EDITED TRANSCRIPT: RISKS AND REWARDS: DRUG COURTS AND COMMUNITY REINTEGRATION

By Carol Fisler, Greg Berman, and Aubrey Fox

The next chapter of participants' lives: the return to independent community living after graduation from drug court is a question with which drug courts increasingly are being confronted. After all, the ultimate test for drug courts is not whether their clients graduate, but whether they are able to live drug-free and become law-abiding members of society. This raises some difficult questions for drug courts. What responsibilities do drug courts have to participants after they leave the court? Is it possible to ease their reintegration into the community? What tools and resources would be most helpful to drug court graduates in managing the transition? What role should drug courts play in the process? If drug courts are to take on this challenge, do they need to change the way they are structured? And what are the boundaries? When should the job of a drug court end? These questions and many other related issues are addressed in this edited transcript of a focus group session that took place in November 2000.

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ARTICLE SUMMARIES

IMPORTANCE OF REINTEGRATION

[1] Drug court graduates, while no longer under the supervision of the court, must continue in their recovery.

WHAT IS REINTEGRATION?

[2] The process of reintegrating a drug court graduate is multi-faceted, involving the individual, their family, the court, and the community.

THE COURT'S ROLE

[3] A drug court's involvement must be balanced with participants' needs and community expectations, while being ever mindful of the limitations on the court.

THE COURT'S AUTHORITY

[4] Within their own specific jurisdictional limits, drug courts must balance participation with program resources when mandating reintegration.

COURTS AND COMMUNITIES

[5] Drug courts cannot and should not attempt to alter the community; they may provide leadership and guidance in identifying and acquiring resources.

RISKS INVOLVED

[6] The degree to which a drug court and its judge should take a leadership role in connecting court and community should be limited, due to possible community resistance and the drug court's limited resources.

JUDICIAL ETHICS

[7] Disagreements exist over a drug court judge's relationship with the participant and his or her partnering with the community.

COURTS AND TREATMENT

[8] The drug court needs to hold treatment providers accountable.

INTRODUCTION

In little more than a decade, drug courts have become a standard feature of the judicial landscape in this country. Every state has at least one, and some, such as New York and California, have dozens. The rapid proliferation of drug courts has been driven by research that suggests that drug courts have succeeded in reducing drug use, improving recidivism rates**,** and generating significant cost savings. In the process, the judges and lawyers who have spearheaded the drug court movement have encouraged courts to change the way they do business, adopting a problem-solving approach to cases fueled by addiction and building unprecedented partnerships with government and non-profit treatment providers. These are not insignificant accomplishments, to be sure.

These achievements do not mean that the drug court story is finished, however. What remains for drug courts is to determine how to make a difference in the next chapter of participants' lives: the return to independent community living after graduation from drug court. After all, the ultimate test for drug courts is not whether their clients graduate, but whether they are able to live drug-free and become law-abiding members of society.

The obstacles to accomplishing this goal are substantial. Drug court graduates often leave treatment without jobs, without education, and without prospects. At the same time, many must find housing, avoid old habits and acquaintances, and mend broken connections with loved ones. They need, in short, to build new lives for themselves.

This raises some difficult questions for drug courts. What responsibilities do drug courts have to participants after they leave the court? Is it possible to ease their reintegration into the community? What tools and resources would be

most helpful to drug court graduates in managing the transition? What role should drug courts play in the process? If drug courts are to take on this challenge, do they need to change the way they are structured? And what are the boundaries? When should the job of a drug court end?

To explore these and other questions related to community reintegration, the U.S. Department of Justice's Drug Courts Program Office, in collaboration with the Center for Court Innovation, convened a small group of drug court judges, treatment providers, policymakers, and academics for a day-long roundtable. The conversation, which was held in Washington, DC, in November 2000, was a wide-ranging one. Along the way, participants discussed the key elements of reintegration, the relationship between courts and communities, the limits of a court's coercive authority, and the ethical and legal challenges posed by reintegration.

Needless to say, these are topics that do not lend themselves to silver bullets or simple answers. Consensus was hard to reach. The participants did, however, share a general enthusiasm for involving drug courts in the reintegration process. "I think the community wants courts to be in the business of reintegration," said Judge John Schwartz of Rochester, NY. Participants pointed to a range of services that, based on experience, they had identified as particularly helpful to graduates, including employment, education, health, and housing.

The enthusiasm for drug courts taking on reintegration was, however, severely tested when several participants broached the idea of adding new requirements for drug court graduation or lengthening the period of court supervision. The most heated exchanges of the day were devoted to the use of coercion to facilitate reintegration. "Do you put someone in jail because he doesn't get a GED? Do you require him to get a good job? … Where do you draw the

line?" asked Valerie Raine, the former coordinator of the Brooklyn Treatment Court. "Parole and probation periods expire," remarked John Marr, the director of Choices Group, Inc., a treatment program based in Nevada. "We can't say, 'Oh, I'm sorry. Because you have a disease that you're going to deal with for the rest of your life, the court is going to continue to hold you for the rest of your life.'"

