

*Day Two*

# **Examining the Evidence: Research and Implementation of Sentencing Alternatives in the Federal System**

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*Moderator: **Honorable Ruben Castillo**, Vice Chair, United States Sentencing Commission*

***Scott W. VanBenschoten**, Probation Administrator, Administrative Office of the U.S. Courts*

***Honorable Ann Aiken**, U.S. District Judge, District of Oregon*

***Honorable Robert Holmes Bell**, Chief United States District Judge, Western District of Michigan*

***Honorable Carol Jackson**, Chief United States District Judge, Eastern District of Missouri*

## SUMMARY

This panel focused on the use of reentry programs in the federal system that are aimed at reducing recidivism rates of individuals on federal supervision. Reentry programs offered by problem-solving courts in three districts—Oregon, Missouri, and Michigan—were discussed in detail. Panelists also raised the need to change the approach to individuals being supervised, the importance of carefully evaluating the programs used during supervision, and the need to train those responsible for monitoring and counseling individuals on supervised release.

Each of the problem-solving court models discussed by this panel employs a team approach to supervision, involving the court, the defendant, the probation office, the prosecutor, the defense attorney, treatment providers, and the defendant's family or friends.

In the Western District of Michigan, an accelerated community entry program includes cognitive reasoning skill training, substance abuse counseling, mental health treatment and vocational training. This program is mandatory, and it offers successful graduates early release from supervision. In the Eastern District of Missouri, the probation office manages a variety of programs for individuals on supervised release, including education programs, an employment program that involves governmental and private employers, a financial literacy program, a home ownership program, and a drug court. The district has been able to monitor the success of the employment program, and the results show that unemployment rates among participants are now lower than local and national unemployment rates, and have been so every month during the past three years. Three years ago, the District of Oregon instituted a drug court program in response to a methamphetamine crisis and a high rate of revocation proceedings. Recently compiled data in this district shows that the program has reduced recidivism rates.

All panelists emphasized the importance of communicating directly with individuals under supervision, involving them in the process as participants, showing them that the team is working together, and requiring them to be accountable for their actions. This is accomplished using different approaches. In Michigan, the judge wears a robe, holds program meetings in the courtroom, and confronts individuals with their mistakes. In Oregon, the judge employs an "ecological approach" which looks not only at the individual under supervision, but also at the context of his or her family, neighborhood, faith community, and work.

**EXAMINING THE EVIDENCE: RESEARCH AND IMPLEMENTATION OF  
SENTENCING ALTERNATIVES IN THE FEDERAL SYSTEM**

JUDGE CASTILLO: Now that we spent this morning on what is going on at the state sentencing commissions, we're going to switch gears back to federal court. As many know, what is available in federal court is very much dependent on the United States Congress, so those of you who are here representing either the Senate or the House, I hope you take this information back.

For the Sentencing Commission, it is vitally important that these programs that have started in federal court be expanded. Let me tell you why I believe it's important and why we're doing what we're doing, at least from my personal perspective. I am privileged, as a member of the Commission, to travel out to the districts and have been to many courthouses, but probably the most important place that I go to every year is my daughter's third grade class. She is a teacher in the Bronx in New York and so this year I went over there and had a discussion with these third graders, eight- and nine-year olds, about criminal justice. And so I just took a little informal survey—I'm not a social scientist. I'm a judge, supposedly. And I asked these young children to raise their hands if they had ever seen a shooting, and about 80 percent of the classroom raised their hand. And then I asked how many of them felt good about the police department, and about half of them raised their hand.

And I will tell you, from my perspective, this is why we're in this room. We are either going to win this battle this way, or we're going to lose the battle in the long run, and part of it is creating a better perception of what the criminal justice system really does. Even as we're sitting in this room, a great experiment, if you will, on reentry is taking place. Many of you are participating in this, and by that I'm talking about the crack reductions that I'm sure our chair, Judge Hinojosa, referenced, that the Commission voted through. This has led to, about right now, over 4,000 individuals being released with many more to come.

So if you're representing a federal district out there that has some interest in reentry, I can tell you that probably your district is already participating in reentry and you might not even know about it. Many of the districts, through efforts of U.S. Probation, have created reentry type committees that help in these reductions and one of the great suggestions that was made by Doug Burris, who's here from St. Louis, was to start documenting not only what might go bad in terms of recidivism, but also the great success stories that are out there, and so one day people might talk about this. One of my favorite movies of all time is *The Great Escape* with Steve McQueen riding his motorcycle. Maybe someday somebody will make a movie out of this period of time and call it *The Great Reentry*.

I hope so because I think really, if this in all seriousness does take place successfully, it creates a base that Congress should really look at. It's a base that the Sentencing Commission will suggest that Congress look at to really expand these programs, but enough about this. Let's talk about our program here and there have already been, aside from the crack reductions, successful programs that have sprung up thanks to the leadership of the Administrative Office and energetic judges throughout the country.

Three of them are going to be represented on this panel. Yesterday I had the privilege of moderating, and you heard what's going on in Boston through Judge Sorokin, and in Salt Lake through Judge Wells. Feel free to talk to them, but what we're going to do with this program right now is give the overview, and for that I'm going to call on Scott VanBenschoten from the Administrative Office. He is a probation administrator and has worked on setting national policies and procedures for federal probation

and pretrial services. He's going to give the overview of what's going on in substance abuse, evidence-based practices in the federal system, and he's had day-to-day experience as a director in Virginia, managing a day reporting center for substance abuse offenders.

Thereafter, we're going to follow in this particular order. Seated next to Scott is Judge Bell, and I was trying to figure out the common denominators through the three energetic judges who are up here who have started reentry programs, and aside from their energy, it seems to me one common denominator is that they all quickly went to the bench after graduating from law school. In fact, Judge Bell, by my calculation, was elected a state court judge all of four years after graduating from law school and then served a very distinguished career on the state court bench and has now been—we're lucky—a federal judge for 21 years, and serves as the chief judge in the Western District of Michigan.

Seated next to him is Judge Jackson, who I had the privilege of meeting at our crack retroactivity summit in St. Louis. She is the chief judge in the Eastern District of Missouri, and works closely with Doug Burris out there. She's been a district court judge for 16 years. She also was quickly appointed to the bench, all of ten years after graduating from law school. She was appointed a magistrate judge after a very distinguished career in private practice.

And then finally, someone who needs no introduction to anyone who's interested in working in this field, Judge Aiken from the District of Oregon. She has served there for ten years, has energetically devoted a large amount of her time to the reentry program that's been successfully underway there, and by my calculation, she also got to the state court bench in Oregon all of nine years after her law school graduation, and served on the state court bench for nine years before her appointment ten years ago as a federal district judge.

So that is our panel. I'll turn it over to Scott and we'll keep going. Thank you.

MR. VANBENSCHOTEN: Hi. For those who don't know me, and that's a good number of people in this room I guess, my name is Scott VanBenschoten, and I'm a probation administrator at the Administrative Office of the U.S. Courts. My job here is to talk a little bit about what's going on with evidence-based practices and alternative programs in the federal system, and sort of set the stage for the three judges to my left, who are going to talk about some specific things that they're doing.

For those who don't know, federal probation is in your community. We're everywhere. And we have roughly 4,000 to 5,000 officers, and we've been doing all sorts of new and innovative things over the last ten years, or really over the last two or three years, but starting about ten years ago and that's what I'm going to highlight.

I started in the probation world in Virginia, so it's done my heart good over the last two days to see some of the Virginia folks come up and talk. I'm going to start with a story about myself and show you how the field of probation has really gone through a revolution.

Back in 1999, I graduated from graduate school. I got a degree in clinical social work. I thought I knew everything. Probably those who work with me now would argue that I still think I know everything, but I don't, hardly. But I graduated. I went into the field of probation, and I was quickly taught, like 99 percent of probation officers who go out into the field. I went into a week-long training in the state system—county system, actually—in Virginia, and I was taught three basic things.

