NEW YORK STATE
COMMISSION ON SENTENCING REFORM

Transcript of Meeting

Wednesday,
June 27, 2007
9:00 a.m.

Governor's Office
633 Third Avenue
38th Floor
New York, New York

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1 IN ATTENDANCE:
2 Commissioners:
3
4 George Alexander
5 Chairman, New York State Board of Parole
6
7 Anthony Bergamo, Esq.
8
9 Michael C. Green
10 District Attorney, Monroe County
11
12 Joseph Lentol
13 NYS Assemblyman
14
15 Hon. Juanita Bing Newton
16 Judge, Criminal Court of the City of New York
17
18 Denise E. O'Donnell
19 Division of Criminal Justice Services
20
21 Eric Schneiderman
22 NYS Senator
23
24
25

1 IN ATTENDANCE: (continued)
2 Commissioners:
3
4 Tina Marie Stanford
5 Chair, Crime Victims Board
6 Cyrus Vance, Jr.
7
8 Also Present:
9
10 Shannon Castang
11 Office of the Deputy Chief Administrative Judge
12 for Justice Initiatives
13
14 Anthony Girese
15 Counsel to the District Attorney
16 Bronx County
17
18 Nicole Lindahl
19 Assistant Director, Prisoner Reentry Institute
20 John Jay College
21
22 Debbie A. Mukamal
23 Director, Prisoner Reentry Institute
24 John Jay College
25

1 Also Present: (continued)
2
3 Brendan Tully
4 Representing Commissioner Michael P. McDermott
5
6 Michael Yavinski
7 Chief Court Attorney
8 Criminal Court of the City of New York
9
10 Lillian Gordon
11 Court Reporter
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1 P R O C E E D I N G S
2 [Time noted: 9:10 a.m.]
3 COMMISSIONER O'DONNELL: We're ready to get
4 started. We're missing a few Commissioners, but I
5 expect that they'll join us shortly.
6 So, good morning, everyone.
7 VOICES: Good morning.
8 COMMISSIONER O'DONNELL: I'm just going to
9 ask the Commissioners who are present, starting with
10 -- with Chairman Alexander, to -- to introduce
11 themselves.
12 COMMISSIONER ALEXANDER: George Alexander,
13 New York State Parole.
14 COMMISSIONER GREEN: Mike Green, Monroe
15 County District Attorney.
16 COMMISSIONER O'DONNELL: Joe?
17 COMMISSIONER LENTOL: Joe Lentol,
18 Assemblyman.
19 COMMISSIONER STANFORD: Tina Stanford,
20 State Crime Victims Board.
21 UNIDENTIFIED: Confirmed.
22 [Applause]
23 COMMISSIONER O'DONNELL: Yes, welcome.
24 COMMISSIONER STANFORD: Thank you.
25 COMMISSIONER O'DONNELL: An official member

1 of the Commission now.
2 UNIDENTIFIED: Congratulations.
3 COMMISSIONER STANFORD: Thank you.
4 COMMISSIONER BERGAMO: Anthony Bergamo,
5 representative of the people.
6 [Laughter]
7 UNIDENTIFIED: I thought I did that.
8 COMMISSIONER NEWTON: Good morning,
9 everyone.
10 COMMISSIONER BERGAMO: Representative of
11 the other people. I'm sorry.
12 COMMISSIONER NEWTON: Juanita Newton, a
13 Judge of the Court.
14 And, I'd like to take this opportunity, if I
15 can, Madame Chair, to introduce my -- the Chief Court
16 Attorney for the Criminal Court of the City of New
17 York, Michael Yavinski, who will be coming in my
18 absence, and he has my proxy to vote.
19 And also, Shannon Castang, who is one of our
20 research -- I mean, employees who has been working on
21 this issue of reentry, and we just decided to let her
22 join us. And, she's been volunteering to come, as
23 well.
24 So, you'll see Mike. If you see him sitting
25 here this afternoon, and it says "Juanita Bing

1 Newton," it's not. It's Mike.

2 COMMISSIONER O'DONNELL: The real.

3 COMMISSIONER NEWTON: The real Mike. Thank

4 you, Mike.

5 COMMISSIONER O'DONNELL: Okay.

6 MR. TULLY: I'm Brendan Tully, from

7 O'Connell and Aronowitz in Albany. I'm playing the

8 part of Michael McDermott this afternoon.

9 COMMISSIONER O'DONNELL: Great, okay.

10 And, I think everyone already knows Donna

11 Hall, our researcher. And everybody -- well, we have

12 Lai Sun Yee, who is also the -- what's your title?

13 MS. YEE: Assistant Deputy Secretary for

14 Criminal Justice.

15 COMMISSIONER O'DONNELL: For Criminal

16 Justice, who is joining us.

17 And, Tony Girese, who is joining us, and

18 will be lecturing to us next time on proposed changes

19 to the sentencing -- technical changes to the New York

20 sentencing law, and hopefully be assisting us on the

21 Sentencing Commission.

22 And welcome, all of our guests. We will, at

23 9:30, if we haven't already started, we'll be

24 videotaping this also.

25 (Off the record.)

1 EVIDENCE-BASED CORRECTIONAL AND SENTENCING PRACTICES:
2 WHAT WORKS
3 MR. LATESSA: What I thought we'd do this
4 morning is to kind of walk through the research on
5 what works and what doesn't in reducing recidivism,
6 what we call the principles of effective intervention.
7 And, I'm really going to do this -- I want to give you
8 some of the background into the work, and then talk
9 about how -- show you the application of these
10 principles across a range of correctional options,
11 whether it be prisons, transition out of prison,
12 people in the community. I want you to see how strong
13 this evidence is.
14 And, I really believe that it's this work --
15 it's these principles that you have to think about
16 inoculating into what you do. I'm not a -- I'm not a
17 policy guy. I'm not a sentencing reform guy. I'm a
18 programmer.
19 I've spent most of my career looking at
20 correctional programs, trying to figure out, you know,
21 which ones work and which ones don't, why they work,
22 and why they don't work. I gave up a long time ago
23 trying to change big systems. If I can make one
24 little program more effective, I sleep better at
25 night.

1 So, I envy you your work that you're trying
2 to do. But, you're going to have to figure out kind
3 of how does this work apply to what it is you're
4 trying to do here in the -- with the Sentencing
5 Commission.
6 I'm going to leave time for questions. I'll
7 try to leave a good percentage of time, so let me get
8 through it, and then we'll talk and you can ask me
9 whatever you want to ask me before we end. I'll be
10 happy to answer. And, if I don't know the answer, I
11 won't make it up, just so you know that, in advance.
12 [Laughter]
13 UNIDENTIFIED: My kind of guy.
14 MR. LATESSA: The work I'm going to talk
15 about is based on evidence, but I think it's important
16 that people understand there are different forms of
17 evidence.
18 Anecdotal evidence is the most common
19 evidence we use in making decisions. It makes us feel
20 good. We get a lot of it, right? We have people come
21 in and tell us, you know, that -- that this is really
22 helping folks, and so we ought to do it. We have
23 folks come up and say "It helped me. It saved my
24 life." And then, we say, "Oh, that's really great."
25 If you ever go to Drug Court graduations or

1 conferences, they always trot some people up to talk
2 about how the Drug Court changed their life, and
3 sometimes the stories are very compelling. And,
4 that's great stuff. It makes us feel good, and it --
5 and it motivates us. But, it's not empirical
6 evidence, and don't be confused with the two.
7 Empirical evidence is results from
8 controlled studies. It doesn't make us feel very
9 good. It's just a bunch of numbers, aggregate data.
10 And so, when we say it's statistically significant at
11 the .05 level, all right, and peoples' eyes roll in
12 the back of their heads, I mean, it doesn't really do
13 much for us.
14 So, I want you to understand the work I'm
15 going to talk about is empirical. I'm an empirical
16 guy. I go where the data takes me. And so, I want to
17 -- I want to walk you through kind of briefly the
18 research.
19 I'm also going to talk about risk. And, I
20 think it's important, especially when talking with the
21 Sentencing Commission, that we understand -- that you
22 understand the context of risk that I'm going to be
23 talking about. Because, different people hear that
24 term, all right, and it sends off different images,
25 right?

1 Some people hear high-risk offenders, and
2 they think violent offenders, sex offenders. That's
3 what goes off, okay? Some people -- the Canadians are
4 getting away from it. They're calling it "low
5 probability for successful reintegration" offenders.
6 [Laughter]
7 MR. LATESSA: I'm not as polite as the
8 Canadians, so I'm going to call it high risk, medium
9 risk, low risk. It's associated with probability.
10 A low-risk offender is someone, as a group,
11 that usually has about a ten percent chance of
12 recidivating. So, if I have a hundred low-risk
13 offenders, ten of them are going to recidivate. I
14 don't know which ten. Maybe it's twelve. Maybe it's
15 eight. But, it's going to be in that range. These
16 are people that generally are pro-social.
17 Moderate risk, usually we're talking about a
18 thirty percent rate. And, high risk would be fifty
19 percent or higher.
20 There are the highest risk. I'm not going
21 to talk much about them. But, there is a small
22 percentage up at the type, of psychopathic kind of
23 offenders that -- that we really have no interventions
24 for, at least effective ones.
25 But, this is an important concept that

1 you're going to hear today, as I talk about
2 evidence-based programs.
3 The problem with research is that you can
4 find a study to support anything you want. That's
5 part of the problem with research. There are -- there
6 is an incredible amount of research produced in this
7 country on -- on corrections, alone, every year. It's
8 sifting through. It's difficult. Understanding it is
9 difficult. Most of the time, we're not capable of --
10 of translating it.
11 I always like to say a simple way to think
12 about it is cigarette smoking. How many people think
13 cigarette smoking is bad for your health? How many of
14 you have read all the research that's been published
15 over the last fifty years? Not too many people have
16 read all that research. You know there's some studies
17 that say it's not that bad. Now, they were funded by
18 the tobacco interests, but --
19 [Laughter]
20 MR. LATESSA: But my point is the reason
21 most of us believe that cigarette smoking is bad for
22 our health is not because of one or two studies that
23 say it's not, but because over the last fifty years,
24 there have been hundreds of studies done, all over the
25 world, by independent researchers, who basically

1 concluded that if you smoke a lot, it can lead to
2 cancer, and emphysema, and heart disease. No one --
3 no one refutes that any more, because we have a body
4 of knowledge that has been accumulated over a long
5 period of time. When I was a kid, that wasn't true.
6 That research was just coming out. We used to think
7 smoking was good for you, helped digestion. That was
8 anecdotal evidence, though, at that point.
9 We have a tremendous body of knowledge about
10 correctional interventions, about offenders, about
11 what works and what doesn't. It's a myth that we
12 don't know anything. It's a myth that nothing works.
13 We know a lot.
14 So, the question is how do we -- how do we
15 plow through all that research, and how do we tease
16 out those important points? So, I want to kind of do
17 a little story, if you will, show you kind of what --
18 how we've gotten to the point we have, mainly by
19 looking at a body of research.
20 When we review all the research on sanctions
21 alone, just getting tough with offenders, we don't
22 find any consistent evidence of reduced recidivism.
23 This doesn't mean that we're not going to punish
24 people. It doesn't mean we shouldn't punish people.
25 It doesn't mean we can't punish them and provide

1 treatment. It doesn't mean there aren't some studies
2 that show a positive effect from treatment. It
3 doesn't mean there aren't some people that respond to
4 punishment. It simply means, when we look at all that
5 research collectively on -- on just kind of getting
6 tough, we don't see any long-term effects on
7 recidivism rates.
8 Now, if you keep people locked up long
9 enough, they will change, all right, they will change.
10 We changed. As you got older, you changed, right? I
11 bet you don't -- most of us that are -- that are over
12 forty don't go out at eleven o'clock at night to the
13 clubs. Okay? I have children that do that. They
14 have to wake me up to tell me they're going out.
15 [Laughter]
16 MR. LATESSA: But, when I was twenty-four,
17 I probably did those things, too. But now, I'm older,
18 I'm slower, I've changed. I'd like to do that, but
19 physically I can't. So, we know people change, but
20 that's an expensive -- that's an expensive option to
21 keep them locked up for twenty or thirty years.
22 Forty to sixty percent of studies of
23 correctional treatment services report reduced
24 recidivism rates in controlled public studies. That's
25 good news and that's bad news. The good news, forty

1 to sixty percent of studies of correctional treatment
2 services show some effect on recidivism. The bad
3 news, forty to sixty percent of studies don't show
4 effects on recidivism. Opposite of that's true.
5 That's published research. And, that's a little
6 misleading, because what usually gets published are
7 studies that show some effects.
8 I think it's closer to thirty percent,
9 myself. I think about one out of three correctional
10 programs that are designed to reduce recidivism
11 actually would show a result if you did a controlled
12 study. It doesn't matter if it's thirty percent or
13 fifty percent.
14 You know what it means? Half the programs
15 we have don't produce any effect. That's what --
16 that's what the research basically said. So, about
17 half of our efforts, half of the programs we fund and
18 the initiatives we have, we could have gotten the same
19 effect by doing nothing.
20 My work has always focused on the programs
21 that are working. I've always been interested in
22 those -- those programs and studies that show effects
23 of twenty, thirty percent or more. What are they
24 doing that's different than the programs that aren't
25 showing any effect? There are a lot of reasons

1 programs don't work. I'll talk about some of that
2 later on.
3 When we look at the research, and this is
4 what we call a meta-analysis. A meta-analysis is a
5 study of studies. It's a useful technique, especially
6 for policy makers, because it points us in directions.
7 It's a blunt instrument. There's things it can't tell
8 us. But, it's basically a way of quantifying all of
9 the studies that have been done.
10 People that do meta-analysis usually have
11 criteria to include studies or exclude studies. They
12 throw out the bad studies. They only look at the
13 studies that meet certain criteria. Then, they
14 analyze that data to produce what we call "effect
15 sizes." The stronger the effect size, the greater is
16 the reduction in recidivism. You can have a negative
17 effect size. You can have a positive effect size.
18 You can have no effect size.
19 This is a meta-analysis, a very typical
20 result is why I show it. The reason I say it's
21 typical is because if you looked at meta-analysis on
22 Drug Court studies, on half-way house studies, this is
23 what they usually show, an average effect of about
24 fifteen percent of treatment. That's a very modest
25 effect size.

1 Slightly negative effect for sanctions only.
2 These are the people that appear to be resistant to
3 punishment, by the way -- psychopathic risk-takers,
4 those under the influence of a substance, and those
5 with a history of being punished. Unfortunately,
6 that's about eighty percent of the offender population
7 that fits into those categories right there.
8 That's why the problem with punishment isn't
9 that you can't change some behavior. I can change
10 most of your behavior through punishers, at least for
11 a while, until it wore off. The problem is, it works
12 least with the people we want it to work most with.
13 Most offenders fall into the -- have some of those
14 attributes. They're substance abusers, they've been
15 punished before, they've been in and out of the
16 system.
17 I'm always amazed. I do a lot of work --
18 not a lot, but I do work with jails. And, everybody
19 always wants to build a bigger jail as a solution to
20 their crime problem. And yet, when we go into the
21 jails, eighty-five percent of a jail population on any
22 given day has been in jail before, which really tells
23 you that jail hasn't really been a very effective
24 strategy. Because, if it worked so well, they
25 wouldn't want to go back again. Yet, the same people

1 just keep going back in and out of jail.
2 So, we think we're punishing them, and it
3 really doesn't have the effect. We get some
4 incapacitation effect, because they're locked up for a
5 while, but beyond that, we don't -- we don't change
6 any risk factors. And, that's really the heart of
7 this work.
8 Most of us researchers who have studied
9 correctional interventions have concluded that without
10 some form of human intervention, some risk reduction,
11 we don't see a lot of effect from punishment alone.
12 But, the evidence also indicates that not all programs
13 are equally effective. And, I think there is policy
14 there, in terms of redirecting your resources toward
15 more effective kind of interventions, and so we'll
16 talk about that, as well.
17 When we take this data -- and when we take
18 this data, right here -- the treatment effect size
19 data -- and we divide it into type of treatment, we
20 see a great difference in effect sizes.
21 Non-behavioral programming for offenders produces very
22 small effects on recidivism. Unfortunately,
23 non-behavioral programming is the most common form of
24 programming that we use for offenders.
25 It includes things like drug education

1 programs. You know, you take a bunch of offenders who
2 use drugs and educate them about drug use. It's
3 really a dumb-ass idea, when you think about it. But,
4 we do it everywhere. We do it prisons. We do it in
5 probation. We do it in schools. I see it over and
6 over again.
7 Talk therapy. You sit around a table and
8 talk about your problems. Insight. Why do you think
9 you're here? What do you want to talk about tonight?
10 Those kind of interventions produce very small effect
11 sizes.
12 Behavioral programs, we see the greatest
13 effect. Behavioral programs have some attributes:
14 One, they focus on current risk factors that
15 are influencing somebody's behavior. Current risk
16 factors are things like who you're hanging around
17 with. You're drinking. You're not going to work.
18 You're impulsive. Those are current risk factors,
19 versus the past.
20 And unfortunately, a lot of the programs we
21 send offenders to spend a lot of time in therapy, a
22 lot of time talking about what they did, a lot of time
23 talking about how they were raised, a lot of time
24 talking about how their fathers abandoned them. You
25 can't change it. It doesn't -- doesn't produce much

1 effect on current behavior, either.
2 This work is very here and now focused, and
3 that's an important point, I think, to make, as well.
4 Behavioral programs also are action
5 oriented. And by that, I mean that offenders engaged
6 in behavioral programs are engaged in active learning,
7 practicing and learning new skills. They have skills
8 -- lie, and cheat, and steal, and drug use. Those are
9 skills. And, they get a lot of reinforcement from
10 that behavior.
11 So, what are we trying to do in these
12 programs? We're trying to teach them new ways to
13 behave. What do you do when your friends come over
14 and they want to go to a party, and you know you're on
15 parole and you shouldn't go? How do you get out of
16 that situation? That takes a skill to get out of
17 that, okay?
18 And so behavioral programs practice,
19 reinforce, teach offenders those new pro-social
20 skills. An important attribute.
21 We have less research on women, a lot less
22 research. Probably a thousand-to-one, in terms of
23 studies. But, the data that's out there, and -- and
24 I'm doing a number of -- I have a number of studies
25 coming out now, looking specifically at females.

1 We're looking at the risk principle. We're looking at
2 the effects of assessment. And, I will tell you,
3 we're seeing very consistent results with the research
4 we see with males.
5 When we look at the studies -- this is a
6 meta-analysis of treatment for females that Dowden and
7 Andrews did, the strongest effect size is behavioral
8 interventions. So consistently we see in the evidence
9 we want to do these kind of programs.
10 So, the first two things we learn from this
11 research, we get some -- we get some effects from
12 treatment. We get stronger effects if we do
13 behavioral treatment.
14 The second body of knowledge is the work on
15 risk factors. Probably the most important research
16 out there is this research, in my opinion. This is
17 really what is guiding -- what you need to use to
18 guide your programs, your reentry, the things that you
19 do with offenders. And, here's where we make a lot of
20 mistakes.
21 The problem is everybody has an opinion
22 about criminal behavior. Let's be honest about that.
23 Anybody on the street we stop would give us their
24 opinion about why they think people are criminal, why
25 they get into trouble, okay? We get it all the time.

1 I get it unsolicited. I get that advice.
2 I was on a flight one time. I was flying to
3 Idaho. I was seated next to some older woman. She
4 was one of these chatty types, you know, wouldn't take
5 a hint. And, she asked me what I did for a living,
6 and I made the mistake of telling her I was a
7 criminologist. For four hours, she told me how to
8 solve the crime problem. Didn't get off the plane in
9 Salt Lake. Stayed right on with me to Boise.
10 [Laughter]
11 MR. LATESSA: Now, I just tell them I'm a
12 proctologist, and they leave me alone.
13 [Laughter]
14 MR. LATESSA: Programs make mistakes for a
15 number of reasons:
16 One, sometimes they don't target the right
17 risk factors. So, if I'm targeting your self-esteem,
18 making you feel better about yourself, or I'm getting
19 you in better shape, I'm not going to get much effect.
20 It's not correlated with risk.
21 Sometimes, programs fail because they're
22 uni-dimensional. All they work on is getting you a
23 job. Okay, that's a risk factor. It's not that
24 strong of a risk factor, though, compared to some of
25 the others. So, how much effect will I get? Oh, I

1 might get ten percent. So, a lot of reasons that
2 programs fail because of this area.
3 I'm not going to show you the research. I'm
4 just going to talk about what the findings are. What
5 are the major set of risk/need factors, starting with
6 anti-social/pro-criminal attitudes, values, beliefs,
7 and cognitive emotional states. It starts here, with
8 our thinking. How do we see the world? How do we see
9 our behavior? Do we blame others? Do we accept
10 responsibility? Do we minimize what we do?
11 Cognitive emotional states, things like
12 rage, anger, defiance, criminal attitude and identity.
13 If you identify yourself as a thug, how are you going
14 to act? If you identify yourself as a pro-social
15 person who made a mistake, how are you going to act?
16 So, attitudes, values, and beliefs. Things
17 that you listen for. By the way, it's what people
18 think. It's not how they think. It's the content of
19 thought. Things you listen for. Negative expressions
20 about the law. It's not fair. Everybody does it. I
21 got caught. Who'd I hurt? If they didn't want drugs,
22 they wouldn't have bought them. I'm actually
23 providing a service.
24 Negative attitudes about conventional
25 institutions, rules, authority. I interviewed an

1 offender the other day on parole.
2 I said, "Are you working?" He said, "No, I
3 quit my job." I said, "Why?" He said, "I wasn't
4 getting enough hours." I said, "How many are you
5 getting now?" He said, "None." I said, "You're
6 moving backwards." Most people don't quit our jobs
7 until we get another job.
8 But, in his mind, they weren't respecting
9 him, so he showed them. Now, he had zero hours. It's
10 that kind of thinking that often gets them in trouble,
11 that distorted, irrational kind of thought process.
12 Negative attitudes about their ability to
13 achieve. I've never been good at that nine-to-five
14 thing. School is not for me. It's attitude, beliefs,
15 values.
16 And of course, that cold-heartedness, lack
17 of empathy and sensitivity toward others. Who did I
18 hurt? If I want to use drugs, it's my business. If I
19 want to sell them, and they don't want to buy them,
20 hey. Right? They don't think about their families,
21 the victims, other people that they are, in fact,
22 hurting.
23 Offenders often minimize their behavior,
24 deny responsibility. I was at the wrong place at the
25 wrong time. The "some dude" defense. Some dude told

1 me I could drive his car. We're looking for some
2 dude. We haven't caught him yet. But, if we do,
3 we're going to reduce crime twenty percent. He moves
4 around a lot.
5 [Laughter]
6 MR. LATESSA: You know why a lot of
7 offenders are in prison? I bet you didn't know this.
8 Bad lawyers.
9 [Laughter]
10 MR. LATESSA: I'll ask them, "Why are you
11 here?" They'll go, "I had a bad lawyer." I'll say,
12 "What about that armed robbery?" They'll go, "Yeah, I
13 should have never listened to that lawyer." If we get
14 better lawyers and catch "some dude," you're all going
15 to be out of work.
16 Minimize the act. I stole their car.
17 They'll get a new car. They've got insurance. I beat
18 him up. I didn't -- I've been beat up worse. So that
19 -- those minimizations are often there. Blame the
20 victim and so forth. Okay?
21 I was at a facility in Pennsylvania a while
22 back, a prison. It was a co-ed facility and they had
23 a drug program there. It was a typical drug program.
24 You know, it had the credo, and they'd walk them
25 through all the steps.

1 And, I interviewed this one young woman, a
2 very, very bright, articulate young woman. And, I
3 asked her, "Why do you think you're here?" And, she
4 said, "Well, I had to pay my rent." And, I said,
5 "Well, that's funny. I have to pay my rent, too."
6 And she said, "Yeah, but you're better educated than I
7 am." I said, "Well, that's true, but I wasn't always
8 better educated." I said, "My father quit school in
9 the eighth grade, and he didn't end up in prison."
10 She looked at me and said, "Well, you're right. I
11 wanted easy money. I didn't want to work for it."
12 And, I said, "Well, we're getting closer here."
13 She was a drug trafficker, out of
14 Philadelphia. And I said, "You must have hung around
15 with a pretty rough crowd." And she said, "No, I only
16 hung around with good people." I said, "Well, it's my
17 experience that you can't be in the drug business
18 unless you're buying from or selling to other people
19 in the drug business." She said, "Well, that's true,
20 but I didn't associate with them. I only associated
21 with good people." I said, "Where did you learn the
22 drug business?" She said, "My boyfriend." And then,
23 where is he at? She said, "Prison."
24 Now, I wasn't there to argue with her. I
25 was there to look at the program. But, I've learned a

1 lot about the program by talking with her. Because,
2 the things they're teaching her have nothing to do
3 with her attitudes, values, and beliefs. How long is
4 she going to last with those kind of thoughts?
5 Because, what she's really thinking is "I
6 wasn't smart enough. Next time, I'll be smarter."
7 And, until they start to target that thinking that she
8 has, chances are she's just going to go back to the
9 same behavior, if the program was just an educational
10 kind of a program.
11 Pro-criminal associates, isolation from
12 pro-social others, major risk factor. We all know it.
13 We know it if we have children. We worry about who
14 they hang around with. But, it's not just having bad
15 friends. It's not having pro-social people in your
16 life. And, you're going to see this in a minute, in a
17 study.
18 I put this together because oftentimes when
19 I sit down with parole or probation departments, and I
20 ask them, "How do you target this risk factor?"
21 Everybody knows it's a major risk factor. How do you
22 target it for change? I get a lot of blank looks.
23 And, if I push them hard, they usually give
24 me the first three things on this list: restrict
25 associates, set and enforce curfews, and ban hangouts.

1 Can't go to certain places. Have to be home by eight.
2 Not allowed to hang around with known felons. We got
3 a whole list.
4 The problem is, that's a risk management
5 strategy. When you take it away, what happens? Where
6 do they go back to? Same friends, same places, same
7 thing.
8 And so, what we have to think about is -- is
9 developing strategies and training parole officers to
10 also focus on risk reduction techniques, teaching them
11 to recognize and avoid negative influences. That's
12 cognitive, by the way. That's "cognitive
13 restructuring," we call it. But, it's not enough.
14 Some of them get it. They understand they
15 shouldn't go to these places. They shouldn't hang
16 around with these people. But, they don't have the
17 skill to get out of it. So, we have to teach them new
18 skills, like being assertive.
19 Teach them how to maintain relationships.
20 What if it's their brother they get in trouble with?
21 All right? They're never going to see him again? I
22 doubt it. So, we have to teach them how to have that
23 relationship without the trouble that comes with it.
24 Identifying pro-social people in their life,
25 and enforcing those issues sometimes. I worked with a

1 day reporting center once, in Iowa, and they would
2 make offenders bring a pro-social person to the day
3 reporting center once a month, and introduce them to
4 people, okay? Because they wanted to bond those
5 pro-social relationships, right?
6 And, the reason I'm telling you this is
7 because I really think that we have to start changing,
8 thinking about how we train officers, how we do -- how
9 we develop strategies. If not, the good ones will
10 figure it out, and the rest of them will just see them
11 and pee them, okay? And then, you'll get very little
12 effect from -- from -- on recidivism.
13 Temperament and anti-social personality
14 patterns, weak socialization, impulsivity,
15 adventurous, aggressive, ego-centric. Most offenders
16 are -- have inflated self-esteem. They feel pretty
17 good about themselves.
18 I was in a prison once, and they had a
19 self-esteem program for offenders. And, I interviewed
20 this offender, and I said, "Tell me about yourself."
21 He had been in the self-esteem program for a couple of
22 weeks. And, he looked at me and said, "I'm thirty-two
23 years old. I've never been in -- I've never -- I've
24 been in trouble my whole life. I've never owned
25 anything I didn't steal. I've hurt everybody that

1 ever cared about me," he said, "but I'm starting to
2 feel pretty good about myself."
3 [Laughter]
4 MR. LATESSA: I said, "Well, we'll get you
5 out." All right?
6 And, offenders have weak problem-solving and
7 a lack of coping and self-regulation skills. They get
8 into situations, and they don't know how to get out.
9 They do what they always did. Of course, they land up
10 in trouble.
11 History of anti-social behavior. The
12 younger they start, the more things they do, the
13 higher the risk.
14 Family criminality, and also other problems,
15 low levels of affection, caring, and cohesiveness.
16 Are they involved in a good relationship? How do they
17 get along with their -- with their significant other,
18 or their parents, or their family? Poor parental
19 supervision, if they're children. And, outright
20 neglect and abuse.
21 But, for adults, these are less important,
22 because they're in the past. I can't change them. I
23 have to focus on the current relationships. Remember,
24 this works very current focus.
25 Low levels of education, vocational, or

1 financial achievement. Low levels of involvement in
2 pro-social leisure activities. And abuse of alcohol
3 and/or drugs.
4 And, I think -- as I said, people see these
5 aids and they say, "Okay, well, that's good. We're
6 going to work on that substance abuse." But, most
7 high-risk offenders have many risk factors, not just
8 one. Okay?
9 So, that's where a lot of programs --
10 sometimes, it's our training. If we're trained in
11 substance abuse, what are we going to focus on? If
12 we're trained in mental health, what are we going to
13 focus on? All right. If we get an offender in front
14 of us, and they're depressed, anxious, bipolar, that's
15 it. That's the problem, even though it has a very low
16 correlation with recidivism and risk.
17 This study came out of Pennsylvania. They
18 just finished it, the Department of Corrections. It's
19 really a reentry study. They looked at parole
20 violators, parole successes, who made it, and who
21 didn't. Pennsylvania is a traditional parole state.
22 People come in front of the Board, discretionary
23 release, they make a decision.
24 The Pennsylvania Parole Board, I've done
25 some videoconferences with them now. They're looking

1 at how they assess offenders. They use the LSI right
2 now to assess them, assess them when they come out.
3 They're trying to improve what they do with offenders,
4 okay?
5 This is what they found. Social network and
6 living arrangements, violators more likely to hang
7 around with individuals with criminal backgrounds,
8 less likely to live with a spouse, less likely to be
9 in a stable, supportive relationship, and less likely
10 to identify someone in their life who served in a
11 mentoring capacity. And, not a formal mentor, but did
12 they have somebody they could go to when they needed
13 help, advice? The violators didn't. The ones that
14 made it did. Even if it was a parole officer, by the
15 way, okay? Criminogenic risk factors.
16 Employment and financial, and this is very
17 interesting. Slightly more likely to have difficulty
18 getting a job. Just slightly. Less likely to have
19 job stability. They went from job to job. Violators
20 were less likely to be satisfied with employment.
21 They were less likely to take low-end jobs and work
22 their way up. If that isn't cognitive, I don't know
23 what is. More likely to have negative attitudes
24 toward employment and unrealistic job expectations.
25 Less likely to have a bank account. But

1 interestingly, more likely to report they were barely
2 making it. Yet, the success group had over double the
3 median debt. It wasn't about getting a job. It was
4 about being willing to take a job and show you could
5 do it and move up, be willing to work two jobs, if you
6 had to.
7 And, this is an important area, because a
8 lot of programs, that's it. It's like employment is
9 what they focus on. And, they never work on the
10 attitudes, the values, the beliefs. Why is work
11 important? What do you get out of work? Instead,
12 it's just get them a job. And, of course, you get
13 some effect, but often you see the difference between
14 the successes and the failures.
15 Alcohol use. More likely to report use of
16 alcohol or drugs while on parole, but no difference in
17 prior dependency. And, poor management of stress,
18 lack of coping skills was a major -- was a major
19 relapse factor for these folks.
20 Had unrealistic expectations about what life
21 would be, poor problem-solving or coping skills,
22 failed to utilize resources to help them, more likely
23 to maintain anti-social attitudes. All criminogenic.
24 Interestingly, success and failure did not
25 differ in difficulty in finding a place to live after

1 release. A lot of emphasis on housing, and housing is
2 a basic need. We all have that basic need. But it
3 wasn't a big criminogenic risk factor.
4 Neither was employment. Successes and
5 failures reported about the same chances of getting a
6 job. Basically, these guys said if you have a
7 driver's license, you could get a job. That's
8 basically what they said.
9 Now, keeping a job, working hard on a job,
10 taking a job that didn't pay well, those were
11 different issues. But, in terms of being able to get
12 a job, it didn't make much difference.
13 This chart shows you the risk factors and
14 what we call the dynamic need. So, if you have a
15 history of anti-social behavior, earlier -- early and
16 continued involvement in a number of anti-social acts
17 is a risk. The younger you start, the more things you
18 do. But, this is the need, to build non-criminal
19 alternative behaviors in risky situations. When do
20 they get in trouble? What precedes it? Can we teach
21 you three ways to get out of it? Work and practice on
22 those skills.
23 Personality cognitions, associates, family,
24 school, leisure, and substance abuse. But, I want to
25 be clear about this. I want to be crystal clear.

1 Most of us researchers who study risk factors believe
2 that these factors and other minor factors -- there
3 are other minor factors, as well. I'm not talking
4 about them. But, most of us believe that these and
5 others run through the big four. These are the big
6 four, right here.
7 These are the ones that you have to make the
8 focus of your programming. Because, if you can change
9 their thinking, you can give them new skills, you can
10 work on them -- if you take substance abuse, all
11 right? And, think about it for a minute. What are
12 some of the risk factors. Early and continued
13 involvement, adventurous, pleasure seeking, weak
14 self-control, attitudes, values, and beliefs, hanging
15 around with other people that drink and use drugs? I
16 mean, if you can change that, you can change those
17 other -- those other areas.
18 But, I think it's sometimes easier for folks
19 to work the other way. Let's get them involved in
20 leisure activity. Teach them how to bowl. A lot of
21 offenders that know how to bowl. Instead of working
22 on those other areas and -- and using, as part of the
23 process, them understanding you can take your family
24 out and have fun without getting in trouble. You
25 don't always have to get high. And so, it's these big

1 four that we really see as the major set.
2 All right. This research has led to the
3 principle. So, treatment more effective. Behavioral
4 treatment. And, specific risk factors, especially the
5 ones we can target for change.
6 The principles. Risk, need, treatment, and
7 fidelity. Who, what, how, and how well? That's as
8 simple as I can make it.
9 Who do we target with our correctional
10 programs, with our reentry, with our prison programs,
11 with our community programs? Everybody? Does
12 everybody need everything? No.
13 Make sure we focus on criminogenic risk
14 factors. There's a tendency, I think, because we're
15 often dealing with a very disadvantaged group. They
16 have a lot of needs, and we don't know where to begin.
17 And we treat them all the same in programs. They're
18 not all the same. Our rule of thumb is eighty/twenty.
19 Eighty percent of your activities should be focused on
20 criminogenic risk factors. Twenty percent
21 non-criminogenic. The more you get away from that
22 percentage, the lower your effects start to go.
23 Behavioral treatment, the how. Tough.
24 That's a tough one. The risk and need principles
25 aren't that tough to meet. The how is, because that

1 means you've got to train staff. They have to have
2 certain skills in order to deliver effective programs.
3 And the last one also, always a challenge,
4 is fidelity. Making sure programs are delivered the
5 way they're supposed to be delivered. The more we get
6 away from it, the lower the effects go.
7 So, let's look at these principles. Start
8 with the risk principle, one of the more important
9 ones, I would think, in terms of sentencing
10 alternatives, and reentry, and those issues.
11 Target offenders with a higher probability
12 of recidivism. Remember what I said in the beginning.
13 We've got -- risk is a continuum, really. So, we have
14 people, a group that's low risk. We have a group
15 moderate, high, very high. We could cut the data any
16 way you want to cut it. It's actuarial. That's how
17 we do these things. It's an actuarial table, okay,
18 just like insurance. You pay more for life insurance
19 as you get older. If you smoke, you pay more. If you
20 have teenage kids, you pay more for car insurance,
21 because there are risk factors. You're younger,
22 you're healthy, you don't smoke, it costs less. Okay?
23 Why? Because they've developed probability tables
24 that says your chances are less that you're going to
25 die young.

1 So, the same kind of principle with these
2 kind of instruments. Target offender with a higher
3 probability of recidivism. Here's a way to think
4 about it. Let's say half the offenders in New York
5 that come out of prison never go back again. Which
6 half are you worried about? The half that will go
7 back. That's the risk principle.
8 You want to put your energies, your efforts,
9 your supervision, your programs on the half that are
10 most likely to re-offend. Not the low-risk offender.
11 And, we're not saying not -- don't do anything with
12 low-risk offenders. We're just saying don't give them
13 intensive programs and services. Don't overload them.
14 Because, as you see, you make them worse.
15 Provide most intensive treatment to
16 higher-risk offenders. I'll give you a little
17 direction here, and only because we don't have a lot
18 of research, specific research. We have research that
19 says what? The longer they're in treatment, the
20 better they do. I think that's a dosage issue. The
21 problem is, we haven't done a very good job as
22 researchers of actually measuring how much treatment
23 someone needs or gets.
24 And, think about it for a minute. It's a
25 dosage issue. Right? So, sometimes you get an

1 infection, and you go to the doctor, and they give you
2 a prescription. And, what do they say? You've got to
3 take them all. This is a low-level infection. If you
4 don't take all of the medication, it can come back.
5 That's what they tell you sometimes. If you're like
6 me, you save a few pills for when you're sick again,
7 all right.
8 But, the reason they're telling you that is
9 because their clinical trials have shown that you need
10 this dosage of antibiotic to kill that infection. If
11 you don't take it all, it could come back. Okay?
12 And, by the way, can too much treatment hurt
13 you? Too much treatment can kill you. So, we have
14 the flip side of that.
15 But, this is a study I'll just show you
16 briefly. Because, again, I think it's related to
17 reentry. It was a prison study. These researchers --
18 G. Bourgon, who is a friend of mine -- wanted to
19 operationalize this principle in a real prison set.
20 And so, he did this study of 620 incarcerated males.
21 He gave them three variations of cognitive behavioral
22 treatment. Why cog? Because it's evidence based.
23 They gave 100, 200, and 300 hours of
24 treatment. They assigned offenders by risk and need
25 -- high risk, low risk, moderate -- they didn't have

1 low risk. Moderate, high, and so forth. Dosage of
2 treatment was an important factor.
3 What did they find? For moderate-risk
4 offenders with few needs -- few needs were defined as
5 three or less -- 100 hours was sufficient to reduce
6 recidivism. They got their effect with 100 hours of
7 treatment. That's what most meta-analysis was telling
8 us. If you would have asked me a couple of years ago
9 how much treatment should I give someone, I would have
10 said to you 100 hours of direct service.
11 But, look what they found. A hundred hours
12 had no effect on high-risk offenders. That's
13 important. That means you're wasting your time if
14 you're putting high risk offenders into a hundred-hour
15 program.
16 For appropriate offenders, either high risk
17 or multiple needs, but not both, 200 hours was
18 required. They had to double the treatment. And, for
19 high risk/high need, 300 hours wasn't enough. They
20 stopped at 300 hours.
21 Here's what I think this study means. First
22 of all, it's a prison setting. It wasn't the
23 community, all right. So, the hours could change in
24 the community, because in the community, you're
25 exposed to what? Pro-social people, school, work,

1 friends, family. So, you have some different dynamics
2 going on there.
3 But, here's what I think this research is
4 saying to us. First of all, you can't have one size
5 fits all programs. You need to think about
6 programming. At least do two tracks -- intensive and
7 regular. And, if you're putting high-risk people in
8 your program, you probably need to double whatever
9 you're doing.
10 I was out in Oregon a while back, looking at
11 a program they had for women. Well actually, it was
12 girls. It was one of their juvenile facilities. And,
13 the girls were in this facility for six months. They
14 got about four hours a week of structured cognitive
15 behavioral treatment. All the rest was just fluff
16 stuff. Four hours a week, six months. Well, you do
17 the math. Four hours a week, they're getting sixteen
18 hours a month, times six months. The problem was,
19 nine out of ten girls were high risk, as assessed by
20 their risk assessment. It was a good program, but
21 they probably were getting no effect, if they were
22 putting high-risk girls in a program that was giving
23 about a hundred hours of treatment. They had to
24 figure out how to double that treatment in order to
25 get an effect.

1 So, I think this study is important. We're
2 doing some research now. We've got two big studies
3 going on of reentry -- one in Ohio, and one in
4 Pennsylvania. We're tracking about 40,000 offenders,
5 looking at 120 programs, and we are measuring as
6 precisely as we can how many hours in groups the
7 offenders actually receive in those programs, because
8 we really want to provide more prescription for this
9 kind of -- for designing programs.
10 Because, a lot of programs may be -- they're
11 well done programs. They just -- the dosage may not
12 be enough. You may not be giving them enough
13 treatment. So, keep that in mind.
14 The risk principle also says effects from
15 high risk, negative effects from low risk. Stop and
16 think about it for a minute, what I said before. Low
17 risk, ten percent chance of recidivism. High risk,
18 fifty percent chance of recidivism. How are you going
19 to reduce ten percent? How much lower are you going
20 to get? Some of it's statistical, but if I've got a
21 group where every other guy fails, five out of ten
22 fail, and I get it down to four out of ten, I've cut
23 it pretty significantly then. So, that's some of what
24 we see with the risk principle.
25 This is a study done a couple of years ago

1 out of Canada. It involved intensive rehabilitation
2 and supervision. The Canadians assessed offenders as
3 high or low risk. High-risk offenders who were in
4 treatment two years, that's the recidivism rate.
5 High-risk offenders who did not get the treatment,
6 that was their recidivism rate. They reduced
7 recidivism for high-risk offenders twenty percent.
8 Not bad.
9 Low-risk offenders, though, that were put
10 into this program failed at the same rate as high-risk
11 offenders, and low-risk offenders that were not put a
12 program, less than half.
13 They had an effect on high risk. They had
14 no effect on low -- they made low risk worse.
15 Now, I know what you're thinking. That's
16 Canada. There's only ten offenders in the whole
17 country.
18 [Laughter]
19 MR. LATESSA: All right.
20 COMMISSIONER NEWTON: Can I ask a question?
21 MR. LATESSA: Yes, you can ask a question.
22 COMMISSIONER NEWTON: Has anyone explained
23 -- I mean, that's a curious notion that intensive
24 treatment for low-risk offenders --
25 MR. LATESSA: Yeah.

