Substance Abuse and the Criminal Justice System

Summit of Stakeholders

June 25, 1999
Washington, D.C.

Substance Abuse and the Criminal Justice System
Summit of Stakeholders
June 25, 1999
Washington, D.C.

P R O C E E D I N G S

Mr. Blanchard: I'm Chuck Blanchard with the ONDCP, and I'll be moderating today's events. Before we get started, just a brief overview of what the day will look like. We're going to change the schedule a little bit to try to get out of here a little earlier. So instead of having a lunch break at noon, we're going to work through to the press availability at 1 o'clock, and if we're done at one, that'll be the breaking point. If we have more to discuss, then we can adjust, but we're going to try to have a more efficient day.

I think the best way to start is to find out who's here, what organizations, what individuals, so what I'd like to do is have some brief introductions.

Betty Gondles, American Correctional Association.

Ron Garvin, I represent the American Judges Association.

Ken Kerle, American Jail Association

Paul Samuels, from the Legal Action Center, we're a public interest law firm that focuses on addiction, criminal justice, and AIDS.

Tom Henderson with the National Center for State Courts.

Jack Gustafson with the National Association for State Alcohol and Drug Abuse Directors.

Bennett Fletcher with the National Institute on Drug Abuse

Gloria Danziger with the American Bar Association.

Steve Wing with the Substance Abuse and and Mental Health Services Administration.

Stephen Amos, Office of Justice Programs.

Patrick Tarr with the Department of Justice.

Jill Shibles, with the National American Indian Court Judges Association.

Allen Ault with the National Institute of Corrections.

Lauren Ziegler with the Office of Juvenile Justice and Delinquency Prevention.

Larry Meachum, Office of Justice Programs.

Kathy Schwartz, State Justice Institute.

Michael Link, National TASC Association

Ron Dyson, Administrative Office of the U.S. Courts.

Don Murray, National Association of Counties.

Deb Beck, National Alliance for Model State Drug Laws, also the drug and alcohol service providers of Pennsylvania.

Liz Pearson, National Criminal Justice Association.

Beth Weinman, Federal Bureau of Prisons.

Carl Wicklund, American Probation and Parole Association

Wes Huddleston, National Drug Court Institute.

Jeff Tauber, National Association of Drug Court Professionals

George Kanuck, Center for Substance Abuse Treatment, SAMSHA.

Mary Shilton, International Community Corrections Association.

June Sivilli, Office of Programs, Budget, Research, and Evaluation, ONDCP.

Bruce Fry, Center for Substance Abuse Treatment, SAMHSA.

Gary Tennis, National Alliance for Model State Drug Laws, and also the National District Attorneys Association.

Scott Wallace from the National Legal Aid and Defenders Association

Irene Gainer with the National TASC Association

Dennis Greenhouse, Bureau of State and Local Affairs, ONDCP.

Pancho Kinney, ONDCP Director of Strategic Planning

Allison Yoakley with the USIA

Pete Delaney, National Institute on Drug Abuse

Linda Wolf Jones, Therapeutic Communities of America

Judy Kimsey, Washington Baltimore HIDTA
Renee Robinson, Washington Baltimore HIDTA
Mike Dalich, Office of Justice Programs
George Camp with the Association of State Correctional Administrators, and Ron Angelone, who's not here right at the moment, will be here shortly. He's the vice president of the Association, and is the chair of our substance abuse committee.

Mr. Blanchard: Most of today is going to be about listening. Most of the day is going to be about hearing from you, and in a few minutes I'll give you a brief overview of how we propose to proceed. But let me first start by asking Director Barry McCaffrey make some opening remarks.

Director McCaffrey: Let me thank all of you for being here. I think this will be an opportunity for us today. We have a window of opportunity to do something important. There's already a lot of momentum, a lot of dialogue, a lot of experience, a lot of dissatisfaction, and a lot of understanding on how to improve what I have termed a failed social experiment. I hope we have not created an image of being soft on drugs, weak on crime, indecisive in trying to sort out where to go. But I think we've got a giant failure in organizing an important aspect of our nation's criminal justice and medical and social systems.

There's a tiny percentage using drugs in America, 6 percent of us, but it's 13 million people, and seven out of ten have jobs. And they're overwhelmingly white. And they're using pot and booze and other drugs, and as a result, over time they tend to get in trouble, with their family and their community and their workplace, and with the criminal justice system.

That's the deal, and some subset, a tiny percentage of us, maybe a percent and a half of the population, end up chronically addicted, engaging in compulsive drug use behavior. And NIDA is describing more accurately in the last five years, through giant breakthroughs, why that's the case. Why do rational, educated people, from

middle income families, turn to drugs? At a recent gathering, an attractive 30-year-old woman, with a six year-old son, turns to me and says she's the honored graduate that year to speak to the fundraiser for Phoenix House. She says you know I grew up in a family just like yours, and suddenly I found myself at age 24, sleeping in a crack house, when my mother's warm home was two miles away, and I was doing that because I was afraid I was going to miss the next shipment of crack cocaine.

And NIDA's starting to explain it, the change in neurochemistry of the brain and dopamine uptake factors, and why somebody says, "I know I'm being paranoid, I know this is crazy, but I continue in behavior that's destructive." So we've got 1.8 million Americans behind bars. 1.8 million. The armed forces are 1.47 million people. A giant industry, there are 4,000 different places around the country where we lock people up; jails, state prison systems, federal penitentiaries, and it's growing. We will probably to go up to 2.1 million, before we come out of office.

No reason to think it won't grow some more. We need to look at that population. There are 4.1 million of us who are chronic drug and alcohol abusers. Compulsive. Pathetic. You see them. Most of you in this room know all about them, you've worked with them as part of your professional responsibilities. Certainly you can't be a judge, a social welfare system worker, or a hospital emergency room physician without knowing all about what the 4.1 compulsive million compulsive drug users look like. And each is somebody's baby, somebody's child who ended up in this mess. You know them: thirty years old, they're HIV-positive, they get tuberculosis, leg ulcers, they're unemployed, they're alienated from their family, they're a pathetic mess, and they end up behind bars.

And it's not because they robbed somebody to get the money to buy two joints, or because they were in the simple possession of minute amounts of marijuana. Although, there are some people being arrested for simple possession and put behind bars, I'd say it's a modest part of the problem.

The real problem, as we look at it, is that when you end up in compulsive drug use, you end up with dysfunctional behavior in the family context, the work

environment, and it leads you to health problems, and work-related problems, and legal problems. That's the deal. And we've locked a lot of these people up, and we've done it in the absence of an effective drug treatment program, either pre-trial, during incarceration, or post-incarceration.

We simply haven't done it. I don't know what the real numbers are; the numbers in this whole business are so soft, or hard to pin down, but I use Jeremy Travis' numbers, Laurie Robinson's. The federal system is immeasurably better off now, after five years of hard work, with 42 federal corrections facilities with residential drug treatment. Not that they're satisfied with it.

If you look at the overall group, it's got to be less than 10 percent of the prisoners in this country who have a drug and alcohol problem that have access to drug treatment. And, in my view, it's a total waste to give somebody two weeks or 28 days of drug treatment during their last weeks of incarceration, then open the door, put them on a bus, and send them back to their community. We're wasting our time and money.

It may give them some intellectual and verbal skills to help explain to themselves their subsequent irrational behavior, but we won't affect it much at all, if we don't have a post-release system of drug testing, monitoring, and some way of moving them back into the community criminal justice system. Big challenge. It's costing us huge amounts of money to run what in effect is widely believed to be an ineffective - in terms of outcome - incarceration system.

I hear that from the cops and the judges all the time. So, what do we do about it? Well, it seems to me there's compelling evidence, serious studies that have been subject to peer review that are now out in the public debate, and the public debate is coming up, thank God, enormously. There's serious evidence that we can do something about it, that we can save ourselves a lot of money. I'm going to make the taxpayer argument every time I open my mouth, to the Kiwanis, Lions Clubs, and other community organizations. We can save ourselves a lot of money, we can reduce crime, we can reduce the impact on the healthcare system, we can be tough on crime, and we

can have smarter drug policy, if we take a look at the comprehensive manner in which we can address compulsive drug and alcohol abuse.

We must go to the criminal justice system and say when you arrest somebody and they test positive for drugs, that's the first opportunity to start dealing with them. We ought to have a system that takes them from that point through their incarceration period. The fact is, a lot of people ought to get locked up who are using drugs. The problem isn't that they are violating drug laws, but they are violating criminal laws; they're dangerous, they're unemployed, they're desperate, they're physically and spiritually ill. And so they ought to get locked up, but at the same time, we ought to engage them in some therapeutic treatment before we let them go.

If we were willing to entertain the option of keeping all the dangerous males locked up until age 56, it would be a lot safer around this society. But it's too much money and it doesn't fit our system. For safety's sake, when we release these people, we have to have a system that follows them back into their communities.

We've got to organize that. It's going to be tough work, but it seems to me it's a lot easier to organize that system than it is to keep building these prisons where we actually try to safeguard human beings 24 hours a day, 365 days a year. There's no disagreement about it, I mean this isn't really a debate, this isn't a contentious idea we're putting on the table. We've got 1.8 million behind bars and growing, and sucking in these giant amounts of state and local money, and decent amounts of federal money. And we have an option; we do know how to do drug treatment. We do have NIDA approved models - Alan Leshner better know something about drug abuse, we gave him half billion dollars last year; SAMSHA has done studies, we know drug treatment methodologies can work. They can dramatically change human behavior.

One of the reasons I say it's a window of opportunity is because Janet Reno is a local community prosecutor, a local community coalition builder, and a children's advocate. She's temporarily serving as our chief law enforcement officer. And Donna Shalala's a teacher and a university professor, with a lot of energy and good understanding. She can explain to you why she's opposed to young people

getting involved in drug-dazed behavior using marijuana and alcohol. She's firmly opposed, and will explain why she feels that way.

So the two chief officers of our government who have the bulk of the funds, are intellectually and experientially prepared to do something about this. They're putting money in their budgets and appropriate policies in place.

We're out of office in 18 months. You know, time's a wasting. This one aspect, criminal justice and drugs, has not yet been adequately addressed. Now, there are some tools around the table here. One of them is off and running; the drug court system, thank God. It starting to get its own dynamic, the more people wander over to look at it, the more they like it. Again, there's no magic to that, but we had a dozen drug courts, now we've got about 600 on line or coming on line. The idea is simple, you arrest 30 people during the night police shift, and when the sun comes up you herd them all into court. They're just disgusting looking and acting people, they're pathetic. They're dazed, they're angry, and they've been sort of induced to volunteer, because they didn't physically hurt anybody, for the drug court
program.

And then flash forward a year later, and a considerable number of them, probably two-thirds have substantially modified their drug-taking behavior. And they did it because we put a judge in black robes with judicial authority to act as a quarterback of the treatment system, the criminal justice system, and the social services system. We've brought it all together, a couple of computers, a little teamwork. It's sort of been described to me as American justice the way it was designed to work, and used to work 50 years ago.

You actually know people's names, and everybody cares about the outcome of the trial, as opposed to another faceless number going through. The drug court system is there, sort of a pre-trial program. I don't want to overstate that, but it's in the front end of the system.

We've got a bunch of people locked up, we better organize ourselves and do something about them. I often go out and ask people to show me successful

programs. I see them all the time. I'm very impressed. Having said that, I walk into some max security prisons, state level institutions, thousands of people locked up. The history of the place goes back fifty years, a hundred years, two hundred years. People have socialized each other on how we do things here. And in the middle of it, there's an island where there are a hundred and fifty people, and they're involved in some different idea. And it's working, they believe, and you go in and a couple of the old security staff have been brought in and are helping run this thing, and they love it, too. They can't believe the difference between the old way the rest of the prison, and this system. And it involves drug treatment, but it may also involve job training, and whatever, and the ones who are most likely to respond, they've got good records, they're eager. This is a huge potential. But that little island of behavior is often disconnected from the rest of the prison. It's some other group that's brought their money and their ideas into our system, they're working it and all well and good, but it's not our program.

Now finally, you get to the end of the sentence. The doors open and out these people go and back to their community. We've got this thicket of understandable concern with privacy rights. But if f I've been in and out, if I've been chronically abusing alcohol and drugs since I was sixteen, smoking pot, didn't finish high school, and had multiple arrests, and you finally got me in a program, there ought to be a medical record. A way they can find out who dealt with Barry before, and where, and what's the assessment.

They can do that. I'm in the National Registry of Orthopedic Surgery at Walter Reed, given my multiple injuries from combat, and they always start with the record where they got me before. We need to do that, we need to send people back to community-based treatment, where there's still the coercive impact of the criminal justice system, drug testing, and they're willing to lock me up for four days, or twenty-one days, not in max security, not returned to serve the remainder of my seven-year sentence. But behind bars, no TV, no girlfriend, back in the therapeutic community sessions. Re-stabilize my life, put me back out in the community, back on drug testing. We've got to design that system.

This is not rocket science; this requires organizational ability, management ability, but God, we're good at that as Americans. We're so good at it. We got a white paper, we sent it out to 900 some people, the governors, the county executives, mayors, NGOs; and we're looking forward now to 7-9 December. Attorney General Reno, Secretary Shalala, and I will call in the important people in American that deal with integrating treatment and criminal justice systems. And we've got to present a model, a best practices paper, and stand for a future commitment on county, municipal and state level, to move toward an integrated system, in which alcohol and drug treatment is part of the criminal justice process.

And we're going to do it out of sheer selfish interest. What's why we're going to do it; not because we're humanist, not because these are our children, our future. We're going to do it out of self-interest, because otherwise, they're going to go back to torturing us through their dysfunctional behavior in communities. 7-9 December we've got to put it on the table.

I don't think this is a federal deal. This is mayors, county executives and governors, and their state legislatures. America gets run by the district attorneys, the judges, the state legislators, the county executives and councils. We've got to invite them in. Because the solution isn't in Washington, D.C.

I hope we can have you not just mark up the document. I hope you do that too, but give us your own language, make sure this document reflects your thinking. I hope, in the time we've got remaining, to talk to this whole process. How do we pull it together, and how do we come together in December and commit ourselves to new ways of addressing the issue? Thanks very much, I know you're all busy people, and I very much appreciate your being here and your commitment to trying to face up to this issue, and help us get it organized. Thanks.

Mr. Blanchard: Next, representing the Department of Justice, I'd like to have the Assistant Attorney General Laurie Robinson make some opening remarks.

Ms. Robinson: Great, Chuck, and it's very good to be here this morning to

see many familiar faces around the room, and it really strikes me in thinking about our mission here this morning, how I have worked with many of you. Maybe the majority of you -- some of you, Don, Tom, Kathy, back 20 years or so -- and I think there is, in fact, substantial consensus on the broad principles relating to treatment in criminal justice around this table.

I think that the challenges before us really rest on the implementation side, as the General alluded to. I think those challenges are great, and yet as we look at some of the advances that have been made across the criminal justice system, and we look at the changes in community policing over the last decade alone; when we look at the acceptance of drug courts in a very short period of time, I think that there is so much that we can do here.