It was my job to enforce court orders. It was my job to get people in treatment, and it was my job to get people a job, and by “people” I’m referring to offenders. So those were my three main tasks as a probation officer. That’s what I was taught. So that’s what I did. However, what I didn’t focus on, and what we did not focus on, was how good the treatment was I referred people to. Was it high-quality treatment, or was it terrible? I didn’t know, and frankly, I didn’t check, and I didn’t view it as part of my job to care. My job was to refer people to treatment.

I didn’t even know what kinds of people to refer to treatment. I just referred everyone to treatment if they had an inkling of a problem, because that’s what we did. Of course, now I’ve learned that that’s not the best method. Enforcing court orders, I felt like, well, if the order’s there I have to enforce it, which of course—especially sitting on a panel of judges—you have to do that.

However, were there orders that didn’t make sense for which I should have gone back to the judge and asked, “Maybe this could be modified?” Or were there problems in an offender’s life for which an order didn’t exist to treat a really serious issue that’s going to drive future crime? I didn’t see that as part of my job. What I saw as my job was to simply enforce the court order. And getting an offender a job. Doug Burris yesterday talked about the whole job world. For me, what getting an offender a job meant was any kind of employment. I don’t care what the employment is. I don’t care if it’s going to be long-term employment. I don’t care if you can support your family on it. Just get a job.

And I was not unique. This is what probation was and had been for years, decades. It was these basic tenets, but a revolution has started to take place, not just in federal probation but in probation at large, and that revolution is this—that we need to be held accountable for outcomes, and we have to produce results, and if we’re not producing results, and we’re not adding value to the system, we have to question why we’re even here. Research tells us we can make a difference, and we can produce results if we do it the right way, and that’s really been the focus of the last decade of probation. So from when I started roughly ten years ago, to when I left, how I defined my job completely changed.

It was a completely different job with a completely different set of skills that I needed to have, and that’s a challenge that I had in Virginia. It was a way [inaudible] what I had to accomplish to become effective at what I do every day, and it’s the same challenge that federal probation is going through right now. So why now? Why suddenly are we saying that our job is something different? Why are we going through all this effort, spending all this money to do this? There are some key reasons.

One—we’ve talked about this for the last two days—there’s the revolving door of recidivism, and I don’t need to really go into this all that much, but you all know, revocation rates are too high. People are going back, over and over. You know, when I address rooms of probation officers, I ask about how often they supervise the same people, or generations within the same family, and it’s just the cycle that goes around and around and around and around. So that’s “why now.” Suddenly, jails, prisons are filling, and we’re just sending tons of people back.

Another key thing within the federal system of “why now” was the IBM study that occurred in the federal probation system which concluded in 2004, and this study was a way that federal probation reexamined itself to say, “What is it that we need to do and look at as we go forward?” What’s the strategic planning process for our system, and really an introspective look, and what IBM found was that the federal probation system needed to focus and put all of its energies into moving towards becoming an

outcome-based system. Now, those are great words—right, an outcome-based system. We all say that. I mean, who doesn't say that?

Of course, we're going to produce outcomes, but this is something real. I view this as a turning point in the federal probation system where we said, "Okay, the way we were doing business before was the best we knew how." But in 2004, a shift occurred, where we said, "Let's measure what we're doing to see if we are producing the kinds of outcomes that we need to produce." It's obviously a very complex process to measure what we're doing, but we're in that process right now, and measurement is a key piece of that.

So what federal probation has taken on over the last couple of years is to develop really sophisticated means and methods to measure what we do. Matt Rowland, who is in the back of the room, has really taken this on as one of his mantelpieces, to look at the quality of our data, and provide that data back to probation chiefs, so that they can make better decisions, provide it back to officers so that they can make better decisions, and provide it to policymakers so they can make better decisions. We have all kinds of data, but we haven't done a very good job of being able to crunch that data and provide it out, but we're working very hard to do that right now.

And finally, why now? What is the complement of factors that says it is now time to move towards a new way of doing business, and that last factor is this avalanche of research that we simply cannot deny? This conference has put forth a series of speakers that almost acts as the foundation of this research. Faye Taxman was here, Doris MacKenzie, others like Ed Latessa [inaudible]—if you know the literature, you know these people. They have changed the way we should be doing business because they've examined what we do. They've pointed out the things that don't work, and they've highlighted the things that do work.

We can't deny that research, so why now? Because it's time to look at outcomes and we know what works and doesn't work so it's time to actually apply that stuff. So how do we stop this revolving door of recidivism? That's the task in front of us, and it all begins and ends really with this concept of behavior change.

It's no longer the right thing or the best thing to look at offenders who come through the federal probation system and say, "How do we keep them from—or keep ourselves from revoking them during the time of supervision," because it's not about whether we revoke people or not. What we really need to measure and really need to affect is whether or not the offenders who come through our system commit new crimes in the future. We talk a lot about recidivism reduction. In many ways what we should be talking about is reducing future crime because that's what we should be about and that's what we can be about and that's how we stop that revolving door of recidivism. It's by changing behavior, and it's by changing it not just while people are under supervision, but when they leave us, that we add value to the system.

So how is the federal probation system applying this research that I referred to, now that we have motivation to change the way we do business? We have the knowledge. How are we actually doing it? It starts for us with a partnership with the National Institute of Corrections. For those who have worked with NIC, you know that it's become the epicenter of knowledge dissemination for evidence-based practices in the federal—or in the entire probation system. George Keiser was here yesterday. I don't know if you had an opportunity to talk with him, but their group continually puts out information and

provides training. We have taken the three core papers of evidence-based practices—one being on the principles of effective intervention, one being on organizational development, and the final one being on collaboration—and we are taking those papers and the principles that those papers contain, and we’re trying to apply them in the real world. And let me tell you, it’s hard. It’s really hard, but we know if we follow this roadmap, it will produce results.

So at its core, if you guys have seen the eight principles of effective intervention, here they are. I’m not going to go through them in detail. That could be a whole day of training right then and there, but these principles, if they’re done well and done right, serve as the foundation of good supervision. By good supervision, I’m continually talking of behavior change and something that will produce positive outcomes, most notably reduce recidivism in the long term. So this has really been our focus, and I would love to talk to you for several hours about this, but we don’t have time to do it.

And in a practical way, what we have done in the federal probation system, and specifically the Administrative Office of the U.S. Courts, is say, “Okay, here’s the right way to do supervision, based on what NIC is telling us.” So here’s a model to use, and it’s different from the way you’re doing some things right now, and we have 94 districts across the country. Each is its own entity ruled by a chief judge, so to speak. Ruled might not be the right term—it makes it sound like a kingdom. But see the reverence I have for judges? It’s unbelievable. But each chief judge oversees that federal probation office, and they do things different ways, so we have 94 different models, so to speak, that are happening across the country. Obviously, there are a lot of similarities between them, but there are nuances. We borrowed a model from the National Institute of Corrections, and said, “Here’s a different way to think about some of the ways you’re doing business.”

Of course, the response back was, “That’s great. Well, how do we pay for that? How do we do that? That’s not the way we’re doing things now in certain areas. That’s hard to do.” So the Administrative Office provided \$2 million, basically seed money, and a grant process by which districts that wanted to change, so those early adopters could apply for grant money and say, “We want to do something different. We want to follow this new model of evidence-based practices.” And so the money was distributed to 16 districts, which represent 18 different offices because two of them are separate probation/pretrial offices, and people—literally, our office has had to write grants and say this is what we are going to do with the money. Here’s how we’re going to apply it, and it’s this wonderful opportunity for us to see what works and what doesn’t work in implementation, but also it was key for us to fund different kinds of projects to see what works and what doesn’t work, and we’re measuring those things as we go.

