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**THE NEXUS BETWEEN TECHNOLOGY AND
PROBLEM SOLVING**

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As a public administration student, I can tell you there are really two approaches that courts have taken. One, of course, is organizational. We always try to solve problems through organization. I think that folks that have gravitated to the law and public administration have a natural tendency to look at things organizationally. I am, of course, looking at things more technologically, so information flow is really the point of my talk.

My sense of this whole movement was that problem-solving courts—I want to kind of pass this on because Judge Tauber actually helped me understand this better a couple of years ago—problem-solving courts are the courts' organizational reaction to determinate sentencing. We had to find a way to recapture discretion and flexibility in our ability to work with people. I like to look at this as an underground movement. It's very subverting, like what the legislators and the executive branch have done to the legal system. So I think that this is an incredibly fascinating way of looking at things.

Then I have to go back and say, "Well, why did prosecutors win?" Why did they win that battle back in the eighties for determinate sentencing, three-strikes-you're-out, all these types of things?

I said, "Well, is it the feeling of the legislative and executive bodies, that the prosecutors, because they are not encumbered by court rules, by rules of procedure, evidentiary rules, they have more information and hence they make better decisions?"

Well, you know, I don't think we necessarily think about that. Is there a way of dealing with it? Is it just a quick fix politically? You know, it's easy to jump onto that. That's obviously there.

Was it the fact that the prosecutors were better lobbyists? Were they just there? I would say absolutely not. I think that that is true in many states, but in other states it is not. I think the courts have a certain amount of legitimacy, and what goes on in North Carolina proves that that particular approach could be false.

But it does bother me that we have organizational trends that could also be dealt with more through information.

Let's now focus on the basis of my talk and my beliefs and the reason why I work in the court system. Better information equals better justice. I hope that that is true; that technology can eliminate the mundane; that technology eliminates all that time-sucking

work of filling out forms, collecting information, and all those kinds of things; that that will enable us to spend more time communicating person-to-person.

The collected criminal information throughout the entire system is really horrible. We don't collect it well, we don't share it well. We don't even collect the right stuff. I can just go through these things. I can go on for days about why I think criminal information systems are bad.

If you want to actually go out there and read these reports, they're sitting out there on the www.search.org Web site, these are Bureau of Justice Assistance reports on the state of criminal history repositories.

There are millions and millions of criminal convictions that are never posted to the criminal history, and it is because they have to match the actual conviction to a specific fingerprint and match it back to a specific incident. Well, it doesn't work.

I will give you a real quick example. The latest audit I saw of, say, Virginia's criminal history records, is that they are sixty-five percent complete, meaning one out of every three convictions—these are convictions—is not even posted on the criminal systems. In states it is actually thirty percent. Thirty to forty percent are the ones that are posted. That means that two out of three convictions are never in the criminal history repository.

This kind of bothers me. I don't know why. I mean, that's just one example; there's a jillion others.

One of the nice things I do like to say about community courts and drug courts and these others is that we actually have made some really good movement and certainly some real benefits in these operations.

These advances have been made in information presentation and in communication. So let me share a couple of things. This is part of my show and tell.

What's key about this is the color coding. Down here you will see color coding regarding open warrants, open cases, probation, parole, substance abuse, all these different things. I call this actually the Challenger screen. The reason why I call it the Challenger screen is that the story about the space shuttle Challenger accident was that the data was there. There was data coming in from the computer systems and from the sensors saying, "This rocket is going to blow up." But it was stuck down on this green screen over there in the corner, and it didn't sound the alarm, and there was no

visual indication to the controllers to say, "Hit the eject button; have the space shuttle separate from the rockets."

So what I like to say is that the color coding, the presentation, the ability to amalgamate information, is tremendous, and this is something that I actually run around the world and tell people about, that this was actually pioneered here at the Midtown Manhattan Community Court. Now, of course, with Red Hook and all the other good work done by the Center for Court Innovation in amalgamating information, presenting information, is really tremendous.

When you are a judge, you have that benefit of experience of you being a judge of what you think works and what in your own single-person experience has worked. What we are starting to see now is information systems that are starting to collect information from all the judges in a jurisdiction and saying collectively what has worked, because, of course, different people have different ideas.

This was a submission screen just to show that there were the case charges, then it comes back and gives you a visual indication as to what type of sentencing support may work on particular types of cases. I think this first one actually is an amalgamation of all different types of sentencing that has been done. Then you start playing with the data, doing data mining and applying it to the particular case that may be in front of you.