1 COMMISSIONER NEWTON: -- increases
2 recidivism. So, we know that's the fact.
3 MR. LATESSA: You want me to tell you why.
4 COMMISSIONER NEWTON: I -- it's speculation
5 --
6 MR. LATESSA: I'm going to get there, all
7 right?
8 COMMISSIONER NEWTON: You're going to get
9 to that? Okay, then I'll wait.
10 MR. LATESSA: I'm going to do that, Judge,
11 all right?
12 COMMISSIONER NEWTON: Okay. I will wait.
13 MR. LATESSA: I'm going to do that. Do I
14 think I would do that, I'd just leave that out there?
15 COMMISSIONER NEWTON: I didn't know.
16 MR. LATESSA: All right. I want to show
17 you this study. We did it a couple of years ago.
18 We're replicating it now in Ohio and Pennsylvania. It
19 should be ready in another year.
20 But, this was the largest study ever done of
21 community correctional treatment facilities. At the
22 time, I didn't consider it reentry study, but it
23 really was. Because, these were -- half of our sample
24 were coming out of prison.
25 We had 13,000 offenders in this study -- not

1 a small study -- 37 halfway houses, and 15
2 community-based correctional facilities. The halfway
3 houses were all serving parolees coming out of prison.
4 Ohio is a big halfway house state. Okay?
5 We kind of modeled ourselves after the
6 Federal Bureau of Prisons. Many of the offenders in
7 Ohio coming out of prison will be sent to a halfway
8 house for three, four, five months prior to being
9 released out into the community.
10 These facilities, we have 19 of them in
11 Ohio. They are secure residential treatment
12 facilities for felons. They are direct sentence
13 facilities. They are not people coming out of prison.
14 These are basically folks in the community who
15 committed a felony. The judge doesn't want to send
16 them to prison, wants to give them a chance at
17 treatment. They go to one of these facilities. And,
18 there are 19 of them. Cincinnati has a 200-bed
19 facility, 150 men, 50 women. They're there six
20 months, 24-hour treatment programs.
21 The State wanted to know if they worked or
22 not. Basically said "We're spending a hundred million
23 a year on these. Do they work?" We did the study, a
24 two-year follow-up.
25 We looked at new arrests and incarceration

1 and we also looked at program characteristics. I'm
2 not going to get into the methodology, unless you have
3 questions about it.
4 But basically, our comparison group were
5 parolees, people released from prison onto parole
6 supervision during the same time period. We did that
7 very specifically, because if you get released to a
8 halfway house and you're on parole, you have two ways
9 to fail, right? You can get a new arrest, or you can
10 get a violation. We didn't want to compare them to
11 people that couldn't get a violation.
12 So, our comparison group were parolees who
13 just got supervision. They got whatever else parole
14 did. If there were programs, they got them, but it
15 wasn't residential. So, these folks are getting the
16 intensive residential programming. Our comparison
17 group were matched on risk, race, sex, and offense.
18 If you were a sex offender, we matched you to a sex
19 offender. They were supervised in the same county,
20 but they didn't go to a program -- a halfway house.
21 So, that's our comparison group, okay?
22 Everybody was given a risk score based on
23 14 items that predicted outcome. This is important
24 because it allowed us to compare low risk to low risk,
25 high risk to high risk.

1 Here's -- here is what happens in a lot of
2 programs, I think. Low-risk offenders -- say you have
3 a hundred low-risk offenders. You do nothing with
4 them. Ten percent will recidivate. You give them
5 intensive treatment, you put them in lots of programs,
6 twenty percent will recidivate.
7 You take a hundred high-risk offenders. You
8 do nothing with them, sixty percent will recidivate.
9 You put them in good intensive programs, forty percent
10 recidivate. You've reduced recidivism quite a bit.
11 But, who did better? The low risk or the high risk?
12 The low risk. Only twenty percent of them failed.
13 So, here's what happens. In programs,
14 they're always comparing their low-risk guys to their
15 high-risk guys. They always think they're doing -- of
16 course they're doing better. That's why they're low
17 risk. But that doesn't give you the treatment effect.
18 That's like saying Harvard produces good graduates.
19 Of course they produce good graduates. They're all
20 smart when they get there. It's a lot harder for me
21 if I'm in a public university. I take all comers on.
22 Right? So, Harvard doesn't have a hard time getting
23 smart people coming out. They had smart people coming
24 in.
25 So, we knew that. So, we're comparing low

1 risk to low risk, and high risk to high risk. Let me
2 tell you want we found. And, this study has directed
3 a lot of policy in Ohio, a lot of policy right now,
4 and that's why we're replicating it.
5 These are the treatment effects for low-risk
6 offenders. These are the programs -- unimportant to
7 you, except some of them are national programs --
8 Salvation Army, VOA. Some of them are national
9 programs. This -- these red bars is how much worse
10 low-risk offenders did who were placed into those
11 programs.
12 So, if you were a low-risk offender placed
13 in Fresh Start, they a 36 percent higher recidivism
14 rate than low-risk offenders in that county that got
15 just parole supervision. You can see here three out
16 of four programs had negative effects with low-risk
17 offenders. Only a few programs, and the effects are
18 small, statistically insignificant.
19 Low moderate, moderate, high. Same programs
20 at the bottom. Now, look at the chart. It's
21 reversed. Most of the programs reduced recidivism for
22 high-risk offenders. Few programs didn't work with
23 anyone.
24 Anybody know what the scientific term for
25 that is? Shitty program. That's the scientific term

1 for that.

2 [Laughter]

3 MR. LATESSA: You can laugh. It's okay. I
4 have fun, all right?

5 I want to point out though -- the reason I'm
6 pointing to these programs is because if you looked at
7 the data, even the programs that didn't work with
8 anyone did better with high-risk offenders than they
9 did with low-risk offenders.

10 Here is where you want to be -- one, two,
11 three, four, five, six, seven, eight programs in Ohio
12 reduced recidivism twenty percent for high-risk
13 offenders. Three programs, thirty percent. If you
14 don't think thirty percent is a lot, you had 13,000
15 offenders in this study. You start doing -- you're
16 bigger than we are. New York is a bigger state, so
17 you start doing the math. If you can twenty percent
18 effect sizes, you're talking about a lot of people.

19 But, here's where you see the risk
20 principle, down here. These three programs all had
21 thirty percent reductions for high risk. Let's see.
22 EOCC increased recidivism seven percent for low risk.
23 Toledo, eleven percent. And here, Mahoney County,
24 twenty-nine percent increase for low-risk offenders.

25 So, that gets to the question that the Judge

1 asked. How can you have a program that's working with
2 high-risk offenders having a negative effect with
3 low-risk offenders? Why are we making low-risk
4 offenders worse?
5 We think there's two basic reasons for it.
6 One, who are we putting them in with? High-risk
7 offenders. So, the social learning, all the pressure
8 is to be anti-social. But, that's not the only
9 explanation. That's more true if you're a younger
10 offender than an older offender. If I took some of
11 you right now and put you in a correctional treatment
12 program for six months, you wouldn't come out and
13 start hanging with the home boys. Okay? You'd still
14 fall asleep in the chair at ten o'clock at night.
15 [Laughter]
16 MR. LATESSA: Because we're older. We're
17 more mature. We're -- we're not -- we're not going to
18 change those things, right?
19 But, if I put you in one of those programs
20 for six months, how many of you would lose your jobs?
21 How many of your families would have difficulty
22 getting by without you for six months? How many of
23 you would have -- how many of your neighbors would
24 have a "Welcome Home from the Correctional Treatment"
25 reception for you when you got out?

1 In other words, just putting you in that
2 program disrupts what makes you low risk. It disrupts
3 your pro-social networks -- your job, your family.
4 You've got to explain to the boss why you're not going
5 to show up for four months. Okay. That's what we
6 think is going on with this negative effect.
7 Ohio now doesn't put low-risk people in
8 these programs. The people have to be assessed within
9 48 hours. Low risk are not put into these programs.
10 All these programs now have to meet minimum standards,
11 or they're not going to get state funding any more,
12 and that's why we're doing the next study. So, it has
13 changed some things. All right.
14 The need principle. The need principle
15 basically says target criminogenic needs. These are
16 criminogenic -- attitudes, friends, substance abuse,
17 lack of empathy. They're called criminogenic because
18 they're crime producing. They're highly correlated
19 with risk. You drink too much, you hang around with
20 bad folks, you think what you're doing is okay, you
21 don't go to work, you don't really care who you
22 affect? Your risk is higher.
23 Anxiety, low self-esteem, creative needs,
24 physical conditioning -- non-criminogenic. We all
25 have those needs, but they're not related to crime.

1 Physical conditioning is my favorite. I've never
2 understood why we want offenders in really good shape,
3 all right?
4 [Laughter]
5 MR. LATESSA: I went to a boot camp the
6 other day, and I interviewed a young man. And, he got
7 my -- I asked him what he got out of the program.
8 And, he leaned in my face. He said, "I'm in the best
9 physical condition in my life, sir." Right about now,
10 he can run me down and kick my ass even quicker.
11 Right?
12 [Laughter]
13 MR. LATESSA: This is an important chart,
14 because what it's telling us -- again, it's a
15 meta-analysis. It's not just targeting a risk factor.
16 It's the density of risk factors. People aren't
17 higher risk because they have a risk factor. They're
18 higher risk because they have a number of risk
19 factors.
20 Let's take a real simple one, like
21 employment. For a parolee in New York, is being
22 unemployed a risk factor? Chairman, do you think it's
23 a risk factor for a parolee being unemployed in New
24 York, not having a job?
25 COMMISSIONER ALEXANDER: It's a risk

1 factor.
2 MR. LATESSA: Absolutely, absolutely it's a
3 risk factor. Is it a risk factor for you? It's a
4 risk factor for you? If you lost your job, would you
5 start selling meth? Rob 7-11s? Mug old ladies? No.
6 What would you do if you lost your job?
7 COMMISSIONER LENTOL: Find another one.
8 MR. LATESSA: You'd go find another job.
9 Being unemployed isn't that big of a risk factor for
10 criminality, but it is if you say things like "I can
11 make more money in a day than you make in a month."
12 If you say "I'm not going to work for eight bucks an
13 hour." If you say, "Ah, somebody will support me. My
14 friends don't work." Now, being unemployed is a big
15 risk factor. You know why? Because you've got 40
16 hours a week to do nothing but get into trouble, okay?
17 But, understand, just by itself being
18 unemployed for most of us, it's not a big -- we
19 wouldn't become criminals. So, targeting employment
20 is important, but if you don't target those other
21 domains, those big four, guess what? You're going to
22 end up like Pennsylvania. Guys that fail quit their
23 jobs, not going to work. Those kind of issues become
24 -- the cognitive issues become important.
25 Most correctional programs, unfortunately,

1 are based on tradition, custom, and imitation, rather
2 than scientific evidence. That's a sad reality.
3 I've assessed 450 correctional programs
4 throughout the United States, and the vast majority
5 score either unsatisfactory or need improvement. And
6 only a small handful are programs we consider to be
7 effective.
8 Most folks use what I call the Christopher
9 Columbus style of program design. When he set out, he
10 didn't know where he was going. And, when he got
11 there, he didn't know where he was. And, when he got
12 back, he didn't know where he'd been. He did it,
13 like, four times, and he used state money.
14 [Laughter]
15 MR. LATESSA: So, these are not
16 criminogenic needs. So, I don't want you copying
17 these down. But, I collect quackery. So, this is
18 some of the quackery that's out there.
19 Dance program gets juveniles moving on the
20 right track. I'll read you what it says there. In a
21 small secure concrete area, young male offenders dance
22 their way toward a new outlook on life. So, they're
23 dancing their way out of criminal behavior. The good
24 news, though, is they're dancing to the music of
25 rappers like Tupac, 50cent, and Rkelly. So, they got

1 some role models cooking there, as well.
2 [Laughter]
3 MR. LATESSA: Running teaches inmates the
4 value of success. This was out of Tennessee's
5 Department of Corrections. I thought we didn't want
6 them to run, myself.
7 [Laughter]
8 MR. LATESSA: This is drum circles. And,
9 I've actually seen quite a few of these. So, they
10 hide them when I get there, but I'll read you what
11 they said. They're trying to sell this to the
12 Department of Corrections. She introduced the first
13 drum circle in a New Zealand prison, and she describes
14 it as "Wow." That's the data they have right now.
15 Wow, okay?
16 [Laughter]
17 MR. LATESSA: The staff was amazed because
18 most clients continued drumming for two hours without
19 stopping to smoke. So, it doubles as a smoke
20 cessation program. You can kill two birds with one
21 stone. All right?
22 [Laughter]
23 MR. LATESSA: Man's sentence was probation
24 and yoga. That was for beating his wife, okay? But,
25 I like what the judge says. He said, "I thought about

1 taking him myself, but I got a pretty bad back."
2 Okay? And, here they are, right outside a courtroom,
3 fixing themselves. Okay? So, I don't know what these
4 knuckleheads are doing. He's sleeping, probably.
5 But, they're meditating their criminal behavior, okay?
6 Gardening programs. How to cut your jail
7 recidivism rates by half -- fifty percent. And, that
8 includes Ryker's Island here, all right? I got a call
9 from someone once. They said they were going to do
10 gardens for their offenders. They asked me what I
11 thought they'd get. I said vegetables is what they'd
12 get.
13 This is out of Canada. You know, I love
14 this, because it says this is a restorative justice
15 program. It's a dog sled. Exercising wilderness
16 skills was seen as a way of rebuilding the
17 perpetrator's self-esteem. They're worried about
18 making the perpetrator feel better about himself, so
19 they're working on their wilderness skills. So, when
20 they escape from prison some day, they'll be able to
21 make it in the wild for a while.
22 [Laughter]
23 MR. LATESSA: And, this is a new low here.
24 Handwriting therapy aims to reform juveniles in Texas.
25 It's based on the same theory as the drum beating,

1 that we have a neurological -- or offenders have some
2 neurological problems, and the beating of the drum or
3 working on -- she works on the handwriting to kind of
4 fix the brain. All right? That's the theory. It's a
5 horse shit theory, basically. But, that's what they
6 have proposed.
7 All right. Assessment is the engine that
8 drives effective correctional programming. Probably
9 an area for policy. Some states mandate assessment.
10 Some states dictate how it's going to be done. Some
11 states don't. They'll leave it up to the counties and
12 jurisdictions, all right? I'm a home rule state, in
13 Ohio. Every county makes its own decision.
14 But, the State decided assessment was so
15 important that they funded a large project. We are
16 assessing 3,000 offenders at every level -- pre-trial,
17 probation, prison, parole -- because we're going to
18 develop for the State a Web-based assessment
19 application that anyone in the state can use to assess
20 offenders.
21 The goal is to speak with one language. So,
22 if someone says they're supervising a high-risk
23 offender in Cleveland, they know what that means in
24 Delaware County, or in Cincinnati, or in Columbus.
25 So, Ohio's made that kind of decision.

1 Other states? They pick an instrument, and
2 they train everybody on it. They move everybody in
3 that direction. So, there's different ways to skin
4 this cat, but it is very important to do effective
5 assessment. You need it to meet the risk and need
6 principle. You're not going to meet those principles
7 without doing good assessment.
8 Program people think they know who's high
9 risk, and they don't, okay? They think they -- you
10 know, when a guy's got a file this thick, you don't
11 need a PhD to know they're high risk.
12 But, what about the ones that don't have
13 that long criminal history? You don't know. You're
14 not -- I used to study habitual drunk drivers. You
15 probably don't have any of them in New York, right?
16 [Laughter]
17 MR. LATESSA: We've got a bunch of them in
18 Ohio. I used to study people that had five or more
19 DUIs. It didn't take a rocket scientist to know that
20 somebody with five DUIs is high risk for drinking and
21 driving. You know how you know it? He's got five
22 DUIs. But, at one point, he only had one DUI. They
23 were high risk the minute they walked in, but you
24 didn't know it. You waited until they got the second,
25 third, fourth, then we turn them into felons, then we

1 say, "Oh, my God, he's a high-risk drunk driver." He
2 was a high-risk drunk driver when he got here, but
3 there was no assessment done.
4 We give them a film festival program in
5 Ohio. They watch movies for a couple of days, and
6 that's our intervention. And, most people never do it
7 again, because they look like you. They're
8 pro-social. If you got caught drinking and driving,
9 you would never -- you don't want to lose your job,
10 your position, your insurance. But, what about the
11 people who say things like "I was unlucky that night.
12 The cops had one of them roadblock things. Hell, I
13 drive better drunk. What's the big deal? I only had
14 six or eight beers, a couple of shots, and that other
15 stuff." Right?
16 In other words, it starts here. And they
17 drink too much. We know that. My point is assessment
18 helps us identify risk. If you don't do good
19 assessment, you're probably not going to -- you're not
20 going to do it.
21 It also reduces bias, and that's important.
22 A lot of times when we look at the data, extra-legal
23 factors start creeping in. Who gets pre-trial? Who
24 gets probation? Who gets this? Based on gender,
25 race, ethnicity, whether you have -- all these things

1 that may not be important in risk. And so, you really
2 want to move -- move toward a way to do it.
3 We know some things about assessment. We
4 know the best predictors. We know that that -- that
5 the best -- that you want to combine static and
6 dynamic in your instruments. You know that -- we know
7 that actuarial is the best way to do it. We've known
8 that for fifty-some years.
9 And, we want to be able to re-assess people.
10 Okay? We want to be able to re-assess people. I'm
11 going to skip through this.
12 I'm going to show you this, right here,
13 though. This is out of Indiana. Indiana uses the
14 LSI-R -- the Level of Service Inventory -- to assess
15 their offenders. They not only are re-assessing
16 offenders to see if their risk went down, they're
17 using their data to look at their correctional
18 program.
19 This data -- this is 20,000 assessments.
20 This is state-wide, when they came in the door,
21 intake. And, this is at discharge. So, this is their
22 initial assessment for 19,000 offenders, and this is
23 how they scored when they left.
24 But, this is the guy they put into work
25 release, and residential, day reporting, and home

1 detention. What's this tell them? It tells them the
2 highest-risk offenders were being put in their day
3 reporting centers. The day reporting centers also had
4 the greatest reduction in risk.
5 So, Indiana uses this data now. Their day
6 reporting centers are cheaper than their residential
7 programs, and they're getting better bang for their
8 buck with their day reporting centers. They got that
9 from just by looking at reassessment data. And so, by
10 having that standard instrument across the state,
11 they're not only able to look across the state, they
12 can look county-to-county, and look at effects. So,
13 I'm sure -- I wanted you to see the importance of
14 assessment.
15 This is the COMPAS. This is the instrument
16 that I think Parole was -- is using here, or plans to
17 use in New York.
18 COMMISSIONER O'DONNELL: Right.
19 MR. LATESSA: Are you still planning that?
20 COMMISSIONER O'DONNELL: They are. I think
21 they've --
22 MR. LATESSA: Are they still working on
23 that?
24 COMMISSIONER O'DONNELL: -- implemented --
25 yeah, I think they've implemented it --

1 COMMISSIONER ALEXANDER: We've done some
2 experimentation with it.
3 COMMISSIONER O'DONNELL: -- pretty well.
4 MR. LATESSA: Yeah, you've done some work
5 with it, yeah, yeah. So, this is the instrument.
6 This is a comprehensive risk/need assessment
7 instrument, all right? It's used in a number of
8 jurisdictions. Georgia uses it, for one. I think --
9 well, I'm blanking out on it, but a bunch of folks --
10 a number of folks use this instrument.
11 This is the LSI. This instrument that's
12 used, and some of your counties are using the LSI,
13 some of your probation counties use the LSI. And, I
14 want to -- I want you to just see here. This LSI
15 gives you ten risk factors, ten domains, we call it:
16 criminal history, education, financial, family,
17 accommodations, leisure, companions, alcohol and drug,
18 emotional, personal, and attitudes, and orientation.
19 This offender happened to be a woman. Okay?
20 You can see she's high in criminal history. She's
21 very high in companions. That means she has no
22 pro-social friends or acquaintances. She has a
23 serious drug and alcohol problem. Serious emotional
24 problem. And personal and attitudes and orientation
25 are anti-social.

1 Now, take a look at her. Let's say you put
2 her in a substance abuse program. A 28-day program.
3 They, by the way, don't work for anybody. But, let's
4 just say you put her in a 28-day program. How much
5 effect do you think you're going to get?
6 UNIDENTIFIED: Not very much.
7 MR. LATESSA: Yeah, look at her risk
8 factors here. As long as she's only hanging around
9 with anti-social people, you're not going to get very
10 far. You can't change this one, by the way. This is
11 a static one. These are the ones you're going to work
12 on, okay? So, assessment becomes an important part of
13 case planning, important part of reassessment, and so
14 forth.
15 This is a Hare Psychopathy Checklist. If
16 you're -- if you want to screen that very high risk of
17 psychopathic offenders, this is the instrument you
18 would use. You women will recognize these traits from
19 men you've dated over the years.
20 [Laughter]
21 MR. LATESSA: If you scored high on this,
22 30 out of 40, you're looking at a psychopath. Okay?
23 This is probably the -- I would never use the across
24 the board, but if I was dealing with an offender with
25 a violent history, I'd have a psychopathy checklist

1 done. Okay? Because this is the instrument that
2 you're going to use for that.
3 Things to beware of. Make sure your
4 assessment process covers all the major risk factors.
5 The COMPAS does. The LSI does. There's other
6 instruments out there.
7 But sometimes we put offenders in programs
8 that do very limited assessment. They assess -- they
9 assess substance abuse. Or, they only look at static
10 predictors, prior history. Well, you have a very
11 limited picture of that offender's risk.
12 Make sure it distinguishes levels. When
13 you're done with your assessment, you should know who
14 is high, medium, and low risk, and that -- those
15 levels should be correlated with a percentage of risk
16 of recidivism.
17 I go to programs all the time that do these
18 20-page intake forms. They write everything there is
19 to write about the offender. Then, when you read
20 them, they all read the same. He needs treatment, and
21 put him in the program. Okay?
22 I do one program once, a juvenile program,
23 and they did that. It was a pretty good program, but
24 they did that typical assessment, and then every kid
25 got everything. And, I remember sitting in with the

1 director, and I said this -- "Let me ask you
2 something." I said, "You do a lot of substance abuse
3 treatment." He said, "Oh, we do groups constantly on
4 substance abuse."
5 I said, "So, if I'm a kid that never used
6 drugs or alcohol, and you're a kid that uses
7 everything, do we go to the same group?" And, he
8 said, "Yeah." And then, he thought wrong answer,
9 right?
10 So, he looked at me. He goes, "But, maybe
11 the kid that doesn't use is getting some prevention."
12 Would you put your kid in that group? Would you put
13 your son or daughter in that group with high-risk drug
14 users?
15 COMMISSIONER ALEXANDER: No.
16 MR. LATESSA: No. But, we do it all the
17 time in corrections. If that -- and, that kid may
18 have risk factors, but if substance abuse isn't one of
19 them, why are we putting them in with a bunch of
20 high-risk substance abusers? Which way do you think
21 that learning is going to go? We all know that,
22 right? So, the point is assessment can help us make
23 those decisions.
24 This is the challenge. You do it, and
25 everybody gets the same treatment. So, there has to

1 be a point to the assessment. If you're just
2 assessing them and shoving it in the file, then don't
3 assess them. Just save your money. But, the
4 assessment needs to be tied to case planning, and
5 treatment planning, and program placement. All right,
6 I'm done with that.
7 All right, let's talk about treatment. The
8 most effective treatment, behavioral, focus on current
9 factors, action-oriented. These are the most
10 effective behavioral models.
11 Structured social learning. New skills and
12 behaviors are modeled. Key word, structured. Social
13 learning is the process through which we acquire our
14 attitudes, our values, and our beliefs. It's the
15 strongest theory we have. Yeah?
16 COMMISSIONER ALEXANDER: I want to go back
17 to what you were saying about the drug treatment --
18 MR. LATESSA: Yeah.
19 COMMISSIONER ALEXANDER: -- and how we
20 approach treatment, putting low-risk --
21 MR. LATESSA: Yeah.
22 COMMISSIONER ALEXANDER: -- offenders in
23 the same programs with high-risk offenders.
24 MR. LATESSA: Yeah.
25 COMMISSIONER ALEXANDER: Does the same

1 thing apply when we put them in different
2 incarceration facilities?
3 MR. LATESSA: Probably. Yeah. We make
4 them worse. I mean, even -- even there, some prisons
5 do classification, so they try to, you know, separate
6 really high guys from lower guys. But yeah, there has
7 even been some studies that show even when they
8 report, you shouldn't have low-risk and high-risk guys
9 sitting in the lobby together too long. I mean, that
10 exposure. But, I think in correctional institutions,
11 absolutely.
12 Some facilities I'm working with now are
13 having, you know, like moderate-risk guys here, and
14 high-risk guys here. You're always going to get some
15 low-risk people that get -- because of what they did,
16 and not because of who they are, because of the crime
17 they committed, put in.
18 What I always tell folks is, you know, the
19 rule of thumb is don't put them in a lot of programs.
20 They don't need a lot of programs. And, to the extent
21 you can, keep them away from the higher-risk -- the
22 higher-risk guys. It's not always possible to do, but
23 they ought to at least be conscious of it. Okay? In
24 terms of separating them from living, yeah.
25 In an institutional setting, we actually --

1 offenders in treatment need to be kept separate from
2 offenders not in treatment. I'm going to show you
3 that data later on.
4 COMMISSIONER O'DONNELL: I mean, the
5 obvious issue is juvenile facilities, --
6 MR. LATESSA: Yeah.
7 COMMISSIONER O'DONNELL: -- because we so
8 often hear that --
9 MR. LATESSA: Absolutely.
10 COMMISSIONER O'DONNELL: -- kids that don't
11 have a place to go are runaways or whatever, then are
12 put in detention facilities.
13 MR. LATESSA: Everybody does it.
14 COMMISSIONER O'DONNELL: Have there been
15 any studies specifically about juveniles in this area?
16 MR. LATESSA: Oh, yeah. I didn't show the
17 data, but --
18 COMMISSIONER O'DONNELL: Um hmm.
19 MR. LATESSA: -- we just did a big study in
20 Ohio of 14,000 kids, and putting low-risk kids into
21 residential programs, the difference was low-risk kids
22 that stayed at home had a ten percent recidivism rate.
23 If you put them in a residential program, it went up
24 to 34 percent. You tripled their failure rates.
25 And, there are some specific studies that

1 say that the highest -- the group that's greatest
2 influenced are 13 to 16. Older and younger, not quite
3 as much. But, that age group, they say even -- even
4 in the best treatment programs, we can't negate the
5 anti-social reinforcement of the high-risk kids.
6 If you work with kids, you know they don't
7 even have to talk to each other. I mean, they're
8 giving off all kinds of high-risk cues. So, with
9 kids, I think -- I think the influence is stronger
10 with the kids. I think with the adults, it's the
11 disruption of pro-social networks that becomes
12 stronger. Kids can come back from that quicker, but
13 they're more influenced by their peers. The peer
14 pressure is a lot stronger for teenagers.
15 COMMISSIONER LENTOL: Ten or fifteen years
16 ago, we heard a great deal -- there was a great deal
17 of fanfare about "scared straight" programs.
18 MR. LATESSA: Yeah, yeah.
19 COMMISSIONER LENTOL: Do those --
20 MR. LATESSA: They -- almost all studies
21 showed they increased recidivism.
22 COMMISSIONER LENTOL: Well, --
23 MR. LATESSA: Yeah. Because what happens
24 is you're not really scaring the kids. First of all,
25 they -- they get a lot of status from that. They go

1 back to school and all the kids -- they're the cool
2 kids that went down to the prison or jail. So, they
3 get reinforcement from it. Sometimes, they identify
4 with it.
5 There's a study, in fact, thinking now --
6 out of Rutgers, did the study, and looked at all the
7 studies that were out there. And, no study showed
8 reductions in recidivism. It's not a good idea. I
9 would never, never expose kids to those kind of
10 settings. All right.
11 COMMISSIONER O'DONNELL: Did we fund them,
12 Joe?
13 COMMISSIONER LENTOL: I don't think so.
14 [Laughter]
15 MR. LATESSA: Now, you can save some money,
16 right there.
17 Social learning, as I said, is probably the
18 strongest theory we have for human behavior. It is a
19 complex process. A complex process. It's not a
20 complex concept. Social learning is a very simple
21 concept to understand.
22 How many of you have children? How many
23 turned into your parents when you had children? Okay?
24 [Laughter]
25 MR. LATESSA: That's social learning. You

1 woke up one day and you're your mother, or your
2 father. That's the last person you were going to be
3 when you were 15. And, trust me on that. I have a
4 15-year-old. She said when she's a parent, she's
5 going to let her kids do whatever they want. I said,
6 "Fine. You just be home at ten o'clock."
7 [Laughter]
8 MR. LATESSA: But, you say things you swore
9 you'd never say. Were you born in a barn? Do you
10 think money grows on trees? Do I look like I work for
11 the electric company?
12 [Laughter]
13 MR. LATESSA: And, my favorite is I'll give
14 you something to cry about.
15 [Laughter]
16 MR. LATESSA: I said to my son the other
17 day -- I've done them all, by the way. I said to my
18 son the other day, "Do I look like Rockefeller?" He
19 said, "Who the hell is Rockefeller?"
20 [Laughter]
21 MR. LATESSA: I said, "I'm sorry. Do I
22 look like Bill Gates?" All right. That's what my
23 father said, though. All right? That's social
24 learning. I've turned into my dad. Okay?
25 The key word here is structured social

1 learning. We're not going to leave -- because, the
2 problem is you don't just learn good things. You
3 learn bad things. So, structured social learning
4 means you're going to have to train your P.O.s, you're
5 going to have to train your staff on how to model, how
6 to reinforce, how to teach new skills.
7 Even P.O.s, we -- we actually have designed
8 some training where we work with P.O.s, to teach them
9 how to work with an offender one-on-one in that short
10 time you have. Instead of just going over the
11 conditions all the time, actually work on some skill
12 building that offenders can do. Okay?
13 Cog approach is to target criminogenic risk
14 factors and family approaches. Family approaches are
15 mostly used with juveniles, mostly. There are some
16 examples of using them with adults, and Jersey is
17 doing some very nice work with transition out of
18 prison, right across the river there. Go see.
19 They have a big facility where they take
20 offenders coming out. They spend, I think, 90 days
21 there. They get assessed. From there, they go into
22 halfway houses. Some of them are doing a lot of
23 family intervention, so that they've got some real
24 nice stuff going on over there.
25 But, let's talk about cog, because cog is

1 one of the most popular. These are the principles,
2 that thinking affects behavior, anti-social discordant
3 thinking leads to that kind of behavior. If we can
4 influence thinking -- we can change how we feel and
5 behave by changing what we think.
6 It's based on scientific theories. It's
7 active learning, not talk therapy. It focuses on the
8 present. It's based on learning. Most crime is
9 learned. It targets major criminogenic risk factors.
10 And, it provides structure to groups. And, that's
11 important because it manualizes treatment.
12 We're in a field where there's high turnover
13 of staff. People move jobs. They -- so, what happens
14 to programs is that's very disruptive to programs. So
15 -- and, they don't spend a lot of money on training
16 staff. Let's face it. So, what's that mean? You
17 hire a new staff, what program are they delivering?
18 The last placed they worked. They come into groups
19 and say, "Okay, we're going to do this." No. Good
20 programs are structured. This is our program. This
21 is our curriculum. This is what we're trying to teach
22 offenders.
23 So, if you hire a new staff, they don't
24 bring what they did before. They follow what you want
25 done. So, cog allows you to do some of that.

1 It can be done anywhere. You can train
2 existing staff. You don't have to use psychologists.
3 It's cheap -- relatively cheap. You can get free
4 curriculums. The Feds have developed some. And,
5 there's a lot of curriculums developed.
6 This is the latest study, the latest
7 meta-analysis.
8 COMMISSIONER O'DONNELL: Could I ask you to
9 move over to the side of the room a little more, --
10 MR. LATESSA: Yes, oh -- oh, so they can
11 see me?
12 COMMISSIONER O'DONNELL: -- for our -- um
13 hmm.
14 MR. LATESSA: All right. Is this better?
15 COMMISSIONER O'DONNELL: Great.
16 MR. LATESSA: All right. It's not my
17 better side, though.
18 [Laughter]
19 MR. LATESSA: I'm a left-hander, so I need
20 -- all right, anyway.
21 This is the latest meta-analysis, an
22 important study not because it showed the effects, but
23 because it showed how to double the effects. Average
24 effects were 25 percent. But, most effective
25 configurations found 50 percent. Okay?

1 Things that didn't matter. The design of
2 the study, the setting. But look at here. It was
3 closer to the end of sentence. They didn't do it when
4 the guy first came in. They did it as they were
5 getting ready to come out. And, I think that's a
6 transition issue, as well.
7 Juvenile versus adult, not significant.
8 Minorities or females, not significant. That's
9 important. You can find different effect sizes. And,
10 the brand name of the curriculum.
11 What -- what did matter? Sessions per week,
12 at least two per week increased effects. That's a
13 dosage issue.
14 Implementation was monitored. Somebody made
15 sure the program was being delivered the way it was
16 supposed to. They didn't put 25 people in groups.
17 They ran small groups, to make sure everybody got a
18 chance to practice. Make sure they followed the
19 curriculum, and didn't just read out of the book.
20 Staff were trained on it. More fidelity.
21 More completers. They took away the
22 barriers. A guy couldn't get there, they got him a
23 bus token. Make sure they showed up.
24 Higher risk. There's the risk principle.
25 And higher if it was combined with other services.

1 There's the need principle. They don't just have one
2 area of risk. They have others.
3 Cognitive restructuring was included, anger
4 control, and individual attention, all increased
5 effects. No surprises there.
6 But, you see how they showed how you went
7 from 25 to 50 percent by basically paying attention to
8 the principles of effective intervention -- risk,
9 need, treatment, and fidelity.
10 Here is some data out of Indiana. We
11 haven't published it yet. But, we compared -- they
12 sent us this data. These were probation and Thinking
13 for a Change, versus just probation. So basically,
14 they took offenders on probation. They gave them a
15 cog curriculum -- Thinking for a Change. Then, they
16 had probationers. We controlled for risk, age, sex,
17 race, time at risk.
18 What did we find? If they completed -- got
19 T for C and completed it, 18 percent recidivism rate.
20 Even if they didn't complete it, versus probation.
21 That's a 50 percent reduction in recidivism, just
22 based on running cog, all right?
23 I've got to do this. This study we finished
24 in 2005. It was a companion study to the residential
25 program. Ohio wanted to know how well non-residential

1 community correction programs were performing.
2 Thirteen thousand offenders. This included both
3 misdemeanants and felons. Programs included day
4 reporting centers, work release, ISP, and electronic
5 monitoring programs.
6 None of the studies made a difference -- or
7 none of the programs made a different. It didn't
8 matter whether you put them in one type or the other
9 type in Ohio.
10 When we looked at the data, it came down to
11 four things, four factors:
12 The more high-risk offenders in the program,
13 the more effective it was.
14 The level of supervision for high risk, the
15 more effective it was. If they gave them more
16 supervision, more effect.
17 More treatment, at least 50 percent more
18 time, more effect.
19 And, more referrals for treatment, at least
20 three to one.
21 Four simple things. And, that's the
22 difference between if you did it and if you didn't do
23 it. So, if you had higher-risk offenders in your
24 program, you got an effect. If you didn't, you
25 actually increased recidivism.

1 We looked at 60 counties. If you met none
2 of them, none of those factors, they increased
3 recidivism 13 percent. If you met three of them, you
4 reduced recidivism 15 percent. Again, there were
5 13,000 offenders in this study. So, 15 percent isn't
6 bad.
7 Nobody met all four. No county in Ohio met
8 all four of those conditions. We have four pilot
9 counties now in Ohio that we're working with, to try
10 to get them to do those four things, because the State
11 wants to move all the counties toward those kind of
12 practices.
13 And, it's not that they didn't want to do
14 it. I mean, they didn't start out saying let's put
15 lower-risk people in these programs. But, the State
16 actually had funding formulas that made it financially
17 better for them to put lower risk. Because, the State
18 would just count who they put in a program. They
19 didn't care who it was. Okay?
20 I've been trying to get the State of Ohio
21 for years now to instead of just giving these counties
22 checks, to actually give them money based on who
23 they're diverting, and to give them vouchers for
24 treatment. So, if you divert a high-risk offender,
25 you get a voucher for treatment -- 3,000 bucks. If

1 you divert a low-risk guy, you get no voucher. If you
2 divert a moderate-risk guy, you get 2,000. Because, I
3 really think they've got to figure out how to tie the
4 money to what they're -- to the treatment. Instead,
5 they give everybody money based on how many names they
6 put into the computer, and they get this -- this,
7 right here.
8 This is not specifically reentry, but I
9 wanted you to see this study. This is looking at a
10 meta-analysis of prison and jail misconduct. When
11 we're talking about prisons and jails, their primary
12 concern is not recidivism. Okay? To be blunt about
13 it, okay? A correctional officer doesn't care about
14 that. He cares about getting through the day, not
15 having any incidents, handling these offenders.
16 That's the day-to-day for them, not whether this guy
17 recidivates or not. That's -- they don't even think
18 about that.
19 And so, this meta-analysis was looking at
20 outcomes for -- including violent misconduct,
21 non-violent misconduct, and institutional adjustment.
22 This is what they found. If prison -- the
23 prison -- if inmates were in behavioral programs,
24 that's the effect on misconduct. They had a 26
25 percent reduction in misconducts. If they were in

1 non-behavioral -- if they were in education and
2 vocational, or unspecified. These aren't even
3 registering. Behavioral got the greatest reductions
4 in institutional behavior.
5 The more risk factors, the more criminogenic
6 needs they targeted -- if they targeted three to
7 eight, one to two, and none.
8 High-quality program, moderate-quality
9 program, low-quality program. What I'm trying to get
10 you to see is how the principles -- how strong they
11 are, regardless of the outcome measure, regardless of
12 the setting.
13 Adults, juveniles. Here -- your question
14 here. If they're kept in -- if they're -- if
15 treatment is kept separate, if it's not kept separate.
16 In other words, if the inmates in the programs were
17 kept separate from the general population. It almost
18 has no effect when you put them in together, because
19 it gets all undone, all the pressure is to be
20 anti-social.
21 Greater than six months, or less than six
22 months.
23 And, the good news was misconducts -- high
24 misconducts reductions reduced recidivism, low
25 misconduct reductions -- the guys that misbehaved

1 inside often are more likely to recidivate.
2 Basically, that's what it found.
3 Maryland. Maryland is a state -- probation
4 and parole are combined in Maryland. So, they --
5 state-wide, they supervise both. They have developed
6 something called proactive community supervision.
7 These are the keys to it.
8 They use LSI-R. Good case plans around
9 criminogenic factors. Referral to appropriate
10 programs. Timely communication with offenders to
11 review progress. Really focusing on desistance from
12 lifestyle. They had four districts, and four match
13 districts.
14 Three outcome measures: drug tests, new
15 arrests, and technical violations found. This is not
16 significant. These two, I think, were. But, what
17 it's showing is they're starting to get reductions in
18 all their outcome measures. They're starting to see
19 some movement and basically these are the -- these are
20 the PCS counties, these are the non-PCS counties.
21 Relapse prevention. Relapse prevention is
22 commonly associated with substance abuse, but not
23 always. You can do relapse -- criminal relapse
24 prevention. Some sex offender relapse prevention.
25 This is a meta-analysis.

1 Programs that include it, and programs that
2 don't. It's at 15 percent. Having relapse prevention
3 as part of a program gets you that kind of an effect.
4 Most studies show that, by the way. Adding aftercare
5 always gets you another effect.
6 But, here is what they found. If you met
7 one or less of the principles, you had no effect from
8 your relapse. If you met two of them, if you met
9 three of them, 20 percent, and that's negative.
10 Juveniles, adults, males, females, whites,
11 and minorities, all positive effect sizes across the
12 board.
13 General offenders, sex, and drug. This is
14 probably the most important slide, in my opinion. If
15 relapse prevention was described in detail, it had
16 twice the effect than if it was only listed as
17 aftercare.
18 I go to programs all the time, and I'll say,
19 "Do you have aftercare?" And, they'll go, "Yeah."
20 And, I'll say, "Well, what do you do?" "Well, we
21 meet." How often? Once a week, once a month. What
22 do you do when you meet with them? We talk. Guess
23 what? That's where you fall. You get some effect
24 from that, just because you're keeping an eye on them,
25 giving them some support, but you get twice the effect

1 if you have a structure to your aftercare. They're
2 working on skills. They're practicing the things that
3 they learn and now they have to apply. So, this is
4 where you want to be.
5 What doesn't work with offenders? I got
6 this from my friends on Oklahoma. It says "Lakota
7 tribal wisdom says when you discover you're riding a
8 dead horse, the best strategy is to dismount." That
9 means you get off the horse. However, in corrections,
10 we try other strategies. Buy a stronger whip. Change
11 riders. Say things like "This is the way we have
12 always ridden this horse." Appoint a committee to
13 study the horse.
14 [Laughter]
15 MR. LATESSA: No offense, right?
16 [Laughter]
17 MR. LATESSA: This is my favorite, this one
18 here. Arrange to visit other sites and see how they
19 ride dead horses. Okay? Create training session to
20 increase our riding ability. Harness several dead
21 horses together for increased speed. Declare that "No
22 horse is too dead to beat." Provide additional
23 funding to increase the horse's performance. Declare
24 the horse is "better, faster, and cheaper" dead.
25 Study alternative uses for dead horses. And, promote

1 the dead horse to a supervisory position.
2 [Laughter]
3 MR. LATESSA: Dead horses, some things
4 we've talked about. Drug prevention classes focused
5 on fear and other emotional appeals. Trying to scare
6 them out of their behavior.
7 Shaming offenders -- not a particularly
8 effective strategy. How many of you would like to be
9 shamed or humiliated? So, what do you think you get
10 when you shame and humiliate an anti-social person?
11 You get a pissed-off anti-social person is what you
12 get.
13 [Laughter]
14 MR. LATESSA: Drug education.
15 Non-directive client-centered. Again, ask them what
16 they want to do, what they think they need, like they
17 would know. Okay? The most effective programming is
18 directive. All right? I'm going to teach you. We're
19 going to work on this skill. We're going to practice.
20 We're going to go over it, and I want to make sure you
21 understand it. That's a very directive approach,
22 versus sit in a circle and ask them what they want to
23 focus on.
24 Bibliotherapy. Reading books. Dealing with
25 the past. Talking cures. Self-help programs.

1 Includes A.A. A.A. is a self-help program, never
2 designed for offenders, by the way. All right? Never
3 designed for offenders. It's designed for people like
4 you and me that drink too much and start to suffer the
5 effects of alcoholism. Started by two guys in Ohio.
6 One was a stockbroker. One was a doctor. Okay?
7 These weren't offenders. Most studies show if you
8 force people to go to A.A., they actually do worse.
9 And, who do we force? Offenders, okay?
10 I just did -- one of my students just did a
11 meta-analysis of Drug Court studies. Drug Courts that
12 mandated A.A. were less effective than ones that
13 didn't. It's consistent. We see it in other studies,
14 as well.
15 Unstructured rehab programs. Programs that
16 say they do counseling, life skills. What's that
17 mean? You give me five counselors, I'll give you five
18 different approaches. Good programs are structured.
19 And, this is where a number of states are moving. We
20 can talk about it, you know, later. But, a number of
21 states are really moving to ensure quality programs by
22 assessing them, by either through contracts or other
23 ways, to make sure that they're not just getting these
24 vague, unstructured programs.
25 And, punishing smarter kind of programs,

1 things like "scared straight," and interventions like
2 that. They just don't target risk factors very well,
3 and don't produce effects.
4 Fidelity. Very difficult. Very difficult
5 to achieve, because -- because of the business that
6 corrections is. Lots of turnover, not a lot of
7 resources, training money is not there. It's hard to
8 maintain fidelity, and it's one of those things that
9 really has to come, I think, at different levels,
10 okay?
11 Both internal and external. Programs have
12 to develop internal capacity but we also externally
13 have to monitor programs.
14 Parole, probation. Send people to programs
15 all the time. Don't have a clue what they're doing.
16 Don't have an idea if they're high-quality programs or
17 not. Okay? Some have never been to the program. So,
18 you have to -- we have to start. I think probation
19 and parole, it's one of the areas they really need to
20 move on is they spend all their time worrying about
21 supervising offenders. They never really monitor the
22 programs they're sending them to very well. And, I
23 think that's an area that's kind of the next frontier
24 for them.
25 Assessing offenders in meeting target

1 behaviors. If you don't assess them coming in, you
2 don't know how well they do when they come out.
3 You've got to re-assess offenders. That's part of a
4 good quality assurance process.
5 Tracking recidivism, and having evaluators
6 work with programs. You have a lot of great
7 universities in the State of New York. And, there
8 have to be relationships to evaluate programs, and
9 that's a good place to go to do it.
10 Why? Because, as you see, not competent,
11 marginally competent staff actually make them worse.
12 Okay?
13 Meta-analysis, having a model, training
14 workers, supervising workers, printing manuals,
15 monitor change, adequate dosage, involved researchers.
16 All the studies show stronger effect sizes if you have
17 those things. That's why I talk about them, because
18 the research indicates you're going to get stronger
19 effects when you have those things present.
20 Every major study I've done in the last five
21 years has shown a strong relationship -- and I mean
22 .60 correlation. Not just -- just out there. But, I
23 mean, some of the strongest factors have been based on
24 program integrity and recidivism. The higher the
25 quality of the program, the greater the reductions in

1 recidivism.

