Committee Meeting

of

ASSEMBLY REGULATORY OVERSIGHT COMMITTEE AND ASSEMBLY JUDICIARY COMMITTEE

"Testimony concerning the operation of drug court programs throughout the state."

LOCATION: Committee Room 16
State House Annex
Trenton, New Jersey

DATE: October 18, 2004
10:00 a.m.

MEMBERS OF COMMITTEES PRESENT:

Assemblyman William D. Payne, Co-Chair
Assemblywoman Linda R. Greenstein, Co-Chair
Assemblyman Joseph Cryan, Co-Vice Chair
Assemblyman Patrick J. Diegnan Jr., Co-Vice Chair
Assemblyman Douglas H. Fisher
Assemblywoman Connie Myers
Assemblyman John E. Rooney
Assemblyman Peter J. Barnes Jr.
Assemblyman Reed Gusciora

ALSO PRESENT:

James F. Vari
Rafaela Garcia
Office of Legislative Services

Wali Abdul-Salaam
Kay Henderson
Assembly Majority

Nancy S. Fitterer
Assembly Republican Committee Aide

Meeting Recorded and Transcribed by
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Committee Aides *Committee Aides*

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ASSEMBLYMAN WILLIAM D. PAYNE (Co-Chair): Good morning, everyone. This is a joint hearing of the Assembly Regulatory Oversight Committee and the Assembly Judiciary Committee. We have here, today, members of both Committees. And the purpose of this joint hearing is to have a hearing to discuss the New Jersey -- the operation of New Jersey Drug Courts. However, before we do that, I'm going to ask for a roll call.

MR. VARI (Assembly Regulatory Oversight Committee Aide): Assemblyman Fisher.

ASSEMBLYMAN FISHER: Here.

MR. VARI: Vice Chairman Cryan.

ASSEMBLYMAN CRYAN: Here.

MR. VARI: Chairman Payne.

ASSEMBLYMAN PAYNE: Here.

MS. GARCIA (Assembly Judiciary Committee Aide): Assemblywoman Greenstein.

ASSEMBLYWOMAN GREENSTEIN: Here.

MS. GARCIA: Assemblyman Diegnan.

ASSEMBLYMAN DIEGNAN: Here.

MS. GARCIA: Assemblyman Barnes.

ASSEMBLYMAN BARNES: Here.

ASSEMBLYMAN PAYNE: Thank you.

I'd like to say good morning, and welcome to this morning's very important hearing on the topic of drug courts in the State of New Jersey. In 1973, New York Governor Rockefeller set a new standard by pushing through what are still some of the harshest sentences for drug crimes, including

mandatory sentencing for possession of small amounts of drugs. This concept caught on. Now nearly every state in the union and the Federal Government have some form of mandatory sentencing. Because of mandatory sentencing laws that are now on the books in our state, judges are limited and have little room to maneuver regarding sentencing related to drug offenses.

In the 1980s, Congress and State legislators toughened anti-drug laws. Prisons swelled with drug offenders. Courts clogged with drug cases and imprisonment of drug offenders increased 327 percent, nationally, between 1986 and 1991. And prisons weren't rehabilitating hardcore addicts; and thus, the dawn of drug courts developed by criminal justice experts. This approach holds drug offenders accountable while providing court-supervised treatment. Drug courts serve as an alternative to incarceration for nonviolent offenders. These courts do this by diverting people facing jail time for drug offenses into treatment, followed by intensive supervision. For at least a year, persons in the programs are monitored closely and subjected to regular drug testing and court appearances to track their progress.

While the first drug court in the United States opened in Florida in 1989, New Jersey's drug courts started with pilot programs in Camden and Essex Counties in 1996, under a Federal grant. In 2000, the State Judiciary backed a statewide Drug Court Program, and a 2001 law called for funding to expand the program. By 2002, drug courts were operating in 13 of the state's 21 counties. And as of last month, all counties in the state have Drug Court Programs.

Today's hearing will provide the forum for all interested parties, both public and private, to provide input on the crucial issue. And from the

outset, it should be said that the focus of this hearing is to make sure that all concerns regarding the issue of drug courts are addressed. These concerns include, but by no means are limited to, the following general questions: How effective have drug courts been in reducing crime and incarceration rates; how many individuals incarcerated for drug-related offenses could be eligible for Drug Court Programs; and how effective are drug courts in reducing the rates of recidivism?

I'm not sure whether or not you're aware of the following statistics, but let me share them with you, just in case you might have missed them. Four thousand individuals have participated in State drug courts since they began operating in New Jersey in 1996. Ninety-four percent of drug court participants are employed full-time upon graduation of the program. Drug tests for 97 percent of those in the program showed no drugs.

The reality of the situation is that until we hold public forums like this, that we're holding today, the attention needed to resolve this issue and many others isn't gotten. Our stance is that we would rather see taxpayer dollars spent on saving lives and repairing broken families than on incarceration.

We're here today to address the notion of why is it that we're paying $36,000 a year to house someone in a New Jersey prison when treatment costs less -- a national average of only 2,500 a year, according to published reports. We are here today to discuss a number of notions, including the concept of preventing an addict from committing more crimes in the future. The rationale behind this morning's hearing is to look at the many aspects of drug courts as they relate to the inmates in our State's correction system, and to review what might be done to lower those numbers and restore to health,

wellness, and wholeness an appreciable number of these persons, so that they can return to a greater society and become productive, contributing citizens.

We have an opportunity to see that these individuals who have erred in judgment, as we all have from time to time -- seem to do -- are given alternatives to put their lives back together should they have desire and the wherewithal to do so.

And on that note, I turn to my fellow Assembly member, Assemblywoman Linda Greenstein, who chairs the Assembly Judiciary Committee, for opening comments. Following the Assemblywoman's comments, we'll turn to Committee members from both Committees for any initial comments or statements on their parts before we call on our first witness who has signed up to testify. I should add that today's group of witnesses will include experts in the field regarding Drug Court Programs, and that they are from government, private, and community venues.

Thank you very much.

Assemblywoman Greenstein.

ASSEMBLYWOMAN LINDA R. GREENSTEIN (Co-Chair): Thank you, Assemblyman Payne.

Good morning and welcome to this joint hearing. I'd like to begin by expressing my sincere appreciation to Chairman Payne for his work in bringing these two panels together this morning.

Chairman Payne, having had the pleasure of working beside you in the Assembly, I know how important the issues of crime prevention and the fight against illegal drugs, especially in our urban centers, is to you and to those you represent. And these issues are certainly important to me, as well, and to

all of us throughout the state. I hope that, in working together, we can ensure a brighter future for all those whose lives and families have been torn apart by drug addiction, not just in Newark or Camden, but across all New Jersey.

Eight years ago, New Jersey began its experiment with drug courts on the very basic tenet that those who commit crimes because of a drug or alcohol problem needed to be dealt with differently. Our age-old approach of jail or parole was no longer working, because at its heart that approach was not responding to the root of the problem -- addiction.

Since 1996, nearly 4,200 participants have been enrolled in Drug Court Programs throughout the state. These are individuals who needed more than jail time. They needed the counseling drug courts offered in order to turn their lives around. But now we're at a crossroads. We need to look deeper in our drug court system, not only to analyze its effectiveness, but also to ask questions that will lead to solutions for improving and enhancing the system. The number of people seeking help through our drug courts are not in short supply. What we do here will have a lasting effect on their lives and on all of our lives.

I think all of us here support the goals of the drug courts, but their ultimate success will require the assistance and understanding of the Legislature. I look forward to what should be a very enlightening discussion.

Thank you.

ASSEMBLYMAN PAYNE: Thank you very much, Assemblywoman.

Members of the Regulatory Oversight Committee, any opening comments?

Mr. Fisher.

ASSEMBLYMAN CRYAN: Doug, you got anything?

ASSEMBLYMAN FISHER: Thank you, Mr. Chairman.

I look forward to the testimony that will be given today. As you know, as we all know, that the drug courts were not in all the counties. And now, through the last budget cycle now, we have them in all 21 counties. And that, I think, frankly, has been a very important step that we can all participate in as Assembly members. I hope that we can hear today about caseloads and find out just where we are in terms of backlog. And I know this is a very successful program. It's been in our vicinage since the beginning, and I want very much to hear the continued testimony so we can find out about more good works, and additionally, what we can do to increase the program.

Thank you.

ASSEMBLYMAN PAYNE: Thank you very much, Mr. Fisher.

Assemblyman Barnes.

ASSEMBLYMAN BARNES: Yes. Thank you very much, Mr. Chairman.

It was always kind of a mystery to me where they incarcerate individuals who very obviously, at the first blush, need treatment. So you put them in -- what we say in the trade -- you put them in the can and they forget them. And that even though there's a great effort on the part of the people in the jails in trying to help -- but the job should really be done from the outside. Rather than put them in, they should spend a lot more time in treatment.

Now, I attended a drug court in Elizabeth about a year ago. I spent almost the whole day there, and I was very, very, very impressed with the

process and how all the individuals that are involved in the process were working individually with the individual that was assigned to them. And the comments that were made by the aides were very candid and forthright in indicating to the judge exactly where the individuals under their care, they felt, were at: "He's working while he-- He had a little problem here, but he's coming back," or "she's coming back."

So the point is that drug court is a lot better than just dropping them in jail and forgetting them. I look forward to the other counties becoming involved in this process. Because I think that, like so many other things that happen in our culture, that we've tried everything else and it's time to try some new ideas. And I think drug court is one of them.

ASSEMBLYMAN PAYNE: Thank you, Assemblyman Barnes.

Assemblyman Diegnan.

ASSEMBLYMAN DIEGNAN: Just two words, Mr. Chairman -- long overdue.

ASSEMBLYMAN PAYNE: Thank you very much.

Thank you.

Mr. Cryan will reserve his comments--

ASSEMBLYMAN CRYAN: Till later.

ASSEMBLYMAN PAYNE: --till later, as is usually the case. I'm sure you'll have some comments later, Mr. Cryan.

We have a number of people who have signed up to testify today. Among those are representatives from the Attorney General's Office, the State Public Defenders Office, and the Department of Human Services, Department of Corrections, etc.

I am going to ask Commissioner Brown, from the Department of Corrections, if he will come forward and give his testimony. As he is coming-- Commissioner Brown, in my opinion, represents that which is the future of Corrections -- a very, very enlightened approach to correction in the State of New Jersey. And it's my understanding that Commissioner Brown has, as matter of fact -- being sought after by other states because of the fine work he's doing. I thank you very much for coming here, and we look forward to your testimony, sir.

COMMISSIONER DEVON BROWN: Good morning, Mr. Chair, Madam Chair, members of the Committee. I'm Devon Brown, Commissioner of the Department of Corrections. I come to you today with 30 years of experience in the corrections profession and as a psychologist. I come to you in strong support of drug courts here in New Jersey.

As has been said, drug courts in this country have a long history, but a relatively short yet progressive past here in New Jersey. Drug courts have proven to be a success and deserve both governmental and public support.

I'd like to share with you some relatively recent data that comes from the National Institute of Justice. The National Institute of Justice, in 1998, conducted a study, an assessment, of drug courts throughout this country. At that time, 275 drug courts were in existence, with another 155 being planned. The results of the study clearly indicate the success of this undertaking. Approximately 75 percent of the 90,000 individuals who were enrolled at that time in drug courts either successfully completed them or were still enrolled. A mere 15 percent of that population tested positively during the routine urinalysis testing that is so important in this program. Moreover, from 2 to 20 percent, a

mere 2 to 20 percent of those who had completed the drug court regimen recidivated.

Now, compare that with the 67 percent nationally, the 64 percent here in New Jersey who leave our prisons and return. The overwhelming majority of our correctional population have experienced drug abuse or are addicted. We spend $28,000 per capita on our inmate population. That figure doesn't represent the economic cost of their crimes or the human tragedy that they inflict on our citizens. Drug courts have the overwhelming support of our citizens, according to recent surveys. It is a good investment.

Now, there are those who look upon drug courts as being soft on crime. These are the unenlightened. Drug courts are smart on crime in every respect. So I come here again in strong support of our continued involvement in drug courts. As we all know, treatment lies at the foundation.

And I'd like to make a proposal for consideration. I have learned that there are not adequate treatment resources in the community, but there is an untapped resource here in New Jersey. Many of our halfway houses -- halfway houses that the Department of Corrections utilizes -- are certified treatment centers. They have capacity. We need to look to them. They have the ability to carry out our mission of providing the adequate treatment that this population needs.

Now, core to treatment, some would hold, is this notion of voluntary involvement. Recent research has indicated that coercive treatment works just as well. If you have to force individuals in treatment-- In fact, I don't know of too many addicts that volunteer for treatment, both on the street

or in my inmate population. So the notion of coercive treatment is a sound -- is a sound modality.

I'm going to conclude again by saying, let's please not (*sic*) have this wonderful opportunity to continue to support and expand drug courts. At the very least, they will cut down on victimization.

At this time, I'll respond to any questions that you may have.

ASSEMBLYMAN PAYNE: Thank you very much, Commissioner Brown.

Mr. Cryan.

ASSEMBLYMAN CRYAN: Thanks.

Thank you, Commissioner, and thanks for taking the time today. On the first hand, what I want to do is ask you about a course of treatment working just as well, as I was rather surprised to hear that -- just your last comment.

COMMISSIONER BROWN: Yes.

ASSEMBLYMAN CRYAN: I got to tell you, I always thought the first step was admit we were powerless, type of thing, and I thought that came with all sorts of inventory and self-agreement that somebody had to do that before they could move forward. How is it coercive would work in an equal light than those that have to admit that they were powerless, so to speak? Could you just follow up on that a little bit more?

COMMISSIONER BROWN: Sure, sure.

It was believed that being motivated for treatment, volunteering for treatment really represented the core of any success, particularly when you're engaged in these talking types of treatment. There have been studies within the

last 10 years that indicate -- on this population, on the addicted population -- that coercive treatment, being forced into treatment, results in just as favorable findings or outcome.

As I said, this population typically resists treatment and, given an opportunity, will avoid it. We can't afford to have them do that. When they are forced to engage, we do see positive results.

ASSEMBLYMAN CRYAN: Okay.

One of the other things is -- I'll ask later, to Judiciary, as a target audience -- but what I wanted to ask you, are there people in your population that would be -- not the people because they have a new-- We just opened up the last five vicinages. But are there people that, given the boundaries of the eligibility of a drug court -- and there's a few of them -- are there people that are better served-- Like, what I wonder about is if a guy's done his third crime, which eliminates him here, but he's in middle age where he's more likely, at least in my view, to surrender than maybe somebody who is 22 or 23-- Are there people in your population that we should at least consider, that should be eligible for drug court, that we're missing the boat on?

COMMISSIONER BROWN: I believe most definitely. But I'd like to at this time acquaint you with some preliminary results of a study that we're about to release this week on this population. Contrary to popular belief, it is the older individual, the individual who is between 40 and 50 years of age, who exhibits the most acute, the most severe addiction. Now, if we could have interceded earlier in life, that person may not have encountered corrections, may not have exhibited the types of misconduct that brought about the incarceration -- but more importantly, may not have victimized our communities.

ASSEMBLYMAN CRYAN: So age, in and of itself, doesn't lend to -- nobody gives up in their 40s or 50s. Is that basically what your study says?

COMMISSIONER BROWN: There's a theory that -- there's a burnout effect in crime.

ASSEMBLYMAN CRYAN: Right.

COMMISSIONER BROWN: But we knew, for the sex offender, that this was not the case. We're now seeing that, for the addict, is not necessarily the case, as well.

ASSEMBLYMAN CRYAN: It's pretty interesting.

One last question?

ASSEMBLYMAN PAYNE: Sure.

ASSEMBLYMAN CRYAN: In Corrections today, if there's someone not eligible to drug court and they're in with you, what are the drug treatment options that are, for lack of a better way to put it, available to the inmate?

COMMISSIONER BROWN: Yes. I'm very pleased to inform you that the Department of Corrections now has the state-of-the-art, the most acceptable, the most favorable types of treatment available in the country of this population. They're called TCs, or therapeutic communities, where the drug abuser is taken out -- if they qualify now -- of the inmate population, and they're put in an environment which is completely and totally seven days, 24 hours a day, devoted towards drug treatment.

ASSEMBLYMAN CRYAN: Thank you, Commissioner.

ASSEMBLYMAN PAYNE: Thank you very much.

Assemblywoman Weinstein -- Greenstein.

ASSEMBLYWOMAN GREENSTEIN: (laughter) Close. It happens a lot.

I just wanted to get a sense of the offenders with drug problems in the prison population. What are the differences in those who are found ineligible for this type program from those who are found eligible?

COMMISSIONER BROWN: We, of course, look at the sentence and when they'll be released into the community. We look at the severity of the disorder, as well, and how those dynamics really interface with the type of treatment that we offer. We do not look to place people who truly test as being sociopaths or psychopaths in a TC.

Many of you may remember the movie *One Flew Over the Cuckoo's Nest*, and the havoc that such individuals bring in treatment environments. So these are some of the criteria that they must meet.

ASSEMBLYWOMAN GREENSTEIN: Thank you.

ASSEMBLYMAN PAYNE: Yes, Assemblyman Barnes.

ASSEMBLYMAN BARNES: I'd just like to make a comment on what the Chairman mentioned -- that other states are looking to secure your services. And I have worked with you on several areas, and I think the State of New Jersey is extremely well served with your great background in this area. And also, I think one of the key ingredients, Commissioner -- that you have compassion.

COMMISSIONER BROWN: Thank you, sir.

ASSEMBLYMAN BARNES: And I hope that you don't leave the good old State of New Jersey.

COMMISSIONER BROWN: I have no intentions.

ASSEMBLYMAN BARNES: Thank you.

COMMISSIONER BROWN: Thank you.

ASSEMBLYMAN PAYNE: Thank you.

Before you leave, one of the things that is very exciting about what you said, as this-- Two things. Number one, that halfway houses could be utilized for the treatment programs and there are slots there -- that there is capacity in these places. All right. And I think that's something we would definitely look into. The other is this coercive treatment -- is effective. And we have a "captive audience" in our facility, and what I would like to know is whether or not there are any states now, any states including New Jersey. What are we doing for those who are in our facilities? You mentioned TC -- how many are in TC, for instance? All right; do we have a capacity for them?

COMMISSIONER BROWN: We would like to have the capacity. That is, the resources to provide for all who are eligible. We do not at this point.