This is just to show you another place. What is happening now, of course, out there in courts is that we're getting to be increasingly into electronic documents and the electronic world. This is a representation of the screen that you would see if you were up in Seattle, Washington, in King County Superior Court, where every document, every page of every document, is scanned into the system and linked to the case management system, so that you have that as a complete electronic record. Now you are starting to have electronic tools available to work more effectively with the information, so we are starting to see big systems be able to go completely electronic, and we're working hard on e-filing, although not in the criminal area yet, unfortunately.

That was kind of more the information presentation side. We are doing some tremendous work that is really positive, and those are areas that certainly the problem-solving courts have done some great pioneering work in.

Let me get into the communication, which is a little bit more difficult problem, because we are trying to communicate with all types of different agencies and all types of different people.

This is a representation, a kind of crude representation, of what Denver Juvenile and Family Court has up and running in Denver, Colorado. You have a whole bunch of service providers—psychologists, drug treatment counselors, all types of different people—submitting reports to the court. Of course, they are sending them in by paper, and then we get to reenter that data.

I was working there with a good friend of mine, Stephanie Rondenell. We wanted to be able to connect those people up electronically to the juvenile court and have them also have access to records there, but we wanted to do it in a secure way.

We set up basically our own Internet service provider. Basically, the service providers out there, psychologists, all they have to have is a computer which runs a browser. Then they call up and, using caller ID—and this gives us our security for very sensitive juvenile information—that would allow only the computer from that telephone to log in to the system. So we have dual levels, and of course, there is still a user name and a password. There are two different levels of security.

At that point, then, reports can be submitted, the treatment providers can see juvenile records and such. That is tremendous, and is a good way of connecting people in a place where most folks would say you can't do it because the records' security is paramount. Of course, they use e-forms. This was a demonstration.

The second thing that we're doing is trying to connect disparate agencies. This is a representation of my project down with Orlando, Florida, in Orange County. There we've got various different types of agencies trying to share information.

One of the things that we have decided to do is create what we call the Rules of the Road system where we said, Okay, we're going to create a Master Person Index. Now, this is different, significantly different, than the Criminal Name History Index. Criminal History Name Index, maintained by law enforcement, can only have names in it that have verified fingerprints.

What we did in Orange County, we would come up with an approach where we call it "the dirty database." Everybody, including those awful people called the public defenders, has the ability to query information and also enter information. You can put in information about victims, and then, you get into the relationships of that person. He or she may be a defendant in this case, but they may be a victim in this other case. They may be an associated person in a family related to a domestic problem, a criminal problem,

a drug problem, whatever. This is the ability to tie information together.

One of the things we did with the Rules of the Road was, law enforcement gets really creeped out about all this stuff—that's a technical term, creeped out—about being able to share any kind of information, and so what we did was we told law enforcement, "You can share the information that you want to, but if you just want to go ahead and we have a name in there, all you're required to do is flag it saying, 'I, Orlando Police Department, have information on this person.' Then you can come and go through the formal approach." As I heard from one major city chief of police, the public defenders, being "the enemy," wouldn't necessarily have access to their investigative information. That's fine. You know, we'll deal with their creeped-outedness.

We are trying an approach to do this thing. Technically, there is a new area of software called Enterprise Application Integration Software that relates to being able to tie together various different parts of large enterprises, businesses like General Motors and Ford and all these different disparate computer systems that they have. We're going to start trying—I actually have an RFP written, and it's being finalized; I was hoping it would go about a year ago—to actually buy what basically is a traffic-cop piece of software that would allow you to talk and connect to all these different types of systems.

We are looking at this business-to-business type of software to be able to integrate these things and integrate those business rules.

One last thing. PAD computers are coming, and that is one of the things that really has been a barrier for a lot of attorneys and judges and folks to be able to actually use the systems. You can actually go buy the system, but it will be better later this year, where you have a system that will work like a piece of paper but have all those different types of capabilities, connected to your network wirelessly. It's just something to watch out for, and it's going to give us a tremendous tool to be able to work with the displayed information.

Robert T. Russell

Buffalo Drug Treatment Court

I want to talk generally about what I've observed as far as functions of technology in the court system. Looking at technology from our traditional standpoint, technology that we've seen in the court is essentially designed for general case management, and that was the focus. Case management—how are we able to better manage the cases that we have done in court?

