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THE BIRTH OF A PROBLEM-SOLVING COURT

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Before I begin, I would like to acknowledge two individuals who work with me at the Harlem Community Justice Center and who deserve recognition for a lot of the work that we do together. Obviously, the judge gets to take some of the glory, but I'm probably one of the ones who does the least work. So I want to introduce my Court Attorney, Joe Zeyes, and Hostas Sanchez, who is the Resource Coordinator.

As you know, I am the Presiding Justice of the Harlem Community Justice Center, which is a multi-jurisdictional problem-solving court serving the communities of East and Central Harlem here in New York.

The Justice Center, which opened in May of 2001, currently handles landlord-tenant proceedings in certain Upper Manhattan Zip Codes, and also juvenile delinquency proceedings that arise from arrests made in certain specified precincts in Upper Manhattan. We also have parole reentry proceedings for certain parolees who live in the community, and also have small claims actions involving residents in the community. The Justice Center also houses a Youth Court.

Now, before I begin to talk to you about the birth of the Community Justice Center, I wanted to just take a few minutes, as the first speaker, just to lay out some basic facts about the nature of a problem-solving court and the events that I believe have led to their proliferation, at least in New York.

Essentially, problem-solving courts have emerged as the result of a response to a recognized failure of the court system to effectively deal with certain types of difficult cases—that is, those cases characterized by a confluence of social, legal, and human problems.

Two prominent examples are drug cases and domestic violence cases. Problem-solving courts attempt to handle such cases differently by doing several things: seeking to achieve more tangible outcomes; relying upon the active use of judicial authority and involvement to solve problems; employing a collaborative interdisciplinary approach to resolve the case; and improving the quality and quantity of information available in the courtroom.

While some have argued that we have been experimenting with justice delivery since the 18th century, it is undeniable that a paradigm shift has taken place in the last few years, a shift which recognizes that we have a problem in our court system. The question

has become really whether problem-solving courts offer resolution to that problem.

In New York, this paradigm shift has been spearheaded by the Chief Judge herself, who is clearly unwilling to put up with what she properly terms the “revolving door of justice.” As the Chief Judge has stated:

In many of today’s cases the traditional approach yields unsatisfying results. The addict arrested for drug dealing is adjudicated, does time, then goes right back to dealing in the street. The battered wife obtains the protective order, goes home, and is beaten again. Every legal right of the litigant is protected, court procedures follow, yet we are not making a dent in the underlying problem. Not good for the parties involved, not good for the community, not good for the courts.

So problem-solving courts—or, more accurately, a problem-solving approach—is one of the Chief Judge’s many answers to these difficult cases which have heretofore been proven unsolvable by the traditional approach to dispensing justice.

The Harlem Community Justice Center opened its doors in May of 2001. I know that it is always exciting to talk about the actual birth of a problem-solving court—you know, the opening ceremony, doing things differently, trying out exciting different things, trying to deliver justice differently, but what I really want to focus upon in the little time that I have remaining is not so much the actual birth of the Justice Center in Harlem, but the events and planning that led to the birth of the courthouse; that is, the embryonic stage of the Justice Center, as it were.

Although the courthouse opened in May of 2001, the actual planning began several years before that after the Upper Manhattan Empowerment Zone funded a study to assess the process for establishing a community-based court with on-site social services in Upper Manhattan.

The Justice Center later received generous funding from the Empowerment Zone, as well as funding from other private foundations and the state and federal government.

Both of those things were very, very important, as many of you know, the funding commitment as well as the preliminary planning prior to the birth of the problem-solving court.

Also, in Harlem the planning team understood that the success of the Justice Center was going to be largely dependent upon the full support of the community in which the Center would be lo-

cated. The community itself had to buy into the innovative community-based approach to dispensing justice.

Accordingly, as part of the assessment, the planning team prior to the actual birth of the Justice Center aggressively sought out and obtained the input of various community stakeholders in Harlem—that is, elected officials, community leaders and activists, service providers, local residents, and the courts and the community. These community stakeholders knew the Harlem community a lot better than many of us did, and they identified for the planning team exactly what was needed in Harlem and what exactly would work.

You know, the truth is that in the past decade Harlem has been undergoing a remarkable period of redevelopment and economic growth. New housing construction is on the rise in that area of town. Brownstones are being restored and renovated on every other street. New businesses are opening up all over the place. Most of you know that even a former President decided to locate to 125th Street.

So, economic growth aside, Harlem also has a rich cultural history and a vibrant infrastructure of civic and religious groups. Indeed, some have, accurately I believe, referred to this extraordinary growth in Harlem as the “Harlem renaissance.”

Now, the problem is that in the shadow of this wonderful renaissance are pockets of pervasive poverty, deteriorated buildings, youth crime, and widespread drug use, all of which really threaten the extraordinary growth that Harlem is experiencing. And, of course, these were the very issues which were identified by the community stakeholders with which this planning group met. And indeed, those were the same issues that were first expressed by the stakeholders, which ultimately became the priorities or the priority areas for the Justice Center.

As a result, we now have a problem-solving court in Harlem which seeks to eliminate some of the remaining obstacles to Harlem’s revitalization. We are addressing youth crime, drugs, and housing, problems which, unfortunately, continue to plague the community.

Now, the Justice Center works with young people. There are two components to the work that we do with young people. The first is the Juvenile Intervention Court, where I hear cases involving neighborhood teen-agers that have been arrested for non-violent offenses. The idea of the court is to focus on young offenders at the earliest stages of delinquency, responding swiftly to offenses

and linking young people to a comprehensive set of services early on in the process.

The second component is the youth-run court, where cases are presided over by a true jury of peers, other teen-agers in the neighborhood who have been trained to perform the role of judge, jury, and attorneys. The Youth Court encourages young people to take responsibility for their actions and recognize how their behavior undermines the local quality of life, thereby promoting accountability and leadership.

The other major component of the Justice Center is the Housing Court, which handles landlord-tenant proceedings in two Harlem Zip Codes, as I mentioned earlier. The Housing Court seeks to increase the stability and improve the overall health of the housing stock in Upper Manhattan, or at least in these two Zip Codes.

We do that by linking tenants to service and benefit providers, to city and state government and other local service providers. We do that to ensure that the landlord gets his rent, which moneys will hopefully be reinvested in the buildings themselves, thereby improving the housing stock. But, of course, we also seriously monitor compliance with Building Code violations or otherwise ensure that the landlord is repairing conditions as required by law.

