

*Day Two*

**Intermediate Sanctions  
(Day Reporting Centers,  
Community Service, Restitution Centers)**

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## SUMMARY

Among alternatives to incarceration are intermediate sanctions that restrict personal liberty and afford rehabilitative programs. This panel focused its discussion on three such sanctions: day reporting centers, community service programs, and restitution centers. All three programs lowered recidivism rates.

The day reporting program in Springfield, Massachusetts, began as a response to overcrowding in state jails. Participants in this program are required to maintain strict schedules, which they commit to each week, and their whereabouts are monitored electronically. They are also tested for illegal drugs. The program offers employment development, life skills classes, and vocational training in addition to in-patient treatment and out-patient counseling. One example of the program's successful vocational training component is its painting crew, in which participants are trained to paint and then become part of a crew that maintains city buildings. Critical to the day reporting program's success is coordination with treatment providers, community members, and local government.

Community service programs in different parts of the country offer other examples of non-incarceration sanctions. These can be especially effective when the community service is related to the offense committed and the individual's skills. One successful example was a builder, convicted of an antitrust offense, who constructed a camp for youth with spina bifida as part of his community service. Community service costs less than incarceration, is generally supported in the federal system (by a 2005 monograph issued by the Administrative Office of the United States Courts), and can be a very effective means of restitution and reparation to society and to individual victims. One panelist suggested that the criminal justice system ask who doesn't qualify for community service, rather than ask who does qualify, as a way of understanding how it should be used more broadly.

Mississippi's restitution center is designed for first-time offenders who are deemed to present minimum risk. Residents of the restitution center are required to work and pay restitution. They also pay room and board of approximately ten dollars per day, and perform a minimum of 40 hours of community service. The center offers classes in anger management, stress management, budget management, self-esteem, and conflict resolution and provides drug treatment and mental health treatment. It also assists with preparation for taking the GED test. During fiscal year 2007, center participants paid more than one million dollars in restitution.

**INTERMEDIATE SANCTIONS  
(DAY REPORTING CENTERS, COMMUNITY SERVICE, RESTITUTION CENTERS)**

MR. DORHOFFER: Good afternoon, everybody. For some folks it seems like good evening, but for the brave souls that have stuck it out from 3:15 to 4:45, we greatly appreciate you sticking around. I've learned a tremendous amount, as I'm sure all of you have, from the day's events and I think they've saved the best panels for last. So, with that, I will introduce myself real quickly and then turn it over to the people that you're here for.

My name is Alan Dorhoffer. I am the deputy director of the Office of Education and Sentencing Practice at the U.S. Sentencing Commission. And I know I've done a number of training programs around the country—talking to federal judges, probation officers, prosecutors, defense attorneys—and as you can see from today's and yesterday's events, I think it's great that finally there's been an ongoing dialogue over the last two days which will continue on alternatives to incarceration and on programs related to imprisonment.

And I think about 20 years ago when the Sentencing Reform Act came about, there were a number of members of Congress who wanted to increase penalties and that's what they focused on, particularly in white collar areas, and now I think you're starting to see a movement towards trying to come up with different programs and to maybe make some changes to the system.

With that, we're here to talk about different kinds of alternatives, and what we're going to talk about today is intermediate sanctions: day reporting centers, community service, and restitution centers. I think the restitution center, for example, is something that has been around, but it's just starting now to get real movement among the members of Congress. They're dealing with the Victim's Rights Act that came about in 2006, so there have been a number of different topics that Congress has looked at along these lines, and I think this is going to be a very timely discussion today.

Let me introduce my three panelists who are going to be doing the actual speaking on the topics. After each discussion, we're going to go down the line and we're going to try to leave about 20 minutes for questions, and I think the more questions we have, the more interesting this will be amongst the panelists.

First, to my immediate right is Paul Hegarty who is the assistant deputy superintendent with the Hampden County Day Reporting Center in Springfield, Massachusetts. If you haven't already identified me from my accent, I'm from New York, so I won't hold it against him that he's a Boston Red Sox fan. But he has worked in community corrections for 25 years. He holds a Bachelor of Science degree in Human Services and a Master of Science, both from Springfield College. He has been working for a number of years in this field, and he will be talking about a number of different things. He's been the assistant deputy superintendent since 2000, and he directly oversees all the day reporting, security classification, and treatment related to operations.

To my immediate left is Herb Hoelter who is the co-founder and chief executive officer of the National Center on Institutions and Alternatives, in short, NCIA. Founded in 1977, it's regarded as one of the most progressive and effective criminal justice organizations in the country. Before I even get to a little bit more of his credits, he's actually appeared on T.V. shows such as *20/20*, CNN's *Crossfire*, *Good*

*Morning America, Nightline.* Hopefully, we won't see him on *TMZ* anytime soon, but he's done a number of programs as well.

He holds a Master of Social Work from Marywood College in Pennsylvania and a Bachelor of Arts degree from the University of Buffalo, right close to where I went to college myself, and he has written extensively on the U.S. criminal justice system. He's a co-author of *The Real War on Crime*, which advances promising solutions for criminal justice policy in the United States, and has written numerous other articles.

And to my far left is Kevin Jackson who has more than 14 years' experience in the criminal justice and corrections systems. He is the deputy warden of the Flowood Satellite Facility. He completed his undergraduate degree in criminal justice and graduate studies in guidance and counseling at Jackson State University. He's also locally involved in several community organizations which include the Nominal Group where he sat as chair of the board of directors and as board member of Communities in Schools. He is a member of the Mississippi Association of Professionals in Corrections and the United States Deputy Warden Association.

I think one thing that has struck me not only about these three individuals, but also throughout the entire two-day conference, is that work is not a 9:00 to 5:00 job for everyone involved in this profession. Work does not end when the day ends at 5:00. The ideas that come about oftentimes come from people thinking about things throughout the entire day. As you can see, they're all active in their communities, whether it's writing a book or working with an outside group, and I think it's pretty amazing that we have individuals out there, and, as you can see from two of the individuals who work on Capitol Hill, about how important it is to hear from people in the community.

And, with that, I'm going to turn it over to Paul to talk to you about his program, and then we're going to go with Herb, and then we're going to go with Mr. Jackson, and then open it up for questions.

MR. HEGARTY: Okay. Thank you. I feel honored to be a participant in the panel here at this great symposium, and I'm going to talk a little bit about our overall sheriff's department, but will primarily focus on our day reporting program.

And we started our day reporting program actually in 1986 due to overcrowding. We had a jail that was built for 250 inmates, and at that time I believe we had about 480 or so in the jail. Initially, we wanted to begin a program as a pretrial diversion, but we just don't have the statutory authority to do that, and so we did put it into place as a release mechanism which is in some ways a reentry court, but it's not—it's a reentry effort, and got the courts and the judges involved.

I just want to say our county jail system takes sentences up to two-and-a-half years. Two-and-a-half years or above is a state prison sentence, and we have two-and-a-half years as our county jail.