2 This is community supervision programs.

3 Poor-quality programs, high-quality programs.

4 Our residential study. Poor-quality

5 programs, high-quality programs. That's a 40 percent

6 swing in recidivism.

7 Juveniles. Big study we did. High programs

8 -- high quality in white, poor quality in orange. At

9 every risk level of kid -- low-risk kids,

10 moderate-risk kids, high-risk kids, very high-risk

11 kids -- the higher the quality of the program, the

12 lower the recidivism rate.

13 So, program integrity is a major

14 contributing factor, in our opinion.

15 What's it all mean? Who you put in the

16 program is important. You've got to pay attention to

17 risk. So, you've got to know what the risk is. If

18 you don't know that, you're unlikely to meet that

19 principle.

20 Targets important. Criminogenic needs. How

21 you do it. Behavioral approaches. Assessment is the

22 engine. And, integrity makes a difference. You've

23 got to invest in quality, in training, in supervision,

24 and all those things that, you know, we all know are

25 important in almost anything you do.

1 All right. I promised to leave time for
2 questions. And, I think we've got a little bit of
3 time left. So, I'll be happy to answer. Yes?
4 COMMISSIONER BERGAMO: Well, first of all,
5 thank you. I'm now a believer.
6 MR. LATESSA: All right. I'm a believer.
7 COMMISSIONER BERGAMO: You can believe me.
8 So, since it's so clear, why don't they do it? What's
9 the lethargy in the governments?
10 MR. LATESSA: I think there are -- let me
11 say this. There are pockets, there are states, there
12 are jurisdictions that are much further ahead of the
13 curve than others, okay? So, it's not true -- we're
14 not doing it across the board.
15 I think there's a lot of reasons we don't --
16 we don't do it. Some are political, you know. You
17 know, it's -- it's, you know, we fund programs because
18 of politics, and tradition, and who's always gotten
19 our money. Some of it's because, in some cases, we're
20 dealing with areas that are based a lot more on
21 tradition.
22 In the offender treatment business, you get
23 a lot of programs run by people who say, "It works for
24 me. So, if it will work for me, it will work for
25 everyone. And, I'm not sure how it works for me, but

1 if you -- you know, I'm going to work with you, and
2 we're going to get you to change." And that's -- you
3 know, that's not what the research says.
4 The research says the best programs are run
5 by professionals. They're well trained to deliver
6 models, you know, and it's -- it's a tough business --
7 it's tough to change some of those businesses.
8 In my opinion, the weakest link -- one of
9 the weakest links is substance abuse counselors. The
10 12-step community, it doesn't want to move to
11 evidence-based. It's a tough one, and we use those
12 programs a lot for offenders.
13 So, there's a lot of reasons we don't get
14 there. But, there are states pretty far ahead.
15 Washington State, everything evidence-based. And,
16 they study everything they do.
17 Iowa, another state. Maine. Illinois
18 moving in that. NIC has given both those states a lot
19 of money to bring everybody like you into the table,
20 to talk about how to move things. So, there are
21 examples of places. But, it took a long time to get
22 where we are. We're not going to fix it, you know,
23 overnight.
24 And, the politics is a big one. You know,
25 people don't care if he's low risk. If he did this,

1 I want him locked up. Oh, I understand that. Okay.
2 COMMISSIONER BERGAMO: Thank you.
3 COMMISSIONER O'DONNELL: Professor, can you
4 stay here for the question-and-answer?
5 MR. LATESSA: Oh, you want me to stay back
6 over here?
7 COMMISSIONER O'DONNELL: Yeah, they haven't
8 seen --
9 MR. LATESSA: Oh, there's a magnet over
10 here.
11 COMMISSIONER O'DONNELL: They haven't seen
12 that. No, really in the middle, if you can.
13 MR. LATESSA: All right.
14 COMMISSIONER O'DONNELL: Now that you don't
15 have a screen, then they can see you better. Okay.
16 MR. LATESSA: Yeah.
17 UNIDENTIFIED: Is there any -- are there
18 any studies which indicate whether any of this data
19 changes whether the sentence is a determinate or an
20 indeterminate sentence?
21 MR. LATESSA: I know of no data that showed
22 that, no. I work in both kind of states. I worked in
23 mixed-sentencing states. I work in determinate. I
24 work in indeterminate. I don't know if that -- you
25 know, I'd have to think more about it.

1 I've always -- you know, Ohio was an
2 indeterminate state. Now, we're kind of a determinate
3 state. So, we just changed how -- you know, we don't
4 have discretionary parole, but we give them
5 supervision when they come out. So, it -- and it
6 doesn't really, you know, matter that much, as long as
7 they're able to get them in program.
8 It did have some effect for a while in
9 getting guys to go to program, because it didn't give
10 them anything for programs. And so, a lot of the
11 programs in our institutions were under --
12 under-utilized because, hey, I don't get anything for
13 it. Why should I go? But, I think they've gotten
14 past that now, somehow. But so, there are those
15 issues.
16 But, I know of no data that says one is more
17 effective than the other.
18 COMMISSIONER LENTOL: A follow-up on what
19 Tony was asking. Is it fair to say that -- that we
20 have, as other states do, the entrenched alternative
21 to incarceration programs that don't work, that we
22 continue to fund, because of their traditional value,
23 or what we thought their traditional value is? Is
24 that what you're talking about?
25 MR. LATESSA: Oh, yeah. I think everybody

1 does. Well, let's take probation or parole.
2 Intensive supervision is often the -- the kind of the
3 backbone of some of those departments. It's not that
4 that's all they do, but that's what they hold out.
5 We've got intensive supervision. We watch these guys
6 a lot. We give them a lot of -- a lot of
7 surveillance.
8 What's the research say? Much higher
9 failure rates when you do that. Okay? It also says,
10 though, that if you can -- if you can move that
11 intensive program to doing as much treatment as they
12 do surveillance, you'll get a positive effect. Okay?
13 So, if you use it as a tool, rather than as
14 your program, you can get something. So, a lot of --
15 I think some departments have said, "Okay, now how do
16 we do that?" Now, from then on, let's get into
17 programs and the kind of things Ohio showed.
18 But, a lot of stuff we do is done for
19 efficiency. It has nothing to do with reducing
20 recidivism. It's, you know, it's handling our cases
21 efficiently, not -- not necessarily having any effect
22 on their behavior. So, a lot of the alternative stuff
23 is, you know, done that way.
24 But the alternative stuff, the good news is
25 it often keeps guys out of prison. But, it -- I'll

1 give you an example. In Ohio, with our intensive
2 programs, the State subsidizes the counties. It gives
3 them money to divert people from prison. And then,
4 the counties take them, and they do intensive programs
5 that increase their recidivism rate. So, I tell the
6 State, "You're paying for them twice. You're paying
7 to diver them. Then, you're paying to incarcerate
8 them." Okay?
9 That's why I tried to get them to move away
10 from this model where they're just funding the
11 counties to put people in these programs. Fund the
12 counties to put the right people in the programs.
13 Don't give them money for low-risk people. What are
14 you wasting your money for? You're making them worse.
15 So, sometimes that's happened -- that
16 happens.
17 COMMISSIONER ALEXANDER: You talked about
18 risk assessment instruments.
19 MR. LATESSA: Yeah.
20 COMMISSIONER ALEXANDER: Do you have a
21 preference?
22 MR. LATESSA: Do I have a preference? I
23 wouldn't have picked the COMPAS. That's for damn
24 sure. But --
25 [Laughter]

1 MR. LATESSA: The LSI is the most studied
2 instrument out there. It's not perfect. They have a
3 new version.
4 There is an instrument, a new instrument,
5 called the Risk Assessment System, that -- I like what
6 they've done with it. But, if -- my preference would
7 -- I would have told you to go with the LSI-R, just
8 because of the data. There is just too much -- there
9 are studies on males, women, minorities, I mean, you
10 just have so much more data. There's no data
11 published on COMPAS. And, you see the implementation
12 problems you've had.
13 I mean, I would have -- I wouldn't have gone
14 -- it has all the bells and whistles, but in my
15 opinion, it's just a lot of smoke and mirrors.
16 If I put this -- if I go back to it here, if
17 I will, all right? Let me go back. And, they always
18 get mad when I point this stuff out.
19 Let me go back to this instrument, here.
20 This instrument gives you what they call an overall
21 risk potential. They purport to give you violence,
22 recidivism, failure to appear, and community
23 non-compliance. Low risk, medium risk, high risk.
24 But, you see these numbers underneath? Well, this is
25 not probabilities of recidivism. These are

1 percentiles, okay?
2 What they do with this instrument is -- the
3 first thing they do is they come in and they assess
4 about three or four hundred of your offenders. They
5 put all the data in the system. This score -- this
6 doesn't mean that this guy has a 75 percent of being
7 non-compliant. It means that his answers put him in
8 the 75th percentile. In other words, of all the
9 people that answered the questions, that's where he
10 fell. Okay? So, it's a little bit of a misnomer.
11 With the LSI-R, they give you a probability
12 of recidivism. Eight percent. That means the chances
13 of this person failing is eight percent, based on
14 thousands of people that look just like him.
15 So -- so, there's a little bit of smoke and
16 mirrors going on with the COMPAS. I think what you're
17 going to have to do with the COMPAS is, once you get
18 it working, you're going to have to do those outcome
19 studies and come up with those probabilities for your
20 system. Because, this is not probability of
21 recidivism. It just means if we all answered the
22 questions, and you gave all the wrong answers, you'd
23 be in the hundredth percentile. We'd all be at zero,
24 okay?
25 So, it -- it is -- it's a little bit of --

1 of voodoo magic there with it. Okay?

2 COMMISSIONER NEWTON: I'd like -- it's very

3 interesting that everything that we try, as you've

4 said, are ineffective approaches. I find that

5 fascinating, --

6 MR. LATESSA: Well, I --

7 COMMISSIONER NEWTON: -- and a little bit

8 disappointing. So, I have two questions for you.

9 One, while they may be ineffective

10 approaches from a programmatic --

11 MR. LATESSA: Yeah.

12 COMMISSIONER NEWTON: -- perspective, is

13 there any use for these models that we've --

14 approaches that we've used over time? That's number

15 one.

16 And, number two, how long have you been

17 studying this evidence-based approach? Is it

18 something that's twenty years old, or --

19 MR. LATESSA: Good question.

20 COMMISSIONER NEWTON: -- or fifty years

21 old? I mean, and -- and, I guess, how reliable do you

22 think it is?

23 MR. LATESSA: Yeah.

24 COMMISSIONER NEWTON: Because, at some

25 point, we thought these other things were reliable, as

1 well.

2 MR. LATESSA: Yeah. First, the question --

3 the answer to the things you've been doing. There are

4 reasons that we do almost everything.

5 Let's take a -- let's take one that's fairly

6 benign. Restorative justice. Pacem, right? Victim

7 mediation, and restitution, and those kind of things.

8 What's the research say? It says that you get a small

9 effect size from it -- six, seven percent reductions,

10 all right? You don't get much effect with higher-risk

11 offenders, because they're really not designed for

12 higher-risk offenders, right? Do you really think a

13 guy that's high risk is going to change because he's

14 involved in some mediation program? He's thinking,

15 "I'm getting out of this. This is great. I get to

16 apologize and go out and do what the hell I want to

17 do."

18 So -- but, there's a reason to do it.

19 Restorative justice programs are pretty good -- I

20 would advocate them for lower-risk offenders, right?

21 Because lower-risk offenders are probably going to

22 respond to that kind of. So, there's a place for it.

23 A guy stopped me the other day. He's got --

24 you know, he's got a telephone reporting system.

25 Offenders actually report on the phone, you know?

1 And, he wanted to tell me how great it was. Well,
2 okay, how much recidivism am I going to reduce because
3 some guy is reporting in on the phone? Probably
4 nothing.
5 But, for low-risk offenders, that may not be
6 a bad way to handle some real low-end cases, right?
7 It's cheap and easy. I don't have to tie up my P.O.s
8 with that. So, there's reasons to do some of those
9 things.
10 The what works research really came out of
11 the Martinson study in the '70s. Martinson said
12 nothing worked. And, a number of researchers said "We
13 don't think Martinson is right." Then, they started
14 looking closer at the data and saying, "You know what?
15 Some things do work, but they only work when you meet
16 these certain kind of conditions."
17 And from that, I'd say the last 20 years,
18 maybe 25, the evidence has been accumulating. Many,
19 many, many studies. And, that's why I don't rely on
20 one study. I'm trying to show you lots of studies.
21 Meta-analysis are hundreds of studies. The risk
22 factor data, that's hundreds of studies that have been
23 done. So, this evidence isn't going to change.
24 This evidence -- people that do this kind of
25 work will tell you that it would be like -- take a

1 great big -- like Barry Bonds, all right? He'd have
2 to strike out ten thousand times for his average to go
3 down 50 points. What's the chances of that happening?
4 I mean, you know, we know once you're a hitter at that
5 level, you're going to be a hitter at that level.
6 You're going to regress toward the mean.
7 The same thing with this data. Everything
8 would have to collapse for years for this data to
9 reverse itself. So, we're very confident that what
10 we're seeing is accurate.
11 COMMISSIONER NEWTON: And lastly, do you
12 have a specific curricula, or several that you could
13 show us? Because, it would be interesting to see what
14 it looks like, when you are changing this behavior of
15 a --
16 MR. LATESSA: I don't have a -- there's a
17 number of curriculums out there from -- remember what
18 the research said, though. The brand name doesn't
19 matter that much.
20 COMMISSIONER NEWTON: Um hmm, um hmm.
21 MR. LATESSA: But -- can I get a marker?
22 No, no, to write on this here? Have we got a marker
23 somewhere? All right. I've got -- you know what?
24 I've got one. I've robbed one. Let me just get them
25 up there.

1 MR. LATESSA: It's a good thing I come
2 prepared. All right.
3 There are a number of curriculums. Let me
4 give you an example of what we're -- what we're
5 talking about. It might help with the cog, all right?
6 Because cog interventions are really where you're
7 trying to head. Well, what -- well, not New York
8 City, because you can only go six miles an hour. But,
9 when you go out here, and you leave New York, and you
10 to up the thoroughfare, what's the speed limit? 65?
11 So, let's say you're heading back to Albany.
12 The speed limit is 65. You're doing 75. What are
13 some of the thoughts that get you to go ten miles over
14 the limit?
15 COMMISSIONER NEWTON: It's acceptable.
16 MR. LATESSA: Everybody does it. Right?
17 COMMISSIONER O'DONNELL: You're not going
18 to get caught.
19 MR. LATESSA: Not getting caught. Why are
20 you going to get caught? You're in the ten-mile
21 limit, right? Everybody thinks they're in the ten-
22 mile limit.
23 Why else do you drive ten miles over? What
24 other thoughts do you have that let you do that?
25 COMMISSIONER BERGAMO: The punishment is

1 not so bad if you do get caught.

2 MR. LATESSA: Huh?

3 COMMISSIONER BERGAMO: The punishment is

4 not so bad if you do get caught.

5 MR. LATESSA: Ah, what's the big deal?

6 Right? It's not like I'm doing a hundred. And, what

7 else?

8 COMMISSIONER ALEXANDER: I can usually

9 badge my way out of it.

10 MR. LATESSA: I can work -- I can talk my

11 way out of it? Yeah.

12 COMMISSIONER O'DONNELL: Yeah, if you're a

13 chairman of the --

14 [Laughter]

15 MR. LATESSA: We're all thinking

16 everybody's doing it, what's the big deal? I'm safe.

17 I'm a good driver. The weather conditions are good.

18 Hell, if I slow down, they'll run over me, right? We

19 got all these sort of thinking, though, that's driving

20 that behavior. Clearly our thinking. All right.

21 So, there you go. You're doing 75, and you

22 go by. Right in the median is the New York State

23 Highway Patrol. What's your first thought, as you go

24 by him at 75?

25 COMMISSIONER O'DONNELL: Put on the brakes.

1 MR. LATESSA: No, that's a behavior.
2 What's your first thought? Oh, shit. That's your
3 first thought.
4 [Laughter]
5 MR. LATESSA: Right? By the way, nobody is
6 thinking "I'm in the ten-mile limit." All right?
7 You're not so sure about the limit any more, are you?
8 [Laughter]
9 MR. LATESSA: All right? Uh-oh. You're
10 thinking uh-oh. What are you hoping, now?
11 UNIDENTIFIED: Mercy.
12 MR. LATESSA: No, what are you -- he didn't
13 do anything yet. So, what are you hoping?
14 COMMISSIONER O'DONNELL: You weren't
15 speeding.
16 MR. LATESSA: You're hoping he didn't see
17 you, yeah. Hoping he didn't see me. Okay. We're
18 thinking of what? Excuses. How do I get out of this?
19 Have I got my badge? Right. We're thinking of that,
20 right? We're thinking we hope he what? Gets the
21 other guy, right? Didn't he see the other guy?
22 COMMISSIONER NEWTON: I'm not the only one.
23 MR. LATESSA: That's right. I'm not the
24 only one. All right. He pulls out. He pulls behind
25 you. He don't care about no stinking badge. In fact,

1 he don't even like Parole, all right?
2 [Laughter]
3 MR. LATESSA: He gives you a ticket.
4 COMMISSIONER ALEXANDER: That's been the
5 case, lately.
6 MR. LATESSA: He gives you a ticket.
7 COMMISSIONER O'DONNELL: Two tickets.
8 MR. LATESSA: Now, be honest. What's our
9 first thought when he gives us a ticket? Sure, yeah,
10 he's a jerk. You know what? How come you're not
11 getting real criminals? All right? What's he doing
12 picking on me? Didn't he see the other guy? Right?
13 We're all -- we're thinking this.
14 What else are we thinking? What's it going
15 to cost me?
16 COMMISSIONER ALEXANDER: Um hmm. How can I
17 get out of it?
18 MR. LATESSA: I'm going to fight this. I'm
19 going to get out of it. Who's the judge in this
20 county, right? I'm going to fight it.
21 We're the what? What are we? Victim.
22 We're the victim. We're unlucky. It's our unlucky
23 day. We got cut out of the herd.
24 By the way, you think offenders think like
25 that?

1 COMMISSIONER NEWTON: Yeah.

2 COMMISSIONER O'DONNELL: Yeah.

3 MR. LATESSA: They think just like that.
4 What's the big deal? Everybody does it. So, I'm
5 selling a little weed, or a little drugs, right? See,
6 the cops, they're thinking, oh, how can I get out of
7 this? How can I get out? Maybe they won't catch me,
8 and when they do get caught, right? Damn, it's the
9 cops that are out to get me.

10 So, this kind of thinking. All right. Now,
11 you've got your ticket. Got your ticket. Thirty
12 miles up the freeway, you look down at your
13 speedometer. You're doing 75 again. What are some of
14 the thoughts that allow you to start speeding again?

15 MS. HALL: It can't happen twice.

16 MR. LATESSA: Can't happen twice.

17 [Laughter]

18 MR. LATESSA: That's one thought. What's
19 another thought?

20 COMMISSIONER NEWTON: It doesn't matter.
21 I've already --

22 MR. LATESSA: It doesn't matter. We call
23 that fatalistic thinking. What the hell are they
24 going to do to me now? I'm already going back to
25 jail. I might as well go out with a bang, right?

1 Fatalistic thinking, right? That's another thing.
2 You might have -- you might think I'll be
3 more careful this time. I'll get behind some trucks.
4 I won't daydream, right? So, I'll be more careful.
5 Another think you're thinking is "I'm really
6 late now. Now, I've got time to make up." Right? By
7 the way, if it's not 30 miles down the road, it's the
8 next day. So, how long did that deterrence
9 punishment? You didn't even get punished yet, and
10 you're going back to the behavior. You didn't even
11 get your fine.
12 All right. Simple question. How would your
13 thinking have to change for you to go the speed limit?
14 And, by the way, this is the -- this is what we call,
15 Judge, a cognitive restructuring problem. I don't
16 have to teach any skills here. Some problems, I have
17 to teach a skill. All right? This isn't one of them.
18 Anybody can slow down. It doesn't take a skill to
19 back off the pedal. But, I've got to change your
20 thinking.
21 So, what's a thought that could get you to
22 slow down? What's a thought?
23 COMMISSIONER LENTOL: I might hurt
24 somebody.
25 COMMISSIONER NEWTON: Might hurt somebody.

1 MR. LATESSA: It's safer, right? Safer to
2 go the speed limit. Right? That's one thought.
3 What's another thought?
4 COMMISSIONER LENTOL: Obey the law.
5 MR. LATESSA: It's the law.
6 COMMISSIONER LENTOL: Yeah.
7 MR. LATESSA: How about that one? There's
8 a killer for you, right?
9 COMMISSIONER NEWTON: It is a curious idea.
10 MR. LATESSA: It's the law. How about it's
11 cheaper? Less gas, less stress? I don't have to
12 worry about it? How about I don't want my kids to
13 drive this way? They see me driving this way, they'll
14 do it.
15 So, in other words, if I can change one or
16 two of your thoughts, I might get you to slow down.
17 Okay? But, you see how your thinking has led to your
18 behavior? And, that's an easy one, because we all
19 speed, and we all minimize, we all justify it. We all
20 say "Well, I'm only doing 75. I'm not doing 90. Look
21 at that guy. He did 90." Right? That's
22 minimization. Okay? And, we all make excuses.
23 So, a good cognitive program would start
24 with the thinking. It would start walking through the
25 thinking, getting you to think about what's behind

1 your behavior. And, they do things like thinking
2 reports.
3 Then, a good curriculum would move into
4 skills. So, let's say I was trying to teach you --
5 combine this. Let's say the problem was you go out
6 with your friends when they come up to you, and you're
7 always getting in trouble with them. You know that.
8 I've gotten you to understand now that you shouldn't
9 go out with them. Now, we're going to work on the
10 skill. All right?
11 So, what we would do in that group is I
12 would give you role play. I might say, "Okay. Your
13 buddies come over. They want to go to this party.
14 You know you've got to get up for work in the morning.
15 You know the Parole Officer is checking up on you.
16 How do you get out of that?" I'd just tell them no.
17 Well, that's not easy. All right. Let's play it out.
18 Let's practice it, right?
19 And then, we're going to make it harder.
20 Now, they go, "Hey, there'll be some women there,
21 too." So, it's going to get harder, right? We're
22 going to practice role play. I'm going to -- we're
23 going to do it three different ways. And what I'm
24 trying to do in this -- in the program, the program,
25 that is, is teach you that skill. Then, I'll give you

1 a homework assignment. And, when the group come back
2 next week, maybe you'll have to be the first to talk
3 about how you used the skill, right? And then, we
4 move on to the next skill.
5 So, there's a lot of curriculums. Thinking
6 for a Change is -- is one that's widely used, because
7 it's free. It has a problem-solving component. It
8 has a cognitive restructuring component. It has a
9 social skills component. It's a 26-unit curriculum.
10 But, there are a lot of curriculums out there.
11 They're all pretty similar.
12 The difference is some of them are generic,
13 and some of them target specific areas. So, some of
14 them work on anger. Or, work on substance abuse.
15 Some of them are more generic to the thinking.
16 And, for example, if I can give you some
17 problem-solving skills -- most of us have
18 problem-solving skills. And, we use the skills in a
19 variety of settings. It's the skill we have.
20 But, with an offender, you sometimes have to
21 teach him the skill, but then you have to teach them
22 how to apply it in different settings. So, if you're
23 in a bar or restaurant and you spill -- somebody
24 spills a beer on you, or a drink on you, or you spill
25 a drink on someone, what do you do? You hit him on

1 the head with a beer bottle, right?
2 [Laughter]
3 MR. LATESSA: Well, of course you don't.
4 You apologize. You buy him another drink. You make a
5 joke. You talk, you know? You have a lot of ways to
6 handle that. Offenders, somebody's getting an ass
7 whupping.
8 And, even if they don't -- even if they
9 don't, they get in your face because they're going to
10 have a story to tell, they're going to get
11 reinforcement. Even if they go to jail, they've got a
12 story to tell. They showed you, right?
13 So, what we have to do is teach them how you
14 would handle it, the three other ways you would handle
15 it. Right? So, this is what a cog program -- but
16 good cog programs, I tell folks you really focus on
17 the skill. They've really got to have the skills. If
18 all you do is the thinking, you're not -- you don't
19 know how to do it.
20 I always say it's like -- it's like
21 employment. You take somebody who's never worked a
22 day in their life, thinks work is for somebody else,
23 and they have no job skills. And, you spend all your
24 time teaching them which end of the shovel to use.
25 How far are they going to get? Not very far, because

1 they don't understand why you would want to work. So,
2 if I spend all my time working on the thinking, right?
3 Now, they're ready to work, but they still don't know
4 which end of the shovel to use. I'm more effective
5 when I put both of them together. I work on your
6 thinking and I give you the skill you need to be able
7 to go out and do the job.
8 So, that's what good curriculums do. But,
9 there's a lot of good curriculums out there. It's
10 more important how well they're done than which one
11 you use.
12 COMMISSIONER NEWTON: And, the cost of all
13 of this?
14 MR. LATESSA: Well, it varies. Some of
15 them cost a lot of money. Some of them are free.
16 And, you go --
17 COMMISSIONER NEWTON: I mean cost of the
18 system of doing this --
19 MR. LATESSA: Well, you've got training
20 costs. You've got -- I always tell people -- the
21 first thing I tell people is quit doing the things
22 that don't work. That's number one, all right?
23 But, cog groups can be relatively cheap to
24 introduce. You just have to train the staff, and you
25 have to have a place to do it. And, the materials.

1 So, they can be relatively cheap to do. Or, you can
2 spend a lot of money, but I'm not a spend a lot of
3 money kind of guy. That's my wife's job, all right?
4 I'm a not spend a lot of money kind of guy.
5 So, I prefer to go with the public domain.
6 For example, if I were New York, or any state, I would
7 -- I would go with something like Thinking for a
8 Change, that the National Institute of Corrections
9 developed. I would ask them for technical assistance,
10 to get trainers trained. I'd have a core of trainers
11 in the state that could go to any jurisdiction and
12 train. Because, that's a way not only to cut costs,
13 but to build capacity -- to build capacity.
14 Just like assessment. If you pick -- when
15 they're done with COMPAS, they're going to have
16 trainers and people that can use that instrument.
17 They're going to train their other people. They don't
18 want to be calling them in all the time and spending
19 all that money to get folks. So, you have to start
20 thinking strategically about training. I don't know
21 if that has to do with the sentencing, though.
22 COMMISSIONER GREEN: When you've seen these
23 programs work most effectively, is it Parole or
24 Probation Officers that are actually doing the
25 programs? Or are they referring people to other

1 groups or entities that are doing the programs?
2 MR. LATESSA: Both.
3 COMMISSIONER GREEN: And, I think the
4 second part of it is are there any studies relating to
5 case load, and what are manageable case loads, in
6 terms of making these things work?
7 MR. LATESSA: Yeah, for the first question
8 is I -- I've seen both. I've seen programs where
9 P.O.s actually do some of the groups and work. But,
10 let me say this. I don't think probation or parole is
11 ever going to deliver all the services that are needed
12 for an offender. Okay?
13 Some -- some departments, they're doing cog
14 groups and they're doing -- but they still have to
15 refer people out for substance abuse, and mental
16 health, and other programs. So, you're never going to
17 get there just from your Parole or Probation Officers.
18 You know, they don't have enough -- you don't have
19 enough time or resources to do that.
20 Case load size research has been going on
21 for about forty years. There is no clear evidence
22 that there is a magic number with case load. There is
23 some evidence that technical violations go up when you
24 lower case loads, because they're seeing them more.
25 It's like having teenage kids. You know, the more you

1 watch them, the more you catch them.

2 I always tell my wife -- I have four kids.

3 So, we have a case load of two.

4 [Laughter]

5 MR. LATESSA: And, they still do things we

6 can't -- we don't find out about. All right?

7 So, what are the chances that you're ever

8 going to lower your case load enough that you're going

9 to be able to be effective?

10 That said, there seems to be a number at

11 which you lose any effect. So, when they get too

12 large, now you can't do the things that you need to

13 do. You can't do good assessment. You can't do good

14 case planning. And so, there's no magic number for

15 the low end, but there's probably a limit to how many

16 they can supervise, depending on their risk level, all

17 right, and other things the P.O.s have to do.

18 So, for example, in probation, if I've also

19 got to write PSIs, that case load -- that's a duty I

20 have to do. If parole -- if all I'm doing is

21 supervising, and they're all high risk, that's a lower

22 -- I need a lower caseload than if I've got low-risk

23 guys in there and so forth.

24 So, there's no -- there's no magic number,

25 no. Just lowering your caseloads isn't going to make

1 you more effective.

2 COMMISSIONER GREEN: Are there studies out

3 there that --

4 UNIDENTIFIED: Tons of studies --

5 COMMISSIONER GREEN: -- would give you

6 ranges for different --

7 MR. LATESSA: At the high end, again, it's

8 based more on a work load model -- how many high-risk

9 guys you have, how many -- I think the guy that did

10 some of that was Todd Clear, when he was at John Jay,

11 years ago, that looked at, you know, how many could

12 you actually handle. There is a formula they use. I

13 don't remember it off hand.

14 But, in terms of reducing it, if the P.O.

15 says to you "If I only had twenty, I'd be more

16 effective than if I had thirty," there's no evidence

17 of that.

18 COMMISSIONER GREEN: My concern is when

19 they get to 110 --

20 MR. LATESSA: Yeah, when they get to 100,

21 that's what I mean. They get too high, they can't do

22 anything, all right? But again, if they're all

23 low-risk guys, I can supervise a lot more than if

24 they're high-risk guys. The low-risk guys, I can --

25 they can call in most of the time, you know. They're

1 not as -- I'm only going to -- I don't have to worry
2 about them as much as I do the high risk, or sex
3 offenders, I mean.
4 So, it becomes an issue of who you're
5 supervising.
6 COMMISSIONER ALEXANDER: We look at it from
7 the standpoint of not only the risk but the length of
8 time that they've been on parole.
9 MR. LATESSA: Yeah, because you can reduce
10 it if they've done well.
11 COMMISSIONER ALEXANDER: Right.
12 MR. LATESSA: And that's, I think, where
13 parole probably -- we know -- there are some studies
14 that say that once they've gone out a couple of years
15 and been successful, the chances of them failing go
16 way, way down. Way, way down. If the guy's been
17 successful for three years on parole, the chances of
18 him re-offending are very low. Very low. So, you can
19 save some money by shortening-up parole times. That's
20 where you can get some effect. Keeping guys on parole
21 for twenty years, it makes no sense, if the guy's
22 doing well. I mean, it's a good indicator he's going
23 to continue to do well.
24 UNIDENTIFIED: This is somewhat related,
25 actually, to the earlier question. Have there been

1 any studies as far as timing of these programs?
2 So, for example, if these programs are more
3 effective with earlier interventions, such as within
4 the correctional facilities themselves, or perhaps a
5 couple of weeks after the offender is released, or for
6 example, six months down the road, after the offender
7 is released?
8 MR. LATESSA: I have not seen anything that
9 looks -- you know, a study that looked at timing,
10 specifically. But, I think what the research is
11 telling us is that -- first of all, you should know,
12 we get -- if you just do institutional treatment, your
13 effects are about half of what you're going to get if
14 they continue in the community.
15 The problem with institutional treatment,
16 even under the best circumstances, all right? IN
17 other words, I've got the guys all separated. I've
18 got them in a unit, say a TC, or whatever, teaching
19 them what they need to know. The problem is they
20 can't really apply it until they get out. So, there's
21 a limit of where you can take that treatment. All
22 right?
23 We can work on the skill. We can go over
24 the skill. But, let's face it, somebody is telling
25 you when to get up, when to go to work, when to go to

1 bed. You don't get to apply what you've learned in a
2 real setting until you hit the streets.
3 So, I think most researchers would say you
4 start the treatment before they get out, but it's got
5 to continue. It's got to continue. If you want that
6 effect, you've got to have that going on.
7 COMMISSIONER ALEXANDER: And even then,
8 once they are released, it may not even be applicable,
9 because it's for that particular setting in which
10 they're providing that. It has nothing to do with
11 outside.
12 MR. LATESSA: A whole different set of risk
13 factors start to kick in when they're out, right?
14 In the Ohio study, which was guys coming out
15 of prison, one of the things we -- and we didn't code
16 it in the data and we're doing it this time. But the
17 data -- the people that were doing the record checks
18 came to me later and said, you know, for a lot of
19 those guys, their first new contact with the police
20 was a domestic violence call. And, I got thinking
21 about that.
22 And, I thought that makes a lot of sense.
23 They come out, right? They've been in the joint
24 three, four years. They come out. Now, they're the
25 king of the castle again. Kids aren't kids any more.

1 The little wife now making all the decisions. And,
2 there's going to be friction.
3 And so, I think one of the big areas to
4 target in transition is family reunification. I think
5 three or four months before those guys come out, they
6 ought to be working on problem-solving skills with
7 family, communication skills with family. Let's face
8 it. They all think everything is going to be
9 honky-dory when they get out, right? You talk to
10 these guys and it's, like, "Oh, I love my family. I
11 miss them." And then they get out, and the same
12 problems that -- more problems are there.
13 So, if I were designing a transition program
14 for inmates, I'd work on the cog, I'd work on the
15 employment, I'd work on the family reunification. You
16 know what I wouldn't work on a lot inside? I wouldn't
17 work a lot on substance abuse, to be honest with you.
18 They don't have access to all the drugs and
19 alcohol. What are they going to do? All they're
20 going to do is talk about it, okay? That wouldn't be
21 a big focus of mine. It would be when they come out.
22 But, I'd be working on their coping skills,
23 their problem-solving skills, how to reduce stress,
24 how to work on triggers. I wouldn't be talking about
25 substances. I'd just -- I'd be working on those skill

1 sets they need, so that when they come out, they can
2 resist drugs and they can resist depression.
3 But, we put them in these groups, and they
4 sing "Kumbayah" every day, and talk about drugs, you
5 know? A waste of time.
6 UNIDENTIFIED: For -- have you had sex
7 offenders, and their rate of recidivism, --
8 MR. LATESSA: Yeah.
9 UNIDENTIFIED: -- and what programs would
10 be effective in --
11 MR. LATESSA: Yeah. I -- yeah, I've done
12 some research, not a lot. We actually had quite a few
13 sex offenders in our Ohio study. By the way, the risk
14 principle held up. Putting low-risk sex offenders
15 with high-risk sex offenders, not a good idea.
16 Sex offender research indicates there you
17 have a more limited option of treatment. You've got
18 cognitive behavioral treatment. That's it. You don't
19 have behavioral treatment. You don't have family
20 treatment. You have cognitive behavioral treatment.
21 All right?
22 So, that's what the research says. You have
23 to give them a very structured, high dosages, longer
24 periods of treatment than other offenders. Most
25 offenders, effective treatment can occur between three

1 and twelve months. Sex offenders, probably double
2 that, maybe triple that.
3 Most research basically says you want good
4 supervision and good treatment. If you combine those
5 two things, you'll get an effect with sex offenders.
6 Recidivism rates tend to be lower than other types of
7 offenders because they're not caught often. That's
8 one of the reasons. But, they become -- they can be
9 very compliant if you have a good supervision program
10 and treatment.
11 But, I would not be putting them in a
12 behavioral program. I certainly don't put them in any
13 of these psychoeducational programs. We see no effect
14 from that. Even the strictly behavioral program.
15 For example, if you were working with a
16 group of mentally-challenged offenders, you wouldn't
17 use a cognitive behavioral. You would use a
18 behavioral approach, right? Because they don't get
19 it. They don't get the cog. So there, it would be
20 root learning. I'm going to teach you this. We're
21 going to practice. I'm going to teach -- you know,
22 we're not getting into the thinking, as much as that
23 they learn the skill.
24 But, with sex offenders, it's cog
25 behavioral. You want to do them both together. And,

1 those effect sizes are 20 percent. I mean, they're --
2 they're not bad.
3 You know, I'm always amazed at the folks
4 that don't want to do treatment for sex offenders.
5 And so, I say, "Do you want untreated sex offenders?
6 Is that really what you want?" I mean, I definitely
7 would be running programs for sex offenders.
8 I'd look at the Canadians. They're probably
9 doing the best sex offender treatment. Very intensive
10 sex offender treatment.
11 UNIDENTIFIED: Thank you.
12 UNIDENTIFIED: Do any of the studies look
13 at the effectiveness of either separate programs
14 targeting the different needs, versus like a
15 therapeutic community that addresses multiple needs at
16 one program?
17 MR. LATESSA: Yeah. Well, most -- again, I
18 think most research says it's multiple. Multiple
19 modality program. Programs that are too narrow get
20 smaller effects.
21 But, TCs are a unique animal. That --
22 they're popular, because the Feds were funding them.
23 But, I think you can have a lot of things go wrong
24 with TCs. I'm not a big, big TC fan.
25 If I were going to do that kind of a model,

1 I'd replicate what the Federal Bureau of Prisons is
2 doing, which is not a TC. It's a residential
3 substance abuse treatment program. They use some
4 elements of the TC. They do the community and the
5 reinforcement, but they do not have inmates writing up
6 each other. They do not -- you know, they don't do --
7 the shaming is never done. They use curriculums, all
8 right?
9 So, if I were going to run that kind of
10 model, and I'm sure you are. Everybody has them,
11 because the Feds gave all that RSAT money out. I
12 would definitely use what the Federal -- I'd use the
13 Federal Bureau of Prisons model, not the traditional
14 TC model.
15 And, they have a curriculum they developed,
16 called the Substance Abuse -- I think it's Substance
17 Abuse Treatment in the Fed, and I don't know if -- it
18 was developed with Federal money. I don't know if
19 it's free or not. But, that's the curriculum I would
20 recommend for a residential or institutional substance
21 abuse program.
22 COMMISSIONER O'DONNELL: Are there any
23 states that are using risk/needs assessment, where the
24 judges are using risk/needs assessments --
25 MR. LATESSA: Oh, yeah, absolutely.

1 COMMISSIONER O'DONNELL: -- in making
2 sentencing determinations?
3 MR. LATESSA: Oh, yeah. Usually, the first
4 -- the first place it's implemented is at the PSI
5 level. Many, many jurisdictions do that. Illinois,
6 who just moved in that direction.
7 Indiana, there's a great judge in Indiana,
8 Chris Monroe, who I've actually taken with me to speak
9 to judges, because judges, you know, like to hear
10 other judges. And, he talks a lot about how they use
11 it, how they overcame some of the plea bargaining
12 issues, and some -- some of the things that you have
13 to deal with at that level. And, he's very effective
14 at talking about that.
15 But, I would say that's probably a very
16 common use.
17 COMMISSIONER O'DONNELL: And, are they
18 making -- are they having success at not sentencing
19 these low-risk offenders to supervision, --
20 MR. LATESSA: That, I don't know.
21 COMMISSIONER O'DONNELL: -- or to jails, or
22 --
23 MR. LATESSA: That -- I assume that, you
24 know, they would talk to you about that. I would
25 assume that some of them, you know, have developed

1 some prescriptive options for lower-risk people.
2 But again, with low risk, you have to
3 distinguish -- for example, in Ohio data we looked at,
4 we know that about 20 percent of the low-risk
5 offenders are not there because of their risk.
6 They're there because of the felony they committed.
7 COMMISSIONER O'DONNELL: Right.
8 MR. LATESSA: So, it has nothing to do with
9 their risk. I commit a felony -- an A -- I don't know
10 what your class is. We have "ones," and ones are the
11 high. I don't care if you're low risk or not. You're
12 probably going to prison. But, I don't need to do a
13 lot of things with you in there. Okay?
14 But, about 80 percent probably didn't need
15 to be put into that -- you know, given that sentence,
16 because they were a lower-class felony, they were
17 low-risk offenders. We certainly can supervise them
18 in the community.
19 COMMISSIONER O'DONNELL: And my second
20 question is have you done any other work about
21 technical parole violations and, you know, --
22 MR. LATESSA: Yeah.
23 COMMISSIONER O'DONNELL: -- how -- how,
24 basically, you can use this --
25 MR. LATESSA: Yeah, a big issue --

1 COMMISSIONER O'DONNELL: -- model?
2 MR. LATESSA: Yeah, a big issue. A couple
3 of states -- Indiana has developed revocation centers.
4 I didn't show you the data because of time.
5 But in Ohio, in our study, we looked at parole
6 violators separately. And, we found that putting them
7 in halfway house reduced their recidivism rate at
8 every risk level.
9 So, Ohio's policy now is if they're low risk
10 -- I'm sorry. If they're a violator, and there's a
11 bed available, put them in a residential program
12 before you send them back to prison, because that was
13 effective.
14 COMMISSIONER O'DONNELL: Um hmm.
15 MR. LATESSA: Because, putting them back in
16 prison incurred a big cost of intake. We don't keep
17 them that long, anyway.
18 COMMISSIONER O'DONNELL: Right.
19 MR. LATESSA: It didn't fix them the first
20 time, so why do we think it's going to fix them --
21 COMMISSIONER O'DONNELL: Revolving door.
22 MR. LATESSA: -- this time? So, Ohio's
23 strategy is to use the existing halfway houses.
24 Indiana created a parole revocation center
25 in Indianapolis, that's run by a provider who does

1 cognitive behavioral interventions for parole
2 violators. So, they've gone a little bit different
3 direction. We used the existing programs. They
4 created and funded a program specifically for that.
5 But, it's a big -- it's a big, big issue
6 across every state, because of the number of people
7 coming back on violations.
8 COMMISSIONER ALEXANDER: A lot of the thing
9 has to do with the orientation of the parole
10 department, in terms of whether they're leaning more
11 towards law enforcement, --
12 MR. LATESSA: Yeah.
13 COMMISSIONER ALEXANDER: -- or more towards
14 treatment.
15 MR. LATESSA: Yeah, yeah. Well, the option
16 is -- the other thing some states have -- some --
17 Iowa, for example, which has judicial districts,
18 rather than parole, parolees are dealt with in the
19 district. What they did was develop a matrix system
20 based on risk and need, and guidelines for officers.
21 So, if the guy is -- if the guy has a
22 technical violation, and he's scored as a lower-risk,
23 lower-need offender, they get a list of options that
24 opens up on the matrix that doesn't include locking
25 them back up again. You only have these options. If

1 the guy is higher risk, then the option may include
2 prison.
3 But, what they're trying to do is the --
4 and, they developed the guidelines from the officers.
5 So, they built a matrix system. That's in Cedar
6 Rapids. That's the judicial district. A guy named
7 Gary Hinzman, who's now the president --
8 COMMISSIONER ALEXANDER: Oh, yeah.
9 MR. LATESSA: You know Gary, of Probation
10 and Parole Association. He loves to show it off.
11 But, their idea was to structure those
12 guidelines so that a P.O. who -- who isn't just
13 hammering a guy. He's got to go to the guidelines
14 that says, you know what? This guy is not that high
15 risk. Put him in this program, or drug test him more,
16 or do this, but don't lock him up.
17 So, that's another way to do it without, you
18 know, being hard and fast on it. You're giving them
19 some guidelines to work with.
20 Well, listen -- oh, yeah, I'm sorry. One
21 more.
22 COMMISSIONER STANFORD: I'm sorry.
23 Hopefully, it won't be too long.
24 MR. LATESSA: I'm cutting into Jeremy's
25 time here, and --

1 [Laughter]

2 COMMISSIONER STANFORD: It seems like the

3 sooner we do the risk assessment, the better. And

4 now, I'm thinking even before you get to the

5 sentencing, it probably should be part of what's

6 considered in terms of the pleas that are offered.