When you talk about technology for problem solving, problem solving focuses on the issue of how we manage an individual. When you look at problem-solving courts, some of the focus highlights the individual, rather than merely resolving case dispositions. It is also behavior-goal oriented rather than case-disposition oriented.

When you talk about behavior-goal oriented, to me each of the problem-solving courts is about how to modify behavior, behavior modification techniques being utilized and employed, rather than having a resolution to the case and then moving on to the next case. In addition, you are also going to have extended case oversight and extensive data collection, which you typically would not have in your traditional case dockets.

Also, the role is somewhat expanded. In the traditional case, usually the judge is accustomed to the parties bringing records, documents, and information before the court. When you talk about the nature of problem-solving court, it's actually requesting to receive as much information as possible.

Further, you also have in problem-solving courts the court taking on the role of collaborating with many other agencies, entities, communities, and so forth, which it may not have in your traditional case dispositions.

Next, you will notice particularly in the drug court where you talk about a collaborative decision-making, and that is where I've seen the court engage so much different advice from the health care community, the treatment community, the mental health community, from probation and law enforcement with regard to risk assessment, with regard to housing and needs, that part of the process does include a collaborative decision-making.

Well, we have quite a bit that we now see as far as technology in our courthouse and that is there amongst us, and of course we have our computers, the capabilities now of video conferencing, possibly doing video arraignments, video interviews with offenders, the util-

ization of faxes, electronic filings, scanners and other types of devices.

Also realize that, and particularly when I speak about my colleagues, traditionally, my colleagues are either baby boomers or pre-baby boomers. When you talk about Generation X and those who become accustomed to the technology that is really being utilized because they utilize them now in school, in the grade schools and high schools, but the baby boomers and the pre-baby boomers take some talent, and I noticed when technology was entering into my court building, would just rather ignore it. And there are some who also have pent-up feelings about technology, and they have difficulties in adjusting to it.

But in problem-solving courts, we have a tremendous mound of information, and what we're looking at is how do we effectively manage this information. I believe it is a tremendous must to employ technology. The challenges that we have are not only in the collection of data but how to effectively record data, how to actually have an appropriate software to capture the information that we see in problem-solving court where the present software in traditional court may not lend itself to that.

American University—and Carolyn Cooper, raise your hand for a moment—she does collect a number of different computer systems and software that allows, particularly in problem-solving courts, for the capture of information, so I invite you to speak with her and visit her website. Also, it does include Buffalo's information with regards to its computer system.

But the other questions and concerns in problem-solving courts are making sure that we are able to not only capture the information, record it, but to secure the data, that we sufficiently preserve it.

In problem-solving courts, which traditionally you would only have infrequently in our other regular case processing, you are going to have, more often than not, a number of confidential-type records—the treatment records, mental health records, medical records, toxicology records, and confidential communications—and always being mindful how to be able to protect that in using the technological tools that we now have.

But, at the same time, it's important to use these tools for informed decision-making, to put the pieces together, to network, as you spoke about the different networking of a number of computers.

The benefits to me are, from the data that we do collect, utilization of the computers, having appropriate software to capture the information, not only can we make informed decisions in problem-solving courts, we can also do our program evaluations, and not only evaluate how we're proceeding along but, in addition, if we need to make some correction, we can easily retrieve the information. If people are not being retained at a sufficient rate as the others, then we can at least visit that issue and work to bring about correction. So a self-correcting mechanism.

Mina Kimmerling*Rand Institute for Criminal Justice*

I am mostly speaking of a project that I conducted with Barbara Raymond and Jack Riley in the Rand Criminal Justice Division looking at two courts: the Van Nuys Court, which we helped to design an evaluation for; and the Downtown Court, which we helped to actually design the court. That court has not yet been implemented.

But some of the things I am going to talk about are the importance of a management information system and how, in both courts, we see this being crucial to the courts' success.

Since we don't have data from the Downtown Court, obviously, since it hasn't been implemented, we can just project on what some of the problems may be; but for the Van Nuys system, I can talk a little bit about some of the difficulties of setting up a shared information system and how crucial it is to the court's success.

First I am going to talk a little bit about what our goals were in terms of evaluating the Van Nuys court. I will talk a little bit about the original goals of the technology system and how the court was organized, preliminary findings from the court, the role of technology in the court—and that's where I will highlight some of the difficulties that we had with sharing information, followed by lessons from Drug Court for evaluation.