And I want to touch on what I see as two challenges here this morning. And the first challenge really goes to an issue that the General alluded to, and that is the perception that treatment is soft on crime. Now to me, that is a ridiculous assertion, and it's ridiculous because we can look at the research that NIJ, that NIDA, that CSAT, that private groups have done. We can see the impact that drug treatment has had in reducing drug use, reducing crime, and reducing recidivism, and the last time I checked, those things were all about public safety. It's changing offenders' behavior, it's holding them accountable, but we have not collectively gotten that message across, and gotten it across effectively.

And I did want to stand here also, because in thinking about coming over here today, General McCaffrey, I've had the occasion, in this position, and in my prior life, prior to coming into the government, to work with every drug czar since the creation of ONDCP back in the eighties, and there has not been a drug czar before this, a director of ONDCP, who has been willing to speak out, and speak out so staunchly and so often, on the issue of treatment, and I really applaud you for that, and I know that Janet Reno does as well.

And there are so many other issues on which you've stepped forward -- as one example, the parity victory that happened recently did not go unnoticed. So those

things make a difference, they make a difference when we're going to try to meet those challenges out there, and I've lived through some times here in Washington when that leadership was not evident out of the White House, was not evident out of ONDCP, and I would also say not evident out of the seat of the Attorney General.

The second challenge really picks up on this, and that goes again to an issue that the General touched on, and that is how we think about public education, and the elected official education process. But we don't want to stop there. We want to think very hard about how it is we bring the criminal justice system along as well. And it is my strong view that elected district attorneys, and judges -- and I'm particularly pleased that we have several judicial organizations here today -- so essential as leaders, whom people look to at the local and state level, really the ones who can help carry us past some of these barriers regarding "soft on crime."

And for any of us who tend to talk to each other, and feel that we're beyond these issues somehow, that there is consensus across the land, I can only say that during our recent deliberations on the Hill during the Senate appropriations process for the Department of Justice, it was very clear that there is still a real underlying disagreement about the power of treatment to make a difference.

So these are the challenges, it seems to me, offender accountability, public safety, and how we move to implementation down into the practitioner ranks, where this would actually happen. So I'm, again, delighted to be here, on behalf of the Department, where Janet Reno stands very strongly behind these issues, and it's good to see all of you here today. Thank you.

Mr. Blanchard: And now, representing the Department of Health and Human Services and Secretary Donna Shalala, is the SAMHSA Deputy Administrator, Joseph Autry.

Dr. Autry: Thank you. Let me start by saying that Dr. Chavez and Secretary Shalala are very much behind this. We're doing something a little unusual

today, as you may notice, and that is, you've got criminal justice people talking about treatment, you've got treatment people talking about criminal justice. I would hope that this process is about making that usual, and not unusual, and that's where you come into the scene, because it's up to you to help bring to fruition the system that General McCaffrey is talking about.

People who come in contact with the criminal justice system come from, and most of them go back to the community. And what we're talking about today, and what we'll be pushing in the future, is how to develop a system of care that makes it possible for people to have success in treatment, makes it possible to protect the safety of the community, and makes it possible for treatment to actually be a prevention tool.

A prevention tool because when you successfully treat a drug user you also take somebody out of the network of people who purvey or sell drugs. When you take a parent that's had a successful treatment outcome, you have a stable environment in which kids can grow up, who will hopefully not be users, themselves. And that when there is a system of care it is a system that provides care for the individual, care for the family, care for the safety of the community.

In the past there have been barriers to having the treatment programs and the criminal justice programs work together. Some of those barriers had to do with the difference between the culture and goals of the public health system, and those of the criminal justice system. The treatment system is primarily focused on the individual and the family as the customer, and they want to see people have long term success at abstinence. The criminal justice system is also interested in treatment success, but primarily to reduce recidivism, and protect the safety of the community.

There have also been some disagreements about how to spend money. You've got a dollar, you need to hire another treatment provider, or you need to do tests for drugs, which do you do? There have been philosophical differences about that. I think pragmatically, the treatment community and the criminal justice community are gradually learning that it's not either/or, it's how do you spend those monies together, so

you can use treatment modalities that do work, the best practices that we have generated over the past several years. How you can use drug testing as a measure of that treatment effectiveness, and how you can use sanctions as part of a therapeutic treatment process. And that's what this is about.

It's also about changing behaviors of those people who come in contact with this population. Most of us grew up in certain cultures. I grew up in the medical culture, if you will, and I have a certain set of biases I bring into what I do. People who grow up in the judicial system or grow up in the prison system, as guards, or as wardens, or as supervisors, have a certain culture that they grew up in. And you can't change these cultures, unless you're willing to try new ideas. Unless you're willing to put the investment and the money and the technical assistance and the training that helps people accept and adopt new ways of looking at the world and new methods. We have to develop new cultures, of how they deal with these populations.

I find it kind of strange that over these years, we've known that there's a tremendous overlap between the substance abuse community and the criminal justice system. And yet we've worked on different tracks over the past few years. I think the future lies with us working on the same track. I would also say that there is a certain segment of people who are in contact with the criminal justice system, who have what we call co-occurring disorders where they have both substance abuse and mental illness, and that we must be able to address the needs of those individuals, too.

What this program is about is success, it's about changing cultures, it's about protecting our communities, strengthening our families, and getting individuals back into being healthy, productive members of society. That's our task, and we look forward to hearing from you how we can best accomplish that task.

Mr. Blanchard: And finally, one of the leading thinkers in the federal government about this issue, who has heavily influenced ONDCP's thinking, NIJ Director Jeremy Travis.

Mr. Travis: This is a very auspicious day, and I want to first commend General McCaffrey for calling us together for this discussion. There's been an interesting development of policy thinking on the issue of substance abuse and response to substance abuse, particularly the criminal justice response to the problems of substance abuse, alcohol and drug abuse in particular.

And the thinking appears to go something like this: We know with a high degree of certainty, and have known for a while, that we do have an overlap between systems populations but not yet between interventions. That's what we have to put together. We know that the people who come into the criminal justice system are highly drug involved. The ADAM data show that half to three-quarters of all the people arrested have drugs in their system.

That's insight kernel number one. Kernel number two is that we know with a high degree of certainty now that not only does treatment work, but that treatment in the criminal justice context, where we can mix coercion and encouragement, works as effectively, and sometimes more effectively. We know that from looking at therapeutic community data, research on those prison-based treatment interventions. We also know that increasingly from drug courts and other types of diversion interventions. So that's kernel insight number two. What we don't' yet know is how to put these together to have the system think about drug abuse reduction and crime reduction as a system outcome. That is not the way we think, we lawyers, criminal justice practitioners and professionals about outcomes. We think about conviction rates, we think about sentencing, we think about trial delay, we have lots of efficiency measures, but we don't think about public benefit outcomes, that are within our reach.

And I think the work that we've all been doing is to try to think about the implications of those insights for the way the criminal justice system could operate, and how it could operate differently. So I think the goal is arguably within our reach, although Laurie is right that not everybody thinks this way yet.

The goal is to adopt a public approach to criminal justice processing. Which is to say, we set as a goal for the criminal justice system to ensure that the people

who come out of that system and live amongst us -- our brothers and sisters and certainly neighbors and co-citizens in this world -- are more likely than not to have done something about their substance abuse behavior during the time that they were within our supervision. And that's the challenge that I think is inherent in the drug court movement, it's the challenge that's inherent in criminal justice networks that CSAT has developed, the challenge inherent in the breaking the cycle initiative that's been sponsored by ONDCP.

That's the challenge that I think we face here today., to look at the criminal justice system as an opportunity for reducing drug abuse and crime. The final point is that this has the potential, I believe, of re-framing some of the public policy debate on this question. We sometimes get caught up, in my view, in the tension of the false dichotomy of supply and demand. If you think supply, you think only about bombers, or you think about doing something in Colombia. If you think demand, you think only about treatment.

That's not really the only way to think about these things. You can think about system interventions that look at ways to reduce consumption, that look at ways to intervene in the lives of the high consumers, the people identified in the ONDCP strategy as those people who are consuming most of the drugs in our country. They're the folks who come to the criminal justice system. And so the criminal justice system then becomes a high opportunity location for system intervention; that is the opportunity that we have within our reach. So I'm delighted to be here, and look forward to listening and hearing from you.

Mr. Blanchard: Let me just provide a sense of what we hope to accomplish today. We have sent out several documents, one of which was the white paper which was discussed, the other which was a draft policy document. We put a lot of work into, but we're not wedded to this document; we think it's a starting point for discussion, and we want to take some additional steps. What we hope to accomplish is to develop ultimately a comprehensive inventory of best practices to implement the

kinds of systems change that you've heard discussed. And we want to develop a persuasive document that we can use to show how both criminal justice professionals and treatment professionals together can agree that this kind of investment makes sense. And we want to have a document that has not only a federal imprint, but really as a consensus document, mainly reflecting the people who really matter, which are the folks in this room who represent state and local government.

We're not talking about creating a document that's going to produce new federal mandates on state corrections systems, telling you what you must do. That's not what this is about. This is instead about developing a consensus in the entire community that is used for bottom up change, change done by state legislators, by county executives. It's that kind of bottom up change, system change, that we ultimately hope to accomplish.

Clearly there's a federal role, but I think the real change here has to occur from the bottom up. Which is why before we go forward we thought it was important to start and continue the dialogue we have with the folks in this room. We need your help. We need to know, based on the information we've given you, the consultation document, and the draft policy statement, is it adequate, what's missing, what's properly or improperly stated, or how should it be revised, what topics should be added, what are the major obstacles to change? We live in a real world with real barriers, some of which can be identified, some of which require legislation, some of which require money. But we need to make an inventory of what those barriers are, so we can address them, if we really want change. And so, what I propose that we do here is not do a word by word edit of these documents; that really is a waste of your time. Although I would urge you, that if you do have suggested changes, by all means, give them to us.

But I thought today, given this group, a more appropriate thing to do would be really to start a more broad-brush open discussion on this whole issue of the criminal justice system and treatment. And what we propose to do as a structure that I hope is not too confining, is to look through the continuum of the criminal justice system, starting

with pretrial issues, pretrial diversion, release and detention issues, and how treatment fits in there.

And work through the system, the sentencing, jail, community corrections and probation, and then prison, and finally aftercare and post-incarceration. I view this as a structure to have a focused discussion. So, without further ado, why don't we start with a discussion on any comments folks have on pretrial diversion, release and detention in the criminal justice system.

Mr. Murray: Don Murray, with the National Association of Counties. I wanted to lay out a concern that we have, and that deals with problem people that enter the system. So take the mentally ill, for example. Many times they're charged with minor infractions like going into a restaurant and leaving without paying the check, and these people wind up in county jails. And our approach has been that we want them treated in the community, that one should not have to go to jail to get treatment they need. So I think that we have to keep that in the back of our minds, that we have people that are passing through the system in very high numbers. The estimates are that ten percent of the people in jail are mentally ill.

We need to make sure that we have services in the community for these people. Actually, when you transfer someone to jail, all the reimbursement programs shut down. You get them in the community, but not in jail. So that's one point I want to lie out.

Another, I enjoyed Laurie's and the General's comment about general government, because I think too often we think in criminal justice, only about the people on the front lines, the policemen and the judges, and we forget the politicians, who control billion-dollar budgets, and who are in a position to go across functional boundaries, to deal with problems.

At the county level, treatment is one of our basic responsibilities. If you look at cities and counties, the difference is we do different things. The cities pick up the garbage, we bury the garbage. They do more, spend more money, on housing, we

spend more on health and human services. Together it makes sense, when we work together. And too often we forget this governmental framework that we operate under. I mean, politicians spend $70 billion a year on criminal justice, and yet we spend a lot of time educating the practitioner. If I were trying to influence the county commissioner, or a governor or a mayor, I would try to enter their world.

First demonstrate that you know what they do. And then try to tell them how they can do their job better. The best way I think to influence governors is to tell them about what other governors are doing. And the same with local officials. I just wanted to lay that out.

Mr. Gustafson: Jack Gustafson, with the National Association of State Alcohol and Drug Abuse Directors. The framework that you laid out makes a lot of sense, in being able to track going to the prosecutor, pretrial to, most convictions and incarcerations to parole.

Let me offer what I hope will be a constructive suggestion. There's a tremendous breadth of experience here; people that go back even predating the LEAA days. There's a great deal of innovation that's been developed over the last 25 to 30 years that I would hope that we get into this discussion. There are three questions that have popped out as I listened to all the welcoming presentations, and reviewed the background material, and they are:

What is it that we know today that we didn't know 25 years ago? What are we doing differently today as a result of being privy to that knowledge? And what do we need to do differently in order to improve from where we are?

Many of the insights were in the white paper, which I think was extremely well done. It was clearly developed by people that know the criminal justice system and know the treatment system. It may not play that well to people that are not as familiar with the nuances and the background material. All of the in-depth programming that has developed over 25, 30 years needs to be reassessed, and we need to re-tool our efforts – General McCaffrey speaks to developing a process that puts it all together.

What I'm trying to suggest are the elements of that process. Let's get into the discussion as to what has evolved up to this point in time, and what needs to happen to move us forward.

You know, what have we learned, what have we done based on that learning and, finally, what more do we need to do based on that learning. And what more do we have to learn, I think, would be a fourth question I would add.

Mr. Wicklund: Carl Wicklund from the American Probation and Parole Association. One observation needs some recognition at pretrial. I noticed that for probation you had caseload sizes. But you didn't have anything under pretrial. I think that is something you might like to take a look at. And secondly, a clarifying question. We've talked about criminal justice; aren't we also referring to juvenile justice through this process?

Director McCaffrey: I would keep it open. In fact, that may be an area that needs more development in the white paper. Because that's clearly an area of early intervention. We're now testing breaking the cycle. We've got a Eugene, Oregon breaking the cycle test going on in the juvenile system. This from a cost effectiveness viewpoint, it's better for us to grab them at age sixteen than at age 35, I mean, bust them out of this whole cycle with treatment programs that work effectively. But it does, according to Donna Shalala's people in particular, take a different approach. It almost has to be a parallel system. That's an excellent point. If that's not adequately presented in the paper, we ought to have it in there.

Ms.Beck: A question first, and then a comment. The obstacles you were going to bring up at the end. I think there are obstacles throughout the entire system: funding is always an obstacle, but there are statutory obstacles as well that I'm aware of. I would love to flesh out those obstacles.

I'm Deb Beck with the Alliance for Model State Drug Laws; I don't go

anywhere without Gary Tennis. We're trying to embody the law enforcement-treatment connection and we're here partially on behalf of Mississippi Attorney General Mike Moore, who's very interested in these proceedings, and Sherry Green, who was with the DA's Association.

I think this is a great idea. I commend you for pulling this together, so please see this in light of constructive criticism. It's really important to require the use of drug and alcohol diagnostic criteria by those doing the assessments, whoever does the assessments from pretrial across the board. If you do not require the use of drug and alcohol diagnostic criteria that but assign level of care and length of stay, people are going to conclude treatment doesn't work; our folks with addictions are going to become suicidal because it did not work.