7 Because, if we're limited because of the pleas that

8 were offered, to the sentencing --

9 MR. LATESSA: The earlier, the better.

10 COMMISSIONER STANFORD: -- ramifications --

11 so then, that's something that prosecutors may --

12 MR. LATESSA: The earlier, the better.

13 COMMISSIONER STANFORD: -- need to be

14 involved with, --

15 MR. LATESSA: Yeah.

16 COMMISSIONER STANFORD: -- to some extent.

17 MR. LATESSA: And, that's what Monroe talks

18 about, because so many deals are plea bargain, and he

19 doesn't want a plea bargain that locks him in when, in

20 fact, this is a guy that X, and Y, and Z should be

21 done with. So -- and, by the way, that's why Ohio has

22 decided we're doing this system-wide, starting at

23 pre-trial --

24 COMMISSIONER STANFORD: Yes.

25 MR. LATESSA: -- and not even starting at

1 the courts. It's starting at pre-trial, when we do
2 some assessment. That assessment won't be as
3 comprehensive as -- it builds, as it goes along.
4 COMMISSIONER STANFORD: Yes.
5 MR. LATESSA: But yeah, the first thing you
6 look at is how are you assessing offenders in this
7 state? And, where is it occurring at? And who is
8 doing it?
9 If you're just going to do it on the back
10 end, okay? They have no choice who they get. Right?
11 The Department of Corrections doesn't get a vote in
12 who gets sent to them. That has to be -- you have to
13 start backing it up earlier if you want to really have
14 an effect, right, when they start coming in the door.
15 COMMISSIONER O'DONNELL: You're right. We
16 are going to have to end.
17 Thank you, so much.
18 MR. LATESSA: Okay. All right.
19 COMMISSIONER O'DONNELL: It was really
20 great.
21 [Applause]
22 COMMISSIONER O'DONNELL: And, we'll take a
23 ten-minute break, even though we're a little bit
24 behind schedule, I think we need to stretch.
25 (Off the record.)

1 COMMISSIONER O'DONNELL: We are very
2 pleased that Jeremy Travis has joined us.
3 Jeremy is, as all of you I believe know, the
4 President of John Jay College of Criminal Justice here
5 in New York City. I had the privilege of working with
6 Jeremy in the Justice Department when he was head of
7 the National Institute of Justice under Attorney
8 General Janet Reno, and brought just a wealth of
9 experience and progressive thinking to the Justice
10 Department. And I worked with Jeremy on some very
11 creative programs that we're trying to bring here in
12 New York State.
13 But, Jeremy is probably best known as, I
14 think, the guru of reentry or transition back to the
15 community, one of the people who really started the
16 focus on what are we going to do with all of these
17 people that are released every day into our
18 communities, into our state, into all across our
19 country.
20 So Jeremy, we're delighted to have you here.
21 I know, from reading your materials, that you've
22 focused both on kind of the front end and the back end
23 of people going back to prison after they're released,
24 and that's something of critical concern to us here in
25 the Sentencing Commission.

1 So, without further ado, Jeremy Travis.
2 [Applause]
3 OVERVIEW OF NATIONAL AND NEW YORK STATE REENTRY TRENDS
4 AND RECOMMENDATIONS FOR REFORM
5 MR. TRAVIS: Good morning, everybody. And,
6 I'm delighted to be here, honored to be here.
7 I want to thank Commissioner O'Donnell first
8 for referring to me as the guru, not because I like
9 the phrase, but at an event last night, I was referred
10 to as the "grandfather."
11 [Laughter]
12 MR. TRAVIS: That made me feel a little
13 older than I wanted to feel, so it was anything rather
14 than grandfather.
15 It's just wonderful as a New Yorker to see
16 sentencing being put at the center of the criminal
17 justice policy table, through the establishment of
18 this Commission by the Governor. I served on his
19 transition committee.
20 It's also nice to see these things becoming
21 reality this quickly. I don't envy you your timetable
22 for producing a report back to him, but these are
23 really important issues for the State. And so, it's
24 an honor to be here.
25 And, before talking about the sentencing and

1 reentry that I've been invited to talk about, I just
2 wanted to say to Ms. O'Donnell and the members of the
3 Commission that I put the resources of John Jay
4 College at your disposal. We have faculty members,
5 and we have students, and we have an expertise that
6 might be of value to you, and if you want ever to take
7 advantage of something that we have to offer, please
8 don't hesitate to call.
9 I'm joined this morning by Debbie Mukamal,
10 who many of you know is the Director of Prisoner
11 Reentry Institute. She is one of those resources.
12 And, Anna Crayton and Nicole Lindahl from the
13 Institute are here, as well.
14 I want to make a presentation of some data.
15 I would like to think that policy should be informed
16 by new data, wrapped in a -- sort of larger conceptual
17 framework that we're going to talk a bit about. The
18 data that I'll present are some national data and some
19 New York State data. And so, I should quickly thank
20 Paul Korotkin, who is -- there he is -- for making the
21 data available to us. That was on a short time line.
22 And also, to acknowledge that some of this work was
23 done by Michael -- Michael Hayes, who is your policy
24 analyst, who is a John Jay graduate.
25 [Laughter]

1 MR. TRAVIS: Okay. So, what I want to add
2 to the deliberations of the Sentencing Commission is
3 this concept of reentry. So, we'll define that in a
4 second, but let me just talk first about why thinking
5 about reentry is part of your work. Because, my guess
6 is that's not a natural sort of instinct, to say, "Oh,
7 we're also talking about release at the back end of
8 the system."
9 So, let me just put it very bluntly. Any
10 Sentencing Commission, anywhere in the country --
11 including every one -- if it doesn't think about how
12 people are released from prison and how people are
13 returned to prison for parole violations, it is not
14 doing its job. So, the fact that you have put this on
15 your agenda is really commendable.
16 Because, those two other decisions -- how
17 people get released from prison, often by parole
18 boards, in our case -- and how they get returned to
19 prison for parole violations and revocations -- both
20 of those are liberty questions. Both of those are
21 part of the sanctioning process that we use, that our
22 system of justice engages in. And, thinking about
23 sentencing as only what happens in the court room,
24 this is a very important reality. And the New York
25 data that I'll present, I hope make that case

1 particularly strongly that if you don't pay attention
2 to those other liberty questions -- how people get
3 released and how do they get put back -- which links
4 into the supervision question, then we're not thinking
5 about sentencing in its full context.
6 So, any Commission that focuses only on what
7 happens in the court room, and the guidelines, and the
8 grids, and all that sort of stuff, all of which is
9 important, that doesn't focus on these other things,
10 is, to put it bluntly, not doing its job. So, you're
11 doing your job, which I really think is important,
12 naturally.
13 So, the next sort of set up thing I want to
14 do is just to define "reentry." It is this sort of
15 buzz word that's got lots of people sort of activated,
16 which is wonderful, but I just want to make sure you
17 know how I'm using it. For me, reentry is the process
18 of leaving custody, leaving incarceration. It could
19 reentry from jail. It could be reentry from Federal
20 prison. It could be reentry from an immigration
21 detention center. Any -- any form of custody, you get
22 out at some point. So, the reentry is how people
23 leave that form of custody and return home, and how is
24 that process managed, and managed to the benefit of
25 the individual, his or her family, the community, and

1 society at large.

2 So, reentry is the -- is the -- except for

3 people who die in custody, who die in prison --

4 everybody gets released. Right? So, you have to

5 remember that 95 percent of the people put in prison

6 get out. Those who don't are only those people who

7 die either by natural causes or by execution. So,

8 that's why I like this catch phrase -- reentry is not

9 an option. Reentry always happens.

10 You could be in prison for a long time. We

11 have a study under way at John Jay of long-term

12 prisoners. They will all, at some time, get out,

13 unless they die in prison. So, even though we put

14 more people in prison, and they're in prison for

15 longer times, reentry is still the reality for all of

16 them, and it's a reality for many more of them.

17 Reentry is not a program. It's not a --

18 it's not something that happens to somebody that we

19 make happen. It's the consequence of sentencing.

20 And, it's not a form a supervision. So, reentry is

21 not an option. So, that's the way in which I use the

22 phrase.

23 So, the first thing we want to do is try to

24 capture what's happened both nationally -- and I'll

25 use the comparisons here for New York State. In New

1 York State, in terms of the overall phenomena of
2 incarceration. This is a very experienced Commission
3 that's been convened here, so everybody knows what's
4 happening nationally. And, the basic bottom line is
5 that we have significantly, substantially increased
6 the use of incarceration as our response to crime.
7 That's just a national phenomenon.
8 It has quadrupled. We're getting close to
9 the point where the rate has quintupled since 1972.
10 For the previous 50 years, the rate was constant. It
11 was 110 per 100,000. Starting in 1972, the rate at
12 which we put people in prison in this country started
13 to climb. It's climbed in good times and bad times.
14 It's climbed when the economy is strong and when it's
15 weak. It's climbed when crime has gone up. It's
16 climbed when crime has gone down. It's climbed during
17 the times of war, times of peace. We are always
18 putting more people in prison.
19 That is this trend here. This is the --
20 this is not the number. This is the per capita. So,
21 as the population goes up, the number -- we're now at
22 two million plus -- 2.1 million or so in prison, in
23 jail nationally. So, that's -- the red line is the
24 increase in incarceration rates -- rate -- not numbers
25 -- rate in the U.S..

1 So, it's important to recognize that
2 something else is happening in New York State. We
3 have had a flattening of the incarceration rate since,
4 let's say, '95 or so. It's one of the few states
5 where we can say that. And certainly, if you look at
6 the Federal system, the Federal system is just going
7 through the roof.
8 And that's -- we have to try a little bit to
9 understand why that's happening, and if you think
10 that's a good policy outcome -- I would argue it is --
11 and that we should actually bring the rate down, you
12 want to understand what could make the rate go down
13 even more.
14 But, part of the reentry conversation starts
15 with the reality that we have now quadrupled the
16 percentage or the rate of people that are in custody.
17 So, we have a lot more people, 90 percent of them men,
18 coming in and out prison and experiencing reentry than
19 ever before in our country. So, we're releasing
20 650,000 people from prisons each year.
21 So, let's do the next slide, speaking of
22 which. So, when you -- when you think about reentry
23 and sort of how do we -- how do people get out of
24 prison, it's a natural consequence, as I said, of
25 people going into prison. So, as we -- again, this is

1 national data. Because we put more people in prison
2 -- this is an admissions to prison line, the white
3 one. Guess what? More people come out. That's the
4 title of my book -- But, They All Come Back. If you
5 put them in, maybe they're in longer, but they all
6 come back.
7 So, the release rate -- the release numbers
8 in the U.S. have tracked the admissions numbers.
9 You'll see in a second that this is not true in New
10 York. So, we're now releasing about 650,000 people
11 from state and federal prison each year.
12 So, in 1980, we were releasing 150,000
13 people from state and federal prisons each year. So,
14 we have many, many, many more people where the prison
15 experience is part of their life history.
16 And, we know this phenomenon -- and we can
17 talk about this later -- is not spread evenly across
18 the U.S.. So, we're talking about poor communities,
19 communities of color, where the incarceration
20 machinery is affecting many, many more people.
21 So, admissions typically track releases, but
22 let's look at New York State. New York State is a
23 little bit different. Admissions are not tracking
24 releases in New York. For a period up until we saw
25 that flattening in the overall prison population, the

1 rate. We were putting many more people in than
2 letting them out. That's a sentencing phenomenon.
3 But, it's not sentencing alone. It's partly a parole
4 release phenomenon, which I argue is part of
5 sentencing. And then, somewhere in the late '90s,
6 these two lines sort of came together. So, we're
7 getting close to a steady state, so DOCS is probably
8 saying, "Well, we don't know what our projections are
9 in the future." But note this little, I would say
10 troubling -- they probably at least want to understand
11 what's happening -- a little uptick in admissions in
12 New York State.
13 But, we are basically at a flat level.
14 That's not -- also not true anywhere else. I won't
15 say anywhere else. It's not true generally around the
16 country.
17 So, these two phenomena of putting people in
18 -- how long they stay in, when they're released -- is
19 a sentencing decision. And, when they come out is
20 particularly the reentry phenomenon. So, just look at
21 the number here. I mean, there are 25,000 people
22 coming out of DOCS each year, returning to
23 communities. And 20 years ago, in '87, it was 15,000
24 people. And, if you go back further, it would be
25 fewer people.

1 So again, we are experiencing not as acute a
2 version, but some version of what's happening
3 nationally, as many more people are cycling in and out
4 of prison. Okay.
5 The next slide. So, who's coming out? This
6 is important to know, just to look at the mix of
7 people coming out. The top line, the red line, you've
8 been before. That was in the previous slide. What
9 we've done is to dis-aggregate that, to break it up
10 into the conviction charges of the people coming out.
11 And, you'll see this is not terribly
12 interesting. There's not a lot happening here because
13 what happened happened in the late '80s, after the
14 crack epidemic and sentencing policy was changed, and
15 we started putting a lot more people in on drug
16 offenses, and as they all come back, they came out on
17 drug offenses, having been convicted of drug offenses.
18 So, we've had pretty uneventful trends here for the
19 last 20 years or so, and the last 10 years or so, but
20 the split is more people coming out on drug offenses
21 than violent felonies and property offenses, or
22 others. Okay.
23 How do they get released? So, this becomes
24 the sentencing question. I argue that parole release
25 is part of sentencing. So, how do they get released?

1 So, there's a lot of change here, in New
2 York State, as all of you know. Again, you've seen
3 this red line here before. This is the number
4 released. We're dis-aggregating it, not by charge,
5 but by how they were released. And, we see a decline
6 in the number of people released by Parole Board
7 action.
8 So, the discretionary release that we give
9 to the Parole Board has been, for a variety of
10 reasons, constrained -- some of them legislative, and
11 some of them by the exercise of that discretion by the
12 people serving in those positions.
13 This is a pretty sharp decline, from 20,000
14 a year in '96, to it looks like 13,000 a year in 2006.
15 So, that's over ten years, the number of people
16 released by the Parole Board has gone way down. And,
17 we'll talk in a second about how we understand that
18 change.
19 Conditional release is -- conditional
20 release is people released --
21 COMMISSIONER ALEXANDER: By mandate of law.
22 MR. TRAVIS: By mandate of law, and placed
23 on supervision.
24 COMMISSIONER ALEXANDER: Right.
25 MR. TRAVIS: Thank you, Mr. Chairman. I'm

1 always willing to be educated by you.
2 [Laughter]
3 MR. TRAVIS: Okay. It's -- it's used
4 differently.
5 So, a phenomenon to understand here is
6 what's happened with the Parole Board. Why are we --
7 why are we -- is it because the State release was so
8 far -- I'm not placing a value judgment on that.
9 That's a -- that's a separate policy matter. So, we
10 need to understand that.
11 The next one? So, Parole Boards make
12 decisions based on who comes before them, and who's --
13 and, that's -- the first question is who is eligible
14 to come before them, and at what point. So, these are
15 the number of interviews granted by the New York State
16 Parole Board. Again, we see a decline. So, that says
17 something about eligibility. That's a statutory
18 framework, principally, as to who is eligible to come
19 before a Parole Board.
20 Again, this is all sentencing. We may not
21 think of it as sentencing, but it's sentencing.
22 Eligibility for parole release.
23 And, what we track here is the number of
24 people -- right, the number of people released on
25 their initial appearance. So first is who comes

1 before -- before the Parole Board for interviews, who
2 is eligible, and what happens. What -- what is the
3 rate at which people are released the first come they
4 come.
5 And, speaking of which, this actually goes
6 -- zeroes in on that phenomenon. So, your Parole
7 Board. You see a certain number of cases that come
8 before you. That number is determined by statutory
9 eligibility, basically, right?
10 COMMISSIONER ALEXANDER: Okay.
11 MR. TRAVIS: And then, the question is do
12 you release -- do you grant release when somebody
13 comes up the first time, or do you hold them over? Is
14 it two years before --
15 COMMISSIONER ALEXANDER: Two -- two years
16 is the maximum at any one time, yes.
17 MR. TRAVIS: Yeah. So, there's a sort of
18 internal guidelines there. And, what we see is that
19 the number who are granted release has been tracking
20 downward, as has the number of those who come for an
21 initial interview.
22 So, we want to unpack this a little bit
23 more, just to understand how is this release mechanism
24 working in New York State? Did I make a mistake in
25 that?

1 So, this is the -- okay. Let me -- this is
2 the rate at which people are released, based on their
3 -- when they appear for their first time. The rate of
4 initial releases by the Parole Board. So, we're
5 looking now at the Parole Board's functioning.
6 Again, my view is the Parole Board is a part
7 of the sentencing system, because they decide the
8 release questions. So, the question here is are they
9 releasing people when they first come up for
10 eligibility. And, we see this sharp decline, very
11 sharp decline since '91 in the percent in which people
12 are released on first eligibility.
13 So, who cares about this? Obviously, the
14 person who is denied. Who cares about it next? DOCS,
15 right? It's increasing their population. Families
16 who they're expecting people.
17 But, there's also a justice question, a
18 really deep justice question. Why is that we change
19 liberty eligibility over the space of ten years
20 without legislative or judicial oversight? Why is it
21 that we change sentencing the way we do, the way we
22 have, without legislative, or judicial, or public
23 oversight?
24 So, one of my recommendations would be for
25 this Commission to think about the legislation, or

1 guidelines for the exercise of this very important
2 discretion, the liberty discretion.
3 And we see, from 60-something percent, to
4 30, and we're projecting for this year 29 percent rate
5 of release. So, if Sentencing Commissions are
6 supposed to think about are like cases treated alike?
7 Do you, as Johnny Jones, coming forward to a decision
8 maker, have the same case as somebody else who's just
9 like you? The Johnny Joneses of the world had their
10 -- had their odds changed significantly over ten
11 years, without legislative or judicial review. Okay.
12 I'm not saying you can't change -- you can't
13 challenge the Parole Board's decision, but we know
14 that there's a very narrow avenue for challenge. And,
15 that's -- so, I think, so you know where I'm headed?
16 You've got to look at this stuff and see is this the
17 exercise of discretion that we want to see happen.
18 Okay.
19 So, we're going to go through quickly sort
20 of who is coming out of prison. It's not young kids.
21 Average age is 34. It's mostly about men. So, we
22 have to think about fatherhood and family
23 consequences, 93 percent are men. It's mostly people
24 of color, 46 percent black, 31 percent Hispanic.
25 Next, what do we know about their likelihood

1 of returning home? Fifty-five percent of people in
2 prison now will return to the communities within four
3 years. So, we have a lot of churning, in and out.
4 Where do they go back to? About six in ten
5 go back to the City. Another ten percent suburban New
6 York. And then, thirty percent upstate.
7 I want to focus in on some maps, because I
8 think it's important to understand the community
9 consequences of these policy choices we've made about
10 sentencing. Many more people in prison, mostly men,
11 churning in and out at a fairly, when we consider it,
12 an average of three years in prison or so to be short
13 or long, but it's -- it would be for a lot of
14 communities a fair amount of time. And, we know that
15 there's an enormous concentration of these effects of
16 incarceration and sentencing, and reentry, and failed
17 reentry, and parole supervision by communities.
18 So, we're using some New York City maps
19 here. I want to give credit to our colleague, Eric
20 Cadora, who is the map -- the mapping guru on this
21 stuff, who allowed us to borrow these. He runs the --
22 what's called the Justice Mapping Center.
23 And, you may not be able to read it, but the
24 districts here -- basically East New York, Upper
25 Manhattan, and going over to the South Bronx, those

1 districts are home to 17 percent of the adult males in
2 the New York, but they're home to 50 percent of the
3 men who go to prison. So, if you think about
4 community consequences in policy decisions, there is
5 very concentrated, a small number of communities in
6 New York. And, you could do those same maps for any
7 -- any -- they've done them all around the country.
8 The same phenomenon in every jurisdiction.
9 The next slide. What this -- a spatial
10 analysis. This geo-coded data allows us to do that.
11 Is to assign costs to those blocks. So, we can now
12 say that the cost of incarcerating somebody upstate,
13 Dannemora, or wherever, which is whatever it is --
14 30,000 a year. We can assign those costs to the block
15 where that man lived before he went to prison, to try
16 to understand the policy ramifications of the
17 expenditure of taxpayers' money in a lot more prisons,
18 by looking at it at a block level. Are you with me?
19 So, we're trying to sort of take the State
20 costs, whether we talk about the -- whatever it is,
21 the budget of DOCS, as whatever it is, it gets bigger,
22 gets bigger, bigger. What we're trying to do is
23 understand those costs as policy choices, by looking
24 at the expenditures on the basis of the blocks where
25 the people lived.

1 Again, the map is perhaps not readable from
2 where you are. But we've -- the reddest of these
3 blocks, we -- the taxpayers of New York -- are
4 spending two and a half million dollars and up to
5 incarcerate the individuals arrested who live on those
6 blocks. Do you understand what I'm saying?
7 So, we have -- and this is just prison.
8 We're not adding jails to this cost, are we?
9 UNIDENTIFIED: No.
10 MR. TRAVIS: This is just prison
11 expenditures?
12 UNIDENTIFIED: Right.
13 MR. TRAVIS: So, if you add jail, and
14 pre-trial detention, and all that, so you add a whole
15 bunch to the costs.
16 But, the -- the geographic designation of
17 costs allows you to ask yourself this question: If we
18 now spend for those in the reddest two and a half
19 million dollars and up, and if you add jail costs, you
20 get to three and four million dollars easily, per
21 block for incarceration only, not for police, not for
22 courts, not for prosecutors, and whatever, to respond
23 to the crime situations caused by those people we put
24 in prison, the policy question becomes how could we
25 spend those millions of dollars differently to respond

1 to those same crime conditions -- right -- without
2 causing some of the damage that incarceration causes?
3 That's the question that the country is, I think, now
4 starting to ask, as part of the reentry discussions.
5 So, we spend 1.4 billion dollars in New York
6 State -- New York City -- or New York State. Okay.
7 If you want to zero in on Brooklyn. I'm not
8 picking Brooklyn for any particular reason. We just
9 have some good data that allows us to look at the jail
10 and -- this is both jail and prison admissions by
11 block. So we have, in the darkest blocks here, we
12 have 400-plus individuals who -- who enter jail or
13 prison each year, from those blocks. So, it's another
14 way of thinking about the flow, the churning in and
15 out of communities, of this policy choice we made to
16 ramp up the use of prisons.
17 The next slide. This is one that the
18 Chairman of the Parole Board would be interested in.
19 This looks at supervision, by neighborhood. One of my
20 recommendations, by the way, would be that the
21 Commission recommend neighborhood-based supervision as
22 a way to respond to this reality.
23 So, we have again, in the darkest blocks, we
24 have up to 326 to 250 people on that block under
25 supervision, parole or probation.

1 Now, Brooklyn headquarters are at Adams
2 Street, or something like that? Or --
3 UNIDENTIFIED: Downtown somewhere, right.
4 MR. TRAVIS: So typically -- and again,
5 this again is not a knock on New York. We do this all
6 around the country. We assign the offices of people
7 who need supervision at some downtown location,
8 whereas we have all of the concentration of the
9 action, the risks that we want people to avoid, the
10 opportunities we want people to take advantage of, and
11 the people and the families, themselves, concentrated
12 in a small number of communities. So, it seems to me
13 that we should think about supervision as a
14 neighborhood function, rather than a centralized
15 function.
16 And, we should think -- I'm going to take a
17 big leap here -- we should think of supervision as a
18 unitary function, and why we divide parole as a State
19 function, and probation as a County or a City
20 function, and then we have juvenile on top. I mean,
21 these are all the same families, the same
22 circumstances, same neighborhood conditions. I've
23 written about and given a speech elsewhere that argues
24 for community-based supervision as a unitary function,
25 so we don't have Johnny being supervised by one

1 agency, and he's 18, and his brother, Jimmy, being
2 supervised by another agency, when you really want to
3 understand that same family, what's going on in the
4 family.
5 We just have a very -- I've given -- my
6 Parole friends know this. I've given the speech that
7 started with "It's time for us to end parole as we
8 know it." You know, take that line from welfare
9 reform. And, I think we just have to start fresh on
10 how we think about supervision overall.
11 The next one? Quickly, Ed Latessa, who
12 you're very lucky to have had in here, a national
13 expert on these things, he probably talked about all
14 this, the risks. We want to talk now about the
15 success on reentry.
16 If everybody comes out, you want them to be
17 successful. What do we know about the issues they
18 face? Substance abuse, unemployment, health, and
19 housing. All of these have a high prevalence of
20 problem. Not enough done on the inside. Not enough
21 done on the outside. But, the linkages are really
22 what -- what -- where we -- where we fail to do what
23 we should do.
24 I can't talk about incarceration and reentry
25 without talking about community consequences. And,

1 first and foremost is the children who are affected,
2 who are not intended to be punished by any
3 legislature, but who are punished when their parent is
4 sent to prison. It's not always a bad thing for dad
5 to be sent to prison, but it usually is a bad thing
6 for dad to be sent to prison.
7 And again, there are racial consequences
8 here. There are race dimensions to all of this, that
9 are part of it. We now have seven percent in the
10 country of African/American minor children who have a
11 parent in prison, today. It's just because we put so
12 many people in prison. And, they leave children --
13 children behind.
14 If you look at all of the criminal justice
15 system -- prison, and parole, and jail, and probation
16 -- now in America, ten percent of all minor children
17 -- one in ten -- if you walk down the street, go to
18 any elementary school, one in ten have a parent under
19 supervision. That's just a snapshot of today. And
20 again, it's skewed by -- by race. Okay.
21 The next one. Then, we -- as if it's not
22 difficult enough, we impose a number of legal
23 barriers. So, another thing for the Commission to
24 think about are some of these legal restrictions on
25 where people can live, what they can do. We make it

1 difficult.

2 Now, there's some good reasons for some of
3 those restrictions, but have we gone too far? And,
4 have we -- have we painted too broad a brush? And,
5 one of them that's of particular interest to me is the
6 right to vote. In my view, when people get out of
7 prison, they should be given an opportunity to vote,
8 reminded of their right to vote right then, and not
9 wait until they enroll.

10 The next one. So, now let's talk about
11 failure, and what I heard at the end of your
12 discussion with Doctor Latessa. One thing that I hope
13 the Commission focuses on, and it came through, if you
14 remember, Denise, with our presentation to the
15 Governor-elect at the time -- his only question, not
16 his only question -- his main discussion point when we
17 made that presentation was what's the metric of
18 success for -- for reentry. And so, this is what we
19 have to focus on. This is -- the public is concerned
20 about this, is are we getting value for our -- for our
21 dollar.

22 So, this is a New York State graph. It's
23 not national. But, the re-incarceration rate -- and
24 be very careful when anybody talks to you about
25 recidivism, as you always want to ask them to define

1 the term, and it could mean lots of different things.
2 So, I'm focusing here on the rate at which people are
3 put back into prison for failures on the outside.
4 We know there are two kinds of failures. It
5 could be a technical violation, or it could be a new
6 arrest.
7 So, the re-incarceration rate in New York
8 State has been fairly constant for the last 20 years,
9 at about 40 percent, which is about the national
10 average. So, in that, we're like the rest of the
11 country.
12 Can we do better? We can do a lot better.
13 In part, we can -- we can do better by focusing on the
14 -- the way that people are sent back to prison. So,
15 there's this -- again, we've dis-aggregated this data
16 to help you understand that there are two ways that
17 people end up back in prison, and they're very
18 different ways, and they are very different ways that
19 we deprive people of liberty.
20 One is the -- if they get re-arrested, and
21 they're committed on a parole violation on that new
22 event. I'm calling that a new commitment.
23 And, the other is they're violated for --
24 for parole. Is that --
25 UNIDENTIFIED: Right.

1 MR. TRAVIS: So, the question is how can we
2 get a better handle on the parole violation process.
3 So, I think it was the Chairman who was asking the
4 question of Doctor Latessa, at the end, and he said
5 exactly that question. How do we think about the
6 technical violations? Okay.
7 And so, here are some thoughts from me to
8 you. And then, I'd be happy to answer any -- any
9 questions.
10 My first thought is that New York should
11 follow the lead of other states that have a permanent
12 Sentencing Commission. That may or may not be within
13 your purview. I hope it is.
14 Other -- so, what's the benefit of a
15 permanent, ongoing Sentencing Commission? It brings
16 together people from the criminal justice systems,
17 from -- some Sentencing Commissions have business
18 people on them, have academics on them. But, what
19 that does is it gives the State a way to sort of
20 continually look at the influence of the -- and the
21 impact of legislative decisions, judicial decisions on
22 this important reality in the State.
23 It always has a strong data component to it,
24 a strong analytical component to it. If you'll look
25 at them, you'll -- Pennsylvania has a very good one.

1 North Carolina has a very good one. Minnesota has
2 one. Permanent Sentencing Commissions, I think, are
3 the way to go here. So, that would be my number one
4 recommendation.
5 The second is, and I've alluded to this a
6 number of times, is to place the reentry conversation
7 in the context of sentencing. You've already done
8 that by setting up this agenda. It's already --
9 recently, as you know, now that added to the penal law
10 purposes of sentencing. There is now a -- a -- it's
11 now a function of sentencing. So, you can refer to
12 that statutory language.
13 I don't know if, Mr. Chairman, you had
14 anything to do with that, but that -- it's a -- it's
15 to be celebrated. That was a great moment when we saw
16 that reentry and reintegration was added as a purpose
17 of sentencing. So in that, New York State leads the
18 country now. We embrace that as a legislated purpose
19 of sentencing.
20 You want to think, as you did with Doctor
21 Latessa, about the connection of programming in
22 prison. A full look at this would ask the really
23 important operational questions. How are people being
24 prepared for release? What are the programs
25 available? At what point do they get that program in

1 their prison time? What are the quality of those
2 programs? Are they certified to be effective, in
3 terms of the latest research? A lot of work to be
4 done there.
5 At the back end, we -- it's time for New
6 York to think again, as other states have done, about
7 how do you manage the reentry process. And, what are
8 the best ways to manage reentry? Is it halfway
9 houses, or work/release, or -- or educational release,
10 study release? Again, it's a -- it's a -- it's
11 connected to sentencing. It's also very much
12 connected to reentry, but it's a question of how does
13 this -- how does this release process get managed?
14 And finally, addressing the legal barriers to
15 reintegration.
16 And just a little segue here. Before I left
17 Washington, one of the things I was involved with was
18 the creation of the Second Chance Act, now moving
19 fitfully through Congress. It was called for by
20 President Bush in his 2003 State of the Union address.
21 But, one of the things that we put into that
22 legislation was a requirement that there be a sort of
23 zero-based review of all barriers to reintegration, so
24 that from time to time, administrative agencies and
25 legislatures should have to justify why they propose

1 these deprivations of liberty or -- or what kind. So,
2 that's something that we recommend, too, as well.
3 Okay?
4 Very important is to provide guidance to the
5 exercise of discretion of the Parole Board. This is
6 something where, if you look at these swings back and
7 forth, they are basically following the composition of
8 the Parole Board, which is a gubernatorial appointment
9 in this state and every other state.
10 And, we have -- we have sentencing policy
11 frozen in place. There's been no big changes. But,
12 these swings back and forth about when people get out
13 of prison. And, it's like this -- it's like the
14 legislature, and the Sentencing Commission, if there
15 is one, and the judiciary are -- are silent actors in
16 the ultimate decision of how long someone stays in
17 prison.
18 And, we can -- we can talk about other
19 state's experiences, in trying to guide the exercise
20 of discretion. But, we've made so much progress as a
21 country in thinking about how to guide the exercise of
22 judicial discretion and, to some extent, prosecutorial
23 discretion, but certainly judicial discretion, so that
24 like cases and treated alike, so that people get what
25 they deserve, they don't get less. And, it's not

1 arbitrary. It's not perceived as arbitrary. But, we
2 left this big gap, which is the exercise of discretion
3 to release people.
4 We've managed a lot of exercise of
5 discretion to put people in, but not to release them.
6 So, this is something that, again, I think it -- if I
7 could be so bold as to say that to do the job on
8 sentencing reform, you have to look at the role of the
9 release from prison.
10 And then, finally, parole supervision, which
11 is the back end of the back end. And, my
12 recommendations here are first, to have sort of -- to
13 have some control. This may be more administrative
14 than legislative. But, over the conditions of
15 supervision. It's very easy to load people up and
16 say, "You can't do this, you can't do this, you have
17 to be there, you have to be there." At some point,
18 someone is running around with their head spinning,
19 saying, "I can't see my -- get this job interview,
20 which would be really great, because I have to be here
21 for a drug test." Right? Or, "I have to -- I can't
22 -- my job lets me out at ten, but I have a curfew
23 until nine."
24 So, some of this is administrative, but I
25 think the general philosophy has to lead to, to not

1 load people down with conditions. I'd argue here and
2 elsewhere for the policy benefits of neighborhood
3 supervision.
4 So, let me say one thing about supervision,
5 and Chairman Alexander can shake -- shake his head in
6 disagreement, perhaps, but there is recent research
7 done by former colleagues of mine that comes to the
8 very stark finding that supervision, by itself, does
9 not reduce recidivism rates. This is stunning,
10 because this is what we do with people when we release
11 them. This is the basic, sort of product that we
12 offer, is we're going to supervise you. We're going
13 to place you on parole -- parole and probation
14 supervision.
15 So, these colleagues at the Urban Institute,
16 where I was before I came back to New York, did this
17 study. When they compared a big data set, those
18 people placed on supervision with those people -- with
19 other people just like them, who were released without
20 supervision. And, no difference in the recidivism
21 rate.
22 So, we have to go back to very fundamental
23 questions here, about what is supervision, and how is
24 it supposed to work, how is it organized, if we want
25 to produce the value that the Governor-elect, then,

1 asked us, which is a reduction in this indicator of
2 failure.
3 We can't do more of -- and, we also know
4 that more intensive supervision doesn't work. All it
5 does is put people back in prison for -- for the
6 technical stuff.
7 So, if a product called supervision doesn't
8 reduce recidivism, more of that ineffective product,
9 guess what? It doesn't work, either. So, increasing
10 the dosage doesn't help. So, we have to go back to
11 some basics.
12 And, the final point is -- again, this is a
13 -- a recommendation I have offered in a number of
14 contexts and written about, and some states have
15 followed, which is to think about the role of the
16 judiciary in the back end of the criminal justice
17 system. We have a lot of success with Drug Courts,
18 Mental Health Courts, and Domestic Violence Courts,
19 and the like.
20 And, I have argued and initially proposed
21 the idea of reentry courts, of judicially-supervised
22 back end reentry, sort of create a relationship
23 between parole and the courts at the back end. We
24 would use the mechanisms that have been so successful
25 in Drug Courts and other places to supervise this --

1 this end of the criminal justice system. There is
2 some research that's now coming out of those pilot
3 reentry courts that's very exciting, that shows
4 reductions, you know, in failures.
5 So, this is a different relationship between
6 the branches of government. It requires legislation,
7 because it's basically the judiciary and the executive
8 branch working together. And, I've talked to Chief
9 Judge Kaye and others about it, so I think there's
10 some -- some interest here in this.
11 So, there's some thoughts for you, and some
12 observations about what's happening in New York. And,
13 I'd be happy to take any questions.
14 Madame Chair?
15 COMMISSIONER O'DONNELL: Okay. I just want
16 to follow up on the reentry court. When we looked --
17 and maybe, George, you know the answer, or Jeremy, you
18 may have looked at it -- we have the Harlem Reentry
19 Court that we fund -- provide funding for, and as I --
20 I would like to look into it more, but -- but that
21 reentry model is really run with a Parole Officer
22 instead of a --
23 COMMISSIONER ALEXANDER: It's an ALJ that's
24 sitting --
25 COMMISSIONER O'DONNELL: -- yeah, an ALJ,

1 sitting as an ALJ. So, it's not a true reentry court.
2 I just wonder what the experience, you know, if
3 anybody knows how successful it's been, or whether,
4 you know, it --
5 COMMISSIONER ALEXANDER: It's had some
6 limited successes. In fact, what we're trying to do
7 is to take some of our funding and try to help it
8 along for another year or so, while we try to study
9 what it -- the real impact it really has.
10 It has some value. Like you say, it isn't a
11 real reentry court. It's a good facsimile, I think,
12 but I think that there's some things that could be
13 done with it, to tweak it to make it a little bit more
14 responsive, until we can get it to the level of the
15 judiciary. And so, that's why we're willing to try to
16 help it along, at least to give us an opportunity to
17 take a real in depth look at it and see what, if
18 anything, that it does, what it's providing us.
19 COMMISSIONER O'DONNELL: Um hmm. And so --
20 MR. TRAVIS: Here's the -- here's the way
21 -- and I haven't looked at these for a while. What I
22 was about to say, though, the most -- the reentry
23 court that was sort of truest to the model was one in
24 Ohio.
25 And, the way it worked was Johnny Jones

1 comes before the judge for sentencing. And, it's
2 pretty clear that Johnny is going to go away to
3 prison. So, the judge has asked the probation
4 department that does the pre-sentencing report to
5 recommend the reentry plan for Johnny at the time of
6 sentencing.
7 So, you don't wait until he gets in. You
8 don't wait. And so, the -- the work done in the
9 community about Johnny, and his needs, and the family
10 also, it gets sort of translated into the reentry
11 plan.
12 The judge then says to Johnny, "Okay, you're
13 going to do three years. While you're in, here are
14 the three things you have to work on, some big things.
15 And, I have a commitment from the Department of
16 Corrections" -- in this case, in Ohio -- "that you're
17 going to be eligible to participate in those services.
18 It's anger management. It's drug addition. It's
19 whatever. While you're in. And because we know
20 you're going to come back" -- they all come back --
21 "we're going to sort of stay in touch with you,
22 Johnny, while you're away."
23 And the court, then, has a reentry liaison
24 who, in this court, actually goes to visit Johnny in
25 prison. But, they -- he reports back to the judge,

1 from time to time, saying "Johnny is doing well or
2 not." It helps keep the Corrections folks
3 accountable, which I like, which the Corrections folks
4 don't -- don't always like, but it keeps them
5 accountable for their results, in terms of public
6 safety.
7 And, the statute in Ohio is written in a way
8 that the judge can grant early release. It's almost
9 like a parole release, if Johnny is doing well, and
10 Johnny knows that. So, there's an incentive for him
11 to do well.
12 And, the judge has up to date information.
13 And, when the release time comes, either -- either
14 it's an early release or the original release, Johnny
15 is brought back to the judge's court room. And, the
16 judge says, "Good to see you again. Glad that you
17 were doing what you were doing." So, there's a system
18 accountability here. "Now, you're now in a reentry
19 court. Here's your Parole Officer." And, the Parole,
20 of course, has done what it does anyhow, to get ready
21 a reentry plan. "And, you're going to come before me
22 every month, to see how you're doing. And, I have the
23 ability -- I have the statutory power to modify your
24 conditions, within reason, to make sure that you're
25 doing well."