We had—back in 1975 when our sheriff, Michael Ashe, took over as sheriff, we had around 250 in the jail back then, and their population in Hampden County was around 456,000 people. Today it's still right around statistically the same, maybe 470,000 people, and we have just over 2,000 people in our system, so it obviously shows that we need to come up with other and even better alternatives.

But I'm going to tell you a lot about our day reporting program. And one of the crucial things with this is we know, and research has proven out over and over again, the first days, weeks, and months are critical for determining whether somebody recidivates, relapses, *et cetera*, and so that's partly the intensity of our program.

The other thing, if you notice—and I know there's been a lot of talk about the balance between supervision intensity, over-supervision—our program is for sentenced offenders. They're sentenced to the house of correction and we have classified them to clearly the lowest level of possible security. They're living at home under electronic monitoring.

And most of our participants are deemed to be medium to high risk, and many of them are high risk according to the LSI assessment that they do, Level of Service Inventory, so we're not just taking very low-risk offenders. We don't take serious, violent offenders, sex offenders, arsonists, but we do take some pretty—fairly heavy hitters, as you might say.

And within our system we have our main jail that houses around 1,400 people and above today. Our minimum security/pre-release center houses about 205 people on any given day. Our correctional alcohol center is a regional center for people convicted of third time OUI offenses. It's the primary target population and, again, it's a collaborative effort with different counties around us, and it went from 125 beds when it was developed in 1986. The initiative by our government at the time, Dukakis, opened three centers in the state, and today it's down to just our center. The other two closed. I'm not exactly sure why. When our center expanded from 125 beds to 180, we built out more beds and rooms over the parking lot, made two more stories above that.

Community Safety Center, where I work—our day reporting program is housed in there, as well as the Office of Community Corrections in Massachusetts—does have a pretrial diversion program. They operate in our building. We share the building. We share a lot of resources. As the sheriff's department, we oversee all the security and drug testing for both programs, and they contract with another provider for the treatment.

And then we have the Western Massachusetts Regional Women's Center that was just built. We just moved the women out of our main jail less than a year ago. That was the first women's facility built in Massachusetts in over a hundred years, so give our sheriff a lot of credit for pushing that and getting that done and getting the women the treatment, services and away from—you know, they were housed in the middle of a tower in an all-men's facility with 1,200 men and 200 women and there were some problems there. So that's, again, a regional facility that women from other counties can now use.

The [inaudible] Reentry Center, and that is after-incarceration support systems. That's been going on for ten to 12 years now, about 12 years. It was a staff of four for many years, one inside the jail doing reentry plans, three out in the community, and we're very fortunate to say we're up to 17 staff in the recent couple of years because the sheriff has allocated a lot more resources into that effort and we have a reentry center. Anybody that's ever been in our system, including state jail, you allow them to access that.

I could go on and on about every one of those, but I'm just giving you an overview of what we have. And then we also have collaborations with Foundation House, which is a halfway house for men, and Eleanor House for women, and I'll talk a little bit more about that.

These are some of the key elements we say for our day reporting program, and these are the things that help us to insure and maintain public safety, and we really feel we have a good blend of security and treatment. We do drug testing anywhere from one to three times a week. There's nobody that gets less than one and they are random drug screenings. Regular check-in times, everybody has a check-in time, and it's based on their itinerary and what they're approved to do and what phase level they're on. Community supervision—they're very closely monitored. Again, they're sentenced offenders, and we have officers who are out, you know, every night and during the day, checking people at home, at work, as well as community checks in other areas.

Say, somebody's in an A.A., N.A. twelve-step meeting or a counseling session. We don't obviously want to interfere with that session. We have a mechanism—those of you who are familiar with electronic monitoring would know this probably—but we can check on them from outside the realms. We don't have to enter the building or the room to know whether they're there or not.

And then their daily itinerary sheets. They have to fill out itineraries on Tuesday for the following Friday through Tuesday, and then on Thursday for that Wednesday through Saturday. They're always filling them out ahead of time. It's very specific, detailed, says exactly where they're going to be. They can do any type of treatment, education programs. I'll get into all that. But we have to always know where they are.

And we have, again, the electronic monitoring just to make sure where they're at. In some ways it's kind of funny, but I just learned this last night from re-reading some old articles that I came across from 1986. When the program was initially developed through the Crime and Justice Foundation and a site was chosen, Hampden County, they were very opposed to the electronic monitoring feature of the program, and our sheriff insisted on it based on, I think, the mood of the public and public safety and those kind of things, and we've maintained that for 22 years and we believe strongly in that as a strong tool. And, by the way, we were the first day reporting program for sentenced offenders in the country. The electronic monitoring did begin a few years earlier, as another type of initiative.

So many other things, clear eligibility criteria. We have a sentencing grid that we spent a lot of time developing and retooling, and we actually have a committee of about ten of us in our system with about 900 employees. There's about ten of us—I'm one of them—who meet once a month and we just take sometimes a half-an-hour, sometimes it's an hour, and we just review our classification grid. Many times there are no changes, but we just want to make sure it's reviewed regularly and that determines who's eligible. There's a very strong treatment component, and I'm going to show you just a couple of slides and charts that are going to show you some of the results of that, but we really rely very, very heavily on community agencies and services. We're trying not to provide all the services as the Sheriff's Department for a couple of reasons, one, the cost factor. But probably even more important is there are community agencies that they're going to be going to, that we're trying to get them involved with anyway, so if they're coming to us for counseling and then they wrap up tomorrow, they're not going to probably come back and see us, but if they're going to Valley Psychiatric Services or Alcoholism and Drug Services, they've got a rapport with their counselor, they're more apt to stay with those agencies.

And then employment development and life skills. Again, we have a tremendous program for employment, vocational training, and I could, again, spend a half-an-hour just talking about that, but some of the slides will tell you a little bit more on that. They used to have a total of 12 slides, so I'm not doing too much, but this just gives you an idea from January 1st to December. Our year is fiscal year

July 1st through June 30th, but I just thought when I was putting this together I'd take a full year that I could really, you know, look at, but half of our group comes right from the male jail.

Ideally, we'd like to say the program initially was designed—people come from minimum, prerelease, or the Correctional Alcohol Center and get better prepared—but it's just the nature of things in our high population, and we find that the people who do come out of the jail—we've initiated a lot of programs in our jail. Everybody has to go through a 28-day mandatory program before they move on to anything else within the jail, right after their three to five days in orientation, and get exposed to a lot of different things. So, again, I don't want to get too far off track, but that's where they come from.

And I just picked, again, a day in time, on July 8th. You can probably guess what day I was putting the final touches on this and I said, "Let's look at today," and we have—substance abuse, mental health treatment in the community. I'm not really a statistician here, but I said 84, but eight of them were brand new, came in that day, so I didn't count them, so that 66 percent is up to 76 percent who had a potential to be in community program centers by their statistics.

Our Office of Community Corrections, again, it's based right in our building. It's an alternative to corrections program. We don't use it a lot because we find we can use the services of the community, but we did have three people who we referred into that program in our building. We are a referral source. The correctional centers don't use it too much and parole is also a source of referral. The largest one is probation.