As I said, we opened the Justice Center in May of 2001. But you should know that we implemented the various components in different stages. And indeed, we are still in the process of implementation. I really think that is the prudent way to proceed, one innovative component at a time.

I think most of you, given the audience that we have here today, understand that the problem-solving courts are going to be a work in progress. Problem-solving courts are different, they are innovative, and you have to be open to readjusting your original plans or your original timetable. Clearly, we have had to do that in Harlem a great deal. Sometimes, it may simply just turn out that the original innovative plan is not working, and you have to be open to fine-tune and adjust that plan.

Anne Swern*Office of the District Attorney for Kings County*

My name is Anne Swern. I am counsel to the District Attorney, Charles Hynes, of Brooklyn.

I was thinking before this morning about the name of this segment, "The Birth of a Problem-Solving Court." I was thinking about that, and I said, "You know, there are many parallels in the birth of this court to the birth of a child." I kept thinking about these parallels throughout the time that I thought about what I'd say.

I thought, for example, that you can't do it with one participant, one agency. A child can't be conceived that way, and certainly a problem-solving court can't be conceived that way.

And that you need willingness—the more willingness and the more commitment on the part of the parents or the partners in the court, the more likely you are going to have a thriving, wonderful child or a thriving, wonderful court.

And what it doesn't need necessarily is the fanciest house on the block or the fanciest toys. Not that that hurts, but that's not what it really needs. It needs loving parents, it needs loving grandparents, it needs caregivers that really care about it, and it needs a support network that will help it thrive and help it grow.

So I actually thought that the title of this was pretty apt. I think that as we go along and as you listen to the next two days, you will see so many parallels to the birth and the creation and the fruition of a problem-solving court, much like a child that grows into a wonderful, productive adult.

So, with that in mind, in Kings County it's no accident that almost every court you are going to hear about in the next two days exists. It is not an accident because the District Attorney, Charles Hynes, has been committed to alternative sentencing and problem solving since his election in 1989. He is the longest-serving District Attorney the County has ever had, and in the twelve years since he has been elected, he has implemented and tried many strategies to achieve the goal of a problem-solving court. That is the prevention of recycling individuals through the criminal justice system.

Now, our goal is pretty specific in the DA's office: we want to prevent crime and we want to improve and increase public safety. There is almost no better way to do that with certain offenders than the application of treatment or other services that help pre-

vent the problem that caused them to come into the criminal justice system in the first place.

So in Kings County, for example, we have many, many prosecutorial-initiated programs that run side-by-side and complement the problem-solving courts that have been conceived in Brooklyn and have thrived in Brooklyn. In fact, I'll talk a little bit about them as the morning progresses.

We have two courts that are in the late planning stages, one scheduled to open at the end of next month, our Mental Health Court, and that will be the first Mental Health Court in New York State; and then, a Misdemeanor Drug Court which is scheduled to open up towards late spring.

Now, people ask "How is it that a prosecution-initiated program can exist side-by-side with a problem-solving court? Don't they compete with each other for the same offenders? Don't, for political reasons, they not work together?" I can't answer that question any better than to give by example what happened in Brooklyn.

In Brooklyn in 1989, the DA said, "This revolving door of drugs and crime is ridiculous." Judge Kaye aptly called it the drumbeat of crime/drugs/incarceration, crime/drugs/incarceration, crime/drugs/incarceration." And it's true. People were recycled in and out of the criminal justice system over and over and over again. The same individuals were seen by the same agencies and the same judges with the same result, and really nothing different should be or would have been expected.

So in 1990, when the DA became District Attorney, he started the DTAP program, the Drug Treatment Alternative to Prison Program. That was designed for a particular category of offenders. They were predicate felons—that means at least second-time felons—who were previously convicted of a non-violent felony offense and now were facing, under Rockefeller drug law sentencing, a mandatory minimum of probably four-and-a-half to nine. A Class B felony offense carries with it a mandatory minimum of four-and-a-half to nine.

So because of the stiff sentence at the end of the road, the District Attorney thought that that would be a good category of offender to try to prompt into treatment.

Now, all treatment is not the same, and I think that a lot of the people in the audience here know, and I think as you listen for the next two days you will hear, that just because you call it treatment doesn't mean that it's successful treatment. The thing that the District Attorney knew then—and he knows even more now—is that

the length of treatment and the quality of the treatment is one of the best, if not the best predictor, for success, and that it wasn't enough to just send an offender who had been a heroin addict for thirty or forty years to thirty days of detox, that this heroin addict had to go to treatment for a substantial period of time to not only become sober and not only learn how it feels to be clean and free of drugs, but also to develop the lifestyle skills and support necessary to live a life free of drugs and free of crime.

And so what he realized is that the average offender for a second felony offense was not doing four-and-a-half to nine—and I don't think in any county in the City or in any county in the State really for the second felony offense, where the first one was non-violent and the second one has no aggravating circumstances, was really pleading to the top count and doing four-and-a-half to nine. What they mostly were doing was two to four anyway, because you can plead those cases down, and mostly everybody did.

So if the defendants were facing two to four and doing at least a minimum of two years, wouldn't it be better or equal to do two years in a residential drug treatment facility? At the time, I don't think he realized, although it has been proven true, that the equal amount of time spent in a drug treatment facility as compared to, say, prison is far, far cheaper and far, far more effective.

So what happened was he took this population. But at the time, in 1989, it wasn't so politically advantageous to take the second felony offenders and do it, but it actually worked out great. The statistics about what happens with those second felony offenders, as opposed to the first felony offenders, opposed to the misdemeanors, actually factors into that—and it is part of Rockefeller drug law reform—and that in fact those defendants did wonderfully.

They were facing a serious amount of time, and that's what prompted a lot of them to go into treatment, and they say that in the interviews, that it's not that they saw the light that drug addiction had finally gotten the best of them, but in fact that the amount of prison time they were facing was so long that they felt that they wanted to try drug treatment because the alternative was far worse for them.

And in fact they went into drug treatment for two years, and they went into treatment at some of the finest places in the nation, in Daytop Village, Samaritan Village, Phoenix House, Odyssey House, and up to eleven providers in therapeutic communities for up to two years. Thereafter they were given housing options and

support in finding and maintaining a job. The case ultimately was dismissed against them.

The DA started that in 1990. It has been replicated by every City DA, it has been replicated by a lot of the State DAs, and in fact there is federal legislation pending now that would make funds available for both prosecutors and treatment facilities to do DTAP throughout the nation.