1 So, it takes the -- the benefit of the Drug
2 Court, which is this relationship to the judge, and
3 the openness of a Drug Court, which I like a lot,
4 because I -- parole tends to sort of operate out of
5 public view. But, it makes this a very public
6 process.
7 And, as with Drug Courts, they have
8 graduation ceremonies. When Johnny is done with his
9 one year of parole supervision, his family is brought
10 in, a little round of applause, he gets a certificate,
11 and he's on his way, and maybe he get his -- his voter
12 I.D..
13 But, it establishes system accountability,
14 openness, transparency, a different relationship
15 between supervision and the courts. And ultimately,
16 and this is what the Ohio Sentencing Commission was
17 doing, last time I checked, they were recommending
18 legislation -- that's why I used the word "authorize"
19 -- that authorized jurisdictions to establish reentry
20 courts, if that's what they wanted to do, rather than
21 requiring it.
22 And, I think we need a period of
23 experimentation here, and some resources. Obviously,
24 this is a new function for the judges. Parole would
25 have to be on board to say let's try it in three

1 jurisdictions throughout the state, or something like
2 that. But, it's an authorizing legislation, rather
3 than -- you know, I think you have to recognize that
4 this is a new way of doing business, and we want to
5 learn from it.
6 But there is -- certainly the now 15-year
7 experience with Drug Courts is a very positive
8 indicator that you can change behavior, which is what
9 you -- what you want to do. You want to reduce drug
10 use, and reduce crime, and the like.
11 COMMISSIONER ALEXANDER: I'd like to go to
12 your first recommendation, of a sentencing department
13 creating guidelines for parole and release decisions.
14 And I'm assuming for that, that you continue to see a
15 need for a Parole Board. And, if there's a need for a
16 Parole Board, then there is certainly then a need for
17 indeterminate sentencing.
18 MR. TRAVIS: So, you want to ask what I
19 think about indeterminate sentences?
20 [Laughter]
21 MR. TRAVIS: The -- the slightly
22 disingenuous answer is as long as there is a patrol
23 [sic] board -- a Parole Board, they should have
24 guidelines. And, they shouldn't -- they should either
25 be required to establish them themselves and adhere to

1 them, and if they don't adhere to them, you -- as we
2 would with the Federal system -- upward or downward
3 departures have to be justified, subject to judicial
4 review and all that sort of stuff. Or, they can be
5 established legislatively. Either way. You can get
6 to it either way.
7 I have a lot of difficulties, as a criminal
8 justice matter, with indeterminate sentencing. That's
9 my -- my personal belief. But, what I'd like to make
10 sure we always retain in any system is the incentive
11 to get ready for release, so that the inmate sitting
12 wherever he is sitting, or she is sitting, has
13 incentives to do the things necessary to have a
14 successful return home. And that either has to be
15 through Parole Board discretion, which it can be if --
16 if the Parole Board means it.
17 COMMISSIONER ALEXANDER: Um hmm.
18 MR. TRAVIS: My -- my fear is they don't
19 mean it, right? So theory, but not practice. Or,
20 through some -- some sort of -- some sort of early
21 release credit while -- while in. Again, that has --
22 that's another form of discretion. That can't be
23 exercised arbitrarily.
24 But, I think the important thing -- the baby
25 we don't want to throw out with the bath water here,

1 which is what California did -- they just gave away
2 all incentives to do -- to do the right thing while
3 you're in prison.
4 So, I think we have to give the ability --
5 give the inmate the ability to sort of earn his way
6 out, by doing the things that are expected of him, and
7 show that he has a reentry plan. That can be done
8 either through Parole Board discretion or through some
9 sort of -- it's more than good time.
10 It's really an earned release kind of thing,
11 which is the -- so, there has to be some -- and then,
12 that -- that discretion has to be overseen, because
13 all of this discretion, as we saw with the judicial
14 discretion, can be really seriously abused.
15 COMMISSIONER O'DONNELL: Tony?
16 MR. TRAVIS: Yes?
17 COMMISSIONER GREEN: Just a few questions.
18 One is to follow up on what you just said. What are
19 the issues you have with the indeterminate sentences?
20 And, I guess there's another part of that. What are
21 your thoughts on parole versus post-release
22 supervision, as it relates to reentry?
23 And then, a second question, at least in my
24 county, right now, reentry seems to be a combination
25 of a lot of different -- you know, Parole is involved,

1 community groups, not-for-profits that are involved,
2 Government is involved, you know, the County is
3 involved in some form. You know, what are your
4 thoughts on how an ideal reentry program would be
5 structured?
6 MR. TRAVIS: Okay. Let's go to the first
7 one. On determinate versus indeterminate sentencing.
8 I think we have seen a lot of abuses of indeterminate
9 sentencing in the systems. And, those abuses are
10 typically at the parole release part of it. And these
11 sort of swings, I think, back and forth, I think I --
12 I consider them to be abusive of -- of that -- of that
13 discretion.
14 So, when I say I favor determinate
15 sentencing with an earned release mechanism, why do I
16 do that? The earned release I just talked about.
17 Very important to have incentives for people to do the
18 right thing, and to be honest in -- in giving the
19 reward at the end when -- when they've done the right
20 thing.
21 There's nothing worse than sort of having
22 done all the things you think you have to do, and then
23 when you get up to the decision makers, and they say,
24 "Oh, another two years." Just -- it's corrosive.
25 But, I also think that the -- that these --

1 there's also levels of public confidence that a system
2 of determinate sentencing, to me, is some -- something
3 that the public understands better. What is 18 to 25,
4 right? Or 8 -- 8 to 25?
5 But, the important caveat here is that
6 choosing -- making this choice between determinate and
7 indeterminate sentencing says nothing about how long
8 people should serve or stay in prison. That's a
9 separate policy choice. And, you won't be surprised
10 to know that I think we're putting too many people in
11 prison for too long.
12 So, the determinate sentencing system could
13 put people in prison for a long time or a short time.
14 And, indeterminate sentencing could put people in
15 prison for a long time or a short time. That's a
16 legislative choice.
17 And so, if I were arguing for it, it would
18 be a more determinate sentencing, with this earned
19 release idea. I would also be arguing for sending
20 fewer people to prison, and to put people in prison
21 for shorter periods of time, and with the idea of
22 geriatric prisons just boggles my mind. Why do we put
23 people in prisons who are on dialysis machines, when
24 they're 80? You know, I just don't -- I just don't
25 get it. What's the public -- the public policy

1 benefit?
2 So, I would -- I would argue for a -- a
3 reduced prison system.
4 Now, remember the first slide, when we
5 talked about the growth in prisoners. There's an
6 irony here. More than an irony, it's an important
7 policy question, which is that we are continuing to
8 see the growth nationally at the time we have the
9 lowest crime rate in the country. There's, in
10 essence, no easing of it. We haven't seen the -- New
11 York is an exception to that. We haven't seen the
12 prison population coming down.
13 And, some people would say we have low crime
14 rates because we have so many people in prison, and
15 that's got a little bit of truth to it, but not a lot,
16 not enough to justify this expenditure.
17 So, when a Sentencing Commission thinks
18 about sentencing policy, in addition to the fairness
19 questions, they have to think about, I think, sort of
20 why people get sent to prison as our response to
21 crime. Why is that the sentencing option that we
22 exercise so frequently? What are the other options
23 that might be available?
24 So, that's a long way of saying that this --
25 it's an important policy choice, but it's a policy

1 choice of determinate or indeterminate, in basically
2 this larger policy frame of who gets sent to prison,
3 and why, and for how long.
4 COMMISSIONER GREEN: What about the second
5 piece of it, in terms of how you see reentry?
6 MR. TRAVIS: Reentry, if successful, does
7 involve lots of people at the table. And, I think
8 what's exciting about the reentry conversations
9 happening now nationally is many other sectors of
10 society are coming to the table. You have public
11 health people there. You have the people worried
12 about child welfare. You have the public safety, and
13 the police folks at the table.
14 So, the heavy involvement at the table is
15 more -- is both a good thing and a bad thing. Much
16 more a good thing than a bad thing.
17 The bad thing is you lose accountability.
18 And, the results that we have to keep -- the results I
19 think the public wants us to deliver on are -- is the
20 public safety result. That's first and foremost.
21 And, in order to deliver on that -- on that
22 -- again, this is what I said to the Governor. In
23 order to deliver on that promise, that commitment to
24 the public, your -- the failure -- the reentry failure
25 that is a new crime -- because we have lots of reentry

1 failures -- but the reentry failure that is a new
2 crime, if we're going to reduce that over time, you
3 have to ask yourselves a series of questions about
4 where does that risk come from.
5 And, the first thing that you learn when you
6 look at this carefully, is that the failure rate --
7 i.e., the new crime rate -- is much higher in the
8 month that somebody gets out of prison than it is a
9 year later. Right? This is where the failure
10 happens. People relapse to drugs. They have conflict
11 with their family. They hang out with the same old
12 gang again. They -- they get involved in some
13 retaliation things. The failure rates are highest
14 right after someone gets out of prison. It's a line
15 that goes like this, the failure rates are very
16 dramatic lines.
17 When we think about supervision, we don't
18 put our resources where the risk is. We don't align
19 resources against failure. So, if I were designing --
20 now, I'm an academic, and I can do this sort of stuff.
21 When I worked with the police department, it would be,
22 okay, go do it tomorrow.
23 [Laughter]
24 MR. TRAVIS: But, if I were designing a --
25 a -- an accountability system on reentry? I would

1 give that team of people that you've got around the
2 table that you just described the challenge of
3 reducing the failure rate over the next thirty days
4 for the next people coming out of prison.
5 That would be the COMSTAT question today:
6 What have we done for the next group of people coming
7 out of prison to reduce their failure in the first 30
8 days, or 60 days, or 90 days? Now, we think about
9 recidivism as a three-year measure. Well, that is so
10 -- you can't operationalize that. It's very hard to
11 operationalize that.
12 So, we want to operationalize the public
13 safety part of reentry. We have to operationalize it
14 where the risk is. And, if you do that, you'll be --
15 you'll be assigning very different resources to that
16 first month. You'll be assigning transitional
17 housing. You'll be assigning -- thank goodness for
18 the legislature, now we have Medicaid eligibility
19 about to be restored. You'll be assigning mental
20 health treatment in the first month. You won't -- you
21 won't say to somebody "Come back next week to see your
22 Parole Officer, and we'll start to talk about your
23 services."
24 We'd be -- if we were focused laser-like on
25 failure in that first month, we'd be doing things a

1 lot differently. Then, we'd call upon those resources
2 that you described to be a coalition to produce that
3 result. And we'd, every month, say "Are we doing it?"
4 This -- we're having this wonderful
5 discussion with our colleague, Janet DiFiore, in
6 Westchester County, because she's got this Reentry
7 Task Force, and our former colleague, Liz Glazer, at
8 the center of it. And, we're talking now with them,
9 and Debbie is doing the staff work, about a set of
10 accountability measures to produce the public safety
11 results that the public, I think, should expect.
12 So, having everybody at the table, that's
13 good. Having everybody at the table to produce
14 results is what, I think, we want to see happening.
15 COMMISSIONER O'DONNELL: Was there another
16 question? We're going to -- Tony?
17 COMMISSIONER BERGAMO: The questions were
18 answered. Thank you, Mr. Travis.
19 MR. TRAVIS: Okay, good.
20 COMMISSIONER O'DONNELL: George?
21 COMMISSIONER ALEXANDER: Could you please
22 speak to the issue of post-release supervision,
23 regardless if the person is released by discretion, or
24 conditional release, or by maxing out?
25 MR. TRAVIS: Yeah. So -- so, if somebody

1 is released and place on supervision, the supervision
2 should be the same, no matter how they were released.
3 Let's start with that.
4 I think if we don't do good discharge
5 planning for everybody -- those released by
6 discretion, or those released mandatorily -- we've
7 failed in our job. And, the discharge planning starts
8 on the inside and continues to your folks.
9 In my writing, I have argued that everybody
10 should be placed on supervision when they're released,
11 because there's a Government responsibility to help
12 them make that transition. As you know, not everybody
13 is supervised all the time. That's a legislative
14 determination.
15 And, I think that's particularly true for
16 people who max out. People who max out, who are
17 otherwise parole eligible, usually max out because
18 they did something bad in prison, or because they're
19 somehow dangerous in some way. I'm not saying always.
20 And to me, the idea that somebody can determine that
21 their release date is -- can to some extent be
22 determined by their own behavior, and then they get
23 out and there's no supervision, is a -- is a real sort
24 of policy failure.
25 The worst case is somebody who's in -- in

1 lockdown, is in, you know, 23-hour solitary
2 confinement one day, and is released to nothing the
3 next day. If the public, if they knew how often that
4 happened, they would be really upset.
5 So, there should be some sort of transition
6 planning, and I think there should be supervision,
7 ultimately, for everybody, for some period of time.
8 But, the question is what are the conditions
9 of that -- of that release and the point of the
10 question that you might have talked about, which is
11 the revocation process. Or how do people get both?
12 So, Latessa's idea of a halfway house, or revocation
13 center for at least for a technical, maybe for more
14 people is the right way to handle it.
15 COMMISSIONER O'DONNELL: Eric, did you have
16 a question?
17 MR. SCHNEIDERMAN: Just that I'm interested
18 in the finding of these communities that the prisoners
19 return to, --
20 MR. TRAVIS: Right.
21 MR. SCHNEIDERMAN: -- since my district has
22 a lot of red in it.
23 MR. TRAVIS: Yep.
24 MR. SCHNEIDERMAN: And, I'm wondering if
25 you have any -- has there any further work been done

1 on thinking about other ways to spend money, or other
2 factors that should be incorporated?
3 Obviously, if 77 percent of prisoners go
4 back to their -- I assume, when you say "community,"
5 you mean where they came from -- are there -- are
6 there other ways to do things in those communities
7 that -- that you think could be helpful? Or is it
8 something that still should be targeted at the
9 individual thing?
10 MR. TRAVIS: Well, thank you, Senator, for
11 raising that point. And, I'm not surprised that you
12 did.
13 So, there's in -- in our world, in the
14 reentry world, there is a concept that's gotten a lot
15 of people talking, and it's also got some policy
16 movement on it -- called "justice reinvestment." So,
17 the way the justice reinvestment concept goes is
18 something like this.
19 It starts with the maps. It says, look, we
20 are -- we, the taxpayers, are spending a lot of money
21 to house people from communities that are struggling,
22 in upstate communities, so they get the benefit, you
23 know, near the Canadian border, of that expenditure.
24 It doesn't go to this community that is struggling.
25 And the question, the policy question then

1 is could we structure sentencing and -- and criminal
2 justice policy, generally, in a way that would reduce
3 the expenditure that's done for those people in that
4 community that we're housing somewhere else and --
5 this is the reinvestment part of it -- reinvest the
6 money back into that community?
7 So, the -- Connecticut, for example, is --
8 is on a justice reinvestment track right now. And,
9 what it's doing is it's saying we want to establish
10 some incentives so that we can reduce the level of
11 expenditures from, let's say, Washington Heights, and
12 the incentive is that the money that's saved, let's
13 say half of it goes back to Washington Heights, and
14 half of it goes to those taxpayers. I'm not sure how
15 they're structuring it in Connecticut.
16 It -- it's like the conversation we just had
17 on the metrics for public safety. So, the question is
18 what are the metrics here that matter? And, the
19 metrics ultimately are public safety metrics, but
20 there's also this expenditure metric.
21 And, the -- Denise alluded, at the outset,
22 to work we've done in the past. And that's been
23 really -- this colleague we've worked with, David
24 Kennedy, who is a professor at John Jay, one of my
25 first hires in my beginning at John Jay -- and my

1 second was -- was Debbie.
2 So, Professor Kennedy is now working on ways
3 -- he was the architect, when he was at Harvard, of
4 the -- what we have called the "Boston miracle" that
5 Janet Reno had asked us to replicate in five other
6 jurisdictions. Sharp reductions in violence in that
7 community.
8 He has now applied the same thinking to
9 reductions in -- in the drug markets, open-air drug
10 markets. So, this gets a little bit closer to the
11 Washington Heights story. And basically, what he does
12 is he brings together community leaders, law
13 enforcement officials, service providers, and drug
14 dealers and their families into a meeting, in a room
15 like this. It's what he did with gang members and
16 non-violence.
17 And, he basically says to them -- he doesn't
18 say it to them. The law enforcement folks say to him
19 -- say to them, "If you -- we could -- we could
20 tomorrow make all these cases against you." So,
21 there's a lot of prep work. "We could -- we have this
22 search warrant. We have these arrests we can make.
23 We have -- we have you on tape. We could do it, but
24 we don't want to arrest you. We'd rather you get out
25 of the drug -- the drug business. Because we know, if

1 we arrest you, you'll go away for two years, and come
2 back and be in the drug business again, and then
3 somebody else will have replaced you in the meantime.
4 Maybe it's your younger brother. He gets caught up.
5 Who is that good for? We want you to get out of the
6 drug business."
7 He then -- the community groups that offer
8 various ways to get out -- meaning employment
9 opportunities, and social services, and the like --
10 and, very importantly, the influentials, is what
11 Professor Kennedy called them -- the mothers, the
12 girlfriends, the wives, the kids in there saying "What
13 you're doing is harming our community. Stop it."
14 So, he's now done this sort of work in a
15 number of jurisdictions. And, we are in conversation
16 now with the Police Chief of Providence, and the
17 Corrections Commissioner of Rhode Island, to say if we
18 did this in -- it's not we. If they did this work in
19 all of Providence, and significantly reduced the use
20 of arrests and imprisonment as a response to drug
21 markets, which is the effect that he's having -- it's
22 close to miraculous, what happens -- what would be the
23 long-term effect on the prison population?
24 Now, that's an interesting conversation,
25 because the biggest increase, and it -- I don't know

1 the figure -- but, the biggest increase in our prison
2 population is for drug offenses. So, if you had a
3 different way of responding to drug markets and, you
4 know, they go inside, they're not totally -- that's
5 okay. You know, we want improvement from the
6 community point of view. And, he had a big response
7 to drug markets. And, the police were part of the
8 strategy. And, they saw the results. Safer streets.
9 You had, you know, people working and rather than
10 dealing drugs. One of the effects of that is to
11 reduce the demand for the prison part of it.
12 So, that's the sort of thing that you start
13 thinking about when you say how would we reinvest the
14 money back in the community. So, you reinvest the
15 money to keep that sort of thing going, and provide
16 the jobs, and hire the police, and do the, you know,
17 what we need to -- we need to reverse the flow of
18 money.
19 It's not -- it's not money from Washington
20 Heights that's going to DOCS. It's money from the
21 taxpayers, it's mostly from Wall Street, going to
22 DOCS, but we need to reverse that public expenditure.
23 And, that's where a long-term strategy that says we
24 want to reduce our prison population intentionally,
25 purposefully, consistent with public safety, allows

1 you to think about things like what Professor Kennedy
2 is doing.
3 COMMISSIONER O'DONNELL: Okay.
4 MR. VANCE: One more?
5 COMMISSIONER O'DONNELL: Pardon?
6 MR. VANCE: I'm sorry. Can I have one more
7 question?
8 COMMISSIONER O'DONNELL: One more question.
9 MR. TRAVIS: Okay.
10 COMMISSIONER O'DONNELL: The final
11 question.
12 MR. VANCE: Jeremy, you talk in your
13 article about the community justice corporations, or
14 you propose that as a concept. And, --
15 MR. TRAVIS: Thank you for reading the
16 article.
17 MR. VANCE: -- does that --
18 [Laughter]
19 MR. VANCE: Yeah. Does that -- does such a
20 concept exist in practice anywhere else? And, if it
21 does, can you share that with us? And, if it doesn't,
22 how -- does this replace parole and probation? And --
23 and who sits on the corporation, to direct its
24 opportunity -- its work?
25 MR. TRAVIS: So, the basic idea here that I

1 alluded to in my presentation is to find ways to do
2 two things simultaneously. One is to localize
3 supervision. And the second is to bring all kinds of
4 supervision under one organizational umbrella.
5 The reason for localizing it, I think I've
6 made that argument. But, if you're managing risk and
7 opportunity to change behavior, you have to do that
8 where the risks and the opportunities are presented.
9 Those are at the community level, at the street level.
10 And so, the supervision function should be at that
11 level.
12 It's very analogous to -- you know, I was
13 associated with another program I created, which is
14 the transition to community policing. It's actually
15 very similar to that one. You want to -- want to get
16 the community involved in very different ways, and so,
17 the function of the officer -- in this case, the
18 Parole Officer -- has to change to manage those
19 resources, and risks, and opportunities at the
20 community level.
21 The reason for the second part of the
22 recommendation, which is to bring everything under one
23 roof, is other than the legal distinctions, I see
24 little functional distinctions between parole and
25 probation. And the legal distinctions are a function

1 of the way we've created our justice system. People
2 go to State prison, and parole is a State function.
3 People are placed on county probation because they
4 don't go to State prison. And, on the street -- on
5 the street level, in the lived experience, it doesn't
6 make all that much of a difference, and it's a way to
7 game those agencies against each other. So, that's
8 sort of the radical idea is localize and unify
9 supervision.
10 Then, the question is how would you actually
11 organize that? And hence, I did the community justice
12 corporation as a way to test that -- that pilot out.
13 That could be an organization -- a governmental
14 organization. It could be a non-profit, that does
15 this on a contract basis. There are different ways to
16 -- to manage it.
17 Debbie, just -- what date?
18 MS. MUKAMAL: July 5th.
19 MR. TRAVIS: July 5th, the Mayor's Office
20 will be releasing -- or we'll release, actually. I
21 should say John Jay will be releasing an RFP to create
22 the New York City Justice Corps, which is a -- it's an
23 employment-focused idea tat came out of the Mayor's
24 Poverty Commission. But, that will be a step in this
25 direction of organizing the provision of services at

1 the three pilot communities in New York City. The
2 City is putting four and a half million dollars into
3 that. We hope to raise an equivalent amount of
4 private money.
5 If all goes well, the MacArthur Foundation,
6 this month, will be awarding about six million dollars
7 to the Safer Foundation in Chicago, and the Urban
8 Institute, to launch something called the Safer Return
9 program, which is a community-based justice corps
10 idea.
11 The work I did in Baltimore, with the empire
12 -- I'm sorry, the Enterprise Foundation. They created
13 a community justice -- didn't actually do the
14 supervision in the legal sense, but they did sort of a
15 community-wide thing.
16 So, there are a number of interesting models
17 that give me optimism to think that this way of moving
18 forward would produce the results of reduced crime and
19 improved reintegration, access to jobs, and the like.
20 COMMISSIONER O'DONNELL: Thank you, very
21 much, Jeremy. You were terrific.
22 MR. TRAVIS: Thank you.
23 [Applause.]
24 COMMISSIONER O'DONNELL: We're going to
25 take a break. We have a working lunch, so we'll take

1 a ten-minute break and get your lunch, and come back,
2 and we'll move to our next presentation.
3 (Off the record.)
4 COMMISSIONER O'DONNELL: You know, we
5 really do have two of the best social science
6 researchers in the area of corrections and -- and
7 reentry, and that is Paul Korotkin and Donna Hall.
8 So, we'll be hearing from them a lot. They
9 are overseeing our research on the Commission. And,
10 they're going to speak to us for about an hour on the
11 research that is available in New York State on
12 correctional programming and corrections, et cetera.
13 So, Donna and Paul?
14 PRELIMINARY RESEARCH AND SENTENCING STATISTICS,
15 INCLUDING THE COSTS OF VARIOUS CORRECTIONAL
16 PROGRAMMING
17 MS. HALL: We're just going to take a
18 couple of minutes here to -- to talk a little bit
19 about some of the work we've done around reentry for a
20 couple of years, and done a regression. We'll talk a
21 little bit more about this. But, for a couple of
22 years, we had a -- we've had a Reentry Task Force
23 that's done some -- a variety of things around
24 reentry, one of which is we've had a research group --
25 an inter-agency research group that's looked at a lot

1 of the issues that have come up around reentry. So,
2 I'm going to just really quickly cover a bit of the
3 work that we've done. And, I have to stand here,
4 because I don't have a flipper to help.
5 Real quickly, I'm just going to go through
6 some of the DOCS data. These are the 2006 release
7 calculations. And this essentially just breaks down
8 the age of folks being released from DOCS in 2006.
9 And, these are -- the reason I'm covering the data I
10 do cover in this is because it feeds into what Doctor
11 Latessa was talking about regarding risk.
12 One of the key risk factors is age. And so,
13 the younger you are, the higher risk you're going to
14 be. So, this shows a description of age coming --
15 coming out of DOCS.
16 And gender, again. And, actually, we had
17 the exact same data the last five -- or the last
18 verification -- 7 percent of the population coming out
19 is female, 93 percent male.
20 This shows the distribution of the prior
21 conviction records, and this is prior to the offense
22 for which they were admitted to -- to DOCS. So, we
23 have people with no prior felony convictions, but it
24 also shows you that, you know, 20 percent had three or
25 more prior convictions, felony convictions in their

1 history; 37 percent had two or more. So, you've got a
2 fair amount -- and, these are felony convictions. If
3 you look at the arrest numbers, it's got to be, you
4 know, in terms of the norm, I think it's going to be
5 probably around four prior felony arrests, something
6 like that. So, we've got people with fairly
7 significant histories in -- in the State prison
8 system.
9 This looks just a the type of release,
10 whether this was the first time they were released on
11 that sentence, or whether they have been released
12 previously, meaning there was a parole revocation that
13 went through.
14 And, this is the time served, how much time
15 they spent locally. Important to reentry because, you
16 know, it gives you a sense of how long they've been
17 out of the community, and how long they've been away
18 from families, and those kinds of factors. They
19 average around -- what is it, Paul? Forty months, or
20 something like that?
21 MR. KOROTKIN: The average? Forty-three.
22 MS. HALL: Yeah. And, this shows the
23 distribution. It's heavily weighted at the lower end,
24 so you've got a large portion of the population is
25 actually 36 months or less. And, your average gets

1 dragged up a bit, because you've got a smaller number
2 of long-term commitments.
3 And, that's really -- that's all I'm going
4 to say about the DOCS population. DOCS puts -- you
5 know, they put together a release, all sorts of
6 publications on release cohorts, admission cohorts,
7 under custodies, more data than you'll ever want to
8 see. It's published and available through DOCS. And,
9 they're great pieces that they do.
10 All right. So, now we're looking at
11 recidivism. And, in this particular presentation,
12 we're looking at whether they were re-arrested for a
13 felony within two years of release. And, we break it
14 down by gender and age.
15 These are 2003 releases. We have to go back
16 a few years, to give them a couple of years to
17 recidivate -- to recidivate or not. And, what we see
18 in just this presentation, there are a couple of
19 different things.
20 One is that recidivism declines with age.
21 And, I think we all have a sense of that. We've heard
22 it probably dozens of times. But, you know, we can
23 see -- and these are felony recidivisms -- declining
24 significantly with age, particularly as they get
25 beyond their 40s, and the highest being under 20.

1 But, it's notable, by the way, there are a
2 couple of other things you can see in this, is that
3 women recidivate less than men. And, that's, you
4 know, and that's just what we see in data bases across
5 the country.
6 And also, the age doesn't work for women the
7 way it does men. And that is that we see, actually,
8 the higher rates of recidivism are with women who are
9 slightly older. And, in part, that is related to who
10 they are, what their histories are, and probably
11 interconnected with drug -- you know, drug abuse.
12 In this one, we're looking at the percent of
13 releases re-arrested for a VFO within two years of
14 release. And again, we do it by gender and age.
15 And, we see a very fairly strong pattern by
16 age for males. And then, it declines significantly
17 over time. Young males are at the highest risk of
18 violence and for being arrested for a violent felony
19 offense.
20 Women, again, don't show that kind of --
21 that kind of pattern. It goes up and down. Probably
22 more notable here is that -- the low rates at which
23 women are re-arrested for violence. So, being female
24 is virtually a protective factor coming out of prison.
25 And here, we're looking at the percent

1 arrested on a VFO within two years of DOCS release, by
2 the number of prior VFO arrests. Higher history is
3 another very strong predictor of what's going to
4 happen in the future.
5 And particularly, if we're looking at VFOs,
6 prior violent histories are a strong predictor. And,
7 arrest histories are much better predict -- you know,
8 are better predictors than convictions, because of
9 multiple reasons, but they -- they tend to be strong
10 predictors for what happens.
11 So, we can see it climbs, when we have zero
12 -- folks with zero prior VFOs re-arrested in two years
13 on a new VFO arrest, at a rate of five percent, going
14 up to 23 percent.
15 Here we're looking at percent arrested
16 within two years from DOC -- from release by DOCS, by
17 the release status at the time they left DOCS. And,
18 that is whether they were first-time released or
19 whether they had been released previously on that
20 term. Those are going to be the parole violators.
21 And, what you see across our measurements is
22 that those who have had prior violation on that
23 sentence are much more likely to get re-arrested.
24 That's -- you know, it's another predictor of
25 re-arrest. That is, past failure predicts future

1 failure. You haven't been able to succeed in that --
2 that trend. And, we see it across the groups, however
3 we measure it -- any arrests, drug arrests, violent
4 arrests. You see the same patterns.
5 One of the things we've done in conjunction
6 with the Reentry Task Force is to develop statistical
7 models to predict who is likely to become re-arrested
8 while -- subsequent to release. And, these would
9 include not just parolees, but folks who are ME'g out,
10 of which I think about 10 percent of DOCS population
11 now goes out through maximum expiration. Eighty
12 percent of those folks go out because they've been --
13 as an ME, because they have had prior parole failures.
14 So, they fail, they go back. They fail, they go back.
15 Eventually, there's no more time left on that
16 sentence. The other 20 percent are the folks who have
17 just either misbehaved in DOCS, or perhaps their
18 sentences were short, maybe a small misbehavior, maybe
19 there --
20 UNIDENTIFIED: Or reduce programs.
21 MS. HALL: Or reduce programs.
22 And so, in any event, so we -- what we have
23 done is trying to, you know, following Doctor
24 Latessa's risk and needs models -- model, we developed
25 risk scores to see how well we can predict who is

1 going to fail in the future simply by knowing their
2 criminal history and a few demographics.
3 The demographics that we used are gender --
4 because we know it makes a big difference -- age --
5 and, age in two places. Age at the time that they --
6 that they're released and age at the time we first see
7 them in the system, or age at the first adult arrest.
8 If we had the age at juvenile, first juvenile arrest,
9 or first juvenile contact, it would be an enormous
10 asset to this, I'm sure, but we don't have that. So,
11 if anybody wants to change sealing laws or --
12 [Laughter]
13 MS. HALL: So, those are the kinds of
14 things that -- that make a difference.
15 And, criminal history prior to the current
16 release. And that is the number, and the timing, and
17 the variety of arrests and convictions. And, this is
18 an important point. Variety is important.
19 That is, the more -- the greater number of
20 different kinds of acts they're involved in, the more
21 likely they're going to come back with a new offense.
22 So, you know, if they had had burglaries, and
23 robberies, and drugs, you know, if they've had
24 multiple kinds. It's not just the number of priors,
25 but the variety of priors.

1 Failure while on parole. Again, that's --
2 that's another -- as before, that's another predictor.
3 And, the type of release -- parole, CR -- that's
4 conditional release -- ME -- each of those make a
5 difference.
6 Now, that doesn't mean that -- it doesn't
7 mean that if they -- if CRs are higher than parole,
8 that somehow it's -- it's the nature of the release
9 that's causing the recidivism. It just means that
10 it's a risk factor. That is, it will help us predict
11 who is going to recidivate.
12 These two lines show the prediction model,
13 or the effectiveness of the prediction model. And,
14 you can almost not see the distinction between them,
15 which is a good thing. What this is, is the blue line
16 shows the rate at which we expected people to return.
17 And, let me explain that.
18 What we did was we developed a statistical
19 model that essentially assigns everybody, at the time
20 they're released, a risk score. Okay? What we think
21 your risk of re-arrest is going to be. And, we then
22 take those risk scores, and we aligned them, and then
23 we cut the population into ten -- essentially, ten
24 even groups.
25 And so, our risk -- our lowest group has a

1 risk score of one. And, down at the -- our highest
2 group has a risk score of ten. And, we -- we
3 developed -- we developed and assigned those risks at
4 the time they're released. We don't know what's going
5 to happen to them. That's what we think will happen
6 to them.
7 What you see in the red line is what
8 actually did happen. And so, you can see that these
9 lines almost lay on top of each other. That is, the
10 model predicts pretty well, in the aggregate, when
11 we're looking at risk levels, what the rate of
12 recidivism is going to be for that population.
13 This the same type of analysis, only instead
14 of predicting any re-arrest within two years, we're
15 predicting a VFO re-arrest. And, what you see here is
16 that at our lowest risk level, people we assigned to
17 the lowest risk group, have a two or three percent
18 chance, we assign, as coming back for a VFO. In fact,
19 they come -- not coming back, but they'd be
20 re-arrested within two years. And, in fact, that's
21 essentially what happened.
22 At the high -- the highest risk, we're
23 estimating around a 30 percent chance of coming back.
24 This population we tested it on actually, I think,
25 came back around 27 percent.

1 If you look, the first one -- the slide
2 before was looking at any re-arrest. This is VFO
3 re-arrest. If we did felony re-arrest, we're going to
4 see the exact, same pattern. The lowest rate is going
5 to be about ten percent. The highest rate is going to
6 be a little above 60. And it goes pretty much -- you
7 know, it goes up in the same gradation, and the lines
8 line up pretty well.
9 MR. SCHNEIDERMAN: Donna, the static risk
10 level is the same analysis. The same people are in
11 the one, two, three, four, five, in all of these
12 analyses?
13 MS. HALL: That's -- that's a great
14 question. When somebody is released, they're assigned
15 to multiple risk scores -- one for violence, one for
16 felony. Those are the two critical ones. Because,
17 somebody might be at high risk for the felony, but not
18 at high risk for violence.
19 And, I think the woman drug user is probably
20 a good example of that. She's likely to come back,
21 not necessarily like to come back for violence. So,
22 they -- they do have different -- different risk
23 scores.
24 And, what we -- just to sort of sum up that,
25 we used it for multiple purposes, but the Sentencing

1 Commission, I think, will probably be using some of
2 that, and Paul will talk about this a bit, to -- as
3 we're studying the effects of programs.
4 We can use risk scores as -- as one of --
5 one of many things that we're going to use to control
6 and try to match populations. So, I think that will
7 work nicely. DOCS has talked about using them to
8 prioritize their programming and develop some
9 programming around it.
10 This is actually -- there was some
11 discussion earlier about COMPAS, and about the LSI-R.
12 This is a piece of that kind of assessment. That --
13 those kinds of assessment have two components in them.
14 One is risk, which is often run off of very static
15 data like we have, like criminal history,
16 demographics. The other piece of it is what we call
17 the criminogenic needs, and that is measurements of
18 criminal attitudes, criminal personality, associates,
19 drug use, those kinds of things that Doctor Latessa
20 was speaking about.
21 So, while the State is trying to implement
22 and develop these two kinds of measures, we went ahead
23 and did an interim risk score, just so that we had at
24 least a piece of this kind of system in place to work
25 with for multiple reasons.

1 COMMISSIONER O'DONNELL: Donna, could you
2 -- how many cases did you use to validate the
3 instrument, when you did it?
4 MS. HALL: We -- we validated a couple of
5 different times, and each time we've done about 26,000
6 cases we're validating on.
7 COMMISSIONER O'DONNELL: So, it's very
8 significant data.
9 MS. HALL: Yes. And, we validate by -- by
10 age. We validate by gender. We split all different
11 kinds of ways. So, it's been validated through
12 different populations, different age, different
13 genders, all kinds of offenses. We cut it. It's very
14 solid risk prediction.
15 But, of course, it doesn't tell you what to
16 do with them. It only --
17 COMMISSIONER O'DONNELL: It doesn't.
18 MS. HALL: -- tells you who you need to --
19 you know, who you probably want to focus on.
20 COMMISSIONER O'DONNELL: But, it's almost a
21 hundred percent accurate in prediction.
22 MS. HALL: It's -- it's a good prediction.
23 Now, the hundred percent, I guess, would be we can
24 tell you with a hundred percent certainty that these
25 are going to be the failures and these are going to be

1 the successes, and we're a hundred percent correct.
2 What we're providing is probabilities.
3 So, what we like to suggest is that to the
4 extent we're focusing on programming, that we look at
5 that upper end, we look at, perhaps, level five and
6 above, or level six and above. You know, somewhere in
7 that. And -- and we try to do, perhaps think about
8 doing different things with the level ones, and twos,
9 and threes. For two reasons.
10 One is, you know, we probably can't do much
11 better than we want to do with them. That is, that
12 rate is fairly low, and it's probably not going to get
13 much better. And, to the extent it gets better, it's
14 not going to make much of a difference, because
15 they're so low to begin with.
16 The other thing is, of course, what's been
17 mentioned a number of times, and that is if we put too
18 much attention on low-risk offenders, instead of
19 controlling them in ways that could be dysfunctional
20 to their normal routine, we can make them worse. And
21 so, we encourage intervention at the higher levels.
22 I just want to -- you know, the president
23 was talking about -- a little bit about the first
24 month out, and what happens during that early release
25 period. And one of the wonderful things in New York

1 is, with the help of the Federal Government, is that
2 we have developed an inter-agency reentry effort and,
3 in addition, we have an inter-agency research team.
4 And so, we've matched data bases.
5 And so, when people ask questions about,
6 well, what does happen in the early time period, what
7 kinds of services do people get, we can answer some of
8 those questions now. And, we're certainly structured
9 to answer many questions, as they arise.
10 Here, what we did -- we did that same
11 release group from DOCS, and we matched them with
12 OASAS data, substance abuse data, to look at the
13 proportion who enter chemical dependence treatment
14 within one year of release from DOCS. And, what we
15 found in doing that was that about 32 percent actually
16 entered treatment during that first year of release,
17 during that first three or four months.
18 The further breakdown shows you what the
19 primary substance was when they entered treatment.
20 And, I think what -- one of the things I would say
21 about this here is the relatively large number coming
22 in for marijuana and alcohol, compared, you know -- I
23 mean, it's -- it's dark -- compared to the cocaine and
24 others, it's pretty significant. Now, that doesn't
25 mean that they might not have multiple treatment

1 needs. This is what they identified -- what the drug
2 treatment provider identified as the primary treatment
3 they received.
4 And here, this looks a little bit at that
5 group who did go into treatment, what kind of
6 treatment did they get. I apologize for the coloring.
7 I don't know -- it's not the color I chose. But, it
8 shows what kinds of treatment that they did get, and
9 77 percent entered outpatient treatment, another -- be
10 it all men -- 14 percent had crisis detox, and 9
11 percent had residential. So, the outpatient
12 treatment, and I think that's probably expected, is
13 the norm, in part probably because that's what is most
14 available.
15 This is time from release to the first -- to
16 the -- to the chemical dependency admission during
17 that first year. And, I think this is an important
18 slide. It shows that most of the admissions occurred
19 during those first couple of months. The first month,
20 by the way, is broken into those three segments. So,
21 it sort of lined up that way. We had to kind of put
22 them on top of each other, to get the whole first
23 month.
24 The first couple of months is when they're
25 getting the admissions. I suspect that a fair number

1 of these are referrals from parole. We didn't look
2 at, in this analysis, whether the MEs are
3 self-referring. I think that that's probably
4 something that is an important issue, that wasn't
5 here.
6 But, they are entering treatment fairly
7 early, when they do enter it.
8 Just kind of a piece of information, for
9 those interested in the mental health population.
10 That 16 percent of these folks that were released in
11 2003 had been admitted to an OMH facility while under
12 custody of DOCS. So, you know, whether you see it as
13 high or low, to me it seemed high. And, it shows that
14 DOCS has a very challenging population that they're
15 trying to deal with.
16 And, almost five percent were admitted to an
17 OMH facility in that first year subsequent to release.
18 A big issue, and we've heard it a thousand
19 times, and that's Medicaid. And, what we looked at
20 here, we matched, in this same process, with the
21 Medicaid data bases. We determined that Medicaid
22 eligibility state-wide for all releases was
23 established for 50 percent of these folks. So, 50
24 percent of them received the Medicaid eligible -- were
25 determined to be Medicaid eligible during that first

1 year's period. Whether they actually received
2 services, I'm not sure, but they -- I presume that if
3 they were determined to be not eligible, they probably
4 got some kind of service in conjunction with that.
5 That's about 14,000, by the way.
6 Another big issue, and that is how quickly
7 do they get Medicaid. I think that there's been a lot
8 of concern, and mentioning that there had been a delay
9 in getting Medicaid, and so the treatment gets
10 delayed. And again, --
11 COMMISSIONER O'DONNELL: Joe, do you want
12 to just comment on the legislation, that they really
13 -- it really is --
14 COMMISSIONER LENTOL: Yeah, I think it --
15 COMMISSIONER O'DONNELL: -- is wonderful?
16 COMMISSIONER LENTOL: -- and I know it
17 wasn't mine. It was Mr. Aubrey's legislation. I
18 think this would require Medicaid eligibility as soon
19 as the prisoners are discharged.
20 MS. HALL: Oh, okay.
21 COMMISSIONER O'DONNELL: Well, they passed
22 a bill that -- that said that your Medicaid would be
23 suspended when you went into the prison system, which
24 is the way it used to be. And so then, when you get
25 out, it would be reactivated right away.

1 COMMISSIONER ALEXANDER: And we can start
2 that process prior to them actually being released.
3 COMMISSIONER O'DONNELL: So, it only --
4 it's only helpful if you were on Medicaid before, but
5 it's enormously helpful to that population.
6 MS. HALL: And this research actually did
7 look at that issue, and I didn't have it here, but we
8 did look at who was on Medicaid prior to being
9 released -- or prior to going into prison.
10 What this showed was that Medicaid was
11 established fairly early. I mean, again, it depends,
12 you know, half cup -- or cup half-full or half-empty.
13 I'm not sure how you see it. But, it was established
14 fairly early in the post-release period, usually
15 within that first month. It tails off at -- in the
16 next, you know, next time period. And then, you know,
17 once we get beyond two months, we've got another
18 substantial peak there, as well.
19 Now, this doesn't control for when they
20 applied for Medicaid. So, it might have been two,
21 three, four months out before they identified a
22 treatment need and applied at that time.
23 COMMISSIONER O'DONNELL: But the
24 significance is if they're not on Medicaid --
25 MS. HALL: Yeah.

1 COMMISSIONER O'DONNELL: -- and they don't
2 have the resources, they can't really have drug
3 treatment, mental health treatment, get medications
4 for illnesses, et cetera.
5 MS. HALL: Right, exactly.
6 COMMISSIONER O'DONNELL: So, the
7 possibility of -- of re-offending in that situation
8 would be much higher.
9 MS. HALL: It would be higher, yeah. And
10 -- and so I suspect, you know, having -- having it for
11 multiple purposes, simplifying the process if they
12 are, indeed, eligible for it, that they would just be
13 re-activated. That's going to -- that should make a
14 significant difference. Because, a lot of these guys
15 were found eligible prior to going into prison.
16 And the last thing we pulled out from the
17 interpretation that we, you know, had done -- or
18 pulled data together for is what -- you know, how is
19 the money spent around -- if you look at Medicaid
20 utilization for mental health and chemical abuse
21 services, how much money is spent on this population
22 during the first year out. And, it turned out to be
23 about -- and I don't want to get this wrong. I think
24 it was, like, about 55 million. And, that was over --
25 a little over 8,000 people.

1 So, there is a -- and, that's just for
2 chemical dependence and mental health services.
3 Significant, in terms of money going for services.
4 You know, perhaps not unusual, given the population
5 that were doing something during that first year.
6 So, that's all the data I pulled together.
7 But, if you have other reentry questions, or
8 particularly as the reentry subgroup becomes
9 established, we can answer, you know, many
10 cross-agency questions for this process.
11 COMMISSIONER BERGAMO: I have a question.
12 COMMISSIONER O'DONNELL: Thanks.
13 COMMISSIONER BERGAMO: And, kind of -- kind
14 of give me a little -- be patient with me. Most
15 people coming out of prison, I mean, have trouble
16 making a living. And sometimes they're probably also
17 associating with people who are also broke or have
18 been in trouble. And, it may have been tried around
19 the country, my -- forgive me -- an incentive. Where,
20 if you make ten dollars a week, I'll give you two
21 dollars a week. If you make two hundred dollars a
22 week, we'll give you fifty dollars a week. For the
23 first six months, the first -- some transition
24 incentive if you earn money, if you work. Has that
25 been done anywhere? Do you know?