In terms of the other states, this whole notion, this modality that we know as therapeutic communities, really came out of Texas. It has been very successful. And based on that success, that's why we took a closer look at it. We're not alone. There are several other states -- Maryland included -- that utilizes this approach.

ASSEMBLYMAN PAYNE: That's very, very good. I'm glad to hear this, and we want to certainly pursue that further. If in fact, we can treat people that are in our -- that we have currently in our facilities, then that would really go a long way, I think, in addressing this serious problem and meeting the needs that are out there.

We thank you very much. I was not being facetious when I say that I have a relative who happens to be a member of Congress, and he tells me that there are people in that caucus that he belongs to who say, "Devon Brown, we'll take him." And I just want to make sure that you don't leave us any time in the near future.

Thank you very, very much.

COMMISSIONER BROWN: Thank you.

ASSEMBLYMAN FISHER: Mr. Chairman?

ASSEMBLYMAN PAYNE: Yes. I think Mr. Fisher has a question.

ASSEMBLYMAN FISHER: Thank you, Chairman.

Commissioner Brown, it's always a pleasure to be working with you.

I just want to understand. You said there are availability of beds within halfway houses. Now, does that suggest that you are already using those beds? In other words, has it been developed already -- is that currently happening?

COMMISSIONER BROWN: We utilize those beds for inmates on pre-release status, as does the Parole Board, for people who are being released into the community or paroled. But even with that utilization, many of the halfway houses have treatment beds, both in-patient and out-patient beds, available. And they've expressed a willingness and an eagerness to be a part of the drug court program.

ASSEMBLYMAN FISHER: Well, and I ask that because some of the opportunities at halfway houses -- people talk about people that walk off. Now, you're talking about outpatient. So that's not really someone who is

going to walk off, because they're just being brought there for treatment and then they go back out into the community?

ASSEMBLYMAN FISHER: Well, as the national statistics indicate, there's about a 70 percent success rate. So the overwhelming majority of this population -- I'm talking about the drug court population -- stay with it. They don't walk off. Keep in mind, the courts still have a big stick.

ASSEMBLYMAN PAYNE: I think what Mr. Fisher-- We're not talking about the inmates, that are in your facilities, to be going to these halfway houses for treatment. I think what we're talking about is the availability of these slots for people that come through the drug courts.

COMMISSIONER BROWN: Exactly.

ASSEMBLYMAN PAYNE: And we're not talking about bringing your people out of the prisons and treating them, no.

COMMISSIONER BROWN: Oh, no, sir. (laughter) No. I'm talking about as a diversion, as a drug court diversion.

ASSEMBLYMAN FISHER: Right.

COMMISSIONER BROWN: That there are treatment resources that are being under utilized that could assist the courts in placements.

ASSEMBLYMAN FISHER: Okay. Thank you.

ASSEMBLYMAN PAYNE: Thank you very much.

Commissioner, really, as I say, we deeply appreciate your contribution to the State of New Jersey and the work that you're doing. And thank you very, very much for your testimony here this morning.

Thank you.

COMMISSIONER BROWN: Thank you for having me.

ASSEMBLYMAN PAYNE: We do have representatives from the Attorney General's office, and I'd like to have Ron and Steve -- please come up and give your full names and identification, please.

B. STEPHAN FINKEL: Thank you, Mr. Chairman.

I'm Steve Finkel. I'm the Legislative Affairs Director for the Attorney General. With me is Ron Susswein, who is the Deputy Director of the Division of Criminal Justice. He deals with major crimes. We're here to testify, and thank you for the opportunity to testify before this Committee on drug courts.

Mr. Susswein will expound, I'm sure, and answer whatever questions you have.

RONALD SUSSWEIN: Thank you. I really do appreciate the opportunity to be here and speak frankly as a very strong proponent of the Drug Court Program. I'm doing that as a career prosecutor, and some of the people in the room know me-- No one is going to accuse me of being soft on crime. And one of the biggest myths about treatment in the Drug Court Program is that. So that really is an outrageous and untrue statement.

Actually, the Drug Court Program is the single, best criminal justice program that we have right now in the State of New Jersey. It's the most enlightened, the most humane, the most cost-effective, and the most successful of all the programs that I have seen in 23 years in law enforcement. And frankly, it should not come as a surprise that the law enforcement community supports treatment.

I know Assemblyman Barnes knows, as a career law enforcement officer, rule number one in law enforcement is: at the end of an officer's day,

they're to go home safe and sound. They're not to go to a morgue. They're not to go to a hospital. And the only thing that is more dangerous than arresting a criminal is rearresting a criminal. And it is very much in the interest of the law enforcement community, when they have to make an arrest to make certain that is the one and only time that they have to do that.

Law enforcement supports anything that will put a wedge in the revolving door of the criminal justice system and that addresses that 67 percent recidivism rate, generally, that exists, that Commissioner Brown spoke about. Drug court is one of the most prudent investments in public safety of all of the programs that exist right now, and in officer safety. Having said that -- a reality check -- there is a problem with the Drug Court Program, and that, quite frankly, is that it's too small. It simply does not handle enough of the people who are clinically, and should be, legally eligible. Now, it was recently expanded into all 21 counties. That's fabulous, that's wonderful. That is an excellent development. However, even in the jurisdictions where drug court has existed for years, even in the original pilot jurisdictions, there are too many defendants who could and should go through the Drug Court Program, but do not.

For example, I might be, a little, not up to date on my numbers, but I believe, for example, in Essex County there are essentially 25 beds that are reserved -- that doesn't mean that's the limit -- but that are reserved for Essex County for the Drug Court Program, which translates to 50 people a year. Now that's 50 souls that are saved. That's a wonderful thing, but that number is way, way too small compared to the actual need. And that's in a county that has and has had the Drug Court Program. Too many drug- or

alcohol-dependent offenders are slipping through the cracks, either because of denial, because the system isn't looking, because of plea bargaining, and I'll address that briefly.

What I'd like to do, if I may, is propose four very specific recommendations that the Legislature and that this Committee could address, because it deals with a statute. And that's the statute that basically-- Well, I want to deal with some of the impediments to the expansion, the recent expansion of drug court, that can be fixed. And I understand the monetary problem. I'm going to address that, as well -- the fiscal problem. But there are statutory impediments to the Drug Court Program that this Committee can recommend to be eliminated.

The key statute is 2C:35-14, and that's the legal cornerstone of the Drug Court Program. And when it was written in 1987, it was then, and I suspect to this day, the only statute exactly of its kind in the nation, in that this statute authorizes a court to impose treatment in lieu of imprisonment, even where imprisonment is either presumed by law or otherwise mandated by law. So when we talk about mandatory sentencing, there is a vehicle for circumventing the strictures and, to be specific, the Drug-Free School Zone law. And in terms of many of the problems that exist and that we heard about with the implementation of the school zone law, and the racial disparities that are associated with the implementation of that law, one very obvious solution to that problem is to expand the drug court option, because the law already allows for treatment in lieu of so-called mandatory imprisonment.

Now here are the four proposals: The first one deals with the eligibility for drug court under 2C:35-14. Right now, as one of the

Assemblymen had mentioned, there is essentially what I call a three strikes ban. If you have two prior -- first, second, or third degree crimes -- you're ineligible. We propose to eliminate that. And that doesn't mean there wouldn't be safeguards in place. Clearly, recidivism is a relevant factor that a court must consider. And as a law enforcement officer, I'd be the first one to tell you -- and this is not to be cute -- but empirically, the single best predictor of recidivism is recidivism. A person with multiple offenses is likely to get one more. However, we have to deal with this distinct population and the nature of addiction. And you're going to hear a law enforcement officer say this now: Addiction is a disease, and, specifically, it is a chronic and relapsing disease. And the sooner the criminal justice system and our laws recognize that, the more effective that we will be. So I would propose that we would eliminate the three strikes ban and replace -- and treat these people the same as we would with a school zone offender or a repeat drug dealer.

The second proposal-- Again, I hope I'm not startling anyone, but people should realize law enforcement very much wants to expand this program. The second proposal deals with the current mandate in the law that, for certain persons, the persons who were facing a presumption of imprisonment or the school zone law, an otherwise mandatory imprisonment -- the treatment they must receive under 2C:35-14 must be a minimum of six months residential treatment. Now, that made sense in 1987 when none of us knew exactly how addiction science was working with crack and the new drugs that were coming out. And it's understandable that we in law enforcement and legislators like the incarceration quality of residential treatment. Having said that, it is now time, based on empirical research, to expand this law to authorize, in appropriate

cases, out-patient treatment in lieu of in-patient treatment in lieu of imprisonment.

Now, there have to be safeguards to this. One of them, the most obvious, is that the out-patient treatment must be clinically appropriate, based on medical criteria. If we're going to deal with this as a health and medical issue and not just as a criminal justice issue, then we need to obtain the highest standards of the health care profession, and this has to be based on clinically appropriate decisions that are made. And obviously, the treatment has to be licensed and appropriate. But it makes no sense not to match the treatment that's provided to the individualized needs of the patient/defendant. And we believe this could be done safely, and we would propose other safeguards to make certain: Frequent urine monitoring, when appropriate -- this would be up to the judge -- curfews, or ankle bracelets, and other techniques that are designed to detect and deter backsliding to out-patient defendants.

Obviously, there will be fiscal benefits to this, and I'm obviously aware of the state of our budget problems. But frankly, if we are to expand the treatment capacity to handle the needs of the drug court, it will be easier -- not easy, but easier -- to expand out-patient treatment than in-patient treatment. It's less expensive. And when clinically appropriate, we get the medical benefit.

Right now, what is very unfair is that a defendant whose addiction severity doesn't warrant in-patient treatment -- and they would otherwise be eligible for drug court and could avoid imprisonment -- they end up going to prison. Because frankly, we can't afford to waste a precious treatment bed space on a patient who's not clinically appropriate for that. So then they can go to prison where, frankly, they can be recruited to join or be promoted in a

gang or to enhance their addiction. We'll get them eventually into treatment, but only after more victims and more crimes have been committed. That makes no sense at all.

The third proposal is, perhaps, less startling from law enforcement. But right now, the five-year term of probation that's mandated -- there should be the ability for a court to order an early termination, based on exemplary progress in the course of treatment. And there could be safeguards to make certain, because obviously the duration of treatment is critical. Again, if we use this health model, this disease model-- But we need to start using and continue to use carrots, as well as sticks, to motivate people to make progress. In fact, we need to serve as role models for other drug court participants to see that there really are benefits from making progress in treatment.

And finally, now that we would have improved 35-14 to make it a fair and more useful tool, in terms of who's eligible and what treatment we would be able to provide, we need to use 35-14. And we need to make certain that the system doesn't look the other way. And I say that as a prosecutor who frankly -- we're probably the group most responsible for this. We move cases-- We call them dispositions. I mean, we literally dispose of cases, and we need to do it expeditiously. There's a lot to be said for swift, as well as certain, punishment. But right now, too often the actors in the system -- courts and prosecutors -- look the other way or, at least, don't ask the critical question: Is this defendant drug or alcohol dependent? Because if they are, they need to be treated differently. If not, we're going to have the recidivism rate that, frankly, leaves the 67 percent figure in the dust.

So we need a system where the players-- And by the way, prosecutors -- our file is not likely to have a lot of this information at this stage. We're addressing that. And I can certainly answer questions about the new Brimage guidelines. But one of the things, we've now instructed prosecutors, is that when they have something in their file -- scant as that file may be at this stage in the proceedings -- that suggest drug or alcohol dependency, they must alert the court. I mean, we're not saying that we would control the decision -- and shouldn't constitutionally -- the decision whether to order a diagnostic assessment. But as advocates, someone's got to be there, because-- And Commissioner Brown was talking about it, in terms of coercive treatment. Denial is one of the symptoms of this disease. And any system that depends on addicts making rationale choices is an irrational system. I don't begrudge them the desire to continue to use drugs in prison, out of prison, wherever. We understand that. That's part of this disease. That means the other players in the system have to be looking out.

And I'm not suggesting that it's an aggravating factor or a mitigating factor. I'm simply suggesting it's a relevant factor, just like we require of courts, when in certain circumstances the presentence report must examine whether there's underlying mental illness for certain predicate offenses. We need to be more consistently looking out, so that it doesn't depend as much as it does today on addicts coming forward and asking for help. Some do. It may not be truly volunteering. They're under, obviously, coercive pressure, but some of them are not asking, and the system is not asking. And that makes no sense. Now that can't work unless we grow the system. And that means removing some of the legal impediments.

And I can certainly address any questions you might have about this or how the Brimage guidelines, the new ones, interact with the Drug Court Program, or any other concerns you might have.

ASSEMBLYMAN PAYNE: Thank you very much.

Do you have anything to add to his testimony?

MR. FINKEL: I'm not nearly as passionate as Ron, so I'll say no.

ASSEMBLYMAN PAYNE: Thank you very much.

Any questions here?

Yes. Mr. Diegnan.

ASSEMBLYMAN DIEGNAN: Ron, without the expansion that you recommended today, or the more liberal guidelines to include more people, you indicated if -- and right now, I think you used the expression *50 souls* in Essex County can be treated on an annual basis. As the guidelines presently exist, what would you believe the need is?

MR. SUSSWEIN: And that, by the way, are the reserved beds. That doesn't mean that the 53rd person is automatically out. The AOC is more familiar with the number. I'm just guessing that probably we're treating a third to a fifth of the people who are clinically and legally eligible. Now we have to have the system, first of all, to find them. Not all of them are bringing this to our attention. But it makes absolutely no sense to send to Devon Brown someone who needn't go to prison where we can do something that's more -- not only less expensive, but frankly, more cost-effective.

ASSEMBLYMAN DIEGNAN: If I may, Mr. Chairman, one follow-up. How is that determined? That's where I see the immediate crisis.

Let's use the hypothetical of a third. Is it first come, first served? How are those fortunate 50, for lack of a better word, chosen?

MR. SUSSWEIN: It is fortunate. It is probably hit or miss. And again, the system is an excellent system as far as it goes, but what it doesn't do is, it doesn't demand accountability, by all of us, to look for them. I mean, there are people screening -- and I have nothing but praise for all the drug court teams -- it's just that they know how many slots they have. And they also don't have leverage, and we need to build with the public defenders, the prosecutors, the courts, the probation people, the task evaluators. And if we could allow -- I think the key here is the expansion of the out-patient treatment. I think that, in the current fiscal climate, that is realistically accessible. And there are people right now who are going to prison who needn't go to prison. And this is not going to happen overnight. Your question is, as much of anything, a ramping-up question. How do we find these people? We're not going to find them next month, even if the law is changed. But I think that we ought to have a system that no one who is drug or alcohol dependent should slip through the system. And certainly not because people weren't looking out for that.

ASSEMBLYMAN PAYNE: Thank you very much.

Mr. Rooney.

ASSEMBLYMAN ROONEY: Thank you.

I apologize for being late. Traffic around the George Washington Bridge was brutal this morning.

Again, I missed part of the presentation, and I don't want to be repetitive, but I do have-- I'm a mayor in Northvale, and we're right on the New York border, Rockland County. And I have had personal involvement --

family, friends, etc. -- with the New York system. Because it seems like our drug addicts go up to New York to get their drugs. I've been involved there, and I looked at the system. They have a program called DTAP, Drug Treatment Alternative to Prison. They also have the Rockefeller laws. The Rockefeller laws are, if you have up to an eighth of an ounce, you're subject to one-to-three years. If you go a quarter of a ounce, you go five-to-15, I believe. They're very severe. In fact, there's a movement afoot, right now, to overturn the Rockefeller laws in New York. But, be that as it may, one of the things that I've seen in that system was -- again, through personal involvement -- I've watched the process. What they do is, the drug court judge basically, or the prosecutor, actually recommends in a particular case. And this one that I'm thinking about was one that had between an eighth and a quarter. Didn't exceed the quarter. It was facing, actually, either one-to-three or three-to-five. I'm not sure what the exact number was, but was given the alternative to go to Daytop -- Daytop Village for a program that basically was, they said, for six months. It turned out to be more like eight months. Even at that, after he came out of the program, he was back on drugs within a month. Even with a severe program of six, eight months, and then went back for another three months. Got very lucky that he was able to go back to that program again.

One of the things I found, through talking to some psychologists and some law enforcement people, was there's a big difference in the drug addicts. If you are a cocaine addict, you go for the high. You get the high just about every time you hit cocaine. And at some point in time, you may wind up with a heart attack.

With the heroin addict, whether it's injected or snorted -- in the case that I'm talking about, he was snorting heroin -- they keep going for more and more, and it builds in the system. And it gets to the point where they're not satisfied. It goes eight-to-10 bags a day to get that same high. That's the hardest one to get them off -- that and crack cocaine are the hardest ones to get an addict off.

So, if we're looking at a system that is outpatient for crack cocaine, for a heroin addict, believe me, I've seen it through my own experience. These are not the addicts that are going to be for that program. You need somebody going through residential-- First of all, you got to go through the detox process. And detox can be anywhere from five days to 30 days. I've seen it happen in both cases. It's really a complicated process. One of the things I see that New Jersey is sorely lacking is the program like Daytop. We don't have even beds. And I would eventually say, just from my own experience in these things, I would support more in-house treatment, more in-house of beds available. If you're talking about the outpatient, I'd have a real problem with it, depending on the addict.

So I need a lot more information. I need-- In Bergen County, we do have a drug court. And I believe Gene Austin is our drug court judge up there, and I've spoken to him. It's kind of different. This is unexplored territory in a lot of cases for New Jersey. We don't do enough to stop drug addiction or to help addicts.

The other thing is, if we're talking about somebody that's being caught doing a crime and he just happens to be a drug addict, I think there's two

separate issues there. The criminal has got to be treated as a criminal. The drug treatment is something different.

MR. SUSSWEIN: If I might comment, because those are all fair points. When I use the phrase -- and I think this should be in the legislation -- *clinically appropriate* outpatient, those two words are pregnant with a lot of meaning in terms of research and science, and what's medically appropriate. A lot of these people are actually poly abusers. It has to be clinically-- Like right now, we have a bias towards -- because we have a little more toward therapeutic community. There are some clients, mentally ill clients -- the so-called MICA or the dual diagnosed -- for whom the therapeutic community -- they couldn't survive it. So I think that's true.

And also, 35-14 has one feature that should not be changed, which is that we're talking about serious crimes, but that the court has made a finding that the addiction was directly related to the commission. Usually, it would be in the nature of raising revenues to support the addiction. So that we would have assurances in law enforcement, for example, that by dealing with the underlying addiction, we take away the motivation and incentive for recidivism.