Just as an aside, basically our graduates represent about \$22 million of cost savings, DTAP graduates. We have almost 600 of them. The cost savings is, by and large, corrections cost savings because, as everybody in this audience I hope knows, it costs \$69,000 a year to house an inmate in Rikers Island for a year, and then thereafter it costs about \$34,000 to house an inmate upstate. So those two years of City and State corrections time amounts to almost \$80,000—coupled with the cost of recidivism, the cost of health care, the cost of public assistance, and the contribution of workers who are paying taxes, amounts to almost \$22 million for our graduates. And that is not a small amount, and obviously that concept exists in Brooklyn and exists throughout the nation in a variety of alternative sentencing programs.

It was against this backdrop in 1996—and the planning, as Judge Acosta said, started way before 1996—that the Office of Court Administration selected Brooklyn as the site for what they now call “flagship Drug Court,” called the Brooklyn Treatment Court.

Nobody said, “Well, DTAP exists there; they don’t need a big Drug Court,” because in fact it’s the exact opposite. There are almost 2.5 million people in Brooklyn and there are almost 100,000 arrests every single year. We, unfortunately, have so many drug addicts involved in the criminal justice system, there is so much need and relatively little resources in order to combat this issue. So every additional resource and every place where resources can be marshaled and can be streamlined and can be used to this advantage serves more offenders in more situations.

So I stress to this group and every group that because of location, having a problem-solving court doesn’t mean that it doesn’t need another kind of alternative sentencing program; and because it has another alternative sentencing program doesn’t mean that it doesn’t need a Drug Court. It probably means that it needs both, because what it means is that the community, the people in the community, the participants in the planning, believe that alternative sentencing is the best method of justice for those kinds of

cases. And if that's the belief of the parties, then you can't have enough resources in order to make that happen.

And so, with that they planned this flagship Treatment Court in Brooklyn. Together with the Treatment Court and the current participants in DTAP, we have almost 1000 current participants in just the felony drug treatment program, our drug treatment programs on felony cases. That is active. That is not talking about all of the other people who have come and gone.

Last night there was a beautiful celebration for the Brooklyn Treatment Court, a graduation celebration. The alumni are involved in both DTAP and in the Drug Court. There are alumni associations for both. Because jobs are not always stable, the economy changes, circumstances change, offenders need support even after they are not involved with the court system. Therefore, there are these alumni networks for both. The attitude of all the agencies involved is that these are the products of our success and we have to support them however we can.

This is part of the reason that we believe Brooklyn is a little bit safer today. So it is against that backdrop, for example, that there is this climate of partnership and the climate of agencies working together and the climate of cooperation that allows the birth of a problem-solving court.

To come into this climate is really, really critical. It can be fostered, and it doesn't have to be fostered—this is another thing I have learned over all these years of doing this—by the highest person in that particular agency or that particular group that's represented. It's fostered by the "can do" person in that agency. That "can do" person could be actually really low on the totem pole, but if they can get a job done, they're okay to be at your table. And if the person is the highest person at the agency but doesn't really believe in alternative sentencing and doesn't really believe in problem-solving courts, then the job may not get done in the best way possible. So it's really the commitment of the people at the table that makes the job get done.

I see my colleague Lisa Schreibersdorf here. She and I are involved in two projects right now. If they had videotaped all the meetings that we've been at, they have been very spirited. It's not that I am not advocating very strongly for the District Attorney and the District Attorney's Office and prosecution, and believe me it's not that she's not advocating extremely strongly for her individual clients, the collective group of clients that she represents as an indigent provider.

But at the end of the day, we both have the same goal, and the same goal is that we can do a better job for the people cycling in and out of the criminal justice system over and over again. We know we can because we've been doing it for like twelve years, and we know we can push the envelope with the harder court, because believe me, it's almost easy to do a Felony Drug Court, it's almost easy to do a Domestic Violence Court, it's almost easy to do a Community Court. Wait until you get to the Mental Health Court and the Misdemeanor Drug Court and you see that the issues that crop up are even harder. You may not think so, but they are.

But if you know the players and the players have all gotten the job done before, you know you'll get it done. It may not get done to 100 percent of everybody's personal satisfaction, but the goal will be achieved, and that is to reduce the recidivism in the criminal justice system.

I forgot to mention with DTAP that recidivism for the District Attorney's Office is the key. We are involved in this because we think it reduces crime. The NYDA funded a study for our DTAP program back in 1992, and Columbia University's CASA was re-searching it, and so they have the recidivism data.

We've studied it one year out from the graduation versus the incarceration of comparable offenders, three years out, and five years out. Basically, at each measure of time the recidivism rate of those who were incarcerated for a period of two years, as opposed to those who were treated for two years, is half. Basically, at three years out, it was 48 percent of those who went to state prison for two years were arrested for any offense, as compared to 23 percent arrested for any offense who had been graduated from DTAP. We just got the five-year recidivism, and it's 56 percent versus 30 percent.

So basically at any measure in time, it's half when you go to prison and supposedly get deterred from committing another crime, as opposed to getting treatment for a comparable period of time. That's why we stay in the business of alternative sentencing.

Now, a big challenge, as I mentioned to you before, and you'll hear a little bit about it, is mental health. Even with the network of services, we did not have the ability to treat serious and persistent mentally ill offenders, and even with the flagship Drug Court, we didn't have that. So we created a program, called TAP, and now we're going to have the first Mental Health Court in the State by the end of March that will service this community.

I invite you all to come and see these courts in Brooklyn, to ask any questions or ask anything of the participants, and certainly if you came to one of our meetings, you would learn really about the birth of these courts.

Lisa Schreibersdorf*Brooklyn Defender Services*

I'm Lisa Schreibersdorf and I am the Director of Brooklyn Defender Services, which is a defender office located in Brooklyn. We represent about 15,000 people who are arrested every year in Brooklyn. My organization has existed for about six years, which, if you can do the math, is just about the time when all of the specialty courts started coming into Brooklyn.

I want to start by talking about a very exciting meeting that I just came back from—and I see Susan Hendricks from Legal Aid who was there as well. It was a meeting in Washington, D.C., of the American Council of Chief Defenders. What that is is a group of public defenders—elected public defenders, appointed, heads of contract agencies—that provide indigent defense services around the country. I think we represented between thirty and forty different states, all getting together to talk about issues that are facing the indigent defense community.

It's a really exciting and important thing that I think we're doing. But the reason I bring it up is because what was most exciting to me were the unbelievable challenges that people have really taken on. The indigent defense providers have said, "We want to be a part of solving these problems and we want to really be a part of changing our communities and being a resource to our clients, and really being part of the solution."