1 COMMISSIONER O'DONNELL: Not that I know
2 of. I know that there is proposals. I think
3 Assemblyman Aubrey had a bill to pay, you know, like
4 tax credits and things to employers, to get them to
5 employ people. But, I haven't -- I don't know if
6 there's any programs that, you know, --
7 COMMISSIONER BERGAMO: I mean, I was
8 curious about this --
9 COMMISSIONER O'DONNELL: -- reward or
10 increase someone's --
11 COMMISSIONER BERGAMO: Only when someone
12 makes six dollars an hour, they can't make it, so
13 they're going to revert to what they did before. I'm
14 just curious about that. Thank you.
15 COMMISSIONER O'DONNELL: That -- hm? And,
16 Paul Korotkin?
17 MR. KOROTKIN: Let me start by saying that
18 I'm very honored to have a chance to speak to this
19 group, and very humbled. I get to call Doctor
20 Latessa, Doctor Travis, Doctor Hall. I am not a
21 doctor. I play one at work, but I'm not a doctor.
22 [Laughter]
23 MR. KOROTKIN: I have twelve staff members.
24 Everybody has their Master's. Only one from John Jay.
25 Four PhDs that work for me. I have worked with DOCS

1 for 19 years now, 4,000 business days, for 30,000
2 hours. I've had a chance to study what happens to
3 DOCS, with the help of my staff.
4 I get to reinforce a little bit of what's
5 been said today. I also get to answer questions that
6 were asked of me two weeks ago. And that fits,
7 really, my -- my major style is rather than being up
8 in front of a group, just responding to questions that
9 come up. And, that's what's going to be my job while
10 working with you folks. I'm here as support for you.
11 I'm not a policy maker. I am somebody who is going to
12 help you shape the questions, to put it into a
13 context.
14 Now, you've heard lots of people give lots
15 of data, lots of DOCS data. And now, I get my chance
16 to show you a little bit of data.
17 (Pause)
18 MR. KOROTKIN: Now, very early on, we heard
19 Marty Horn talk about the fact that State-ready
20 inmates pile up in the jails, and Marty's got his
21 reasons. So, we go back -- I started cranking it.
22 This is weekly data, going back to 1990, on the number
23 of people State-ready, sitting in local jails. It
24 topped out at about 4,300 back in 1999.
25 And, one would think, with my economist

1 training, that I can't just when I'm doing population
2 projections and doing impacts of legislative changes,
3 I can't just look at who is in prison, because that's
4 capped by the capacity. So, I have to change, and
5 instead we look at the demand for DOCS bed space.
6 The demand for DOCS bed space was the number
7 of inmates in DOCS custody, plus the number of people
8 who are State-ready. If I track that, then I can have
9 the Legislature and my bosses worry about the supply
10 of beds while I look at what's the demand for beds.
11 COMMISSIONER O'DONNELL: Would you just
12 define "State-ready"? I think most people know, but
13 --
14 MR. KOROTKIN: State-ready are people who
15 have been identified on the New York State Police
16 Identification Network as ready to come back to DOCS
17 because they have either been a new commitment who has
18 been sentenced to come to DOCS, or a parole violator
19 who has gone through the entire process. So, it's a
20 combination of those two numbers.
21 COMMISSIONER O'DONNELL: And so, when they
22 get ready, usually they've been sentenced or whatever.
23 MR. KOROTKIN: They -- not usually. They
24 have absolutely --
25 COMMISSIONER O'DONNELL: They have --

1 MR. KOROTKIN: -- been sentenced, and the
2 County, and Parole, and the courts have all told us
3 this guy is yours. Take him. And, you've got ten
4 days to get him in, or you're out of compliance, and
5 you owe the County money.
6 At the last -- the last session, Terry Saylo
7 [phonetic] came, and she showed you data that was ten
8 years old, and tracked for ten years, and showed you
9 how crime has gone down, the people coming to DOCS has
10 gone down, and New York City is going down. And, ten
11 years is an interesting period, but is it the right
12 period for us to be looking at?
13 Here's three years. We've been apparently
14 flat. We were 65,000. We're now just over 64,000.
15 And, that initial drop was primarily because the
16 Legislature -- I'm sorry that Assemblyman Lentol is
17 not here -- the Legislature passed supplemental merit.
18 A thousand people got out of prison early because this
19 new law -- supplemental merit -- part of Marty Horn's
20 crazy-quilt of things that we do to get people out
21 early -- supplemental merit and the A-I drug
22 re-sentencing all happened, so we saw this -- this
23 drop. Artificial or real, it happened.
24 Now, as President Travis mentioned this
25 morning, we've got a little bit of an uptick going on

1 here. Is this real, and we want to look at it? Let's
2 see the next one.
3 We're now looking at seven years. This is
4 the -- let's congratulate ourselves, how we came from
5 75,000. Now, this is the last three years. Is this
6 what we want to look at? Or, is this what we want to
7 look at?
8 The next one. 1995. We did a lot of
9 depicting what has happened in the system in the
10 twelve years. We've done a lot of work showing
11 everything back to 1995. 1995 was a slight line up.
12 Now, we go to the Korotkin level, since
13 1990, not a slight rise up. We climbed the mountain.
14 And then, here's the last three years. So, what are
15 we going to look at? Everything is perspective. I'm
16 going to help shape, with you, the questions that need
17 to be asked, and hopefully get you the answers, and
18 tell you what we can answer and what we can't answer.
19 The early release programs that happened.
20 Going back, again, to 1995, just compared to 1996.
21 Seven thousand people a year were either diverted from
22 DOCS or got out early, compared to what the courts
23 set.
24 Shock incarceration program. Notice the
25 numbers have been sliding down. They're sliding down

1 further since we put in determinate sentencing for
2 drugs. Does this make sense? Sure.
3 One of the things that we held out for Shock
4 was you go to Shock, you do six months, you get out 95
5 percent of the time, compared to, you know, you're
6 shoot -- you're rolling the dice. Maybe you'll get
7 out 60 percent or 70. No, you're getting out 100
8 percent of the time now, with determinate sentences.
9 So, we've taken away that little incentive for people
10 to go into Shock program.
11 Merit program. Again, this tick up was
12 supplemental merit. Willard, I've broken it out --
13 and, you should all have a packet of this, hopefully.
14 It just arrived at 10:30 this morning.
15 I've broken out Willard for the courts and
16 the PBs. ECPDO is the early conditional parole for
17 deportation only. And then, the A-Is.
18 Looking at a larger perspective. 1950. In
19 1972, we were at 12,000 inmates in New York State, 27
20 years of being the growth industry in the State.
21 Predicting where it was going to change was not an
22 easy task.
23 Last time I was asked about VFOs under
24 custody, and whether we match up with what the rest of
25 the country is. Just like with recidivism, it's tough

1 for us to compare crimes. We do the legislatively
2 defined VFOs. In other states, robbery crimes are not
3 a VFO, burglary is not a VFO, robbery third is a VFO,
4 but not in New York State. So, comparing them of one
5 against the other sometimes can get difficult.
6 But it appears that during this period is
7 where the rest of the country is. And, we're starting
8 to tick up again, keeping our bed space for the
9 violent felons.
10 Crime is not where I start doing my
11 population projections. Crime is how many victims
12 said that they had a crime committed against them.
13 Drug offenses are not part of crime. Arrests are what
14 starts the process of getting somebody to DOCS.
15 The arrests have dropped except for the last
16 three years, and they're up again another two percent
17 this year.
18 Felony arrests lead to new indictments. The
19 number of felony cases filed by county. The dark
20 solid line is a 12-month moving average, trying to get
21 the seasonality out of what you're looking at. The
22 light lines are term by term, how many cases were
23 filed, new felony cases were filed. So again, slight
24 turndown, going up in the last year plus.
25 Indictments then lead to dispositions, cases

1 getting closed. The same line. Tick up again.
2 But, what's even more troubling for me is
3 that over the years, the courts have been disposing
4 more cases than the new indictments. Therefore, the
5 backlog sitting on judges' desks has dropped from
6 21,000 in 1995, down to under 14,000 in 2002. It
7 started to get out of hand, they controlled, now it's
8 starting to get out of hand again.
9 Arrests are going up. Indictments are going
10 up. The productivity of the courts has not yet
11 started to attack it, and the backlog is starting to
12 come. What's that mean to DOCS? A disposition.
13 These we'll commit. Back, back, back, back, back,
14 starting to work.
15 All right. We're talking about that phantom
16 line. Whatever comes in. Marty made it simple. He
17 said it's how many people come in, and how long will
18 they stay. I make it even simpler. How many people
19 come in, and how many people go out? And, Jeremy
20 showed the admissions and releases earlier.
21 I'm sorry. Thank you. The next one.
22 Another piece, besides new commitments at the front
23 door, we get people who are returned as technical
24 violators.
25 I started looking at the number of parole

1 violators, but not only the parole violators. People
2 removed from the community. From 1992, less than
3 4,500 technical violators came back to DOCS. The
4 number climbed. We opened Willard.
5 Willard is a -- I'm only looking here at the
6 diversions from DOCS, as opposed to the new court
7 commitments. By 2006, over 12,000 individuals were
8 removed from the community, to either come back to
9 DOCS or go to Willard. And so, that's the other half,
10 besides new commitments at our front door.
11 On the back door, we release people to
12 parole supervision. This does not include the maximum
13 expiration, which as you saw on Jeremy's slide, has
14 held fairly constant -- 2,000 to 2,500 over the
15 fifteen years that he looked at.
16 And, the Parole Board -- well, we also saw
17 that not only does the Parole Board release people,
18 but you reach mandatory release, so that you can be
19 conditionally released sometimes without seeing the
20 Parole Board. The determinate sentences that were
21 passed in 1995 and 1998, for the second felony violent
22 offenders, and then all violent offenders in '98,
23 don't see the Parole Board. They get out as a
24 conditional release. They're included in here.
25 But, what drives this more than anything is

1 the parole release rate. This is a monthly chart of
2 parole release rates, going back to the start of the
3 earned eligibility program in 1987.
4 Earned eligibility program is anyone who has
5 a minimum sentence of six years or less, they
6 increased it to eight years or less about three years
7 ago -- but, primarily six years or less on this chart,
8 has to go -- has the ability to earn an earned
9 eligibility certificate to enhance their possibility
10 of being released from the Board -- by the Board.
11 When the program started, the release rate
12 was up in the 70 percent. By the way, this removes
13 the Shock cases. The Shock incarceration program gets
14 out at about a 95 percent release rate, as I said.
15 So, we took that out of the analysis, to watch to see
16 how the Board was doing on any given month, and to
17 give them feedback.
18 So, we saw the release rate dropping,
19 dropping, dropping. The Governor did a state of the
20 State in 1999, saying that he is for the removal of
21 parole. Let's get rid of it. The Board interpreted
22 that as he doesn't want us to release anybody. It
23 took a couple or three months to convince them that
24 that wasn't what he meant.
25 [Laughter]

1 MR. KOROTKIN: But, it never came back up
2 to a real good level, as far as we were concerned.
3 And remember, in 1995, and again in 1998, we started
4 to remove the violent felons from seeing the Board.
5 You would expect that this group which was never
6 getting out at a high rate, if you take them out, you
7 would watch the rate go up. It didn't happen.
8 Here, we started doing determinate drug
9 sentences. Drug offenders get out at a very high
10 rate. If we take them out, we expect a drop. We
11 found that it didn't.
12 But, then came the election. And, the Board
13 really didn't have any direction. This is a real good
14 sign to DOCS, to me. I'm seeing that the parole
15 release rate for the last three months has increased
16 markedly. And, we're hoping that that is going to
17 stay in place to offset what's happened in the
18 increase in arrests and what may happen with the
19 courts.
20 COMMISSIONER ALEXANDER: That certainly
21 coincides with when I came on board, right?
22 COMMISSIONER O'DONNELL: Yes.
23 [Laughter]
24 MR. KOROTKIN: I threatened no one in this
25 room.

1 I was asked the question how long do
2 offenders stay? 43.3 months, average time. Not with
3 DOCS -- average time out of the community, the state
4 and jail time.
5 If I look at another measure, the median
6 length of time served in DOCS. Median takes out those
7 long-term offenders. You've got half the guys serving
8 longer than this, half the guys serving less than
9 this. Drug offenders and property offenders, 17
10 months. YOs and JOs, 9 months.
11 It -- our goal -- at least I'm told by John
12 Nuttall, my Deputy Commissioner -- is to make sure
13 that we identify the programs that they need, provide
14 them the programs, return them to the community a
15 better citizen, in 17 months.
16 Another look at this. We are at 43.3
17 months, the total time that they stay out of the
18 community. Up from 34.7, 35 months in 1997. That's
19 declined here. So, the Board has pulled this line up
20 slightly, but the violent felons went from 52 months,
21 their average length of stay, to 75 months.
22 Everything else has stayed fairly constant.
23 The drugs, in particular, started at 30
24 months, ended at 31 months. But, there was a little
25 bit of a blip up here, to 36 months, as the Board was

1 not permitting them to be released at their initial
2 appearance. Then, determinate sentencing came into
3 this release cohort, and it dropped it back down to 31
4 months, where we think it will continue to drop
5 slightly, but it's too soon to tell yet.
6 Questions about specific programs and
7 recidivism rates are thrown into your packet. The
8 CASAT Program -- which is Comprehensive Alcohol and
9 Substance Abuse Treatment Program, which is a
10 six-month annex phase, followed by work release.
11 Since 1995, the numbers of people in here have been
12 diminished markedly. The Executive Order that was put
13 in place in '95, not allowing violent felons to
14 participate in the work release program, has limited
15 the number of people that have gone into the CASAT
16 program.
17 But, overall, if I break out DOCS-run males
18 -- and, by the way, this is one page of a report that
19 we put out annually -- DOCS-run males versus Marcy,
20 the reason for that, Marcy was run by the Phoenix
21 House, and we were required by the Legislature to
22 report separately on the two programs. And, there are
23 different philosophies, as well.
24 Ours, you complete the annex phase, and you
25 go out into the community, and while out in the

1 community, you are in the battle. You're facing
2 what's happening in work release.
3 Marcy ran a residential treatment for phase
4 two. The people were not out in the community.
5 Instead, what happened was they got out into the
6 community -- and this part here is the people who
7 completed everything -- all of a sudden now they have
8 the war to fight, and it was a bit of a shock, so
9 their successful completers had a return rate of 27
10 percent, versus the DOCS-run programs were at 23
11 percent, because they had already fought the war.
12 Other programs that I was asked to look at,
13 and I should say by my Commissioner, knowing that the
14 Commission was going to be asking these questions, we
15 have done this very, very recently. We looked at the
16 work release program. We looked at it back in 1994,
17 the people who were released from the Department back
18 when VFOs were still permitted to be participating,
19 and we've looked at it again in a 2001 through 2003,
20 so we would have a robust enough sample to have it
21 meaningful.
22 The people who completed CASAT and then went
23 on to work release, their return to custody after
24 completing CASAT successfully, 25 percent. Other
25 people who went to work release without doing CASAT,

1 37 percent. The people who were released from DOCS
2 who didn't do any of these programs came back at 48
3 percent. Similar findings in 2001 through 2003.
4 The next slide --
5 COMMISSIONER O'DONNELL: Wait. Could you
6 just wait, though, one second?
7 Are the people that don't have -- go in the
8 programs, do we now, if they are drug offenders or
9 alcohol, do they have drug and alcohol problems?
10 MR. KOROTKIN: Non-work release doesn't --
11 work release does not have to have drug and alcohol
12 problems, so we did not look at a comparison that
13 would match that, no.
14 COMMISSIONER O'DONNELL: Okay.
15 MR. KOROTKIN: The next page does show you
16 the size of the groups that we played with, so you
17 have the data that backs up what was on the previous
18 slide. We've done the same sort of thing with the
19 next four.
20 For Willard, both the parole violators being
21 diverted, as well as the judicially sanctioned cases.
22 We're looking at, again, a three-year group of people
23 that were released. The Willard parole violators come
24 back -- 53 percent come back to DOCS within three
25 years. A comparison group, people who went to DOCS,

1 who could have been sent to Willard instead, they
2 returned at a 15 percent rate.
3 Again, this is what Donna showed, that the
4 subsequent releases, the people who have already been
5 identified as failures, fail at a fairly high rate --
6 this 53 to 58 percent.
7 On the other hand, we've also looked at the
8 cases that came directly to us from the courts, the
9 Willard judicially sanctioned, as well as the Willard
10 extended program, which was followed by a -- which is
11 Willard followed by a three-month -- six-month --
12 six-month residential treatment in the community -- in
13 fact, on this, we had to lag and do a three and a half
14 year follow-up, since they weren't really available
15 for returning. The judicially sanctioned come back at
16 43 percent, the extended 41 percent.
17 And the comparison group of people who came
18 to DOCS, who looked like, in terms of their crimes,
19 and their criminal history, and their drug problems,
20 coming -- came to DOCS instead of the judge and the
21 D.A. saying why don't we look at Willard as an
22 alternative. And again, we've showed you some numbers
23 that worked out successfully.
24 COMMISSIONER GREEN: Can we go back to that
25 point, just a minute, on Willard?

1 MR. KOROTKIN: Yes, sir.
2 COMMISSIONER GREEN: Is that saying that
3 the people who went to Willard in the judicial
4 sanction group actually had a higher recidivism rate?
5 MR. KOROTKIN: Let's see that again.
6 COMMISSIONER O'DONNELL: I thought it was
7 lower. Let's see.
8 MR. KOROTKIN: Than the --
9 COMMISSIONER GREEN: Than the comparable
10 group --
11 MR. KOROTKIN: -- people who were at DOCS.
12 Yes, it does say that. I -- I wasn't asked to --
13 COMMISSIONER O'DONNELL: Is it --
14 MR. KOROTKIN: -- but, you could be right.
15 COMMISSIONER O'DONNELL: -- put a gloss on
16 it.
17 MR. KOROTKIN: I'm just reporting the data.
18 But yes, that's what it says.
19 COMMISSIONER GREEN: So, we're better off
20 not sending them to Willard.
21 COMMISSIONER O'DONNELL: If --
22 MR. KOROTKIN: I'm not a policy maker.
23 COMMISSIONER O'DONNELL: But, a little
24 better if they're parole violators, right? This --
25 the first two columns, are they --

1 MR. KOROTKIN: These are people who were
2 diverted -- who were on parole, who were either
3 diverted to Willard or came back to DOCS. These are
4 people who were coming from the courts, either as a
5 judicially sanctioned, or were an extended case, or
6 went to DOCS, even though it looked like they could
7 have gone to Willard.
8 COMMISSIONER GREEN: I guess one -- another
9 question, then. In terms of statistical significance
10 for those differences, when you look at them, is there
11 anything --
12 MR. KOROTKIN: The sample size is fairly
13 robust. We did not look at that, but chances are real
14 good that it's there.
15 And again, I think that back at the Willard
16 extended, you only had 153 cases, but the others were
17 well into the thousands.
18 On the --
19 COMMISSIONER GREEN: And, once the -- I'm
20 sorry. The Willard JS, those are -- are those parole
21 violators or no?
22 MR. KOROTKIN: No, judicially sanctioned
23 cases that --
24 COMMISSIONER GREEN: Okay.
25 MR. KOROTKIN: -- came through the courts.

1 COMMISSIONER GREEN: Those are the D and E
2 felonies, where --
3 MR. KOROTKIN: Second felony offenders, D
4 and E felons, with no prior felony worse than a C, and
5 nobody violent.
6 COMMISSIONER GREEN: No violence.
7 MR. KOROTKIN: No violence.
8 I've ruined your packets, because I couldn't
9 figure out how to get it up here. I was asked about
10 Shock recidivism. There's three pages in there,
11 charts on Page 49, showing the overall comparison to
12 Shock, 28,555 graduates are compared to other groups,
13 the people who failed to complete Shock, the people
14 who refused Shock, the people who looked like they
15 were eligible for Shock but didn't go.
16 Then, Page 53 shows that by age -- at which
17 age Shock seems to do better than non-Shock people.
18 It was insignificant.
19 As mentioned, in DOCS programming, we look
20 at five areas. We look at substance abuse, academic
21 education, vocational education, sex offender
22 treatment, and aggression replacement treatment. And,
23 we decide how many of those five areas. A guidance
24 counselor sits down with the person as soon as they
25 walk in the door, quarterly. Every three months, sit

1 down with your guidance counselor. Where are you in
2 your program? How are you doing on it?
3 Now, for five areas, we have only 17 months
4 for the typical non-violent felony offender. We've
5 got to get them substance abuse or academic education
6 to make them merit eligible, and they can then cut off
7 one-sixth of their sentence for indeterminate,
8 one-seventh of their sentence, so we've got to get
9 them into the programming. And, 63,000 inmates,
10 limited resources, how do we do on that?
11 Well, we looked at a study, the first ten
12 months of 2002. It's old data, but fortunately, in my
13 game, the outcome measure is did you come back to DOCS
14 in a certain period of time. We're not measuring the
15 speed of the system, so we've got to give it time.
16 So, the last one that we looked at was the
17 first ten months of 2002, and we tracked them for two
18 years. Did they come back?
19 The first thing we did was identify how many
20 of the 13,000 people had identified needs -- 11,000
21 had a need for substance abuse; almost 12,000 had a
22 need for vocational training. The threshold for
23 academic is that they didn't have their GED or high
24 school diploma -- 9,000 of the 13,000 got out of
25 prison after coming to us without that level. Number

1 completing the program. We've improved these numbers.
2 But, back in 2002, 60 percent of the people left us
3 having their substance abuse treatment being met, six
4 months of substance abuse treatment, 59 percent with
5 aggression, lower numbers. Essentially, this -- this
6 one is a little bit -- only 37 percent of the sex
7 offenders finished successfully, completed their
8 treatment program before being released in 2002.
9 What we found is that --
10 COMMISSIONER LENTOL: Excuse me, Paul?
11 MR. KOROTKIN: Yes, sir?
12 COMMISSIONER LENTOL: I guess Mr. Latessa
13 would say there is no behavioral modification?
14 MR. KOROTKIN: That is correct. There is
15 no --
16 COMMISSIONER O'DONNELL: What's the
17 aggression part of it? Is that --
18 MR. KOROTKIN: Well, --
19 COMMISSIONER O'DONNELL: -- possibly in --
20 MR. KOROTKIN: -- but if it's --
21 COMMISSIONER O'DONNELL: -- your
22 management, but it's not --
23 MR. KOROTKIN: -- it's not a cognitive
24 program, --
25 COMMISSIONER O'DONNELL: Um hmm.

1 MR. KOROTKIN: -- and it's something that
2 John Nuttall, ever since being involved with the
3 Reentry Task Force that Donna will be talking about,
4 has realized that this is a shortcoming. We've now
5 put it into our transitional piece at the end. But,
6 it's something that we are working on developing.
7 We're still trying to find is there a
8 program out there. The questions that you folks
9 asked. It there a curriculum that works? Is there a
10 training program that works? And, it's something
11 that's being looked at. Especially in 2002, there was
12 none.
13 But, what we found was that if you completed
14 the program, your chance of success -- and this is a
15 -- my Commissioners really like to talk about success,
16 rather than failure, so this is upside-down from
17 recidivism rate -- 73 percent succeeded, 27 percent
18 recidivated if you completed the program. But, only
19 63 percent succeeded if you had an identified need but
20 did not complete the program, 37 percent recidivism
21 rate. And, you find that for each and every program.
22 But again, these people have multiple needs.
23 So, what we look at was if you complete -- what
24 percent of the programs that you had identified for
25 you did you complete? And, if you completed one out

1 of the four -- again, we have five criteria. If you
2 completed one out of the four, your chance for success
3 was worse than if you completed three out of the four.
4 In fact, we see an overall increase.
5 The overall group had a 70 percent success
6 rate, 30 percent recidivism. But, the more -- the
7 higher proportion of the programs that you had
8 identified that you completed increased your chance
9 for succeeding out in the community.
10 Now, let me end with the four markings.
11 There are three types of lies -- lies, damned lies,
12 and statistics.
13 [Laughter]
14 MR. KOROTKIN: I'm here as your support, to
15 help you overcome what everybody believes. We're
16 going to work on getting the questions right, getting
17 the time frames right, and getting the whole package
18 right. And, I appreciate that you're going to work
19 with me.
20 COMMISSIONER O'DONNELL: Thank you.
21 [Applause]
22 COMMISSIONER O'DONNELL: Thank you, very
23 much, Paul. And, we're going to move right ahead, to
24 hear from Donna Reback.
25 Donna Reback is a very talented and gifted

1 social policy consultant who, under a Federal
2 Department of Corrections grant, and an NIJ grant, is
3 providing technical assistance to New York.
4 First, in the sex offender management front,
5 with a group which has pretty much completed its work
6 and is now moving toward becoming a policy group for
7 sex offender management in New York.
8 And, probably more significantly for our
9 purposes here, Donna is the consultant to the New York
10 State Reentry Task Force, as part of the transition
11 from prison to community initiative in New York State.
12 That's a working group that we've recently
13 revived under the new administration. It also the
14 spearheaded -- the group that spearheaded local
15 reentry task forces that we currently have operating
16 in nine counties throughout the State. We also have
17 an RFP in progress for more counties, to expand the
18 local reentry task forces.
19 So, Donna knows New York, and she knows the
20 players, and our history of dealing with reentry.
21 FEDERAL TPC:
22 TRANSITION FROM PRISON TO THE COMMUNITY
23 MS. REBACK: Well, I do know New York, and
24 I want to say that I feel very honored to be here and
25 to meet all of you. I'm listening to what you're all

1 listening to in the course of one day, and going "Oh,
2 my gosh. I don't know how you're incorporating all of
3 that."
4 I have to apologize. I assumed that my
5 PowerPoint presentation was going to be loaded onto
6 this, and it wasn't. You all have handouts with you,
7 so I'm just going to have to walk you through this.
8 And, it was just a mis-communication. I assumed if I
9 sent in --
10 COMMISSIONER O'DONNELL: Sorry.
11 MS. REBACK: -- my materials, that was
12 going to be loaded, and I realize it wasn't.
13 Let me just tell you that I wanted to --
14 everybody's got the presentation, and I --
15 COMMISSIONER O'DONNELL: Can you just hold
16 it up, so we'll --
17 MS. REBACK: Okay.
18 COMMISSIONER O'DONNELL: -- know what
19 you're -- okay, that's that one.
20 MS. REBACK: Yes. It's the one in
21 turquoise, yes. It had originally been in brown, and
22 I thought that turquoise would work better.
23 But, I wanted to just start off by saying my
24 presentation, as Denise told you, is basically to
25 describe an existing technical assistance project

1 that's been going on nationally, and New York State
2 has been one of the states that's been involved in the
3 -- do you need a handout?
4 UNIDENTIFIED: No.
5 MS. REBACK: Okay.
6 So, New York State has been one -- one of
7 the states that's been involved in a national model
8 that is focused on helping offenders reenter
9 successfully, so that ultimately we have better public
10 safety outcomes.
11 The model -- and I want you to all really
12 think about this -- is really focused on large system
13 change. You've been hearing a lot about programs.
14 You've been hearing a lot about what works and what
15 doesn't work.
16 And, what our model does is really take a
17 lot of that information and try to put it into a
18 context of what a system would look like. It involves
19 culture change. It involves re-thinking the way all
20 of us who are involved with offenders in any way work
21 together.
22 But, before I talk about that, I just wanted
23 to let you know that New York has a pretty long
24 history of working in technical assistance projects
25 with the National Institute of Corrections, which is

1 the Federal technical assistance arm of the Justice
2 Department that sponsors the project that we're
3 working with right now.
4 New York State has many of its counties and
5 the Parole Board, the State Parole Board had been
6 involved on a technical assistance project focused on
7 violations, probation and parole violations. And the
8 focus of that work that was done over the year was
9 really to get both probation agencies in different
10 counties and the State Parole Board, when it
11 participated, thinking about how to build policies
12 that were more effective, so we weren't just having
13 technical violations and non-compliance violations
14 that end a lot of people up in prison who might have
15 been able to stay in the community if there had been
16 some intermediate road.
17 So, up here, you see that from 1988 to 1999,
18 a number of counties -- Ulster, Suffolk, Nassau, and
19 Dutchess County -- the City of New York Departments of
20 Probation, and the State Parole Board were involved in
21 that.
22 Following that, the National Institute of
23 Corrections, for a number of years, from '97 to 2000,
24 had a national project that was focused on helping
25 jurisdictions really get a sense of how to build

1 cost-effective ways of managing offenders. And,
2 Dutchess County and Saint Lawrence County in New York
3 were two of the participants in that national program.
4 The comprehensive approaches to sex offender
5 management is a project that's been going on. It's
6 funded by the Department of Justice, Bureau of Justice
7 Assistance, and it was run through the Center for
8 Effective Public Policy. And, that was a grant
9 program. It's still going on. And, that grant
10 program was really focused on teaching jurisdictions
11 that got these grants what the evidence-based practice
12 base was for dealing with sex offenders. Because,
13 dealing with sex offenders is a somewhat different
14 business from dealing with non-sex offenders.
15 In any case, if you look at this, you will
16 see that Westchester County, Ulster, Oswego, New York
17 City, Saint Lawrence, Saint Regis, Mohawk Nation,
18 Rensselaer County. The Capital District had five
19 counties. Dutchess County was involved. Catskill
20 region had five counties. Nassau and Suffolk were all
21 grantees. And, in 2004, the State of New York was a
22 grantee.
23 And, what happened in 2004 and is still
24 going on is that a very large collaborative steering
25 committee of players from across the system came

1 together and actually learned about what
2 evidence-based practice is with sex offenders, learned
3 what works in managing sex offenders, because they
4 will come back into your communities.
5 They're in the process of issuing a report.
6 There is now an Office of Sex Offender Management.
7 And, that is a very discrete area of expertise that
8 you now have in your state, that you should be aware
9 of as you're thinking about reentry issues.
10 And then finally, the issue that I'm now
11 representing, the transition from prison to community
12 initiative. New York State, as I said, is one of
13 eight states across the country that is involved with
14 this technical assistance effort. The other states
15 include Georgia, Indiana, Michigan, Missouri, North
16 Dakota, Oregon, and Rhode Island.
17 And, this is -- so, my involvement here is
18 I'm -- I'm involved with this project. I am the site
19 coordinator for this project. I have also been
20 involved in all of the other projects in New York
21 State. And although I live in Vermont, I love New
22 York.
23 [Laughter]
24 MS. REBACK: I know a lot about you. And,
25 the reason that I'm giving you this history is that

1 it's important for you to know that there are pockets
2 of expertise and competence around the state, around
3 these different issues. So, as you begin to look, if
4 you're interested in probation and parole violations
5 and how they can look to improve offender reentry, if
6 you begin to think about sex offenders and what works
7 and what doesn't with sex offenders, when you begin to
8 think about offender reentry, you've got in front of
9 you some of the particular counties and the state
10 entities that have done this work and know about it.
11 The common characteristics of a lot of these
12 projects are they all have a public safety focus.
13 What we're doing is working on making these
14 communities safer by figuring out how to help
15 offenders be successful.
16 They're multi-disciplinary. And, I think
17 this is the driving point that you're going to hear
18 from me again, and again, and again. You've got to
19 have all of your stakeholders involved in this work.
20 Traditionally, we have given the criminal justice
21 agencies -- corrections, probation, and parole -- the
22 entire responsibility for taking care of offenders.
23 Obviously, prosecutors and the courts coming into the
24 system. But, on the way out, it's those agencies.
25 What we know is that human service agencies

1 own the people that we work with as much as criminal
2 justice agencies do. Our offenders have mental health
3 issues, they have substance abuse issues, they have
4 low education scores, they have housing needs across
5 the board. There is no reason for all of these
6 agencies to be working separately. We need to be
7 working in concert together.
8 So, let's see. We have a Web site. The
9 National -- the Transition From Prison to Community
10 Initiative Project has a Web site, and there is a
11 whole piece on New York State. And, you can go to the
12 Web site if you want to. It's on there.
13 So, let me just give you a little bit of the
14 overview of this project, the Transition From Prison
15 to Community Initiative. We haven't called ourselves
16 a reentry initiative, but everybody else calls us
17 reentry. So, that's what we're talking about.
18 We're here, of course, to help you -- to
19 help states enhance your transition process by taking
20 evidence-based practice into account. And obviously,
21 providing mutual ownership, really promoting that
22 agencies work together, helping corrections, the
23 releasing authorities, supervision, and human service
24 agencies form strategic approaches and partnerships to
25 helping offenders be successful, and assisting

1 agencies in figuring out how to effectively target the
2 existing scarce resources to high-risk offenders. So,
3 what you're hearing from Doctor Latessa, what you're
4 hearing from Jeremy Travis, what we know from the
5 information that DCJS has provided, we are
6 reiterating, as well. You really, really need to
7 think about targeting your scarce resources first, and
8 in particular ways, to high-risk offenders.
9 The goal of the Transition From Prison to
10 Community Initiative -- there are a couple of them.
11 One is, of course, to promote public safety by
12 reducing the threat of harm to persons and property by
13 released offenders in the community. And, to return
14 -- to increase the success rates of the offenders who
15 transition from prison, by fostering effective risk
16 management, treatment programming, and accountability,
17 both for the offender and for the agencies that work
18 for them in the community, and victim participation.
19 Now, on offender reentry -- and I think
20 Jeremy Travis talked about it first -- we --
21 traditionally, we have just talked about and thought
22 about reentry as being that point when the offender
23 walks out of prison and comes back into the community.
24 But, the new vision of offender reentry is that, one,
25 it is not a program. It is not a point in time. It

1 is a process.
2 And, from our perspective, the process
3 begins the day the offender enters the system.
4 Because that is the first opportunity to assess.
5 You've heard that from Doctor Latessa. You've heard
6 that from Jeremy Travis. You're hearing this from
7 DCJS and DOCS. To assess who that offender is, based
8 on his or her risk, and what kinds of needs they have,
9 and to gather that information and begin to use it
10 with your partner agencies in a way that works.
11 We base the principles of our program on
12 collaboration. You're going to hear me say it again
13 and again. Working together, getting more than our
14 criminal justice agencies. Getting our partner human
15 service agencies, our community non-profit agencies
16 working together. Evidence-based practice, which
17 Doctor Latessa covered very well this morning.
18 And, organizational development. And,
19 that's a huge piece of this. There are a lot of
20 things that have to happen within the agencies and
21 within the structure at large in order to make
22 successful offender transition work.
23 Okay. You have this chart here, and it
24 looks like a battleship. Some people have described
25 it as a battleship. Some people have described it as

1 a conference table. But, what I will tell you is that
2 at the top of the chart, it talks about the partners
3 that we believe all need to be involved, because they
4 all have some ownership and responsibility for
5 offenders.
6 And, those partners include all of the
7 correctional agencies, the human service agencies, and
8 the community agencies.
9 The next tier that you've got going across
10 here shows all of the different decision points, from
11 the moment that an offender walks into the system.
12 There is a decision made at all of these different
13 points. And, what we're saying is you've got to have
14 good information, number one, about that offender,
15 from the moment that he or she walks in. Information
16 about their risk level, and information about their
17 criminogenic needs.
18 But, not only do you have to have that
19 information at each point, you've got to share it.
20 You've got to figure out -- your system has to figure
21 out how to develop a body of information about an
22 offender and take it forward from the pre-sentence
23 investigation, to sentencing, to initial
24 classification in the prison, to programming,
25 re-assessment, transition planning, community release,

1 and then release from supervision.
2 What we've got now in most states -- and New
3 York State is not an exception -- what we have now is
4 a lot of agencies that are gathering a lot of
5 information about an individual offender, but they are
6 not able to -- sometimes they're not willing to, but I
7 would not say that's the case in New York -- but they
8 are not able to, for technical reasons, for legal
9 reasons, to share their vital information that helps
10 us do the planning, that helps offenders be
11 successful. So, that's going to be one of the key
12 themes that we talk about.
13 I'm going to skip some of this. We talked
14 about collaboration. Doctor Latessa talked about
15 evidence-based principles of effective intervention.
16 I will repeat them.
17 Our model says that you use validated
18 actuarial risk and needs assessments. And, you're
19 beginning to do that. The probation agency, VPCA, has
20 embraced COMPAS, is actually operationalizing it.
21 Parole is making its decision. We know that DOCS
22 wants to have a risk assessment instrument. And, as
23 Donna Hall showed you, DCJS has developed a very good
24 risk prediction model in lieu of something unified.
25 The issue and one of the challenges for New

1 York State is going to be how will we gather usable
2 information amongst all of our agencies, so that we'll
3 all have a common understanding of what risk is. And,
4 that's one -- one issue that we have been talking
5 about.
6 Intrinsic motivation, cognitive based
7 therapies, positive reinforcement, gathering support
8 from the natural communities, and quality control,
9 which is evaluating, is what we're doing, actually
10 working. Those are the principles of the work that we
11 are promoting through the systemic approach.
12 You know why we focus on high risk. Doctor
13 Latessa has talked about that. I just want to say one
14 little thing about why we often don't focus on high
15 risk, and why we often focus on low risk at the
16 operational level.
17 There is something kind of counterintuitive
18 for those of us who have worked directly with
19 offenders. We get a good person who is really
20 invested in programs, who hasn't committed such a
21 terrible crime. They're coming out of prison. They
22 may have housing needs. And, from just an intuitive
23 perspective, you want to help that person, right?
24 They're deserving. They've done all the right things
25 as they've gone through their program.

1 You've got other people who may be coming
2 out of prison, who have been in prison for a long
3 time. They committed a violent act. They've got a
4 long recidivism history. And, all you want to do is
5 watch them really closely. And, once they screw up,
6 send them back to jail.
7 And, as we've been talking with some folks
8 out in the counties who are actually responsible for
9 supervising offenders, and have the burden of doing
10 that, it's -- it's difficult for them to understand
11 that I should put most of my time into this bad guy,
12 this high-risk offender, when this other person is
13 more deserving, they have tried so hard? So, that's a
14 very -- on the one hand, a very personal response, but
15 it has become very system-wide, okay?
16 It's kind of -- and so, just grasping the
17 notion that we're going to move towards investing more
18 of our time, and energy, and resources in high-risk
19 offenders is a -- is a huge culture change for our
20 entire criminal justice system.
21 From the perspective of thinking about
22 transition as a process, we think about it, encourage
23 everybody in our project to think about it in terms of
24 phases. The first phase is the institutional phase,
25 where you're admitted to prison. There's a

1 classification done both for your risk of recidivism,
2 but also your security risk.
3 Prison is an ideal time, when you gather
4 information from your pre-sentence information, when
5 you get your programmers in the prison and other
6 agencies who come in to begin to work with an offender
7 and understand what that offender is going to need.
8 To create an assessment, and create a plan for helping
9 that offender move forward. And, working on that
10 prison -- vital prison programming.
11 The next phase is actually the moving out of
12 prison, the planning for transition phase. And,
13 that's when the offender and all of the program
14 providers begin to think about what's needed when I
15 get in the community. And building a plan is very
16 goal oriented. It's focused on the risk level and the
17 criminogenic need level.
18 That usually takes place somewhere six
19 months prior to release, and goes out six months after
20 release, because as you've all heard, the first few
21 months -- yes, the first month, especially -- but the
22 first few months after release is when an offender is
23 at the highest risk for recidivating. So, having a
24 very solid assessment plan and case management plan
25 for that offender, that includes supervision, but also

1 includes the kinds of treatment that offender needs,
2 is really critical. If you just have supervision, you
3 aren't going to be addressing criminogenic needs. If
4 you just have treatment, you're not going to be
5 addressing risk. When you marry them together, that's
6 when you have a greater chance for reducing
7 recidivism.
8 The way that the project is set up here in
9 New York is fairly classic. And, if you go a couple
10 of pages down, you'll see the TPC structure here. The
11 State has put together a policy group, and that group
12 is made up of the Commissioners of our criminal
13 justice agencies and our human service agencies, and
14 there are fourteen agencies here represented. And, if
15 I could read my own small print, you would see Health,
16 Labor, Housing and Community Renewal. OASAS is part
17 of this. OMH, Child and Family Services, Temporary
18 and Disability Assistance, Mental Retardation. VCPA
19 is at the table. The Budget is at the table.
20 So, the Commissioners came together around
21 this project and said they wanted to work. And, they
22 appointed the Steering Committee. And, that Committee
23 is being reconvened. There was a little lag between
24 the transition in governments.
25 And, the Steering Committee had assigned

1 itself three work groups: a group to deal with the
2 institutional phase; a group to deal with the reentry
3 phase, the transitional phase; and a group to deal
4 with the community phase.
5 So, staff are being appointed from those
6 different agencies to come back together, take a look
7 at the work that's been done, and begin to say where
8 do our policies, our current policies, actually match
9 up with a model that is going to ensure that we have a
10 collaborative approach to offender reentry that
11 assesses offenders, shares information, and moves
12 things forward.
13 There have been a lot of accomplishments in
14 the work that's been done. There has been a lot of
15 studies that you have heard around Medicaid
16 eligibility, housing. I think that one of the large
17 accomplishments in this project has been that the
18 State, through the Burn grants the first year, funded
19 county reentry task forces in nine jurisdictions. Do
20 you all know about those, right now? I know that you
21 know --
22 COMMISSIONER O'DONNELL: You could talk
23 just very briefly about them, --
24 MS. REBACK: Okay.
25 COMMISSIONER O'DONNELL: -- if you would.

1 MS. REBACK: Okay. And, those county
2 reentry task forces were set up to actually mimic the
3 state system that we're describing here. So, there
4 were collaborative partners.
5 Each task force that applied for funding had
6 to have, of course, all of its criminal justice
7 partners. It also had local law enforcement. And,
8 the same range of human service partners on there.
9 And, the task of those reentry task forces
10 is to be prepared to help offenders, high-risk
11 offenders who are coming out of prison and back into
12 these counties, prepare to be ready to help them meet
13 their programmatic treatment needs, their supervision
14 responsibilities, so that they can successfully
15 re-enter. So, that's really operationalizing the
16 state model at a county level.
17 And this, the state project has been really
18 useful to the counties. And our project -- our
19 project worked with the State, to actually give them
20 four days of training. We trained the chairs and the
21 county coordinators in the whole piece on
22 evidence-based practice, and on team-building, and
23 then we brought the entire teams together for three
24 days in Albany, and that was a year ago in May, in
25 fact. And, we did a lot more work on what reentry is,

1 and how you -- how you can operationalize it.
2 Those -- when then also -- DCJS and DOCS, I
3 believe, provided each of the teams, and has been
4 providing the teams with lists of offenders who
5 present the highest risk, and said, "Here are the
6 folks who are coming back into your county you should
7 really be paying special attention to."
8 COMMISSIONER O'DONNELL: It's really Parole
9 that's earmarking people, for the most part.
10 MS. REBACK: Okay. But the --
11 UNIDENTIFIED: It goes through Parole.
12 MS. REBACK: It goes through Parole, right.
13 COMMISSIONER O'DONNELL: Um hmm.
14 MS. REBACK: And, Parole has -- you now
15 have two coordinators -- an upstate and a downstate.
16 COMMISSIONER ALEXANDER: Upstate
17 coordinator, a state-wide coordinator, and we've yet
18 to retain a downstate coordinator.
19 MS. REBACK: Okay.
20 COMMISSIONER ALEXANDER: Our state-wide
21 coordinator is here, Lynn Goodman.
22 MS. REBACK: Hi there. Sorry.
23 So, this has been the way that New York has
24 been trying to step forward and take this conceptual
25 and systems work down to the ground. And, I think

1 that you're trying to expand the counties. You're
2 offering your grants, a wider range of grants. Do you
3 have a sense of how many more you're going to --
4 COMMISSIONER O'DONNELL: Our RFP is out.
5 Six? About six, we hope.
6 You know, I think that there are some
7 missing links here that we're discussing. Maybe we're
8 going to talk about that. New York City being one.
9 Although, New York City was given an opportunity to
10 participate in the beginning, but a lot is going on
11 about reentry here in New York City. It's more making
12 the link and having -- having both initiatives kind of
13 work together.
14 And, the other is the service providers.
15 And we, the criminal justice Commissioners, DOCS,
16 Parole, and DCJS, and Probation did an open meeting
17 about a month -- a month ago, now, to service
18 providers all across the state, having them come and
19 basically address all of the Commissioners. It was
20 very widely -- well received by the provider
21 community, who really hadn't had an opportunity to do
22 that before. We're preparing a transcript, and it
23 will give us an opportunity to make those links that
24 haven't been made before.
25 MS. REBACK: Right. And, one of the ways

1 to pull in your non-profit community and your service
2 provider community is through the county reentry task
3 forces. It's a perfect -- perfect place to use them.
4 One of the things that -- this is going back
5 to what Ed Latessa said this morning, and what we know
6 is that -- and, somebody asked -- I think someone here
7 asked the question do we know that our current service
8 providers, our non-profits, our treatment providers --
9 do we know the what they're doing, in terms of their
10 programs, are effective?
11 And, it's going to be very important for any
12 successful reentry effort, whether it's a state effort
13 or a county effort, to be giving out contracts to
14 programs based on efficacy. You know, we have a lot
15 of folks who we know and we like, and they've been in
16 our pool for a long time, but are they giving us the
17 outcomes that we're looking for, in terms of public
18 safety, and in terms of offenders being successful, in
19 terms of families being unified?
20 So, those are things that a lot of states
21 and the counties are beginning to grapple with in
22 their own minds, as to how are we going to make all of
23 ourselves accountable for effective outcomes?
24 COMMISSIONER BERGAMO: Could I ask a
25 question?