ASSEMBLYMAN PAYNE: Thank you very much.

ASSEMBLYMAN ROONEY: One of the other things-- Just one follow-up is, addicts are very devious in what they do. I had this one situation where the young man was supposed to have been going for the drug testing. And he knew when the drug testing was coming. And three days before, four days before, he would stop. Then he would take, basically, downers, and they never tested for the downers -- get himself through that particular period. The day after he got tested, he's back on the stuff again.

It's a situation where, even if they want to be off the drugs, in some cases, it's impossible.

MR. SUSSWEIN: They're addicted.

ASSEMBLYMAN ROONEY: Yes.

ASSEMBLYMAN PAYNE: Thank you, Mr. Rooney.

Mr. Cryan.

ASSEMBLYMAN CRYAN: Well, a couple questions -- but on the drug thing. Do you have any sense-- The Internet now sells all these things where -- what are they called, inhalation on a drug test, where they're able to-- I know now you can do hair test. Do you guys get involved in that at all?

MR. SUSSWEIN: Yes. The people who are doing drug tests have to stay up with the technologies--

ASSEMBLYMAN ROONEY: Right.

MR. SUSSWEIN: --and the techniques that are used to evade. It is criminal now to do that, to evade it. The answer, there, isn't more laws to punish that; it's training the people who are taking the drug test how to do this appropriately.

ASSEMBLYMAN CRYAN: Have you had an experience in the drug -- in specific, since we're talking drug court, is there any sort of rates where we have-- Do people try to get over on this thing? Because recidivism rates on the actual drug tests themselves are stunning. Do you find any of that?

MR. SUSSWEIN: They're good, yeah.

No. The AOC may be more familiar with that, not that we've seen. Now, in terms of putting over, and it's been said, addicts by their nature can be very deceptive, and they're very good at it. The first person they deceive is

themselves. But I have heard no problems -- and believe me, as a prosecutor, I would--

ASSEMBLYMAN CRYAN: That's why -- okay.

MR. SUSSWEIN: --if they thought that the drug court teams and the treatment providers were not following through on the protocols that we've all agreed to on enforcing the rules--

ASSEMBLYMAN CRYAN: A couple questions on your suggestions, which were really quite appreciative -- appreciated very much -- both with the expansion, which would be both. The first one you mentioned, which is eligibility -- the three strikes -- which you kind of brought up a little earlier, and I hope we do take a good look at that. But also, in terms of the lessening a probation, my understanding is that one of the reasons that this program is successful is that the probation officers that are assigned to drug courts have significantly lighter loads than others, as a general rule. Is that correct, to your knowledge?

MR. SUSSWEIN: In part. It depends on what phase in the program and in the course of recovery.

ASSEMBLYMAN CRYAN: Okay. So do we have a concern -- or is it reasonable for, at least, the members of this panel to have a concern -- that if we do look for these suggestions, that we have an alternate load problem, potentially, in probation and in other areas?

MR. SUSSWEIN: Well, hopefully, this would lessen it. Because one of the things, right now, is it's five years, even for people-- I'm saying this as a prosecutor. That last year may be virtually unsupervised and not that meaningful, frankly, and I would rather give the reward for that. But they then

are on the caseload that maybe they need not be, so they could use their time for people in earlier phases that need more intensive monitoring.

ASSEMBLYMAN CRYAN: Thanks for your time. Thank you.

ASSEMBLYMAN PAYNE: Thank you very much.

Let me just say that it's very enlightening to have law enforcement present. I just say, the myth out there very often is soft on crime treatment, etc., etc. The fact that you are a leading law enforcement officer, but come to us and really point out that law enforcement people are, in fact, in favor of treatment and that this does not translate into being soft on crime -- I think it's very, very important. I think that that aspect of your testimony, and the very fact that you represent law enforcement, and you tell us that this is something that you and others in your profession support. Because, as you point out, that a law enforcement officer, at the end of the day, does go home to his family, as well, etc.

I really, really thank you--

MR. SUSSWEIN: Thank you, sir.

ASSEMBLYMAN PAYNE: --for your perspective on this, and we will look seriously into the recommendations you've made.

Assemblywoman Greenstein has a question.

ASSEMBLYWOMAN GREENSTEIN: I want to thank you very much for coming -- a former colleague of mine -- and it's always good to see you and hear your very enlightened views on this.

I did want to just have a little better understanding of the school zone analogy that you made. I know that you're an expert on that, having

written those laws. I'd just like to understand how that does tie in, because I didn't catch that analogy.

MR. SUSSWEIN: Well, right now, school zone offenders can avoid the mandatory term of imprisonment through the drug court program. We very much support that in the new Brimage guidelines. We actually emphasize that. One of the concerns that we have is that in the new Brimage guidelines, for a certain class of offender, we have become less strict. And we think that's appropriate. We've restored discretion back to judges. I can argue every which way to Sunday why that's a good thing. The one negative that we're concerned about is that, because of the uniformity requirement, which is court-imposed, Supreme court-imposed, for a certain class of low-level, school zone drug dealer, we're no longer threatening imprisonment. We may be threatening probation. And our concern as prosecutors is that may not be enough in some cases to leverage an addict into choosing rigorous treatment, as opposed to simply going to county jail or going to prison or probation. That's why we've ordered, in the guidelines, when we believe that a person may be drug or alcohol dependent, we must bring that to the attention of the court and insist that the court look into that and make treatment an appropriate condition, if probation is, in fact, the appropriate sentence. Because we will have been yielding, as it were, the authority, under the conference of drug (indiscernible), to insist on imprisonment.

ASSEMBLYWOMAN GREENSTEIN: Thank you.

ASSEMBLYMAN PAYNE: Thank you. We deeply appreciate your coming here before us today.

I see we've been joined by Reed Gusciora, who is here and who would like to ask a question.

ASSEMBLYMAN GUSCIORA: Actually, it's a related topic on the school zone. One of my concerns is always that every drug bust in the city is a school zone, since urban areas predominantly have schools on probably just about every other block. And I think that, unfairly, a lot of urban citizens unfairly get busted for enhanced penalties, when suburban areas have the luxury of not having a school zone on every block.

Does the Attorney General's office keep statistics on school-zone arrests, of how many people truly are selling on a school ground, as opposed to just, by happenstance, being in a school zone?

MR. SUSSWEIN: School ground is very, very rare. Less than 1 percent on school grounds. The overwhelming would be-- We're talking about the 1,000 feet. There's no question about the urban-- In fact, when I was in the Union County Prosecutor's office, I would show the map of Elizabeth, and there was an area -- I'm dating myself now -- that is now known as Ikea, but didn't exist at the time. That was the only place in my jurisdiction that didn't have -- I used to call that a school-free drug zone. (laughter) And so there's no question. Again, arguably, the beneficiaries of the enforcement are the law-abiding residents of those areas. But the new Brimage guidelines and 35-14 are designed to ameliorate what is, frankly, the disturbing racial disparity that comes from the urbanness of any law that focuses on distance. Because the more compact your are, the more, from a demographic -- of course you're going to have a greater percentage in Trenton than in Princeton.

ASSEMBLYMAN GUSCIORA: As a follow-up, should we look at amending the school zone law just to apply during school hours? In my legal capacity, I just represented somebody who got enhanced penalties simply for being in a school zone at 2:00 in the morning. And I thought that was somewhat unfair that, I believe, the person was chased deliberately in the school zone so that they could be arrested in the school zone, particularly when the bar was about a mile away. Should we as a legislature look at those laws, possibly to only have enhanced penalties applied during school hours?

MR. SUSSWEIN: Well, the problem with school hours-- We looked at that when we first wrote the law. Arguably, that would be unconstitutionally vague, unless we define what the hours-- See, at least with territory, theoretically, you could go to the clerk's office and you can find the distance. The problem is that schools have extra-curricular events -- maybe not at 2:00 in the morning -- but certainly ball games, and proms, and what have you. So we'd want to protect those incidents. But it has to be where, under vagueness laws, under the concept of avoid for impermissibly vague, you have to be able to know whether your conduct violates the law or not, which is why the school zone law was made 365, 24-7. It was almost a constitutional requirement. If you accept the concept of territorial displacement and you're using real estate, there's no constitutional problem.

ASSEMBLYMAN GUSCIORA: But I would be interested to find out -- and I'd follow up later on -- if the Attorney General has statistics on these arrests actually occurring when children are present, as opposed to at night.

MR. SUSSWEIN: No, we don't. Right now, there's no way to really capture that kind of data. The children present within 1,000 feet -- in the

urban areas, there are children sleeping in their homes well within 1,000 feet. So I don't even know what *present* would mean.

ASSEMBLYMAN GUSCIORA: Then is it appropriate, then, to give enhanced penalties to somebody for being in a school zone when they had no intention of violating the law or going and preying on kids on a school grounds?

MR. SUSSWEIN: That's a very large question that can certainly be explored.

ASSEMBLYMAN GUSCIORA: Thank you.

ASSEMBLYMAN PAYNE: Thank you very much, Assemblyman. Assemblyman Barnes.

ASSEMBLYMAN BARNES: I just want to make one comment. I appreciate your appearance here today, Ron. You are a value to us here in the Legislature, and a great asset.

One of the comments you make about law enforcement: that they don't want to be considered soft on crime. And I think the more important aspect of being soft on crime -- not with people of law enforcement background, it's more the people who are in the Legislatures that are afraid to sign on to, introduce, vote for legislation that they feel is going to come back to haunt them when they run. And I think that's one of the areas that we have to really look pretty hard at. Because, I'm on a national committee in criminal justice and I attend a lot of conferences with people from all over the country. And in response to the Assemblyman's comment about the Rockefeller drug laws, I think the trend nationally, from what I can see attending these conferences, is to repeal all these draconian drug laws, because they know they're not working.

But there's a little political fallout, and that's what we're going to have to overcome.

Thank you very much.

MR. SUSSWEIN: And I would just add, the single best proof that clinically appropriate treatment is not soft is that there are many addicts who prefer prison to treatment, when given the choice. We give them the choice. That's something we've got to look at. Maybe they shouldn't have that choice. But the bottom line is, in the drug court program there are people who have been determined to be clinically and legally eligible, and, I think the phrase they sometimes use is, "they can do prison standing on their head." They're used to it. They do it, and they go in, and they come out active addicts and, of course, we're going to have to deal with them again. And that makes no sense.

ASSEMBLYMAN PAYNE: Thank you very much. I really appreciate your testimony.

MR. SUSSWEIN: Thank you, sir.

ASSEMBLYMAN PAYNE: Thank the Attorney General for being so supportive of this program.

Thank you very much.

We have, next, the Public Defender, Ms. Yvonne Segars, here to testify.

Good morning. Would you give your full name and title? We'd appreciate it. Thank you very much for being with us this morning.

Y V O N N E S M I T H S E G A R S, ESQ.: Oh, thank you.

My name is Yvonne Smith Segars, and I'm the Public Defender for the State of New Jersey. I'm having handed out to you just a little information

that I think might be of assistance to some of you with regard to drug courts. In the package -- and I know we do have Carol Venditto in the room, who is with the AOC -- I have downloaded her most recent State statistics on the highlights of the New Jersey Drug Court Program. I've also included in your package just -- I printed out just the appropriate section of 2C:35-14, which has been referenced. And I've also included a copy of the 10 key components, and I give this to you. And I'll give you a little bit of my background.

I've been involved with drug courts since 1995, as a Public Defender in Essex County. Before I became the Public Defender, I was one of the drug court planners for the Essex County Drug Court. We had two drug courts that started around the same time, in 1996. Essex County started in May of 1996, and I think Camden County started a little earlier than that. But drug courts have really been around since the 1980s. The first drug court was in Miami. It started in 1984, '85, may have been '89. In fact, Janet Reno was the first drug court prosecutor, before she went to Washington.

So, drug courts -- we do have quite a bit of experience. I presently am on the Board of Directors for the National Association for Drug Court Professionals. I also serve as a core faculty member for the National Drug Court Institute. I also serve as a faculty member for the Justice Management Institute, which does drug court training nationally. So not only do I have experience in how drug courts have been planned and implemented all over the nation, I came back with those skills and, really, I learned them in here, in New Jersey. And drug courts are a model court that has really come into its own time. But now, I am very happy to see that we have them in all 21 counties. It was really-- Ron Susswein has been doing this a long time. And I don't need

to -- half of what I would have said, he said for me. The important things, that we've come to grow up in learning about drug courts, is what we need to know -- many of those things were said by Ron. And I know the Attorney General feels the same way about drug courts and about treatment in the criminal justice system.

But the 10 key components, which is in your package, really gives you a foundation. Our drug courts in the State of New Jersey are based on the 10 key components, and they were adopted by the AOC as a fundamental structure. If you look through these -- if you've not visited a drug court, Bergen County is a very good example. Judge Austin has a fine drug court. The drug courts that are in existence really rely on these 10 key components, and so you should really be familiar with them so that you understand that there's only 10. But no drug court in the nation, nor any drug court in this state, is the same. Every drug court is a little bit different, and that is because we have to respond to the necessities of the community that they serve. The drug of choice in one community is not the drug of choice in another community. And so the treatment modalities are very different from place to place in the communities that we serve.

So the drug courts are based on these 10 key components, but really what makes them successful is that they are, one, they are coercive to the extent that it is voluntary for a person to choose to go into a drug court. They're coercive because you either choose drug court or you choose jail. So although it's voluntary and maybe some people will choose not to go, there is the coercive aspect to drug courts. But what really makes drug courts successful is because we do have this nonadvisarial, collaborative approach to how we deal with

criminal activity and drug addiction and treatment. The drug court -- the reason why we hear the prosecutor, the Attorney General, speaking the language that he is, which is: It is about treatment, it is about getting treatment to everyone, it is about equal access to treatment, it is about holistic treatment.

One of the things he didn't expound on, which I will, is that you can have these drug courts, but they are meaningless unless you have all the other resources that go along with them outside of treatment. And treatment, people need to understand-- And this is one thing good about drug courts, because everyone in the Drug Court Program, we're cross-trained. As a Public Defender, I'm cross-trained in treatment. The judges are cross-trained in treatment. Treatment -- have to learn about criminal justice. But what we know is that treatment is not finite. Treatment means a lot of things. Treatment means group counseling. Treatment means psychological counseling. Treatment means getting jobs. Treatment means housing. Treatment means welfare, home care. It means child care. A woman cannot get clean if she doesn't -- can't worry about where her kids are. A person cannot get clean if they don't have a place to live. You can't stay clean unless you have a job.

So treatment is a continuum of care. It starts with detox, as you mentioned. You had a 28-day program, and we don't have a lot of detox in this state. But then it extends to, if you need in-patient care -- and not everybody needs in-patient care. And that's one of the criticism about the drug court statute, because 2C:35-14 states that you have to have in-patient care for a six-month period of time. That statute -- but that's not necessarily what the clinical assessment would say that you need. A person could be a crack addict and have a clinical assessment that says this person will succeed in out-patient care. Or

a person could be on marijuana and a clinical assessment will say they need in-patient care. We tend to think if you do lesser drugs, like marijuana, you could be outpatient. But that's not necessarily the case. And so it's really the importance of clinical assessment on the front end, and making sure that the individual is properly assessed and directed to the proper programs. And so, with that, you need enough treatment programs available for everyone. And the holistic aspect is beyond the actual in-patient care or the clinical care that you receive.

As people phase through our Drug Court Program, they get into whether or not they have jobs, do they have training, are they educated? The kinds of statistics we hear -- Devon Brown will share with you -- we know that the reading level of people who are substance abusers and are in prison, we know their reading level is somewhere around fifth, sixth, seventh grade. And so there's a correlation between their repeat behavior and their need to go into drug courts. But drug courts, now that we have them in all 21 counties, the question is, do we have enough beds, does everyone have access to them? I think, with the exception of Somerset County -- which does have a drug court -- they're the only county right now that does not have anyone in their program. But they're very close to getting someone in the program.

With respect to how many beds, I know the number of 25 for Essex County was tossed about, but I think the number is closer to 40. And that 40 then can double, because you have a six-month window of in-patient treatment. So if a treatment program says you're eligible, you should be in an in-patient bed for six months, then you could conceivably take those 40 slots and you turn

them over at least once in a one-year period. So it could be up to about 80, 70 to 80.

Someone raised a good question about how do you get into treatment. Who gets picked to drug courts? That's always an interesting dilemma. Drug court applications can come from the Public Defender, they can come from the courts, they can come from the prosecutor. And lots of times, they just come from the judges from the bench. We talk about drug courts, and I have often said to judges, when I've done training for judges, is that every judge who sits on the bench in Superior Court, and for that matter Municipal Court in the State of New Jersey, is a drug court judge, whether or not we called them one. And that is because, whether you're talking about landlord/tenant, why people are getting kicked out of their apartments, you look behind the reason -- drug and substance abuse. You look to matrimonial issues, behind it you'll find substance and alcohol abuse. You'll find substance abuse; you'll find it everywhere. And so treatment needs to be accessible to everyone.

Of course, our courts are what we call *post-conviction courts*, they're felony courts. There is much-needed, probably, drug courts in the Municipal Court level, because many of your quality-of-life offenses -- prostitution, theft, low-level theft, things that don't land you in felony court -- those same offenders are in Municipal Court but they don't have the treatment available to them. So the argument of whether or not you should look at Municipal Courts -- and, of course, you've got 600 municipalities, something like that, in the State of New Jersey -- so that could create a lot for everybody. But it is really something that people need to begin to look at. But right now, post-conviction courts or felony courts are what exist in New Jersey. So you must commit a felony. The irony

is, do you have to get that high in order to get drug treatment? But that's what we have right now. So the felony courts are what you have to be in, in order to even get into a drug court.

The impediments to it are: The statute, 2C:35-14, for what we call special probation, is crafted in such a way, it says, "If you have two convictions, more than two, for first, second, or third degree crimes, you can't get treatment." Hello? That means that if you have been a life-long drug addict and you've been out here committing welfare fraud, you took too much money; you got a charge, right, you went and shopped with it somewhere and you did more than $500, and you committed a theft, or a theft on the person -- that's a felony. By the time you end, you have drug charges. Lots of people are excluded from drug courts for that purpose, because they have too many convictions. So Ron has already said, "Remove that impediment from the code."