That's one piece. The other is that the qualifications of the assessors are absolutely critical. It is not in the professional training of most allied professionals – I'm allowed to say that, because I am one of them – it isn't part of our professional training to know how to do this. So, if we have people with no background in drug and alcohol abuse doing the assessment without criteria, the system is going to fail. And it's going to look like treatment didn't' work, which of course is what we don't want to do.

The third piece I want to throw in is my concern about the role of the recovering community. They set up our treatment field around the country and I would highly recommend that those drafting this policy invite comment from the recovery organizations recently started by CSAT. That opportunity wasn't there before, but now it is.

Mr. Link: Mike Link with the National TASC Association. As I read through the document, there was one glaring missing piece for me that I notice throughout the continuum, and since we're talking of pretrial right now, I want to mention it, and that is the issue of case management services. Again, it's not present anywhere throughout the continuum, and I would contend that case management services have implications throughout the continuum.

And clearly, there is a need to talk about case management services, because also in my opinion, it's not enough just to provide treatment for an individual. If we don't provide the services that support treatment, often times we're wasting our resources; and I've seen that time and time again with folks that we work with. That's a vital piece of this whole continuum. So I would again suggest that we add some language around case management services to this and the other sections of the document as well.

Mr. Blanchard: If I could ask a follow up question for you and for others on that point, what should we say about case management? What would you recommend that the document suggest as the best practices for case management?

Mr. Link: I think we ought to talk about case management services being offered throughout the continuum, and those things that support treatment -- job training, vocational training, support of housing, other kinds of ancillary services, educational assistance, things of that nature -- things that support recovery and sobriety. We can get more specific about it, but those are some of the important things that ought to be mentioned related to case management.

Mr. Samuels: Paul Samuels, from the Legal Action Center. I just wanted to make a couple of points. First and foremost, I join with what everybody else has said, I think that the possibilities created by this initiative are almost too exciting to describe, but it's important to try to describe them anyway. Because the opportunities here are enormous. So, I just wanted to commend everyone involved in this great initiative, and the excellent document. There are just two points I wanted to make, suggestions in this area. One is to pick up on Deb Beck's point about the need for appropriate clinical assessment. But also to build on that, to say that not only does the assessment need to be made by someone who is schooled in addiction and can make that assessment, but the person must be referred to the appropriate level of care and right kind of treatment.

If the treatment's too short, if the setting's not correct, then we're going to get failures and, as Deb said, the failure will be seen as treatment's, instead of recognizing that the system wasn't set up correctly to get the person in the right place at the right time. And we would strongly urge the inclusion of the whole continuum of appropriate treatment possibilities -- outpatient short-term residential, long-term residential, short-term methadone treatment, methadone maintenance. The whole continuum of services should be there so that people are getting what they need, and that's going to get us the outcomes that we need, both from the treatment perspective and from the criminal justice perspective.

The other comment I wanted to make that applies to pretrial but also to the rest of the document, is that there is not a clear distinction made in any of the sections about what's the appropriate response from the criminal justice perspective. There ought to be a clear delineation at each step between those going in and those staying out.

Who's an appropriate candidate, among the jail or prison-bound, for diversion. Such diversion would include mandated treatment, for those not going in, or not staying in for long, but for whom treatment would be appropriate. Such distinctions are important because, without them, we run the risk of both being too harsh and too lenient. Being too lenient on people who should be incarcerated for the crime that they've committed -- major drug dealing, violent offenses, and so on. For those people it would be appropriate for them to receive treatment on the inside, and then a linkage to treatment on the outside, but they are not people we want to see diverted. It would endanger public safety and threaten the whole initiative for all kinds of obvious reasons.

But on the other hand, there are a number of people who are not going to be incarcerated. If treatment requirements are imposed, there are certainly appropriate sanctions for those folks if they don't comply; but for many of them, incarceration would not be appropriate. They wouldn't have been incarcerated in the first place, yet we could end up tremendously widening the net and incarcerating many more people than we are now, for failure to comply with treatment requirements. So that distinction needs

to happen here.

In pretrial release, for example, in many jurisdictions the major focus is on risk of flight, is the person going to show up? And whether or not they have a drug problem or not is an important issue, and not very often a criterion for whether they should be in or out.

Mr. Blanchard: Could we explore a little bit more of that concept of where we draw the line, because I think that's an important one.

Judge Tauber: I'm not sure I'm going to be directly responding to the previous question, but I'd like to suggest that one way to look at the areas of concern -- pretrial, sentencing, jail, community corrections, incarceration – is to think of it in terms of a circle. I think that it's a useful illumination of the issue, because in fact so many of the agencies, so many of the participants, so many of the offenders, are moving around the circle, from arrest to some kind of adjudication, to jail, out, and back into the system.

So in effect, it is a circle that these people and we are a part of that circle. Of course, our area of expertise is the area of drug courts, and I would suggest that while drug courts are not the only tool, they ought to be seen as not merely a tool or structure that exists at the front end, be it diversion or pretrial, pleas are taken, where a person is placed into the community. They are also a structure that is viable as a reentry mechanism. Of course, this is a phrase that we've been hearing a lot, that Jeremy Travis brought to our attention some months ago, in a speech that he made, and the Department of Justice has been very interested in. And we've been exploring that concept through focus groups, a monograph that we expect to be publishing shortly, and I would just suggest to you that the drug court structure, which is just one structure, has the capacity, or could have the capacity or potential, to deal with the offender, and the different cases along that circle, rather than being limited to, for example, diversion, as it was ten years ago. And it has continued to expand, as many other programs have,

and ought to be seen in a larger context.

Mr. Blanchard: Is there any way there could be a drug court supervised post-release system? Is that what you're recommending?

JudgeTauber: To give you an example, in San Bernardino, Judge Pat Morris will sentence people to jail, and then will be seeing those individuals over a period of time, and monitoring how they are doing, and in fact, when they are introduced back into the community after spending the time, for example, for a burglary – they may spend six months or longer on a burglary – they will in effect have a graduation, or some kind of an event that introduces them to drug court part two, which is the part that exists in the community.

Mr. Blanchard: So, I guess the suggestion is that courts' effectiveness or involvement doesn't have to end with the sentencing, either on a local or a statewide level.

Mr. Travis: Jeff Tauber's comment actually was a response to Paul Samuel's observation, in the following way. I think one of the challenges that we face is, and long term opposition is stalwart, particularly difficult, which is how to restore to criminal justice decision-making a greater degree of discretion in making decisions that are critical along the either linear or circular process that we talked about.

And, in that effort, how do you incorporate into, particularly judicial decision-making, an awareness and recognition of the phenomenon of relapse and the nature of addiction? And this issue applies I think to the pretrial process and to post-release process, and is also something to think about as you think about the continuum, during periods of incarceration. So, Paul asks how do you build into a document like this, a recognition of the risk that relapse could in fact result in greater incarceration? And that as you monitor things more carefully, sometimes you find things

you, that are not in the plan, and how do you want judges to respond to that?

One historical view of our country in terms of sentencing generally, and this applies with particular force to sentencing on drug issues, is that we have significantly reduced judicial discretion from initial sentencing, and other parts of the system, to the point now where we have lots of mandatory outcomes. The world that we now live in has more reduced judicial discretion, more mandatory outcomes, whether it's sentencing guidelines, or mandatory minimums, or no parole, or whatever.

How do we recognize that that's where we are, and what we're trying to do here today is grasp on to that, or sort of create a different way of thinking about things which enhances discretion, and individualizes decision-making, and brings to the decision-making process a clinical, in essence, diagnosis of the state of the offender, and I think that's a big question.

I just want to second what Jeff said, which is that the thinking that we're doing now, a number of us, and you know, there's reentry courts, is a recognition of the work that's been done in thinking about the front end of the system, and that it can apply with equal force to the back end of the system, so that you can have judicial involvement in supervising the reentry of the half a million people who come out of state prison each year, in a way that might be more effective.

Mr. Tennis: Gary Tennis, with the National Alliance for Model State Drug Laws, but really coming here more as a 19-year prosecutor. My comments will reflect basically the last six years since leaving the President's Commission on Model State Drug Laws. I've really worked crusading with district attorneys Associations around the country, trying to convince them that treatment is a good idea, that it makes sense, and I've gotten input back in terms of what the concerns of DAs are.

First, what I want to do is second what Deb Beck said, and what was said later, that the critical issue -- we talk about all the accoutrements around treatment, the judge's involvement, case management, probation and parole, but the critical issue that's going to decide whether the individual gets better or not -- is the treatment. And

so the point that the treatment must be clinically driven, that there must be a valid assessment done by highly qualified people using appropriate instruments, it's really, it's really critical.

I noticed there was an emphasis in the report on trying to find low cost measures, trying to use short term residential, but all of the research I've seen, and certainly I know from a prosecutor's perspective, our comfort level is going to be that we really not try to do a shortcut, that we don't try to do this on the cheap, because if we try to do it on the cheap, people are going to go out that have gotten into this treatment, they're going to go out and hurt other people. There will be people killed, there will be people robbed and victims of other crimes.

We have to make sure that we have total integrity at the level of treatment we do, even if we have to spend more money; otherwise I think the political support for this entire movement will just dry up, aside from the fact that there will be more innocent victims.

The research seems very clear to me, and I think most prosecutors feel that most people who have deteriorated so severely that they're now in the criminal justice system are going to be in long-term residential treatment. And that's just the reality, and I think that if we try, we can come up with new approaches, try to figure out ways to do things more cheaply, but there better be a good research base for it, because there is a good research basis that long term residential treatment works.

There was a good comment in here about the level of success really depends on the level of, the duration of involvement in treatment. We need not try to do it on the cheap; we need to make sure we get people what's clinically appropriate. So I really particularly want to second what Deb Beck said.

The second point, I have several points, but I'm just going to make two now. As a prosecutor, I've worked on many homicide cases, many crimes of violence, and for every crime of violence I've worked on involving illegal drugs, I've worked on several involving individuals who were addicted to alcohol.

Particularly murders, third degree murders. If you look at most third degree

murders involving substance abuse, they involve alcoholics who are out of control. They kill their friends in a bar, they kill their family members, and so if the concern here is to go after addiction, and try to reduce crime, and particularly to focus on violent crime, then I think we need to do that.

And I understand there's a whole other debate going on this in terms of an advertising campaign, and I guess I think it should be included, but that's not the issue here. The issue here is reducing crime, addiction-driven crime, and particularly addiction-driven violent crime, and it doesn't make sense to leave out the drug that's most involved in violent crime.

Mr. Kerle: Ken Kerle, American Jail Association. Briefly – I don't want to sound like a monologue here and go back to something that I've been preaching for the last 29 years. 3000-plus counties in the United States, and my contention has always been after visiting over 700 of these jails in 48 states, that what we lack here basically is a criminal justice system. If you look at the 1,012 colleges and universities that have criminology/criminal justice programs, they always speak about a criminal justice system.

My friends, we don't have a criminal justice system. What we've got is a lot of disparate agencies going off in different directions. I think the Gaines Center people are on to this, the dual disorder people that say look, if you're going to have any success in this business, you've got to get these disparate groups together; the courts, the attorneys, the jails, the prisons, the aftercare component, and you've got to get these ancillary agencies in the community, the mental health, substance abuse treatment, education, vocational training, etc.

But first of all, how do you get them together to function as a group? Now I'm in my fourth year up there in Hagerstown, Maryland where the American Jail Association is located. I facetiously refer to it in the community, hey folks, this is the prison capital of Maryland; we've got three state prisons in this county and it's our number one employer. In the four years that we've been meeting monthly at the jail, we

have yet to get the full regimen of people together.

One time we had somebody from the courts show up, we've never had anybody from the prosecuting attorney's office show up. Probation and parole were absent, and we made repeated efforts to do this. Now, Don Murray's on to something where he says everything's politics and everything is local. That's very true, but I think Stedman points this out rather well, in a Gaines Center approach.

He says look, if you're going to succeed at this, you've got to have a person in your group that's called the spanner. The spanner's an individual who can communicate with these different elements; the police, courts, etc, etc., and keep them together, keep them focused. King County, Seattle, Washington has had a great deal of success in this regard if you look at the jail population, the King County area, according to my sources up there, they're about the same size as Orleans Parish, Louisiana.

They've got about half the number of people locked up. And for me, this is the bottom line. I mean if you look at NIJ, and their statistics saying that crime has gone down in this country for the last six years, and then Allen Beck shows up from the Bureau of Justice Statistics and says oh folks, jail and prison populations are continuing to escalate.

To me, that's a big disconnect. I guess the most promising thing I saw two weeks ago, was it Wes, down in Miami Beach, at that drug court professional conference, was the fact that Dade County for the third successive year -- and this is about the seventh largest jail system in the United States – has had a decline in the number of bodies locked up. And I'm not making a direct connection to drug courts, obviously there are a lot of other variables involved, but for Lord's sake, if we're ever going to get together here, we've got to get back to the basics and say hey, if we can't get all these people together in the first place, all this tra la la about treatment, etc., just isn't going to fly.

And I found out early on that there's still a lot of enmity among substance abuse treatment and mental health professionals. Historically, and I'm not privy as to why that is, but it's still one of the realistic things we've got to come to

grips with.

Mr. Blanchard: Just a brief observation. In my prior life I was a state legislator and my party happened to be in control for two years of a hundred-year history in Arizona. I was actually Chairman of Judiciary, and during that time I saw a courageous leadership by the presiding criminal judge in our county, who was a former prosecutor, viewed as very tough, and he did exactly what you're talking about, he was a catalyst to bring people together -- the prosecutor and the public defender, and the probation services, and he was smart because he also brought in county elected officials and state officials. And even went so far as to bring a bunch of us together as a group, to a conference on treatment in the criminal justice system. So it's amazing what one person in a system can do to help create a system.

Judge Shibles: I bring you greetings from Indian country. I'm happy to be here and I see this as a manifestation of the President's executive order that directs agencies of the U.S. Government to work with native Americans on government-to-government relationships. So I was a little distressed that there's no mention of tribes or tribal courts in this document. So that's a big omission. I'd also like to congratulate you on adopting what we see as the tribal justice model. Now, traditionally, our systems of justice have been holistic, the emphasis on restoring health and harmony to the community; and incarceration, of course, is not a part of our culture.

And then I would just like to follow up on a comment from the very experienced prosecutor made on the absence of the mention of alcohol in the policy. The BJS study that came out in February pointed out that 70 percent of American Indians jailed for violence reported they had been drinking at the time of the offense. The arrest rates for alcohol-related offenses among Native Americans is nearly double that of the general population, while drug arrest rates were lower than for other races. Indian country has absolutely devastating problems that really need to be addressed in the context of the whole policy.

Mr. Blanchard: You point out two omissions that I think we will correct; one is on tribal courts, the other is – we do view alcohol as a drug. And so, and clearly, substance abuse includes people who are chronic addicts of alcohol as well as other substances.

Director McCaffrey: Let me, if I may, add to that. Setting aside the, I think, temporary flurry of normal lobbying behavior over the media campaign dollars. Putting that aside, there's no argument on our part that alcohol is the most dangerous drug in America. Mildly addictive, widely available, socially acceptable. Go grab a cop at random, with five years in the force and say what's the worst thing you deal with? Drunks.