1 MS. REBACK: Yes.
2 COMMISSIONER BERGAMO: Has any contracts
3 been set up where they're incentive-based? A minimum
4 plus an incentive, based upon their figures?
5 MS. REBACK: I don't know. That's a good
6 question.
7 COMMISSIONER BERGAMO: And, why not?
8 MS. REBACK: You mean here in New York?
9 COMMISSIONER BERGAMO: And -- and why --
10 and why not? What is this for free stuff? I mean, it
11 gets me -- I'm not being aggressive with you. Forgive
12 me.
13 MS. REBACK: I'm in absolute agreement. I
14 mean, I know that there are other jurisdictions where
15 there are definitely incentive-based contracts, or --
16 or the contracts say "this is what we will
17 accomplish," and if we don't, then they have to be
18 held accountable.
19 But, there is a difference between saying
20 "this is what we would do." Okay? Here are the
21 activities that we'll provide. Versus these are the
22 outcomes that we will effect. And, those are two
23 different things. And, you have to really think about
24 are you looking for outcomes or are you looking for
25 activities. You're looking for activities that lead

1 to the right outcomes. So, it's a great question.
2 So, one of the things that I just wanted to
3 stress, as I'm looking at my PowerPoint, you know, I
4 had to do a real shift in my own mind, just to get my
5 head around this.
6 It's this whole notion, in terms of system
7 change, of case management. We -- we are talking
8 about -- every state that is -- that is being
9 successful at helping offenders being successful has
10 an integrated way of doing case management and
11 supervision.
12 And what we mean by "integrated," once
13 again, is that as a system, and as a group of
14 agencies, we develop information that we all need to
15 assess the offender, what his or her risks are, to
16 determine what their criminogenic needs are, what we
17 have to do through programming.
18 And, that we have a way of sharing that
19 information, number one. That we have a way -- that
20 we have created a way of working together, you know, a
21 very structured, formal way. In other words, we have
22 folks who -- who need mental health treatment. Do we
23 have a particular way in which we know that our mental
24 health people, agency, can work with us, can actually
25 contribute information that is -- that is recorded

1 somewhere where we can commonly look at that
2 information, where we can track what has happened for
3 the offender, what resources and treatment he or she
4 has participated in, how that possibly adds to his or
5 her goals and potential for being successful?
6 It's -- it's something that just is not
7 commonly found in the criminal justice world, and
8 maybe in other parts of the human service world. But,
9 it is the only way, we believe, that we're going to
10 really effect meaningful change. We've got to have
11 case management and supervision systems that include
12 an integrate the meaningful information from all
13 agencies.
14 And, we have to develop both technological
15 ways, and legal ways, and policy ways for agencies to
16 share the needed information. And, that really just
17 doesn't happen, and it's not happening across the
18 board here in New York. In pockets, it is, but not
19 across the board.
20 The other thing that I think you really need
21 to do, and you've begun to do it here, is to have
22 system-wide training on evidence-based practice, not
23 just training for the Commission -- and you're experts
24 now -- not just training for DOCS case management
25 staff, not just training for Parole supervision staff,

1 but training for your entire human service sector.
2 Training for your service providers, so that they'll
3 know what they're supposed to be doing, so that
4 they'll have a sense.
5 And, the other thing is there is good
6 evidence-based research that comes -- that exists in
7 the substance abuse world, and in the mental health
8 world, and it's important for criminal justice people
9 to know what effective interventions are that folks in
10 those worlds are using.
11 So, the training piece, and the sharing --
12 the building the case management, and the sharing
13 information piece, from our perspective, are really
14 critical.
15 What we offer, as a national technical
16 assistance project, is me. Somebody talking to you
17 all the time and kind of pounding away at you. We
18 offer cross-training. We're willing to take folks
19 from other states that have been kind of ahead of
20 where New York is right now, and bring New York's
21 correctional staff and your service staff there.
22 We're willing to bring folks in here. We do
23 cross-site trainings, where we bring folks together.
24 We are out there looking for resources. So,
25 you know, a technical assistance project is kind of a

1 prodding, pushing, pulling project, but you're part of
2 a family here. You're part of a national family that
3 is trying to think about reentry and transition in a
4 systemic way, not just in a piecemeal programmatic
5 way.
6 So, that's what the Transition From Prison
7 to Community Initiative is. New York is definitely
8 well on its way. And, thanks for listening.
9 COMMISSIONER O'DONNELL: Well, thank you.
10 [Applause]
11 COMMISSIONER O'DONNELL: And, I apologize,
12 Donna, that we didn't have your PowerPoint here.
13 I don't know if anyone is here from OASAS or
14 -- in the Blue Room, but hello. I know Karen
15 Carpenter Palumbo, the Commissioner of OASAS, is very
16 interested in participating in the reentry part of
17 what we're doing on the Sentencing Commission, and has
18 also offered to partner much more aggressively with
19 the local reentry task forces going forward, to make
20 programs available for drug treatment, and
21 evidence-based programs available, as well. So, thank
22 you, very much, for participating.
23 We can't take a break right now. If you do
24 have to get up, we'll understand. But, we are behind
25 schedule, so I do want to keep moving forward.

1 Bruce Western is joining us. Thank you,
2 very, very much. We appreciate you being here.
3 Bruce is a professor of sociology at
4 Princeton. On July 1st, he'll take up a new
5 appointment at Harvard, as the chair of the program of
6 inequality and social policy.
7 He has written a book, Punishment and
8 Inequality in America, that has won a very significant
9 award for his perceptive look at the racial inequality
10 within our corrections and criminal justice system.
11 So, we're very lucky to have him join us today.
12 Again, one of the national experts in this area that
13 is so kindly sharing his time with our Sentencing
14 Commission.
15 So, thank you, very much, Bruce.
16 INCARCERATION AND ITS COLLATERAL CONSEQUENCES
17 MR. WESTERN: Thank you, very much, for the
18 invitation, too. I'm really very honored to be here,
19 and very grateful for the opportunity to share my
20 research with you with my PowerPoint.
21 What I thought I would do today, and what I
22 was asked to do, was to talk about the collateral
23 consequences of incarceration. And, a lot of the work
24 that I've been doing over the last eight or nine years
25 has focused on the social impact of the growth in

1 incarceration rates in the United States over the last
2 three decades.
3 So, what I wanted to do was to try and put
4 this story of the collateral consequences of
5 incarceration in the broader context of national
6 trends in imprisonment rates and demographic variation
7 in imprisonment rates, too, which has been a very big
8 part of -- a very big part of my -- my research
9 interest.
10 So, all of my -- my entire presentation will
11 consist of putting up lots and lots of statistics, and
12 I've seen you've already had a great deal of
13 statistics today, so I apologize in advance, but I do
14 hope that this can provide a slightly different
15 perspective on the social impact of incarceration.
16 And, all of my focus is on the national level, with
17 one exception, of an employment discrimination study
18 in New York City, that we conducted a year ago, and
19 I'll talk a little bit about those results. But, most
20 of my discussion will be at the national level.
21 This is, essentially, the case that I'm
22 going to make to you, that the current levels of U.S.
23 imprisonment are comparatively and historically
24 extraordinary. I'll briefly provide evidence of that,
25 which is probably well known to people in this room.

1 These extraordinary rates of incarceration
2 nationally, and New York, as we well know, is about at
3 the national average, although the imprisonment rate
4 has ticked down over the last few years, and so it
5 varies from the national average just slightly.
6 But, these very high rates of incarceration
7 have really been concentrated among young African men
8 -- African/American men with very low levels of
9 schooling. And, I'm going to -- we don't often look
10 at that kind of demographic variation in imprisonment
11 rates, but I think it's important to focus on that in
12 the context of a discussion about collateral
13 consequences. And so, I'm going to report to you some
14 statistics about -- about that.
15 And then, the final piece is the collateral
16 consequences. What's the effects of going to prison
17 on peoples' economic opportunities and family life?
18 It's not -- the answer is not necessarily obvious,
19 because the people most at risk of being incarcerated,
20 of course, have very poor economic opportunities, and
21 very disruptive family lives to begin with, even
22 before they are -- even before they are incarcerated.
23 So, just to preface this story about the
24 growth in the incarceration rates over the last thirty
25 years, we of course know that there have been very

1 profound changes in the structure of criminal
2 sentencing over -- in this slide, between 1980 and
3 2001. If we look at things like sentencing
4 guidelines, parole abolition, three strikes laws,
5 truth in sentencing laws, these are all measures that,
6 of course, reduce -- reduce judicial discretion in
7 sentencing, that have had the effect, I think, of
8 increasing the risk of incarceration given a
9 conviction. And, in some cases, also increasing time
10 served.
11 So nationally, each of the cell entries here
12 are the number of states with these sorts of measures.
13 In 1990, only two states had sentencing guidelines.
14 By 2001, 17 states had sentencing guidelines.
15 In 1980, 17 states had abolished their
16 parole boards, 33 states had abolished parole by 2001.
17 So -- but these national trends, of course,
18 are well known to the Commission.
19 Part of the consequence, of course, of these
20 changes in the structure of sentencing has been the
21 growth in incarceration. So, let me put this in a
22 comparative context to this.
23 If we look at Western Europe, as we well
24 know, if we measure the scale of the prison system in
25 a given country, by the incarceration rate -- the

1 number of people in prison or jail per hundred
2 thousand of the population. In Western Europe, the
3 incarceration rates vary between about 50 and 100 per
4 100,000. So, about .05 of one percent of the
5 population, about .1 percent of the population. And,
6 in the United States, of course, for 2001, the
7 incarceration rate was about 700 per 100,000. So
8 really, an order of magnitude larger than in Western
9 Europe.
10 So, from a -- in a comparative perspective,
11 the United States is extremely unusual. And we're
12 also historically an extremely unusual time. Because,
13 for most of the 20th Century, if we look at state
14 imprisonment rates from 1925 through 1972, up here on
15 the -- up here on the graph, incarceration rates
16 varied in a very narrow band, at round about the
17 European level, at about 100 per 100,000. So, for
18 most of the 20th Century, we -- we were where Western
19 Europe is now.
20 And then, of course, incarceration rates
21 began to grow, and they have increased in every single
22 year for the next thirty years. And nationally, of
23 course, they're still growing, even though we have
24 seen declines recently in New York.
25 These figures don't include the jail

1 population. If we add the jail population, that's
2 another third, and that gets us to about 800 per
3 100,000.
4 And, that's not the whole correctional
5 population, the population in supervision, because we
6 have another three-quarters of a million people on
7 parole. These are the figures, latest that were
8 available. Another 4.1 million on probation.
9 So, 7 million people in the United States
10 now are under some sort of criminal justice
11 supervision, and this is completely historically
12 unprecedented. So, this is really a new age we're
13 looking at. We'd have to go back three decades to
14 find a very different time.
15 This is not -- these numbers are not the
16 most important thing in the context of my research.
17 These numbers are not the most important thing about
18 what's happened to the changes in criminal justice in
19 the United States over the last thirty years. What's
20 really significant is the way in which, for my
21 purposes, incarceration is distributed across the
22 population.
23 So, if we look nationally, the incarceration
24 rate in 2004 was about 700 -- 700 per 100,000, about
25 .7 percent of the population. But, if we look at

1 young men, particularly young men with less than a
2 high school education, men in their 20s, who have
3 dropped out of high school, the figures show that by
4 2004, among white men, the incarceration rate was
5 7,000 per 100,000. So, it was ten times higher than
6 the national average.
7 And, as we all know, of course, there's a
8 massive racial disparity in incarceration rates. And,
9 if we look at African/American men in their 20s, their
10 incarceration rate is about 13,000 per 100,000 --
11 13 percent of young black men are now behind bars, on
12 an average day. And, if we look at young
13 African/American men with very low levels of schooling
14 -- those who have dropped out of high school -- and
15 that's about the bottom 15 percent of the population
16 -- over a third -- I estimate over a third of those
17 young black men with low levels of education are
18 incarcerated.
19 And again, just to emphasize, this is
20 historically entirely new. We only have to go back
21 twenty years to find a time when this wasn't true.
22 Now, this is normally how we think about
23 incarceration rates, as the point time, the proportion
24 of the population who are in prison or jail.
25 Sociologists of the life course might think about the

1 risk of incarceration in a different way and say,
2 "Well, what's the likelihood that a person would ever
3 spend time in prison by -- by the time, say, they
4 reached their mid-30s?" Because, if you -- if you're
5 going to go to prison, you will tend to have been
6 admitted to prison for the first time by your mid-30s,
7 so this is, like, what's the lifetime risk -- the
8 lifetime risk of imprisonment?
9 And, if we look at birth cohort that's born
10 immediately after World War II. They're born '45 to
11 '49. And so, this is a birth cohort that's reaching
12 their mid-30s at the end of the 1970s, before the big
13 runup in imprisonment rates. And we can see that,
14 among non-college, African/American men, in this birth
15 cohort born in the late 1940s, I estimate about 12
16 percent of them will serve time in state -- state or
17 federal prisons. And now, we're just talking about
18 prison incarceration.
19 And, we can compare the experience of this
20 birth cohort to another birth cohort born in the late
21 1960s. Okay? So, this is a birth cohort born 1965 to
22 '69. And, this -- this birth cohort is reaching their
23 mid-30s at the end of the 1990s. So, they're growing
24 up through the prison boom.
25 And, for this birth cohort, among non-

1 college, African/American men -- so this is high
2 school graduates, plus those that have dropped out of
3 high school -- nearly a third of those young black men
4 will have prison records by their mid-30s now. And
5 again, this is historically novel.
6 And then, if we look at the very bottom of
7 the education distribution, we look at young men who
8 have dropped out of high school in the '65 to '69
9 birth cohort, by 1999, 60 percent of those men, we
10 estimate nationally, have served time in state or
11 federal prison. Nationally, now, this means about 28
12 months of time served at the mean. So, this is a
13 significant period of institutionalization.
14 Now, sociologists of the life course
15 typically don't think about going to prison as a life
16 event that marks someone's passageway through --
17 through young -- young adulthood. Sociologists of the
18 life course typically think about things like
19 completing schooling, getting married, serving in the
20 military.
21 And, we can compare risks of imprisonment to
22 these other more familiar life events that mark the
23 passageway through -- through adulthood, and we can
24 see that there are racial disparities in marriage
25 rates, college completion, completion of a four-year

1 degree, serving in the military. And, for this birth
2 cohort of people born in the late 1960s, imprisonment
3 for African/American men has become more common than
4 military service, and more common than completing --
5 completing the four-year degree. And again, this is
6 -- this is entirely historically new.
7 Now, why might we want to -- why might we
8 want to think about the lifetime risk of imprisonment
9 for different groups in society? Well, we may think
10 that imprisonment confers the enduring status that
11 affects a whole variety of life chances after your
12 release. It may affect your economic opportunities.
13 It may affect your family life, and so on.
14 So, I'm going to provide some evidence now
15 that suggests that going to prison reduces economic
16 opportunity. And for some people, this is a
17 controversial idea. And, to other people, it's
18 obvious. So, I guess, I approached it -- I approached
19 that question empirically.
20 Here are, very quickly, some estimates from
21 the National Longitudinal Survey of Youth. It's a
22 very unusual social survey. It follows a cohort of
23 young people who were born in the 1960s, from 1979
24 through '04. The survey is still in the field, so
25 we're re-interviewing people each year. Most social

1 surveys aren't very good at studying people involved
2 in the criminal justice system because they only focus
3 on the non-institutional population. The NLSY is very
4 good at interviewing people in prison when they --
5 when they become incarcerated. And indeed, in the
6 NLSY, about one in five of the African/American male
7 respondents have been interviewed in prison at some
8 time in the course of the survey that's been going for
9 about twenty years now.
10 And so, I did a statistical analysis,
11 looking at the effects of going to prison on young,
12 crime-involved -- young, crime-involved men. These
13 are men with low levels of schooling, a history -- a
14 history of criminal behavior. We're also able, in
15 this statistical analysis, to control for things we
16 don't normally control for in wider market studies.
17 Here, I'm interested in looking at the
18 effects of imprisonment on things like your hourly
19 wages, the number of weeks you work each year, your --
20 the rate of wage growth, and your job tenure -- how
21 long have you been in your current job? And, what do
22 the results say?
23 The statistical analysis suggests that
24 spending time in prison reduces your hourly wages by
25 about 25 percent, compared to a comparable low

1 education, crime-involved man who hasn't spent time in
2 prison. Your annual employment is reduced by about
3 seven weeks. Your annual earnings was reduced by
4 about 40 percent, because if your wage rate goes down,
5 and your employment goes down, then your earnings go
6 down by even more.
7 The hourly wage growth goes down by about 25
8 percent. I think that's important, because wage
9 growth over the life course is what allows men to age
10 into a whole variety of pro-social roles, as a worker
11 and a provider for families, and so on. And, that's
12 not happening in people who have served time in
13 prison. And, job tenure is reduced by about a third.
14 So, this is a population that's relegated to
15 the secondary sector of the labor market, churning
16 around in low-income jobs that offer no wage growth or
17 continuity of employment.
18 In the aggregate, what does this mean? In
19 the interests of time, I'll focus on one set of
20 numbers here. And, this is the bottom row in this
21 table. The earnings loss over the lifetime -- which
22 for our sample means up to about age 40 -- the
23 earnings loss is equal to about the cost of
24 incarceration. If we think of the dollar cost of the
25 -- the dollar average cost of the prison bed, the --

1 the earnings loss is about equal to that dollar cost
2 -- that dollar cost of incarceration. So, the numbers
3 I think we typically see in correctional areas, if we
4 take account of the social impact of incarceration on
5 economic opportunities in the labor market, the true
6 cost counting that number might be twice as large.
7 Why do people who have served time in prison
8 do so poorly on the job market? Well, their skills
9 may be depleted by time out of the labor market. The
10 behaviors for survival in prison may not be adaptive
11 for getting and holding a job. And, the social
12 connections that provide job opportunities become
13 weaker the longer you spend incarcerated.
14 We conducted an audit study. This is a
15 method used to study employment discrimination,
16 typically racial/gender discrimination. We used it to
17 study the effects of criminal stigma. How do
18 employers react to job seekers with -- with criminal
19 records?
20 What did we do? We recruited a bunch of
21 young college graduates. They -- we gave them
22 fictitious resumes. We put them in teams of two. We
23 had a team of two African/American fictitious job
24 applicants, and a team of two white fictitious job
25 applicants. Within each team, we randomly gave

1 someone a resume that showed evidence of a criminal
2 record. It listed a Parole Officer as a reference,
3 and as part of your work history, it listed employment
4 in a correctional facility.
5 In all other respects, the -- the testers
6 were identical. They dressed the same. We taught
7 them to respond the same way to questions in job
8 interviews which, for the entry-level jobs we were
9 applying for in the five boroughs, over a period of
10 about a year in 2004, the job interviews were
11 typically very, very short.
12 And, what we were interested in seeing was
13 how did employers respond to the resume without the
14 criminal record, compared to the resume with the
15 criminal record. In the best-case scenario, where the
16 job applicant presenting the criminal record was a
17 well spoken, clean-cut young man who dressed
18 identically to our other applicant, and answering
19 questions in the same way, here are our results.
20 In our white team, employers would call --
21 call our job applicants back 32 percent of the time
22 for a second interview, or to make them a job offer.
23 For the white job applicant with a criminal record,
24 the call back rate was only 24 percent. So, the
25 effects of criminal stigma there are about eight

1 percentage points, or about 25 percent of the 32
2 percent call back rate.
3 Among our African/American testers, the --
4 the black testers without criminal records were called
5 back about 24 percent of the time, which was exactly
6 the same as the call back rate for the white tester
7 with the criminal record. So, our black tester with a
8 clean record is doing about as well as the white job
9 applicant with -- with a criminal record.
10 The African/American tester with the
11 criminal record is being called back only 9 percent of
12 the time. So, the effects of criminal stigma are
13 larger in our audit study -- are larger for blacks
14 than whites. And, here are a few more statistics
15 about the black/white -- the black/white differences.
16 So, it -- it certainly seems to us that
17 criminal stigma, the extreme reluctance on the part of
18 employers to hire people with criminal records is a --
19 is a large part of the economic disadvantage we saw in
20 the survey data.
21 It also suggests that policy interventions
22 focused only on the supply side of the labor market,
23 improving skills and so on, is only part of the story
24 if we're thinking about improving the economic
25 opportunities for people coming out of prison -- out

1 of prison. We also have to think about the demand
2 side of the labor market, how employers view job
3 applicants with -- with criminal records.
4 Okay, my final part. Imprisonment disrupts
5 family life. The only thing I want to say here, and
6 there's a lot more I could say, is to just show you
7 some statistics showing the number of children,
8 nationally, who have a father in prison or jail. And,
9 among white kids, this is children under the age of
10 18, across the whole country, about half a million
11 white kids by 2000 had a father in prison or jail, and
12 that's about one percent of all white children. Among
13 Hispanic children, about 400,000 of those kids had a
14 father, on an average day, in 2000. That's about
15 three and a half percent of Hispanic kids. And, among
16 African/American kids, about a million -- a million
17 black kids had a father in prison or jail on an
18 average day in 2000. It would be higher now, because
19 the incarceration rate is higher. That's about nine
20 percent.
21 If we were to look just at young children --
22 if we were to look at children ten years and under,
23 the figures would be even higher.
24 There's a lot more to say, I think, about
25 the effects of incarceration on families, but let me

1 leave it at that. And, I'll conclude.
2 I have tried to provide some empirical
3 evidence for the idea that imprisonment has now become
4 a normal life event for young black men with little
5 schooling. For those at the very bottom of the
6 education distribution, this is literally true. It's
7 more common than not that the young African/American
8 man who has dropped out of high school will go to
9 prison, with negative -- I'm sorry -- I should say
10 negative effects on earnings and employment. About a
11 25 percent loss in wages, I think is the take home
12 number there.
13 And, this process affects not only the
14 current generation of those who are in prison, but
15 also the next generation, through the effects of
16 incarceration on families and these very high risks
17 that we're seeing, particularly among
18 African/Americans, of parental imprisonment.
19 So, let me stop there.
20 COMMISSIONER O'DONNELL: Thank you, very
21 much, Doctor. I really appreciate it. That was very
22 important research.
23 MR. WESTERN: Thank you.
24 [Applause]
25 COMMISSIONER O'DONNELL: And, I appreciate

1 you making the trip and sharing it with us. I
2 appreciate Senator Schneiderman for recommending you.
3 And, any questions? I'm sure we'll be
4 coming back to you. Yes, Cy?
5 MR. VANCE: Bruce, there was a point in
6 your presentation where you -- if I was listening
7 correctly, you were correlating the prison costs with
8 the lost economic opportunity. And, I'm not sure I
9 followed that part of your discussion.
10 MR. WESTERN: Sure. So, the idea here is
11 that, given the estimates of the reduction in earnings
12 that's a consequence of the imprisonment, over a
13 lifetime, or through age 40, this means that, for
14 whites, for example, the consequence of imprisonment,
15 they will lose about $114,000 in earnings. And, these
16 are very low earning men. So, these are men earning
17 of the order of 10 to 15 thousand dollars a year.
18 And, over a lifetime, it adds up to about $114,000.
19 The cost of their incarceration is, for 28
20 months, at the median, it's going to be around,
21 nationwide, about $30,000 a year. And so, the bottom
22 row there just shows what's the -- the cost of
23 incarceration, the economic cost of incarceration, and
24 the earnings loss, as a proportion, as a percentage of
25 the cost in the correctional voucher of -- of that

1 incarceration today.

2 MR. VANCE: Okay. Thank you.

3 COMMISSIONER O'DONNELL: Thank you, very

4 much.

5 MR. SCHNEIDERMAN: Thanks, Professor.

6 COMMISSIONER O'DONNELL: I'm sure we'd have

7 many more questions if we weren't running behind

8 schedule. But, we really appreciate you being here

9 with us.

10 Michael Jacobson, welcome. And thank you,

11 very much, for joining us.

12 As all of you know, I'm sure, Michael is

13 currently the director of the Vera Institute of

14 Justice. He has a long history of service to New York

15 State, to New York City, as New York City's Correction

16 Commissioner, as New York City's Probation

17 Commissioner, formerly also working in the Budget

18 Office, so he actually brings a financial perspective

19 to the whole issue of criminal justice and

20 incarceration.

21 He has written a book which should interest

22 us significantly here on the Sentencing Commission,

23 Downsizing Prisons: How to Reduce Crime and Mass

24 Incarceration.

25 So, I can't think of anyone who is more

1 eminently qualified to speak to us about many of the
2 issues we have to consider on the Sentencing
3 Commission than Michael Jacobson. So, thank you, very
4 much.
5 REDUCING THE PRISON POPULATION
6 AND REINVESTING IN COMMUNITIES
7 MR. JACOBSON: Sure, thank you.
8 So, I thought what I'd do, and I see I'm on
9 the schedule for an hour, and no one wants to hear me
10 talk for an hour. So, I'll try my best to sort of
11 catch you up on your schedule. I'm also going to
12 spare you a little bit from -- give you at least a
13 little break from PowerPoint and slides, and just talk
14 for a few minutes just about what I was asked to talk
15 a little about, this sort of national -- where we are
16 nationally, and what some other states are doing, in
17 terms of looking at reducing their prison populations
18 and reinvesting some of that savings -- either real
19 budget savings, or imputed budget savings, or
20 diminishment of planned increases -- back into
21 community-based programs.
22 So, I'm going to spend a few minutes talking
23 about that from the national context, and the talk a
24 little bit about some New York specific stuff. And,
25 you should please feel free to interrupt or

1 inter-react at any point.

2 COMMISSIONER O'DONNELL: Mike, I am also

3 just going to ask you, if you're -- since you know New

4 York, and you know New York's system, any kind of

5 practical recommendations that you have about things

6 that we should either look at or consider changing

7 would be very helpful to us, as well.

8 MR. JACOBSON: Oh, sure. All right. I was

9 going to make some Marty Horn joke, but --

10 [Laughter]

11 MR. JACOBSON: So, this is an issue,

12 obviously, that a lot of states are struggling with

13 now, and it's actually a pretty interesting historical

14 time in this country to deal with these issues. I

15 mean because, as Bruce said, the scale of imprisonment

16 and the massive growth have put a lot of states around

17 the country -- some more than others -- in a position

18 where they simply have to look really hard at changing

19 some of those trends, both because states can no

20 longer afford to do this, and the budget pressures are

21 enormous.

22 You know, budget pressures are never enough

23 just to -- to change this. They can be helpful, but

24 you can never just change these kind of trends based

25 on money, especially in this field. I mean, the field

1 of correctional policy making and punishment policy is
2 so hyper-political, so filled with all sorts of
3 politics. It's the field where individual,
4 high-profile crimes or high-profile events have more
5 impact on policy than any other field in government.
6 And, that's not to say that other areas of government
7 -- transportation, social services, environmental
8 protection, education -- aren't sort of filled with
9 politics, but none of them are filled with the
10 politics that this field is.
11 Around the country, I've probably worked in
12 about 20 or 25 states, on a lot of these issues, and
13 that's always in the sort of back of our mind. This
14 field is about more than facts and figures, and
15 evidence-based practice. The context for this field
16 is that policy is made in very, very political ways.
17 And, that's just a reality that, I think, policy
18 makers have to deal with when they're sort of thinking
19 through what kind of policy to make.
20 So, there is enormous budget pressures on
21 states and, you know, similar to New York. All right,
22 we had some cash sloshing around this year, but we
23 have some very tough out years ahead of us, in terms
24 of the budget. And, like most other states, Medicaid
25 is the big -- the big, eight-hundred pound gorilla in

1 the room, exerting enormous budget pressures on
2 states. It's just a combination of Medicaid, trying
3 the cost containment of Medicaid, trying to keep tax
4 rates low, is forcing a lot of states to look at
5 corrections and corrections spending in a way that
6 they haven't for years and years.
7 So, a lot of states, some more than others,
8 are sort of struggling with how do we -- how do we
9 very affirmatively, assertively, start to sort of
10 reduce that trend, reduce the rate of growth, even try
11 to get some reduction. And New York is -- I know you
12 all know is an interesting in this context, because we
13 do actually have a shrinking prison system over the
14 last ten years.
15 And, public opinion on this issue has
16 changed, too, actually pretty dramatically, both
17 nationally and in New York. If you look at all the
18 national polls -- the Harris polls, Gallup polls, sort
19 of specific polls, the Peter Hart poll in 2001 -- a
20 lot of scholars have done a lot of work on changing
21 public opinion around crime, and it's pretty
22 interesting.
23 On the, you know, group on the early '80s to
24 the early '90s, if you look at all the national polls,
25 the answer to the standard question of what do you

1 think Government, one of the -- what's the biggest
2 problem that Government should be dealing with,
3 whether this question is basically on local
4 Government, state Government, the answer was always
5 crime. Always. Crime was always number one. And
6 then followed by a series of taxes, health, education.
7 You know, fast forward ten or twelve years
8 later, and the answer of crime, right, to that
9 question, I think in the most recent -- it's either
10 Gallup or Harris poll, I can't remember -- is so
11 statistically insignificant it doesn't even make it
12 onto the charts.
13 It's been the terrorism, obviously does,
14 where it didn't -- it didn't before, but that's very
15 -- it's a very different issue, and it's obviously, in
16 a lot of ways, in terms of the public's mind, not
17 specifically a local issue. But if you -- if you sort
18 of take terrorism, or like, you know, the war in Iraq
19 out of the equation, and just look at the things that
20 state governments can do, the number one and number
21 two issue in every state, nationally, is some version
22 of health and education. That's -- that's where all
23 the public concern is. That's what our current
24 Governor ran on. And, that's where all the political
25 pressure is in most -- in most states, all right? So,

1 some combination of health, education, taxes. It is
2 not about crime, and street crime, and the demand to
3 build new prisons. All right, some -- it's different
4 in -- it's different in some states than others.
5 But it's actually more of a rarity now that
6 there's actually a Governor's race around this country
7 where crime is a huge political issue. It's very
8 different than ten or twelve years ago. It was a big
9 issue in Maryland, and we can pick out states where it
10 was, but very, very different.
11 So, and not -- not only have those sort of
12 politics changed, but if you dig inside of policy,
13 itself, you'll see that over again, the last ten or
14 twelve years -- you know, you can see this in a lot of
15 the Rockefeller drug polling that's happening in New
16 York -- Americans have made a very big shift, in terms
17 of what they think prison should be used for, all
18 right? We're still a very punitive country.
19 When we think people are violent, or have
20 committed violent crimes, we're -- we're very
21 comfortable with giving them very long sentences and
22 keeping them well past their crime committing years,
23 which we -- every -- every system does, and certainly
24 we do.
25 But for -- for people that the American

1 public as sort of non-violent, right, and this is --
2 this is actually a very complicated issue, but, you
3 know, the public tends to make a sort of simplistic
4 distinction here. So, you're a violent person or
5 you're not a violent person, and they tend to think of
6 non-violent people as these sort of drug sale and
7 possession cases, property crime cases, they're now
8 more willing than not to use alternatives to prison
9 than prison, itself.
10 And, I think that -- and that's -- and, you
11 can see that not only in polling but in things like
12 California's Proposition 36, which is probably the
13 single biggest, in some ways, you know, act of prison
14 diversion legislation in the last 20 or 30 years. I'm
15 sure some of you are familiar with that. It was a
16 public referendum -- this is what California does --
17 to divert tens of thousands of drug sale and
18 possession felony cases from prison into treatment.
19 Arizona did the same thing, also through
20 public referendum. And, Kansas just two years ago
21 didn't do it through public referendum, but they did
22 legislatively, mandated treatment in lieu of prison
23 for the same sort of class of low-level drug felony
24 offenses.
25 All right, all -- in terms of crime, all

1 very conservative states. And, in both Arizona and in
2 California, those things -- those referendums passed
3 overwhelmingly, all right?
4 And again, it sort of reflects the changing
5 nature of thinking on these issues, you know,
6 especially around drug crimes where, you know, it's
7 become such a personalized issue. I mean, everyone
8 knows someone who has some issue with drugs or
9 substance abuse. And while, you know, you may think
10 it's a big problem that, you know, Uncle Ted is a
11 crack addict, you don't necessarily want to see him go
12 to Attica for three to five. So, people have sort of
13 personalized it, and you can give -- you see that in
14 the polls.
15 So, all these things have sort of come
16 together, again in some states more than others, for
17 policy makers to really take a hard look at their --
18 the size of their prison systems, the scope of their
19 systems, how much money they can spend on their
20 systems, and sort of alternatives, in terms of, you
21 know, what gets you public safety and what -- what's
22 the most efficient use of dollars, in terms of buying
23 public safety.
24 And, you know, because of the changing
25 nature of public opinion, because of so much pressure

1 on things other than crime -- especially health and
2 education -- it allows -- it's an opening for policy
3 makers.
4 And it -- you know, and especially because
5 of this last fact, the -- if you look over the last
6 ten to fifteen years, the only state governmental
7 function that grows as a percent -- as a percentage of
8 state budgets -- I mean, everything grows in absolute
9 terms -- is corrections, all right? It's true in
10 almost every state, and it's true nationally. Only
11 corrections keeps eating up a larger percentage of
12 state budgets. It rises more than secondary and
13 primary education, transportation, environmental
14 protection.
15 So, it actually creates an interesting
16 dynamic in the state houses and legislatures across
17 the country, because all the pressure on legislatures
18 is around health and education issues, but they have
19 to keep spending more and more money on a prison
20 system for which there is no huge public outcry to
21 spend more money.
22 So, all that has sort of come -- sort of
23 allows a moment, right? An interesting historical
24 moment, given all the charts that Bruce was going over
25 in the last twenty or thirty years, to take a sort of

1 hard look at how much -- how much we spend, who is in,
2 what are -- what are the results we're getting, and
3 are there better things to do?
4 So, one of the -- one of the things that a
5 lot of states are -- are looking at, in various -- in
6 various ways are what's -- there are sort of different
7 terms. It comes in the general rubric of justice
8 reinvestment. Are there -- are there things you can
9 do to control your prison cost, control your
10 correctional expenditures, and take -- take that money
11 and spend it on something that could get you more
12 public safety, right? Can use those dollars more
13 efficiently.
14 Because, one of the things that there is
15 general consensus on in the sort of expert -- you
16 know, world of experts, and -- and certainly the
17 academic criminologists who study these issues, is
18 that -- and Vera actually just did a -- it's a
19 self-serving statement -- a really interesting piece
20 of work on this, did all the research on the
21 effectiveness of incarceration, with people sitting in
22 incarceration.
23 But, if you look at all the empirical work
24 that's been done on the relationship between crime and
25 incarceration over the last ten years -- and, you

1 know, some of it is pretty controversial -- you know,
2 the -- the general sort of broad consensus is that if
3 you look at all the crime reductions nationally over
4 the last ten or twelve years, that somewhere between
5 15 to 20 percent -- some say 25 percent -- so, a
6 quarter of that -- of the big reduction we've had in
7 the U.S. can be explained by the increased use of
8 incarceration over that same period of time. So, not
9 nothing, right, 20, 25 percent. But, by no means, you
10 know, the -- the overwhelming proportion.
11 And, what there is also general consensus on
12 is that going forward -- right, that's an historical
13 look -- going forward, you will only get more and more
14 marginal results from putting more and more people in
15 prison.
16 And, why is that? Well, because we've
17 always put, right, a lot of violent -- the violent
18 felons have always gone to prison. They've always
19 stayed a long time. As Paul's chart showed, they're
20 staying -- they're staying even longer now. What's --
21 what's driving the size of prison systems across the
22 country is keeping those violent -- the people who
23 have committed violent crimes in even longer, right?
24 Very questionable public safety benefits. It doesn't
25 matter what you did. When you hit your 40s and 50s,

1 you're done. You know, your back hurts, and your days
2 of committing violent crimes, statistically, for the
3 most part, are over.
4 But then, what we've also done is load our
5 prison systems with people who have been convicted of
6 non-violent crimes. Again, especially drug-related
7 possession and sale cases. If you go back to 1980,
8 there were probably about 10,000 of those people in
9 prisons across the country. We have about 300,000
10 now. And again, most criminologists are saying for
11 that group of people, right, incarcerating relatively
12 low-level users and possessors of drugs, you buy
13 yourself almost no public safety at huge costs.
14 Why? Because those are the kinds of crimes
15 that are essentially job opportunities. In my terms,
16 if you put a wait list in prison, it's not like
17 there's someone waiting on the street corner to take
18 his job as soon as he's in. Why would you put a --
19 you put a violent offender in prison, well you get
20 specific deterrence, right? That person is not going
21 to go around committing violent crimes. And, you
22 hopefully get some general deterrence, as well, from
23 dissuading other people from doing it, right? Not
24 true for low-level drug offenders, especially sales,
25 right, because that's a job. It's an economic

1 opportunity. When that kid is off the street corner,
2 another kid is going to take his place, right? This
3 is again -- and, there are exceptions to this, but
4 that's the national pattern.
5 So, going forward, right, the more money you
6 spend on putting people in prison, the less you're
7 going to get from it, from a public safety point of
8 view. And again, if you just look at the empirical
9 research, you know, the consensus, again, on a
10 national basis, and there is -- there is some
11 disagreement about this -- it seems to be that, you
12 know, for roughly every ten percent more you spend on
13 prisons -- again, a national number.
14 So, in New York, I've sort of lost track of
15 the DOCS budget. I think two and a half billion, give
16 or take, or whatever. So, you know, for another
17 quarter of a billion dollars of expenditures in New
18 York, you get about -- again, using national numbers,
19 a one to two percent reduction in crime. So, not
20 nothing, but a little, at huge cost. Right?
21 So, this is the question that a lot of
22 states are sort of struggling with now. You know, if
23 -- if you're going to get less and less public safety
24 benefit from spending more and more on prisons, right,
25 what -- where else should we be spending your scarce

1 dollars, you know, and how -- how can we -- how can we
2 start to sort of shrink the size of these prison
3 systems, or at least put off some of the growth, or,
4 in New York's case, at a minimum, stabilize the -- the
5 decrease we've had in the population, and I would
6 argue that we should keep -- that it should -- it
7 should keep going down, right, how do you do that in
8 -- how do you capture those dollars, and what do you
9 spend them on, if you -- if you're still interested in
10 driving down public safety?
11 And, we tend to use -- and this is, again,
12 going back to Bruce's charts and others, right, that
13 we've -- we've sort of defaulted to prison, and that
14 -- that's what we do, because it's our primary method
15 of sort of social control and sort of prevention, but
16 there are a lot of other things that we know, that
17 there's evidence on, that -- that criminologists know,
18 like Doctor Latessa, that get you more public safety
19 than just throwing people with a broad brush into
20 prison.
21 COMMISSIONER O'DONNELL: Mike, could I just
22 interrupt you for a second?
23 MR. JACOBSON: Yeah.
24 COMMISSIONER O'DONNELL: I don't want to
25 take you too off key here, but you were pretty much

1 involved in the criminal justice system here in New
2 York City when the City, you know, began their
3 transformation in substantial reductions in -- in
4 crime, and in violent crime.
5 What -- I guess we asked the question when
6 we went through these numbers, what do you attribute
7 that reduction, you know, really significant,
8 substantial? Is it 30 percent or 40 percent, you
9 know, numbers? What do you attribute that to?
10 MR. JACOBSON: Me.
11 [Laughter]
12 COMMISSIONER O'DONNELL: I was going to set
13 you up for that. But, --
14 MR. JACOBSON: All right. Next?
15 Yeah, you know, and that's -- you know, I
16 mean, it's a great question, and it's -- you know, as
17 you know, this is sort of a cottage industry. You
18 know, people sort of writing and taking credit. And,
19 you know, it's still -- it used to be more so. It's
20 still a very political discussion in New York. I
21 mean, a lot of --
22 COMMISSIONER O'DONNELL: Right.
23 MR. JACOBSON: A lot of people made their
24 reputations. A lot of investment. Then, you know,
25 who gets sort of credit for the crime decline? You

1 know, was it the NYPD? If it is, how much? Is it 50
2 percent, 100 percent? What else? What about the
3 changing nature of the drug markets, right?
4 There's -- you know, if you look at the
5 academic -- if you look at all the academic literature
6 that's been written about New York, and it's really --
7 it's kind of all over the place, right, in ranging
8 from, you know, Rudy's book, and Bratton's book, and
9 some others, which basically say, "Well, it's the
10 NYPD. It's me, the NYPD," you know, and all the
11 change in strategies, they get all the credit.
12 Others, you know, Andrew Karmen, and Bernard Harcourt,
13 who's a law professor in Chicago, they take a very
14 different view, right? The NYPD gets some credit, but
15 they say, you know, there were already overall
16 national trends going down.
17 New York had about twice the national
18 average in crime declines, so clearly something
19 different happened in New York, but crime was going
20 down everywhere. And, you know, some people will say,
21 "Yeah, the NYPD obviously gets some credit if you look
22 at the timing." But, a lot of it has to be the
23 changing nature of the drug markets, right, the -- the
24 changing, you know, that the demand for crack, and
25 sort of all the supply network -- networks that sprung

1 up around distributing crack are gone, right? And,
2 that was responsible -- the networks, themselves --
3 for a huge amount of violence, because there was so
4 much profit in it, and the pharmacological effects of
5 crack made people violent at crime, and that's --
6 that's not true now, right? There's almost no hard
7 drug use in teenagers in New York City now.
8 And so, a lot of criminologists will say,
9 "Well, that -- you know, that was a huge contributor
10 to the crime decline." And, you know, then the answer
11 to that, you know, from a different group of people
12 is, you know, if -- if Bill Bratten or, you know, I'm
13 sure, Ray Kelly were standing here, he'd say, "Well,
14 that's true. That's did decline. And, they declined
15 because we -- the NYPD -- made them decline, right,
16 because of our work."
17 So, you know, the -- the interesting thing
18 about New York, for me, is not -- is not what was
19 responsible for the decline. And, you know, obviously
20 you can't -- and, you know, the NYPD and everything
21 they did is obviously in that mix, but I think it's a
22 longer discussion. I think a whole bunch of other
23 things were layered on top of that.
24 But, what's interesting about the crime
25 decline in New York is that while that decline was

1 happening, right, from '93 to, you know, the current
2 -- even though there's a little tick, right, it still
3 continued to go down, right, two very counterintuitive
4 things happened, right?
5 The jail system which, starting in -- peaked
6 in the City in about '92 or '93, right, when crime
7 started to go down, you know, peaked at about 23,000
8 people who were in the system. And, that was about
9 the highest average daily population that the City
10 had. Today, it has between 13,000 or 14,000. Right.
11 The jail -- the total population of the New York City
12 jail system is, you know, less than -- but -- but, you
13 know, about 40 percent, approaching half of what it
14 used to be. And, that's while crime has continued to
15 go down.
16 And -- and the same is true, not in the same
17 scale, on the State level, right? The State used to
18 have -- and Paul will know off the top of his head --
19 but, you know, in the mid 70s, and now we have -- I
20 don't know -- what's the population today? Low 60s.
21 Right? About a 12 to 14 percent decrease. It's a
22 very unusual state, New York, and it's actually a good
23 national example.
24 The only problem with it, with this example,
25 is that it's New York. And, once you leave New York,

1 no one really cares about New York.
2 [Laughter]
3 MR. JACOBSON: It's like -- you know, it's
4 the same thing about California, you know, it's not --
5 it doesn't work for -- for the work we do to go into
6 Mississippi and talk about New York. You know, they
7 just don't care.
8 But, it -- but, it -- but, it is a really
9 good example of a state that's managed to get huge,
10 right? And, we are the leader in national crime
11 declines, largely driven by New York City.
12 But, we're also the leader in simultaneous
13 reductions in jail population and prison population.
14 So the nice thing about that -- that story, right, to
15 me, is that regardless of why you think crime went
16 down, or the different strategies you believe
17 contributed to that decrease -- the policing,
18 obviously, is one -- it did not involve, right, this
19 -- this fact is not in dispute. It did not involve
20 more use of jail or prison. It actually involved
21 less.
22 And, I could sort of go through how that
23 happened. And, believe me, you don't want me to do
24 that. But -- but, it's -- but, at a macro level, it's
25 a hugely important story. And I think for New York,