Seventeen people living in residential halfway houses at no cost to us. Okay? It's not like the Federal Bureau of Prisons where they're paying so much money for the bed. One of them, the biggest one, and I'll get into it very soon, is a collaborative effort between our Sheriff's Department and some community agencies, called the Foundation House, and the women's version of that, which we've been pushing. We said we were going to do it for 12 years and we did it a year ago. We have a women's halfway house program.

So 17 of those people are living in residential treatment programs. Thirty of them were in out-patient counseling. You can see all this. But we had 49 attending our in-house programs, and the bulk is the people that—in the first especially probably eight weeks in our program, they have to meet each week with their counselors in what we call a peer support group, and the counselors are there, but most of the work is done by the people in the group. And theirs may be, you know, not their whole caseload, but the ones that aren't as established with us and into programs and all that, so they might have eight people in the group, which is a very good working group there.

And then A.A. and N.A., 95 percent are attending that. Some of that is with some coercion, but if somebody's deadset against it, we just tell them, "We want you to at least to try one meeting a week. Try going to it and see what you think about it," and we have very little resistance to that. We do know we have to keep on top of that. We don't want to send people who don't want to be there or send ten people to a small meeting when it's only a 20-member group of something, so we're aware of all those things also.

And then I didn't really think to put this one here, but when we had the presentation on the community accountability, we have—believe it or not—30 of those people who are participating in our

community accountability boards which, again, I could give you a whole other presentation on that, but I just wrote that on here from being on that presentation.

In vocational training or employment, 47 or 62 percent of our people, and down the bottom there 198 jobs were secured, and that was of those 484 people that come into our program, so a lot of people say, "I can't get a job, I got a record," this and that; 198 people were able to secure full-time employment, and some people have gotten some very good jobs.

Our vocational training program is tied in much so with our—well, we used to be traditional community service, and now most of our community service is based on learning a trade. For example, I just mentioned it to Michael earlier, just because I'm very proud of it, and Rich Devine, who's the gentleman right here, but it's a key in our community service and employment. He's the director of that for our sheriff's department, so I give him the credit for this.

For example, there's a painting crew. Instead of going out painting for community service, with us paying for the officer and all that because of so many demands, we contract with the City of Springfield, which, for example, is one of them. They pay the salary for the officer who is training his—it's a smaller crew for the painting, maybe four guys, and they get a hundred dollars a week stipend which, coincidentally, is just enough for them to pay their own fee in the Foundation House, and so they can live in a residential program, get trained as a painter, and we paint at City Hall and the police department. I mean it's just amazing the buy-in of the community. Can you imagine that? They went in and painted the commissioner's office in the police department.

And the cleaning crew over in our building is a crew of female offenders from the Women's Correctional Center. Not that they have to be women, but they really wanted to develop the custodial program, and it just worked out that it worked well to get some of the women involved in that, and so they're learning a trade and they're doing our building, so it's just some great things.

Another thing—I know it's easy to run out of time, so I'm going to go quickly. Teaming partners: each counselor's assigned to a day officer and a night officer, and our officers are more like—we're all almost like the same. The counselors clearly have their own duties, but if Sonya's not around, they can talk to Kevin and Angel, or Angel goes out to their home. The night officers: their main job is going out to the homes randomly. They give a breathalyzer. But they're also there to support them, "How you doing," "Are you following your itinerary," "You okay," and they work together. Again, any of these I could go on and on. I can only get a couple more.

The Foundation House: a partnership with the Massachusetts parole. They do give us some funding for this, incorporation for justice management, and we rented an old nursing home and we have 50 men living in there, and they work, pay their program fees and attend recovery meetings. There's treatment. Housing employment services are right there and the fees and grant support, operate the house. It doesn't come out of the sheriff's budget.

Eleanor House: same thing, eight women. We've been trying to do this for a long time. We got it done. And they're not easy to fund. We do have some—and we're hoping that—the governor had until Sunday to veto any line items and each of these programs had some line items—the Department of Public Health, Bureau of Substance Abuse—to help support, so we get whatever we can to support these initiatives.

These last two slides I think are critical, and the most recent three are studies, 23.7 percent of day reporting participants reincarcerated. Here it says 44 percent of the house of correction versus whatever it is, 60 percent nationwide. And this is for any conviction at all. And many of them are driving after suspended license, so it's just whatever they were incarcerated for at all.

The actual cost, \$32,326 for the jail, \$16,855 for us, day reporting. We had a 77-percent success rate for the last year. 7,766 urines we took and we had 82 positives, about one percent. That's our main failure rate for the program. We don't lock up, throw away the key, you know, that kind of thing. I can't get into too much on that.

Over 8,000 people—this is critical, 153 people—coincidentally, the exact same number got released from our main jail with all those people from our day reporting program was 153. We had 28 warrants issued for those who were released on parole, and the jail had 76 warrants issued so, obviously, they're much better prepared for a lower level of security when they come out of our program versus being released from the jail. And thank you very much for your time.

MR. DORHOFFER: Quite amazing success stories in numbers when it actually hits you in the face, when you see it, so thank you. Now I'll turn it over to Herb. He's going to talk to you about his organization, NCIA, and his success with some of those programs.

MR. HOELTER: Thanks for your time and certainly for the opportunity from the Sentencing Commission. When I first got the call and heard that the Sentencing Commission was doing a couple of days of intermediate sanctions and alternative sentences, it was really exciting and I'm excited to be invited, but then I just had one of these déjà vu moments and I harkened back to June of 1987 when I came before the Commission prior to the implementation of the guidelines and appeared before the Commission arguing for community service sanctions to be included as part of the guidelines.

At the time, I was representing the National Association of Criminal Defense Lawyers in that testimony, and we got invited to that because for the prior decade NCIA had led the criminal defense community in developing community service alternatives in both state and federal court.

At the time of that invitation we had offices in 12 states, from California to New York to Florida, doing sentencing alternatives for individuals facing state and federal judges, and we had, prior to the implementation of the guidelines, a lot of significant successes in convincing courts about community service.

So, a few examples. We had a young man convicted in a very, very serious automobile manslaughter case in the State of Maryland. He had killed ten of his friends when he was 16 years old. We went to the victims in that case. It was on the Fort Meade Army base. Worked with them and spoke with them, did some of the victim reconciliation that we see here with some of the panelists today, and the young man's sentence was six months in a rehabilitation alcohol program and three years of 20 hours a week in a shock trauma unit, unloading ambulances and helicopters.

Prior to the testimony, I had lawyers working with legal aid groups [inaudible] issues. I had convicted doctors working in AIDS clinics. I had athletes with drug convictions speaking to high school groups. We had a builder who got convicted of an anti-trust conviction who built a spina bifida camp for youth and family in Pittsburgh.

And I went to the hearing quite excited for the opportunity to talk to them about the value of community service, and I got there and I was sandwiched between a presentation from an attorney from the Antitrust Division and an attorney from the Tax Division, and in both of those departments we had recently presented community service successfully, argued for community service cases. I had a businessman down in Orlando on a tax case of about a couple-hundred-thousand dollars, and his community service was belittled by the U.S. Attorney at the time. His community service was organizing golf tournaments. We can laugh at that, but if you're ever played or participated in a golf tournament, it's a lot of work. It takes an average of about 500 hours per tournament. And this guy raised \$75,000 in three tournaments for local community groups and did not have to go to prison. He lived in a halfway house while he did that.