I don't want to say that's a complete change in the way that we have always perceived ourselves, but I think it is a real change in the way we want everybody else to perceive us and the way we really want to operate in the criminal justice system.

I just want to talk a little bit about some of the other initiatives because I think they're really exciting, and I just want to share that with people here because I don't think there's any other way for that information to get around.

There is a wonderful program in Knoxville, Tennessee, where the Defender Office actually has services in a building that they got the county to pay for, and they have clients voluntarily submitting themselves to these services. The clients can walk in the door, and there's just a sign in the Defender Office: "You're here to see a lawyer, but if you want something else, let us know." And they have all the services in one place. And, by the way, they got more than \$1 million to build a basketball court, and they're really adding themselves on to the community as a real resource.

I talk about that because I think it's really important to understand that the defenders are uniquely situated to apprise everybody, to really understand and to apprise all the other members of the criminal justice system of what it is that our clients need.

I have been saying this for a very long time. I have been speaking to clients for seventeen years. I have been meeting with thousands of people who have drug problems, mental health problems, other problems of poverty that get them into the justice system, and I am fully aware—I mean, I am not a social scientist, but you know what? I am a human being, and I really do understand a lot of what is going on.

All of my attorneys have been doing this for many, many years. If you take the defenders and collectively put them together, you have an enormous resource about what really is going on with these clients.

One of the reasons we are uniquely situated to understand what our clients need is because once people are arrested, the DA can't talk to them any more, the judges really can't talk to them any more. There are all kinds of limitations about what other people can do. And, of course, we are the ones who can and do talk to these clients, and they talk to us.

You know, I really appreciate Anne Swern saying that it's really important to have all of us sitting at the table. That's the thing I think is most important, is to understand that everybody has a unique role to play in forming these problem-solving courts, and no court can succeed without the participation of all the important players, and many lesser important but also important players, but particularly the prosecution and the defense.

In a study that was done by the American Council of Chief Defenders, it was determined that one of the most important factors to the eventual success of the court, in terms of graduating people who are in the court, as well as the longevity of the court and the perceived success, was defender involvement from the initiation of the planning process throughout the entire implementation process.

I don't know how many of you are defenders here. I see at least one. But I think that it's really important for any of you who may be starting to think about a court or who are defenders to really think about the fact that this is a really important multiplier

I also believe that it is a difficult role for many defenders. When I started Brooklyn Defender Services, I never thought that I would be spending most of my time in meetings talking about problem-

solving courts. It just had never occurred to me that that's what I would be doing. That is what I do. That is what I do almost all of the time. I talk about problems that my clients have, we reach for difficult solutions, we negotiate the very nitty-gritty details of how these courts are going to work.

You know, to be honest, I couldn't be more pleased about that. It's difficult, it's really difficult, but it is so meaningful and it really makes a difference to the people that my office represents, whom we really genuinely care about. We really genuinely care about the well-being of these people that we have the charge, responsibility, and privilege to represent. At least I take to heart very much that I understand their needs and really care about them.

I wanted to talk a little bit about the role of the defender and some of the particular issues that are important to us.

When I was a new attorney, it didn't take me very long to figure out that a lot of my clients had drug problems, and it was very disheartening to stand next to somebody and say, "Look, I know you have a drug problem, but there really is no opportunity here for you to get drug treatment and you're going to have to do two-to-four in jail," and pretty much say, "You know, that's really the only option, because if you don't take that now, later it's going to be more."

I can't tell you how many—maybe hundreds—of people I stood next to when they received a sentence of two to four years, and just how heartbreaking and heart-wrenching that can be to those people, to myself, and to their family, and what that did to the community, because it took breadwinners, it took sons and daughters, out of the community and put them in jail for what is essentially something that is totally not in their control.

I hope you learn more about this in the next couple of days, but it is a physiological and emotional, somewhat psychological disorder that is very, very susceptible to treatment. To punish it is just so outlandish in a way that it is almost shocking.

There are still many places that do that. It wasn't until an organization called TASK came into Brooklyn—I don't know if there is anyone here from TASK—but Ken Lynd [phonetic], who really, all by himself, in maybe 1985 or 1986, came into Brooklyn and said, "You know, maybe we can get this person into drug treatment," he really single-handedly took on the job of forging relationships between the drug treatment providers and the courts by putting himself in the middle as a monitoring agency and saying, "I will watch

over these people and make sure they're doing what they are supposed to do."

He did that through the defense attorneys. I mean, in essence, when TASK first started, he came to us and said, "You know, can't you talk them into it?" You know what? I spent a lot of time trying to talk people into it, and I really believe that that early work that we did in the middle of the 1980s, just at a time when treatment providers had gotten to a point where they really could do a lot with addiction, that they had really changed and improved their services so that it was something we could rely upon and trust to really do the job, that we were able to really change the culture in Brooklyn.

I believe, obviously, that the District Attorney had a lot to do with that, but I also really believe that that message was coming from a lot of different directions, and that's why the Treatment Court, the various other programs, DTAP included, have been very successful in our County.

Now, TASK, of course, handles hundreds of cases in many, many counties, even outside New York City, and maybe even around the country, but I just think it's important to realize the role that each of these individuals have really played in bringing about the court, which I really thinks takes years and years to change the culture of the people involved and then takes maybe a year to plan and then a year or two to really get going. So it's a very long-term process.

I just want to get back to very much what defenders care about in a Treatment Court. I know there is one other defender speaking at this Symposium. I'm the only one really going to talk about what matters to us in a specialty court, any sort of problem-solving court, so I really want to talk about that.

The first important thing to us is that we don't want our clients to fail. We do not want people sitting around a table to set up a program that is pretty much designed or is guaranteed to make our clients fail. We believe it is incredibly important that everyone understand that relapse is part of recovery and that people do deserve more than one chance to succeed.

You will hear a lot more, I'm sure, about graduated sanctions, and I think those are very effective methods. But the most important thing to us is that they don't walk into court, a client agrees to treatment, they go into treatment, that they don't walk into, let's say, a treatment program that doesn't have the resources to give them effective treatment that will really help them succeed, and that they have a real chance to improve their condition.

And secondly, we don't want a court that doesn't recognize that one failure doesn't mean failure, that if somebody does have a relapse, it can be a very short-lived relapse, that the person can be very motivated to get back on track. It is very important to understand that, because if the court doesn't understand that, everyone will fail.

There are almost no people that go into drug treatment and have a completely clean and upward recovery. It does not really work like that. It just is not that kind of thing.

For the Mental Health Court, it is very important to us that the treatment providers be very legitimate, but that a very legitimate treatment plan is designed that is individual for that client, that essentially either guarantees that they will improve or gives the person a very substantial likelihood of improving.