So here’s what we funded. I’m not going to read all of this stuff, but the basic categories where we funded, risk assessment, and we’ve heard a lot about risk assessment for the last couple of days. Risk assessment’s the foundation of all of these things. If we don’t know who to serve and what areas of their lives to intervene in, then how do we do anything thereafter? So risk assessment serves as the foundation and it’s one of the key things that we funded. We funded cognitive behavioral interventions. We funded the programming to build intrinsic motivation. You know, probation officers—I’ll speak about myself. I was famous for telling offenders what to do, like no one had ever told them what to do, and me thinking that that was going to change their behavior. Obviously that doesn’t work.

What research is beginning to tell us is that we have to help them make the decision to change their own behavior and that’s what building intrinsic motivation is all about. And you may have heard of

that built around the concept of motivational interviewing. And then we funded other interventions which are things that are going to be talked about in a few minutes by the judges to my left, those being reentry courts and offender workforce development programs.

We started with this concept that let's just fund whatever courts want, whatever districts think they can feasibly do. It may have just been a risk assessment tool or it may have been the entire model. We had three districts take on the entire model. Those were the real gluttons for punishment because that was really hard work for them in a very short period of time. And then we have continued to fund these districts for three years. But here's what we found. This was painfully obvious to us right away, and it's exactly what the National Institute of Correction said we would find and they were right, which was the biggest hindrance to making this work. It's not the actual programming. It's getting your organization lined up, aligned in such a way to support this stuff, changing cultures within organizations.

We have 100 years almost, not quite, 70 years, however old probation is, of doing business a certain way and suddenly we're saying, "Thank you for doing it that way and you were doing the best job you could that way, but we have some new ideas and some new thoughts," and it's changing some real basic cultures, issues within districts, and that's hard to do. So we had to go back to those districts that we funded and really work with them and provide money and funding to help with just the complicated organizational issues associated with applying evidence-based practices.

And ultimately we have created a national model now for how to implement evidence-based practices and that model in a nutshell is here and we're still finishing up the official model but I won't go into it but be happy to talk with you about it.

So what's ahead? This is a long and winding road. I wish it were real simple and we could say, "Tomorrow we're doing evidence based practices and we're going to impact recidivism, you know, by Friday." The reality is, this is hard, hard work and it requires a lot of the chiefs. It requires a lot of supervisors and a lot of probation officers, and we have to accept that and work within that reality. So we have made long term commitments to the districts that we're funding that we're going to follow these projects through and make sure that they're doing them well, and by doing them well, actually measuring the results and seeing whether it makes a difference or not.

But we're also beginning the process to implement these kinds of techniques with districts outside of the original 18 funded research-to-results-districts and we're letting research lead the way. This is critical. You know, we have always dealt with this issue around what does our gut tell us. How is it that, you know, we're doing. And we're really shedding that and saying research is going to be our guide from this point forward.

I guess what I would like to leave you all with is this concept that it's not about how—well, let me put it this way. When I was a probation officer it was all about chasing programs. It was all about what's the next program that I can implement that uses evidence that's research-based that's going to reduce recidivism. I did that for a number of years and what I learned is, programs come and go. We learn more and we modify programs, but really what makes a district successful is this underlying culture that I'm going to accept what the research tells me.

I'm going to modify my programming based on that research and we are going to do what we can to change our system and effect change in officers through research and shedding this concept that it's the

next program. It's not the next program. It's absolutely positively making sure that we have this underlying foundation of accepting the research and accepting what the research tells us. Within that context, programming is where the rubber meets the road. It's where we effect change with the offenders. And that programming is important.

There are a couple of key new innovations in the federal probation system that really seem to be producing some early results. Obviously we're going to have to measure those. And what we are going to talk about now are three of those programs, and these are based on what has happened in the states, obviously modified for a federal population, but these drug-court-like programs which we're now terming "reentry courts" are one method to letting the research lead the way, and with that I'm going to turn it over to Judge Bell.

JUDGE BELL: Thank you. I think I learned something. I have to tell you right off, I'm one of the guilty ones who started out in the state court with indeterminate sentences. Someone committed criminal behavior and came in front of us for a plea or a conviction, and it was the number of years or the number of months, we never saw them again. They disappeared beyond the blue yonder. I think some parole agent took them somewhere and we never saw them again unless they did something that brought us back. But that didn't happen very often, so the front end of the sentence was what we were primarily concerned with and that was the accountability section of the sentence.

A sentence has a front end and a back end and for those of us, the district judges, the front end has been our primary concern. Everyone wants a piece of us. There are only about 700 of us, I think, in the United States and we're dealing with staggering workloads. Mine is way above the national weighted average. And so how can I give a piece of that to some particular program? So it's good to be here. I'm sorry I couldn't be with you yesterday. I've got a jury that took the day off from a tax evasion case and—but Valerie Martin is here. She's the one who came to me with this idea, looking for a volunteer to get this program started, and my colleagues all went like this, and of course, you know, the chief judge is not the one in charge. The chief judge is the one that does all the dirty work. So I said I'll take it. I'll take it. It should be fun. I didn't know what an evidence-based practice was. I wouldn't have known one if it hit me in the head, but I think I'm understanding it now.

But the front end, elaborate calculation of months or years was what we spent a lot of our days toiling with and the supervised release was kind of the tail that we threw at the person as they walked out of the courtroom. No, that's not right because they come back now on supervised release violations, and by bucket loads sometimes. So of necessity, some of us have had to go back and say what it is. And so I've kind of said that a sentence is the two components, the front end and the back end. The front end I'll call "accountability." The back end I'll call "hope." That is, we want to see a change in people, and it's a continuum, and the continuum starts at the preparation of the presentence report.

I say the presentence reports, because judges are all literate. We all take our presentences home with us so that when we don't have anything else to do at home in the evening we can read the presentence reports, and we read them. We underline them. We make notes to ourselves, and we figure out not only what the sentence should be in terms of years but the part of what you are helping us figure out: what kind of conditions we should ask the BOP to engage in in terms of preparing that person for the ultimate transition to the structured supervised release that the person will have.

In the old days, you know, the warden of the prison used to give the person a bus ticket and \$20 and say “God speed you,” and away they went and somehow or other the probation agent found them. Not so today. We want that to be a seamless transition between the institution, between a halfway house of some kind, and then a supervised release. So it is that transition—that is the experiment, if you will—into that lifestyle regimen program of [inaudible] being a whole person.

Recidivism prevention is the primary motivator we would say. Now, there are certain parts of the intensive supervised release that we look at, factors related, at least from a judicial viewpoint, and that is the antisocial behavior. The lawlessness looks us right in the face right away on many of these, particularly the more violent ones. The antisocial personality that comes in, you can read it right on the face. Don’t tell me what to do. I’m not going to change. The antisocial values and attitudes which are part of that criminal peer association, some of us refer to it as “the tribe,” and then of course the substance abuse, which in the federal court, 50, 60, 70 percent of our people now are coming to us with, and then the dysfunctional family relationships.

I ask a question many times on serious sentencings, “Who is the most significant person in your life?” You know who that person is in 90 percent of the cases? It’s grandmother. “What happened to you?” “Well, grandmother died when I was ten, 12, 13 years old,” and if you look at the criminal history, at that point they lost their anchor and they were freed. So then we talked about what factors are subject to change by an ex-offender based upon the evidence-based practices. We have to narrow this spectrum of what is subject to it, and we found that subject to change is obviously substance abuse. We have programmatic issues. We have both group therapies and individual regimens to look at the substance abuse question.

But substance abuse is two things. It’s physical and it’s psychological and both those components of substance abuse we have to look at. And then the criminal thinking, the criminal mindset we have to look at. Family relationships are a part of that, as I said, and those peer associations or the tribe, and then I would add another one that I picked up this morning which is extremely important and that is the immaturity question, the question of the fact that we may have a person before us who is in fact 25, but emotionally and mentally he is 13.