Since Rand had conducted a fourteen-site evaluation of different drug courts, we learned some lessons about what is needed to do proper evaluations in terms of data collection systems.

This court is very new. I am first going to talk mostly about the Van Nuys court. It was started by a council member. In January 2001, the planning process began. The court actually opened its doors on May 1, 2001.

The purpose, as we've heard earlier, was to link misdemeanor adjudication with social service intervention and neighborhood improvement and to mostly prevent the revolving-door phenomenon. Really, this was a straight restorative justice type of project where we wanted to really focus on eliminating the punitive system of justice and focus on just getting these misdemeanor offenders out of the system.

The court design and implementation required input and participation of many key players, including the resource coordinator, who was from the volunteer center in Van Nuys; the city attorney and public defender; Superior Court, who helped organize the

court and oversee it; the Los Angeles Police Department; and we had also put together a community advisory panel to really get the community's input on how the court was working, whether the community actually saw the effects of the court; and local social service agencies.

Once again, having this many key players and needing their input on an almost-daily basis to monitor the court, especially since it was a pilot program—we were really trying to evaluate it as it went along so we could make changes concurrently—points to the importance of having some type of way to communicate information.

Now, a shared information system was crucial for this group because we wanted to see how social service agencies were affecting recidivism. Were there certain agencies and certain sentence types that were really effective in eliminating certain criminals? Especially since this was, in Van Nuys, which is a very small area—we had about one representative from each of these agencies who were really involved, and there were also a small number of offenders. I think it was thirty-three percent of the offenders we saw more than two to three times during the five months we were evaluating the court.

I am going to talk about how we saw the program's goals and the data we felt needed to be collected to really measure how well we were achieving the program goals.

What I will do is, in the blue marks some of the outcomes we thought needed to be evaluated and some of the program outputs that we thought would be useful in evaluating them.

For example, on the right side you see the desired program outcomes. These were the five goals of the court. They included providing justice more efficiently and effectively, making justice visible to the community—that really required that community advisory panel—increasing awareness of enforcement against low-level crime, which really needed the LAPD's support for that; improved collaboration between the court and other agencies; and developing an accountability system for offenders so that we could really see whether they saw a difference in how they were treated by the court.

In blue you see some of the outputs that we wanted to really track in order to see whether justice was being provided more efficiently and effectively. For example, we needed the resource coordinator and then new services to give us information on the number of cases that were adjudicated, how many people were attending, number of recidivists, number of failures to appear, and

we thought that these measures would be excellent in helping us figure out if justice really was being provided more efficiently and effectively.

As you can already start seeing, you need a systematic way of collecting this information. If we just got random pieces of information, we didn't feel like we could really put together a conclusion.

Part of the reason for that is really being able to compare data to standard outcomes, so really being able to match different pieces across courts and say, Okay, this is a community court; it is a great idea, and everyone's agreed it is doing its job. Are we really seeing some outcomes that are really changing the way justice is working? Is the community really getting involved? Are they seeing the effects of this court?

I think that we often overlook in really trying to understand what can we do to get this court to work in dispensing justice locally. Really having people comparing information was necessary to figure it out, is it working in our county?

And I think that, in terms of data collection, we saw the importance of data collection early on. These numbers and percentages are taken as of the end of August. We had 671 arrests and only 180 sentences. That kind of discrepancy I will talk about when I talk about the shared information system. A big reason for that was that the public defenders were all in encouraging or discouraging people to go through the community court based on what kind of sentence she expected them to receive.

We found a forty-six percent failure-to-appear rate, which, compared to the normal (inaudible) area, seemed somewhat reasonable, but because the adjudication time for this court was twenty-four hours rather than three weeks, we really expected this number to be lower.

As a result of getting this number, we were able to talk to the LAPD, see what they were doing in terms of making the arrests, who they were bringing in, who they were just citing, and really make the connection on what was going on with arrests: Why did we still have this high failure-to-appear rate? As a result, we worked both to change the failure-to-appear rate, and while we don't have more recent data, we expected that this percentage would be lower.

Like I said, we found a thirty-three percent recidivism rate. Seventy-one percent of our arrests were for drinking in public. This was also really important data for us to find, because it showed that

we had a main problem in this area, which was drinking in public, and as a result of finding this information, we could really start shaping the sentences that were being given out, who the social service agencies were that we were working with to really figure out the best types of sentences, since we could really pinpoint what the problem was and who was committing it.