I will talk a little bit about Mental Health Court because it is the most difficult court I have been involved in, and I think it brings special issues to light. But I want to talk about some of the other things that are very important.

It is very important to us that our clients who go into a Treatment Court, or DTAP, any program that involves treatment, that they be treated consistently and fairly and that the procedures are basically codified in some way so that when the participants who are setting up the court are no longer involved, that all those rules and regulations and policies and procedures are written down and can be followed by other people.

If anybody is no longer involved in the process, I don't really want to say that, "Well, we had agreed earlier on that this was how it was going to be," and everybody will look around and say, "Well, I wasn't there that day." I want that to be what the court has put its stamp on and what it really stands for. The court should continue even when all of us are no longer here. I think that is a very basic due process right that our clients have, but I think, just from a real fairness standpoint, I think it's important.

The other things that are very important are that the clients are fully aware of what is expected of them and that they are fully apprized of what they are expected to do. This comes really into play very heavily in a mental health court, where clients are of questionable competence and their ability to understand what is happening to them is limited. So we, of course, think that it is really important that that be respected and that clients are not asked to make decisions that jeopardize their own freedom eventually if they do not

fully understand what that is. So when I am sitting at the table, those are the things that I am thinking about.

I am also thinking that I really want the role of the defense attorney to be understood and appreciated and respected in a specialty court. I really have to say I think this is the one that is most difficult, because there is sort of a perception amongst drug court professionals and other people involved in the treatment court movement that somehow the roles of the individuals in the court should be different than what traditionally is.

Actually, I do not agree with that. I do not believe that the role of the defense attorney has to change in a treatment court. I do not think that we have to be altered in our perception of what our role is.

Let me just get back to that. The Treatment Court is still a court, okay, and on a very basic level we function in an adversarial system, and no matter what you do, you actually cannot really take the adversary out of that system entirely. We are supportive of the Drug Court, and my lawyers all agree that our clients are better off in treatment. There is nobody going in there and saying, "We don't want our clients in Treatment Court."

But there are individual issues that come up in individual cases that it is very important that we advocate. If there is a client that, let's say, has a very good explanation or has a compelling reason why they may have violated one of the conditions of their treatment, it is very important that that client get a voice in front of the judge, and that voice is the lawyer. You know, the truth is I don't care how many people say the case manager can be that voice, or there should be no voice, that that is in some ways just enabling people, that they really do need a voice. People feel good about their experience in the criminal justice system when they feel like they have been given a chance to be heard and when they have a voice.

So I think it is more important that we speak for our client and the court say, "Look, I do not think that is a good reason and I am going to sanction this person or punish them in some way." We fully, obviously, understand that the judge has the right and responsibility to do that, but we also think it is important that our client's position be heard and that he or she feels that he was fully represented and had a voice in court.

The other thing that we think is very important is that our—and this is, of course, not the most important thing, but it is important

in the success of the court. In a criminal justice system that is overcrowded, defense resources are really stretched in specialty courts.

This is something that we were talking actually about to the United States Congress. You know, a lot of money goes into a DTAP program, for example, where the prosecutor gets extra prosecutors and enforcement money and case management money, and we usually do not get any money for that. So what it does is it sort of stretches the resources of the office as it is and really puts a burden on the lawyers. These cases last a long time.

As I say, we gladly do it, we willingly do it, but that does not change that it is really stretching us, and we really need to have the courts that are forming anticipate the burden that it is putting on us and accommodate in a lot of ways the defender office, the indigent defense provider, which tends to provide almost all the representation in these courts.

These are the kinds of things that I think about when I am sitting at a meeting. I can tell you that they do get quite spirited, because just hearing from Anne Swern and from myself, you can imagine that we have strong opinions, that we take our role very seriously, but that we are both very committed to the outcome being successful. So let me just say this is a little pep talk for any defenders who might be here who find themselves on these committees.

Let me put out also that my office—I really want to end with this, because my involvement in these planning committees has really, really changed and expanded my role and my vision of myself as a chief defender in a large defender office. It has been a remarkable shift in the way that I see my role and the role of my office and the role of my attorneys, and a welcome one, because it is such a productive, positive role that we can play in the lives of our clients and in the community that our clients come from. That is, it is a welcome opportunity to make a difference.

What touched me personally was that our clients who came into the criminal justice system often had many other legal problems that they could not resolve, that really were a serious impediment to them succeeding in drug treatment or in other opportunities they were being given. One of the most significant in Brooklyn is Family Court problems, people who are losing their children. Brooklyn has the second-largest Family Court in the nation, I believe, and an enormous number of people who come through the criminal justice system are also in Family Court facing loss of their children, many times because they are on drugs or have mental health problems.

I saw this, you know, because I have really thought more about how can we solve this problem, I have thought more about how can I solve this problem, what can I do. I spent a lot of time and energy and was ultimately successful in lobbying the City Council to give me funding to represent the clients that we already represent also in Family Court and have some sort of unified plan for bringing this person from a point of desperation to a point of recovering and reentering into society and making them positive parents and positive citizens.

This program is about a year old, and it has been a remarkable shift in the way that we as defenders see ourselves, that we can say yes to a client when they say “can you do this for me, can you do that for me?” It has been really successful for the clients who have participated in this program, who get intensive social work services. We have a social worker that goes out to the home, works with the parents, and is usually able to resolve situations in a really positive way.

We don't have a Family Court Treatment Court yet, which I assume is what we will be hearing about, but we would obviously support that and we would like to be a part of that. And we can be a part of that now because those people are already our clients.

I want to conclude by saying that the problem of mental illness in the criminal justice system is really the newest frontier, because with the drug treatment, many people in drug treatment have mental health issues, and many people who are not in drug treatment have mental health issues, but we are shocked to find out that up to 30 percent of youths and up to 20 percent of adults have mental health problems who are currently in jail. I do not think there is any one of us who thinks that is a good thing, okay.

The challenge really comes to those of us on planning committees to come up with a court that is really fair and reasonable, but mostly one that gives good opportunities to clients to get treatment, because the most difficult part about forming a Mental Health Court is getting service providers to participate in a really meaningful way, to help us really figure out what—you know, these are individual situations.

Drug treatment is kind of a “one size fits all” for the most part. A large number of people can get the same treatment and succeed. But obviously mental health treatment is very unique. So to get a court that can have that kind of unique and individual attention to people that need it, and really give our clients a chance to succeed in a Mental Health Court, is really a big challenge.