And so the primary services that are effective are the substance abuse and the mental health treatment. One of the big surprises in ours, and Valerie will talk more about it this afternoon, is what we call cognitive or reconnection reasoning skill training. We just started this program about a year ago, and I am absolutely flabbergasted at the effect that that is having upon this intense supervision as we’ll talk about it, and that is, it’s a group context and the group talks about a topic for the session. They start with a lower index of honesty and that’s a huge, huge problem with these people. Everyone is gaming everyone else. Honesty is the heart of the matter in many cases, and we work our way up into that kind of skill reasoning where we relate to other people, and that is a very, very important component when changing that criminal mindset, particularly as one maybe of the ten persons in that group gets it and then puts pressure on the others. That’s the most successful.

And then the education, the literacy training, the GED—there’s no reason why that can’t start in the BOP and work its way all the way across that continuum. It’s surprising how natively intelligent some of these people are, particularly those who have run rather elaborate criminal conspiracies. These people could run IBM. They’re incredible. And how do we draw that out? And of course, the job skill training and employment counseling. I have kidded us that we ought to buy a wholesale box of alarm

clocks because if you ask the group, how many have an alarm clock in your house, they'll say, "Alarm clock, what's that?" Well, we grew up with it. Some of us don't need it anymore but we grew up with alarm clocks. No idea what alarm clocks are. You start out with that idea when you get into counseling.

Now, what did we do here? I'm getting right to the heart of what we did. We started what we call an accelerated community entry, a fastening on the idea that there is a certain group that has an RPI index of six to nine, or a criminal history level if you are looking at the sentence, of a five or six who are probably at the highest chance of recidivism and being problematic. We have determined that the low-risk person really needs less supervision. Sometimes our data is telling us that the more we bug these low recidivism people and the people with low histories, the more problems we are going to create and just kind of leave them alone. Let them go with very little supervision. They will be in fact okay.

Our idea was a mandatory program designed to increase the likelihood of successful reentry, so therefore, if you want to call us a problem-solving court, that would be the correct definition, I think. But it starts as a collaboration, and as a collaboration, you look at it from the standpoint that the judge is the person who convenes the group. It contains not only a public defender but an assistant U.S. attorney and those people are an integral part of the process. It includes the supervised release officer. That is the key person moving this entire collaborative effort as the specialized supervised release officer, a special person who can work with these individuals, and the halfway house case manager, is essential, reporting on how we're doing in the housing arrangement category, and then of course the treatment provider. I should probably make that plural.

They all convene at noontime on Wednesday, at least in the Grand Rapids courtroom where I am, at noon. Why at noon? Because I got something else going in the morning and afternoon. They run at noon. It's in the big courtroom with all the pictures on the wall and the formalities. I'm in a robe and the participants are seated in the front and as their name is called, they come forward. And they are then—the supervised release officer reports on them, talks about the objectives they had for the previous month, whether or not they realized those objectives, what the new objectives should be, where the difficulties are, and so it's a reward or sanctions, far more reward than sanctions.

In fact, if they have a good month they get a certificate that this has been a good month, and we clap for them. It's kind of hokey, but it actually works. It's a recognition that some of them have never had. It's a self-worth issue. And then we frequently do this. I either say it or my colleague who I'll talk about in a moment says this: "Do you understand we want you to be successful and we believe you can be successful?" We're saying that from the bench to them.

I have a magistrate judge. She started out as a special ed teacher and she went to law school, graduated near the top of her class and she jumped on this right away, and so as a magistrate judge she's helping me with this. Now there are two or three reasons for this. One is my schedule, but secondly, I want there to be a continuum. I want it to be on a Wednesday, the third Wednesday of every month, every single month throughout the year, no rescheduling. That just screws up everybody, throws them all off. Well, I thought it was last week. That's why I wasn't here last week. No, no. It's the third one; remember that.

So she and I will sit there together sometimes. It's a great good cop/bad cop if the occasion presents itself, and she's a great encourager [inaudible]. She's better than I am at it. There's no question about it. And the two of us work well together. I'm, of course, the sanction guy, so I'm the one that they

look to when they—I see their furrowed eyebrows. I know what’s going on. I forgot to put another component in here, and that is essential—the close friends and family members. Someone always has a grandfather or a significant other person who is, we believe, essential to making it successful. We recognize them. We ask them to come forward with the individual when we do this because we believe that that begins new peers, new associations.

And then frequently I sermonize a little bit. I talk about friends. You are who your friends are. If you run with people that are dirty, you’re going to be dirty. If you run with people—and then sometimes I’ll say, where would you go if you wanted to find people that weren’t going to get you into trouble, and they either say an AA meeting or they say church. I say, “Have you gone to either one of them recently?” “No.” “Well, where have you been recently?” So that’s always an interesting conversation we have.

So looking at the role of the probation officer was a very key one, providing us with information regarding the conduct of the individual, the good, the bad, the ugly. The recommendations are commensurate with the mission. The goals need to be accomplished by the next session. And then the treatment providers are essential, too. They provide information and recommendations regarding the treatment of each offender.

There are two kinds of people in treatment. One is there because they have to be there, because they get a cut in the sentence, because it’s part of playing the game, and then there’s the person who’s genuinely there. Well, we want that treatment provider to help us determine which of the two so we don’t get gamed.

And then the halfway house manager reports on how we’ve been doing. Are we coming in late? Are we bringing contraband? Are we raising a ruckus? How are we socializing with the whole group there? That’s very essential. The U.S. Attorney is very important because the U.S. Attorney represents the police, represents “the enemy,” and usually I have a great U.S. Attorney, laid back, nothing flusters him. Everything’s fine. He’s just right there to help everybody, and he gives compliments just like anyone else, and so frequently he’ll shake their hand at the end of a good session. Again, good, good feedback.

And then lastly, the role of defense counsel. Excellent representation and it’s interesting to see on that issue; it’s different. They become a friend and a confidant of the defendant, and they become someone who is a change agent. We are about three years into it. I think we started it in ‘05, probably two and a half years into it. We’re too early to come in with something definitive. We will change as our experience changes and tells us what works and doesn’t work.

It really is affecting the entire outlook of the judges and the probation officers of our district on everyone who’s on supervised release, not just these people. So it’s the creation of an attitude among the judicial and the court personnel and the probation department’s supervised release people that’s extremely important to seeing this reentry work well across the board. Thank you.

JUDGE CASTILLO: I call on Judge Jackson.

JUDGE JACKSON: Good morning. I want to say, first of all, thanks to the Sentencing Commission for inviting me here and for putting on this wonderful program. I’ve learned a lot, and I

hope that in another few years, after we all have more experience under our belts with these reentry programs, that the Commission will do this again. See, got a commitment already; that was easy. I might have to ask you about something else.

I have a confession to make. I am not a social worker. I'm not a psychologist, and like Judge Castillo, I'm not a social scientist. I don't have any background in criminal justice or in corrections, or anything that would lend itself to the kind of work that I'm doing today with the reentry programs. In short, I am a typical judge, and we're not trained to think about alternatives to incarceration. We don't learn that in law school. When someone becomes a district judge or a court of appeals judge, we go to what's called "baby judge school," and that's put on by the FJC, and they have a wonderful training program that tells us about the things that we need to know as judges, but alternatives to incarceration, reentry programs, that's not part of the training, at least not yet. Maybe someday, if not already, it will be.

And because of that, we approached issues regarding recidivism in the same way that most people did. When somebody violated a condition of release, we'd revoke them; they'd go back to prison. It was pretty simple. Sometimes an individual could get by with a couple of violations before they got revoked, but others, you know, just that one time and I'm not talking about new law violations. I'm talking about drug usage. That was in many cases sufficient to send somebody back to prison, and that was the approach that we used before 2000, when the world changed, in the Eastern District of Missouri anyway.