One of the problems was in terms of comparing operations. We had some problems with comparing data, and this was because there wasn't a good technology system already in place. In terms of comparing pre- and post-tests, so understanding what the functions were before the court was put in place to what happened after the court was put in place, became difficult and made evaluation difficult.

In order to compare the effectiveness, we must have data from similar courts. We must be able to match cases, and we must be able to understand what we were doing differently and whether it really did have an effect.

Problems with existing technology, and data collection, make it difficult to make real comparisons.

Next, I will talk a bit about the role of technology in the court process. Let me preface this by saying just one of the main problems that we had, and why this is the basis for my talk, is just the difficulty in sharing information.

Now, what we found were court players who were used to doing things a certain way. Especially with the city attorney and with the public defender's office, I would say that these parties worked very well together on a personal level, but there was innate animosity in terms of sharing information.

As previous Rand studies have found, when people don't trust technology or don't really understand it—talking to your point a little—they are not likely to trust putting information into it and understanding what a firewall is and saying, "Okay, I know that the public defender or the prosecutor may have access to this information but there's a firewall; so they won't." There wasn't that sense of security, and that really prevented people from feeling comfortable with inputting very important information and confidential information into a computer.

The difficulty in not being able to access this had to do with our tendency toward quasi-experimental designs. What that means is, instead of randomly assigning people to the different courts, to the standard court versus the community courts, since we obviously could not do that—it means really being able to match people

based on their demographic characteristics, their sentences, and really just getting a good grasp on your populations so that you can compare them and compare outcomes.

Like I said before, there were real challenges in terms of confidentiality, and I especially feel the public defender was very concerned about losing the competitive edge.

Our court was different from other courts in the sense that the resource coordinator was not the first person to see an offender. The public defender insisted that for their office to participate in this court, they would have to be the first people to see an offender, which makes some sense, but then you once again have the difficulty that this is not necessarily an objective look at an offender; you have this public defender filtering the information before the court sees it.

Also, we thought a shared information system, as the judge mentioned, would really improve upon the actual structure of the court system, because this was a pilot project in a new area and really a viable area, since people were looking forward to having this court implemented. We felt that sharing information, sharing data was crucial to really making this a living, breathing project in the sense that it could be changed and modified and adjusted.

As you can see, we found statistics that would support changing it in certain ways. Now, we were successful, as I said, in changing it in those ways. I have a feeling there are more ways that it needs to be changed, and having information shared across different parties would really facilitate that type of change.

Also, we expected that costs could be decreased. One problem with the data collection efforts was that this was a pilot project, and people were willing to kind of copy, enter, and enter and analyze data within a computer system. They felt that if this project continued, they needed to hire more people to enter the data, that there just wasn't enough time in their days—which is completely reasonable—to do their job and collect all this data and enter the data and analyze the data.

Now, if every office has one new person entering and collecting and analyzing data, that is a huge cost. But if you can hire one person to share this responsibility, your costs significantly decrease.

We also thought that the system was necessary to increase communication between the resource coordinator and the social service agencies. Van Nuys was considering collocating the social service agencies and the resource coordinator's office with the court. At this point that has not yet been done. That once again

highlights the importance of a shared information system so that you don't need to make these phone calls ten times a day to say, "Oh, we're sharing the same person," or, "We don't think this sentence is working," so that this information is more freely available.

Once again, one of the main goals of this court is to reduce recidivism and stop the "revolving-door" phenomenon, and having data which can point to this or can say, "Hey, it's just not working; we need to try something new." This is not able to be achieved, in my opinion, without having a more shared information system.

I think that these points I've made are underlined by the Rand finding on drug courts, which shows that when you focus so much on day-to-day operations, it is often difficult to really evaluate your project long term, and therefore, an information system where you are continuously entering and the computer is analyzing data makes it so you don't need to make that a whole new person's job in terms of just always being more strategic, because the computer is really helping you do that.

In the fourteen-site evaluation, Rand found that the biggest barriers to routine program evaluation were lack of comparison groups and lack of an MIS system, so information was not able to be shared in real time, and the court really couldn't evolve and proper outcome comparisons couldn't be made. I said "could" twice there; my mistake.

Also, one issue with what we talked about a lot yesterday was the effect of coercion. Self-selection and selection bias in terms of these courts is really figuring out what is going on with encouraging people to go to community courts. At this point in Van Nuys, the public defender helps that offender make the decision whether they should or should not go to the community court based on what she expects the length of their sentence to be.