These concerns led many participants to nominate another role for drug courts in reintegration – relying on their symbolic authority to "provide leadership," "marshal resources," and "generate support" for program graduates. Drug courts could "use their leadership to empower external agencies to do a better job," said Foster Cook, associate professor and director of substance abuse programs at the University of Alabama at Birmingham. "That includes identifying programs, bringing resources into the court, and strengthening the resources that are available when people go out." Several participants asserted that drug courts could improve the accountability and effectiveness of treatment providers, requiring them to do better discharge planning and employment training as a standard component of drug treatment. According to Elizabeth Peyton, a consultant specializing in strategies for integrating substance abuse and criminal justice services, "Judges have had to be very demanding in terms of what they expect treatment providers to do."

Not all participants were as eager to encourage drug courts to play a more active leadership role. Several pointed out that drug courts are designed to hear cases, not engage in community organizing. Participants also cautioned against "romanticizing what courts can do." As Queens County, NY, Supreme Court Judge Leslie Leach said, "I think the task of trying to create better neighborhoods is too great for drug courts to take on."

Nevertheless, after a day's worth of discussion, a tentative consensus emerged: that while drug courts should be cautious about expanding their requirements, they should be creative in employing their symbolic authority to ease the transition of program graduates back into community life. "I think drug courts will sound and feel different as we move forward," asserted Delaware Superior Court Judge Richard Gebelein. "The questions that the judge asks are going to be different. We won't just be asking the defendant: 'How many clean urines have you had?' … We'll be asking: 'Where are you in getting some community help? Are you involved with any kind of organizations? What have you done to implement your discharge plan? Have you made the contacts the plan calls for? Do you have your sponsor?' And we'll be expecting the treatment providers to show what they are doing to help implement the discharge plan."

What follows is an edited transcript of the conversation, which took place over the course of a day in Washington, DC, in November 2000.

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WHY REINTEGRATION?

[1] Feinblatt: Let's start with a threshold question. Why is reintegration important?

Peyton: Drug courts want people to graduate when they complete their time in a program or produce enough clean urines. Unfortunately, some graduates aren't doing very well when they get back into the community. Graduating people from drug court isn't enough; we have to look at their ability to sustain long-term change after they graduate.

Weissman: Frankly, there's a lot of unevenness in how treatment programs deal with reentry or reintegration issues. Many treatment programs define substance abuse very narrowly; they have a hard time dealing with addiction in the context of someone's life, which can include problems with anger management, self esteem, domestic violence or a host of other issues. All too often, treatment providers don't take up these life issues. Then people get out of residential treatment and it's a shock. They need to learn to negotiate the worlds they are returning to. I think drug courts need to

play a part in this, but in figuring out the role of the drug court, we have to look to research about what works and doesn't work and how long recovery takes.

Judge Chatman: Participants in drug courts want us to be involved in reintegration. In talking to the participants as we develop exit plans, they tell us that they want to know how to survive out there. Those of us who have worked in drug courts know that some individuals, as they near graduation, do something to fail because they want to stay under the umbrella of care and nurturing that we provide for them. Judges can set requirements for participants, beyond just staying clean and sober, that will assist them with those first steps toward reintegration.

Marr: We're wrestling with the concepts that addiction is a disease and that recovery is a lifelong process, which means that substance abusers might stay in treatment forever. So we have to balance the need for drug court participants to maintain some level of involvement in treatment for the rest of their lives against the limitations on how long the court can hold them. We have determinate sentencing. We have legal processes. Parole and probation periods expire. We can't say, "Oh, I'm sorry. Because you have a disease that you're going to deal with for the rest of your life, the court is going to continue to hold you for the rest of your life."

KEY ELEMENTS OF REINTEGRATION

[2] Feinblatt: What's involved in reintegrating a drug court participant into the community? What are the elements?

Judge Schwartz: The answer to that question should start with a definition of some of the basic requirements to graduate from drug court. In our program we require a GED. We also require that graduates have a job. We've learned that a lot of participants don't know how to fill out a job

application or what clothes to wear at an interview. You can get them off drugs, but if they can't get a job they're going to go right back on drugs.

Brekke: Part of the reintegration process is making referrals to social services, medical services, and housing. We turn participants over to other resources, like alumni groups, Alcoholics Anonymous, Narcotics Anonymous, and faith groups. You need to find the resources that you have in your community and integrate them into your drug court program.

Shapiro: Families are a critical part of the process of reintegration, but their role is complex. For many people, families are part of the reason they use drugs. But guess what? Families are also the reason that people stay in treatment and are able to keep on a path to recovery. So reintegration has to involve long-term strategies to include families. Families can become a natural source of coercion to replace the authority of the court. Reintegration has to include teaching families how to help their loved ones stay in treatment, stay employed, get up for work, do all of those life skill kinds of things.

Kimbrough-Melton: That's a really important point. A lot of times when we think about reintegration we're talking about connecting people to services, which is something that obviously we need to do. If they don't have a GED, if they don't have employment, we need to connect them to those services. But what people need goes a lot further than services. We really need to help them rebuild connections with other people. We need to think about who it is that's going to help them sustain their recovery once they get back out into the community. Is it going to be the family? Is it going to be their neighbors? Is it going to be their faith community? If we just focus on services, we're not going far enough.