I don't think it would retain its designation of the worst drug in America if we allowed the legalization of the rest of them, which are highly addictive, more rapidly destructive, and cause worse neurochemical damage more rapidly. I mean, if methamphetamines were available in the local bar, we'd have some kind of fun around here.

But having said that, alcohol has just a devastating impact, and we've got the numbers, and I think Janet Reno, and I and Donna Shalala were all agreed that it was worth a shot at, for this policy spanning integrating office to add abuse of drugs as really part of our legal mandate. We sent that over to the Hill. It was dead on arrival. We did not get the authority to include in my portfolio of responsibilities the abuse of alcohol and tobacco. We put in the strategy goal number one, we asserted that since underage drinking and use of tobacco are illegal behaviors, that they must be part of my portfolio.

And it's in the strategy that's reviewed by the Congress, you know, the President's instructions to those of us in the federal government. So when you want to cite something, go to the strategy, and for underage users, it's there. I don't think we're going to have a problem on this issue, prisons and drugs, including alcohol as part of it.

I don't believe that it's going to be difficult.

We absolutely will take your point. Two of you have made very eloquently. We will routinely say drugs and alcohol throughout this document. And I think we ought to stop talking about a drug anyway. I'm an unpaid peddler of Bob Dupont's book, The Selfish Brain. The guy who published it said I'm one of the principal buyers of that book. I hand it out all the time, and many of you know Dr. Dupont. I think one of the best things he says in the book is, don't worry about the drug the person's using, it's the drug behavior that we object to.

And you know, somebody who's a heroin addict and you get them on methadone maintenance and they start using cocaine. And a methamphetamine user is using heroin or alcohol to buffer the falls. The destruction of the human psyche and spirit and body of drug abuse is what we care about. Most all of the 13 million of us using drugs are using booze and something else. So, you made a very effective point.

I don't want to get caught in a civil war with the beer industry or the wine cooler industry. Right now they're pretty reasonable about it. I've said in public, I don't want to be America's nanny. I don't want to go about the country inveighing against the adult use of alcohol responsibly. I've got some funny one-liners on cigarettes I'm more comfortable using, for example, the only thing you can't get a lab rat to self-administer is cigarette smoke; they're simply not that stupid. They'll do anything else, but not cigarette smoke.

I do think we have to be a little cautious about seeming to inveigh against the use of beer as if it were methamphetamines. We don't want to get caught in that kind of a public message regarding the social mores of this country. We don't want to do that. And having said that, when it comes to drug abuse, alcohol has to be part of it. I think we'll be able to do that.

Eventually we'll be able to do a more effective public prevention campaign against underage drinking. We're already doing some ads and I'm a little bit annoyed at my friends from MADD. Just to make sure you know the background, we're spending an appropriated amount of money, $185 million, a tiny amount of money. Compared to

$2 billion dollars for the cigarette industry and $3 billion or more for alcohol advertising. So we've got a tiny budget, we're in there focused right now on drug abuse, but negotiate the hundred percent match of free ads.

And so we do have a behavioral science expert panel, we have the Ad Council of America helping us with it. We've certified certain organizations, a hundred black men, YMCA, others, as organizations that have a message that relates in some way to drug abuse; mentoring activities, for example. And anti-alcohol, underage drinking ads; we had 7,000 of them on last year. It's the biggest anti-alcohol underage campaign in the history of the country.

I told Congress, leave it alone, don't screw around with this thing for another two or three years, until we get the center part of our campaign up and running and showing that it worked. And then we'll go back and we'll argue for a strategy to deal with underage drinking that we think will work. But right now, we'd be just throwing dollars out the window, if I go after it. And the alcohol industry; I don't know enough about it.

Probably many of you in the room do, but this is big doings. I think they sell a third of the beer in America to underage drinkers. And I also believe that if you never touched alcohol until you were 21 or older, the number of alcoholics we have would drop enormously. You know, you just wouldn't have the devastating ten to sixteen million Americans chronically abusing alcohol that we have today. So, you must have some interesting non-taped negotiating sessions going on in the beer industry.

We've got to be a little careful, but alcohol will be in there. How about giving us some language? Go look at that paper and drive your own ideas into it, just mark it up and give it to us and we'll see, we'll adopt your words, make sure everyone's comfortable in the interagency process. Thanks very much.

Mr. Tarr: I just wanted to add to that from the stand point of the Justice Department, because we've grappled with that same issue with respect to our funding programs. The way that we've articulated it, and this is something in fact that the

Attorney General has been very involved in, is to talk about alcohol abuse and crime, the abuse and the linkage with crime.

Our portfolio, the residential substance abuse treatment program, drug courts and such where it's linked into the criminal justice system, we do have statutory authority to be talking about that, to be funding that, to be supporting it. But we've gone through some of those same dialogues internally in the Justice Department about how we really link it back to the abuse and the tie with crime. And so far, at least, that seems to work.

Mr. Wallace: Scott Wallace, with the National Legal Aid and Defenders Association. We're very mindful of the limitations that Jeremy Travis was talking about in the sentencing area. Obviously at the federal level, but also a great deal at the state level with mandatory minimums and so on.

To us that points up the importance of our first topic area, the pretrial arena. A lot of the work that defenders are able to do in terms of diversion to drug treatment simply can't be done at the sentencing advocacy stage. It has to be done in a pretrial, in a system where pretrial diversion programs are possible.

And I'd make the point also that in the documents that have been circulated, this potential for defender initiation of diversion for mental health or for treatment programs, is not mentioned anywhere. There are a lot of jurisdictions, the vast majority, obviously, that don't have drug courts, or a formalized system attached to a court, for assessment or for placement into community programs in a pretrial context. And in a lot of those jurisdictions, public defenders have developed their own capacity, with social workers and mental health professionals on staff to do the assessments, and to recommend placements to the courts.

Miami is a terrific example. The public defender anti-violence initiative hooking up with all kinds of community resources for recommending placements. And so I just suggest that, where there is no formalized system for diversion, that these strategies would do well to encourage not just public defenders, but court systems on

their own -- if they don't get the cooperation from the other players -- or prosecutors, to be proactive in designing the outreaches and connections with the community institutions that can receive people with all kinds of problems, substance abuse or dual-diagnosed people. There's an awful lot that can be done by components that have the same interest, and want to develop those capacities in house.

Mr. Kinney: If I could, Pancho Kinney from ONDCP. Three different individuals that actually responded to the white paper that we sent out several months ago. One of them was Mayor Williams of Washington, D.C.; the second one was Janet Zwick of the Iowa Division of substance Abuse and Health Promotion, and the third, Michael Massing, the author in New York.

And the point they made is that you look at treatment as a scarce resource. Mayor Williams mentioned that in D.C. there's 1,400 people in methadone maintenance treatment programs, 1000 publicly funded, 400 private, and another thousand on the waiting list for public treatment.

So if you expand diversion programs, and create additional demands on a scarce resource, all of a sudden, you're going to be competing for a very scarce resource, and I think possibly will get into a debate of who's more deserving, the individual who's not in trouble with the law, that comes up and says I need treatment to deal with my chemical dependency problem, or the individuals that we're siphoning off from the criminal justice system and incarceration from drug courts, for example, that need additional treatment.

And so I think that what we have to look at is that treatment's a scarce resource, and if we're going to significantly expand the population from two to three percent that we currently reach with diversion programs to a much larger number, we've got to go make a commensurate investment in treatment.

Ms. Ziegler: Lauren Ziegler, from OJJDP. I think it's important in this conversation to also talk about the juvenile justice system, and where these kids start on

this lifelong path towards incarceration, and involvement in the system. And just adding stronger language, because as we communicate this out to the policymakers, it's important that they're able to make that connection as to how people got to where they are.

Ms. Danziger: Thanks. First of all, let me just add my voice to this chorus of appreciation and excitement about this document. I appreciate particularly the way that you framed the debate, or the discussion in terms of cost cutting, crime control measures, it goes a long way internally within the ABA to push this kind of a cause forward.

Having said that, I think I would also appreciate a little bit more focus, and perhaps stronger language about the role of the family, and family support when you're talking about diversion, and pretrial services. And also, similarly, in keeping with some of the comments today about the lack or absence of a systemic approach, perhaps you could explore connections between the criminal justice system and the rest of the justice system; family courts, juvenile courts. You might want to look at family drug courts, for example.

Mr. Gustafson: In the pretrial and the diversion area, there are many tools that we have in our collective toolbox, some of which have gotten rusty because they haven't been used to the extent that they should. But just ticking off a few, we have a focused offender disposition program that LEAA and SAMHSA jointly supported, we have the placement criteria from the American Society of Addiction Medicine, we have the protocol for the TASC Program, and also for the drug courts. We have the addiction severity index; we have many, many tools that need to be publicized, in the inventory that you spoke about in your opening remarks.

Director McCaffery: And that language ought to be in this paper. Why don't you help us do that? That's a good point. We probably ought to have an annex

where we literally allow some of these concepts to be explained in a page or two at the end of the document.

Mr. Blanchard: I would view your input to us much like the whole strategy process. We get thousands of letters during the strategy consultation process, and we try as much as possible to incorporate them, send them out to the interagency. And I think this document especially, because the knowledge base really is outside of our team of 150.

Mr. Tennis: I'd like to follow up on the comment from the gentleman from ONDCP about the funding and the competition between non-criminal justice and criminal justice. The reason people can't access clinically appropriate treatment without committing a crime, or having almost an impossible time doing it, is because of the crisis of managed care abuses that are occurring throughout the country. Basically the firms are holding back 40 to 50 percent of both public and private healthcare dollars that are supposed to go to treatment.

As a result, the Pennsylvania DAs Association endorsed legislation drafted by Deb Beck, to build consumer protections that would ensure that those dollars would go to people who need to access treatment. They used to be able to use their insurance to get treatment, for just the average Joe. They can't do it anymore. If they do get treatment, what they get is a joke. They get a few days outpatient, maybe a few days residential at most, and so many of those people don't get the treatment benefits that they paid for, or that the taxpayers paid for.

Many, many of them end up coming to us, and we don't want them. We'd rather have them get better, the funding is already there, we're already paying for treatment, it's just that a huge percentage of it is being siphoned off and people just can't access those benefits. So it might seem like it's going far afield, but it's truly not. If we could put the system back in place so people, non-criminal justice offenders could access the treatment that's been paid for, many of those people would never get to us in

the first place. We could nip the problem in the bud for many, many thousands of people.

Director McCaffrey: Show us where you got those numbers, will you? Give me a paper. That's the first time I've heard 40-50 percent.

Mr. Tennis: We will. Jim Rich is the individual from Chicago who's done most of the auditing of major managed care systems and drug and alcohol treatment, and we will provide that.

Director McCaffrey: We're right in the middle of trying to push parity for drug treatment over on the Hill, and I'm scrambling for numbers, so if you've got some.

Mr. Tennis: Well it won't work, even with parity, it won't solve the problem, if managed care's able to hold back funds.

Judge Tauber: I have no problems with the arguments that drug treatment ought to be available to anyone who is looking for it or feels the need, but I think it's also appropriate to note, (and I'm referring to a study that was done by Dr. Steve Belenko of Columbia University National Center on Addiction and Substance Abuse) the level of retention among those who were admitted to outpatient drug treatment programs. Half of those admitted stayed less than three months.

On the other hand, according to American University, some 60 percent of those who enter drug courts are still in treatment after one year. I think that speaks to the coercive element of the drug courts and other programs that really have a great impact on the retention of the individual within the treatment program. And from all I've read, the suggestion has always been that the longer people are retained in treatment, the better success that you're ultimately going to have. I'd like to add to that if I may very briefly, I had the opportunity to meet in West Sydney, Australia with a group of

some 40 new drug court participants in a brand new program. And I had an opportunity to meet with them without any bureaucrats or judges or probation officers, in a fairly freewheeling discussion. I asked the 40 how many of you would be in treatment today if it weren't for this program? And not a single hand was raised.

I think that it's an issue, and certainly one that is worthy of this group's discussion, but I'm not suggesting that I have any final or definitive answer to it.

Mr. Blanchard: I'll take one more comment, and then I propose that we take a 15-minute break, and then move on.

Ms. Beck: This is great stuff, bringing everyone together, so God bless you, and keep it up. A couple more issues. Gary raised the managed care issue. Once they get into the block grant business, this is going to get serious, even more serious than it already is. I'm dealing with a patient now, over the phone, a case, ongoing over the phone again late last night. A young boy, parents have insurance, and the managed care firm in the discussion, while turning down the benefit, basically said now well, probation will pay, there is public money, right?

They're actively engaged, and you would know the firm by name, in the process of cost shifting to the public sector. I noticed there's accountability for treatment programs in here: I'd really love to have some help on accountability for managed care firms when they touch our patients. That, I think, is important. The other thing is I know you're looking at rapport building with all these groups. One of the things I would recommend, if you can – the recovery organizations are meeting next week in Washington, and I wonder if there could be outreach from you to them to ask for their position. And if the answer to that is yes, treatment's not in the list of items for discussion here. So I would suggest amending that.

`You have set goals that I think are great; what you want to cut in terms of crime, and all the way down, but the thing that drives all of the above, I think Judge Tauber is right, is forced treatment. It overwhelmingly works, whether done by a DA, a

probation or parole officer, or a drug court. We had a chance to do micro and macro-analyses of research on coerced treatment. It does work when it is forced, because there's a lever.

But the thing that is driving all of the variables we want to accomplish, in terms of cutting crime and improving healthcare, is access to treatment. Managed care is getting in the way of that, and there's very little funding. So I just wanted to point out, you can't do any of those goals if you don't increase the treatment piece of it.

Director McCaffrey: A couple of sort of closing comments. I don't' think we need to set up, nor is Jeff Tauber suggesting it, that it's an either/or situation. I would argue you have to put out the availability of treatment, and you recognize that most people with compulsive drug use problems won't take advantage of it until they're in trouble with the law. I mean that's the sad aspect.

But it still ought to be out there, and none of us would buy the model that says you've got to wait till they're 30, they're in the streets, they're begging for help, and then we intervene. We certainly don't buy that on juveniles; we're going to try and get in the front end of the process and we're going to explain we're doing it to save ourselves money. So it probably isn't even a competitive thing here. I mean, we ought to set up the availability of treatment, and expect that many people will bump down the line and it's the drug court that will finally bring them into focus.

It's astonishing what we don't know. The recovery organizations that are meeting here this week, like who?

Ms. Beck: CSAT put out an RFP to create organizations to do advocacy, recovering individuals and families and interested others. 18 states have been awarded those, and they're having their first meeting next week. So it is an opportunity, in Washington. What they're supposed to be doing is looking at where consumers can be rolled into the discussions on policy levels, federal and state. They're looking at issues of stigma, and it's just occurred to me, it's a nice way to empower the

group.

Director McCaffrey: You also mentioned what you want on the agenda.

Ms. Beck: I just noted that you want to make sure, if you're doing the topic areas like this, that effective treatment is one of the issues. Pretrial is here, detention is here; treatment's not one of the issues pulled out.

Mr. Blanchard: Well just to be clear, the whole topic is treatment in each of these systems. So let's take a 15-minute break and get back at eleven o'clock.