We want to make sure that providers are very responsible and committed and dedicated, that they are knowledgeable, that they are able to provide proper medication to our clients, that they do not—as I say, you cannot put people in jail in the United States and then, let's say, torture them—that we don't put people into programs that punish people in a way that to them really is subjectively like torture.

One of the things I heard that really bothered me was that in a jail, where there are a lot of mentally ill people being housed, that people with mental illness do not like to lose their privacy, let's say. They do not like the door open because they like to have some privacy. So what they do when the people misbehave is they leave their door open and they deprive them of that privacy.

This is actually a very sort of subtle but very important thing to think about when you are starting a Mental Health Court, that you do not really want to put people in a position where they are being particularly singled out for the thing that is most bothersome to them. It really does amount—I mean, it might amount—I would certainly think about litigating it—to some violation of their constitutional rights under the Eighth Amendment.

I do not want to be an extremist, but I think it is really important that defense lawyers think about this kind of stuff because that is really what our role is in the criminal justice system.

And finally, we want our clients to have the best opportunity to succeed, to recover from their addiction, from their mental illness, and to really show everybody that they are doing the right thing by giving them alternatives rather than incarcerating them.

Gloria Sosa-Lintner*New York County Family Court*

I have been a Family Court judge, exclusively in Family Court. I am a real devotee of the Family Court. I have had an opportunity to leave the Family Court, and somehow I stay in the Family Court. Family Treatment Court is a very unique court, in that we are not dealing with people's liberty rights; we are dealing with people's right to their children, the constitutional right to raise your children. The main thing, I think, from a judge's perspective is to get proper training in what drug addiction is and what the drug problems are.

Now, Family Court is known for extensive delays, Family Court is known for lack of information, Family Court is known for lack of accountability, and Family Court is known for lack of services. Those were the problems we were facing when we decided that we were going to do a Treatment Court.

Now, the target population in the Treatment Court is parents charged with neglect. We don't call them "offenders," and I wish we did, because then we could get some federal funding, but they don't call them "offenders." I believe that some of our respondents are as offensive as they can get in what they do to their children.

We have been getting training money so that we can get the programs going.

Our gestation period, going to your analogy, was from April of '97 to March of '98. It was not a smooth birth, but a reasonably informed period of gestation, where we had the benefit of the Brooklyn Treatment Court and their processes and their procedures and their approaches, we had the benefit of the National Association's information; but we had a very unique problem in a system where we had—at that point, I think the statistics were 40,000 children in foster care, averaging about four years in foster care, at umpty-ump dollars per year, depending on if it's a relatively "normal" child, whether it is a special needs child, and whether it was a non-kinship or a kinship foster home.

We had to get everyone on-board from the top down. That is, we needed to have Commissioner Scoppetta at the time—now it's Commissioner Bell—from the Child Protective Agency. We had to get the Commissioner to make a commitment, just like we got our Chief Judge as being the spearhead of this operation. We had to get the Assigned Counsel Panel Director, the person who could

make certain commitments. And we had to get the Legal Aid Society Juvenile Rights Director, or the person in charge, at the table so we could discuss how we were going to handle this different court. And we had to get people who would be willing to work out of the box and, not intending to totally disagree with you, everyone had to take certain different approaches. They don't have to do their job differently, but in the sense of not advocating for their client if they're defense, not prosecuting the case if you're the agency, and certainly not giving up your child's best interest if you are the lawyer for the child, but to look in the team approach to solve the problem.

We were bogged down in a system where we tried to find accountability but in the form of blame, as opposed to accountability in the form of doing something about it. Yes, I would like to know who was supposed to do something and did not do it, but I will not dwell and do a hearing on why the agency did not give the mother or father the visits. I will say, "How are we going to fix it?" You have to move forward and reach that for the proceeding.

Now, in Family Court your typical case comes in, and after all these meetings, we came up with written criteria on what cases we were going to take. We wrote down all the sanctions. We came out with a pamphlet so that everyone knew what was expected of them. That everyone included the judge. The judge had to be accountable. The judge had to respond in more or less the same way to the same issues that came before them so that everyone felt they were not being singled out if they have a particular sanction.

We earmarked cases that involved drug addiction and other forms of neglect. We did not take cases where there were allegations of abuse, whether physical or sexual, and we did not take cases—and watch the language here—where there is a neglect based on mental illness. That is not to say that the people we took, some of them were not mentally ill. There just wasn't a basis under Article 10, which is the Family Court Act, child protective sections, that defines neglect as someone whose mental illness prevents them from providing adequate guardianship and care for a child. And that person could or could not be a drug addict. But we did not take those. It was thought that we would be taking too big a chunk to try to deal with.

We, hopefully, in the future will be able to deal with some of these cases, but it is like opening up the water faucet—you don't open it up all the way because you can get splashed and maybe

drown, so you do it a little bit at a time, and we have been expanding it.

A typical Family Court case involving those allegations could involve an arraignment. And if we can get an 18(b), since we are having a shortage now, there would be a denial entered by the client and there would be an adjournment for a month, two months, three months, to trial, depending on people's schedules and the court calendars. If we were lucky, the trial would go forward. If not, it would be adjourned again because the discovery wasn't completed, and then we would do a fact finding, and then we would order an investigation and report to see what would happen to the children or the child for the next twelve months.

Usually in the drug cases, the children would be placed because the parent hasn't gotten the drug treatment because all the time was spent trying to litigate this case—which I haven't seen anybody win a positive tox case yet, unless there is a total botch-up in the lab or something.

I would not see, or a judge would not see, the case again for another twelve months when it came up for an extension of placement, at which point they would tell us that the mom or the dad hasn't done what they were supposed to do and that they may be moving to terminate parental rights.

In the Treatment Court that is all taken care of very quickly. The individual comes in, is assigned an attorney, and again we've got a commitment from the 18(b) panel to have certain attorneys who will take intake days for the Treatment Court, so we have the same 18(b)'s that are trained in Treatment Court processes working in our court regularly. This is a benefit to the attorneys in that they have to appear in my Part, usually the first week three times that week, and then later on every two weeks, and then every month. So the multiplicity of appearances requires that we have dedicated staff. We have dedicated attorneys from the Child Protective Agency, dedicated 18(b)'s, and dedicated Legal Aid Society or representatives of children.

The case comes in. The litigant signs a waiver if they are interested in participating in the Treatment Court. It is a voluntary court; no one is forced to participate. We will gladly send them to another judge if they want to go elsewhere.