Huddleston: I'm interested in Carol Shapiro's comment that we need to transfer coercion from the court to another natural source in order to keep people in recovery. I think the challenge of reintegration is to help people develop internal motivation. We can't be continually turning over the power of coercion to this person and that person. The addict has to own part of this himself.

Holland: I've been hearing people talking about reintegration or going back into the community, but the reality is the majority of drug courts are using outpatient treatment. People are in the community while they're in treatment. So they're involved in changing relationships with their support networks throughout their involvement in drug court, which makes this question a little bit more confusing for me. Maybe the question needs to be how we can change the way that drug courts and treatment providers involve families and communities during the treatment process rather than after.

Wright: Reintegration has different meanings in different courts and with different populations. For offenders with heavy terms of probation, we can mandate court-ordered aftercare and require that they get jobs and maintain those jobs for several years. But for a pretrial diversion population, once they are done with drug court, we really have no jurisdiction over them. When you look at reintegration in the family court context, it's even more complex because there reintegration means reunification with children, and we want to insure the safety of that family. Finally, with the juvenile drug court we have to look at developing social peers, getting them reconnected in schools, and giving their families support. So I think it's very hard to develop a generic definition of reintegration and guidelines that apply to all the various courts and populations.

Cook: What we've been describing, and what I think applies in all types of courts, is an extension of the continuum of care to include supportive networks and connections within the community to benefit the offender after graduation.

Sviridoff: We've also been talking about expanding the continuum of care to deal with reintegration issues before graduation. There's a clear distinction. Pre-graduation you have, of course, the coercive power of the court, and you rely on it to bring about the changes you're seeking. Post-graduation, you no longer have that coercive power, so you have to rely on voluntary connections.

Judge Leach: I think drug courts need to try to pull the different facets of reintegration that we've been talking about together: the vocational piece, the educational piece, the family piece. If courts are to be involved in reentry the way we're talking about it, we have to be the driving force to harness all of these programs together.

Wilson: I've always thought that treatment providers do a good job of reintegration, but listening to the discussion today, I'm realizing that what we've been doing well is linking people up with services, getting them into school or seeing that they are employed full-time. What I'm hearing is that we need to think more about helping clients with making real life changes that are long lasting.

SHOULD DRUG COURTS BE INVOLVED IN REINTEGRATION?

[3] Feinblatt: Reintegration sounds like a pretty tall order. Is this a business that drug courts can or should be in?

Judge Schwartz: I think the community wants courts to be in the business of reintegration. What the community expects from judges is very straightforward: "We want the offenders

to stop committing crimes. Either put the offender in jail and get him out of our society or, if you're going to undertake to rehabilitate him, do it right."

Marr: Speaking for treatment providers, we also want drug courts to be involved in reintegration. Treatment providers have been doing reintegration for years – we call it the discharge plan. But treatment has done a miserable job of monitoring discharge plans. Our participants go out and nobody knows if they ever followed the plans or not. Probation is too overworked to monitor discharge plans. So who can do it? Maybe the court can do a monthly or 90-day review to help enforce compliance with the reintegration plan before we cut the umbilical cord.

Judge May: Courts didn't go out and ask for everybody to come to us for help on how to get clean and sober and how to stop committing crime, but apparently we were sitting there waiting. The court system has been increasingly called upon to do a lot of the things that used to be done out in the community. As a court system, we had the choice of saying "That's really not our responsibility; we're a court system that sits there and says: granted, denied, overruled, sustained," or saying "Well, we accept that challenge and we'll put something together that will help solve the problem." What the courts did, to their credit, was to embrace that responsibility. Taking on a role in reintegration is a natural extension of that involvement.

Marr: The involvement of the courts in treatment – especially the use of their coercive power – has really benefited substance abusers. Before drug courts, treatment providers knew that clients were open to help when they were in crisis. They would come to us when they were physically or emotionally or psychologically in need, and they would ask for help. But as soon as they started feeling better, they'd leave. They'd say, "Okay, I'm not sick now. The crisis is

gone. I can leave treatment." Drug courts allow us to keep people in treatment long enough to break through the denial and to have good progress down the road.

Sviridoff: There is a lot of research to support that. What we've seen is that without some kind of coercion, either a court mandate or some type of informal social control such as the threat of losing a marriage or a job, people don't stay very long in treatment. In therapeutic communities, less than a third of the participants will be in after 90 days, whereas in drug courts, one-year retention rates average between 60 and 70 percent. And a number of positive life changes – reduced substance abuse, reduced criminality, increased employment, better family relationships – come from being in treatment for a long period of time.

Holland: I can accept that the court's coercive power improves treatment outcomes, but the question is whether the court should have a role in reintegration that goes beyond treatment. We seem to be jumping to a conclusion that because coercion works in helping to achieve success in treatment, it will also improve success at any other behavioral change. I don't believe that we have any evidence to show that.

Sviridoff: That's a fair comment. Take employment, for example. There hasn't been much experimental research involving employment programs for ex-offenders and addicts. Intensive supported work programs had little impact on these populations. No one has tested whether coercion might make a difference. From a research point of view, we just don't know whether coercion by a drug court helps improve employment outcomes.

