

**Transcript of Interview with Judge Richard J. Knowles,
conducted by Peter Bochert on October 6, 2006**

Q Thanks for your time, Judge Knowles. I appreciate this.

A Oh, delighted to.

Q As you know, this will be for the newsletter that will go out to the drug court conference attendees. And to get started, could you provide a brief work history leading to your current judicial appointment?

A Graduated from law school in 1980, worked at the Tenth Circuit for a while, through the library, did some law clerking for one of the judges. I worked with a firm in Denver, moved to Roswell and a practice. Went to the public defender's office, became district defender.

Came up here to Albuquerque, became district defender, went into private practice in '87 and did mostly criminal, some civil, and had trials in Metro Court, District Court, Federal District Court. Argued appeals in the state appellate level and the Tenth Circuit. And applied in -- beginning in 1995 and was appointed.

Q So you were appointed by --

A Governor Johnson.

Q By Governor Johnson? So you've been a judge since '95?

A Yes.

Q So that would be 11 years?

A Yes.

Q And in this same court?

A Second Judicial District Court, yes.

Q Second Judicial District Court, okay. But you've just recently moved from criminal to civil. Were you criminal --

A I was criminal from the beginning until technically October of last year, although I continued with criminal. I did both for about three months, just babysitting civil cases; and I went full time in the beginning of '06.

Q All right. Now, how did you first hear of drug courts, and what was your initial reaction?

A I heard the name or came across the name when the initial grant was applied for in 1995, just saw a blurb in the paper. Didn't know anything else about it. It just said that Judge Woody Smith was going to be the judge that was applying for it.

Didn't think anything else about it, never heard of drug courts other than noting that. And then Chief Judge John Brennan and Judge Smith asked me to come talk to them, and that's when they said that they were doing this and they would like me to consider being the first drug court judge.

Judge Smith said that he put his name on there because they had to have somebody's name on it, but he was not going to be continuing to do it.

Q Do you happen to know how many drug courts existed around the country at that time?

A I know when we got the grant and got started up, I got a call from Jeff -- I'm trying to remember the president of the national association at the time.

Q They probably haven't had too many presidents, have they. I mean, Karen did it for so long.

A Yeah, it was the one immediately before Hill. Jeff Taylor.

Q That sounds familiar?

A I believe that's his name.

But he called me and said, "Congratulations. You're starting a drug court. You know, it's a wonderful thing."

And the impression I had is at the time, there was only maybe 30 in the country.

Q Wow.

A So it was a pretty small group. It was small enough for him to be able to call new drug court judges personally and congratulate them.

Q Since there's over 1600 today, that would be a full-time job calling each new one that started up.

A I would think so.

Q What were your major concerns about starting such a program, obviously a new program around the country, brand new here in New Mexico?

A I'm going to say, you know, there was a number of concerns. One is, you know, how do you get something like this started, just the logistics of it. But the initial concept, literally, we spent about 15 minutes talking about it. And we said, all right, this is how they're going to -- this is how drug courts generally work. And it was as if somebody turned on a lightbulb. My reaction was, "Of course. This is what we should all be doing," because it was very clear that what we were doing was not effective. I mean, a lot of what we do now with respect to drug courts has sort of been adopted by the Judiciary in regular probation cases and how they handle regular cases and it's certainly influenced how I handle cases regularly and I believe it's influence a lot of my colleagues.

There's a number of things that Probation and Parole does now; for example, the steps sanction program was lifted completely from drug courts. So, it's really changed our approach to things. And it just seems so obvious that what we're doing was bad and we needed to do some things with immediate sanctions and lesser sanctions.

Q So it doesn't sound like you had that many in the way of concerns. What challenges -- it's kind of a two-part question. Do you remember what challenges you actually faced in trying to start the program and/or what maybe by surprise you found was actually working in favor of starting the program back in '95?

A I think working in favor, as I look backward on this, is I don't think anybody thought what we were doing at the time was working particularly well. So I think people were hungry for something different, at least, "let's try something new," because redoubling efforts when faced with a lack of success, doesn't increase -- if you're using the same process, doesn't tend to increase your likelihood of success.

