one follow-up question on presentence reports. What is the state of victim access to presentence reports?

MR. WICKLUND: Their access to them or their ability to have input into them?

MS. LEARY: No, their ability to review the presentence report.

MR. WICKLUND: Well, it depends on the state. Different states have different rules. I don't know what it is in the federal system, but some states have bifurcated presentence investigations where some stuff is private, some stuff is confidential, *et cetera*. So the victim may not be able to access mental health background or family information about the offender, but may be able to see the offender's statement about the offense, and things like that. But it's pretty much all over the board. Sometimes it's even dependent on the kind of offense, too, in some states.

JUDGE SESSIONS: In the federal system presentence reports are universally ordered in any felony case, and I think it is fair to say that the victims will be able to contribute in significant ways, but they do not have access to the report itself. I think that's probably universal.

So that having been said, I get the last word because I'm the judge. So thank you very much, panelists.