Tuttle: Even if we accept the premise that coercion by the court could have a positive impact on some behavioral issues, we still have to step back and ask about the court's

competence. I'm not talking about competence in the sense of capabilities, but in terms of what the institution is set up to do. It may be, as Judge May says, that nobody else is doing the job. But that doesn't mean courts have to do it. We have to ask whether courts are constitutionally appropriate for taking on reintegration – "constitutional" in the sense of both competence and separation of powers.

Kimbrough-Melton: I agree that courts, particularly criminal courts, are not necessarily the best places to take on some aspects of reintegration, but I think we have an obligation to provide leadership and to help develop the capacity of community organizations to support drug court participants when they return to the community. If we really want to have an impact, we need to start working on reintegration when they enter our doors, not at the point when we think that they're ready to go back into the community.

LIMITS

[4] Feinblatt: What are the boundaries of the court's authority? Where does the drug court's role in reintegration begin and end?

Weissman: I see a philosophical limit to the role of the court. At some point the court system needs to take a step back from its coercive role and let the more natural social networks – families and committees and churches and temples and those things – step forward.

Marr: The philosophical question that troubles me is whether the court has the right to tell somebody how to live. I once sat in on a rural drug court and had a real jolt when the judge ordered a participant to go to church. When I heard that, I almost fell under the table, but in that Mormon community in Utah it seemed appropriate. Everybody in that community was part of the Church of Latter Day Saints, and

attending church was part of the system for keeping this kid clean and sober.

Judge Leach: It can't be appropriate for a judge to order that. It's against the Constitution.

Marr: Let's substitute something else for the church, then. The important point is that not only do we as individuals have values upon which we base fairness and appropriateness, but communities also have values upon which they base what's appropriate within that particular community context. So what's appropriate for the extension of the court's jurisdiction in one community may not apply in another one. The question is: If a participant is complying with the law, do we have the right to tell him how to live the rest of his life?

Raine: I think most people would agree there's some level of responsibility that drug courts should take on in the transition out of the justice system. But how is that responsibility being implemented? Are we facilitating a transition? Or are we coercing it? The court clearly has the authority to say, "I can put you in jail if you use drugs. I can put you in jail if you don't go to your program." Because that's all directly related to crime. But when you go beyond it, as Judge Schwartz suggested, by requiring an offender to get a GED or a job, what does the court do if he doesn't? Do you put someone in jail because he doesn't get a GED? Do you require him to get a good job? Do you require him to keep it, and for how long? I heard recently, and I hope it isn't true, that one drug court requires participants to have $1,000 in a savings account before they can graduate. Where do you draw the line?

Holland: There needs to be a nexus between the goals of the court, which are presumably that the person stop using drugs and not re-offend, and the requirements that are being made of the participants. A judge told me of visiting a model drug court where the judge had the court officer confiscate a

package of cigarettes from a pregnant woman. The judge told her that if he found that she was smoking while she was still pregnant and under his control he would initiate a sanction. I understand the judge intended it for the health of the woman and the baby, but it was beyond the proper scope of the court. We need to define what's appropriate.

Sviridoff: This is a profoundly slippery slope. How much can you legitimately require someone to achieve, and do the requirements need to be related to criminal involvement? I think we would all agree that a drug court can require clean urines and attendance at treatment because drug use is a crime. When you start requiring the 15 other things that have been mentioned, including a bank account, to what extent are you pushing the court beyond its natural jurisdiction? And how are you going to respond to the kinds of violations that will inevitably occur?

Judge Leach: I agree that there are limits. I have no problem sanctioning activity that's against the law. If you have a juvenile who's smoking, that's against the law. We have to be careful that we're not exploiting a population that already has been exploited, but we don't want to release anybody too early, either. We don't want them to fail when they get back to the community. Perhaps the most important thing that we can do is to try to educate and expose them to different points of view. I think the drug court program should try to teach a certain value system so that they're better able to make intelligent choices. If you have a pregnant woman who's smoking, you can't sanction her for that. But you can say, "Go speak to this health care person and let her explain to you the potential harm, and then decide what you want to do."

Judge Schwartz: I see less of a need to establish limits on the court's authority when participation is voluntary. In our court, defendants have a choice: You can go into the regular

court system and be prosecuted, or you can go into drug court. Having signed a contract for the drug court, you have sold your soul to me for the natural jurisdiction of our court – five years for a felony, three for a misdemeanor. You have to comply with the program or I'll impose sanctions, including jail. But where we draw the line on the court's jurisdiction in any specific instance is a very subjective thing, and that's what I think drug courts are about. Our treatment people are the ones that tell us when a person is ready to graduate and reintegrate into society. I don't make that decision alone. We make it as a team.

Judge Chatman: We take a hard line on enforcing compliance with requirements. In our juvenile drug court, we've started a policy of nonsmoking. We included the juveniles in the process of deciding what sanctions will be imposed. If you have rules and everybody knows what they are, then it's a fair consequence for something to happen if you're not in compliance. But these rules don't exist in a vacuum; we offer treatment programs for smoking as well.