We decided that the revolving door approach was not the best way to handle our supervision cases. We had a high rate of revocations, which really didn't make us look very good because, as judges, we set these conditions of supervised release, we have a probation office that is supposed to monitor compliance with those conditions, and the public expects us to do what we say we're going to do. We're going to supervise people, and if the people who we are supervising come out of prison and do the same things that they did before they went to prison, then how does that make us look in the public's eye? Are we really doing our job of supervising people? Supervision has to be meaningful if it's to be effective.

So we had a real image problem, in my view, and what we were doing just wasn't working for a lot of people. So we decided we needed to talk about and identify what were the essential obstacles to successful reentry, and we've talked about a lot of these over the last day and a half. Employment was a big obstacle. I remember reading a statistic that said that something like 70 percent of the ex-offenders who are revoked were unemployed at the time of their revocation. So that was a consistent thread that we found among the ex-offenders who were being revoked.

You know, Calvin Coolidge was probably one of our most underrated presidents. I think he made this comment, that more people out of work equals higher unemployment. I'm sure he thought that was a pretty deep thought, but it's true and it equals a higher rate of recidivism. We also found that a lack of education was another obstacle to successful reentry.

Until I became a judge, I never knew so many people didn't complete high school. It's not uncommon for me to take a guilty plea from someone who will tell me, "I dropped out in tenth grade or eleventh grade." My sister was a school teacher. I remember asking her, "Why would somebody go all the way to the eleventh grade and then drop out of high school?" And she said, "Well, that's because that's when they got old enough to drop out legally, and they didn't have to worry about the truant officer chasing after them." So we have a lot of people who don't have a high school diploma or a GED.

And substance abuse was a third factor consistent among the ex-offenders. These were long-term substance abusers, some of whom had mental disorders in tandem with their substance abuse problems, and we didn't have a whole lot of treatment options at that time, or, if those resources were out there, we weren't finding them and we weren't utilizing what was available to us.

So when our court looked at all of these things, we decided that a comprehensive approach was the best way to go about this. We couldn't just go after one obstacle and ignore the others, because they all work together in making it difficult for people to succeed on supervision. But we did have to kind of start this—we couldn't do everything all at once, so we decided we would focus on employment, which we did. We started initially with our employment program in 2000.

I told you that's when the world changed, and one of the reasons the world changed for our district is that's when Doug Burris arrived. I'm always a little reluctant to sing Doug Burris's praises too much in front of a group like this, because I'm so afraid some other district is going to steal him from us. But he brought a lot of these programs to us, and made so many incredible changes in our probation office, which I won't go into now. He's just been a real asset to our district. He has really shown us the light, if you will.

But we started the employment program, and our goal was to try to help ex-offenders not to just get any kind of employment, but to get meaningful employment; employment that would provide them a living wage. Now, that's not to say that all of our ex-offenders obtain that kind of employment. Some of them work temp jobs, you know, day labor. But our employment program was not designed to encourage that. We started with training the probation officers to become offender workforce development specialists. They went through that program. We worked with establishing partnerships with state and local training, employment training, and job skills training agencies, and we worked with the local government officials to support us in our program.

If you go to our probation office's website, one of the things that you'll see is a public service announcement. There's a little video clip of a PSA that was done by the mayor of the City of St. Louis, and he was very helpful to us in attracting employers to our employment program. He invited a lot of employers to attend a breakfast where we got the opportunity to pitch the program to them, and we've had just remarkable success with getting employers interested in our program.

We hosted our first ex-offender career fair in 2001, and it was just an overwhelming success, and we've hosted these career fairs every year since then. Our next one is in August, so if you're planning to be in St. Louis in August, let me know and I'll give you the date of our career fair, and you can come out. We have state and federal offenders who come. They come in the morning. They meet with somebody from the probation office who helps them learn about how to fill out a job application, how to interview for a job, and we've got just tons of employers, including some apprentice programs, labor union apprentice programs, that participate in our career fair. We've had a great deal of success with people—employers and ex-offenders coming together and working well together.

We have an education program as well, in which we work with the state placing ex-offenders in GED and literacy programs. Some of our offenders are able to be directed to college-level programs, and we encourage that as well. From the standpoint of what the judges have done, we've begun including enrollment in a GED program or a literacy program as a condition of supervised release and, while it's

not one of the official standard conditions, it has become a *de facto* standard condition for supervised release in cases of people who don't have a high school diploma.

We also started a financial literacy program where we work with the FDIC in providing a program to help ex-offenders learn about how to maintain a bank account, how to apply for credit, the importance of maintaining good credit, and how to avoid predatory lending. Our thinking was, now we've got people working, they're making money, and we want them to be able to manage their money carefully so they don't end up in bankruptcy court, or end up with loans with 100 percent interest rates, or whatever they charge at some of these places. So that was a program that we also added.

Our home ownership program—through that program we try to educate the ex-offenders about the benefits of home ownership and about available loan programs. We have a probation office newsletter, and I think I read in the most recent newsletter just the other day that we have two ex-offenders who have purchased homes through our home ownership program, and these are people who have been in prison and who never would have even dreamed of owning property. So we've had some success with that program as well.

Our most recent foray into the reentry area is our drug court. I know the Criminal Law Committee has discouraged us from using that terminology, but that's how we started it. We called it our drug court. It's our reentry court now, I guess. It's Project EARN, which is an acronym for "Expanding Addicts Recovery Network." We started that in April, and I volunteered to be the guinea pig for the reentry court program. And I'll tell you, this has been probably one of the more interesting programs that I've been involved with. It's a voluntary program. We started with ten participants, all of whom are on supervised release.

We decided to start small because we weren't sure how this was going to work out. All of the participants have a history of substance abuse or alcohol abuse, or both, and all were screened by the probation office. They are all considered high-risk offenders. We meet with them weekly with a team. The team is made up of two probation officers, an assistant U.S. attorney, an assistant federal public defender, and two representatives from our treatment providers, and we meet weekly.

Our team gets together at 8:00 in the morning. We talk about each one of the participants, and we review what they've accomplished in the previous week, where they may have fallen short, if they've missed a meeting, if they missed a drop. We talk about that and we talk about potential sanctions as well. And then we meet with the participants, and each one of them talks about the week that he or she has had, and then we go on from there.

I'd be happy to tell you more about the details of our drug—reentry court—because we operate a little bit differently from some of the other courts that you've already heard about.

One last thing I want to tell you, which is very important, is we know that our reentry programs work. The reason we know it is that we now have an ex-offender unemployment rate that is lower than the local and the national rates, and we've been consistently lower in ex-offender unemployment for every month in the last three years. That's a remarkable achievement, I think. Our revocation rate is lower than the circuit and the national rates, and that's because we are looking at ways to help people stay on supervision and succeed on supervision, and providing them the means for doing that that don't

involve sending them back to prison. So again, thank you all so much. I'm going to turn things over to Judge Aiken.

JUDGE AIKEN: How many of you were here in the room yesterday that had the chance to see the video that Oregon prepared? Just a show of hands. All right. Well, that's enough. I'm not going to talk about that; we're not going use it.

I want to tell you a story. Two fisherman went to the banks of a river and they were going to fish for the day. It was glorious, sunny, beautiful, and they put their line in the river. They started to fish and chat, and the first thing one of them saw was a baby floating down the river. He was astounded, and he jumped in the river, and he grabbed the baby and took it to the side of the bank. He put it on the bank, and looked around, and there was another baby coming down the river. He went over, and he picked up the baby, and he put it on the side of the bank, and he looked again, and there were two or three coming. He ran over, and he picked up the babies, and he put them on the bank.