Now, this makes sense from her point, to reduce the amount of time that that person spends in the system, but a danger in this is really making sure that the system works, and focusing on a long-term strategy versus short term—how many days are you going to spend in jail versus picking up trash on the street?—and once again, I think this short-term versus long-term perspective on how the court works, what are offender sentences, and how offenders view the system is really crucial to the success of this type of program.

Mark Thompson*Hennepin County Community Court*

I am currently the administrator of the courts in Hennepin County, which is Minneapolis. We have 1.4 million people, eighty judicial officers, 700 employees, and a whole bunch of courts.

We are a top-to-bottom unified court. We have been for about seventeen years; one of the few in the country. So those eighty judicial officers are split up into various divisions of the court, but generally they all rotate and they all do the service in different areas.

Prior to my work in court administration, which has lasted now some twelve years, I was a probation officer for about eight years, dating me at twenty years in this business. But I worked in domestic violence court. I had domestic violence offenders. I worked with chemically dependent offenders, drug offenders. I did custody evaluations, all kinds of things which were very data-reliant and at the time, in the early 1980s, not very good in terms of being able to find a complete record on any subject you were dealing with.

In 1997, through a State Justice Institute grant, the Urban Court Managers Network was founded through the help of both the State Justice Institute and a Justice Management Institute, JMI, out of Denver. At that time the 20 or so largest urban court administrators in the country started gathering on a quarterly basis to share information and discuss research problems and policies.

We essentially have decided as a group kind of informally and before this conference that a number of things have occurred with data management systems in the trial courts throughout the country in the last 20 or 30 years which are pretty common.

One is state court administrators and chief justices, in an effort to simplify courts, have tried to unify courts all over the country, and it has largely occurred. But in doing so, they actually have created data-management systems which measure the number of cases they have as opposed to what we are going to do with them.

In essence, it is a good way also to garner resources from oversight agencies, like legislatures, who are particularly stingy these days with money, having forty-four states running budget deficits.

But really, the 1970s and 1980s were marked by what are known as legacy systems developed by people who wanted to count cases and not count bodies. They are systems that do not interact well, and from kind of a macro-vision of this deal, as a court administrator, I can tell you that very few of our automated systems actually

do what the court needs done, and that, I think, is almost a global problem.

We spent all our money on legacy systems, and courts don't get a lot of money for infrastructure, so now we are trying to scrape and gather funds which will empower us to go out and actually come up with systems that are data subject-based and interactive with the service providers and referral agencies that we use on a daily basis.

Our past efforts have really paid no attention to rework, which is what the quality management people and the Baldrige people call failures. When you look at rework in the criminal justice system, it means we are going to have another placement, whether it is juvenile or adult, typically, and it is going to be expensive.

We have virtually no case-monitoring software throughout the country. There is some in some of the boutique courts that is interdependent and shared across jurisdictions. And really, in the treatment courts, we have a bad link between—with some exceptions noted today and yesterday—the service provider, the referral agency—when I was a probation officer, you put people out on probation, and they come in and I do a CD evaluation on them. I actually did those, which was interesting.

But you would come in and you would do a CD evaluation, and you would get through the testing process, and I would put the person in treatment, inpatient, outpatient, or send them to AA or NA or whatever it was, and I would hope as a probation officer with a caseload then of about 300 gross misdemeanors that they would show up negative at the end of the eleventh month or twenty-third month of probation, and that was the monitoring system. If they didn't have a new offense, I assumed they completed CD treatment, and once in a while I would actually get a letter from the service provider saying they had done so.

So you send them out with this non-data-linked future, and the process of referring these people back to court was really a losing proposition, because you would have them at the end of their term, and essentially, you could do almost nothing with them. It was a final-resort program.

What CD offenders in treatment really need is they need that piece between treatment and success; the decentralized aftercare of monitoring and making sure that they show up at NA or AA; that they're working their program and they don't start slipping over a period of days.

We have systems in this country, in my opinion, and I think the opinion of the urban court managers, that continue to be legacy.

They are looking for the linking software between agencies and our legacy systems, but essentially it has been expensive and it has been piecemeal.

I think in California, in Orange County right now, they are doing substantial work—Alan Slater is the court administrator working with a number of consulting agencies to come up with an integrated system. But it has been expensive and it has been going on for five years, and it has not produced the product they want yet.