Weissman: When drug courts require someone to go into treatment, we have a slot for them. If we're going to require people to live in good neighborhoods and have jobs, then we'd better be prepared to provide housing and employment for them. If we sanction them, it has to be because they failed to do something that's been right at their fingertips.

Judge Gebelein: You don't have to sanction participants the same way you would if their urine turned up dirty or they broke the law. If they're not using drugs and not committing crimes, at some point you have to stop using your limited resources even if they haven't met all the requirements. It's a neutral discharge because they didn't meet the graduation criteria. Is the person better off? Yes. Is society better off? Yes, because the person is not running around committing

crimes. Will that person succeed? I don't know. But there has to come a time when you cut that bond.

Raine: You can broaden the ways that the court will facilitate the kinds of activities that will help people reintegrate, whether it's on-site vocational services or housing assistance. But if you start enforcing requirements that aren't related to crime, you run into constitutional and human rights issues. And if you set requirements and don't enforce them, you start losing clarity about the function of the court. That's why you need to draw the absolute requirements very narrowly.

Judge Schwartz: Valerie, you make it sound like drug court judges are Attila the Hun, that we are coercing everyone into doing everything. First of all, we are a very compassionate group and we want to help people. We're trying to avoid putting someone in jail whose basic crime is a sickness. On the opening day of drug court, we say, "You're going to get a GED," and "You're going to get a job." If they don't get a GED, or if they have a mental disability and can't work, I'm not going to put them in jail. But there comes a time where the person goes into what we used to call limbo in the Catholic faith. You know, we're not going to give them heaven. We're not going to give them hell. There's no more we can do for them.

Brekke: We've been focusing on coercion and sanctions; there are also incentives that some drug courts have used very effectively. I've visited a juvenile court in Arizona where the kids work with animals in a shelter as a community service project, and they love it. In one of our courts in California, participants are required to attend a cultural event before they graduate – an opera or a ballet. And it turns out that most of them really like it. In so many courts, the only incentive is a lack of a sanction. Do everything right and we won't punish

you. That's not the best way to motivate people or change behavior.

Tuttle: Let's go back to what the drug court's goals are in the context of reintegration. You're trying to make sure that the ball isn't dropped when a graduate ceases to be in front of you, that he is not just abandoned when he leaves your immediate jurisdiction. To the extent that drug courts by their nature have greater engagement with the people in front of them, part of the moral responsibility is to make sure that the engagement isn't just dropped. But the natural jurisdiction of the court also means that the engagement has to stop at some point. Yes, you can be engaged with the person in front of you, but both of you need to know that this is a time-bounded engagement.

Feinblatt: It seems to me drug courts have expanded jurisdiction way beyond where it was when I was a practicing lawyer. So what is a drug court's natural jurisdiction?

Judge May: It's easy to define the statutory limits on the length of time a court can have someone under supervision, based on the indicated prison sentence and minimum amount of probation for the offense. This will vary from New York to Delaware to California to Florida. But within that time period, we have a resource issue, which also varies by jurisdiction: How many resources are we willing to commit to try and make a difference in any particular individual's life? How long do we let somebody try to succeed? When do we cut the umbilical cord, either because they've succeeded or because they haven't? Our role ends when we as a team in the drug court decide that it's over for whatever reason. We can set down all the protocols in the world, but ultimately it's the subjective, human element that we bring to the table that tells us when our job is done.

COURTS AND THE COMMUNITY

[5] Feinblatt: If drug courts are actively involved in reintegration, then they need to make connections with the communities that their participants will be returning to. How can courts develop these connections, and do they have the capacity to do it effectively?

Kimbrough-Melton: Drug courts are fundamentally different from traditional criminal courts, which have an underlying philosophy of punishment. When we got into the drug court movement, we said we wanted to change that philosophy to some extent and focus instead on changing behavior. Now, the literature about changing behavior tells us a lot about the effects of neighborhoods on people. So if we're going to take on a role in reintegration, we almost have a moral responsibility to think about how we provide the kinds of structures within communities that will help people change their behaviors. For example, I'm working right now with a family drug court. One of the major issues for mothers in our program is housing. The problem is not a lack of housing but that people won't rent to them because they have drug addictions. So for me the role of the judge or the drug court is to provide leadership to help loosen up those housing arrangements, to build partnerships with housing providers to get our moms into those housing units.

Judge May: I spent nine-and-a-half years in delinquency court. During that time I watched kids go into programs, get all these wonderful resources, get all the things they were missing, and then we put them back in the house or in the community with the gangs that created the problem in the first place. Most of them failed, quite frankly, because they weren't able to make it if there weren't some changes in that community or family. So we have to do the best we can to prepare the people in our courts to go back into the

community, but if we can affect in any meaningful way the places they are returning to we'll have a much better result.

Judge Leach: It's an interesting issue. Do we improve the environment to which the drug court participant is going? Is that part of reintegration? Or do we just make him as whole as possible and send him out there like the people who didn't have a drug program and who are negotiating their way through that same environment? I think the task of trying to create better neighborhoods is too great for drug courts to take on.