And then there were four and five, and he turned around, and he saw his friend had his fishing gear packed up, and he was walking away. And he said, "Where are you going? We have all these babies to catch. Where are you going?" And he said, "Well, you can catch babies all day, but I'm going up the river to see who's throwing them in the river, because we've got a problem."

That's what we see every day in the courtroom. We see the people who are failing every single day, and they're symptoms of systems changes that we need to make. That story comes directly out of an ABA publication on children and families, a comprehensive guide that was done in the '80s. That lesson has stayed with me since a prominent civil lawyer in my community sent it to me and said, "You're on the bench, you care about kids and families. This is the systems change you're talking about. You need to help with that in that regard."

So my passion has been to change the next generation in a way that we work differently, so that the symptoms are addressed, and we have a way of comprehensively reviewing our work, because, very frankly, that's what this panel is about. It's evidence-based practices, and how we make policy shifts and changes according to the symptoms that we see in court. Traditionally, I have a background the same as many people, but I think the three components that make me unique or different, that I bring to the table—every single judge brings something different to the table, you know—get the book on your judge.

I'm the mother of five children. My oldest is 27, my youngest is 16, and they all are boys and that's a component of who I am. That's a very big component, because my job is an adult parenting in the courtroom, and then parenting at home, and it's a 24/7 job. You know, I'm managing people's behavior and negotiating, resolving disputes, understanding how people work in resolving that. Number two, I have a public policy degree. I didn't want to be a lawyer. I went to get a public policy approach, because I'd grown up working in legislative processes, and I've worked through many, many state legislative issues and topics. When you look at Congress, they want to look at the evidence, what do the constituents say, what's the problem, how do you address it, what's a comprehensive solution?—give us some guidance.

So you inform yourself with academic studies and research, and we have very fine academic research, and bodies and bodies of literature with children and families, and with drug addiction, and with counseling. All those bodies of literature are sitting out there, and we had the opportunity to hear some of

the best people talk, and there's myriads of research. We just don't put it into place; we don't put it into play. We don't intersect the academic community analysis and the work that's being done, and the analysis with the pragmatic, "How are we going to do the work?"

So I'm here to tell you, in Oregon what we really started out with was a methamphetamine crisis. Just a huge crisis, and what we were doing was spending all of our time coming back into the courtroom with people within six months failing their supervised release, and as a result of failing their supervised release, guess what we were doing? Sending them back to prison. See, it was a revolving door, it was that river analysis. We all, in Oregon, said, "Wait a minute, something's really kind of wrong here." So our Criminal Law Committee stepped back and brought everybody to the table, and we said, "We've got to look at what's out there; what works, what doesn't work." And I learned very quickly, coming from the state system. Now in Oregon, you don't have a program unless it's evidence-based, and your data drives it, and you analyze it. You don't fund programs now in the state of Oregon because that's by statute.

In the federal system, it took me years to figure out. I kept thinking, "Why are they buying that service, or why are we using that; what's the deal here?" I didn't understand. In the federal system we didn't fund services based on evidence-based research and outcome data. I didn't understand that we paid for the cheapest we could get, and I thought, "Oh my gosh, this is the federal government. I thought we would be leading that charge." The states are leading that charge, academia is leading that charge, and so we stepped back and we did a summit, and we went to the Bureau of Prisons. We've been working hand-in-glove because it's about reentry. It's a second part of the sentencing, and we held the summit at Sheridan, our only federal prison in Oregon. We brought people nationally out. We brought all the congressional delegates and their staffs as participants, treatment providers, federal defenders, U.S. Attorneys. We invited all the court; we invited everybody to come, and we had panels and topics, and we had "what works" and we had success stories.

And then we formed work groups. Because in my mind, when you're in a silo mentality, when everybody works without cooperatively understanding each piece, a systems analysis—you've got to find a project to work on where people can have some success and learn to work and play together. Again, it's that parenting model, where you really have to figure out how to use the best. And it's an empowerment model, you know, because so many in this room are incredibly talented, and how frustrated are we that we really can't make a difference in our work and in the courtroom?

And do we all think we're the smartest person in the room? No. There are millions of people who have so much to give us, so let's really take a look at what's out there. So from that process, we built a consensus that we wanted to do what we call "drug court."

Now, let me just disarm you. We called it "drug court" because it's voluntary and we as professionals know what the concepts are of drug court. It's multi-purpose; it's a broad way of bringing people in and addressing an array of needs. If you've got to hustle inmates to come into it, you've got to give them some reason to want to come in. To tell them, "We're going to start an intensive supervision program, where we're going to be looking at every aspect of your life on a very regular basis, and we're going to know everything about you. Would you like to join?" Not so good on marketing. So when you said "drug court" they go, "Yeah, that's that state thing that I didn't quite get in. So I'll take a risk and do that." So we called it that to market it. Now we've labeled it "reentry court," because that's the correct thing to do at this point. I don't care what we call it; it's effective.

So what we ended up doing is building a team; Judge Bell talked about the team. We have a team; it's a team approach. It's incredible in terms of how we're able to skill set and use our talents in a way that's comprehensive, and to empower one another so when people are dealing with any one of us, they know we back each other. They know we support each other, we talk to each other, and that it's not a pretend thing. We really do understand what's happening in their lives, and we're going to make a difference.

So we set up the format for the agreements between all the people who had to participate, conceptually and on paper, and I have all the documents. You don't have to reinvent the wheel; we have all the documents. Take the documents back to your district; take a look at how you want to modify them or address them. But we've spent a year putting that set together, a committee worked on it. Everybody agreed, and then we put two models to practice. They're different, and it's based on different skill sets and trainings, just simply what your comfort level is in working this arena.

But the team approach—we meet monthly and we looked at setting the model up using all the evidence-based research to design it, and we've known how to do that from the state system. We designed the model, and I'm going to just highlight the fact that I'm willing to go back and grade our own work. So we got an evaluation done, and it's going to show up on the Oregon website. I'll tell you, this is a great document for any of you wanting to take a look at how to do this because we address the ten factors that have been adopted by the National Association of Drug Court Professionals—what it needs to have, what components need to be in place—and we collapsed them in Oregon to five basic principles.

Number one, the role of the judge. We've given all of our good power away. We are so powerful in convening the body and making a difference in people's lives by just simply convening and giving our time and attention, and having people come and report. It really simply matters to people that they prove to somebody of authority that they can succeed. I cannot underscore all the literature why that is critical, but it's a big deal.

Number two, probation has to change in terms of its balanced approach. It's really important that they have all the law enforcement capability, but you don't lead with that. You lead with a case management analysis of what are the problems to be solved. It's that balanced approach. We've gone from rehabilitation in the '60s and '70s, all the way to incarceration in the '80s, '90s, and beyond. This is the balanced approach. It's a little of both. It's knowing that we have the power to act in their lives if they go across the line, but by and large they are the ones who drive how their success will be, and we will help them every step of the way.

The third component—and the research documents it—is rewards and sanctions. Immediate sanctions tied to what you can do to change people's behavior. The literature talks about how to do that. But in the moment, and in the room when you're sanctioning, you know what's going to make a difference, because there are people who live in their head. You get them out of their head by doing community service. There are people who need to go and do something more thoughtful, and you address it that way. Sometimes sitting in a jail is the easiest thing for them to do, and you don't do it. You do things that change behavior. The literature tells you how to do that.

The fourth component I would tell you, which is also critical, is the continuum of treatment. If you look at the research that's documented out there—we have an ecological model, and I want to reference in our study a really important component in a statement about what this means. The District of

Oregon reentry court utilized an ecological approach in the development of the individualized plan for each reentry participant. The ecological approach emphasizes that humans do not grow and develop in isolation but in the context and interactions with their families, work, school, and community. Each environment in which the person interacts is dynamic, constantly changing, and has multiple associations among the various environments and personal context.