In Minnesota, I had a little experience from the Plains reporting in. It's interesting to hear all the New York perspectives, and I thank the folks in New York for having the vision to start doing specialty courts and marketing their specialty courts. I think you do an exceptional job, better than anyone else in the country, of marketing the specialty courts, which has become a national trend for all of us, whether we have the front or the back of the dragon.

In 1989 there was a little boy in Northern Minnesota who was riding down a road, and a guy pulled up in a van with a gun, put him and his brother in the dirt in the field in a ditch, and he said, "You don't move," to his little brother. He took the little brother, threw him in a van, and they've never seen that kid again. He's gone. Jacob Wetterling is the older brother, and he started a national organization for notifying people of child abductions and a process where you can actually have the picture of the kid and the picture of the alleged perpetrator zapped to people very quickly.

The problem with that is that the systems don't do that. I mean, you can have the program, but your systems in all the states in the country, even the five-state area that we were looking at, at the time, could not do that.

In 1999 there was a nineteen year old girl working at a service station in Northern Minnesota off I-35W, which basically runs from Texas to Canada. She was abducted by a man who had a previous history of sex crimes, a violent offender. We have a law in Minnesota which requires them to register. Obviously, most states do that now, if not all.

They couldn't find this guy. He was two miles away in his rural cabin molesting this girl over a period of several days before he killed her, chopped her up, and burned her in his fire pit. But we could not find him at the time, because only forty percent of the records on sex offenders were being actually registered and tabulated with our system, to find out what sex offenders lived within a ten-mile radius of that person. Had they known at the time, they probably could have saved that girl's life.

So now, Minnesota and a couple of other states are involved in a national project and looking at the interdependence of data between jurisdictions. Before we had people moving around the country at the rate we do today—we have the highest in-migration of the five-state area in the Midwest, we had community courts which dealt with people because they knew their first name.

We now have, in large urban areas, a large in-migration and transient population, which is great if you have a data system that goes between states and works between jurisdictions; but ours just don't. And frankly, there's tons of records—it is the exception if you can find a record on a defendant who has moved from one state to another; it is not the rule.

But the general public doesn't know that. They think that there are all these computers hooked up, and Orwell has got this deal going where we can find out where everyone is all the time.

Now we're embarking on a \$375 million—and I think it will be half a billion before we're done because these things always come out sounding cheaper than they are, and then you get into them—a half-billion-dollar integrated criminal justice system called CRIMNET. This system is supposed to do pretty much everything, and I am thinking that Hopper is going to speak next, Judge Hopper from our jurisdiction, and I could probably hold court in New York City with people in Minneapolis when we're done. We'll see how that goes.

But the technology right now is iffy on this project. We have looked for vendors. The vendors cannot provide what they say they can provide. We test them extensively. The experience of my friend Alan Slater in Orange County leads me to be very cautious on this issue.

We have probably a large percent of specialty courts and problem-solving cases where we are just lucky right now if we find the records. We have about five "problem-solving courts," in Minneapolis. We had an in-migration of Eastern African immigrants of 25,000 people in the last seven years, and if you think the records are bad passing them from New York City to Minneapolis, you should try from Mogadishu to Minneapolis.

We have absolutely no record of these people. Many of them had name changes before they left their country for political purposes or for safety reasons, so there would not be retribution against their families.

Essentially, when Judge Hopper has these people in front of him in court, it is kind of, well, the old probation officer technique of,

“Okay, I’m going to check your record in about 10 minutes, but I’m going to go a lot easier on you if you tell me what you did right now,” because you have no idea what they’ve done in the past. You absolutely have very little idea, unless they have a felony conviction and it’s registered on the statewide system, what they’ve done in the past.

The misdemeanor records simply just don’t exist. They have been marginalized. Much like the unified courts marginalize the need for community involvement, and now we have specialty and boutique courts, the records were really marginalized along the same lines.

I am thinking in four to six years we are going to have the “Cadillac system,” and it remains to be seen if that will be realized, even at a cost of probably half a billion dollars.

Right now COSCA is working with the Conference of Chief Justices to develop a national data-sharing model. The complicating issues there are every jurisdiction counts things differently, every jurisdiction defines things differently, every jurisdiction reports things differently. So the goal there with that group is to actually come up with a single kind of definition for things across the country so we all speak the same language, which we clearly just do not right now.