Marr: I think there are times when you have to try to improve the environment. I recently spent a week working with drug courts in Brazil. They have places that they call *favalas*, which are slums. They will remove an entire family from that environment and find other housing for them, because the family just can't survive there.

Judge Gebelein: I don't think we're really trying to change the community for drug court graduates. I think we're going into the community to try to identify and marshal those resources that are going to be helpful to graduates in keeping a healthy lifestyle. Obviously, changing the entire community is not a role that the court can take on. If we think we can, we've really got swelled heads.

Tuttle: I'm reminded of the conversation 30 years ago among judges who were involved in the early stages of administering school desegregation orders. They moved from the early stages of saying, "You have to change the way these schools are organized," to saying, "I'm going to control bus routes," and then to saying, "I'm going to specify the funding for jurisdictions." A lot of those desegregation orders ended up being failures, because the courts were taking on too big a role.

Raine: Even if drug courts could change community environments, I don't think that they should. Drug courts have the authority to monitor and enforce. That's what courts and judges do. But when you talk about real community reintegration, you're talking about the neighborhoods, the streets, the culture, and the social and religious institutions that people are going back to. If the courts get involved in these areas you have to be very careful, because courts tend to want to start shaping and monitoring and enforcing. That raises all kinds of potential conflicts, which will inevitably lead to social judgments, economic judgments, cultural judgments. I don't mean to be alarmist and I think that communities and courts can and should have a relationship, but I think that the whole dynamic between courts and communities has to be very carefully thought out.

Shapiro: I don't know if courts can effect change in communities, but they can certainly use their authority to draw on the strengths of the community and mobilize community members in individual cases. For example, a standard question we ask of addicts in our program is: "Who in your life can help you?" That becomes a trigger to say, "Do you think the next time you come before me, your girlfriend can come with you?" When that girlfriend comes, we say, "Wow, this must be difficult for you. What are some of the things you'd like to see happen?" You literally turn that girlfriend into your ally and into a long-term source of support for the offender, by engaging her in the intervention.

Cook: Drug courts can engage communities by doing what they do best, which is to provide leadership. They can use their leadership to empower external agencies to do a better job to help support what they're doing. That includes identifying programs, bringing resources into the court, and strengthening the resources that are available when people go out.

[6] Feinblatt: Are there risks involved when drug courts take on too large a role in community reintegration?

Weissman: If the court's role in reintegration involves using coercive power to enforce less essential conditions on a small percentage of the population, then the courts stand in danger of eroding a sense of justice. We're hearing a very mixed reaction from community folks about the courts. On the one hand, they want the justice system to stop violent crime, to stop nuisance crime. But on the other hand, they're saying: These are our sons and daughters – don't deal with them in an unjust way. The more the courts stray from their essential role of dealing with the criminal offense and the underlying substance abuse, the more people will perceive the courts as part of a system of injustice.

Judge Schwartz: As it happens, the drug courts are the darling of our community right now, because people feel we're trying to do something about a problem that's ruining neighborhoods. But it takes a lot of energy to maintain that connection. My biggest fear is when you try to institutionalize something like drug courts among hundreds of judges like we're planning to do in New York, that energy and that connection are going to go away.

Raine: I think there is a risk of romanticizing what the courts can do. In order to play the kind of role we've been discussing, the court has to have a relationship with the community. In most places that I'm familiar with, and I think certainly in a lot of urban areas, that relationship, if it exists at all, is not a good one. So just to start interacting and building foundations with a community is unbelievably daunting. To give you just a sense of what it means, we did a project with one community in Brooklyn, Bedford-Stuyvesant. We put enormous effort into it. We attended every community board meeting. We went to schools. We went to churches. We went everywhere. We started to build a fabulous relationship

with the community, but then we couldn't sustain it. And in many ways, our failure to sustain that relationship damaged what we had been able to do.

JUDGE AS CONVENER

Feinblatt: A number of you have referred to courts providing leadership. Short of attempting to change the communities that drug court graduates go back to, how can courts use leadership to help with reintegration? And as drug courts are currently set up, how effective are they at exercising that leadership?

Marr: I think that the institutional leadership and the symbolic authority of judges is critical for rallying resources. I can call a meeting of all the treatment providers in my community and none of them will show up. But if the judge calls it, they all come.

Wilson: Judges can be very effective at generating support for drug courts. Good public relations not only help the court as an institution, it can really help drug court participants in the process of reintegration. If we want people to go back into the community as healthy individuals, good publicity about drug courts can help get the community to rally around the participants and support them.

Kimbrough-Melton: When I worked at the American Bar Association (ABA), I saw judges all around the country pulling people together that we could not get to the table any other way. Oftentimes though, and this is no slight to the judges, once they got them there they didn't know what to do with them. So we have to offer training and assistance to judges if we expect them to go out and build partnerships.

Peyton: Drug courts have an infrastructure that's primarily designed to process cases. They don't have staff that can

sustain projects, or attend meetings, or slug it out with state alcohol and drug directors. Courts aren't structured to run or manage programs, and if they are doing it, I suspect that they aren't doing it very well. It's usually based on the energy of a judge or two, which wears out over time. So although I agree that the court's leadership role is important, I think leadership around services is actually very difficult for courts to provide.