To affirm the ecological approach to the development of each reentry court's participant's program plan, the reentry court staff provides access to a continuum of services that involves all aspects of the participant's life. And those partnerships that we've created in our reentry court include the community college, the university, health care, and family support services for their own family reentry, whether it's early children, zero to six, or if it's children needing mentoring programs. We work with what the barriers are to their success. And, do you know what? In a reentry court process, if you sit in the room with people long enough, and you give them their time and you listen really carefully, they tell you what is the barrier to their success. It's really slow and it's little things. They stumble. It's their fear of failure, it's their inability to read, it's their inability to understand what a regular life is like.

They watch TV. They don't know regular life is getting up, going to work, doing the very best you can at whatever job you have, going home, taking care of your family, making sure there's food in the refrigerator, being ready for the next day, doing what you want to do, and maybe you get a little time to yourself. I don't know. I don't get any time to myself, but maybe they get a little time to themselves, and then doing it all over the next day. That's a real life. They don't understand what a real life is. They watch TV; they have a different view of what's supposed to happen to people.

But we talk about what it means to be pro-social, and how to do activities that are pro-social that are safe. So really, the big concept is the ecological model, and being able to fine tune with individualized case plans that ecological model, what's going to make a difference for that person in front of you and being able to act.

And then, finally, what's been really astounding is that we need to continue multidisciplinary training. When you start working with people, there are no magic answers. They're people. They're the most complex organisms that we could possibly work with. What works for one person doesn't necessarily work for another, and different strategies and different skill sets make a big difference. And I know—I have five boys, and I thought I had it down with number one. Number two, that's a different story. I had to be counterintuitive. So you have to be willing to be adaptable. Display adaptability. Make the move, read the literature, understand the underpinnings of why behavior is a certain way and how to change it.

Drug addiction is a symptom of a million other reasons. People are trying to numb themselves. What we do in the drug court is give them the chance to be in their treatment program learning the skill sets that are based on research and treatment, but to come in and baby step it, one thing at a time. Congratulate them for their success, make a difference in their own lives. What did they do that was a good decision? What could they have done differently? I don't leave the drug court. I am a member of a team; I am just a member of the team. I don't wear a robe; I don't need to wear a robe. They all know who I am. But they know I care. They know I care that they succeed. Tell me what's in your way. I will help knock that down. And if you do research-based work, you set up a model, and you put that model in place and you study it, and you do the data collection. And I'm really proud to say our district in Oregon, for \$4,500, which is nothing, we leveraged this authority, the University of Oregon stepped up with

Melissa Aubin, who's been presenting; Dr. Dan Close, who's a lifetime professional in the field of special ed, and training and education, and these replications, and how to replicate programs; and Dr. Kevin Alltucker, who took all the data. We don't collect enough data, we don't collect the right data, and we don't necessarily know how to fine tune it. But that's a work in progress. But we had the courage to go back and analyze what we were doing, and how we can make it better and does it work. And the report that you'll see is broken down into the components of what does the literature say, so you can reference on every single core point, what are the leading documents, what's the research say, where to go get it, what does it tell you, what's it said over time.

Number two, the second part of the document are the quantitative findings. We kept a control group or a comparison group, because in academics, you know, those words are words of art. We kept a control group to try to explain when we set this program up, what's going to work, what's not going to work. And you know what we found out? When you intensely supervise people, it works. If you don't supervise them, it's a catch and release system, and we're going to catch them again. But we don't supervise them. So when we intensely supervise, we do two things for the community. We solve problems because we catch them, and, number two, if a person is not going to be successful, we are on top of that person much faster, making our community safer. And in my mind, that is our job. How do we make our community safer? How do we allow 650,000 federal inmates who are entering our communities every year, after very long sentences with little delivery of services in prison—how do we make our community safe for our children? That's our job.

So finally, we took a look at trying to explain this in a way that's more quantitative, because it's a qualitative, not necessarily a quantitative, analysis. So we took each of the topics, each of the core components that need to be in place in your reentry court and we looked at how do those core components line up with what's happened over the last year. So we did an analysis of case studies and they're tied to all the core components of what works in the continuum of services and what's necessary in the continuum of services—along with drug and alcohol treatment—is addressing assistance to the family. Judge Bell talked about those core components. Family assistance, how you reintegrate the children and the family, and how you make that work again.

Housing is huge. Employment, huge. All of our success stories were really tied to dealing with their drug and alcohol addiction issues, and tying that to employment with a future. If you can show them a future, you can address their ongoing need to eliminate drugs and alcohol from their life. And, finally, education via technical or general. Do you know how many times in the courtroom when I say to somebody, "My God, you're smart. Look at what you're capable of doing." They look at me and they go, "You think I'm smart?" Some of the people we see are so giftedly smart, but have no background in semantic or literacy learning. But they can put machinery together, they can do things that are just unbelievable, but they never were successful in school, semantic learning. And if we can address some of those educational needs, we'll have a workforce that really is ready to make a difference. And those case studies all analyze how that's done and how that's accomplished.

Finally, it comes down really to a simple quote, and I paraphrased it at a conference a little while ago. But I really want to pay justice to the quote, because it's really truly what motivates all of us everyday. Frankly, it's a lot easier to be in Oregon and deal with my ten inmates who come in every month. You know, the last dirty UA someone had was in February, and the one before that was in August. There are months that go by when I sit with ten of the hardest of the hard—that's who we take—the hardest of the hard, because from an academic standpoint, if you can prove to the hardest of the

hard that you can make a difference with those individuals, and prove cost savings, the money moves down.

And you know what? I would like very much to go to Congress, and have us go to private sector people and say, “This is what works. Help us make this happen. Build a public/private partnership in our communities that really makes a difference and makes safety a key, whether it’s jobs, health care, education, or drug and alcohol treatment. Help us bring these people back to be successful.” And so, we’ve studied this, we’re doing the work, and we’re going to ongoingly treat it. But, you know how? Sit in a room with ten federal inmates, ten of them, and hear their baby successes, and spend my time with my back to the clock, not looking at my watch, giving them my time, as they quietly tell me what they need, breaking down those barriers and listening to people.

How many of you today in these conferences are talking to somebody, and they’re looking over your shoulder? They’re not listening to you or talking to you. Could we actually go back to being people in a room with the people we serve? Because, you know what, they read us just like we read them. They know when we care, and they know when we’re just ready to do something else. And you know what? It matters that we care, because we change them little by little. To be in the room when those light bulbs go off—I can tell you story after story. When those light bulbs go off, and they’re off and they’re doing successful reentry, it’s something else. I learned that in two years as a juvenile judge.

And the kids who are the harder kids to deal with, those are the hardheads. But, I’ll tell you, you stay in the moment with them, and you show them that having a boundary is about being a caring adult. When I sanctioned somebody, they know I cared. I cared to draw the line, and say, “That’s not safe, and that’s wrong.” I drew a boundary. That’s what you do with kids, and that’s what you do with inmates. They know you care when you do it, if you do it in a way that speaks to them, if you listen to them.

But I have to conclude with—in 1910 when he was the Home Secretary, Winston Churchill made a famous speech [inaudible] to the British Parliament, and it’s written in 1910 language so bear with me: “The mood and temper of the public in regard to the treatment of crime and criminals is one of the most unfailing tests of the civilization of any country. A calm and dispassionate recognition of the rights of the accused against the state, and even of convicted criminals against the state, a constant heart searched by all charged with the duty of punishment, a desire and eagerness to rehabilitate in the world of industry all those who have paid their dues in the hard coinage of punishment. Tireless efforts toward the discovery of curative and regenerative processes, and an unfaltering faith that there is a treasure, if only you can find it in the heart of every man, these are the symbols in which the treatment of crime and criminals mark and measure the stored up strengths of a nation and are the sign and proof of the living virtue in it.” That’s why this is important. That’s why we all come together.