Mr. Blanchard: (Resuming) I'm going to move on now to what we have on the agenda as treatment issues connected to sentencing, and, to follow on what Paul Samuels suggested, I think we should also talk a little bit here not just about sentencing as we know it in terms of sentencing policy, but also the issue of line-drawing, of who gets diverted, who gets put into an incarcerated setting. Those kinds of line-drawing issues I think are appropriate to talk about here, even though they may not technically be sentencing issues.

Judge Tauber: I think it's very hard, not to be a contrarian, having been an attorney and judge in a local jurisdiction, I think certainly it might useful to have some guidelines and such, but the independent judiciary, especially, is extremely jealous of their prerogatives, and that's perhaps just a warning or a point of suggestion.

Mr. Blanchard: As a former legislator, I can say legislators are also extremely aware of their own prerogatives to pass guidelines and sentences as well.

Mr. Samuels: I'm fully aware of what limitations there may be on what kinds of recommendations can come out. But certainly, picking up on the point that

Jeremy made earlier about the disappearance of discretion throughout the system, virtually at every level, and especially at the sentencing level and parole level. We think that that's a trend that's been totally in the wrong direction, that there needs to be much more discretion so that the lines can be drawn in ways that both promote public safety and protect the taxpayer dollar, and yield the best result.

So we would certainly urge that whatever comes out, or whatever's done, focus on appropriate use of discretion, and move away from locking up people's options instead of giving people options.

Mr. Blanchard: You know there are several states, one of which is Connecticut, and then the federal system, that have actually built in sentencing incentives for treatment; that is, there's actually an availability of some type of good time credit, or actually early release options for people who participate successfully.

Mr. Murray: Just a quick comment as we talk about sentencing in all of these various areas. I hear people talk about various programs, and I think at the risk of things looking like soup de jour, it would be helpful if we talked about the principles of the various efforts. Because I think that not every program is politically viable, or fits, or whatever in different jurisdictions, but many of the principles do, and so I think it would be helpful if we talked, sometimes on these principles.

And I think that goes with sentencing too, that, as you're looking at sentencing information, I think there are a number of principles that you want to take a look at as you develop the needed information, the kinds of decisions that are going to be made, and some are very localized, depending on what the community will tolerate. So, I think as you look at a number of these things, it's important that we never forget the community at large, and their involvement in some of this decision-making.

Mr. Blanchard: As we discuss this, we don't want to get so into the weeds of a particular program, but talk more about principles that should guide local development of institutions and systems, and policies. It's a very good point.

Mr. Huddleston: Just a brief comment, Wes Huddleston from the National Drug Court Institute. I know that Florida has an automatic booking system, for instance, that allows for sharing of information throughout each agency, and we'd like to see that as a part of the strategy as well; sharing of information so that there's no duplication of assessment, and the like.

Unidentified Speaker: Several of us have just come from an OJP conference on technology integration within the justice system, and we've spent a lot of time discussing the benefits of instantaneous sharing of information about an assessment of a defendant's problems, with the court and the prosecution and the defense, and the community, the treatment community, and what a powerful instrument the integration of our technology systems can be in everybody knowing what an offender's problems are, and finding an appropriate placement for them.

So I'd say that this sharing of information, the optimum way of doing that is the sharing of technology systems, and that will lead to appropriate placements, either sentencing or in a pretrial context.

Mr. Samuels: Which goes back to an earlier point about the importance of case management, or shared information system that can track somebody from arrest all the way through post-release, if they go thorough the system completely, where information is shared as you go along, I think is critical.

And as you see in the midtown community court, up through the full course of treatment, you can track every attendance at every treatment session and every dirty urine, and sharing of information is integral at every step of the process.

Mr. Link: Michael Link, with the National TASC Association. I think there also needs to be some discussion around the issue of communication. Many states have developed clinical protocols for levels of care, and oftentimes the justice system has not

been involved, or has not had input. And so what I have seen is that judges, who still want their discretion in sentencing, may have some problems with semantics between themselves and treatment providers. The judge may want someone in residential care because he wants him or her off the street. However, they're in the public system, and it presents a problem for the provider, who has not assessed the person needing that level of care. It presents problems, because the two systems haven't come together with shared information around those clinical protocols or things of that nature. And that's a real big issue, where there needs to be more sharing and discussion around the public system's development of protocols.

Mr. Henderson: Tom Henderson with the National Center for State Courts. I've been sitting here listening to the comments, and it occurs to me that one of the problems, or one of the issues that isn't as fleshed out in this paper, as it might be, is the issue of how we move from programs that are driven so much by personality, especially when they first begin, to begin to institutionalize them. The danger that as you move to try to build them into the institution as a whole, their effectiveness goes down because of the enthusiasm was such a key part of the initial success. But at the same time, if you don't institutionalize them you run the risk of the program dying because you run out of volunteers.

And people just burn out. Which leads me to my second point, coming more out of the court community, there is a tendency to forget that there are a set of leaders that need to be engaged in the same way there are with the other two branches of government, at both the state level and the local level. And that they may not be directly involved in the program, but they need to be involved in the institutionalization, they're key to the institutionalization of those programs.

Mr. Blanchard: Absolutely. To look at who's going to actually be implementing these, any program, ultimately it's the folks in the courtroom; the judge, the DA, the public defender, the probation officer, who are critical. And no matter what

you have done at the leadership level above those levels, if' you haven't gotten down to the deep level, you have a wonderful program on paper and nothing in reality.

Judge Garvin: I'm Ron Garvin, of the American Judges Association. I'm not sure where it goes into the paper, but there's one overriding consideration that has to be taken into account by everybody. We're talking about public education on sentencing, and that's fine, but of the 3,000 judges that are members of our organization, virtually all of them, but not quite that many, are up for reelection periodically, and when you have that offender in front of you that's on the front page of the newspaper, it's going to affect that discretionary call by the judges.

Unlike everybody else in the room here, the judges are the only ones that face reelection other than the legislators. Because the legislatures can pass mandatory sentences and sit back and say the judges aren't doing it. So that has to be taken into account.

Director McCaffrey: Along with the sheriff, too. The sheriff's up for reelection. And the DA.

Mr. Wicklund: I'm not up for reelection. The sentencing decision, I think everybody can agree, is a very key decision-making point here. However, one of the issues that is coming up around the country is pre-sentence investigations are either not being done, or they've been grossly reduced in the amount of information that is presented at this key decision-making time.

And I think that it's not just a lack of information, but how that information is obtained. For a probation officer it's a key time with motivational interviewing, to develop not just case management, but the case plan, and to bring that case plan before the court. And there are many, many jurisdictions, in which, because of sentencing guidelines; the pre-sentence investigation and report have become a non-existent tool.

Specific to that very point, the white paper speaks to a goal of having a

caseload for probation officers of 25 to one. I don't know of any jurisdiction in the country where a probation officer has 25 people on his caseload. In the City of New York it's not infrequent to have 250, 275 individuals, which clearly impacts on the ability of a probation officer to get involved in doing a comprehensive pre-sentence investigation.

Mr. Blanchard: Well I remember when I first met Judge Tauber, I think it was in Tampa, Florida, when you were still a judge in Oakland, and you were talking about the caseload that the California Probation Department had, which made it sound like you might as well not even have a probation department; the workload was in the hundreds and thousands.

Judge Tauber: Basically, they used data banks to work with probationers, which is ridiculous.

Mr. Blanchard: And I came from a state, Arizona, that actually fortunately made a good investment in probation services that I think has had a payoff, but you're right, even Arizona wouldn't meet those 25 to one figures. That's more like an intensive probation caseload than a traditional probation caseload.

Ms. Beck: Deb Beck. An issue I don't quite know what to do with, except I need to make us all aware of it. I think it speaks to the need for cross-systems training as part of this project. You may be surprised to know that for those of us who have worked in treatment long term with criminal justice patients, our worst problem when we touch the criminal justice system is that the criminal justice system is often too soft.

That may surprise you to hear it coming from me. The worst thing that could possibly happen to a treatment program is to have a problem with a patient that we need to throw out, and the probation and parole officer minimizes what happens, or the judge will not revoke.

So if we're going to start moving - which I hope we are - mass numbers of folks who are involved in criminal justice into the treatment side, you've got to give us backup. What happens, if that guy gets let off, is everybody else in the program starts to act out, and you destroy the treatment program. So I just want to press a little the need for cross-training, and our fear that the criminal justice system often is too soft in that aspect.

Judge Garvin: I agree with what Deborah is saying, but there's another side to this. In many rural jurisdictions, you have one choice. And they have a monopoly, and they only work with whom they want to work with, and everybody else gets booted out.

And that's a real issue. In places where there are lots of resources you have one kind of issue. In places where there are singular resources or one or two, the other side is that they're very selective about whom they'll work with.

Mr. Tennis: I'd like to touch on a point that Deb made. I think it's critical that we bring some attention and some focus to the whole issue of how we're going to culturally integrate these matters into the document. From an operational level, I don't think we've yet begun to discuss the importance of changing the culture of the organizations that we're working with in regard to criminal justice, working in concert with treatment and vice versa. It's really important to understand that the people, who are going to be doing this work, have a mindset that's been traditionally ingrained throughout these organizations, since the beginning of these organizations. And until we take a look at how we're going to train the staff who's going to be implementing these approaches as they are stated, we're going to be missing the boat.

As we mentioned before, we know what we need to do, but how are we going to do it with the staff we have at hand, and how are we going to change the culture of these organizations? And how are we going to change the mindsets of not only the line staff, but more importantly, some of the administrative staff.

I mean there are tremendous territorial issues that we deal with in these organizations that have to be addressed in order to move this phase into the next millennium. And I see it of critical importance to begin to discuss how that's going to happen in these organizations.

Mr. Blanchard: And part of it may be the incentive structure. I went to go visit a New York, a drug court, and spent a day with the prosecutor, watching the drug court and talking to the systems folks, and she said basically, she has no problem with the judge, no problem with the public defender, she works with, the system works really, really well.

Her biggest challenge is keeping her caseload from her fellow prosecutors, who see easy convictions that will help their numbers. She usually has to go up the chain to protect the drug involved offender and keep it in the treatment court. And fortunately, she's got the support of the elected DA, and she's been successful, but that's an example where sometimes the incentive structure of the institution may need to be adjusted to reward the kinds of changes that we're talking about.

Mr. Dyson: Ron Dyson with the federal courts. A couple of issues that have come up, regarding the number 25. In terms of a caseload, 25 to 30 is an ideal. It may not be realistic at this, in this day and time, but it is the ideal, because once probation officers or counselors get beyond a caseload of 30, they're not providing treatment, they're putting out fires. And so with exorbitant caseloads of a hundred and more, officers are basically putting out fires electronically by computer.

The other issue I'd like to address is doing PR work. Whether you are implementing a program,developing a graduated sanctions policy, whatever you're trying to implement, you need to start with your agency first in trying to change the culture.

Oftentimes, the appropriate PR work is not done. You've got to have all the court family buy into whatever you're attempting to do, or at least educate the court in terms of what you have available.

A lot of times judges don't have the information at hand, or the officers aren't knowledgeable about what the resources are in the community, and so judges unilaterally make decisions - well I want this person in this program, or I want this person to do thus and so - based on their own frame of reference.

We have to educate the judges. Once you educate the judges, then you have to educate the other court members such as the U.S. attorneys, the defender services, so that everybody's on the same page and everybody's bought into the program.

Mr. Huddleston: Wes Huddleston again, National Drug Court Institute. I would just like to say that I think the success of drug courts, as Mr. Dyson is describing, is due to the training that has taken place out of OJP, and out of our office. We train judges for a week on how to be a drug court judge. Same with prosecutors, defense attorneys, treatment providers. We provide them with role-specific, skills-based training as a team, and believe that is the key.

Mr. Wallace: I agree with everything that's been said about training, and the need to improve and change the culture. But, we're also up against certain resource constraints. And public defenders, just like prosecutors, have their caseload concerns, and they may have cowboy mentalities, where they're just in there to do their function and move cases.

But the overwhelming concern is often, you want me to be a social worker, you want me to provide assessments, and sentencing recommendations tailored to an individual, you want me to hire a social worker, hire an investigator to look into the person's drug background or family history. I have 700 cases. 700 felonies pending, I've got 40 trials I'm supposed to be doing in the next couple of weeks, forget it. I'm doing a meat market here. So I'd say there has to be some acknowledgement in this document of the real world, the real world resource concerns of people. Absolutely, we need training, and we need collaborative training of prosecutors, defenders and judges,

so we can all get on the same page. But something has to be done to promote thinking about the basic level of service that we're able to provide through all the components.

Ms. Wolf Jones: Thanks Chuck. I'd like to agree with several of the previous speakers, but particularly, in terms of what Mr. Dyson said, to question who that "we" is, and I think maybe that's an issue that we here need to grapple with, because too often, whether it be the drug courts, who I think, and Jeff can correct me if I'm wrong, tend to deal with the less severe, less chronic drug offenders, or the regular courts, when an assessment of resources is being made, often it is not known what the spectrum of resources in that community is.

Unless you have a particularly active treatment group in that city or that town who have gone to the court system and said here we are, this is what we do at what levels. So that you know if you want to make assignments or look for programs, we can offer X, Y or Z.

But my guess is that in most states, cities and towns around the country, that doesn't happen, and as somebody earlier said, a judge may know of a particular program or a particular modality, and automatically use that, which may or may not be appropriate or timely.

Judge Tauber: Just to follow up on what Linda had to say, drug courts started out as a fairly defined and a limited kind of a concept, dealing mostly with divertees. They've been expanded and continue to expand into systems. There are lots of places - like Minneapolis, Denver, Tampa, probably two dozen jurisdictions now - that have 75 to 80 percent of all drug-using offenders who are charged within what you might call a system.

And this speaks I think to what Mr. Dyson was saying as well. Once you have a certain number, a certain level of involvement, it makes sense to have the specialization and the training that is called for. That really is impossible as Scott was suggesting, when you have a regular public defender caseload of 400, or even 100, for

that matter.

One of the things that I think that drug courts, but not just drug courts, and certain other programs do and do well, is to train people as to their role, and to develop a system so that they can work as a team together. And I think that's critical whether it's going to be a drug court program, or some other kind of a program.

Mr. Murray: Don Murray from the counties. You know, I think one of amazing things with drug courts, I mean, here with an investment of $40 million now a year, there's been a tremendous return on that investment, and we're spending as a nation about $35, $36 billion on corrections in this country.

If the public understood that we have1.8 million people locked up, and they're not getting much in the way of education, or treatment, or anything that will make them more productive when they get out. I mean, if the public understood that, it would be a very powerful message, but I don't think the average citizen has any idea what takes place in jails, prison, etc.

And I remember when the Clinton Administration came into power; they had a big meeting out in Portland, Oregon on the spotted owl, a few weeks after they arrived in town. And they spent three days going over environmental issues, bringing in experts from all over the country. It was wonderful to have a national education.

Why can't we do that with the correctional system in this country? We're certainly spending big bucks on this. And the warehousing that's going on in this country is a national scandal.

Director McCaffrey: 7 To 9 December, be there.

Mr. Blanchard: I was going to say my boss stole my thunder, but that's his job. Actually, that's our hope, and it will be a high level conference, and it will be a large conference, multiple-day, the Attorney General, Donna Shalala, Barry McCaffery. Hopefully, and it will focus on these issues.