Judge Gebelein: I agree. I live in a relatively small county, but it consists of 40 or more different ethnic communities. Each of those groups has its own organizations and its own culture. To be honest, when I was starting a drug court I thought I could do outreach to everyone. But now that I'm supervising 450 people, I can't go out and interact with 40 different communities. There just isn't enough time, and I certainly don't have two or three ambassadors to do it for me.

Judge Chatman: We've been working intensively with juveniles in one gang-infested community, trying to provide them with community resources that will assist them in staying healthy, which means not committing crimes. I can't see undertaking the same effort in another neighborhood. I can't go out and galvanize all those resources myself. You need to have someone do this full time.

Judge Gebelein: One of the problems I foresee with that solution is that a drug court administrator or community relations person will get the same response that John Marr gets when he calls a meeting. The reality is that everybody comes to the meeting only when the judge calls it. It's not as easy to delegate as it seems.

Raine: Courts may be better configured to galvanize the community in smaller jurisdictions or ones that are more homogenous in terms of ethnicity and religion and culture. The truth of the matter is that in large urban areas where there

are many different neighborhoods, the court is not viewed as part of the community or even responsive to it. In fact, in many cases it is perceived as an enemy of the community. So for courts to be effective at community reintegration beyond simple referrals to social services, they need to start doing things very differently. They need to become culturally competent, with a culturally diverse staff. And they need to promote themselves so that the community knows who they are and has an opportunity to buy in. This takes huge resources, both in terms of staff and in terms of real estate and facilities. Drug courts are not currently set up to grapple with these issues.

Kimbrough-Melton: I'm not sure that it's any easier to do this in rural communities, where often the reality is that we just flat out don't have any resources. The programs or the services simply may not be there to link up to. Also, the state supreme court or court administrator's office may not think it's appropriate for judges to work on building community partnerships. It's been a tough argument in some states. We have come a long ways in South Carolina, where five years ago our supreme court said, "Absolutely no. This is not something that courts ought to be doing." Last year at our statewide drug court conference, that same court said this is one of the best things that's happened to South Carolina in years. But there's still very much a perception that judges' roles should be limited.

Judge May: I think it's hard to get judicial buy-in for an active role in reintegration. It's hard to convince the judiciary, at least in my jurisdiction, that giving a split sentence where you have to monitor them on the back end is a better thing than simply sentencing them to a certain period of incarceration and having the case over with and your statistics reflect a final disposition.

JUDICIAL ETHICS

[7] Feinblatt: Are there any ethical concerns about judges taking on a role in reintegration and an active role in the community?

Judge Leach: I'm concerned about courts being in the business of selecting partners. Once you link with a community organization, they tend to use your name in connection with whatever else they're seeking to do. Every time I'm about to speak to somebody outside of the court's sphere of influence, I wonder if I'm crossing some type of ethical boundary. We judges wear black robes as a sign of neutrality. Once we start to go into the community and pick one program over another, we're showing some favoritism. I don't think that that's within our bailiwick. And I have even more concerns with religious organizations. I don't know how to broker relations with faith-based institutions without getting into church-state issues.

Judge Schwartz: The real question is whether it's proper for the judge to be a convener of community resources. But isn't that what drug court is all about? As John Marr pointed out, they come if we call them. Whatever that power is, I like it, and I feel I have an obligation to use it to make the criminal justice system more successful. I would love to get rid of my "objection overruled" duties and spend more time convening the neighborhoods and the people who are players. Judge Leach, you were worried about favoring this one or that one. I think you can use them all. When I started my program, I invited everyone in our community to the train station. But one thing for sure was that the train was going to leave the station. So anyone who wants to be part of the program, we use them equally. And we get together every month so we are all on the same page. I believe this is an appropriate role for a judge to play, and I have no qualms about it. My job is

to improve the administration of justice, and drug court does that.

Tuttle: I have a different ethical concern about the power of judges. I get worried when I hear judges say, "We're going to keep a hold of them until they're better," or "I want to know them personally," or "I have a parental involvement with them." Now I can understand the temptation to do that. I've watched enough drug court proceedings to understand that real human need to reach out to somebody who has not been cared for and to step in and not abandon them. But this is really where the ethics issues attach for judges, because you have ceased to be an arbiter and you've become involved. Now I know becoming involved is sort of good. That's what attracts a lot of judges to drug courts. But it's also a temptation. Sometimes you end up treating people not better but worse, because you get mad at them when they don't succeed. So getting back to the issue of the competence of drug courts, when we deal with individuals we have to look at the court's competence to adjudicate in light of standards that are determinate. Where we don't have determinate standards, we should be immediately suspicious.

Judge Leach: I completely disagree. I think the personal involvement of the judge is one of the cornerstones of the drug court. Without it, I don't think that our mission can be accomplished. We've seen research indicating that judicial input is high in the scheme of things that lead to success. It is important for offenders to have a relationship with the judge to know that if they aren't compliant the judge will be angry. If something has gone on in their lives that created pain, the judge will be sad. If they are successful, the judge will respond to that positively. I think that most of us in the drug court are able to do that without losing our sense of fairness. I don't think that the personal involvement compromises our ability to reach reasoned decisions, and I do think the personal involvement is very critical to the participant's

success. Even so there are limits. When a particular participant's treatment goes awry we do reach out, but I always do it through our case managing agency. I hesitate to have any direct contact with the client at that point.