The community courts in New York, I think, are the exception in terms of how the data is relayed to the judge. They are far advanced in terms of their jurisdiction about providing data from referral providers and CD treatment programs. But it is possible, that within ten years down the road we will have the community court in Brooklyn sharing with the community court in Portland, with the community court in Alameda County, with the community wherever it is. But we just simply frankly do not do that right now. It’s a myth that people think we have an Orwellian system where we can track people. It just doesn’t exist.

In the future, in the terms of technology, we will see boutique courts kind of as a specialty category integrating more. I think the drug courts across the country will have some integration that they don’t have, or at least a data dump into a data warehouse-type thing.

We have states that have to fund data systems much like we are trying to fund our system at a cost of \$25 billion nationally, a huge amount of money, an unprecedented expenditure in a criminal justice system, other than for prisons. Go figure.

Courts will continue to use these home-grown approaches. In Hennepin County right now, our community court is really not technologically apt at all. I mean, I think we've spent very little money on technology, but we do a decent job of making sure that we follow up with clients and that we are following through with referral agencies, so the technology really is paperwork and word of mouth. But it's a close system and it's a smaller system than you have out here, so it works effectively.

Finally, I think the one thing we've overlooked in the past, particularly in the field of court administration, is the need for Ph.D. criminologists to study the data, look at the data, research the findings, propose programs, sunset programs. I think we do a really good job of starting programs in the criminal justice system and a really bad job of getting rid of bad ones. We just don't do an effective job at all as court administrators, I think, in getting rid of programs that are ineffective, in large part because we don't have the people to study the data, manipulate the data, and come up with recommendations.

That's pretty much what I have. I'm reporting in from the Plains where Jesse Ventura was overridden on his budget veto two days ago and we will have a funded court system.

Questions and Answers

QUESTION: This is on the potential of the technology for deeper and more meaningful evaluations. I am struck with what Professor Winick said about the process that takes place in the courtroom; that is, the principles of a drug court system that Judge Russell was referring to, the opportunity to have voice, to have choice.

Is the technology there to look at the process variables in the court itself: time spent by the judge in speaking to the parties, time spent by the parties speaking, whether a choice was offered, very simple variables?

The two questions are, Is the technology there to do that? And, is anyone probing those process variables presently?

MS. KIMMERLING: Right now, no. That's a great question, especially since what we talked about yesterday was when you had people really talking to the offenders, it seemed that that was what made a big difference, not kind of threatening them or anything.

But I think that that is feasible. The technology, since it is not—if you use a program like Access, Microsoft Access or Microsoft Excel, those things like cells, and you can definitely—those things like cells that can definitely be put in, answered, and then analyzed in accordance with recidivism and sentence completion. Right now I don't think anyone is doing that, but I would think that with any type of complicated management information system, that is absolutely feasible and should be evaluated.

JUDGE RUSSELL: My only comment to that is you can capture that information. It will be the resource to have someone designated to actually work to capture that, because since it's not in any written or paper form to initially enter the data, someone is going to have to sit there, go through the process of timing, or capturing it—in many courts the proceedings are videotaped, and that could be an easier process where it is videotaped, and then have someone to review it in time.

MR. THOMPSON: I think, in general, though, we need to resist the urge to react when people say, "Oh, we need data on this right away, because what happens is that data is generated by people like me, court administrators, who don't understand what you're supposed to do with it when it's done.

We have a classic example of that right now in a race data collection study in Minnesota. We are doing a comprehensive race data collection study, and it is costing me and my department about three positions just to do data entry on this data we're collecting.

You come into court and we say, "Please tell us what your race is," and we give them a notice right up front in the advisory.

But we have no idea what we're going to do with the data, but it makes us feel good. I mean, we feel like we're very diverse and we're out in front and all this, and we have no idea what the hell we're going to do with that data.

JUDGE RUSSELL: Can I make one additional comment? There was a study done by Dr. Sally Satel, and I know the National Drug Court Institute in its reporting, and we have West Huddleston here—would you raise your hand, West?—if you can maybe provide a copy of that. What it was reviewing was the behavior and the engagement of a participant in the program with the judge, the various environmental variables that were involved, and how that may impact on a person's recovery or the therapeutic approach that was taken.

PARTICIPANT: I have had a response, too. I think a good evaluation of the question you posed necessarily will require a different methodology, because I think you have to get the perception of the participant, and you won't find that in your data system.