So he wasn't really encouraged by my testimony at the time and, lo and behold, to no one's surprise, our sentencing guidelines at that time came out as prison guidelines, and for the next 18 or 19 years pre-*Booker* or until *Booker* I think our organization through our offices across the country basically did damage control, arguing for departures with community service, arguing for community confinement with community service. We kept the debate alive for the individuals that we represented, but we also knew that it was very difficult.

Then it got harder. Some of you have heard about the infamous Thompson memo when John Ashcroft was Attorney General, which further limited the use of halfway houses because we were still under the kind of old law school where you could use a halfway house and community service and restitution and we could package a good thing together. Now the BOP comes out and said, "Oh, gee,"—Justice comes out and says, "We can't do that anymore; halfway houses are no good," except I just left a presentation about halfway houses that said they're fantastic. They work for 94 percent of their guys. So, you know—

And I think at the time, the sentencing rules, under 3553(a), the statutory purposes of sentencing, got a little bit diluted. Nevertheless, we moved forward and, you know, we lived through the days when punishment and deterrence became the hot issues, and rehabilitation and restitution became kind of soft issues. I mean there wasn't a lot of room for that.

And then we started looking at more research, and we've had wonderful research presented throughout this conference, and it's just—you know, it's stuff that we kind of instinctively know and now these people tell us it really works. But we have to understand, and I don't mean to throw cold water on anything, but I think we have to understand that sentencing and criminal justice policy has never been based upon research. It's based upon a whim of the time. Unfortunately, the whim of the time for the last couple decades hasn't been in favor of community alternatives.

And just a couple quick examples. We have this whole truth in sentencing that came out where the defendant has to serve 85 percent of his sentence. I mean who found that out? And where did 15 percent come from? Why wasn't it 20 percent? Why did the Bureau shorten it to 14 percent, cheating those guys out of those seven days? Well, we don't know where it came from.

A second example. We abolished parole, so there's no more supervision, so a guy does that much more time and that much—lies in an institution with no programs available, and then we turn him [loose] without supervision. I don't know where these things came from, but they got into the system.

And that's where we are today, except now, particularly in the federal system, we're empowered. We're empowered by *Booker*. We're empowered by *Gall*. We're empowered by *Kimbrough*, all Supreme Court cases which reinstate the original goals of sentencing, deterrence, looking at restitution, looking at rehabilitation. We're now empowered to step up to a judge and say, "You're allowed to look at rehabilitation." You don't have to put a guy in a box anymore. We can go outside this box very easily.

And we're really encouraged by a conference like today. Ten years ago, you'd never have wanted to do something like this, but now we have an organization to address issues and incarceration and optimists and I'd like to say that we can all meet in a conference singing *Kumbaya*, but I'm also a realist. We've been in this business for 30 years and we have too many defendants receiving five and ten and 20 and 30 year sentences because they were "within the range" of the guidelines.

In some of these, I'm really fairly inadequate to be giving this session here today. My last three cases of non-violent, first-time offenders were white-collar defendants who received 24 years, 20 years and 12-1/2 years. Chris Pahigian, one of my staff from New York, she's in a room next door and her last three cases got 500, 300, 1,500 hours of community service. I was like Chris, maybe you should come here and I'll go to collateral consequences. But we're making a lot of progress.

And we recently had a sentencing in New York—I'll bore you for a minute—but it was Judge Gleason in the Eastern District of New York, and I'd like to read his transcript. It was a defendant who was involved in a hundred-million-dollar crime. It was a major fraud. He came in early, before the offense was detected. He cooperated with the government. He did all the things that he needed to do. We put his background together and argued for an alternative, and the court said these details—I mean it says something about the size of the fraud. This is Judge Gleason, "that an additional"—they're arguing whether it was 70 million or a hundred million—"that an additional 70 million does really alter the point, the point being it would be a huge—for the sentence that Mr.[inaudible], the defense attorney, requests on your behalf to promote respect for the law if that sentence doesn't include incarceration."

"In fact, you know, one might say how could—no matter what the timing of the cooperation, no matter how essential you were to the prosecution of the more culpable defendant, how could you justify an intelligent, accomplished businessman such as yourself committing this type of crime and not being sent to jail, not having the most significant sentence, a type of—and the most significant form of condemnation a sentencing judge in a financial crime can mete out."

He continues, "But nothing should ever be out of bounds, and I've struggled with your lawyer's request and struggled with it throughout the presentations I have heard here and I conclude that a sentence that doesn't include incarceration is appropriate here. Alternatives to incarceration exist that can carry both the community and this court's condemnation of your conduct but channel it in a way that's more constructive."

"Given your significant charitable works and contributions before this case, given the extraordinary timing of your cooperation and it's nature, given your age and your physical circumstances, I don't think the goals of sentencing here require you to be incarcerated. I'm placing you on probation for a period of five years. A special condition of probation is home detention for six months. Another is that you perform 500 hours of community service." And this was the sentence on April 1, 2008.

And I want to return now to my main topic here, which is the topic of community service, and I think all of us, and you don't have to be a rocket scientist, all of us know intellectually the practical arguments for it. It's less expensive. It promotes community and social restitution and reparation. And rather than talk about it, you can go to an excellent monograph put out by the Administrative Office of the U.S. Courts in 2005 specifically on the values of community service. I mean it's there. It's written and they talk about the goals, they talk about the benefits, they talk about the values, they talk about the role of the probation office, and these are all—they all fit into sentencing factors.

So I don't think there's any question that community service can be good, as with most of the programs that we've looked at and heard about the past couple of days. The question becomes, "Who gets it," and the question becomes, "What group of offenders qualifies for it?" And I'd like to kind of do what they did in the RDAP presentation yesterday in your prison programs and I'd like to kind of reverse the question, "Who doesn't qualify, who should not qualify for community service?"

And some of them are easy. Let's just start with the easy ones: violent felons, career criminals, major drug traffickers, predators, child molesters and all rapes for most offenders [inaudible] a little bit, but there's no rape, so let's look at that relative to our current federal prison population. As we sit here today, we have 201,218 inmates in the Federal Bureau of Prisons. By the way, when the guidelines came out there were 45,000. We're now at 201,218. Okay? Let's say very conservatively 40 percent are non-violent. Fair number, maybe 30, maybe 50, but let's say conservatively 40 are non-violent. That's 80,000 inmates.

Let's say we disqualify 50 percent of them, okay, you know, related to drugs. You know, they're in a program—all that. We now have 40,000 non-violent inmates who could possibly qualify for community service. And if you just put those—using some of the soft numbers, you started at 40,000 and did one year of incarceration less in exchange for community service, it would save the Federal Bureau of Prisons \$800 million, \$800 million.