These attorneys are all in my courtroom every afternoon. Currently I am doing this five days a week. I have a referee doing it in the mornings and I do it in the afternoons. But they normally come before me on the initial appearance.

They sign waivers of confidentiality, which is where the attorney has to discuss with them what this waiver is, and that is the role of the defense lawyer in that part. If they sign the waiver, a psycho-social assessment is done within three days.

They come back before me at the end of the three days with a treatment plan. I do not see the treatment plan unless the respondent wishes to make an admission of neglect. One of the basic requirements in Treatment Court and in the Family Court is that I must have an admission of neglect based on drugs, usually within a week.

We get that part over, that adversarial part, which is usually the most adversarial part, out of the way, and then we just front-load services, and we have case managers that are assigned to each respondent. Each respondent has a case manager in the court. They are drug tested in the court—not physically in my courtroom, but in a separate place—and we get drug results from the treatment programs and from our own drug testing.

Having the case manager alleviates the lack of information, because ACS and the child protective agencies and foster care agencies are notorious for revolving-door case workers. The litigants do not know who their case worker is, they do not know where to get the information. They always have someone in the court that will be able to provide them with who their case worker is, at least find that information.

Each court appearance I get a written report that is almost comparable to the proverbial investigation report that we used to get, where I get information on the visitation schedule, the drug treatment, any psychological treatment that is being provided, any services for the children, and basically the mother's or father's compliance with the program. That alleviates that.

Everyone is accountable. The programs that we work with—and we work with about forty treatment programs—must sign a linkage agreement where they agree to provide us with information.

And also, if people come in with self-referrals, we look at their programs to see if they are adequate programs. And a lot of them are not. So we encourage people to change programs if after looking at the program, we feel that it is not a program that is going to work for this parent.

The delay in the court is obviously alleviated by this quick fact-finding and front-loading and going to a dispositional alternative very quickly.

The respondents in the case are getting more visits—the benefit to the client. Under the Adoption and Safe Families Act, if a child is in foster care more than fourteen or fifteen—I forget the numbers already—but our kids are not in care that long.

But if they are in care more than twelve months and the parents have not rehabilitated themselves, the parents face what I call the closest thing to capital punishment in the Family Court system, which is termination of parental rights. We are trying to avoid that. It is not always avoidable.

We do not have any—and maybe people will disagree—way of knowing who will succeed. People do agree to participate, and you look at them and you say, “Ain’t no way they’re going to make it,” and they graduate and they get their kids back and they don’t even look like the same person the next time around. Even within a few months, they look differently. Some people who you think are so highly motivated may end up losing their kids or even surrendering their children.

Under the Adoption and Safe Family Act, the goal is to get permanency for children. So whether it’s reunification with the parent, termination of parental rights, custody to another parent, or long-term foster care—and some of the kids are older, so they may have to stay in foster care if their parents are not rehabilitated.

But the lack of services is obviously being cured by our ability to coordinate parenting skills and mental health services, treatment, housing.

To graduate, it is a very rigorous program. We have a graduation coming up on Tuesday. That graduating class is going to be a relatively small class of eleven people. But we have had 103 people actually complete the rigors of the program. Many, many more have completed the program, but don’t, for whatever reason, such as getting children back into your care and not being able to quite complete your after-care component, which is understandable, the court will release them from the court involvement and the agency will continue supervising.

It is quite—as you can see, I can go on and on on this. I have—I call it an FTC button—you press the button and I could talk about it. I have been doing this now going on four years, as of March 11th, that the court has been operational. We have very dedicated staff. We have high-quality social workers working in the program.

To be able to address a litigant directly—and again, not casting any aspersion on defense, but this is one of the few opportunities that in the treatment courts, whether it is criminal or Family Court,

Mental Health Court, that a litigant will be addressed directly by the judge and must be responsive to the judge. This is an empowerment tool to the respondent. They can tell me all their problems about what they see during the visits of the kids. It works really, really well.

Questions and Answers

QUESTION: As I was listening to the excellent presentations, I was wondering how all this should be conceptualized. I was wondering if any of you had thoughts about how much of this has to be conceptualized as a problem, as a social problem, of what is the time point at which social services are provided?

One way of thinking of it is in 1977 you had that classic article, I think in *Public Interest*, "Nothing Works," and it says rehabilitation doesn't work in the prisons, and you get after this notion: Okay, the goal of imprisonment isn't rehabilitation. You talk about incapacitation, you talk about retributivism, and along with it you get a decrease in services of the prisons.

So one way might be to say: Well, look, you have to have the step-in of the specialized courts precisely because the recidivism wasn't inevitable, but could be seen as a product of a social movement, the decline of, if you like, the rehabilitative ideal.

Now, you could also say: Well, wait a second. Even if rehabilitation could have worked, could be made to work, in the prisons, why wait that long, and why not front-end it in a way and do it at the arrest time point?

But what I started thinking about is that we've made a social decision in the society at large that the problems don't get dealt with until the legal time point, until there is a problem that comes to court attention. Now, that, of course, is what folks like Ethan Nadelman are arguing about. It is different than the European alternative; it's different than you get in places like the Netherlands or Switzerland, where you see drug addiction as a social problem and something to be dealt with outside of the courts, through the legalization combined with medical treatment.

So I was wondering if any of you had thoughts about that, whether this was the best that we could do in our society at this point—not because it was necessarily the best, but because the United States has really chosen a different legal goal, penal way of dealing with drug addiction, which makes it an outlier. It is different than most Western societies, where you have a treatment conception at the start.

MS. SCHREIBERSDORF: Well, that is actually a very interesting question. I just have three things to say. They will all be quick.

There is a very big movement really nationally about re-entry courts, which are about when people come out of jail. While it doesn't sound like it is necessarily what you are talking about, it is an understanding that we should not wait until they get re-arrested

to give them treatment and assistance and help when they get out of the court. I think the DA's office has a program in Brooklyn, but also this is a very big movement in the government, and I think people have started to get it.

The other thing that I think is very important is I don't think rehabilitation in jail works very well. I think there is a reason why those statistics came out. I don't think jail is the proper context for that kind of treatment. The community is, and that is why these courts are successful, because the treatment is in the community and people are in the community. Sometimes they are in treatment facilities in the community, but they are given the life skills to get back into the community, stay in the community, and not be isolated and institutionalized.

But the third thing I wanted to bring up is we were talking to some congressmen and we talked about all the resources that the defender offices are trying to give clients when they come to us. One of the question was, "So you have to get arrested to get those services, right?" And you know what? I don't have an answer for that. None of us have an answer for that.