Ms. Beck: With this terrible resource problem with the public defenders and the DAs and the judges, and our resource problem on the treatment side, you've really taken on some very tough and controversial things.

Why can't we get rid of the IMD exclusion, so that residential rehab is available. We've barred the very population that needs rehab from Medicaid coverage for rehab, which is why the judges don't have the resources. The IMD exclusion bars Medicaid spending, it's a federal reg that bars Medicaid spending on residential

rehab long term. Just one of the reasons it's an un-resourced area, and judges generally do not have that part of the continuum available across the country.

Mr. Blanchard: With your permission, I'll move on to the topic area jail. Clearly, a lot of folks in this country have an opportunity for treatment in the jail system, either as pretrial detainees or, as folks that don't merit a sentence to a penitentiary. Also, obviously, there are all kinds of unique issues for pretrial, if you don't know whether you're going to have them for one week, two weeks, a month, three months. So that raises a whole host of issues I'd like to get some feedback on

Mr. Kerle: I guess I can start this out, the American Jail Association two years ago went on record, at my urging, to encourage the involvement of academics every year in their annual training conference. We did this specifically for two reasons; the interning of students in jails as future employees, and equally as important, the idea of doing longitudinal research of these treatment programs.

I can count on the fingers of one hand the number of articles I've had in the American Jails magazine in the past thirteen years on the success or failure of treatment. Specifically, Sheriff Hennessey (beeping noise continues) out there in San Francisco County, California, got a substance abuse treatment program going in his institution.

He was wise enough to go down to the University of California at San Francisco and get the involvement of some bonafide researchers and set up a control group, and then did a comparison longitudinally over a two-year period. This is what

we badly need.

The problem from my perspective as an ex-academic is that traditionally, local corrections has been sort of treated as the stepchild of the criminal justice system, where you don't get a lot of attention paid by academics standing in the classroom talking about criminal justice, corrections, police, parole, etc. The challenge, again, is what you're talking about here today. This overall collaboration of everybody in the community.

I like to tell jail people academe is right next door and you can usually get it for free. You don't have to have these big federal government grants to spend money on research, because they're going to get credit at the university for becoming involved with the local community agency like your county jail. And I wish more of that was going to happen, and to the extent that you can aid and abet my efforts to go in that direction, I'd be glad to accept your help.

Director McCaffrey: Actually, at our last conference, there was a paper presented on this topic, by Jim Swartz of the Cook County jail. It was an interesting experiment, because some folks left after a month, some folks left after two months, some after three months, some after four, so we were able to track success of folks that received 30 days of treatment, 60 days of treatment, 90 days of treatment. And the conclusion was consistent with what we learned earlier, longer-term treatment had a pay off and short-term treatment tended not to.

Mr. Travis: I was pondering Don Murray's observation about the level of incarceration around the country, thinking how this group, and their voice on that issue, relates to the discussion about probation and parole. Here's just one fact for people to think about. We have basically stopped, as a country, the growth of prison at the front door. Basically, we're not taking more people in than we used to in our past few years.

Growth in imprisonment that continues is now mostly due to length of stay,

and that is half roughly actual sentencing. The other half is returning parole violators. So parole violation has gone from, I think, 20 percent to nearly 40 percent of intake.

Now how does that relate to this discussion? I think part of that is we have to think about what the parole violation policy should be for failing drug tests. That's sort of an easy way to violate somebody, as is violence. And it goes counter to what we're learning in drug courts, which suggests parsimoniously graduated, clearly stated sanctions. So I think there is a connection here, with drug involvement and relapse. How does the parole policy respond to them?

Mr. Huddleston: I spent the last 10 years working behind bars in prisons and jails prior to this new position. And as a substance abuse professional, my experience in relation to what Jim was saying is that out of the 1700 jails in American, seven percent have 10 hours or more treatment per week. There are a lot of reasons for that, but it's problematic, to say the least, so obviously the need for treatment in county jails is immense.

Secondly, the treatment itself needs to be improved. We do know what works with offenders in terms of treatment. My organization has done work on that. There's research out there that shows what works with incarcerated populations in terms of treatment, dealing with anti-social personality disorder, dealing with criminal thinking, and I would like to see language describing utilization of eclectic treatment.

The issue the drug courts are facing is a judge will sentence someone to jail, as a sanction pretty regularly. If there's no treatment in that's institution it is a waste of time. And it gives defendants exactly what they want, which is a break from treatment. These are issues that I think we need to discuss.

Finally, Beth Weinman is I think an incredible resource, as she has really changed the federal system and I believe the same type of resources and programs should be implemented on the county and state levels.

Mr. Blanchard: If I could tell one story of my own experience when I was in the legislature. With a rash of DUI violations in Arizona, we already have very tough sentencing policies toward DUI. So the prosecutor actually came to me and he said don't make our mandatory sentences as far as DUIs tougher, cause they're already the toughest in the country. The problem is a treatment breakdown. So we actually held a hearing where we brought in a chief presiding judge, Judge Rhinestein, and we brought in the Department of Corrections. And the Judge wanted this wonderful program called the "Aspen Center" in Florence, where he sent people all the time and thought it specialized in drug treatment.

So we brought in the warden who runs Aspen, and he says well, if they want to they can do AA. It's clear that there was a disconnect between what was really happening in the correction system, and what the judge expected to happen.

A result of that was a major treatment initiative for DUI. But it goes down to your point, that there really is at times an information disconnect regarding what really is happening in our systems.

Mr. Tennis: Just to respond further to the doctor's comment about research. The president's commission on model state drug laws was a prosecutor dominated commission, and concern about effectiveness of treatment, cost benefit, and effectiveness on crime was very much there. We contracted with Rutgers to do a survey, a macroanalysis of all the research done up to date, all the major research. And they found that a mountainous body of research already exists out there and it does show what the gentleman over here was talking about, which is, particularly with criminal justice populations, long term residential treatment tends to be the way to get people better. You can start them behind the walls, that kind of approach works, so there is quite a bit of research out there.

At the same time, research needs to continue, because hopefully we'll get better and better at this as people experiment with different approaches. There needs to be research to show what works and what doesn't work, because a lot of times

policy choice depends on who can put up the best PR campaign, rather than on what the research really shows.

Ms. Pearson: I'm Liz Pearson, with the National Criminal Justice Association and I just wanted to say I think that there's an initiative going on right now that tries to boil down those essential elements of critical programs, and create sort of implementation guides. I think that there is probably a place for that sort of transition type document, so that people with good intentions of developing programs of that nature will know exactly what they want to do to do that effectively.

Ms. Weinman: I'm just going to thank Wes for the introduction. There are a couple of things that have been said, regarding jails and prisons, two different animals to which some things apply equally. One of them is that in jails and prisons, often times, we don't get complete information of the assessments that went before. So when we are starting with the inmate or the offender we're starting from scratch and it's a perfect place for manipulation.

In the federal system, I have worked to do this but am relying on hundreds of people to provide that information. In jails, you often have short periods of time. I think that leads to reluctance to put a lot of money into treatment, but it doesn't mean that treatment isn't useful.

The need for structured assessments and the movement of assessment information - which is in that this policy paper – must be stressed, stressed that it really needs to be done all through the system that people have spoken about in this room, that circle Jeff and Jeremy spoke about.

The assessment also needs to include risk to the community as well as treatment need. That must include the mental health status and level of violence. One of the things we're finding out in BOP treatment is there are persons with personality disorders, psychopaths for example, who are not responding well to the group processes in treatment, and in fact become better psychopaths when you treat them that

way.

So you must make a distinction in these assessments, in how to best treat people. Not to exclude people from treatment, but to consider the safety of the community and of jails and prisons, where we have people at different security levels who are learning from each other as well as from the counselors.

The notion of boundary spanners, case management, is critical because that's where the information gets lost. In each step of the system a sort of overseer is needed to move information to the next system, because as system components, as soon as we move the inmate or the offender or the defendant to the next step, we're done, and just happy cause we have more time for the others on our case load. So, a boundary spanner, as my colleague from Hagerstown was talking about, or the case manager that Michael was talking about is essential to the whole process.

One of the other things we're finding out is when inmates first come into treatment we must stress their introduction to and engagement in treatment or we don't have them. So we have to initiate and engagement process as well as a transition back to the community, a process near and dear to my heart. We have to talk about that and about the needed cross training for treatment and security staff.

In our system, we do have successful outcomes. We have found less misconduct with treatment in our institutions and the wardens love that. That fact is helpful when dealing with people who don't buy into treatment. Just a quick example. In 1995, we had disturbances throughout our system, including some institutions with residential treatment programs. And in those institutions, the inmates said “I don't want any part of this,” closed their doors, and we didn't have to worry about those parts of the institution. That really impressed a lot of the corrections staff.

One of the other things that I'd like to address is the varying terms of sentences to jail and the preponderance of information that supports long term treatment for offenders. I think we might look at the length of time available and what we are actually going to use the jails for.

Assessment is the critical piece in the entire continuum and it's ongoing.

Jails are a perfect place to begin the assessment process as well as the treatment readiness process. Rather than trying to provide long term treatment in such a transient environment, maybe we need to focus on providing the short term or cognitive based treatment in the jail setting, and leave the more long term stuff for people who are going on to a prison cause. It's important to look at where that offender is within the sentencing continuum, and where you want to put your resources.

If the offender is at the beginning of the sentence, just coming into jail, and you try to deliver treatment in a long term setting that's not going to work; the offender is not going to stay in that jail. But, if you know that offender is going to be moving on to the state system or to the federal system where there are more resources available for treatment then you can use that short-term jail time to begin the assessment process and also to begin working with this offender, with denial and treatment readiness issues.

Unidentified Speaker: I'll pick up the last point that Beth made with respect to advocacy for in-jail, in-prison treatment. The best advocacy promoting treatment comes from the wardens who are managing the personnel that work in that environment. We need to showcase the experience that correctional personnel have had in the treatment environment. I also want to take an opportunity to make a recommendation regarding the description of substance abuse that is in the "White Paper".

Most of us have worked in the substance abuse treatment and prevention area. I think we have done somewhat of a disservice in continuing to talk about treatment as a chronic relapsing condition. It sets the stage for a perception held by many that it's an intractable disease that can't be treated. I much prefer what Dr. Westley Clark from CSAT and Alan Leshner from NIDA do; talk about it in terms of a treatable disease with biological, psychological and social aspects to it. In some respects you have an audience that needs to be won over within the correctional setting, the judicial department, district attorneys, police, etc. They have a predisposition not to embrace treatment. If you start off by saying you have a chronic relapsing condition, you've got a tough up hill battle to go from there.

Mr. Blanchard: Your concern is valid. We don't want people to think that relapse is the story. Relapse doe not merit going back into prison for 7 years, but needs to be treated more narrowly. I think we could probably do that in a way that makes sense. I have seen Alan Leshner's presentation. He does a very good job in presenting it as a treatable disease.

Mr Kerle: I should not do this, particularly since you indicate that you're from the state of Arizona. Arizona is one of sixteen states that has no jail inspection, though there are 15 counties out there. In addition to these 16 states there are 4 other states that have inspections with no mandatory enforcement.

For six years I did jail audits in 20 states, 66 jails. This was an evaluation of the whole jail operation against national guidelines and standards, which included all the important concepts of the programs. What I'm suggesting is that unless these states come to grips with this, we're going to continue to have people claiming to have all these programs. They actually may have in policy and procedures, but when you go down there and look, there's really nothing going on.

I don't want to get into how many war stories I can tell you about this. But this is very important, that the state legislatures, the governor, the state bureaucrats stand up and recognize that what this country could use is a good healthy dose of unannounced jail inspection, where they come in on you and they look at you, and you don't know they're coming. And that's when you're going to be at your worst, and hopefully, you're going to be able to meet their standards. I don't know how you could work that into your paper, but state politicians really need a strong suggestion. If we're ever going to change anything, given the past 200 years, we've got to push jails into a position where they've got the state looking at them through a microscope.

Director McCaffrey: Could you give some language on that?

Mr. Kerle: Sure.

Ms. Beck: One of the things to look at within the system. What does that treatment look like as we establish the necessary procedures, to make sure that we know our audience and speak to the population that we're addressing. So we are able to communicate the information needed for this group.

Another tough issue I think we've got to put on the table, relates to the best treatment programs in the country. If you ask me where would I send someone I care about for treatment, I wouldn't touch a facility where at least 40% of the staff is not in personal recovery. There's a reason for that. There's no masters, Ph.D. or bachelor's program in the country that can teach people how to avoid being conned by people who are still in denial. You've got to have recovering people in these programs, particularly on the criminal justice side.

And I think we have to look at the facilities that. At one of the facilities in my state, where there was a riot, the prison was burned. The staff was in personal recovery, and that's who gave their clothes to guards and hid them and kept them from being hurt, and defended that part of the prison.

It's not going to work unless recovering people are on the lines. In some states they bar the hiring of recovering people in prisons. In other states, they've managed to do a great job in figuring out how to handle it.

Director McCaffrey: I just had a question. We were talking about people in personal recovery. I know that drug courts try to rely on NA and AA. How do they work into this whole thing other than as voluntary organizations?

Ms. Beck: If I can just quickly respond to that. Most of the good drug and alcohol treatment programs have been started by people who have been through AA and NA. They founded programs for folks who can't get well just through AA and NA. So you want your programs to be integrated with Narcotics Anonymous and AA, as an

adjunct. One is not the same as the other.

Mr. Meachum: Larry Meachum, The Justice Department, Office of Justice Programs. I've been wondering at what point I should say this, because in some ways it fits everything that we've said, and in some ways I was thinking I should wait until we got through the section on prisons.

But today the issue here might be also marketing and how we're doing this. In some of the early news coverage, comments have been made about this initiative that have been sort of teasers in some ways. It's good to see that the guts of this is not reducing prison population by 250,000. As a former correction's administrator, I think that the country has been conditioned almost, to sort of turn off once they hear a couple of things. One is alternative to incarceration. I think much of what's being said across the country about prison populations and overcrowding has drawn some negative reactions. So when people hear the term "reducing prison populations" they immediate raise their dander and think that that is something that's going to undermine the integrity of criminal justice instead of support the integrity of criminal justice.

So when I read this document, the White Paper, I was prepared to read "alternatives to incarceration," I was prepared to read "reducing the prison population by 250,000" knowing that if people started seeing this as bad, it could really damage the perception of the whole.

I didn't see any of that in the White Paper. I was very pleased with that. And then I started looking at the pieces, and in each of the pieces I could start to see, well this is not changing the way that we do business. This is in fact a new way of doing business and some of the accolades that I've heard here about this paper, are because it is so practical. It makes so much sense, and it is so fundamental that almost everybody would say, yea, that's what we should be doing, if we were going to do it right.

And I would say, well what about the individual pieces? Can I interpret them in my current world; well I don't have resources. The system needs people who will talk to each other. We need a system and I see that we've got a new system here or new

approach that is sort of fundamental, but you don't look at individual pieces and say well what's wrong with it, or we can't do it.