Let's be more conservative. The Bureau—now has 17,000 inmates in federal prison camps, non-violent. You know, they can walk away at any time. Again, there's 17,000 in camps. Let's say we take 50 percent of those. That's 8,500 inmates. Okay? That's \$160 million saving to the Federal Bureau of Prisons. And some of you who are aged like me remember some of the old days with some of the programs that the Bureau did. A former warden at Eglin Air Force Base, Mike Quinlan, who went on to become the director of the Federal Bureau of Prisons, he ran a community service program out of his federal prison camp up in McKean, Pennsylvania, at a federal prison camp, took 25 guys out a day doing community service. These are non-violent inmates doing nothing but laundry or, you know, five guys with one lawnmower. Okay. Why can't they use these types of defendants for community service?

We have this kind of public safety rhetoric that's been dominant in the system and in this field. And now we think we know what works and we have all these program models available. The question is, "Why don't we do it?" And I would suggest to you that there are two reasons for why it doesn't happen, why we don't have more extensive community service and inmates giving back to the community. The first is money, and those of you who have been in the field know that alternatives have always been a fringe. We've always been on the outside of the system.

If there is a budget cut, they don't cut the institutions, they cut his day reporting center. If they have a budget cut, they don't cut the institution, they cut the restitution center down the street or the

intensive supervision center or the community service program. That's just realistic, you know. Community service programs don't have lobbyists on K Street wanting more prisons, fact of life. It's just the way it is. It's a money issue. So if we want to get serious about community service and other intermediate sanctions, you have to put money into them and that money has got to come from somewhere, and I suggest to you that there are places that it can come from.

I'm just about finished. I hope my time's okay. The second is the issue of leadership, and this has been one of my issues since I've been involved in the system since 1972. Where does leadership come from, and who's going to take the lead? And this isn't any personal criticism of anybody who works in any system. It's more of an institutional overlook and an institutional gridlock because if you look at the organizations here at this conference—okay, we have the Administrative Office of the U.S. Courts. We have United States Probation Service. We have the United States Sentencing Commission. We have the Federal Bureau of Prisons. We have the Department of Justice. We have the legislative branch of our government. We have the National Institute of Corrections, and we have the National Institute of Justice. And you're telling me all those stakeholders at the same conference on intermediate—tell me, which one of them is going to step up and take the leadership on alternatives? And the one that does, they may be a bandit, but they also may be the one who rides in on the white horse because all of these agencies, and I don't know if you know the geography down here, but all of these agencies are probably within two miles of this hotel, okay, working, not together necessarily.

And I'd like to offer just a couple of suggestions about things that they could do. For example, could the Bureau of Prisons on its own take a leadership initiative and fund RDAP wholly so that we don't have a 30-percent waiting list in the RDAP program in the Federal Bureau of Prisons?

Could the Bureau of Prisons on its own issue a policy statement about community service and say that for every four hours, for every eight hours, we'll give you one day off extra good time? And watch how many people would sign up and do that for one day of good time.

Could the Sentencing Commission promulgate rules or guidelines that say judges should consider community service in Zone C or Zone D offenses, and it should be and can be a realistic alternative?

Could the Department of Justice, and [inaudible] on this one right now, but could the Department of Justice do something about continuing the expanded use of halfway houses and stop their U.S. Attorneys from arguing for the maximum guideline sentences in every case out there?

I can't remember the last time I saw a probation report that recommended community service. Could the Administrative Office of the U.S. Courts take the lead and say to judges and probation officers, "We want to teach you about community service, and we think it's a viable alternative? We'd like to teach you about day reporting centers and about the expanded use of halfway houses." Could the AOC step up and do these things? And could maybe a few agencies as a whole go to Congress and say, "Listen, I know you've been on this get tough kick for the past 20 years, but maybe it's time to take a time out." Maybe we've [inaudible] too much.

I don't know of any law that can happen, but I'm saying that it should, and I'm saying that it's up to us as practitioners to help them and give them the courage to face the challenge that we all know has to happen. And I haven't even talked about the issue of race. You know, this is the first criminal justice talk I've given in a decade that I haven't raised the issue of race because it's not on my plate right now,

but those of you who don't think that we're going to solve the criminal justice issue without dealing with the issue of race in our system are way out of school, just way out of school. It has to be addressed. So thank you very much.

MR. DORHOFFER: Thank you, Herb, for those remarks, and I'll now turn it over to Mr. Jackson. He's going to talk about restitution centers. As I said, we're going to have plenty of time for questions.

MR. JACKSON: Okay. Thank you, Alan. First of all, good evening.

BY ALL: Good evening.

MR. JACKSON: I'm a little concerned. I'm the last person presenting today and they normally say they save the best for last, but after listening to Paul and Herb, I don't know—

Let me just say I'm honored to be here today. Actually, it's a little different. Actually, it's a little different. My boss was supposed to be here, but had a prior engagement and so she—I was going to say “elected” me to come in her place, so I said, “No problem, I'll go ahead and I'll do the best I can.”

If you don't hear, I've got a little accent, so I hope you guys can bear with it. I'm going to go ahead and start, Alan.

MR. DORHOFFER: Go right ahead.

MR. JACKSON: We have a restitution program in our state. Okay.

MR. DORHOFFER: Okay. Is that—

MR. JACKSON: Okay. The Mississippi Department of Corrections has a restitution center program that provides an alternative to incarceration for minimum risk offenders who are in need of a more structured environment. Basically how this works is the individuals are revoked by their judge, sentencing judge. Sometimes they come out of inmate status. Other times they come out of [inaudible] they've already been sentenced by a judge [inaudible] crimes.

About less than ten years ago, our budget was around \$150 million in Mississippi, and we had about—between 11- and 12,000 actually incarcerated. Today we have over 22,000. We had about 12,000 on probation. Now we have about 23 on probation, being supervised. But our budget now, as you can guess, would be about \$209 million, so it is growing, to say the least.

What happens here, our judges have been—we've been promoting through judges to use our program. Some of them have been around for years, but they've been, as you heard earlier, tough on crime and they didn't want to spend any money—basically go to prison, same for several years, decades. And so these centers have been here and you had key people in these centers, and they've just not been used properly, but now we have probation officers and different wardens and other dignitaries promoting these areas to get them to use them a little more effectively.

In our program, we encourage the offenders to take responsibility for their actions, okay, as well as encourage them to maintain a job and pay restitution to the victims and any other financial responsibility that they may have, be it child support, be it medical bills, things of that nature.

We have several programs within the program that are tailored to assist them in this transition. We offer anger and stress management, conflict resolution, and, of course, we offer drug treatment. We do budget courses, self-esteem courses, trying to teach them how to be a better person overall, adult basic education. We offer GED courses and mental health services. Of course, we have a point system that grades them on their good behavior, and we definitely believe in community service.

What we do in this area, we have them go down to different shelters and church organizations to prepare meals, to assist local counties in, say, picking up trash or assisting in their—and picking up, I guess, in gardening areas, things of that nature, okay?

Our location, we call our participants “residents.” We don’t call them offenders or inmates, okay? The residents of the restitution program are required to work and pay full or partial payments in restitution to their victims. They pay room and board each month, which is a rate of \$10 per day. It equals about \$310 per month. And they are required to perform at least 40 hours of community service. They can do more, but at least 40 hours.