Johnson: In drug courts I've visited, I've been impressed by the sense of the judge and the staff trying to develop a relationship with the offender. It strikes me as amazing that you might essentially get an individual to the point of going out into the community and then walk away from them, not follow them to see how they're doing. These are individuals who have probably been walked away from many times in their lives. From a developmental and psychological perspective, one of the things that good parents do is monitor their kids. You need to tell those individuals, "You are important to us. This has not been a game. It's something we really do care about."

Weissman: I think we have to figure out our role in the transition process. It isn't about walking away from participants, and it also isn't to say that there aren't occasional natural relationships that develop between individuals and judges or other court staff that may continue on into infinity. But the reality is that those relationships are few and far between and that people should move on with their lives. The question is how the courts can facilitate that, including strengthening community organizations that can facilitate the transition over the long run.

COURTS AND TREATMENT PROVIDERS

[8] Feinblatt: Earlier, we heard some voices saying that treatment providers weren't doing a good enough job in helping drug court graduates reenter the community. How can drug courts help treatment providers do a better job?

Huddleston: From a treatment provider's perspective, the drug court is a very effective delivery system. It gets the addict into treatment immediately and keeps him engaged for however long he's under the court's supervision. We have a lot of research now on what works with offenders, what works in treatment, how long someone should stay in treatment, and what kind of aftercare is effective. So it seems to me that the court can do two things. One is to hold treatment providers accountable to provide services that are effective based on research. The second is to hold the offender accountable to stay in that program for a sufficient period of time to make a difference in that individual's life.

Peyton: Drug courts have been excellent at providing leadership in this area. Judges have had to be very demanding in terms of what they expect treatment providers to do, setting standards for the providers and making sure they stay engaged with their clients. I think the courts are really our last hope for holding some of these systems accountable.

Weissman: This view won't be accepted across the board. But treatment providers do need to be held accountable. They can't just say, "Send us your folks. We can't treat them, but we're going to make money off them." They either have to figure out ways of delivering services effectively or they shouldn't be used, because they're going to do harm to the people we work with.

LOOKING AHEAD

Feinblatt: Have we moved toward any consensus on what role drug courts should play in reintegration? Do we foresee – or hope for – any changes in how drug courts will handle reintegration issues?

Peyton: I think that we've been re-examining the goals of drug court and asking ourselves, "Why do we need to do this?" One thing is clear: We can't leave reintegration in the hands of treatment providers, even if the courts hold them accountable. We need to make a clear statement that reintegration is a valuable enterprise, and then create a framework to make it happen.

Judge Leach: Part of that framework is to bring reintegration resources into the program earlier on and begin planning for reentry as soon as someone enters drug court. We need to make drug court as strong and powerful as possible while participants are under our jurisdiction, which means using our leadership to forcefully encourage better participation by the other agencies that have a connection to the court and the defendant.

Weissman: I think we're actually moving to some clarity on how the court should be involved in reintegration. We seem to be in agreement that the court's coercive power should be focused on a set of fundamental requirements so that the defendant stays clean and stops committing crimes. We haven't reached a consensus about how far the court's coercive power can go in compelling a participant to achieve other elements of reintegration, but we have identified a number of ways that the court can use its symbolic authority to facilitate other pieces that we know are absolutely essential for long-term success. Courts can and should identify resources, convene players, and build good linkages between the court and the community so that reintegration starts happening while the participant is still involved in drug court. We've been talking about making some real changes in what the last phase of drug court will look like. When the defendant is still under the control of the court, responsibilities can be shared and linkages can happen, so that the participant isn't abandoned at the end of it. Courts need to be focusing their attention on sources of strength in

the community – the people who want reintegration to work because the person coming out of drug court is their brother or sister or mother or father.

Gebelein: I think drug courts will sound and feel different as we move forward, not so much when a defendant first comes in but as he progresses through the court. The questions that the judge asks are going to be different. We won't just be asking the defendant: "How many clean urines have you had? Do you have a job? And did you get your GED?" We'll be asking more than that. We'll be asking: "Where are you in getting some community help? Are you involved with any kind of organizations? What have you done to implement your discharge plan? Have you made the contacts the plan calls for? Do you have your sponsor?" And we'll be expecting the treatment providers to show what they are doing to help implement the discharge plan.

May: Drug courts were one of the first steps toward integration in the first place: integrating treatment with law enforcement, with the judiciary, with the prosecutor, with the public defender. So it's only natural for us to be involved in reintegration back into the community. Maybe, left to their own devices, treatment providers didn't manage reintegration so well. Maybe probation didn't do it so well. Maybe the court system didn't do it so well. But isn't that why we started drug courts? Because if we work together, rather than in isolation, then on any day when one of us is having a weak moment, someone else will stand up and rise to the occasion. Isn't that really what we're all about?