So if you turn that around and say the most expensive piece of the criminal justice system is incarceration, and we can't do all of these things that need to be done if we keep putting all of these people in prison, and only looking at prison as the way of doing business, then we have a chance here of doing something else with these offenders. Using those high dollar incarceration programs, to find some of the programs where we would be much more effective and get a lot more bang for our buck.

I think that would be a way to deal with overcrowding. Because if it ever gets tagged as a program to deal with overcrowding, I think that would really hurt an that has tremendous potential for everything we want to do with the criminal population and substance abuse in this country. So I would recommend that we not use this theme of reducing the prison population as what we're trying to do here, because what we're doing is too good for that.

Mr. Blanchard: It really is more a theme about reducing crime. Reducing the number of victims.

Mr. Link: Michael Link from the National TASC Association. I just didn't want the group to forget about the notion of case management and how critical that is. Because often times what happens, because of the nature of the short stays in jails, if we don't connect that person who is leaving jail back into treatment immediately and other services, we lose them. So we've got to be able to make sure that programs like TASC are there to connect a person in jail, while they are in jail, with a community-based services that are available.

Mr Blanchard: Very good point. I'd like to move on to talking about prison-based programs.

Ms. Beck: We have a new state prison set up in Pennsylvania. The state correctional institution at Chester and it is a drug and alcohol treatment prison. I understand that the commissioner there is taking individuals before they get out, which is the time we're most concerned about. They have an outstanding treatment program and offenders can attend the program in their last year of incarceration, so it's the real deal. Before they get out we make them start working on their treatment issues. They can't get all the treatment done they need to in the prison because there is always some treatment work that has to occur outside the prison system to work clinically.

Ideally we should be driving toward the system, that I think will take 10/15 years. In this system every addicted individual before they get out of prison will at least begin treatment, and then be paroled into follow-up. we'll really be looking at them very closely at the time when the public's most interested, which is before they are out walking the streets with us. The Pennsylvania program includes very extensive after-care and may include if necessary, non-hospital residential.

Unidentified Speaker: I applaud the drug-free environment and think that is essential to prison-based treatment. There is a facility in Oklahoma that I read about, the Bill Johnson Correction Center, a 300 bed facility that's been open since '95, and it is a drug-free prison. They have implemented multiple levels of control. This can be done and it's absolutely important that these are drug-free environments, therefore, therapeutic environments. I just wanted to state that.

Ms. Danziger: I also applaud the talk about establishing a drug-free environment in the prisons and the testing procedures. Have you given any thought at all to measures addressing guards, the guards' use, or selling drugs in prison?

Director McCaffrey: Well, I do know that the president issued a directive and part of the directive was to start dealing with those issues. We actually have a mini-grant program to help persons who think outside the box as to how they can create a drug-

free environment. We sent out grants to several prison directors to do pilot projects. It was a modest amount of money but one prison director said it was wonderful because he's been going to the state legislature every year asking money to do this, a drug-free program system-wide, and he's always been denied the funding. He said I have one pilot with this funding. My pilot is in the most drug-infested environment, and if it works there I'm confident I won't need your federal funds anymore. I can sell it to the state legislature. I think that's the kind of out of the box thinking that's very important.

Mr. Gregrich: Allen Ault is with us from the National Institute of Corrections. Allen oversees the grants that were made available to eight state prison systems. The Federal Bureau of Prisons has also implemented programs in 37 facilities. It's a way, initially, to deal with visitors, because visitors are a primary source of drugs.

Mr. Ault: Well, in some states, particularly non-union states, they all seem to have some security inspection that they go through, including random drug testing. The Bureau has concentrated more on visitors, but the states are trying a variety of programs all the way from treatment as a means of reducing drugs coming into the prisons, to sophisticated intelligence systems, computerized telephone systems, and, of course, ion spectrometers.

Mr. Murray: This also underscores the need for intergovernmental solutions. One doesn't go directly to prison when they're arrested. I mean, they go to jail first and it works like monopoly in some ways. The point is we try to emphasize that there are some states that have really done fine work, like Oregon, Minnesota, North Carolina, in looking at the prison system as part of an overall system. So for the December meeting, that might be kept in mind. We need to focus on the intergovernmental system and how it operates or doesn't operate. It's really operating well in a small number of states. That is true. It would be good to highlight the ones that are doing it well.

I also think you have to help prison systems look at building incentives into

the sentence. Otherwise, in many cases, there is not any incentive to get involved in the prison program, if it's not going to offer treatment and won't have any effect on release.

Unidentified Speaker: I think you have to look at how to keep those internal incentives built into the prison system.

Mr. Gustafson: There's a very long history of Federal Government Prison-based Treatment. It goes back to the 1950s and 60s with Marion, Illinois on the federal side. The LEAA sponsored programs such as the treatment and rehabilitation of addicted prisoners for a number of years throughout the nation, and had residential therapeutic communities. There was a program called "The Standard Implementation Program" back in mid 1970s that supported the diagnostic, treatment, referral, and placement capability in a number of prisons.

So let's learn from our experiences. I'm glad that part of this effort will be the cataloguing of successful innovations over the years, because there certainly are many of them.

Director McCaffrey: And we include several examples in the White paper. We've visited few of them, and I'm sure there are a lot of other examples. I think it would help us, if you would tell us of other examples that we should include. I think it goes back to the original point about knowing where we've come from, how we've implemented what we learned, and what more we need to learn. The states that have experimented with this have been very good at it.

Mr. Samuels: Picking up on what's been done well. We know a lot from experience and from research,and one of the key components is that you have to do effective treatment inside; but no matter how effective you are, if it ends at the prison door, it's not going to work. People, when they go back home, are going to face all those pressures and problems of returning; not just returning back to where they live,

but to where all the problems were.

Very often without assistance in transition, the first stop will be the local bar, crack house, shooting gallery; because the stress of going home and going back to the same neighborhood is too much. So a lot of the good drug programs have a transition component. Some of them even require that you enroll in these programs.

A number of years ago, we worked closely with New York, set up seven prisons where there was a requirement that whoever came in to run the treatment in the prison had to also provide treatment in the community. Transition included treatment in a community setting, while the person was still within the correctional system, followed by a further transition when they left the correctional system on parole or otherwise will be within the auspices of the criminal justice system.

That's essential in order to make sure that the treatment works at home. It's also essential for another whole set of important reasons, which we haven't really touched on here. And that is there are real issues involving race and class and ethnicity that are going on here that need to be addressed up front.

General McCaffrey mentioned in his opening remarks that a lot of the people using drugs are white. But when we look at the prison system and who's being incarcerated it looks a lot different. We also have people being incarcerated and sent off into rural areas, far away from where they live, where family can't maintain contact. That hurts their ability to recover and to reenter society. That's another reason why there's got to be a strong link back to community to help people try to reintegrate.

Mr. Kerle: I hate to bring this up but I will; it's a point about sensitivity. I've been here this morning and I've heard the word "guard" used twice. Well, let me tell you ladies and gentleman, in the 1980s the American Correctional Association, The American Jail Association, The National Sheriff's Association, and the International Association of Correction Officers went on record against the use of that term. To the extent that people in this room still use that term I can guarantee you that when you go into an institution, you're going to make enemies of the staff right off the bat.

Second in regard to this issue that the gentleman just alluded to, multicultural diversity, this is one of the most serious problems confronting corrections, both state and local in the United States today. And I have yet to see any good training, if that's possible, that addresses this subject and can really turn people around. That's a serious problem and I'll be very blunt. I don't know what the answers are to it.

Director McCaffrey: "Correctional Officers?"

Mr. Kerle: Yes, sir.

Director McCaffrey: That's a good point. Once you look at the documents we have on the table, find ways to craft language that we can incorporate to gain the best standing in that community. That's the first time I've heard that.

Ms. Wolf Jones: One of the things that I'd like to mention is I worked in a prison-based therapeutic community and one of the things we insisted on after the institution treatment process came to an end for an offender, was to connect with probation and parole officers, particularly the officer/agent who brought that person into the prison setting. It began the case management process so that the offender and the probation and parole agents would know what was expected on both sides. That dialogue and that transfer of information began before the offender walked out the door. That reduces some of the likelihood of the offender manipulating the system.

This is what we badly need. From my perspective the problem is academic. Traditionally, the local corrections department has been sort of treated as a stepchild in Criminal Justice System. You don't get a lot of attention paid by academics in the classrooms. The challenge again is what you're talking about here today, overall collaboration of everybody in the community.

John Gregrich, TCA and General McCaffrey are working on a set of prison based therapeutic community standards. When completed, we hope, there will be a

requirement that every prison, jail, other institution in the country abide by these standards.

I did the program development for the first of the prison TCs in New York State that Paul alluded to; the prison is in upstate. I know how many months we worked with the recovery community and the Phoenix House. Everyone here knows Phoenix House, because it's the general benchmark on how the system should work, what the transitions should be. Negotiating with parole, probation, corrections, to be sure that everybody involved in any part of the process understood, had their input, had their feedback.

Mr. Camp: George Camp with the Association of State Correction Administrators. I wanted to first thank the General for having us all here, and in particular, for the work of your staff John Gregrich and Brij Sandill. They were very gracious and helpful. I assume that I'm probably not a lot different from all of you as I've listened to what all of you have said I learned an awful lot. I came in I had a set of comments I was going to make. But, I soon realized there was a lot more that I didn't know, so I've learned a lot from you and among the things that really strike me are a couple of phrases that the General and Laurie mentioned earlier in their opening remarks. I think, if I heard you correctly, one of the things that each of you mentioned was that implementation is the key. I don't think that many of us in this room would take much if any exception to the policy that has been drafted.

I'm also hearing that resources are scarce. So I would just throw out as a suggestion that there are two things that I would ask that you consider, that as you organize an implementation structure, you bear in mind two keys for me: 1) simplification and 2) unification. This is a diverse national problem as the General has mentioned, with thousands of individuals who use drugs. I've heard multiple agencies and multiple organizations discuss this issue from their perspective, and while we try to develop partnerships, good solid partnerships to my way of thinking are not successful unless there's a leader.

There has to be some sort of unity of command to be successful. And while we can all listen and share our agenda, I think someone has to step up and be the leader of the band. And I don't know that the local, state, county governments states have the resources. Plus there are all sorts of political agendas, diversity of agendas. And at the risk of throwing it all back on the federal government, I think this is a role for the federal government to provide not only the leadership in terms of the policy but, as the General has set forth, to be part of the real implementation.

And I would cite a couple of examples, one back in the thirties, when bank robbery was a growing phenomenon. The federal government stepped in through legislation and prosecution. And in that case we saw a dramatic reduction in the bank robberies. Secondly, right now, when we talk about interdiction strategies, at least from my perspective, I may be wrong General, I see that as something that your office is the leader on. And I would say the treatment side of it, like we're going through today, dealing with the offenders, should be viewed in that same context, that it is a national effort. I would just lastly turn back to the title of your office. It's the Office of National Drug Control Policy, and I think this is a national problem and it requires national resources, listening to people around this table, you can make it happen and with that I'll get off my soapbox.

Mr. Wallace: I would just say a word for the comprehensiveness of the intervention system and caution about not viewing the treatment issue in isolation. I think we should talk a little bit about overlapping mental health issues. One of the things the public defenders are trying to deal with is the co-occurring and contributing factors such as family issues, domestic violence particularly with juvenile offenders. You cannot just clear up the drug question without clearing up the fact that daddy gets drunk every night and beats mom and maybe beats the kids. Or they're living in a car. It's not just a question of applying services to the offender, it's a question of putting together or recommending some services that would go to the family, some family counseling perhaps, or a protective order if necessary, provided through civil/legal services or.

Some other interventions with other related players that remove a cause of the substance abuse problem. It seldom exists in isolation. Something has to be done to provide interventions with those contributing players and contributing issues.

Mr. Murray: Along those lines of looking at the problem in a very comprehensive fashion, the lack of work, of real work, in jails and prisons is another major problem. In terms of treatment if someone is not engaged in work their own feelings of self worth will be very low. I would think that would affect the treatment. It's like a factory, everyone's working, they were engaged, and they were also getting treated. I mean, it is a comprehensive approach.

Mr. Meachum: Just a couple of quick comments on drug testing. You have already indicated a willingness to consider alcohol as well as drugs. Folks who spend lot of time in the criminal justice system, you can learn real quickly how to get drugs in and out of the prison. And if you get the drugs stopped, then they switch to alcohol that's manufactured on the site, so you want to add alcohol testing; you stop that then there's often a shifting to prescription drugs of addiction, legally obtained through the pharmacy. I just kind of wanted to put that out there.

Mr. Ault: I think it has been said already, but I would like to mention it again. I read the White Paper. I highlighted everything I thought was important, so now it looks like a yellow paper. But I want to reinforce something that Larry alluded to, all the tough on crime talk in most states was translated into a very punitive model and not a treatment model. There's only one Department of Rehabilitation and Corrections in the country. But, we do have departments of community corrections and things like that. So it seems to me the biggest obstacle is how do we translate this to make the legislators and the governors believe this is tough on crime. Washington has reinforced this other model. I mean, starting with the notion that it was politically stupid to educate the inmates, we withdrew the Pell Grants. The big dollars to the Departments of Correction

had been for brick and mortar, not for treatment and Larry's right, if you say "alternatives to incarceration" that goes back to another issue.

I heard a comment saying well, what have we learned. I have been a warden and recently a commissioner. We had resources to deal with the inmates. However, after the '94 elections, a lot of states were forced politically to take all the programs out. So now how do we get effective programs back in and market those so that we're talking about being effective on crime and effective on criminals, rather than pursuing a punitive model that all the research indicates is not effective.

Director McCaffrey: We understand that packaging is almost as important as the content, if we want to accomplish it.

Mr. Huddleston: I just wanted to perhaps give an update. I was in the Seattle area and happened to be visiting friends in the most northwest county in the United States, which had a juvenile drug court at the time. I was reading a newspaper and came across an article about the newly elected district attorney. I gave him a call because he had run against the old district attorney who said they wouldn't put an adult drug court in there. If they do, then they have to put it in over his dead body. And apparently he is still alive and breathing because they now have him doing drug court.

The reason I say that is because I think there is a shift that's been going on over the last five, perhaps seven, years. I think the willingness to this point has been extended only to deal with the less serious offender. People don't like to talk about drug courts for more serious offenders, diversion programs and the like. But, I think we have the history now, we have evaluations and the research

I think that times are changing, and one governor has taken an initiative that perhaps at one time we would have thought it would have been suicidal. The Nevada governor has just signed a bill allowing for the release of 300 inmates over the next 2 years into drug courts. And his rationale is simply that the two drug courts in Nevada

that he wants these 300 inmates released to have 14% recidivism rate compared 80 recidivism for parole.

Mr. Blanchard: Some closing remarks so that we can have a successful press conference at 1:00 O'clock , which is of course a first step in selling this. So at this point I'm also going to open it up to the other topics, including parole and probation. We have two folks here who want to speak.