All the candidates are screened for acceptance to the program prior to sentencing. They must be first-time offenders. Sometimes they are resentenced to the program. They must be in good mental and physical health. They must be employable, and residents must have a sincere desire to participate in the program. Sometimes we have to do a little coaching in that area, but eventually they do catch on and it works out just fine.

How do you not qualify for the program? Violent crimes, because these individuals work out in our society. Basically what we do is we have a contract with different employers in our surrounding area, and we take them to and from their jobs, and so we don’t really want to have violent criminals in this area or sex offenders.

Also, if you have a drug, alcohol or any emotional problems, that might [inaudible] program so harsh, it may affect your participation.

Currently right now we have four centers in our state. Jackson is our capital city which is in the middle of the state. The Pascagoula section is on our coast. The Greenwood section is in the northern part of our state, and the area that I direct is right next to our capital city, which is in Flowood, which is the only female institution in the state that has a restitution program.

I have to try to stay on point because I have three programs at this site. I have a boot camp for females, first-time offenders, which we also call shock probation, and then I have a community work center which houses about 200 inmates at this location, as well. So sometimes when I give presentations, I kind of jump from one to another. I have to remind myself where I’m at and what we’re talking about.

On average, there are about 250 residents in our centers monthly. Community service hours that they do monthly is about 16,000, and they’re paid for about 500 hours—about a thousand hours a month.

Looking at a few numbers here, last year—last fiscal year, which is the same as Paul’s, from July 1st through June 30th, we paid over \$1,200,000 in restitution, fines, court costs and things of that nature. Family support, which would be child support, over 8,000. Holding accounts are monies released to them as they are released from the program. They have money to assist with bus tickets, as they go home to find apartments and things of that nature. Personal allowance, over 191,000 to assist with their personal hygiene things, small medical bills, clothing, so forth, so on. They are responsible for all of their bills that they create—we do not provide them anything, okay?

So as they arrive at the facility, they go through a seven-day orientation basically. They go through interviewing skills, training for a job, different job training, and then after that we put them to work. And so anything that they create as far as any type of medical bills, any type of clothing bills, anything of that nature, they are responsible for. Room and board, last fiscal year, about \$700,000, and total disbursements, about \$2.4 million.

Basically I’ve been at this facility for about four years, and when I first arrived, about four and a half years ago I did not know what to expect, coming out of the training division, coming from working with all men, working with women was a little bit different. And so the programs are very—what happens is a lot of inmates—a lot of residents come to the program. Actually, they are rebellious. They think that the world or society owes them things. They don’t realize the people, the victims they have hurt previously.

And so what we do is take time out to talk to them about what’s actually going on with their incarceration, if you want to say, in this program. We talk to them about being a better person in society and also trying to work them towards being out there and a better law-abiding citizen. And we have some pretty good success rates. Our recidivism rate for this program is very, very low. With my program, I tend to see people coming back into the system with my community work center and in my four years I’ve seen less than 60 percent come back in this area, and that’s about it.

MR. DORHOFFER: As I said, we wanted to save a lot of time for questions. Do you have a question?

QUESTIONER: Mr. Jackson, the chart that you had up that showed the money disbursement—

MR. JACKSON: Yes, ma’am.

QUESTIONER:—is that money that’s generated by the residents?

MR. JACKSON: Yes, ma’am, everything. What’s your name?

QUESTIONER: [Inaudible] from Eastern District of New York.

MR. JACKSON: All right. Thank you for that question. All monies that we show on that chart, that came from all the residents from our four centers, and they work. They work very hard. And we require them to work six days a week. Sometimes their employers will want them to work more than six days, but we kind of give them a day for themselves to do little things, you know, around the center, but all the money that you saw, yes, it was created by them.

QUESTIONER: Mr. Jackson, it shows almost \$736,000 towards room and board. Does that fully fund the center or is there additional money from the state?

MR. JACKSON: It does not fully fund it, but it's a large amount. I would say at least over 70 percent. We're pretty much self-maintained in a way. We provide their transportation to and from their jobs, to and from medical appointments, to and from the other [inaudible] that we have, and it's pretty large. Our coastal area in Pascagoula, they have construction jobs, and those guys pretty much can [inaudible] in two or three months.

MR. DORHOFFER: Yes?

QUESTIONER: How are the residents selected for the program? Can a judge sentence them to go into the program automatically or what is the selection process, because you seem to have different [inaudible] for your residents?

MR. JACKSON: Yes, ma'am. A judge can sentence them directly to the program. A lot of recommendations come from their field officer or the probation officer. Previously, what we've been getting in lately are inmates who are sentenced out of their inmate status from years ago, say, six years ago, seven years ago. The judge gave them ten years and also to pay restitution when they get out, so in that area we serve as a reentry program to get them prepared to go back out into society.

MR. DORHOFFER: Paul, do you want to talk a little bit about how the people come into your program?

MR. HEGARTY: Well, the judge doesn't sentence them to the electronic monitoring or day reporting program but, again, they're classified through a review of the classification grid to determine their sentence. We don't take anybody with longer than six months from release, but we do take many times short-term offenders. But a probation officer can call us. The district attorney sometimes can call us and ask if we can take a special look at this person and put him or her on a program, so there are some informal mechanisms for that.

MR. DORHOFFER: What is the age group that's in your program? I'll ask you, Paul, first?

MR. HEGARTY: Our age group primarily is in the mid-20s, but we have 18-year olds and we have 60-year olds, but primarily mid-20s, 30 years old.

MR. DORHOFFER: Mr. Jackson?

MR. JACKSON: On average, our age ranges between late-20s to mid-30s, but I've seen them as young as—I think the youngest one was 15.

MR. DORHOFFER: Yes, Judge?

JUDGE SOROKIN: My name is Leo Sorokin and I'm a magistrate judge in Boston. I was wondering, can you take federal people in your program?

MR. HEGARTY: Yes, we do take federal people and I actually meant to say that as part of my [presentation]. We'd love to have more, and I know I spoke to Jerry prior to his presentation out there, and I had some follow-up conversation with him, but we've got—you know, like today I believe we have two federal offenders. On average we have anywhere from two to four on any given day. And the good thing about it is in the ten years that I've been specifically with day reporting, we've only had one person fail as a federal offender. So partly maybe—again, we're not taking the highest risks and all that, but we have an excellent track record and would love to.

And I had spoken to Jerry about some options, one being people that come to us from a true halfway house, they have to come from Boston. So they go into the halfway house, they get a job, they get sick and they travel 90 miles to Springfield. It's not a good plan. In our so-called halfway house, which is nice as we can have it, it's a service, but it's our minimum true release center which for a lot of federal offenders, they're in shock when they walk in there because it's more like a jail than what they were [inaudible] you know, it's really not a halfway house. So, anyways, that's something we're clearly open to and looking at, trying to expand our services, there.