And I must say, as a side issue, I do serve as a vice chair on the Sentencing Commission and we are looking at this to make recommendations to the Legislature about what we should do. But quite frankly, we've all known this for way too long. The information that Mr. Susswein has told us -- we've known this since I've been Public Defender, and that was since September of 2002. This is old news and we really need to have this legislation, the kinds of legislation that would have a meaningful impact on what we do and how we serve the citizens of the State of New Jersey -- that is, to have access to drug courts in a broader way. Because the numbers are really too small at this point. So you had the impediment of the 2C:35-14 restrictions, because if you have more than two prior convictions--

Now, the code does say that you can have 10 prior convictions for simple possession. But the way it works in law enforcement, if you get charged, you get charged with possession of drugs and possession with intent. And what we know, at least as a public defender, what we think the Legislature meant, when they said possession with intent, was possession with intent to sell to other people. And really, what it really means is, if you're with somebody and you're getting high and you're in the car and you get stopped, you get charged with possession for yourself, and because you passed it to somebody, possession with intent.

ASSEMBLYMAN PAYNE: That becomes a two--

MS. SEGARS: It becomes -- possession with intent becomes one of those felonies that, if you have more than two, you can't get drug court. It's not like what we call *straight possession*, which was simple possessing just for my own personal use.

ASSEMBLYMAN PAYNE: So simple possession is--

MS. SEGARS: If you had simple possession, you could have 10 convictions. You could have 20 convictions. You get unlimited, because it's just simple possession.

ASSEMBLYMAN PAYNE: And that's not a felony?

MS. SEGARS: But in reality, that's not what happens, Assemblyman Payne. In the real world, when you get charged and convicted, that's not what happens. You get charged with possession, possession with intent -- they kind of go together -- and you plead guilty, and all of a sudden, you have this record.

So for those people who have been in and out of the system for many, many years, the reality is, if you look at their jacket, their wrap sheet, they just have too many convictions to make it meaningful. But, you know, at some level, I'm just really thankful that we have drug courts as they are. Early on, I was hoping that we would make them so broad. But I'm glad that we've gotten them this far and have statistics like this so that the community and the legislators can see the efficacy of drug courts and why they work and how useful they are to our community. Of course, what we now know is that it's so economically burdensome on the State of New Jersey to lock up so many substance-abusing people that it becomes astronomical, and you're spending a billion dollars out of your budget for the Department of Corrections to keep them in place. So it becomes unmanageable. What we do know is that it's more cost-effective to treat people who are addicts.

And I must add, addiction is not just crack, heroin, cocaine. It's alcohol. The number one drug of choice -- the substance abuse -- it happens to be alcohol. And it's legal. And it does work into the plan.

ASSEMBLYMAN PAYNE: The alcohol, the person who is addicted to alcohol are also part of the drug--

MS. SEGARS: That's right. One of the substances can be alcohol. So we do know that alcohol plays its role.

ASSEMBLYMAN PAYNE: Let me just say, at the conclusion of your testimony, there may be some questions. I don't know whether or not you're near the end of your testimony, because there may be some questions from us out here.

MS. SEGARS: Okay.

ASSEMBLYMAN PAYNE: You've covered the whole -- you're covering it very, very comprehensively, and I appreciate it.

MS. SEGARS: So I think that, to the extent that, one-- As Mr. Susswein talked about -- the eligibilities exclusion; and, of course, what we now know, the terrible impact on the minority community because of the impact of the school zone. You've already had a little bit of that discussion, and I don't want to bore you with further details. But we do know that the intent of the school zone law and the impact of the school zone law are two very different things. And the impact on the minority community has been disparate and disproportionate. And I think that you all are familiar with that problem.

To the extent that we have more drug treatment programs, one of the other things that we really do need are to ensure that we have enough treatment providers that are culturally proficient, and provide enough care for our community that's broad enough to really service the individuals who come before them. Out-patient treatment programs -- we need just as many of them as we do in-patient programs. But we also need broader kinds of treatment programs. Our treatment programs are basically what we call *therapeutic communities*. They're not what -- not -- a lot of them are not what we call our *strength base*, which is a different kind of treatment program, and we need to begin to look at different ways of treating those who are suffering from addictions. And that is, how do you treat women different than men? How do you treat young, African-American clients versus older, white-male clients? There are differences in ethnicity and race. There are differences in religion and background. There are differences in poverty. There are differences in the drug culture.

Culture is much broader than ethnicity and race. Culture has a continuum of areas, and we need to be more culturally proficient, not only in the treatment providers that provide the treatment, but in our own ranks within our offices -- Attorney Generals, prosecutors, judges, judicial treatment, our clinicians who do the assessments. It's a very broad range. But we're really working toward that to ensure that that happens.

The expansion of the resources I've already touched on and the eligibility issue are really the two main things. I think that we're on our way to becoming a much more -- much smarter about how we do business in New Jersey. But I do believe that the amendment of 2C:35-14 would be one really important first step, and an examination of the impact of the school zone laws. And also, and I don't want to take on another topic now, because I think it's a separate, whole hearing, and that is the impact of the Brimage guidelines and revised guidelines. To the extent that they help or hurt this population, I'm not sure. And I don't want to speak in advance of the possibility that they may. They haven't been around and active long enough for us to make any comment on the Brimage guidelines.

ASSEMBLYMAN PAYNE: Thank you very much, Ms. Public Defender.

Does anyone have any questions?

I see Assemblywoman Greenstein.

ASSEMBLYWOMAN GREENSTEIN: Hi.

MS. SEGARS: Hi.

ASSEMBLYWOMAN GREENSTEIN: Thank you very much for coming and for your interesting testimony. I wonder how you feel we should

evaluate the success of these programs. It sounds like one of the ways that we say -- in other words, we're saying that the drug courts are very successful. We're looking at the recidivism rates. But what about, as you've said, when these people get out in the community? They can't find jobs. There isn't support of infrastructure. I'm sure that must be a major problem. Do we look beyond just the recidivism rate--

MS. SEGARS: Oh, yes.

ASSEMBLYWOMAN GREENSTEIN: --or has that been our standard?

MS. SEGARS: No. I think we are beginning to look beyond it. We look at it -- we can measure-- And I must tell you, success is measured in many different ways. Not everybody makes it out of drug court. But that doesn't mean it wasn't a success for them, because maybe they've stayed clean for 90 days. In order to graduate out of our drug court program, you have to stay clean and sober for at least a year, if not 18 months, which is a long time. And for somebody who has been an addict for many, many, many years, try like not eating a chocolate doughnut for a week, or something a little easier, kicking coffee or going on a diet. It's a hard thing to do. So for our clients who have been addicts for a long time, they may have not even graduated drug court, but they've been clean. So success may be good for them.

But success is measured in a number of ways: The number of children who are with their families. Many mothers and fathers are without their children. Their children are in the child welfare system, and we know where that goes and what the possibilities are and what happens to children who grow up without their parents. But many of these children of substance abusing

people are in and out of either foster care or with other families and moved around. So the impact on the child is very important.

To the extent that our clients, in order to graduate -- there's a lot of things you have to do to graduate drug court. But one of them is that you have to pay all your fines and penalties. So most of our clients, because they have to work on that as a way of getting -- graduating drug court, fines and penalties are paid. So there is this repaying back society, and that. You have to complete your community service. So many of our clients go through -- depending on what your background is, the clients background -- that will determine what kind of community service that they put forth before they're a graduate. But success means holding a stable job. You have to be employed full-time or at least in an educational program, GED program, before you can graduate. All of these things are being assessed before people walk out of the program. So are they clean and sober, and have they been for at least a year? Are they self-employed? Are they maintaining their own homes?

If you look at the statistics down at the bottom, you'll see that 52 parents regained custody of their children. Forty-eight children were born drug free, babies. Now if you know anything about neo-natal care and drug abuse, you know that it costs, like, a million dollars to take care of a baby who is in a neo-natal clinic. Now 48 baby have been born drug free. Those children that may have been born in a neo-natal environment would have cost us millions of dollars, not to mention they're just healthy children that are born drug free. So how do you put a price tag on the human life? How do you put a price tag on somebody who's gotten their spirit back and they've become a productive part of society? It is an amazing transformation.

They have these little reality shows called extreme makeover. There is nothing more extreme than seeing somebody drug free coming out of treatment, getting a hold of their lives, getting their children back, getting their families back. This is such a worthwhile investment. It speaks volumes about who we are as a community. Who we are as a community is what we do as legislators and what we do in the courts. But this is truly one of those success -- so success is a myriad of ways, but those are just a few.

ASSEMBLYWOMAN GREENSTEIN: Do you feel that the major problem in expanding the drug courts and in making them even more successful and touching more people is lack of funding? Or do you think there's something about the whole accessability issue, and people being able to become truly involved with them?

MS. SEGARS: I think that-- Well, see-- I don't-- I think funding is an issue, but whether you spend it in the Department of Corrections or shift those same dollars to treatment and providing treatment-- You see, I think you can take the same money and use it more wisely. I say don't spend it on putting people in custody. I say take those dollars and shift them and appropriate those moneys for funding. So I think we have the dollars because we're spending it someplace else. And we're also -- we could put more money up front on the prevention side and the education side, of really educating our young people and intervening early on so that children don't become addicts and don't use drugs. But I think that's part of it, but the funding beds is an expensive thing also. But the question is, do we have the treatment -- are there enough treatment providers out there willing and able to start up? If you had the money today, would you

be able to give it to 10 providers, and erect and come up with the kind of treatment facilities that you would need?

Because really, the most successful programs I've seen are really the smaller program that are tailored to the individual, and they're not the huge warehousing of clients in that way. And also, to the extent that we use our dollars in the Department of Corrections, I am in favor of the jail-based programs that treat people who happen to be in custody for crimes of violence and other things that are not-- The Legislature is not about to change its statute that far, to say, okay, these -- if you've committed aggravated assault-- Because there are certain crimes that -- all of the people in drug court are non-violent offenders. So to the extent that you can treat other populations so that, still, they come out--

And I also must raise the issue of the overlapping modality -- the overlapping dual-diagnosed population that's in our drug courts. That is, those individuals who have some low-level of retardation, low IQ, and/or some mental illness which is different than retardation -- correct? -- that is overlapping in the jails. So that is a special population, and we have a very difficult time dealing with the dual diagnosed -- and so to the extent that there is additional treatment facilities made available to serve that population. Because that is a very tough population.

And also, for the funding of our juvenile drug courts. I'm not sure -- I've got rumor that one of our juvenile drug courts shut down. I don't know. Did it shut down? No, okay. Well, it's on the verge. I heard a rumor. But one of our juvenile drug courts may be threatened. So to the extent that we have

juvenile drug courts also in place. Right now, we only have, I think, about three juvenile drug courts that are up and running.

ASSEMBLYWOMAN GREENSTEIN: Thank you.

Yes, Reed.

ASSEMBLYMAN GUSCIORA: Thank you for your testimony -- learned a lot this morning. And I do agree with you that we should expand the eligibility for drug court, simply because they have other crimes. I think it's been demonstrated that most people commit crimes because they're on drugs, so that we should recognize that. Even if they commit other crimes, they should be eligible for drug court.

But in the holistic remedies or the outcomes of the drug court, are the drug courts able to expunge somebody's records? Because one of my concerns is they graduate and then they try to get a job, and they can't get a job because they have a record. Can the drug court expunge a record? And if not, should that be one of the things that we should look at: having drug courts the ability to expunge records as part of the overall remedy?

MS. SEGARS: Well, now, I have to go back and do my research on this, but it is my recollection that the expungement capability in New Jersey, you have to have notice to the prosecutor and to the Attorney General; and drug cases could not be expunged. Certain drug cases, that is -- intent to distribute, if I remember correctly. So that is something that the Legislature would have to modify. And it is a huge problem for our clients to get work. They just can't get employed. They can't go to the airport and become a baggage checker, correct? They're not going to be able to go into a board of education or any kind of

facility-- They can't go to the Department of Corrections and apply for a job as security.

ASSEMBLYMAN GUSCIORA: They can't even work in a cafeteria in the schools.

MS. SEGARS: That's right.

So it's very hard for people to be employed. But to the extent -- now you can expunge some of those with the consent of the prosecutor. But as it is with PTI, which you should be familiar with -- the pretrial intervention, which is a first-offender-type treatment -- even then, when you think it's expunged, you have to actively file a motion, a notice to the prosecutor and get it expunged. People tend to think that PTI, because there's an expungement capability, expunges itself. And it doesn't. It takes a proactive approach. So I think, to the extent that if there were some automatic way to do it; but even so, to the extent that we add it to the law to make it something that would be available to our citizens so that they could, at some level -- if they have a first offense or second or -- particularly if they've been through drug treatment and they've been on it for the period of time that they had.

ASSEMBLYMAN GUSCIORA: So is this something that you would recommend -- that drug courts would have the ability to grant an automatic expungement?

MS. SEGARS: Yes. Absolutely.

ASSEMBLYMAN GUSCIORA: Thank you.

ASSEMBLYWOMAN GREENSTEIN: Assemblyman Rooney.

ASSEMBLYMAN ROONEY: I mentioned before the DTAP program.

MS. SEGARS: Yes, in Brooklyn. Yes.

ASSEMBLYMAN ROONEY: In New York. It's New York state.

MS. SEGARS: Yes, I'm familiar with DTAP.

ASSEMBLYMAN ROONEY: Basically that program, if you're arrested under the Rockefeller laws and it's a felony -- they're all felonies. Any level, it's a felony.

MS. SEGARS: Yes.

ASSEMBLYMAN ROONEY: What the alternative to prison is, basically you go in, you plead guilty to the offense, to the felony. You go into the drug treatment program, which in the case that I'm familiar with was a minimum of six months at Daytop, which turned out to be eight. Because it's up to them whether they do it or not--

MS. SEGARS: Yes.

ASSEMBLYMAN ROONEY: --and there's TASC--

MS. SEGARS: The TASC evaluators, yes.

ASSEMBLYMAN ROONEY: The TASC evaluator does the evaluation, the whole thing. But at the end of that period of time, you come back before the judge--

MS. SEGARS: Yes.

ASSEMBLYMAN ROONEY: --and the judge actually reduces it to the misdemeanor.

MS. SEGARS: Yes.

ASSEMBLYMAN ROONEY: And your record then shows a misdemeanor. It does not show a felony. So I think-- Yes.

MS. SEGARS: And we have the ability to do something that way, too.

ASSEMBLYMAN ROONEY: Yes.

MS. SEGARS: That is certainly within the discretion of the Legislature to choose to address it in a different way.

ASSEMBLYMAN ROONEY: Yes. I think the DTAP program is--

MS. SEGARS: You see, in some drug courts -- in different parts of the country we have what they call *preconviction* or *preadjudication* courts, as well as post-conviction courts. There is an ability to bifurcate what we do. You can find an appropriate class of cases that could be preadjudication, no guilty plea or a guilty plea that, at the end of the case, is wiped clean or reduced to a misdemeanor, and a class that is appropriate for felony offenders. I think that that is certainly within the scheme.

But I think early on, people were so suspect of drug courts that we started with a very narrow category of what we were going to work with. And so I think maybe we're in a position to broaden our view.

ASSEMBLYMAN ROONEY: The thing that I've seen different -- and I've talked to Gene Austin as far as the drug court is concerned. New York seems to have a plethora of beds available for these. And yes, there's a waiting list, but I'm listening, and Essex County only had, what, 25 beds, I think you said, or was it 40 beds?

MS. SEGARS: Yes. Well, that's for inpatient.

ASSEMBLYMAN ROONEY: Yes, for inpatient. And that surprises me. I looked into the program in New York and they had a lot more beds available and came from all different boroughs. It proves again, in a remote

location from -- not quite remote -- but Rhinebeck, New York. They have, like, five facilities and they have juvenile and women's facilities. They have other adult facilities. But there were hundreds of beds up there. And basically, they take it from Brooklyn, Queens. Rockland County now is participating.

MS. SEGARS: And one of the differences is -- excuse me -- is that the kind of reporting that happens in New Jersey is a lot more intensive. A lot of the New York programs, they may not see the defendants for six months. If they come back to court, it's only at the end. In New Jersey, our judges see our clients just about every other week, if not every week. It is very, very intensive, which is probably why -- I think part of the reason why we have such low numbers of recidivism. So the question becomes, when those cases are misdemeanors at the end, they're probably not seen as often by the court. In our cases, because they are felonies, they are seen by -- a defendant in drug court, if they're an outpatient, they will see the judge every week, every week. And if they're inpatient, they will see them maybe once a month.

ASSEMBLYMAN ROONEY: Well, even with the six month, it was about every two months, I think, they came back to court for an update.

ASSEMBLYMAN PAYNE: Thank you very much, Ms. Segars. We really appreciate your testimony. I don't see anyone else who has any questions for you.

Thank you very, very much.

MS. SEGARS: Okay.

And if you have any questions about the 10 key components or-- I'm really more than willing to come. I have plenty of information. And really, what I think is very most important, if you would come to drug court--

ASSEMBLYMAN PAYNE: Yes.

MS. SEGARS: --if you would come visit the drug courts, we have one here--

ASSEMBLYMAN PAYNE: How often do they have drug court? Where's the schedule for them?

MS. SEGARS: Every week. Mercer County has a drug court every Thursday, I think. I don't know-- Do you know Mercer County's schedule, is it Thursday? I think they're Thursday.

ASSEMBLYMAN PAYNE: Good. Well, we can get it, too. That's fine.

MS. SEGARS: But we can get that to you.

ASSEMBLYMAN PAYNE: Good.

MS. SEGARS: But no matter what county you're in, we're now in every county. Bergen County-- And I think the most important thing is to go to drug court to see how they operate. And really, I hope that--

ASSEMBLYMAN PAYNE: If I have a schedule when they meet, then it might be very helpful.

Okay. Thank you.

MS. SEGARS: And what I'd like to recommend is that -- if we can give you some kind of draft legislation for you to review and to maybe look at as a possibility so that we can, hopefully, change things.

Thank you.

ASSEMBLYMAN PAYNE: Thank you very much. Thank you.

Dan Phillips and Carol Venditto, please.

D A N I E L P H I L L I P S: Good morning. Dan Phillips, from the Administrative Office of the Courts. And I have with me Carol Venditto, who is our Statewide Drug Court coordinator for the Administrative Office of the Courts.

First, I want to start out by saying we appreciate the opportunity to be here, and the Legislature's continued interest and support of the drug courts. In the last budget cycle, we had the opportunity, Carol and I, to go out and speak to many of the legislators in the Senate and the Assembly about the drug courts, as we try to garner support for the final expansion of the drug courts statewide. There was always support from all the legislators because of the many successes that we've shown in our drug courts in New Jersey and nationally.