Mr. Camp: Just a point on the drug testing. George Camp from Association of state correctional administrators. With regard to drug testing and prisons, I think there's an important distinction to make between random testing of offenders and targeted testing. When you look at the rates at which the tests come back positive, we need a little terminology change there. In any case, the rates for random testing are down, I think, considerably from what is being reported. They're probably in the range of one, one and a half, or two percent and maybe not even that high in many institutions. But when you target individuals that you have suspicion of using, you're kind of glad in a way that you catch them. Because your suspicions are fulfilled, obviously eventually you want to get that number down, but it is an important distinction, I think, to make in your discussion of that issue.

Ms. Robinson: Yes, I want to go back to what Jack and Allen Ault touched on, and that is really getting at again, public perception and public buy-in. Many times I'm struck by the fact that there seem to be two very different conversations about crime in this country. There is the conversation at the Congressional and Washington level, that the media picks up on and the public resonates with, that's very much a tough on crime approach. At the same time, I am observing as I go out on the road, over and over, the front line practitioners and many times front line elected officials who are dealing with limited budgets. These people don't have a printing press for money like Washington does, so they're looking very creatively at ways to approach these things. They are

taking problem solving approaches, and are much more open to a variety of different approaches which may not have traditionally been labeled tough, but which they can see have an impact.

And I guess one of my challenges to all of us is how do we get that lower key "below the radar" discussion out into the main stream of debate about crime, particularly as it plays out in political elections.

Mr. Wicklund: I want to really follow this theme a bit, and maybe segue into the probation/parole community world. I think much of the public's concern about criminal justice activity is heightened or exacerbated by reading stories of so and so who is on probation and did something terrible. It gives a human face to the victim; and it's very easy for newspapers and elected public officials, or those who are running for office, to make something out of those cases. And what happens then is a broader indictment of the criminal justice system, overall, and we lose the ability to have an intelligent discussion.

So I think one of the discussions that this conversation should link to is one that is going on with some of the people in this room, that Laurie, much to her credit has taken a lead in facilitating, which is a discussion on re-inventing corrections. I think this implies certain expectations as to what we want to see happen in probation/parole and community corrections. I was just thinking about the linkage between those two, because a lot of the offenders that we are talking about have been substance abusers and are under supervision in the community. And at some point we will lose the legal authority we have over them. While we have that authority we are tempted, because the public wants us to, to exercise that authority in harsh ways and put them back in the prison for violating probation. There are some people who do some interesting thinking that I think applies to this discussion, which has to do with using that period of time for a different purpose -- assuring that the offender repays his debt to society. And that involves bringing the victim back into the process. Interestingly enough the victim's movement has been part of the political dynamic in this country for a long time. So

direct accountability to victims, but also accountability back to community are needed. To have people earn their reentry as part of a community justice model, rather than probation or parole. This way offenders earn their reentry in ways that the public can see the value of this form of governmental exercise.

In Oregon, staff is forbidden to use the term "probation officer." They are "community justice officers" and the department is now re-titled by the legislature as the Community Justice Department. The Community wants to know what can this work force of offenders do for us? How about community housing? Good, they will build housing. They are re-earning their right to be among us. And I think there's a way to do this. Most of the offenders have a substance abuse problem, so there's a way to get out of the substance abuse box a little bit, and talk about community and repayment and accountability and victims. Let's be frank, it helps.

Mr. Tennis: Yes, I agree with this a hundred percent. Just to add to that, the DA's Association regularly supports substance abuse treatment in the criminal justice system. We actually lobby for the treatment budget and for the treatment providers because we know the relation to crime. The way that I sell this to the people that I usually work with on death penalty and other important legislation, even if they're cynical about treatment is basically to say, it's time to stop letting untreated addicts out of prison. You do not want to keep letting people that are untreated drug addicts out there to walk the streets with you, that's too dangerous. They usually agree and say if they want out they have to submit to treatment and have to give up their addiction, and that's what we're going to demand of them because it's too dangerous to let them out still actively drug addicted.

Now, in order to pay for the treatment the five-year sentence is going to have to be reduced to a four years. But still the most dangerous thing we could do is let an untreated addict, who is also a criminal, back on the street. So I think that there is a way to sell this by effectively addressing the fears that led to the prison population issue that we have now. And I think there are more rational ways to get this idea across.

Mr. Samuels: In starting to talk on those points, Gary's obviously right. I mean a lot of what drives policy in the criminal justice arena is those newspaper headlines and anecdotes. I don't think, and we've done a very good job in communicating what it is that we're for, we often define what we're for by what we're against. What is the alternative. We all talk about how we're against, for example, mandatory minimums. I've done a totally unscientific poll by talking to some people I know over the last few months. These people don't know much about criminal justice, and I say, "what do you think about mandatory minimums for people who are addicted and commit relatively minor or non-violent offenses?" And they say, "mandatory minimums, that's a great idea." And I say why? And they say, "well there should be something mandatory, I mean, too often people just get off, nothing happens. But it should be minimum, they shouldn't go to jail either."

If that does not tell us that we're doing a poor job, I don't know what does. So we need to figure out how to get it across in a more effective way. You know people working in the system, a lot of people that Gary's talking about in the community justice field. We think it is far more effective to start describing what we're for, not what we're against and what we're for in a way that people might actually understand.

Mr. Delaney: Pete Delaney with National Institute on Drug Abuse. I would like to raise a possible suggestion to think about treatment in a different way in this discussion. It's been talked about today almost as if it's a static entity. We use the term treatment, and we talk about after-care, and we talk about where we're going to do it and at what place. However, the message that comes out might appear to the community that we are finished, and the community will say, well they went to treatment, that's it. We need to think about treatment as a booster shot. It's not a one time in and you're done. It's a continuum of care, it encompasses more than just substance abuse. We've raised the issues of dealing with violence, we've raised the issue of dealing with vocational problems. We should also incorporate other issues of public health. Violence and

education are issues of public health. We also need to think about HIV prevention, we need to think about improving quality of life. We need to talk about improving the family system. I will draft some language for this, but this document is very heavily focused on treating and treatment as a static entity. We might want to think about a parallel process of improving the ability of the treatment community to be part of this process. If we're going in to graduated sanctions, let's think, especially if the person is not doing well in treatment. We've talked about having good assessments. Assessments are not a one time or a three times a year process; recovery is a dynamic process. It's important to think, if the person is not doing well in treatment, what's missing, and not just the sanction to encourage them to get back in line. It may be that we've missed a piece of very important clinical application. So, those are things that I think are missing from this discussion that crossed every one of our areas.

And if I could make one last point that relates to this, we talked about the issue of how to move this and sell this. You might want to think about something called community capital, where different communities have the ability to pool their resources because they have different commitment levels. And you need to tie into those communities that have the capital and the different level of support within the community.

Mr. Link: One very quick statement. Thank you for your consideration of case management.

Mr. Wing: Steve Wing of SAMHSA. The document is titled Treatment and Rehabilitation for Drug Dependent Criminal Offenders. So that does not include people who meet the diagnostic criteria for drug abuse. Yet most of the discussion today has been about substance abuse. I think we should clarify that we mean treatment for both abuse and dependence.

Unidentified Speaker: April 1, 1998, I was privileged to attend one of the criminal justice breakfasts and heard Joan Petersilia talk about the problems with probation.

And I think since NIJ has published its paper, that it's worth while to get that little book and read what she said about the new collaborating relationship between probation and community policing. Traditional enemies, now they're coming together. That's just something I wanted to throw into the mix.

Mr. Wallace: I have two things just as a follow up to his comments. His comment, community formation, community policing, community prosecution, we now see all working together and one of the missing components is the defense. Defenders need to be in this and not be as isolated as they now are and with so as few resources.

But the other piece I feel a need to speak about is looking at public/private non-profit partnerships because there we see effective community involvement. In community capital we usually see non-profit treatment providers working with probation, parole, and of course the citizens are very involved and understand what is going on. That really needs to be in this piece, because those are the folks that empower their communities to do this work.

Director McCaffrey: That's great. Unfortunately I'm going to put a pause on the discussion at this point. I'd like to have Joe Autry and Laurie Robinson offer any comments they want to make and then we will have a press conference downstairs on the second floor to start more of the public dialogue on this. We clearly didn't exhaust this issue today, but the purpose was to get you thinking so you could give us good input and I'm hopeful we'll get more written input as well.

Dr. Autry: I would just add these couple of points. I'd pick up from what George Camp said a few minutes ago. I feel like I've worked on this issue for a number of years but sitting here this morning with the wealth of knowledge and the brains around the table I feel like I've learned a lot and it was a very constructive, synthesizing discussion.

Number two, obviously this has got to be about action. Where we go from here.

What are the next steps. How do we work together, picking up on Ken's comment, we can't just go off on our own individual pieces and do it, we've got to think about it collectively. Finally, one audience that I think is very important in our setting here in Washington we haven't successfully reached. And as a federal employee I would never in any way urge anybody to lobby, but we've got to talk to Congressional staff--the young staff people up there and educate them better about these issues. They have tremendous influence in the rush of what happens on the Hill, where the Senator's going to be educated in the walk down from the office to the floor. They have tremendous, tremendous influence, and are one of the audiences that all of us need to reach.

Director McCaffrey: Thanks very much for your comments. I normally grade these sessions by how much I write down. Now there are two reasons why I write things down. One is to stay awake. Then there would be other kind of notes where you write down something you've learned and it's probably something you need to follow up on; Number one request: would you please sit down and write your ideas and send them to me in an envelope where you write "personal" on it or use my e-mail address. And I'll make sure that Laurie and Jeremy Travis and others get your input.

Either mark up the document or you can start with a clean sheet of paper, but I would hope you'd look at the white paper we put out and say how can I change this so it reflects what we want to see happen in the coming years. And I say that because when we're going to rewrite this paper and I'm going to get it back out to you and I suspect we're going to do it in e-mail. I think we're going to put it on the ONDCP home page. We're going to let sort of virtual re-write of this process take place.

When we put this paper out on the table in December, it will reflect the collective judgement of Alan Leshner, Nelba Chavez, Donna Shalala, Janet Reno, Laurie Robinson, Jeremy Travis, etc. That's who's going to do it. Practically speaking , there are four people who are going to write it, Leshner, Chavez, Travis, and Robinson. So write me a letter and tell me what you think ought to be in it.

Make sure this list reflects your current e-mail address or your mailing address,

telephone number. We're going to stay in a network here between now and the end of December, and one of the things you may want to do is add the names of the other key people in your team when you walk out the door.

Let me make five assertions. Every one of your comments provoked a series of thoughts that I've been accumulating over the past several years. Here's one you got to help me on. When we started dealing with the Russians, and the Soviet Union came apart, I came to the conclusion that I was one of the more useful people in the U.S. government doing it. I had never talked to a Russian in my entire life. I had studied them my entire life, I knew everything about them, but I had never dealt with them. And the people who knew the most about them and had worked with them were so convinced that it was hopeless proceeding along the lines we were talking about, that it was useless.

You all have been in this business now, many professionally, your entire adult life. You started with some assumptions. A case load ought to be 25 to 30 people, it's actually 250 or more and you're not going to change it. We are going to change it. You got to believe that it is possible to reset these social agendas. It does happen. We're spending $36 billion a year, locking 1.8 million people up behind bars, we have 4000 institutions with a huge organizational investment. We ought to be proud that we can lock that many people up. But we can change this system and move many of these people, who are institutionalized with drug abusing problems back into community based treatment systems, monitored by the criminal justice system.

It's going to look different. We can change it. Don't think we can't or we're going to have a tremendous problem because many of you in this room and the 10 people that are closest to you and your team will define how we go about this. If you don't think it can be done we're in trouble. I think it can be done. There's no reason why we can't move, and I take your comment into account, a quarter of a million people out of prisons and back into community based treatment. It's going to be less manpower, less dollars, less social trauma, that's assertion number one.

The second one, you had several good comments that essentially say drug courts

aren't everywhere, TASC isn't everywhere. Let's talk principles. We'll make sure your language is in there and one of the reasons is this is going to take 10/15 years, the process we're now starting. But having said that, let's be careful. I would argue, we got to have models, training systems, manuals, and don't be sad because ideas that were discovered in the 1950s, and studied are now appearing in the concept of the drug court. Don't be sad about that, applaud it.

You've got to develop an infrastructure. That's one of the problems we've got right now. People need to learn how these things are supposed to work. We need some new models. Drug court system, breaking the cycle, reentry courts-- new models.

Third assertion: implementation. My personal background, I've spent all my life trying to get people, machinery, and dollars to achieve outcomes that are measurable. And to be blunt, good ideas are a dime a dozen, moving them into practice is what really counts. Now in this case I would argue we've got the conceptual framework built. I mean, you look around at the studies Justice has done, HHS has done; we really know a great deal. And what we've got to focus on now is implementation. We've built this system of government where nobody's in charge. We like it that way. Now nobody's going to be in charge, but some of us collectively are going to provide our leadership. I guess the central argument would be we need to understand that we are trying to change a culture, several cultures, and that the tools we have to do that will take us fifteen years. We shouldn't think that's a cop-out. I keep telling that to Congress. I had one of my favorite senators, very bright man, good man say "you're talking about the 10 year plan TEN YEARS, TEN YEARS, Barry for Christ sakes, the Russians only had five year plans."

And I said, Mr. Senator, there are a lot of us in America that actually work on 10 year/15 year time horizons. That's the way the national defense runs. You can't buy an aircraft without a 15 year business plan. We need a 15 year plan to accomplish what we're talking about today. And for a couple years, we've got the benefit of Janet Reno, and Donna Shalala, so let's get it going. We need to put the architecture in place and talk about 10 to 15 years. Trying to get somebody's country jail to implement drug

treatment and have it done by next summer, for example, is not the way to go. We've got to be careful when we're dealing with this issue. The argument for doing this is based on science and logic. It's not based on spin, packaging, or argument. I actually believe that. I believe in my heart, that if you trust America, if you will bind yourself to the notion that a good idea that's written down where you examine what you're really trying to achieve, the idea over time will be capable of being sold. Now having said all that, words do count. We shouldn't talk about alternatives to incarceration. We ought to talk about what is it we're really trying to achieve. That's the fourth assertion, argue the case on its merits and I believe we will carry the day.

Fifth assertion: Leadership in a democracy. When we're trying to change something of this magnitude, the words do count. Who's going to use the words? You know, it sort of amuses me about some of the groups I deal with, when arguing for treatment. I know they are solidly with me. But call one of those boys or girls and tell them to get on T.V. and help me advance this cause; oops, they disappear on me. Those of you in this room need to help craft this argument over the coming five years. And in a democracy leadership is T.V., radio, Op Eds, books, articles. When the American Jail Association magazine has seen five articles in 13 years, we know we've got to go write these articles. You've got to get on evening T.V. and NPR and make the case. I don't think in two years we're going to get this up and running. But we can get the ideas up and running.

We'll look for you in December, we're going to go to every state and try and find a way to bring them in, legislatures, corrections, treatment, judges, district attorneys--enough to get these ideas on the table, to talk about them all. We'll talk about best practices to keep this from coming apart on us. You know how to fix it, so thank you so much.

All of you are invited downstairs to the press conference. Paul, if you will join us. Michael Link, Jack Gustafson, Laurie Robinson, Gloria Danziger, Jeff Tauber, Ron Angelone, Jeremy Travis, Joe Autry come down and stand with me.

Whereupon, the foregoing proceedings concluded.