We own a ton of electronic monitoring equipment; it was a good investment. What I'm saying is we have 200 units, you know. We only got like 85 people, so we're not restricted to—and they're living at home. So, you know, we don't have any space problems. We do have a big, big problem with people finding good solid home plans. I'll just give you an example. I don't want to get too far off the track, but I'm sure a lot of people can imagine this, but an example last week, this guy gave his home plan of his aunt and our staff called the aunt, "We're going to come out, we're going to look at your home." "He gave you my name? I can't believe he gave you my name. That SOB, you know, and he's in there under his cousin's name, you know. That's not even him."

They think that they've got a good relationship. The thing is—that's a true story. It's a little unusual, but we do get those kind of reactions sometimes and that's a big problem we have, housing, and that's why we're in partnership with other agencies, developed that 50-bed program for men and the eight-bed for women, and we'd love to see the Federal Bureau of Prisons contract with the local halfway house. And we even—I think we could get some creative ways of allowing them to live in the Foundation House and not at the Federal Bureau of Prisons, pay a higher rate, just have them rent a room there, but maybe I'm getting off track. But we're open to anything we can do to increase that population.

MR. DORHOFFER: Sara?

MS. NOONAN: I'm Sara Noonan with the federal defender office. I have a question for the programs. Do both of the programs exclude violent offenders from participation?

MR. JACKSON: Yes.

MS. NOONAN: Yours does. Does the Massachusetts program?

MR. HEGARTY: We have people—we kind of go a little bit along with the sentencing guidelines for the Office of Community Corrections, more along those lines of serious bodily harm kind of a thing, but we do take people—for example, assault and battery on a police officer, but we will call the police officer and, believe it or not, many times they appreciate the call and say, "Go ahead." We'll call even if it's a police officer. But a victim, depends on the severity of it. So serious violence, we don't

take them, but if it doesn't seem as serious, the victim, we do let them know and ask them ahead of time if they have a problem with them coming out, and more often than not they don't, but we do a good prescreening ahead of time.

QUESTIONER: So for the Mississippi program, which does exclude violent offenders, I'm assuming in that category are, you know, rape, murder, robbery, aggravated assault, but how much broader do you define violent offenders? Would you include a walk-away escape or pick-pocketing or how far do you go down the violent offender line?

MR. JACKSON: Basically we would take like a simple assault. They don't consider it violent. I even had a small arson. We basically consider homicides, armed robbery, things of that nature.

MR. DORHOFFER: Would you take on one of the questions that been raised by the lunch speaker? How about burglary offenses?

MR. JACKSON: We did. [inaudible.]

MR. HEGARTY: I would like to just add that we do have a much higher level of consideration for federal offenders. No, seriously though, I think partly that's what the Federal Bureau of Prisons wants, doesn't want you prescreening all the people, as was mentioned out there, but we've always taken a little more risk with that group because of the fact that most of them have done a large amount of time. It depends on the charges. And in county shorter sentences haven't been with us as long. We don't see them changing their behavior as much, so we're more apt to take a violent offender from the Feds or even a gun charge or things like that.

MR. DORHOFFER: Judge?

QUESTIONER: My question is for Mr. Hoelter. In the criminal cases that you handle, you and your associates handle, when you have a candidate who you believe would be a good candidate for a non-incarceration sentence or a 3553 in the guidelines, do you make specific recommendations about community service as an—in other words, do you create a package to present to the judge saying, “Look, you know, we realize this is a serious offense, but because of X, Y and Z factors we feel my client does not deserve this and perhaps if you would consider, I don't know, home confinement for six months or even a year with community service, doing [inaudible] he's got an expertise.” Let's say he's an architect. “You know, maybe he can go out there and help with the, you know, House for Humanity or something like that.”

MR. HOELTER: Yes.

QUESTIONER: Because, quite frankly, what I get is, “Judge, we want a non-guideline sentence,” and then they just like throw it up in the air, and so then it's up to me if I feel that maybe it is warranted to come up with something that I feel is appropriate.

MR. HOELTER: Yes. That's been the nature of our practice for 30 years. We actually develop a very client specific plan that would involve community service at a particular agency using that client's skill set, a specific restitution plan, a living plan. You know, can the offender live in a halfway house or in home confinement and would there be adequate supervision? And we present that either in an

independent report to the courts or through the defense attorney's sentencing memorandum. Most often it's through the defendant's memorandum at sentencing, and we put together a very specific, detailed plan to present to the court.

MR. DORHOFFER: Yes?

QUESTIONER: Mr. Jackson, have you compared your collections versus others who were released in terms of, you know, were you more successful or less successful or how much more successful, I mean empirical research?

MR. JACKSON: To inmates released and on probation?

QUESTIONER: Correct.

MR. JACKSON: No, we haven't. We have not.

QUESTIONER: Do they tend to complete your program paying off their restitution or how much is paid off and how much is still owed when they complete your center?

MR. JACKSON: It all depends on the judge's orders. A lot of times the judge will say partial payments just to help get them started. Some judges want them to make full payment. Others just let them come and complete the program, meaning come in and complete the point system. So roughly we collect about 80 percent among the people who come through our program.

QUESTIONER: About how long do most people stay in your program?

MR. JACKSON: Three to six months.

MR. DORHOFFER: And Paul?

MR. HEGARTY: Primarily about—we'd like to have them for six months, but some we will take them for as little as two weeks. But, you know, we feel the closer to the three to the six-month range, the better to really prepare them well.

MR. DORHOFFER: I do have another question if I might ask. Some of the motions that you've made to the court, Herb, the ones that are more successful, maybe some of the practitioners, what are some of the success stories, not so much the war stories, but certain factors that the court, you think, should be looking to, or things that have succeeded, such as the community service for certain—is it a charity they're looking for, or is it a certain individualized factor for the individual who wants to teach—something along those lines? What are the main factors that you see that succeed over and over again?

MR. HOELTER: Well, that's a really difficult question because of the volume of cases we've done and the types of individuals, but our challenge and our role is to give the judge as much information as possible and as many options as possible. And post-*Booker*, we're using 3553(a) as variances rather than having to meet the standard of departure. We've seen judges more than willing to look at a defendant's background and, you know, not a sob story, a grieving wife who's going to be left alone with

the kids, the real factors, and what we're finding is that character counts. The courts will look at and should look at a defendant's background and not the two years he or she might have been involved in the offense, but the 42 years of service to the community, of being a good father, provider, taxpayer, whatever. You know, we all have our faults and sometimes, you know, some of us go past those faults into the criminal justice field, into the criminal field. And there are no excuses for any of the criminal behavior that comes before a court, and I think it's silly to try to make excuses, but what you can do is put that defendant in perspective and put that defendant's character and background in perspective.

We had one of the Merrill Lynch cases in the Enron debacle. The government wanted 15 years for a guy who was formerly the head of worldwide trading for Merrill Lynch down at Houston corporate, a very, very difficult and challenging case. His guidelines were 12-1/2 years, the government wanted 15, and the judge gave him 30 months. And it was an eloquent transcript about why character counts, why it should count, and that we can't discard a person and their background solely as a result of a criminal offense.