But I will say we are doing the very, very best we can. We are moving that timetable back, back, and back. And you know what? Prevention is the very, very next big step. I don't know if Anne will want to say something about that. Their office is very involved in that.

MS. SWERN: I would just like to say one thing. If we lived in a perfect world, we would provide these services all along the continuum. I, as a prosecutor —

QUESTIONER: You wouldn't need them in a perfect world.

MS. SWERN: Well, right, we wouldn't need them. But assuming that we do, we would need them all along the continuum. As a prosecutor, I certainly would urge that they are in the community from the moment of conception throughout the person's life.

However, there are things that people should consider when they are thinking about problem-solving courts and why this is actually a great place if you have limited resources to provide the social services.

Mike Rempel will talk—I spoke about him before. He is a statistician from the Brooklyn Treatment Court. In Brooklyn, we allowed an experiment to occur, which is one of the reasons that they call it the "flagship court" for New York. There were misdemeanor offenders in that court, there were first-time felons in that court, and there were multiple felons in that court. And although we had

that DTAP program, we allowed those multiple felons to stay there for a reason, and the reason was: what would the research reveal? At the end of the day, we could all have great feelings about this, but we have to look at what the data says and does it really work.

The research that Mike did, and what we have found also, is actually the retention rate for those facing the stiffest sentences is the best. For example, DTAP offenders are retained at one year at eighty percent. Now, if you look at voluntary admissions to drug treatment, in the early days—in 1973, one of the first studies was done—thirteen percent of the people after a year remained in treatment after that year.

Remember when I talked about the biggest predictor for success is length of treatment? So allowing a person to get into treatment and coercing or externally motivating that stay in treatment is critical, and the best place to do that is the court system.

A lesser place, I would argue, is parole, because it is more distant, the immediacy of sanctions and rewards is less, but it can be effective. But you have to have a reason to externally motivate, whether it is the return of a child, whether it is keeping a job, or from our unique perspective, whether it is the possibility of punishment.

So although my boss is an advocate for reform of Rockefeller drug laws, but to not throw the baby out with the bath water is an important concept, that this notion of what could happen as a result of not complying and externally motivating that offender into treatment, I think is a very important component, and it only comes in certain settings.

JUDGE SOSA-LINTNER: I want to just comment. On the Family Court side, these are not people who are arrested. These are people that have a call in from some source, or maybe someone is crying out for help, and they try to get self-help where children are involved, and they will come to court and be coerced into treatment, basically.

However, with the Adoption and Safe Families Act, there is a requirement that before they even come to court, the Child Protective Agency has to provide reasonable efforts to prevent the removal of the children from the family, so that they are providing preventive services. They do not always work, these preventive services, because the parent thinks, "I don't have to do this, no one is forcing me to do this," and they usually slip up, and then that is when they come to Family Court, because the agency has provided all these services, we have tried to keep the kids in the home,

and the parents are not doing well, we have to remove the children. Or they are not doing well, the children are not at risk, we are going to leave them there, we want to guarantee that the children will do well there, and we want the judicial coercion, the monitoring. We can call it “coercion” initially, and eventually it is really just a monitoring and keeping people on track and reminding them of the consequences of their behavior.

JUDGE ACOSTA: Do you have another question?

QUESTION: I was fascinated by your discussion and the fact that you personally find yourself involved, it sounds like, to a great extent in the development of these courts and spending a lot of your time doing it. To what extent do you find that there is a cultural shift within the defense bar and the public defender offices themselves? Of course, only a few people can be in these courts at a time, but is it starting to shift perspective on the adversarial quality of the work and the role of the public defender in terms of dealing with your clients?

MS. SCHREIBERSDORF: I do think there is a shift in the attitudes the public defenders have about their clients. I think there is a shift in the air, and I think it is in our role in the lives of our clients and in the communities. I think that is an amazingly positive shift. It is not every defender, okay, and it is not at every level, in every office, so it is really—but I do think it is a trend and I do think you will see a change in the way defenders see themselves.

But there are a couple of little points I could make on that.

One is I think it is really important for many, many more defense attorneys to have access to these treatment courts so that they can really see what they are about and what they mean, because it does change the way that they see it.

I listened with interest when the Judge of the Family Court was talking about having one attorney, the dedicated attorney, which is a very big thing in Drug Court professional land. To have one attorney is a big thing. They are always for that. I am a big fan of “No, I’m sorry,” because I want all twenty-nine of my attorneys to go to Treatment Court and see what it means to put something in treatment and have that feeling when you watch somebody graduate, and understand the next time that that option is a good option for your client.

I want every one of my attorneys to have that experience, and I want every one of them to bring that back to my office, and I want them to inform what I do when I am on planning committees, and I want them to have that information when they are in a different

program. For example, if they are in Treatment Court, where there is a lot more discussion about relapse is part of recovery and things like that, then when they have a DTAP case where something like that is happening in front of a different judge, that they have that information.

I am a big fan of that, so I would just advocate that when we plan the courts, we think about not saying, "Look, I know it is a little more convenient for the court to have one lawyer there, but it is less effective overall," because if somebody is not in Family Treatment —

JUDGE SOSA-LINTNER: Not just one attorney.

MS. SCHREIBERSDORF: Well, I know, but one or two, whatever it is, a limited group. When you think that there are, let's say, 200 lawyers practicing in Family Court and only two go to Treatment Court and the rest have no idea that treatment really works in Treatment Court, I think it is a negative. I think the end result is negative for the system. That is just my opinion. I think that applies to the prosecutor's office also.

I don't know that it is practical, but we do it in my office.

JUDGE ACOSTA: With respect to some of the substantive areas that are covered within the Harlem Community Justice Center, even the same organization has reacted differently to different subject areas within the court. So you have, for example, JRD within Legal Aid being extremely supportive, given their experience in Family Court and some other things that were alluded to before, but then you have the legal services community or the Civil Division of the Legal Aid Society reacting differently when it comes to the landlord-tenant component of the community court. So there are different stages, depending on the area, and sometimes depending on the organization.

MS. SWERN: How do I feel about that? I actually believe relapse is part of recovery. We changed our DTAP program. We didn't used to allow them to be readmitted, and now we do, and the retention rate went up fourteen percentage points. And, in fact, our research showed that the people who failed the first time, when readmitted, did exactly the same in terms of success as the original group who never failed at all. So limited readmission under limited circumstances I believe is a good thing. Unlimited I think is a terrible thing.

JUDGE ACOSTA: I have no opinion, but there is no such thing as a perfect transition from drugs.

PROFESSOR PEARCE: Thank you all very much.