Our drug courts started as pilot programs in 1996 in five counties; and through 2001, we operated those. And because of those many successes, the Supreme Court was very interested in expanding those. Because they also serve as a diversionary mechanism for the courts. But, of course, there are many other advantages to the drug courts, that Carol will talk about in a minute.

In 2001, the Legislature and the Governor provided us with additional funding and judgeships to expand the drug courts to eight additional counties. And then, of course, in the last budget cycle, there was an additional appropriation of $9 million for the final expansion. And most of that money goes to treatment. About 70 percent of all the drug court money we get -- and in the current budget year we're getting $27.5 million -- 70 percent of that money goes to treatment. And the remainder of the money goes to mostly administration of the program, and that includes the judgeships, about $2

million for the judgeships. The remainder goes to probation for supervision services and drug testing supplies, things like that.

So we are very happy to be here today to talk about the drug courts, talk about the successes, and we hope you remain interested and continue to support the drug courts. With some of the changes we've heard here today, we've discussed those, as well, and some of those we do support.

I'm going to turn it over to Carol. Carol will be able to give you some real meat, that you really want to hear, about the success of the drug courts and where we are. And we're available to answer questions afterwards. And also, some of the issues regarding probation caseloads that were mentioned earlier, we will be able to give you some additional information on that, also.

So, Carol Venditto.

ASSEMBLYMAN PAYNE: Thank you. Thank you very much.

C A R O L V E N D I T T O: Good morning.

ASSEMBLYMAN PAYNE: Good morning.

MS. VENDITTO: I believe you have a copy of my statement, but I'd like to read some portion of it. And it is with great pleasure that I can tell you -- it's already been said -- but that New Jersey has an adult drug court program in each of our 21 counties, and that the final expansion of the drug court was, obviously, funded by this year's budget, as Dan said. And we now have programs in the counties that did not have them -- in Atlantic, Cape May, Burlington, Hudson, Middlesex, Somerset, Hunterdon, and Warren counties. They've been processing applications, and they entered their first participants. By September 30, we had 110 applications in those counties, and they

sentenced their first nine offenders. They are very excited and very enthusiastic about the start of this program in those counties. And also, the fact that New Jersey is the first state with a population over one million citizens to establish an adult Drug Court Program in every county -- and we're very proud of that. And we all should be very proud of that. That's wonderful.

This program has achieved much success in the goal of breaking the cycle of addiction through substance abuse treatment, judicial monitoring, intensive probation supervision, and rigorous drug testing in support of individuals who were previously thought to be hopeless. Drug court has been successful in breaking what has sometimes been a multi-generational problem of drug abuse.

Now, you have some of the statistics that I provided, but I'd just like to highlight a few of them. And that's that, it was said before, about retention being key. Almost three-quarters of our participants who enter the statewide program have either successfully completed or currently active in good standing. We also are very careful about tracking new arrests, convictions, and new State prison terms to make sure that we remain effective. Our current rate of re-arrest remains low. And the conviction rate on our graduates is only 6 percent, with about half of those going to State prison.

And I just want to correct something that Yvonne Smith Segars stated. We had an additional drug-free baby. There's now 49, not 48. (laughter)

Over the last few years, the Judiciary has enhanced the current management information system to collect the important data on drug courts, so we can monitor program operation, track outcomes, and identify areas that

need improvement. The drug courts are successful, in part, because we are constantly looking at ways to improve the quality of our program. Participants are tracked from the time of sentencing until graduation to measure individual achievements and overall success of the program. So we are very careful about making sure that we access, at every level, our success rate.

New Jersey drug courts operate through a partnership of law enforcement, the courts, and treatment providers. And I'd just like to say that in New Jersey we are very fortunate to have been able to forge a partnership with the Division of Addiction Services, in the Department of Human Services, for the provision of treatment services. The Administrative Office of the Courts and the Division of Addiction Services work closely to ensure that both the courts and the treatment providers get the support that they need to be effective in their mission of breaking the cycle of addiction for program participants. And I do believe you will hear from the Division of Addiction Services at some point.

I would like to just make a few comments about some of the issues that were raised, in terms of clarification on an issue that Assemblyman Rooney brought up about drug testing. I just wanted to clarify that we're very careful about drug testing. We're trained very thoroughly in it. Drug testing is done frequently, multiple times a week. It's done random, they don't know when they're tested. It's not unusual for a probation officer to show up at someone's house at 7:00 on a Saturday morning and ask them to submit to a drug test. We're very careful. And we also stay up on the latest information about how they can fool a drug test. We're very thorough in that. It is quite an amazing science, and we try to stay ahead of that.

There was also a comment about the probation caseloads. We cap the caseloads at 50-to-one, because we can't expect the probation officers to do the kind of job to ensure public safety if they have more than 50 individuals. And this is for participants in phases one to three. When they're in the last phase of drug court, we may increase the caseload up to a maximum of 110. But beyond that, we need to make sure that we maintain contact with them. They're subject to judicial supervision throughout the five years if they're, indeed, on five years probation. So we still try to maintain contact with them. But the caseloads are capped at 50 when they most need the help that probation can provide.

And also, if there is an interest in viewing any of the drug courts in this state, I can certainly provide a list of which counties are holding drug court, what days of the week, and times and locations. I can compile that and get back to you on that.

ASSEMBLYMAN PAYNE: If you can, through the Chair, if you would do that. I would appreciate it very much.

MS. VENDITTO: Sure.

ASSEMBLYMAN PAYNE: Thank you.

Does that conclude your testimony?

MR. PHILLIPS: Yes.

MS. VENDITTO: That's it. Thank you.

ASSEMBLYMAN PAYNE: Do you have any questions or any comments?

Mr. Cryan.

ASSEMBLYMAN CRYAN: Me first?

Thanks, and thanks for your comments.

I have a question, I guess budgetary, first off. The numbers I have in front of me say that the vicinages could handle, up until September, 1,650 cases a year, and that each additional vicinage that came on could handle about 110 more. Does that sound about right?

MS. VENDITTO: Yes.

ASSEMBLYMAN CRYAN: Okay.

Of course, I was shocked that Bill called me first, so I just need to flip my pads. The budget in FY '04 was for $18,359,000, which equates to -- we did about 1,819 people, I believe, is the correct number. It comes out to about $10,000 a case. But when I look at the FY '05 appropriation, which is $28 million, almost $29 million by my math, when you add in the additional 550 potential, it comes out to well over $13,000 a case. And I was wondering if you could talk to me about -- that's a pretty significant jump, 33 percent or so. And I was wondering if you could explain that?

MS. VENDITTO: Well, I'll try to do that. That's also -- you talked about how many people are in the drug court. That's just the active participants. That's not including individuals that are terminated after a period of time -- individuals that are in bench warrant status or in custody. So that's not the total number of people sentenced to drug court. We do have that certain rate of dropout.

And in terms of adding new cases into the drug court, we need to give the courts the time to ramp up to the place where they can enter 110 cases per year. And every court should be capable of doing that. I think they're going to exceed that number, but it depends on how easily they're able to get their

drug court up and running, get it efficient and effective, so that they can enter the maximum number of cases. So having done the math--

ASSEMBLYMAN CRYAN: Should I be concerned that there's-- You folks administer the dollars? Right, Dan? You guys?

MR. PHILLIPS: Yes.

ASSEMBLYMAN CRYAN: So should I be concerned that there's a significant higher per capita cost in each one? Because one of the benefits of this, sitting here as Budget Committee member, is the fact that it's cost prohibitive (*sic*). And while we're certainly not at the $28,000 figure Commissioner Brown quoted, I still would like to-- Can I ask, through the Chair then, could you give us something that just shows, at least from your numbers, what the budgeted dollar -- just a simple-- How many people have been through the program--

MR. PHILLIPS: You're looking for the per person cost.

ASSEMBLYMAN CRYAN: --per year, over total dollars. Because by my math, it's a pretty significant change.

MR. PHILLIPS: And that would probably change with time. Because, as Carol said, there was an expectation even when we received the money through the budget that there would be a time for us to ramp up. I mean, there aren't that many participants in the expanded counties now, because they've just started September 1. They'll still doing the assessment through their teams and--

ASSEMBLYMAN CRYAN: Well, I added in their 550 number.

MR. PHILLIPS: I mean, they'll get to the full potential. The next budget year, I think, you'll probably see more participants in those programs. But we can certainly do that for you and give you a per person breakdown.

ASSEMBLYMAN CRYAN: I'd like to get a sense-- Is the cost of this program increasing?

MS. VENDITTO: I don't believe that it is. I mean, there are some additional costs in terms of the probation officers. We need additional probation officers when the caseloads go up. If we have to maintain individuals in drug court for five-year terms in most cases, then you're talking about a significant accumulation of individuals on probation supervision, and in order to maintain public safety. That's a lot of what I think you're talking about there. Because as we proceed with this program in time, those caseloads have to go up. The number of probation officers that we utilize needs to go up, in order to supervise them effectively.

ASSEMBLYMAN CRYAN: Okay. I'd just like to, if you could, ask you for some sense of that, through the Chair.

Carol, do you, in particular, have any concern about -- one of the things we've heard here is -- and we've used the Essex example a couple of times-- I'm not a lawyer, but the equal protection statute that -- the fact that if beds aren't available, I assume some people are being incarcerated when they may be eligible for drug court and some, of the same situations, are not. If they are, they're going to drug court. Is that a different standard? Is that a problem that this panel should be concerned about at all?

MS. VENDITTO: Are you talking about within the drug court?

ASSEMBLYMAN CRYAN: I'm talking the eligibility, as I understand it. And maybe you could correct me. I was out of the room for a few minutes. But as I understand it, the lack of bed space in certain particular areas -- and Essex has been used a couple of times here -- has lead to the fact that there are people that are eligible for the drug court program that are, in fact, not allowed to use it because of the capacity, and therefore are being incarcerated as a result. Is that true?

MS. VENDITTO: I don't believe that that is really true now. There was a time before we were able to add some additional beds, maybe well over a year ago, that we had a waiting list. But I'm going to let the Division of Addiction Services talk about the treatment aspect of it. But they've worked very hard with us to increase the infrastructure of treatment. I don't believe that there's a significant wait for individuals in treatment programs and that are sitting in jail. Occasionally, you have someone who really isn't going to fit well in the program that may be available for them, so there may be a waiting list. But that's not my concern. I think some of the issues that Mr. Susswein brought up have to deal with the fact that -- particularly in counties like Essex and Union and Hudson and Mercer, where it is more dense in terms of school zones -- that the restrictions of the school zone provisions are what is really making people ineligible. The three strikes issue that he's talking about.

ASSEMBLYMAN CRYAN: Right.

MS. VENDITTO: I think that's a larger impediment. We've had over 500 individuals rejected from drug court because of that, that could have been accepted in just one year. That's assuming that -- that's ones that even

applied to drug court. A lot of times defense attorneys know better than to apply their clients.

ASSEMBLYMAN CRYAN: It also doesn't acknowledge, and we're going to -- I know we're all going to take a look at this. The recent school construction explosion in the city of Elizabeth, which you pointed out earlier -- even pre-Ikea days was problems. We've added-- I have the privilege of representing Elizabeth here. We have 23 new schools being built, which makes it even more-- We need to factor this in all over the state where we've invested billions of dollars in school construction and what these laws -- have a practicality here in this new decade. Clearly, they need to be revisited for appropriateness, as well as timing, as Assemblyman Gusciora--

I wanted to ask one other thing, which I hope I have in front of me. Oh, my only other thing was on the recidivism rate. Okay. You talked about it being 14 percent. Did I get that right? Or three out of four? Could you just clarify that for me? Three out of four folks graduate all phases of the program. Did I have that right?

MS. VENDITTO: Three out of four individuals who enter are retained in the program. That's a retention rate. They stay in the program.

ASSEMBLYMAN CRYAN: Okay.

MS. VENDITTO: So three-quarters of them remain in the program, whereas a quarter will violate by committing a new offense or repeatedly--

ASSEMBLYMAN CRYAN: And they get tossed?

MS. VENDITTO: Yes.

ASSEMBLYMAN CRYAN: Okay.

MS. VENDITTO: Which is going to happen.

ASSEMBLYMAN CRYAN: And then for those that complete all phases of the program--

MS. VENDITTO: The graduates.

ASSEMBLYMAN CRYAN: --the recidivism rate, as you see it, is 14 percent?

MS. VENDITTO: Well, I'm reluctant to say that because-- Well, I'm reluctant to say the word *recidivism* because it's defined differently in different places. What I included there was the rate of re-arrest for -- as serious crimes, is 14 percent for all our drug court graduates out three years or within three years of graduation. And that's well below the national average. Some criminal justice agencies define recidivism as convictions. As far as I'm concerned, the re-arrest rate for serious crimes is 14 percent. Our reconviction rate for serious crimes is 6 percent. However you want to term recidivism--

ASSEMBLYMAN CRYAN: No. I just wanted the right explanation, that's all.

MS. VENDITTO: Yes, sure.

ASSEMBLYMAN CRYAN: And I thank you for that.

MR. PHILLIPS: I believe those are the indictable offenses, the re-arrest rate.

MS. VENDITTO: Yes.

MR. PHILLIPS: When we talk about serious, and not petty disorderlies, disorderlies, things like that.

ASSEMBLYMAN CRYAN: You've been very helpful.

Thank you.

MS. VENDITTO: You're welcome.

ASSEMBLYMAN PAYNE: Mr. Fisher.

ASSEMBLYMAN FISHER: Thank you, Chairman.

Dan, you mentioned about the recommendations that were made by the prosecutors. You said you could agree with most of them. Is there something glaring that we should be thinking about, as long as we're taking this testimony, that you find that you might have a problem with?

MR. PHILLIPS: Well, that we would have problems with? No. I was running back and forth at different committee meetings so I didn't get to hear them all. But we have discussed, along with the Attorney General's office, the mandatory in-patient treatment for the prison-bound cases. And Carol can tell you a little bit more about that.

MS. VENDITTO: Well, there are individuals who are assessed, and clinical assessment is in the cornerstone of what we do. Because you don't operate a drug court unless you understand the nature of addiction. If someone's clinically assessed as requiring a different level of care than what the statute indicates, then we're not really operating in the true spirit of a drug court. It's difficult to do that. If the statute was amended in the ways that Mr. Susswein suggested, it would make, obviously, drug courts -- it would make them easier to administer. We'd be able to enter more individuals who are now ineligible. We'd be able to relieve the probation system of a few cases if they're doing very well at the end. Most drug courts around the country are not longer than two years, two-and-a-half. We have a very long program. And I think it's important that we do, and I think that's why we're so successful.

But a lot of the issues that he brought up, we're in full support of. And I think that in Judge Williams' last testimony, he made very clear that one of the issues that he was concerned about was -- the unintended consequences of the statute was that it has a disproportional effect on minorities, because there's not as many minorities that are eligible for drug court because of the population demographics. And that in itself was unfair; and that the Legislature might want to take a look at it. I do recall that's what he stated.

MR. PHILLIPS: And the other one is, Judge Williams, our former Administrative Director of the courts, in all of his budget statements before the Assembly and the Senate, he talked about the impact of the school zone legislation and sentencing disparity. And I know there's a great concern here about that. While those laws are very well-intentioned, they do create some anomalies within the system. And it's probably time to have a look at those. By what we see is, we see additional legislation out there expanding even more. Expanding things like school buses. So you're making the areas even wider, when we should be thinking about how we can bring these people into treatment, and stop the cycle of addiction and reduce some of the costs to the State as well.

ASSEMBLYMAN FISHER: Okay. Thank you for clarifying that.

ASSEMBLYMAN PAYNE: Thank you very much.

Let me just ask you a question. At the beginning of your testimony, you mentioned that you can report today that New Jersey has an adult drug court program, each in the 21 counties. Which raised a question in my mind, how are young people -- this is adult court. So I guess for anyone, what, 21 and over?

MS. VENDITTO: Eighteen.

ASSEMBLYMAN PAYNE: Eighteen and over, okay.

Do we have experiences with younger people than that becoming addicted or becoming involved in the criminal justice system, and therefore they should be eligible for this, or what? What's the situation with juvenile persons? Do they become addicted at all?

MR. PHILLIPS: I'll just respond first, and I'll let Carol expound. We have four pilot juvenile drug courts around the state. They all operate a little bit differently, because we're trying to evaluate the impact on juveniles. But the results for juveniles aren't as positive. They are for adults. And part of that is because of the age of the juveniles. A lot of these adults have just tired of that lifestyle, and they're ready for a change in their lives, when that's probably not true of the juveniles. We're really not sure of the results in the juvenile drug courts yet. Most of them are operating under Federal grants we have around the state.

ASSEMBLYMAN PAYNE: How long have they been -- when was the first one started, the juvenile programs?

MR. PHILLIPS: Do you know which was the first one? Hudson?

MS. VENDITTO: Hudson, I believe -- has been going on in Hudson and Camden for several years.

ASSEMBLYMAN PAYNE: You know, that's amazing to me -- that we're not as successful where we really need to be, and we need to stop it in its tracks, just about. We're not as successful among the juveniles than we are with older folks, because older folks are tired of it, etc., etc., etc. So I think we really need to look into that area. My God.

MR. PHILLIPS: And we are. We are doing that in the courts. We're looking at other programs as well, such as the juvenile intensive supervision program and expanding that for the drug cases. There's not always the need for the treatment. It's more of a need for intensive supervision of those juveniles in drug testing, rather than the treatment aspects of it. So those are some of the things we're looking at among the different programs, and we're also looking at possibly expanding the juvenile intensive supervision program.

ASSEMBLYMAN PAYNE: How are we looking at expanding it? Where are we in that area? If we know there's a need, where are we and who's responsible for looking into it and, perhaps, recommending expansion of it, etc.? Is that Howard Beyer's shop, or what?

MR. PHILLIPS: Well, the ISP programs, both the adult and juvenile, are within the courts and they're administered by the courts. But certainly when we look at expanding those, we also have to look at funding for those. And we've made some proposals to the Senate about the expansion of the adult intensive supervision program. Which again, if you're looking from a fiscal perspective, it's much more effective than incarcerating somebody. And we can increase the adult supervision programs right now. I forget the exact numbers, but there would be savings associated.