Let’s really take the next step and give the people who are paying their hard coinage of punishment in the federal system the chance to come back and be successful. If we look up and we work a little harder, and we share the knowledge, the wealth of knowledge, and empower one another to make a difference in people’s lives—I’ll tell you, we will change how things are done in a very positive way, and everybody will feel better about the work that they do, because, you know, it hurts your heart to fail. I don’t like to see people fail, and when I see failure, I want to figure out what I’m going to do. What can I do to make it better?

And it has been a treasure and a joy to be a part of working with my colleagues, and working with all of you, and working with probation to see if we can't turn the ship, and go to a balanced approach that really recognizes the chance for accountability, which is what we need to do, and to give people hope. Thank you.

JUDGE CASTILLO: I'd like to thank all our panelists. But I think we have about five minutes for any questions if anybody has any questions. Yes, Judge Irizarry from the Eastern District of New York?

JUDGE IRIZARRY: Good morning. Judge Jackson, I just wanted to ask you, you talked about the different employment programs that you have in the district and education programs. Are those open to all the offenders who are on supervised release or are you targeting just certain offenders as they come out?

JUDGE JACKSON: As far as the education program is concerned, yes, that's something that we require of every individual who is on supervised release as a condition. We always tell them, "Look, you can get your GED while you're in prison, but if you haven't received it by the time you get out then you have to enroll in a GED program."

Obviously, there are some ex-offenders who have severe learning disabilities, and if they're not able to complete a GED program, we're not going to make that a condition. But, generally speaking, yes, that's available to anyone.

As far as the employment program is concerned, it is not available to all of the individuals who are on supervision, but the probation officers will refer some of the ex-offenders who are on supervision to our employment program. We provide employment assistance to virtually any ex-offender who's on supervision. I'm not sure what the statistic is, but a number of them find employment on their own, and if they are employed, even if it is day labor or minimum wage jobs, we don't push them to do more. We'd like them to do more, but if they're employed, and they are otherwise in compliance with their supervision, then that's fine. Employment is a condition of supervision. It's a standard condition that they either be employed, looking for employment, or be in an educational program.

JUDGE CASTILLO: Other questions, if you could identify yourself, please?

MR. EHLERS: My name is Scott Ehlers. I'm with the National Association of Criminal Defense Lawyers. Judge Jackson, you had mentioned, and Doug Burris mentioned yesterday, that in your district the recidivism rate dropped significantly, beginning in 2000, and that was without the existence of a reentry court. That was just with probation done right, as far as I can tell, with appropriate services, resources available, and probably low caseloads for probation officers. You then started up a reentry court. I guess my question is, it's apparent that you don't need a reentry court to reduce recidivism significantly. Why did you start up your reentry court, if you can reduce recidivism without the need for it?

JUDGE JACKSON: Well, I think you're right. We did start doing probation the right way and, again, I give all of that credit to Doug. Leadership involves a lot of qualities that many of us don't have. One of them is the ability to inspire other people, and to encourage other people to do more, to become more creative. That's one of the things Doug has been extremely successful in, in terms of motivating

our probation office staff, encouraging them to look at different ways of doing things, and to become creative. I think because of that, we were able to succeed with finding more resources for drug treatment. Now we have treatment available for people whenever they need it, whether it's inpatient or outpatient. So we don't have to resort to revocation for people who have drug problems. We can get them into treatment.

We do have some very hard-core drug abusers under supervision, and our feeling was that if we have a program that really targets these individuals—individuals who have been through one treatment program after another—there is a participant in our drug court program now who has been in, I think, five inpatient programs. He has been using heroin probably for the last 20 to 25 years. Our thought was that we could target individuals like him, for whom going into treatment has not worked, individuals who we know that are really on the edge, who are not only continuing to use drugs, but who also present a risk of getting back into trouble committing a new crime. We do have some individuals in our program who've been revoked already because of violations of their supervised release, either because they haven't been going to their programs. Usually that's it; they haven't been going to treatment.

So we knew that we could do more. We could do more for individuals for whom other traditional kinds of supervision approaches haven't worked. And that was the importance for our drug court program. It's too soon to say what success we're going to have. I know we're going to be successful, but we've only been at this for three months. But I've seen some changes already. I mean, it's just remarkable to see how a show of support and concern and caring can make a difference in people's lives, so that's why we did it.

JUDGE CASTILLO: We'll give you the last question.

MR. NOLAN: I'm Pat Nolan with Prison Fellowship, and first, I really compliment all of you for your leadership and your risk in doing this. It's really wonderful, and it will make our communities safer. I wondered if there were any either statutory or policy impediments to your work? Have you come up against any barriers that either Congress, the DOJ, BOP, or the Sentencing Commission, things that you thought, "Gee, if only I had the flexibility for this, we could be more successful?"

JUDGE AIKEN: Yes. It's resource-based, and resources are what's limiting us. What I want to mention is, we've made it small, because if you're going to roll out and change how things are done, you have to build an infrastructure in a way that's thoughtful, and you have to be smart about how you develop it. And we are resource-poor, both in terms of the time it takes for probation and the intensity, because it's not just the probation officer in the moment. It's the utility infielders who make sure when we order something that we help break those barriers down, it's getting them into the treatment, it's being able to problem-solve. So it's all basically resources we need right now.

These statutes, we can do this. It's the back end of our obligation; in a sentence, "It's reentry." It's our obligation to walk hand-in-glove with our probation staff to get people safely in the community. So in many respects, it's really the resources and the inertia, the will to do this, because it's hard work. People are hard, and she's been doing it three months; we've been doing it three years. But the successes and our numbers—you'll read about it. Get a copy, read the whole concept of what we are doing and why. And the format—leverage your authority in your communities, bring people together, take this as a model, get the paperwork. You don't have to reinvent the wheel, because it's there. Tweak it to what will work in your community. Make a difference with what drives your issue.

Methamphetamine drove Oregon, employment issues drove Missouri, and employment drove Michigan. But in Pennsylvania, theirs is based around violent offenders. So everybody went in and took a look at, “How does this affect my particular state and my particular community, and how do you build partnerships state and federally?” So it’s really an opportunity to do work on a broader scale, continuing differently, and to understand that—we don’t usually do a systems impact statement, but if we did—when we do certain things in the system, it sends everything out of kilter, and that’s another format of a policy analysis. We need to step back, and look at when we do something here, what are the repercussions across the system.

So again, really going to the full force of looking at evidence-based practices, and measuring and then funding it adequately, is what we really need.

JUDGE JACKSON: I really have to say something. I can’t echo too much what Judge Aiken has just said. These programs put quite a demand on the limited resources of the probation office staff. We have two probation officers who split up our drug court participants. Each takes five additional people. Now, this is in addition to their regular case load. These are people who don’t get any more money, but they have to spend a lot more time doing this work, and they do it because they want to. They don’t have to. They do it because they want to. We have participants in our drug court who have transportation problems. They don’t have cars.

Our public transportation system in St. Louis is not the best. It’s not as sophisticated as in some cities. So, you know, they have trouble getting to their programs, getting to their jobs, coming down to drug court once a week. Our probation office has a bake sale. Periodically, they put on a bake sale to raise money to buy bus passes and metro cards for people on supervision. Now, you know, in a way that’s kind of embarrassing, with the money that the federal government has, why should we be putting on bake sales? But we have to do that. It’s okay, we’re willing to do that. It would be nice if we didn’t have to, but, again, this is what our probation office does, and this is how committed they are to the work that they are doing, because they know it’s important, they know it works, and they know it’s good for the community.

So if there’s anybody in that audience who has any say about funding programs like these, keep that in mind. You know, we want to do these programs; we’ll figure out a way to do them. We’ll have to have more bake sales, or chili cook-offs, or something like that. We’ll do it. But again, I think it’s important for you all to know how dedicated people are to this important mission.

JUDGE CASTILLO: Well, let’s give a round of applause for our panel.

(Applause)