1 it's a -- it's an important story to sort of keep
2 going. You know, it's not -- it's not like were
3 sized, in my opinion, just right now, and we've sort
4 of reached our limit, and we used to be in the mid
5 70s, and now we're in the low 60s, and we're done.
6 I mean, every state could easily do, in
7 percentage terms, what New York did. And, I think we
8 should keep doing it both because, from a public
9 safety point of view, it's an entirely manageable
10 proposition, and we -- we know that you could take
11 some of the dollars that are now spent on corrections
12 and get more public safety. Right? Forget about --
13 forget about cost. Forget about budget for a moment.
14 You could take the dollars that -- or some amount of
15 the dollars that we now spend on our correctional
16 system, and buy yourself more public safety if you did
17 other things.
18 And, this is where other states are now, in
19 different -- in different ways, right? And, they're
20 looking at -- and, I'll just talk for a couple of more
21 minutes, and then I'll stop, because I've probably hit
22 the wall.
23 And, you know, states tend to look in sort
24 of three general areas. One, just -- just sentence
25 lengths. Again, you know, going back to Paul's chart,

1 right, with the time -- the average time served, it's
2 hugely increased here, and everywhere, all sorts of
3 research showing that especially marginal either
4 additions or reductions in sentence lengths get you
5 nothing -- nothing, nothing, nothing, nothing. They
6 don't buy you more public safety. They don't increase
7 recidivism. They just cost a lot of money. Right?
8 So, if every state -- if New York, if you
9 just reduced your overall length of stay by a month,
10 right? That -- how many admissions? 24,000, give or
11 take, right? So, 24,000 probably turns into about --
12 so, that's -- that's, say, 2,000 prison beds, give or
13 take. Depending on what numbers you use, you'd save
14 60, 70, 80, 90 million dollars. Who knows? That's a
15 lot of money.
16 And, not only I, but a number of people
17 would argue if you spent -- you would buy yourself a
18 lot more public safety by driving your -- your length
19 of stay down by 30 days, extracting that money, and
20 spending it on a whole bunch, again, of -- of other
21 things.
22 And, I give you some of those things, if you
23 look at that Vera report on reconsidering
24 incarceration, we go through sort of the crime
25 reduction benefits of a variety of programs, whether

1 they're community-based programs, in corrections,
2 itself, or just things like hiring more police and
3 doing some strategic things with them, to decreasing
4 your dropout rate, to raising those -- going back to
5 Bruce's chart -- wages in certain labor markets, you
6 will get more public safety than you do from that loss
7 of 30 days in prison. So, that's one.
8 Right, the other big area that people are
9 looking at -- I'm sure. I wasn't here. But, I know
10 Marty can spend more than five minutes talking. I'm
11 sure he gave you the whole sort of parole -- his whole
12 sort of parole spiel on get rid of parole, and don't
13 have parole supervision.
14 And one of the reasons he says that is
15 because of the issue with the technical violators,
16 right. We send -- and New York is about average. We
17 send about an average number of people back to prison
18 for technical violations, not -- not just criminal,
19 but of probation. California is the national leader
20 on this. They're worse than every other state. So,
21 it's one of the nice things about California, is
22 they're -- and, I used to love this when I was in
23 probation at the jail -- because of how much -- how
24 much by Probation Officers and Correction Officers
25 complained about their workload, or caseload, or

1 crowding, all you've got to do is look at California,
2 and you start to feel pretty good about yourself.
3 [Laughter]
4 MR. JACOBSON: So, the -- and the thing
5 about technical -- the whole issue around technical
6 parole violators is a complicated one. It's very
7 nuanced. Once of the reasons we send back so many
8 people are because, you know, these paroling agencies
9 and probation agencies are so under-resourced, they're
10 so poorly resourced, but they all have enough -- so
11 they -- they sort of have no options, right? They
12 have nothing at their disposal.
13 COMMISSIONER GREEN: If I could go back a
14 minute?
15 MR. JACOBSON: Yeah.
16 COMMISSIONER GREEN: If I heard you right,
17 you were talking about, as a policy decision, you
18 might advocate for intentionally driving down prison
19 population and reinvesting the money --
20 MR. JACOBSON: Right.
21 COMMISSIONER GREEN: -- on the prevention
22 side. In terms of timing, how long is it going to
23 take you to realize a savings that you can reinvest?
24 Because, I've got to assume that driving
25 down that number immediately isn't going to save you

1 the money.
2 MR. JACOBSON: Yeah.
3 COMMISSIONER GREEN: You still have the
4 prisons open. You've got the people working.
5 MR. JACOBSON: Right.
6 COMMISSIONER GREEN: So what -- what's the
7 time lag before you're going to realize the savings
8 under that hypothesis?
9 MR. JACOBSON: Yeah, that's a really good
10 question. And part -- you know, part of it depends on
11 -- on how you're going to drive down the savings,
12 right? So, I'm not advocating this, but if tomorrow
13 you said -- like Washington state, right?
14 Washington state said -- passed a law, I
15 forget how many years ago -- you can't go back to
16 prison for a technical violation. It can't -- can't
17 be done. You cannot go back to prison. After a
18 while, you can go back to jail. You can never go to
19 prison. Never.
20 So, if you did that, for instance, in New
21 York State, you'd start to see the savings, you know,
22 like phase in pretty quickly as the, you know, Paul's,
23 whatever it was -- 8,000 to 10,000 violators just went
24 somewhere else.
25 If you just, you know, selectively cut the

1 length of stay of different classes of inmates,
2 depending whose length of stay -- or, you know, if you
3 take a five-year sentence to four years, right, you're
4 not -- you're not going to get that savings for four
5 years.
6 So, you can do it more or less quickly, but
7 I think you're -- you're -- the question you're
8 pointing to is you -- you have to -- you have to prime
9 the pump. Right? Almost no matter how you do this,
10 right? You can -- and, you know, budget offices are
11 really good at this, if they want to be helpful. And,
12 if they don't want to be helpful, they'll -- they'll
13 sort of always fall back on, well, when we see the
14 savings, then -- then we'll get it and reinvest it.
15 So, let's see the savings first.
16 And, I would argue that --
17 COMMISSIONER GREEN: My point is though, no
18 matter how quickly we do save -- even if you reduce it
19 on the front end by --
20 MR. JACOBSON: Right.
21 COMMISSIONER GREEN: -- by doing something
22 with the violators, --
23 MR. JACOBSON: Right.
24 COMMISSIONER GREEN: -- just because we
25 reduce the prison population doesn't necessarily mean

1 we're going to save money in the short run.
2 MR. JACOBSON: Correct. That's correct.
3 And that's -- that's correct. And, there's all --
4 there's -- this is another thing I can talk about
5 forever and, believe me, you don't want me to.
6 But -- but, it -- so, it depends what kind
7 of money you're saving, right? Are you -- are you
8 saving currently budgeted funds? Are you saving money
9 that the Department is planning to spend on sort of
10 either capital increase, or capital expenditures?
11 And again, these are the sorts of things
12 that, if -- if, again, if you -- if you decided,
13 right, today, that you were going to do something,
14 forget about what it is, that was going to drive the
15 prison system down by a thousand beds a year from now,
16 right, one of the question is, well, what are you
17 saving? I mean, and part of that depends on what else
18 is -- on what else is happening, right?
19 Maybe the Legislature will pass some new law
20 that will drive it up by 5,000, right? So, you've
21 only -- you know, you've -- you've gone -- so your
22 action has caused it to grow by four instead of five.
23 Or maybe nothing will happen. And, it will actually,
24 like the system has actually decreased, right.
25 Then, the question is so what's the savings?

1 You know, how do you get the savings? Right? Is --
2 you know, is Brian just sort of close housing, little
3 housing areas all over the place? Are we going to
4 finally bit the bullet and close a prison? You know,
5 are you going to get marginal savings? Are you going
6 to get fully loading savings? I mean, these are all
7 really good, practical and technical questions.
8 But, the fact is that almost no matter what
9 the answer to that is, budget offices are really good,
10 if -- if they -- if they want to be helpful here about
11 figuring that out, whether it's offsetting future
12 growth, whether it's trying to extract money by
13 getting marginal savings out, or whether by pushing
14 the system to get fully loaded savings out, I mean,
15 those are all good questions that need to be put on
16 the table.
17 But, in almost any -- regardless of what the
18 answer is, you could put together a strategy. If you,
19 you know, decide we're going to do these four things,
20 whatever they are, and they're going to get your
21 population down, or at least offset projected growth,
22 that's either real money, that's currently budgeted
23 money that will be spent, again, at different rates,
24 that you can, again, if -- if -- if the Governor's
25 office and the Legislature is sort of there, that you

1 can money to prime the pump with, to start investing
2 in these things. And -- and a budget office will, you
3 know, they -- they can invest five million today, and
4 start taking it out a year and half, two, three years
5 from now.
6 And, one of the advantages of showing a few
7 years in the state budget now is that you can actually
8 start to remove some of that money in the out years.
9 I mean, this drives Commissioners crazy, because
10 they're always nervous. You're sort of taking it out
11 before things have actually happened, right?
12 So, you know, if I was Brian, and someone
13 said we're going to do all this brilliant stuff, and
14 you're going to save 3,000 beds, so we're taking 3,000
15 beds' worth of dollars out of your budget in, you
16 know, two years from now, right? This is what gives
17 people agida. But, you know, that's why they came to
18 New York. So -- and, you have to -- and, you have to
19 make it happen. That's the thing.
20 I mean, the reason I like that is it -- you
21 have to force these things down, and you can't -- you
22 can't just -- you can't just do something and sort of
23 hope -- hope the system shrinks. You have to force it
24 to shrink.
25 And, using -- using the budget process

1 wisely to do that, in my opinion, is a really good
2 thing to do. But, it does -- it does mean everyone
3 has to give up something, right? The budget -- the
4 budget office has to come up with money up front, and
5 there has to be some general consensus on -- in terms
6 of what you save.
7 And, you know, parole violators are a good
8 example, again. There are -- there are programs like
9 Washington state, which is clearly on one end of the
10 scale. But, if you look around the country -- and,
11 I've already gone over, so I'll just stop in a couple
12 of minutes.
13 COMMISSIONER O'DONNELL: No.
14 MR. JACOBSON: If you look -- if you look
15 around the country, like so many of these agencies are
16 in the same boat, right? As I was saying, right?
17 Their caseloads are too high. They have
18 very few options in terms of whether it's transitional
19 housing, or employment programs, drug treatment, or
20 access to, you know, electronic bracelets, whatever,
21 right? But, all these -- all these parole agencies
22 have enough money to know when people are violating.
23 And, everyone violates. Everybody violates. If you
24 guys were on parole, you'd be violating parole. I
25 mean, maybe not all of you.

1 [Laughter]
2 MR. JACOBSON: I know a few of the people
3 in the room. I know a few would. Why don't you just
4 look at who is coming out of prison, right? Their
5 levels of education, and mental illness, and drug use,
6 and all that stuff, and compare them to the standard
7 conditions of parole. You have to be drug free. You
8 have to be looking for a job. And you have to have a
9 stable address. And, you know, just really, you know,
10 some mentally ill guy with a drug problem is going
11 into the shelter system, right? That's a violation.
12 That guy's gone. Right? It's a violation. It's just
13 going to happen.
14 So -- and, the technology to catch people
15 who are violating is -- it's cheap. It's reliable.
16 It's easy. Drug testing is easy. Curfew checks,
17 easy. So, all these agencies are sort of in an
18 interesting political situation, right?
19 They have -- they know that huge numbers of
20 people are violating, right? Because -- and -- and
21 you want to, and you should, you have to react to
22 violator behavior. You can't -- you can't just sort
23 of let it go.
24 But, if your agencies have nothing, right,
25 and so many of them do -- they have nothing. Right?

1 Their -- their choice is to sort of ignore the
2 violation, or jump to the most punitive, expensive
3 sanction you have, right, which is prison? And again,
4 California is the poster child for this. Right?
5 Those agents have nothing, nothing, right? But, they
6 all know when their caseload is violating, and they're
7 all violating. So, they send everybody to prison.
8 And, you know, it's insane. It's a waste of
9 public money, but it's understandable. I mean, if I
10 was a Parole Officer operating in a hyper-political
11 environment, right, where I thought the governor and
12 the mayor would literally be hanging me out to dry, as
13 past governors and mayors have done to Parole and
14 Probation Officers, I'd send people to prison, too.
15 But, I -- you know, when you talk to these
16 folks, no matter whether it's New York or other
17 states, right, they'll all say, "Look, you have to
18 react to violator behavior. I can't let it go. But,
19 do I need to send everybody to prison? No, but I --
20 you know, so give me some other options and I will use
21 that, right?" But, there are no other options.
22 And again, there are -- there are -- that's
23 not true in all the cases. So, what a lot of the
24 states are doing is sort of building those systems --
25 systems of intermediate sanctions in parole, and in

1 community-based programs, to give them the options
2 that (a) we know work better than prison, and (b) just
3 keeps people from going to prison for three, to four,
4 to five, to six months, which again, there's
5 absolutely no evidence, not a shred, not one piece of
6 research evidence that I know of in the United States
7 of America, that says sending someone back to prison
8 for a technical parole violation for three, four, or
9 five months gets you any public safety benefit
10 whatsoever.
11 And, you know, the common thinking is, you
12 know, we're getting -- we're getting this guy before
13 he goes down a slippery slope. He was a drug addict.
14 He's using drugs again. It's only a -- you know, if
15 he's only a month away from burgling a house. And,
16 you know, it's not like that can't be true. But, it
17 doesn't -- the research doesn't bear it out.
18 So, what parole -- what parole agents across
19 the country are asking for is, you know, to give --
20 give me other options, right, because I do need to
21 react to violations. And they're right. It's
22 important. You can't let them go, and some of those
23 should be prison, all right? If you have a sex
24 offender and he's hanging around the school yard,
25 right, time to go to prison, right? But, if you're

1 using drugs, one, two, three times, do you necessarily
2 have to go to prison, or even Willard? You know,
3 that's the question.
4 Anyway. So, a lot of states are looking at
5 length of stay, technical parole -- technical parole
6 violations, and community-based programs as -- as a
7 way to sort of, again, both on political terms of sell
8 it as a public safety, a public safety program, and
9 they also happen to free up incredible amounts of
10 resources that can be better spent, right. Right, not
11 all of it.
12 A lot of people need to be in prison, they
13 need to be in for a long time, but on the margins --
14 and this is a field where on the margins are -- are
15 huge numbers, both in terms of people and finances.
16 And, whether it's -- you know, New York is no
17 different than any other state. It is, in terms of
18 the --
19 COMMISSIONER O'DONNELL: But, we are going
20 to have to wrap up.
21 MR. JACOBSON: Yeah, no, I'm done.
22 COMMISSIONER O'DONNELL: No, you -- I
23 really appreciate your very practical advice and --
24 and look at the system. And, I hope we can call on
25 you and Vera as we move forward, because part of our

1 mission in the Executive Order is essentially that, to
2 look at alternatives to incarceration that can save
3 money.
4 MR. JACOBSON: If what you offer is --
5 COMMISSIONER O'DONNELL: So, the numbers --
6 MR. JACOBSON: -- all the numbers in the
7 world of --
8 [Applause]
9 COMMISSIONER O'DONNELL: Just one question
10 here.
11 COMMISSIONER ALEXANDER: If I could just
12 make this comment, you know? And, we talked about
13 technical violations. The technical violation isn't
14 just dirty urines, or not being home when you're
15 supposed to, but part of technical violations is
16 absconding. That person who absents him or herself
17 away from supervision, and we don't know where they
18 are, they pose a certain danger.
19 We've been having talks with Michael, and
20 the Vera Institute, in terms of looking at that
21 population, from a standpoint of studying why people
22 are absconding. And so, we're presently looking at
23 that as a separate discipline. If we can figure it
24 out, then maybe we can kind of reduce the amounts of
25 incidences of absconding, and thus reduce some of the

1 rates of technical violations. So, we're certainly
2 looking forward to Michael's continued involvement
3 with us in that endeavor.
4 COMMISSIONER O'DONNELL: That's great.
5 Thank you, very much.
6 MR. JACOBSON: Thank you.
7 [Applause]
8 COMMISSIONER O'DONNELL: Okay. Let's take
9 a five-minute break, and then we'll be back for our
10 eighth and final speaker of the day.
11 (Off the record.)
12 COMMISSIONER O'DONNELL: Let's get back in
13 session here.
14 Judge, if you're ready, I -- I'm sorry we
15 put you in the position of being our eighth speaker
16 today. It's been a very, very busy day. But, I have
17 to tell you, we are just delighted to have you here.
18 The Honorable Judith Harris Kluger is the
19 Deputy Chief Administrative Judge for Court Operations
20 and Planning for New York State. She is responsible
21 for court reform, restructuring projects, and
22 specialized courts, including integrated domestic
23 violence courts, drug courts, mental health courts,
24 community courts, sex offender -- or offense courts.
25 And, we hope, at some point in the future, reentry

1 courts.

2 So, we've had many discussions already about
3 the important role of specialized courts here in New
4 York. I'm particularly interested, if you can work it
5 into your remarks, in any obstacles that may exist in
6 the law to specialty courts, ways that our
7 recommendations may facilitate specialty courts, and I
8 think it's important that we understand the important
9 roles that have -- that have taken place, and changes
10 here in New York, as a result of all of these
11 innovations.

12 So, thank you for joining us.

13 SENTENCING PRACTICES IN NYS'S SPECIALTY COURTS

14 JUDGE KLUGER: It's great to be here. Just
15 before I start, we were having some technical
16 difficulties. I have a few slides. Shall I just
17 proceed? Okay. It seems they're --

18 UNIDENTIFIED: Right. We'll bring it up
19 when we get the computer. This computer doesn't run
20 that particular program.

21 JUDGE KLUGER: Okay. In the interests of
22 moving along, and knowing I'm the last speaker today,
23 the unenviable position -- I don't know if Mike
24 Jacobson is here, but I wanted to say it in front of
25 him, that I hold him completely responsible.

1 [Laughter]

2 COMMISSIONER O'DONNELL: He actually was on

3 time. But, everybody else has been a little behind

4 schedule.

5 JUDGE KLUGER: And, as I was standing

6 outside, I'm like cutting my remarks.

7 In any event, it's a pleasure to be here.

8 And, I would like to talk to you about New York

9 State's problem-solving courts. And, as Deputy Chief

10 Administrative Judge, that is what I do. I oversee

11 the problem-solving courts and treatment courts in New

12 York State.

13 There are currently 278 of these courts, and

14 another 42 that we plan to open this year. And, when

15 we refer to problem-solving courts -- and that's what

16 we call them, rather than specialty courts -- what

17 we're talking about are drug treatment courts, mental

18 health courts, domestic violence courts, integrated

19 domestic violence courts, and sex offense courts.

20 And, the primary goal of these courts is to

21 identify the underlying problems that bring defendants

22 or litigants into the court system, and to provide a

23 disposition and resolution of the case that addresses

24 those problems.

25 In drug courts and mental health courts,

1 treatment generally serves as an alternative to
2 incarceration. In domestic violence and sex offense
3 courts, intensive judicial monitoring is used to hold
4 defendants accountable to the terms and conditions of
5 their sentences. And, these sentences are generally
6 not alternative to incarceration.
7 All of New York's problem-solving courts
8 have a dedicated judge and court part, and handle the
9 cases from the time they are identified as eligible
10 through disposition. Judges and staff for these parts
11 are trained in the issues that commonly arise in these
12 cases, and court teams work closely with other
13 agencies inside and outside the court system to
14 coordinate the delivery of services to litigants and
15 their families.
16 These courts engage more closely with
17 litigants primarily through intensive judicial
18 monitoring, and are able to react more quickly to
19 non-compliance or misconduct.
20 There are a few key principles and
21 differences among these courts that I want to
22 highlight for you. Principal among them is whether
23 the court is a treatment court, and whether it
24 provides for alternatives to incarceration or
25 alternative sentences.

1 Drug courts and mental health courts are
2 both treatment courts. They are based on the
3 principle that an eligible defendant has a disease or
4 disorder that can be treated, and that is the root
5 cause of whatever behavior brought them into the court
6 system.
7 In contrast, domestic violence, integrated
8 domestic violence courts, and sex offense courts do
9 not engage in treatment in exchange for a reduced or
10 alternative sentence. These courts are not based on a
11 treatment model. Unlike defendants with a drug
12 addiction or a mental illness, criminal behavior by
13 sex offenders and perpetrators of domestic violence
14 cannot be ascribed to a treatable condition.
15 Offenders in sex offense and domestic
16 violence courts are not offered less punitive outcomes
17 in exchange for participation in treatment. However,
18 in these courts, the dispositions may still be
19 preferable to the offender other then what he or she
20 would have received elsewhere. For example, a judge
21 who has an understanding of sex offense behavior and a
22 good working relationship with probation is in a
23 position to order conditions of probation specific to
24 the particular circumstances of the case. And a
25 defendant who is being monitored while in a batter's

1 education program may be more likely to be compliant
2 and avoid violating the terms of his sentence.
3 In order to give you a better understanding
4 of each of these courts, I will go through them one by
5 one, and then, of course, I'll be happy to take any
6 questions that you may have.
7 We have, in New York State close to 200 drug
8 treatment courts. So, they are our busiest court. In
9 each of these courts, defendants -- the case undergoes
10 a legal screening before entering into drug treatment
11 court to determine if the charges are compatible with
12 the design of the drug treatment court program and to
13 ensure that the charges don't include offenses such as
14 acts of violence, which would exclude them from
15 participation.
16 Each defendant then undergoes a clinical
17 screening to determine if he or she is addicted, and a
18 candidate for treatment. To successfully complete
19 drug treatment, a defendant must meet all the
20 requirements of a participation agreement. In
21 addition to successfully completing a mandated drug
22 treatment program, other requirements can include
23 completing a GED, obtaining employment, attending
24 vocational training, and paying any outstanding fines,
25 costs, or child support.

1 There are three basic drug court models:
2 There is the plea and deferred sentence model; the
3 post-sentence model with participation in drug court
4 is a condition of the defendant's sentence; and a pre-
5 plea model, where a guilty plea is not required to
6 participate in drug court.
7 The most commonly used model is the plea and
8 deferred sentence. In this model, a guilty plea is
9 accepted by the court and sentencing is adjourned
10 pending the outcome of drug treatment and the
11 completion of any other drug court requirements.
12 Once a plea agreement is reached, a
13 voluntary contract is entered into and signed by the
14 defendant, defense counsel, the assistant district
15 attorney, and the court. The contract outlines
16 specific outcomes for success and failure. And, as
17 most of you know, relapses are an expected part of
18 drug treatment, and they're addressed with graduated
19 sanctions, the final and most severe being termination
20 from the program and the imposition of a sentence.
21 The rewards for a defendant's completion of
22 drug treatment can raise from imposition of a
23 revocable sentence, such as probation or a conditional
24 discharge, to the withdrawal of the guilty plea and
25 complete dismissal of the case. Failure in most cases

1 will result in a sentence of incarceration.
2 In the post-sentence model, participation in
3 drug court is a condition of sentence -- of a sentence
4 of probation or a conditional discharge. Successful
5 completion of drug court may result in early discharge
6 from probation. Failure may result in the filing of a
7 violation of probation, or a violation of the
8 conditional discharge.
9 This model is often used with offenders who
10 are charged with driving while intoxicated to address
11 a particular issue. When DWI participants have their
12 cases considered in a plea and deferred sentence
13 model, their ability to drive is curtailed for a
14 period of time. This is because a condition of
15 participating in the drug treatment program is that
16 they do not drive.
17 Once participants complete the program and
18 are sentenced, the statute requires mandatory license
19 revocation. The result is that DWI offenders often
20 have -- are subject to much longer periods where they
21 are not allowed to drive longer than intended by the
22 statute. The court system has previously included in
23 its legislative agenda a proposal to address this
24 problem and perhaps this is something that the
25 Commission could consider, as well, as far as a

1 recommendation.
2 The proposal would allow the time period
3 during which a defendant's license was suspended while
4 attending court ordered drug treatment prior to
5 sentence to offset the revocation period that
6 commences at the time of a sentence that's required by
7 statute.
8 The third and least commonly used is the
9 pre-plea model. Here, a guilty plea is not required
10 as a condition of participation. Success in the
11 program may result in dismissal of all charges or a
12 charge reduction and a non-jail sentence.
13 In the case of failure, the case proceeds --
14 in the case of failure of the drug treatment, the case
15 proceeds on the trial calendar.
16 In general, the average time a defendant is
17 in drug court is 12 to 24 months. This basically
18 depends on the level of the -- the design of the
19 program, which is different county by county, the
20 level of the crime charged, and the progress made by
21 the defendant in completing drug treatment and
22 complying with any other conditions.
23 To help you better understand the variances
24 that occur in our state, I'll give you some examples
25 of actual sentences in different drug courts.

1 In Queens treatment court, a first-time
2 felony offender would be required to plead guilty to a
3 felony offense. And, upon successful completion of
4 treatment, the case would be dismissed, the plea
5 vacated, and all charges dismissed. If the defendant
6 failed in treatment, he or she could be sentenced to
7 one year in jail.
8 On the other hand, in Chenango County, a
9 similar defendant charged with the same offense would
10 be required to plead guilty to a felony, and be
11 sentenced to five years probation upon successful
12 completion of drug treatment. That defendant might
13 receive an early discharge from probation, but would
14 still have a felony conviction.
15 And variances such as these, of course,
16 occur because there are 62 D.A.s, and each of them has
17 different policies and procedures regarding the cases.
18 But, I will say that the D.A.s in this state have been
19 tremendously cooperative and responsive and have, I
20 think, realized that drug treatment courts work, and
21 have done what they could to further the drug
22 treatment court expansion, which is why we have almost
23 200 of those courts in the state.
24 Studies have shown that drug treatment
25 courts reduce recidivism. A State-wide evaluation of

1 drug treatment courts completed in October of 2003
2 showed that the recidivism was reduced an average of
3 29 percent over the first three years following the
4 arrest that led the defendant to participate in drug
5 -- in treatment court, and a 32 percent decrease in
6 recidivism for the year following completion of drug
7 treatment.
8 And, as many of our problem-solving courts,
9 these courts have been replicated around the country
10 and around the world. New York State received an
11 award several weeks ago from the National Association
12 of Drug Court Professionals for taking the drug court
13 treatment concept to scale, and there were 3,100
14 people from around the country participating in this
15 conference. So, in about fifteen years this has gone
16 from an experiment to really a widely recognized
17 solution for many drug offenders.
18 I'll talk briefly next about our mental
19 health courts. There are twelve of them operational
20 state-wide. And, the goal of these courts is to limit
21 defendants to treatment when mental illness is the
22 underlying cause of the criminal activity. As with
23 our drug treatment courts, sentences in mental health
24 courts are generally alternatives to incarceration.
25 These courts were established through a

1 collaborative planning process within each county, and
2 their policies and procedures may vary, and also
3 reflect local plea and sentencing patterns.
4 As in our drug courts, the deferred
5 sentencing model requires the defendant to plead
6 guilty, and sentencing is adjourned until completion
7 of te program.
8 In the post-sentence model, where sentencing
9 is not deferred, successful completion of the program
10 is a condition of sentence, which is often probation.
11 In both cases, the progress of the defendant
12 is monitored very closely by the court, and there are
13 numerous court appearances to ensure that the
14 defendant is complying with the conditions of the
15 program.
16 As in drug treatment courts, in the limited
17 number of mental health courts, the defendants are
18 accepted in a plea-free basis -- plea-free -- that's a
19 hard word to say -- plea-free basis. Eligibility in
20 drug court is determined by a review of the current
21 charges, the defendant's criminal history, and any
22 available mental health records.
23 If a plea agreement is reached, the terms of
24 the agreement are incorporated into a participation
25 agreement that is signed by all the parties. This

1 agreement specifically outlines that the defendant
2 agrees to participate in the mental health court, and
3 includes cooperation and participation in treatment,
4 and also frequent court appearances.
5 Again, sentencing policies vary throughout
6 the state. In Plattsburgh mental health court, a
7 guilty plea will result in a sentence of probation
8 with court monitoring. And, as the defendant
9 progresses in treatment, the frequency of compliance
10 appearances may be reduced and finally, upon
11 graduation from the court, no further appearances will
12 be required. But, the defendant would have a criminal
13 conviction.
14 In the Queens mental health court, sentences
15 for successful completion range from a complete
16 dismissal of all the charges, to a reduced charge and
17 the imposition of a non-compensatory sentence.
18 Research literature has begun to emerge on
19 mental health courts, and the early results are quite
20 promising. For example, a trial implemented in
21 California showed both lower re-arrest rates and
22 improved psychosocial functioning after a year in
23 mental health court. And, in a study of the Brooklyn
24 Mental Health Court, when comparing the year before
25 and after participation began, participants showed

1 improvements in multiple areas, including re-arrest,
2 homelessness, drug and alcohol use, psychiatric
3 hospitalizations, and psychosocial functioning.
4 Regarding our sex offense courts, there are
5 five currently operating in New York State. And, one
6 purpose of these courts is to closely monitor offender
7 behavior when offenders are not sentenced to
8 incarceration. These, again, are not treatment
9 courts, and are not designed as alternatives to
10 incarceration.
11 In a sex offense court, sentencing may
12 include probation with specific terms, incarceration,
13 or a combination of both. Upon conviction of a
14 designated sex offense, the court certifies that the
15 defendant is a sex offender pursuant to the Sex
16 Offender Registration Act. The sentencing court
17 determines the offender's risk level, either at the
18 time of sentence in probation cases, or when the
19 offender is released from custody when he receives a
20 sentence of incarceration.
21 In the sex offense cases, the period of
22 probation has been enhanced. It's ten years for
23 felony convictions, six years for misdemeanors, and
24 often probation will include special conditions such
25 as defendant participating in certain sex offense

1 therapies. Some of the other special conditions may
2 include submitting to polygraph examinations, limits
3 on Internet use, driving restrictions, and the
4 completion of a sex offender treatment.
5 Once sentence is imposed in these courts,
6 defendants may be required, as a condition of
7 probation, to return to the sex offense court for
8 compliance monitoring during the probationary period.
9 The frequency of this depends on -- varies by court
10 and depends on the behavior of the defendant. And
11 cases are re-calendared in these courts if the
12 defendants -- if there is a violation of probation
13 filed.
14 An example of a disposition in the Oswego
15 Sex Offense Court for a felony offense would be the
16 imposition of a split sentence and six months -- six
17 months local jail time, and ten years probation, with
18 as many as 54 different conditions. And, they can
19 include paying of fees, attending -- taking polygraph
20 tests, and attending sex offender therapy.
21 The defendant would return to court there,
22 as well, to be monitored periodically by a judge, to
23 ensure that he is complying with the terms of the
24 sentence.
25 Our domestic violence courts are created

1 within our courts of criminal jurisdiction to handle
2 cases involving domestic violence. There are
3 currently 28 of those operating around the state, and
4 another five are being planned.
5 The majority of domestic violence cases in
6 our state are misdemeanor offenses. The most common
7 sentences imposed are periods of probation or a
8 conditional discharge, and a large number of cases are
9 adjourned in contemplation of dismissal. Sentences
10 may also mandate attendance in a batterer education
11 program, substance abuse programs, and also may
12 require performance of community service.
13 In these courts, as well, there is a
14 condition that the defendants return to court
15 periodically, to be supervised by a judge, so that
16 there can be a determination whether the conditions
17 and terms of the conditional discharge, probation, or
18 the order of protection are being complied with.
19 Again, the length of monitoring depends on
20 how compliant the defendant is, and may include as
21 often as weekly, and if compliance is good, will be
22 monthly or even less frequent than that. But, the
23 courts do swiftly re-calendar cases when there has
24 been a failure by the defendant, and they do impose
25 sanctions.

1 The integrated domestic violence courts
2 build on what we've done with domestic violence
3 courts, but in these courts, families -- family,
4 matrimonial, and family court matters are all before
5 one judge. There are currently 38 of these courts in
6 operation in New York, and they have handled more than
7 50,000 cases for over 10,000 families. So, that just
8 gives you some idea of how many families have multiple
9 cases in the different courts.
10 Cases do maintain their individuality in the
11 integrated domestic violence court. So, while a court
12 may hear all three types of cases, each is handled on
13 its own merit. So, what I have said regarding
14 domestic violence cases certainly applies to the
15 integrated domestic violence cases, as well. A judge
16 will monitor the defendant, will know -- will have a
17 full picture of the family, and be able to impose
18 conditions on a sentence which don't conflict with
19 each other.
20 In studies about these courts, the
21 integrated domestic violence courts, three themes
22 generally emerge. First, these courts successfully
23 link defendants to advocacy and -- offender victims to
24 advocacy and services. They appear to develop
25 improved mechanisms to hold defendants accountable.

1 Studies in Brooklyn, Milwaukee, Pittsburgh, and San
2 Diego all showed a consistent pattern of more frequent
3 judicial status hearings to verify offender
4 compliance, and a greater use of sanction in response
5 to non-compliance.
6 Also, a number of studies have found that
7 victims appear to be more satisfied with the judge,
8 the court personnel, and the court process when the
9 cases are handled in integrated domestic violence
10 courts.
11 So, that's basically an overview of our
12 problem-solving courts. I'd be certainly happy to
13 take whatever questions you have at this time.
14 COMMISSIONER O'DONNELL: Judge, have you
15 considered reentry courts? Have there been
16 discussions about reentry courts?
17 JUDGE KLUGER: Well, the issue is those
18 courts are now handed to parole, reentry, and
19 administrative law judges handle those cases if there
20 are violations. So, it certainly is something we've
21 talked about. But, it would require a change in -- in
22 the way these cases are handled.
23 COMMISSIONER O'DONNELL: Yes, George?
24 COMMISSIONER ALEXANDER: Probably one of
25 the differences with these courts that you have now,

1 your specialty courts, the courts maintain
2 jurisdiction over those individuals while they are put
3 on probation, --
4 JUDGE KLUGER: Right.
5 COMMISSIONER ALEXANDER: -- and the change
6 would be with parole is that somehow you would have to
7 maintain jurisdiction over that group even after
8 they've gone to prison and come out, right?
9 JUDGE KLUGER: Right, correct, which we
10 don't have now.
11 There's a limited -- in the Harlem Community
12 Court, there is a reentry court. It's staffed by an
13 --
14 COMMISSIONER ALEXANDER: Right, an ALJ, --
15 JUDGE KLUGER: -- administrative law judge,
16 --
17 COMMISSIONER ALEXANDER: -- right.
18 JUDGE KLUGER: -- so, I mean, we're doing a
19 little bit there, trying to enhance services, but it's
20 not something that's easy to expand, because of the
21 issue you just brought up.
22 COMMISSIONER O'DONNELL: And also is it
23 correct that none of these courts are creatures of the
24 penal law or correction law? They're all judicially
25 created?

1 JUDGE KLUGER: Well, I mean, they're all
2 within the framework of the law. I mean, none of
3 these are --
4 COMMISSIONER O'DONNELL: Right.
5 [Laughter]
6 JUDGE KLUGER: -- illegal --
7 COMMISSIONER O'DONNELL: No, I'm not saying
8 that. I just -- I'm just --
9 UNIDENTIFIED: Yeah, outside of the --
10 COMMISSIONER O'DONNELL: Yeah. I'm not
11 saying they're unlawful. I'm more looking at whether
12 they're -- whether changes in the law would facilitate
13 the growth of the court, or the -- the workings of the
14 court?
15 JUDGE KLUGER: Well, I mean, for example,
16 in one area. We use interim probation supervision in
17 some of these courts. And the law limits that to one
18 year. And, I think it would be useful if we were able
19 to have interim probation in certain circumstances
20 imposed for a greater period of time than that.
21 Because, particularly in the mental health
22 and drug courts, a defendant can be in those courts
23 for a lengthy period of time. So, that's one example
24 where it might be useful to have a change in the law.
25 The DWI situation that I mentioned, as well.

1 But, I mean, we're able to, within the
2 framework of the current penal law to do what we do.
3 I mean, the integrated domestic violence courts would
4 benefit from a restructuring of our whole court
5 system, but --
6 COMMISSIONER O'DONNELL: Um hmm.
7 JUDGE KLUGER: -- that's probably beyond
8 your mandate.
9 COMMISSIONER GREEN: Do any of your courts
10 use risk assessment instruments, in terms of assessing
11 recidivism risks prior to deciding what course of
12 treatment to follow?
13 JUDGE KLUGER: Let me -- we don't know of
14 any tool that we could rely on, technically. So --
15 so, we don't -- we don't use any particular tool.
16 Frank, is --
17 UNIDENTIFIED: No, not that I'm aware of,
18 Judge.
19 JUDGE KLUGER: Yeah.
20 COMMISSIONER BERGAMO: Judge, thank you for
21 being here today.
22 A question: You gave us several examples of
23 inconsistency between different courts, in terms of
24 how they treat the same offense.
25 Would you be in favor of a mandate that it

1 has to be the same?

2 JUDGE KLUGER: No. I mean, I think a lot

3 of this is at the discretion of the local District

4 Attorney and perhaps it -- you know, that's the way it

5 should be. I mean, there are different -- I don't

6 think it's -- it can be a one-size-fits-all.

7 COMMISSIONER O'DONNELL: Are there areas of

8 the state that don't have any drug courts?

9 JUDGE KLUGER: Very few. I mean, we're

10 practically all over, and if not yet, we will be.

11 COMMISSIONER GREEN: Can you comment at all

12 on funding challenges that these courts face, both

13 drug courts, mental courts, and some of the other

14 courts?

15 JUDGE KLUGER: I mean, huge funding

16 challenges. I mean, we do this within the court

17 system, with our existing resources. And, we ask the

18 other stakeholders -- the District Attorney, and the

19 defense bar, and the -- and the advocate community,

20 and the service community, to be a part of this, and

21 with very few additional resources.

22 We are able to occasionally access grant

23 funding, which we do very aggressively. But, as you

24 know, that runs out. A grant is for a particular

25 period of time.

1 And right now, we're facing a particular
2 challenge with the groups that assist victims of
3 domestic violence in our courts. A lot of these are
4 local, very grassroots organizations. They don't have
5 a lot of funding. And, when their grant funding runs
6 out, they really are in a very dire situation.
7 Yes?
8 COMMISSIONER LENTOL: Do judges -- I guess
9 these are judges of the supreme court. Are they
10 assigned after receiving a certain amount of training
11 in order to develop expertise in these areas before
12 they're allowed to sit --
13 JUDGE KLUGER: You know, we do --
14 COMMISSIONER LENTOL: -- in these specialty
15 courts?
16 JUDGE KLUGER: -- extensive training in all
17 the courts. We do training before the judges begin to
18 sit in the courts. Then, we have -- particularly in
19 our drug courts, because we have so many and there is
20 a lot of transition, they've been in existence for
21 quite some time, we have transitional training
22 throughout -- several times a year.
23 And so, there's ongoing training, both
24 before the judges enter the courts, and -- and onward.
25 And, we have a -- our training budget, we have a -- a

1 big amount of our budget is spent for training.

2 MR. SCHNEIDERMAN: Excuse me. Just to

3 follow up on -- on an earlier question, can you say

4 anything to us about the funding stream or -- or how

5 this -- if the courts are growing very rapidly, how

6 does -- how do you keep the funding --

7 JUDGE KLUGER: Well, there are a --

8 MR. SCHNEIDERMAN: -- coming?

9 JUDGE KLUGER: -- couple of things. First

10 of all, we're not creating more cases. These are the

11 number of cases that are in our court system. We're

12 just handling them in a different way.

13 The drug -- for example, drug treatment

14 programs are not funded by the court. We use programs

15 that exist already, and they all have to be OASAS

16 licensed. So, we are -- we are reallocating our

17 resources to a certain extent, but we are not -- we

18 can always use more funding, but we are not letting

19 the fact that we don't have additional funding

20 prevent us from going forward.

21 Yes?

22 MR. VANCE: Do the specialty courts and the

23 resolutions of cases all require the consent of the

24 District Attorney and --

25 JUDGE KLUGER: Yes, unless the defendant

1 pleas to the charge and -- but, yes.

2 MR. VANCE: And, would -- and, to follow

3 up, I think, on Mr. Bergamo's question. You made an

4 earlier comment that 62 counties defer to the

5 discretion of the District Attorneys, in terms of

6 resolving these cases, which I understand. But it

7 also leads to, you know, perhaps, inconsistency

8 state-wide.

9 And my question is would -- for

10 simplification purposes, would you support

11 modifications where the District Attorney's consent

12 was not required to resolve these cases?

13 JUDGE KLUGER: Well, you know what? I'd

14 have to see what's involved. I really couldn't

15 comment on that now, no. I think it would be hard --

16 a hard thing to -- to do.

17 I think they have discretion, and they are

18 the prosecuting authority in the County. And, I think

19 any change in how plea bargaining and whose consent is

20 involved is -- is a question that I think I'd have to

21 think about a little more than just an off-the-cuff

22 answer.

23 COMMISSIONER O'DONNELL: Judge, it would be

24 very helpful if you could solicit opinions,

25 suggestions from the judges in the specialty courts

1 about whether there are any barriers in the existing
2 laws, or additional changes in the laws that may
3 facilitate their ability to operate the
4 problem-solving courts. You may have done that by
5 virtue of the -- your legislative proposals from year
6 to year, but that is something that I think we'd be
7 interested in.
8 JUDGE KLUGER: No, I think they were
9 looking at -- the City Bar just issued a report on the
10 immigration consequences for offenders who participate
11 in drug courts.
12 And, as it happens, even if a defendant's
13 case is dismissed, but he or she had to enter a plea
14 up front, in order to participate in drug treatment,
15 that disposition can have a very negative effect -- a
16 negative effect on their immigration status. That's
17 not our law. That's -- that's the immigration law,
18 and that's --
19 COMMISSIONER O'DONNELL: Right.
20 JUDGE KLUGER: -- I mean, I think it's
21 worth looking at that for whatever recommendations you
22 may make outside of what we're doing here.
23 COMMISSIONER O'DONNELL: Okay. Well, thank
24 you, very much. It's been great having you here.
25 [Applause]

1 COMMISSIONER O'DONNELL: And, we really
2 applaud you on all the work that you've done in all of
3 the problem-solving courts throughout the state.
4 Well, we could go into executive session,
5 but I think it's much too late for that. I just want
6 to make two comments.
7 One, you have a copy of the letter that I
8 did send to the Governor about the extension to
9 October 1st. And, I have heard no feedback, so we'll
10 be proceeding with that letter having been sent.
11 Secondly, I think one of the observations
12 here is that a lot possibly can be done in these areas
13 administratively, through changes in regulations,
14 through guidelines and procedures. So, I just want
15 you to kind of keep that in the back of your mind.
16 Legislation is wonderful. I'm sure we'll
17 have recommendations about legislation. But, a lot of
18 what I heard today, and I think the problem-solving
19 courts are an example of that, is you can do some very
20 creative things, and make some very significant
21 changes sometimes without legislation.
22 And, I think we should keep that in the back
23 of our mind, too, because we aren't directed
24 specifically to confine our recommendations to changes
25 in legislation. So, we may have recommendations on

1 other lines, as well.

2 So, thank you, very much. Again, I always

3 have an open door, so call me if you have any ideas,

4 suggestions.

5 [Time noted: 4:30 p.m.]

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1 C E R T I F I C A T E

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4 I, June Accornero, do hereby certify that I

5 typed the preceding transcript of the proceedings of

6 the New York State Commission on Sentencing Reform,

7 held on Wednesday, June 27, 2007, at Governor's

8 Office, 633 Third Avenue, New York, New York, and that

9 this is an accurate transcript of what happened at

10 that time and place, to the best of my ability.

11

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13 June Accornero

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