The juvenile and adult programs are the same. Mainly, they're probation officers with small caseloads that do intensive supervision of these people. And when we look at expanding them, it's mostly about hiring additional -- hiring and training additional probation officers who do that kind of work. So we can be happy to put together some proposals for you and talk to you additionally about the expansion of those programs as well.

ASSEMBLYMAN PAYNE: Yes. There's going to be -- I'm the Vice Chairman of the Budget Committee, and there's going to be some tough times ahead, as far as our budget goes. However, I think that, public policy purposes, we need to look at those areas that, perhaps in the long run, we're making investments now. And in the long run, we'll certainly be -- in order to the benefit of the State -- by investing early on. In fact, it seems logical to me that the treatment should start early on to prevent this from becoming a life-long habit or a life-long addiction, which is much more costly to the State of New Jersey. I guess it's a whole matter of reordering our priorities. And it makes sense if we're talking about incarcerating people at the 36,000 or the 26, or whatever the figures are, 28 to $36,000 a year. In the long run, that's far more expensive than doing the prevention thing. And I continue to remain on this path of trying to get the Legislature and the government to understand that an investment in the beginning-- Prevention is so much -- it makes more sense. We just need to push on that. I think that this whole area -- these pilot programs, that you say, for the intensive supervision for the young people that would help prevent them or to keep them from becoming addicted, is something that we really need to look seriously at, and possibly start providing the additional funds or whatever is that's necessary there. Because obviously, in the long run, it's certainly going to be to the benefit of the entire State of New Jersey. So that's one area that I would certainly look at.

And there's another question I had for you before you leave. I wanted to ask about -- you say it depends on the type of program. And also it was mentioned earlier by the public defender about the continuum of service or the continuum of treatment, etc. What's involved in treatment, just some of the

components of treatment? A person is assigned for treatment for addiction; what are some of the things that are involved? You said different types of programs, or what? Tell me, briefly.

MS. VENDITTO: Well, I'm probably not the best person in the room to answer that question. But in terms of the different modalities of treatment, there are individuals who need different things. They need to be focused on their needs. And we do a thorough clinical assessment at the time that we consider them for drug court to find out, number one, are they truly drug dependent, and if so, what level of care would be the most appropriate for them. Because research does indicate that treatment is more effective when you provide them with the appropriate level of care. So there is that assessment process, and there are different modalities of treatment based on what the individual needs, either residential, long-term, short-term residential, detox, halfway houses. I really should probably let the treatment providers in the room answer that question, in fairness, other than to say that they've been able to provide us with the level of care that we've needed for our participants, and we're grateful for that.

ASSEMBLYMAN PAYNE: Thank you very much for your testimony.

MS. VENDITTO: Thank you.

MR. PHILLIPS: Thank you.

ASSEMBLYMAN PAYNE: We have Jeffrey Clayton here, Department of Human Services, Division of Addiction Services.

JEFFREY CLAYTON: Thank you.

Good morning, Chairman Greenstein and Chairman Payne, members of the Assembly Regulatory Oversight Committee and members of the Assembly Judiciary Committee.

My name is Jeffrey Clayton. I'm the Director of Planning and New Initiatives for the Division of Addiction Services. I am here today representing Assistant Commissioner Carolann Kane-Cavaiola, who is participating in a national meeting in Florida. She regrets she's unable to attend here, and she looks forward to working with you on this issue.

I'm here in response to your request for information regarding drug courts, and I thank you for that opportunity. The Division of Addiction Services is very proud of the program, our collaborations, relationships with the Administration of the courts, and the many successes we have with the drug court program, to date.

I'll be skipping over some of the written testimony, because some has been said already. If you want me to elaborate on anything I skip over, feel free to ask.

The Division of Addiction Services has been designated the single State authority since 1969. We are responsible for the Federal Substance Abuse Prevention Block Grant, regulating programs that advertise themselves to the public as treatment for alcohol and addiction programs; collecting statistics on prevalence and incidences, and merging other data sets for law enforcement and health entities to plan and promote prevention and treatment. We have funded community-based organizations to carry out our work since our inception.

We approach our mission of prevention and treatment through the position that addiction is a chronic and relapsing disease. According to the

American Society of Addiction Medicine, it is a primary, chronic, neurobiologic disease with genetic and psychosocial and environmental factors influencing its development and manifestations. It is characterized by behaviors that include one or more of the following: Impaired control over drug use, compulsive use, continued use despite harm, and craving. It is progressive and predictable; primary in that it causes problems rather than being caused by problems; permanent in that it can be put into remission through abstinence but cannot be cured and left untreated. It can become fatal.

And I elaborate a little further on the biosocial disease model of addiction. There's other components that really have to be taken into consideration in terms of when we're looking at addiction. And this kind of goes to the answer in terms of looking at the issues of why some people use a substance and walk away, and why some people use a substance and end up with a problem. And some of the things we look at is the predispositions of the individual -- the character of the individual and (indiscernible) from their chemical makeup, their psychological state. And we're also looking at the drugs itself, the availability of drugs, and the nature of the drugs that they're taking. And importantly, too, we're also looking at the enabling systems -- the people, places, and things that enable the progression of addiction. All these factors contribute to chemical dependency, and no single cause of the problem.

Substance abuse treatment works. Substance abuse treatment as an alternative to incarceration should not be seen as soft on crime. Many chemically dependent individuals choose incarceration rather than accepting responsibility for their recovery. For individuals to achieve recovery, they must first admit that they have a substance abuse disorder, identify and confront their

behaviors, while experiencing severe emotions and physical discomfort, develop substance-free support systems, accept responsibility for themselves and realize that recovery is a life-long process. It is not an easy task, behaviorally or emotionally. Substance abusers typically experience multiple failures trying to achieve recovery, even with treatment.

The Division of Addiction Services manages the entire drug court treatment budget, and additional capital funding for expansion and renovation projects presently underway, to expand long-term residential and halfway house capacity in the state to meet the need of the increased referrals.

Using the Division of Addiction Services to manage drug court referrals is cost-effective and efficient. It provides a network of monitored statewide treatment programs, holds professionals and agencies to accepted standards in New Jersey and nationally, bridges safety of the community with the individual's treatment program.

Our role in the effort is to develop and expand treatment services to meet the needs of the court. We provide funding, programmatic oversight, ongoing treatment planning, and resource management for all 15 court teams, including the Treatment Assessment Services for the Courts, the TASC evaluators; as well as technical assistance to over 80 licensed community-based providers; and make available credentialed treatment professionals to serve as liaisons to the courts. Our major focus is to make available quality treatment services that promote recovery while protecting public safety.

The Division of Addiction Services chairs the Drug Court Steering Committee, since 2000, with the purpose -- to provide continued guidance and recommendation regarding the statewide drug court operations. And that

steering committee is chaired by the stakeholders -- or, I mean, involves the stakeholders, which include the Governor's Office, Administrative Office of the Courts, the Attorney General's Office, and the State Public Defenders Office, the Office of Management and Budget, and the Prosecutors' Association.

Overall, the Division of Addiction Services license 38 residential programs and 126 ambulatory care facilities. There are approximately 1,750 licensed long-term beds, and 644 licensed short-term beds, and 79 licensed non-hospital based detoxification beds available in our state.

ASSEMBLYMAN PAYNE: Do me a favor-- Excuse me, would you go over that again, please?

MR. CLAYTON: Yes.

ASSEMBLYMAN PAYNE: Tell me what those numbers are.

ASSEMBLYMAN ROONEY: Can we have a copy of that please? That would be--

MR. CLAYTON: Yes, we have--

ASSEMBLYMAN PAYNE: It's in there. But just quickly--

MR. CLAYTON: All right, real quick. Overall, the Division of Addiction Services license 38 residential programs and 126 ambulatory care facilities. There are approximately 1,750 licensed long-term residential beds, and 644 licensed short-term beds, and 79 licensed non-hospital based detoxification beds available in our state.

ASSEMBLYMAN PAYNE: That's all for drug addiction?

MR. CLAYTON: Excuse me?

ASSEMBLYMAN PAYNE: Those are beds for drug addiction treatment and alcohol treatment? Is that--

MR. CLAYTON: Yes, they're licensed. We license addiction treatment facilities. And these are actually licensed by the Division of Addiction Services.

ASSEMBLYMAN PAYNE: Long-term beds -- the 1,750, for instance-- What is that? Just explain that, if you will.

MR. CLAYTON: No, there's--

ASSEMBLYMAN PAYNE: I think you said 1,750 long-term beds. Is that what you said?

MR. CLAYTON: Yes.

ASSEMBLYMAN PAYNE: What are they used-- Just take that category. Explain that a little bit further.

MR. CLAYTON: Long-term beds are, right now, classified as beds over three months in duration. They extend beyond three months of treatment. And many of them -- that would include your therapeutic communities, also.

ASSEMBLYMAN PAYNE: Those are residential treatment centers?

MR. CLAYTON: They're residential treatment programs.

ASSEMBLYMAN PAYNE: And those are not through the drug program.

MR. CLAYTON: Yes, they can be. They could be the six month -- where they have the mandatory six-month stay. They'd be going to the residential treatment programs.

ASSEMBLYMAN PAYNE: That's through the drug courts.

MR. CLAYTON: Yes.

ASSEMBLYMAN PAYNE: But all these beds here, that are available for people who have been sentenced through the drug courts--

MR. CLAYTON: No, they're all licensed through the Division of Addiction Services, not including--

When we're looking at the drug court beds, we're up to 312 residential beds -- are available as of October 1, 2004. Now, they would be included in the 1,750.

ASSEMBLYMAN PAYNE: Thank you.

MR. CLAYTON: In addition, we are a one-care system, which provides substance abuse treatment for the criminal justice population, as well as other populations, including pregnant women, women with children, adolescent individuals with co-recurring disorders -- that's mental health and substance abuse disorders -- and individuals with HIV, etc.

The drug court providing network consists of a substantial, long-term residential component -- over 300 beds -- as well as a myriad of other treatment modalities: ambulatory detoxification -- we have seven programs we work with; short-term residential, seven programs; intensive out-patient and out-patient services, 80 programs; and halfway houses, 12 programs we work with.

The network of treatment services was purposely designed to contain both dedicated capacity and the overflow capacity, with a full continuum of care. The system provides flexibility in matching individual participants with their treatment needs.

And you talk about the savings-- According to-- For every dollar spent on treatment -- leads to $7.46 reduction in crime-related spending and lost productivity, according to a study conducted by the Office of National Drug Control Policy.

Treatment is far more cost-effective than incarceration. Adult incarceration for one year can cost up to $37,000. Alternative residential substance abuse treatment costs an average of $15,000 per patient episode, while out-patient treatment costs an average of $3,300 per patient episode.

The Division of Addiction Services approved construction and/or renovation grants for eight community-based treatment providers to increase long-term and halfway house bed capacity. And that's specifically for drug court. In addition to increasing aftercare treatment services for the drug court vicinages, 84 long-term residential beds were added, increasing the number of beds available to 312, as of October 1, 2004. Halfway house beds were increased by 36. Fifty long-term residential beds and 24 halfway house beds for women are still under construction and scheduled for completion this fiscal year. In April 2002, a full continuum of care was added, including subacute detoxification, short-term residential, and intensive out-patient and traditional out-patient, in excess of 80 programs total.

Again, we talk about the recommendations. And, for me, some of the most important recommendations is, perhaps -- and we talk about the participants have given birth to, now, 49 drug-free babies. And 52 participants regained custody of their minor children, in terms of the effect, and the cost-savings, and how we're helping put families back together through this process.

Recommendations: that plans for drug court clients need to be consistently clinically driven. The treatment professional knows how to match patients to appropriate addiction services and determine appropriate duration of services. And we support any legislative efforts to provide flexibility in this area -- that we work towards court professionals and treatment providers having

the skill sets to consistently apply the evidence-based protocols and procedures for assessment and treatment planning.

In closing, the Division of Addiction is truly -- truly believes in the Drug Court Program. It has proven to be a successful alternative to incarceration, and it has helped countless numbers of individuals join the ranks of those in recovery without compromising public safety. We have a positive, collaborative relationship with the Administrative Office of the Courts, and we look forward to continuing this program.

Thank you.

ASSEMBLYMAN PAYNE: Thank you very much.

Assemblyman Cryan.

ASSEMBLYMAN CRYAN: I have two questions for you, one budgetary and one on--

Page two of your statement -- the substance abuse treatment works-- Were you here for Commissioner Brown, earlier?

MR. CLAYTON: Excuse me?

ASSEMBLYMAN CRYAN: Did you hear Commissioner Brown, earlier?

MR. CLAYTON: Yes.

ASSEMBLYMAN CRYAN: One of the most educational things I got out of this hearing was the fact that coercive treatment works.

MR. CLAYTON: Yes.

ASSEMBLYMAN CRYAN: But just reading this, it says, "For individuals to achieve recovery, they must first admit they have a substance

abuse disorder, identify and confront behaviors --" the entire paragraph -- most of it.

I'm still having trouble reconciling how coercive treatment can work, when I read this statement that you're supposed to -- basically, you have to fess up first. That seems kind of difficult to me, when the conditions have changed. Can you-- Do you have any comments on that?

MR. CLAYTON: Yes. I think what we have to look at-- One uses a substance -- once they develop the disorder, the drug itself produces a pleasurable, desirable effect. That's why people use a substance. That's why people die from these drugs. They produce a physiological desirable effect.

And part of the disease of addiction is denial. So they'll kind of look at all the externals, blame everybody else, and they fail to really look in themselves and start identifying, in terms of -- that, yes, they are -- they have the problem.

I never-- Prior to coming to State government, I ran a drug treatment program for 35 years. And in 35 years, I never had an addict or abuser come in and say, "Gees, get me off these drugs. They make me feel so good. I can't stand them any more." They usually come in and say, "Please get me off these drugs, because I'm about to lose my job, I'm about to lose my family, my wife's walking out, I'm afraid of HIV, I'm in debt." And one of the biggest reasons is, "I don't want to go to jail. I've just been busted."

Substance abusers need an external motivating factor to get them to focus on themselves, that kind of make them have the conscious decision now. And I think that's where drug court really comes into play and is effective -- is that it really puts a person in a position and says, "Make a choice. Deal

with your addiction, start getting control of your addiction, or go to jail." And it makes it very clear, in terms of their decision. So it brings that decision on a conscious level.

ASSEMBLYMAN CRYAN: And by being incarcerated, that would be the impetus-- Because what the Commissioner was talking about is people that are actually incarcerated already.

MR. CLAYTON: Or the threat of incarceration.

ASSEMBLYMAN CRYAN: As I got it, they were already there. But I guess that would change the circumstance to the point where someone wouldn't want to go through that again.

MR. CLAYTON: Well, I think what you're trying to do is, you're trying to get one to start identifying and recognizing they have an addiction problem and start working on the issues. Again, working on -- like I said earlier, working on the issue-- It's not easy to give up a substance. You would need a reason to do that.

ASSEMBLYMAN CRYAN: One other area is-- I'm also on the Capital Budgeting Commission. And one of the things we dealt with, last year's request and again this year, is the expansion of the correctional facility system, and both new beds, new wings. They'll literally tally in the hundreds of millions of dollars. And looking through the numbers you provide today, I was interested in what Carol and Dan talked about -- the fact that they say we have enough -- or basically have enough outside resources that people aren't waiting.

Sitting here, I'm wondering about the judgement of, should we expand more of those capital-type facilities into -- whether it's halfway houses

or residential. I'm sure you can't answer all this, because you have the penal side of it. But do we have--

We continually seem-- At least from this hearing, I'm getting a sense that we have more capacity than, maybe, we realize. That's just my sense. From your thoughts, do we have them, do we need more, is there an adequate amount of what we have, in terms of what we need for drug courts or elsewhere? Should somebody, that's maybe sitting in that type of expenditure situation, analyze both a little bit better?

MR. CLAYTON: One of the reasons you don't have a waiting list for drug court is because drug court did invest in capital-- The drug court itself increased to capacity in the State of New Jersey for substance abuse treatment. So we have designated beds, we have designated construction dollars that went towards building more facilities, adding to the facilities. And I think that has really alleviated the issue of any waiting lists for drug court.

I really would have to probably get back to you, in terms of answering your question of projecting, in terms of how many -- what's the increase of capacity that's going to be required. There is a limited capacity in the State of New Jersey right now. There's so many beds. And when I gave you the numbers, they're the beds we have. So if you're looking at moving-- It depends on how many clients you would look at moving out of the criminal justice system and into the treatment program. And are you looking at residential beds, or are we looking, also, at alternative out-patient programs?

ASSEMBLYMAN CRYAN: And do the number of out-patient beds, and facilities where they are, match the population needs? In an extreme example, you wouldn't need all your out-patient beds in Cumberland County,

when the State's population is maybe further north. Do they match where they're needed, so to speak, I guess is what one of the-- Because you can't have an out-patient if the guy can't get there, I assume.

MR. CLAYTON: Excuse me?

ASSEMBLYMAN CRYAN: An out-patient facility only works if the person who needs it can get there and back, which means it has some geographic--

MR. CLAYTON: Yes, and if it's clinically appropriate.

ASSEMBLYMAN CRYAN: Do we have issues in that regard, as on overall number?

MR. CLAYTON: It's easier to expand the capacity of out-patient. I mean, they hire another counselor, bring on another -- couple more staff on. And, depending on space-- Do we need, in some parts of our state -- yes. I think we could look at, in terms-- And the Division of Addiction Services is doing that now, looking at, geographically, where will we add a program. When it comes down to the residential programs, then you end up with a brick and mortar problem. A bed is a bed, physically it's a bed. You need the building.

ASSEMBLYMAN CRYAN: But if you're there for a certain period of time, the travel situation doesn't become as extreme, because you go and then you leave. I mean, it's not -- you're not commuting.

MR. CLAYTON: Yes, you would have to look at those parts of the state where the commute is reasonable.

ASSEMBLYMAN CRYAN: Thank you.

MR. CLAYTON: One of the things I want to add, too -- and I really failed -- I skipped over -- I think is really significant, in terms of the way New Jersey does business here with drug court.

New Jersey's drug court is unique, because while there's hundreds of drug courts throughout the country, New Jersey is one of the very few, if not only one, that has chosen to provide the single State agency, Division of Addiction Services, within the Department of Human Services, to supply the licensed treatment services to the drug courts. Again, going forward, this collaboration is viewed, on a national -- as a national model. And it's looked to be replicated in other states. So I think the partnership we have with AOC -- and the Division of Addiction Services -- has really enhanced the success of the drug court here in the State of New Jersey.