The challenges, you know, if you sort of step back and think about it, "Okay, I'm going to start a brand new program. And what do you need to do?" You just have to work through the process. You need treatment, you need supervision. You need to get clients.

Q Uh-huh.

A I was aware of at least one program that the Second had tried to start some years earlier. An employee of the Second Judicial District, I remember, approached me in the hallway as we were going to do some sentencings with some of my clients and he said, "We have this new program."

I said, "Well, what does it -- tell me about it."

"Well, it's additional treatment," it's this, it's that. It wasn't drug court, but it was some new treatment model.

I said, "What does my client get out of it?"

And he said, "Well, the chance to do this new program."

And as a defense attorney at the time, I said, "Well, no, I'm not going to do that." I mean, why should I increase the burden on my client if there was no trial? What's the benefit going to be?

I told my client about it, and my client said, no, you know, "What do I get out of it," and it was interesting.

So the initial challenge was coordinating all the players and trying to design a program that had something to offer for everyone involved. And to the credit of all of the people that were involved when this was put together, they were all open to this idea. And I think they all get something out of it.

Q Now, were you having some help in making the case for this new program, or were you asked, "Judge Knowles, we want you to run this program? Good. You've agreed now. Go get it started"?

A Pretty much the latter.

Q Okay.

A I mean, that's really how it started, but there was a sort of snowball effect. It's from there, I had an initial meeting. I started calling around. And very quickly other folks got involved in providing assistance. But it was, you know, a small group at the beginning.

And we had brainstorming sessions, and there were some things I felt very strongly about in terms of, again, making sure everybody got something out of it.

Q Uh-huh.

A You know, prosecutors would say, "Well, gee, we don't want to do this." "Well, that's fine. But if you don't do that, you will have no clientele. Let's see what you can get out of it; let's see what the defense can get out of it." And, again, people were very, very open to that idea.

This kind of sells itself. This is like selling, you know, running water. You know, it's not -- once you see you don't have to go 100 yards and pump at the well anymore and carry the buckets back. We'll just turn on the spigot in the kitchen, it doesn't take long for the light to go on. You just need to explain the concept, and that's not a hard concept to explain.

Q But your analogy, the pipes and the infrastructure have to be in place to demonstrate this new "turn on the tap in the kitchen" for the benefit to become perfectly obvious for the drug court programs, and there were so few.

A But with the analogy, let's take it a step further. The pipes and the infrastructure don't have to be there to explain the concept.

Q Right.

A What you're doing is you're saying, "You know what, if we put these pipes in, here's the benefits we believe you'll get."

Q Uh-huh.

A And, in fact, arguably that would be a harder sell than drug courts because you've got the initial cost. Once you've made the commitment and put all the pipes in, if you change your mind, you've still got all these holes in your yard and stuff.

The drug court -- because we didn't know if it would work.

Q Right.

A We just knew what we were doing wasn't all that great. It made sense that it would work; but if it did not work, if it was no better than and just simply more expensive than what we did -- or even worse, if we had higher recidivism rates, higher absconding rates and higher failure rates, we could pull the plug and there's nothing permanent. People could go back to their regular jobs.

Q Were there any initial concerns about public or community safety as in if we just sentence this drug offender the traditional way, they're in jail. Whereas if we give them the opportunity of taking this drug court program, they're, in effect, out in the public, they're out in the community, undergoing intense supervision and treatment, but there's a point of concern there. Being in jail, we know we have them under control.

A If that was what it was, that would be a legitimate concern. That's not how things were happening.

Q Okay.

A At that time and much as it is now, on a first offense, simple possession, nobody goes to jail unless they work at it. You know, you have to have -- I mean, the typical scenario at that time would be an arrest for small quantity trafficking, one rock cocaine deal, crack cocaine deal, possession of a small quantity of a felony-type narcotic -- heroin, cocaine, whatever. The person would get arrested, they'd be released the next day or within 48 hours from jail pending indictment.

There were so many cases the DAs would not get around to indicting for anywhere from six months to eight months. The person might get rearrested, but usually they're noticed into court. Then the case would sit around for another six, eight months until the person -- the case was resolved, usually by plea.