And I think we're starting to see more and more of that in the brief transcript I read from Judge Gleason. We're starting to see judges saying, "You know, that should count for something." The guidelines do not allow it to count and I think judges are now returning to the roots of their—you know, U.S.C. 3553 and using those factors.

The other factor that we've been using is research. There's wonderful research on sentences imposed that the Sentencing Commission puts out, not just their annual report. They have a complete data base manned by the University of Michigan that we've downloaded. So we can say to a judge, for a \$10 million fraud, the average sentence imposed in the country is not the 120 months, it's really 64 months, and that's due to cooperation and other things. And we can enter the variables in a data search because a judge is under enormous pressure from victims and the government to just roll the numbers out. And the more information you can give the court, we think the better off our chances are of getting them a reasonable sentence.

MR. DORHOFFER: And I know, Mr. Jackson, you had mentioned that you take first-time offenders. Has there ever been any talk about taking either repeat offenders or maybe expanding the program a little bit more?

MR. JACKSON: Yes. Well, we do take some second-time offenders in the program. The judge will see that the program [inaudible] the first time. They may have slipped up a little bit—

MR. DORHOFFER: Do you take second-time offenders sometimes or is it just mostly first-time offenders?

MR. JACKSON: Third, fourth, fifth, sixth.

MR. HOELTER: I had one guy one time who said, "I don't know why they're not giving me pre-release status." He goes, "The last seven times I got it."

MR. DORHOFFER: I'm glad that worked. If you had to give—for maybe someone in the audience who's thinking of going back to their state or something along those lines to come up with the same kind of format that you have, maybe give a tip if there's something that you think—the one thing

that you could say to somebody about how to start this. Is there something that [inaudible] how long this might take, something along those lines, if somebody wanted to start one of these back in their state.

MR. HEGARTY: Yes. I think there are mechanisms to get it started, and one of the things that we did a few years back was there was a grant that—and I'm not the grant specialist, so I just know there's a grant and provide information, but we got a grant to expand day reporting programs and we actually got some—we said we'll be the host monitor for your electronic monitoring. We'll get you a work station. We'll get you ten bracelets, *et cetera*. We gave them account fees and, you know, we worked together and helped start it, and the sad fact of the matter was they never really did anything with it.

I guess the point I'm making is there are ways of getting it started, and I know, for example, Hampden County Sheriff's Department, we're not perfect by any means, but we've been doing it for 22 years and we'd be more than happy to help somebody who was thinking of starting one. And we've had people from all over the country come out to us. I think you could start fairly small without that much difficulty.

I think one thing that [inaudible] just kind of hitting us now and so the one word, the biggest word of caution would be to make sure that it's in the laws and you have statutory authority to run it, which we believe very strongly that we do have and did have, but it was recently challenged and a superior court judge ordered Middlesex County in our state to shut down their day reporting program.

We just had a hearing in front of a six-judge appeals court with primarily Middlesex, and all the other sheriffs in the state signed on to make this brief to present, and we feel confident that we're going to be given the go-ahead, that, "Yes, you have been operating illegally for the last 22 years," but the plan [inaudible] and Plan B with that is there has been legislation submitted to make some minor adjustments in the law to very clearly specify day reporting as a means of classification. So it's a long answer, but if somebody was starting one up, what we learned, you want to be clear that you have the statutory authority.

MR. DORHOFFER: I don't know if you want to add anything, Mr. Jackson. Any suggestions you might have?

MR. JACKSON: Just a few. Definitely community support, one. Two, resources, because they will need employers who will be committed to continuing to employ them, just—

MR. DORHOFFER: Okay. Sir?

QUESTIONER: Herb, I'd like to ask you, do you take white collar crime?

MR. HOELTER: Yes. We do a lot actually. As an organization, we do a lot of different programs for individuals. We run two non-public schools for emotionally disturbed kids. We run alternatives for offenders with developmental disabilities [inaudible] hospitals. We average somewhere in the neighborhood of about 25 death penalty cases a year in which we're court appointed to do mitigation. One of our mitigation specialists recently was honored in a Supreme Court brief or a Supreme Court decision saying that mitigation can be considered and should be considered, which was outstanding.

We run career development programs for offenders with developmental disabilities, the ones who fall between the cracks because of their mental issues and the mental hospital doesn't want them because there's criminal justice issues, so who now takes them, you know, so we take them. So we do a lot of work in those and we run also some community-based homes for juvenile delinquents.

QUESTIONER: So then do you work for public defenders?

MR. HOELTER: Yes, absolutely. Part of our development in the '80s was training public defenders around the country in sentencing advocacy. It was funded by the [inaudible] Foundation at the time. We were some of the early people who [inaudible] for sentencing advocacy and working with the public defenders or social service staff, their social workers, and have put a good plan together.

MR. DORHOFFER: Sara?

MS. NOONAN: I have a question for Mr. Hegarty and Mr. Jackson. Obviously, the Sentencing Commission is going leaps ahead by having a symposium like this and talking about alternatives to incarceration. Has there been any other federal organization or entity that's come to you all and looked to your organization for ideas on how the federal system can adopt some of these? Specifically I'm thinking about BOP or DOJ generally, but really any other federal entity?

MR. HEGARTY: I do know that the small number of people who we have through the Federal Bureau of Prisons, we work great with them. I'd like to have a closer kind of relationship, but it's difficult because we're in Springfield and their office is in Philadelphia, but they do come out to us, and I know we could probably go out to them, but I don't know about really expanding that.

We do cooperate and work with a lot of NIC and NIJ, and there's a lot of cooperation and collaboration with some of the things we're doing and there are federal agencies that have helped and supported a lot of the endeavors that we're doing. I do know that also. And I was happy to hear—because here I didn't realize about the reentry initiatives through the courts and, you know, we clearly want to cut down on recidivism, and the people they're getting out, if you put them through a more intensive program, our statistics have proven over and over again it works well.

So I think maybe eventually in our state or at the federal level we could turn these into alternatives and use a model for somebody without—as many people have mentioned—somebody who is truly jail-bound and diverting them into a program like this based on need/risk assessment and all that. That's where I'd love to see us go, and that's [inaudible] initially in 1986 our sheriff's department was trying to start a program. Rather than send people to jail, put them into something like this. So 22 years later, as many people said, and I'm getting older, but I'm still young enough to be around for awhile. Maybe I'll see it happen.

MR. HOELTER: Just as a follow-up to that, the 201,000 inmates in the federal system right now, less than 5,000 are in community-based programs. I mean the numbers just speak for themselves. It hasn't, obviously, been a priority for them.

MR. DORHOFFER: Any other questions? Okay. On behalf of the Sentencing Commission and myself, I'd like to thank the panelists with a round of applause. So thank you very much. Hopefully, there were some practical tips for you all and, as a last word, the Commission thanks all the attendees for

coming, taking time out of your busy schedules. Hopefully, Herb, next year or a year from now we can prove you wrong, that the government agencies will and are working together and that way we can make a difference and this will be a starting point to a long dialogue over the next few years in trying to make a difference. So thank you all for your attendance at the conference, and hopefully everyone here has learned something, so thank you.