ASSEMBLYMAN PAYNE: Thank you very much.

We appreciate your testimony.

I'm not quite clear on whether or not we have sufficient numbers of slots for treatment to meet the needs that are out there now. I'm hearing here that we have capacity, we don't have it, etc.

Overall, there are two things we're talking about. And I think you raised it. And that is, one is treatment on demand. You mentioned that some people come and say that, "I want to get off drugs. I need treatment, because my marriage is breaking up," or "because I may lose my job." Those are not people who are caught up in the criminal justice system. Those are folks that, for other reasons, are looking for treatment.

The question is, is there -- are there sufficient treatment facilities for people -- I guess it's called treatment on demand? Do you have the responsibility for that area, as well, or what?

MR. CLAYTON: And I would tell you, no. If we had everybody come and request treatment-- I can get the numbers to you, in terms of how many beds are available, compared to what are the people seeking treatment. I don't have the exact numbers with me, and I can get the Committee those numbers. But I would say that there is a difference between-- If the people are really seeking treatment-- There is waiting lists in our programs.

And I just want to mention that the people that might lose their family, they're going to get thrown out of the house -- it is critical to get those people in treatment as quickly as possible, because what usually happens-- They come in because there's a crisis in their lives. And after a while, that crisis will eventually disappear or be reduced. So now, if you put them on a waiting list and say, "Oh, good, we'll get back to you in one month, two months, three months," depending on what program they're trying to get in-- And all of a sudden, three months later, you come back and say, "Gees, we have a bed open." "Well, I really don't need it anymore," because they just calm down the parents, or they got back to work, or whatever it may have been that caused that crisis. So even with the non-criminal justice client, I think it's important to have that treatment on demand.

ASSEMBLYMAN FISHER: But they do need the treatment, is what you're saying.

MR. CLAYTON: Excuse me?

ASSEMBLYMAN FISHER: But you're saying they do need the treatment.

MR. CLAYTON: Yes.

ASSEMBLYMAN FISHER: And you said that you could provide us with a list of what you thought might be a waiting list for those that are seeking treatment on demand.

MR. CLAYTON: Yes, I can get you that information.

ASSEMBLYMAN FISHER: In some global way.

MR. CLAYTON: Right.

ASSEMBLYMAN FISHER: I think that, frankly, that would be the best investment you could ever make, if in fact -- find those resources before we get them where they end up in the criminal justice system.

You say that it's-- I understand it's an addiction. But you also say that there are circumstances where, in fact, it doesn't get triggered, that you don't end up in that cycle. I mean, if it's a disease-- If you had the disease-- Are you suggesting-- As a layman, I'm just trying to understand. It's possible that I have the disease, but it never gets triggered to the point that it's uncontrollable, or I don't need to seek treatment?

MR. CLAYTON: Well, I think if you look at-- You can have the disease. And, perhaps, if you were never introduced to the substance, then there's a likelihood you're not going to develop a full-blown -- become symptomatic with an alcohol or drug problem. That's where -- our program is about, in terms of prevention. Abstinence is so critically important, because abstinence-- If nobody tries a substance, they're not going to develop a problem.

There is, for some people, part of the disease-- Once they experimented the drug, used a drug, then for those people, it can be triggered. And you might remember, when we were younger, perhaps, some of us might have went out behind -- I still remember woodsheds. I won't show my age. And some people partied a little bit, and it was no big deal. Got through their teenage years, da-da-da-da. And how many of our friends, perhaps, partied, and from that day behind the woodshed, they never left? They're the ones that, perhaps, will develop the full-blown disease.

It is a progressive disease. And for some people, they do-- But we really don't know why, in terms of why some people would develop that severe addiction to a substance, and why some don't. There's no measure that we have. We do know some of the factors that come into play. That's about all we know at this point.

ASSEMBLYMAN PAYNE: Thank you very much.

We have three other people to testify.

I think Mr. Rooney would like to have a question.

ASSEMBLYMAN ROONEY: One quick one.

About four or five years ago, when I personally got involved with the facilities in Bergen County, I found that there were only, I think, 35 beds for women in Bergen County, and 20 for men in Bergen County. And I certainly hope that that has changed, because I know Bergen County, being the largest county in the state, certainly has a number of addicts. I don't care what section it is, how affluent it might be. We have our proportion of addicts the same as everyone else. And I know, at that time--

I was talking to my neighbor, who happens to be a lieutenant on the police department -- introduced me to the Ladder Project, which is in the next town. And they were complaining that they just had no room. They were full, completely. And I would like to work with you, on a Bergen County basis.

I've seen it personally -- what happens to an addict. I have some very personal experiences that have shown me that we're not doing a good enough job. There's no way in the world that we can and do -- or do the job. So the State needs a lot of help.

I've seen it in New York. I've seen the process there. I think they do a little bit better. They use existing programs, such as Daytox, such as Phoenix. And I think we tend to rely more on individual licensed facilities, treatment facilities.

And, again, one of the other things that were brought up-- I think, if you have a drug addiction problem, and you have insurance, you're in good shape. But if you don't have insurance, and you don't have a decent income, you're screwed.

MR. CLAYTON: If the insurance covers it.

ASSEMBLYMAN ROONEY: Well, a lot of them do.

MR. CLAYTON: I think the important thing that we really see, too, is we match the science with placing a client in the appropriate level of care. There's a lot of science out there that we have that says where a person needs to go or what level of care. It can be an out-patient, intensive out-patient, partial hospitalization, partial care, assistant family partial care. There's a lot of alternatives I think we can look at that would actually help address the issue

of treatment on demand. Perhaps it's not always building a bed. There's other alternatives. But we have to get our system -- become more clinically driven.

ASSEMBLYMAN PAYNE: Thank you, Mr. Clayton. We appreciate it.

Now we're going to hear from Mr. Samuel Roberson, Essex Substance Abuse Treatment Center.

Give your name, and organization, etc., Mr. Roberson.

S A M U E L R O B E R S O N, M.P.A.: My name is Samuel Roberson. I'm with the Essex Substance Abuse Treatment Center, in Newark. And we're an out-patient methadone treatment center.

To Mr. Chair and the Assembly, I appreciate this opportunity to just make a few brief comments. One that might answer one of the questions that was just raised, in terms of the number of treatment slots-- There are approximately 250,000 people that need treatment, and about 54,000 treatment slots available. Those numbers may not be as up-to-date as possible, but if you look at those numbers, some of those people who are in need of treatment but have not been able to get in treatment programs will probably end up coming through the drug courts, eventually.

But my main comment was to address the population that our organization serves, which are those people who are really the chronic heroin abusers. And, right now, the methadone treatment programs are probably at the low end of the treatment regiment, probably because of the stigma connected to methadone.

But if you look at the number of heroin addicts in Essex County, it probably almost triples the number of heroin addicts in other counties. I

believe there's probably -- there's an estimated 86,000 heroin abusers in need of treatment in New Jersey. And in Essex County, there are 22,750; in Hudson County, 8,703; in Union County, over 7,000.

But if you look at the assessment, when these people are brought to court, a lot of them probably do not fit the criteria for the treatment options. And what -- our program, currently, is licensed by the Division of Addiction Services, and is one of the -- if not the only -- program in the State of New Jersey that has three accredited agencies. We were recently accredited by the Commission on Accreditation of Rehabilitation Facilities.

So we have the capability. We serve between 1,600 and 2,000 clients right now. We're probably at about 1,600. So we have the capability to provide services to a number of clients who are in need of methadone, whether it be maintenance or detoxification. The services are available, but yet we're really not in that network.

Now, I just recently heard Mr. Clayton say that there were seven ambulatory programs being recommended to be part of the drug court, which would include our type of facility, which is an ambulatory care facility.

So that, pretty much, is my point. There are a number of people who seem to be excluded, or would be excluded from the drug court services, because the types of treatment that are available are really, I guess, narrow, in terms of the options. And when the question was asked to Commissioner Brown, what are the options, I didn't really hear any options. I basically heard TCs. So everybody really may not need that therapeutic community service. And unless we're going to be as effective as possible, I think we're going to need

to look at all of the treatment options and meet the patient where they are, and not necessarily where we think we should put them.

That's it.

ASSEMBLYMAN PAYNE: Thank you. Thank you very much, Mr. Roberson.

ASSEMBLYMAN CRYAN: Bill, one thing.

ASSEMBLYMAN PAYNE: Yes.

ASSEMBLYMAN CRYAN: There are 86,000 heroin addicts in the state? One out of every hundred adults?

MR. ROBERSON: Yes, 86,353.

ASSEMBLYMAN CRYAN: Actually, it's one out of every hundred people. That's a hell of a stat.

ASSEMBLYMAN FISHER: That's just heroin.

ASSEMBLYMAN CRYAN: Just heroin.

MR. ROBERSON: Yes, heroin. And then you have--

ASSEMBLYMAN CRYAN: What's the source of that?

MR. ROBERSON: This is from the Division of Addiction Services.

ASSEMBLYMAN CRYAN: And in Union County, I know we have 500,000 people, 7,000 -- 22,750 people in Essex County have a heroin addiction?

MR. ROBERSON: Yes, that's right.

ASSEMBLYMAN CRYAN: That's unbelievable.

ASSEMBLYMAN PAYNE: It's astounding.

ASSEMBLYMAN CRYAN: And when you say 1,600 to 2,000 clients for methadone -- is that on a daily basis that you treat them, weekly? And what does methadone actually do? Does it bring people down?

MR. ROBERSON: What methadone does-- And if I can give an example. It's likened to a person who is a diabetic. As long as they're medicated, they're able to function and work.

ASSEMBLYMAN CRYAN: They can work and do other things.

MR. ROBERSON: And do all those things. And it also reduces the craving for opioids, as well.

ASSEMBLYMAN CRYAN: So it reduces the craving and allows people to function.

MR. ROBERSON: Yes.

ASSEMBLYMAN CRYAN: I'm sorry, Assemblyman Fisher and I -- we're stuck on that.

ASSEMBLYMAN FISHER: One out of a hundred people.

ASSEMBLYMAN CRYAN: We're looking at each other-- It's one out of a hundred people in the State of New Jersey have a heroin addiction-- It's just, kind of, really hard to believe. I don't know.

ASSEMBLYMAN PAYNE: Can you provide us with the data, the source for this information? That is--

MR. ROBERSON: Yes, I can.

ASSEMBLYMAN ROONEY: The heroin addiction probably also includes those who snort heroin, which is becoming a new thing.

ASSEMBLYMAN PAYNE: Well, I don't know. The expert is here. We'll ask him whether it does or not.

What's the numbers?

ASSEMBLYMAN ROONEY: I don't think you're talking about injecting in all cases.

ASSEMBLYMAN FISHER: One out of a hundred people-- Is that a number that, as a percentage, has remained fairly constant in the last five years? Or was it one out of 200, 10 years ago?

MR. ROBERSON: Well, actually, since '93-- In 1993, there were 70,405. And it has increased as of 1998. So that's an increase of 16,000 heroin users during that--

ASSEMBLYMAN CRYAN: With all of the money we've thrown on to every drug conceivable thing in God's green Earth, you're telling me that H has gone up in proportion to the state population?

MR. ROBERSON: That's true. Actually, right now, with the purity of heroin, it's very easy to get addicted at a lot -- at a quicker rate. And it's affected the 18-year-old to the 26-year-old population a lot.

ASSEMBLYMAN CRYAN: If you don't mind, Bill, just one last thing, through the Chair.

ASSEMBLYMAN PAYNE: Sure.

ASSEMBLYMAN CRYAN: Besides that, I'd appreciate that data. Is that the target-- I don't know much about heroin. I'm not going to kid you. Is it more geared to adult kids as opposed-- Is it 18 to 21, or older? Is there, like, an age that uses it more than others, at the risk of sounding really foolish?

MR. ROBERSON: Yes, I think there are trends. Right now, with the purity of heroin, you don't have to inject it to get the type of high that you

normally would have had to years ago. So you can snort it, which means that you don't have the stigma of being an injecting drug user.

ASSEMBLYMAN CRYAN: With the needle.

MR. ROBERSON: Yes.

ASSEMBLYMAN CRYAN: All right, thank you. You've been-- Thank you.

That's amazing.

ASSEMBLYMAN PAYNE: Mr. Fisher.

ASSEMBLYMAN FISHER: That's something I'm just trying to get my arms around. It's always-- I know we talk about treatment, and we talk about the facilities, and we talk about the money that we're putting in the budget. But just to get our arms around something, I think, frankly-- When we hear a statistic such as that-- And that does not talk about all substance abuse, that just talks about heroin.

MR. ROBERSON: Yes, absolutely.

ASSEMBLYMAN FISHER: Whatever statistics you have-- I think it would help us, as we continue moving in our budgetary process, to know what the universe is that we're, in fact, facing every day. Because those that are not getting treatment are obviously causing complete havoc on society. And we've all seen it, we've all-- We know the instances of what happens when those who are on substance abuse, and are not treated, and what they can do in a neighborhood, what they can do in a town, and beyond.

So if you have those numbers, I certainly want to see them. And I'm sure the rest of the Committee would, as well.

MR. ROBERSON: Sure. I'd be glad to share that with you. And it comes from a document called "Estimating the Extent of Illicit Drug Abuse in New Jersey," using capture/recapture analysis. And it was published by the New Jersey Department of Health and Senior Services from their research information system's Division of Addiction Services.

ASSEMBLYMAN PAYNE: What's the date of that study, or that publication?

MR. ROBERSON: This right here?

ASSEMBLYMAN PAYNE: Yes.

MR. ROBERSON: This is the "Estimating the Extent of Illicit Drug Abuse in New Jersey."

ASSEMBLYMAN PAYNE: What's the date? I said the date? When was it published?

MR. ROBERSON: Oh, the date. This is November 1998, which is the most recent data right now that the Division of Addiction Services has on their Web site.

ASSEMBLYMAN PAYNE: I would, certainly would, want the Division of Addiction Services to be able to provide more up-to-date information. It must be available. And I guess we need to find out whether they do -- if there's something much more current than that.

I've heard from law enforcement people, the same thing. This startling percentage of heroin users in our society and, really -- and that younger people are using it more and more. I mean, it's absolutely incredible.

The question is -- you mentioned injecting it or snorting it. What is the percentage of folks -- do we know -- that are injecting or snorting it?

MR. ROBERSON: The most recent-- The statistics I have is that there's an estimated 26,975 injectors in New Jersey. And in Essex County, there are 4,336; Camden being the second largest area with 2,442; and then Hudson with 2,407.

ASSEMBLYMAN PAYNE: Those are injectors. What about snorting? What percentage of that -- of total -- the ones that inject as opposed to snorting?

MR. ROBERSON: Well, if you look at the total number of heroin users, which would be the 86,000, and the estimated injectors, which is 26,000, it's maybe about 50,000.

ASSEMBLYMAN ROONEY: Three-quarters of them are snorting, if those are the right numbers.

ASSEMBLYMAN PAYNE: It's amazing. Do we have a difference between people who are addicted to the stuff and those who claim they use it for a recreation? What's the difference? Those numbers include what -- recreational users, if there's such a thing?

MR. ROBERSON: Those numbers-- Heroin -- there's no legal use for it. So, I mean, anyone who is using heroin -- if you do a survey -- would be captured in that population.

ASSEMBLYMAN PAYNE: All right, but I mean-- They're breaking the law. But are they addicted to it, once they--

MR. ROBERSON: They may not be necessarily addicted, physically. But they're still considered an abuser, because there's really no legal use for it.

ASSEMBLYMAN ROONEY: Mr. Chairman, just from my own personal experience in talking to some people in the medical community-- Heroin is more addictive a drug, cocaine is more of the recreational type. You get a hit, the hit is almost the same every time. With the heroin, they have to keep using it to get the same high that they got the last time. They have to use more and more. So it's a much more addictive drug. Cocaine is much more used for "recreational" purposes. But heroin -- you're a true addict if you're on heroin, whether you're snorting it or whether you're injecting it.

MR. ROBERSON: I'd like to just say that you do have some recreational heroin users, too, who may just snort every now and then, just on weekends. How long it lasts--

ASSEMBLYMAN ROONEY: It's harder to do.

MR. ROBERSON: How long it lasts as a recreational activity is the question.

ASSEMBLYMAN PAYNE: Thank you very much.

For recreation, I sail, and I swim, and things like that. (laughter)

And, in fact, Mr. Rooney is located very close to the New York border up there. And years ago, it used to be that youngsters would go over to New York, I think, to--

ASSEMBLYMAN ROONEY: To drink.

ASSEMBLYMAN PAYNE: --drink, because there was a different age differential. I don't know whether or not it's the same kind of thing up that way, now. But Mr. Rooney has been--

And, also, your comments have been very enlightening to us, as well, Mr. Rooney. And, perhaps, you can be more helpful to us in helping to review this whole situation.

ASSEMBLYMAN ROONEY: Thank you.

ASSEMBLYMAN PAYNE: Thank you very much, Mr. Roberson.

MR. ROBERSON: You're quite welcome.

ASSEMBLYMAN PAYNE: I'd like to ask Ms. Roseanne Scotti--

R O S E A N N E S C O T T I, ESQ.: Good afternoon.

And I'd like to thank the Committee for holding this very important hearing on this issue that is so critical to the State of New Jersey.

My name is Roseanne Scotti, and I'm the Director of Drug Policy Alliance, New Jersey. I am also an attorney. And before I worked for Drug Policy Alliance, I spent seven years as a research coordinator at the University of Pennsylvania Center for Studies of Addiction, in Philadelphia.

Drug Policy Alliance supports New Jersey's drug courts and supports expanding New Jersey drug courts. Drug courts are an innovative and effective way to deal with non-violent, drug-addicted offenders.

Last year, my organization commissioned a study on the cost benefits of incarceration of drug offenders in the State of New Jersey. A few of the highlights of that study were that New Jersey ranks number one among all the states in the percentage of our population which is made up of non-violent drug offenders. Incarcerating this very large number of people, obviously, has very huge economic impacts in the State of New Jersey. It's estimated that we spend about $266 million just to incarcerate drug offenders in this State. That's as much or more than 17 other states spend on their entire corrections' budgets.

Obviously, at a time when we're facing budget deficits and when we're straining to provide basic social services for many of our communities in need, this is a situation that needs to be changed and needs to be addressed with creative and innovative programs. Drug courts are one of those programs.

The thing I would like to concentrate on today is to talk a little more about drug addiction as a chronic medical condition. Drug dependence is not a moral failing. It is a chronic medical condition. In the year 2000, in the journal of the American Medical Association, one of the seminal articles on drug dependence as a chronic medical condition was published. It was titled: "Drug Dependence, A Chronic Medical Condition: Implications for Treatment, Insurance, and Outcome Evaluations." The study was authored by two of my former colleagues at the University of Pennsylvania, Dr. Charles O'Brien and Dr. Thomas McLellan, along with several other prominent researchers.

The study looked at drug dependence and several other chronic medical conditions, including asthma, hypertension, and Type II diabetes. And it found some very interesting similarities. It found that, first of all, the relapse rates for all of these conditions are very, very similar. People can be on a treatment regimen, whether it's through drugs, through diet, whatever the appropriate medically appropriated treatment regimen is, and they will relapse at the same rates -- that is to say that their condition will get out of control for them. What we need to do is then reassess their treatment and adjust it to help them get back to a state of control with that condition.

The researchers also discussed the fact that drug addiction, like these other conditions, also has a genetic base, that some people are simply predisposed to this condition through no fault of their own. And we talked a

little about this earlier, and why, again, it indicates that this is not a moral failing.

They also pointed out that drug addiction, like other chronic medical conditions, can be appropriately treated and controlled. I would also point out that the National Institute on Drug Abuse lists a series of risk factors for addiction, including poverty, childhood sexual and/or physical abuse, and mental and emotional problems such as depression and anxiety disorder. All of these things, along with the genetic component and other factors, can trigger addiction.

And this is why drug courts are effective. They deal with drug-dependent offenders in a holistic way, providing medically appropriate treatment, and also providing ways to ameliorate the underlying problems, such as joblessness, mental and emotion problems, and lack of social supports.

The people who work in drug court -- the judges, the administrators, the probation officers -- are specifically trained in how to deal with drug-dependent clients. And, therefore, they can tailor their regimens, and tailor the strategies for these clients to provide the most effective treatment. I think this is why you see low recidivism rates, and why you see such high rates of success.

Besides the cost savings for these programs -- and they are enormous. We know that it costs about $28,000 a year to incarcerate someone. It costs a fraction of that to give someone drug treatment. One of the most outstanding statistics from the drug court clients, who we have seen so far -- of whom there have been about 4,000 -- is that 94 percent of them, upon graduation, were employed. That is, they were supporting themselves, they were

paying taxes, they were productive members of society. So it's a double savings to the State.

For all of these reasons, we support drug courts, and we think they should be expanded. I would support Mr. Susswein's recommendations that we expand it to include people who do have more than two offenses. Again, especially when you're talking about starting a program in new counties where you haven't had the program before. You cannot be a drug-dependent person on the street without coming up with multiple offenses. And they will often be simple, for things like possession and retail theft. But as the Public Defender, Ms. Smith Segars, pointed out, often the way these things are charged -- they are actually charged as a felony, and then these people are not eligible for these programs. And yet these people, if they have proper evaluations, often have very good indications for success in such programs.

We would also, again, recommend and support Mr. Susswein and the other speakers in saying that we should allow people -- expand this to out-patient treatment. There are, indeed, people for whom in-patient residential treatment is medically indicated. There are many people who can thrive in an out-patient program. It is less costly, obviously, than an in-patient program, and especially for people who suffer from opiate addiction -- where they can be treated by methadone, or some of the newer treatments like buprenorphine. It actually can be a way that we can save money and actually expand a way for people to be treated.

The other thing that we would also recommend would be allowing for less parole time. I think the five-year parole time is simply one-size-fits-all. And, again, it's not cost-effective. And when we have people -- and certainly

our drug court professionals and our treatment people are very well-trained to evaluate these individuals, and say when we might recommend to a judge that probation be terminated, when a person has reached a certain level of stability.

I did bring a couple copies of the article, because I know there's been a good bit of talk, today, about addiction as a chronic medical condition. And this is probably the single best article you can read on the topic.

And, so again, I thank the Committee members for their attention, and definitely recommend that the programs be expanded.

ASSEMBLYMAN PAYNE: Thank you very much, Ms. Scotti.

MS. SCOTTI: Thank you.

ASSEMBLYMAN PAYNE: Your testimony has been very, very enlightening to us, as has been the testimony from everyone.

Does anyone have any questions here for Ms. Scotti. (no response)

Thank you very much.

MS. SCOTTI: Thank you.

ASSEMBLYMAN PAYNE: Thank you very much.

Our final person today to testify is James O'Brien, Addiction Treatment Providers of New Jersey.

J A M E S O ' B R I E N: Good afternoon.

I do have copies of my testimony. I apologize for not having distributed them earlier.

Thank you for the opportunity to testify before you on this important matter.

I'm Jim O'Brien, Executive Director of the Addiction Treatment Providers of New Jersey. ATPNJ represents the treatment programs around the

state, and serves more than 50,000 patients each year in our more than 60 member treatment programs, representing all modalities of care.

I also know that there is -- that the treatment community is very, very excited about the attention that addiction treatment is getting in the last couple of weeks. The Assembly Appropriations Committee wanted to put $10 million into the needle exchange bill, which we appreciate. That was also included in the Senate version. And our talk today about the need for treatment from all of the testifiers has been very encouraging.

As Roseanne said, addiction is a chronic medical condition. And the Robert Wood Johnson Foundation, in its report, calls substance abuse the number one health problem in America because of the related problems that substance abuse causes.

When I was Executive Director of Turning Point, a residential program with sites in Cedar Grove and Seacaucus, I had the opportunity to help Essex County start its drug court in 1996. Judge Katherine Hayden visited our site to talk about setting up the court. We knew about the successes in Dade County and in Brooklyn, and we agreed that we would make the drug court work in Essex. Yvonne Segars was the Public Defender in Essex County when the drug court started there.

At the first graduation, more than 80 percent of the graduates went through one of our programs at Turning Point. After the second graduation, I wrote to Judge Peter Ryan, then the drug court judge, that drug court is the best thing to happen to alcoholics and drug addicts since AA and NA.

The reasons are simple: Help is offered to an active participant to begin their recovery in exchange for their compliance. Responsibility is squarely

placed on the participant. Active oversight and encouragement is given by the court. People get well. Families get restored. Those who choose to not accept the comprehensive help face the consequence of their decision and frequently serve the time of their conviction invoked by the court. Everyone gets what they choose. Drug courts are successful, and the money spent for them is well spent.

I want to respond to the question about coersive treatment that was issued before. One of the things about the drug court is, it offers a holistic approach to treating the individual. And while the person is coerced into treatment, or given the choice-- "You plead guilty, but here's the deal. You go to drug court, and we'll help you get well," or, "You don't have to go, and you go to jail." That's the coercion part.

What happens to a person who participates in drug court, over the course of time, is they begin to see a hopefulness in their life that they would not have seen otherwise. It's that hopefulness that drives them forward, that and the support they get from the judge, the prosecutor, the defender, the treatment community -- encourages that person to keep going.

After they've been in the program for three months, four months, six months, they say, "Oh, you know what? Life works, and it works really well without using drugs or alcohol." And so that push of coersion, not only for drug court people, for other people who are coersed into treatment-- That's what happens to them over the course of that time. And that's why coersion works, as well as the so-called *hitting the bottom*.

All of that other stuff about drug courts being successful-- That said, there are some recommendations that the treatment community would make to improve the use and effectiveness of the drug court model.

We believe it's important to recognize that addictions work demands professionalism, in the same way that other health professions demand their professionals be fully trained and competent. We recommend that all drug court evaluators be certified alcohol and drug counselors, CADCs, and not merely hold criminal justice certificates. A more accurate assessment by a CADC will enhance the ability of the court to make the appropriate referrals to the correct treatment and for the correct length of time.

From TIP 23-- TIP is the treatment improvement protocol that's issued by the SAMSA at the Federal level. And it's booklets of best practices that are compiled by national experts. TIP 23 -- matching people to the appropriate level of care and providing a range of support services are key elements of the treatment process. This assessment to treatment is best done by a certified addictions professional.

I do want to make one other comment, in response to Commissioner Brown's report this morning about his halfway house beds providing treatment. Those are Department of Corrections' halfway houses, and they're not licensed to do treatment -- to do addictions treatment by the Division of Addiction Services. And so if this panel decides to pursue that, we would ask that those DOC beds also be licensed to provide addictions treatment by the Division of Addiction Services.

Two, we encourage the courts to use all modalities of treatment that are licensed by the State, including pharmacology. The licensure standards in New Jersey insist that treatment providers follow patient placement criteria established by the American Society of Addiction Medicine. These include outpatient, residential, and halfway house services, as well as opioid

replacement therapy, better known as methadone. There are myths that pharmacology, which includes methadone and buprenorphine, is not treatment, but the Committees should know that methadone and buprenorphine services include, by State and Federal licensure, the following services: assessment, dispensing medication, administering urine tests, identifing acute medical or psychiatric and neuropsychological problems when they occur, counseling to reduce or eliminate substance use, evaluating and addressing family problems, referring patients to additional services, performing clerical functions and keeping records, and providing security.

We believe these services are complementary to what drug courts want, and urge the courts to not overlook or discriminate against opioid replacement therapy as a viable treatment option.

The Committee should also know that all methadone programs in New Jersey are licensed and, with one exception, accredited by national accrediting bodies, such as the Joint Commission on Accredidation of Healthcare Organizations, and CARF.

Three, we want to fully utilize all drug court beds and slots under contract or purchased by courts. We believe that there may be some underutilization of beds in some vicinages. This is counter to what we heard this morning. And I just want to clarify this a little bit. Whenever treatment programs work with the criminal justice departments, divisions, whatever, there is frequently a lag in making the referral from the criminal justice system into the treatment program. If a person is going from the court, or from jail, or prison into a treatment program, what frequently happens is, that just as the person is getting ready to be sent to treatment, a warrant surfaces, or a hold from another

court surfaces, or violations on their driver's licenses surface. There's something that gets in the way of that immediate transfer of that person to treatment. And so you have a bed that may be slated to be filled on Monday. The person, on Monday morning, shows up at the court, or the jail, or the prison, and guess what? There's a hold. So that bed stays empty for several days, until the next person -- until either that person is cleared or until the next person is deemed eligible and ready to go.

The underutilization costs the counties money by incarcerating people at a higher daily rate who should be in treatment, at a lower daily rate. We heard the rate discrepancies before. It costs the providers money by not having all beds filled. So we have staff, we have overhead expenses, the bed's not filled. It's a lost opportunity.

To accomplish this, we recommend a statewide bed/slot management system. This will allow the courts -- all the courts in the state -- to know where there are available beds and slots anywhere in the state, in real time, that can allow the court to place someone without delay.

We further recommend that these services can be provided by the Division of Addiction Services, by our Association, or by another party with no monetary interest. It is important that there be one body to oversee placement services to effect greater utilization, reduce redundancy, and ensure accountability. DAS or a subcontractor is the preferred way to go.

Fourth, we request your consideration in asking for changes in law or regulation that punishes programs by not allowing programs access to other funding sources, such as the Work First Substance Abuse Initiative or general assistance. New Jersey's welfare reform is inadvertently penalizing programs

that provide the very services that the reform legislation is promoting. Addicts with a sales or a possession with intent to sell drugs conviction cannot receive Work First dollars or general assistance dollars. The interpretation of the law excluding felony addicts or treatment programs from receiving Work First dollars seems to be an incorrect interpretation of the Federal 1996 Welfare law. General assistance falls under what is called the State's maintenance of effort, or MOE, and not TANF. The Federal law interpreted by the Legal Action Center states that individuals with drug felony convictions can receive assistance in state welfare programs that are not funded through TANF, subject to state law. Our general assistance is outside of TANF and, in fact, part of our MOE, and could be used to help pay for an addict's room and board in residential treatment. Based on this misinterpretation, we now have created a law that presents yet another barrier to treatment, and should be revised as soon as possible so that treatment programs don't get penalized for helping the addict in recovery.

There may be a simple solution to this problem without changing the law. The GA and Work First dollars used to help addicts through treatment should not be seen as a cash benefit to the addict. Rather, they should be seen as a service for the recovering addict provided by the treatment agency or other appropriate providers. With this simple change, administratively using the word *service* rather than *benefit*, we may not have to change the law. I'm not a lawyer. I don't know all of the ramifications of this. But it's our understanding that the State has been applying the TANF exclusion to this, and we think that that's a misinterpretation.

This change will allow agencies to receive Work First and GA dollars for the services that they are mandated to provide to all addicts, not just

those without a felony conviction, as mentioned above. And the Work First component -- part of that service is to help people prepare for jobs and to find jobs. We all know that having a job is important to ongoing recovery.

Fifth, the field has an excellent working relationship with DAS, collaboratively and collegially, under the new leadership of Assistant Commissioner Kane-Cavaiola. Together, the providers and DAS are asking that all providers in New Jersey get accredited by a national body to improve the field and our standing in the community that provides services. We have much to do in the way of overcoming stigma. I think we talked a little bit about that earlier this morning. For too long, our profession has been aligned with our clients. Imagine, if you will, a doctor being considered sick because she deals with sick people. With DAS, we are making efforts to improve the workforce and services for our patients, and improve the outcomes expected by our grantors.

Finally, I'll extend an open invitation to any member of either Committee to visit a treatment program in your district to see the work that we do, and gain some familiarity with the services offered. I'm sure you'll come away with a good experience of the kind of work we do, the challenges we face, and the successes we achieve to make New Jersey a better place.

I think the last thing that I want to say is -- I didn't hear anyone else say it earlier this morning. Maybe it's not -- it has not been the case. But as someone who has been in recovery from alcoholism for a long time, I know that the difficult work that we have to do, in terms of addressing stigma, is critical. We heard earlier today about the need for more funding. And, clearly,

when you asked the question -- should the drug court be expanded -- the answer is unequivocal. Yes. There is a great need for additional services in this State.

The Commissioner of Health, Christine Grant, several years ago, commissioned a study that found, in 2001-- It was released in 2001, so it's not that old. It found that only two out of three adults who wanted treatment could get it. And only one out of three adolescents who wanted treatment could get it. That's not who needs treatment. We talked about those numbers earlier. This is people who want treatment.

And I know that our friend, Mr. Rooney, talked about having insurance. Having insurance is no guarantee that you'll get treatment, or that you'll get the appropriate treatment for the length of time that you'll need. The insurance companies have put blocks in the way of providing the services that they say they will provide. And this is an issue for a parity discussion that we hope we'll be able to have at some point down the road.

But we know that what insurance companies do is they say, "If there's a medical necessity for treatment, you can get it. But only until that medical emergency is over." We know that substance abuse treatment needs to be of a sufficient length to ensure that person that they're not going to relapse or have a reoccurrence of the disease.

So I just want to make that point -- that just because you have insurance doesn't mean that you'll get-- And that's especially critical for parents with their teenage kids, who think that they've got this card that's going to open a door for them. And it's not the case.

We need expanded treatment options in this state. We need more services, more beds, more slots -- statewide.

Thank you.

ASSEMBLYMAN PAYNE: Thank you very much, Mr. O'Brien. We really appreciate your testimony, and that of all.

Does anyone have any questions for Mr. O'Brien?

ASSEMBLYMAN FISHER: Just one quick question.

Thank you.

Your recommendation number four-- This isn't as it relates to drug courts; this is just trying to find expanded pots of money to be able to provide more treatment, correct?

MR. O'BRIEN: That's correct. It can apply to drug court, but it can apply to the criminal justice population, as well.

ASSEMBLYMAN FISHER: Thank you.

ASSEMBLYMAN PAYNE: This--

ASSEMBLYMAN CRYAN: One quick one, Bill.

On two, the beds utilized-- Do you have any sense as to-- You gave the one example -- Monday through Wednesday. Do you have any idea, in terms of open bed space -- is it-- Are we saving space for drug courts on a consistent basis that are thoroughly being underutilized, or is it--

MR. O'BRIEN: No, not on a consistent basis. This is a flow problem.

ASSEMBLYMAN CRYAN: It's just a flow issue.

MR. O'BRIEN: It's a flow issue, right.

ASSEMBLYMAN CRYAN: Got it.

That's all. Thanks.

ASSEMBLYMAN PAYNE: Thank you very much.

I want to thank all of those who testified here today. We did hear-- It's extremely enlightening for us. The question of drug courts is one that I certainly didn't fully understand. And I was pleasantly surprised to learn that the effectiveness of the courts, and those people who receive treatment through the courts, has been very, very positive.

We have heard today some very good recommendations from the Commissioner and other folks. And we will look very, very carefully at them. And many of the-- And I truly hope that the representatives from the Attorney General's Office, the Public Defender's Office, Human Services office, Department of Corrections, etc., have listened to the testimony from other people. Because many of the recommendations that were made are recommendations that, obviously, do not require legislation, do not require anything, but does perhaps require more -- greater working between the various agencies that are responsible, that are working in this area. Because I think some of the suggestions that were made could very well be implemented without any need on the part of the Legislature.

However, when we do receive the information that we've asked for from the various departments, Mr. Clayton in particular -- determine the number of persons that are in need of treatment, the number of those who do come before the drug courts, and that perhaps may not have sufficient slots for treatment -- when we get that information, then we will be able to make a case, I think-- Mr. Cryan, being a member of the Budget Committee-- We may be able to make a case for additional funding in these areas where it may be needed.

But I can say that I am -- I've been enlightened today. There's a lot more that I really would like to know about this. But the fact that we seem to have been able to find a means by which we can treat people effectively, who are -- who suffer from this illness; and the fact that we are becoming educated to the point where we do recognize this as an illness and not necessarily a violation of the law, and we treat it as such-- Then I think that, in the long run, number one, we can address the needs of the people that are addicted. Number two, we could utilize our funds in a more efficient manner. And that is, as we said earlier, that we could perhaps provide prevention as opposed to correction. I think that that could go a very long way in cutting down on the amount of money that's being spent to incarcerate people who may be guilty of some crime, that puts them in jail, that's related to drugs.

The mandatory sentencing, which was discussed earlier by Mr. Gusciora -- Reed -- is something that we need to look very, very seriously at. Because if, in fact, we are incarcerating people for drug offenses because of proximity to a school and things of that nature-- We need to review that again to make sure that we are being fair and that the laws are, in fact -- are addressing the problems and not really contributing to them.

I want to thank everyone for their patience and for coming here. And we will look further into means in which we could more effectively utilize our drug courts, and also find ways to provide treatment for those people who need it.

Thank you very much.

This hearing is concluded.

(MEETING CONCLUDED)