Q Uh-huh.

A And if they stayed out of trouble all of that time, they would get probation [inaudible], even on a simple trafficking case.

So the contrast was either we get them in drug court and start dealing with treatment sooner or the case languishes all this time, they have little or no supervision. If they are lucky enough to stay out of trouble all that time, then nobody's going to put them in jail. Then they would get regular probation; and out of the first two or three positive blood tests because now they're getting drug testing, nothing would happen. The Court would get a notice, "Joey tested positive. I recommend no action. I've counseled him," which means the probation officer yelled at him.

Q Right.

A And then you get another, "Joey tested positive again. I counseled him. Maybe we should do an informal conference with the Court."

So I bring him in, I yell at him.

"Joey tested positive. Maybe we should increase the number of counseling."

And finally it would be, after the third or fourth, "Joey tested positive. I recommend he go to prison for nine years."

And so if Joey actually did go to prison for nine years and usually it would be two or three probation violations before that would happen, they went from a PV hearing and reinstatement to, "Well, I guess I'll just put you in prison for the nine years."

And Joey is sitting here going, "Wait. You never put me in jail before."

Q Right.

A I'll send him to jail for nine years. This doesn't make any sense. So that was the contrast.

Q Well, part of what you mentioned leads to one of my next questions -- let me see here -- it will be coming up here in a little bit, so I'll leave it hanging and get back to that. Your drug court has been in operation for --

A Since September of 1995. That's when we brought in our first client participant.

Q So we've just passed the 11-year anniversary?

A Yeah.

Q Okay. Have you changed the program significantly during that time? One of the things you -- makes me think of your previous comment is describing the eligibility criteria or the reference to first-time offenders and traffickers. So, one area that might have changed in eligibility.

But are there any significant changes you've made.

A It's evolved a fair amount since we started. So, I mean, if you were to look at the drug court then and look at it now, you'd recognize what we did then as a drug court. I mean, you can see the family resemblance. You know, I'm saying it evolved rather than mutated. It's nothing in radical; I think it's improved it a lot. For example, when we first started with the intermediate sanctions, it was, if I remember correctly, it was first positive was one day; second was a week; third was a month; and a fourth was you're out. Sort of four strikes.

Q Four strikes and you're out, okay.

A It was automatic. I mean, it was just boom, boom, boom, this is what we did. That's been revised significantly now. The first is one to three days; second is one to a week; three to seven days; fourth is -- I don't have the guidelines in front of me and I hate to sound stupid, but it's generally going to be anywhere from a week to two weeks in length. At any point, though, we've worked with the detention center and we can get people into the 28-day ATP program or detox program.

You know, having to come up with, well, what do we do if somebody doesn't show up and come up with solutions for that. Introducing aftercare. Having the graduations the way we do them now with large groups together as opposed to just, oh, Joey now graduates, thank you, here's a handshake and a pat on the back. We make a bigger deal out of it which is, I think, good for giving more momentum.

Q Could you explain briefly the nature of your graduation ceremonies now, that grouping? How do you do that exactly?

A Well, the best way to describe it is we want to make a memorable experience for the participants. So, four times a year, every three months, we schedule graduations. And everyone who has been in aftercare at least three months -- actually, excuse me, at least a month before the graduation will graduate at that ceremony.

So, if you get into aftercare inside of that period of time, more than one month out -- or less than one month out, you have to wait that additional number of months to the next ceremony.

A number of judges show up; of course, the drug court judges; we have guest speakers; the district attorney; treatment, community representatives, people from the DAs; people from the DAs. And there's a ceremony. If you reflect back on when you graduated from high school or college or [inaudible] you get your certificate and handshake and people

applaud. It's -- we try to have a greater recognition for the efforts made. The participants bring their family members, moms, dads, kids. It's a very special occasion for them, and we try to emphasize that and recognize that.

Q Do you feel your program has been successful? I know the answer to that from my perspective, but I'd like your perspective, as well.

A I think it's been very successful. I'm very proud of it.

Q Can you explain the ways it has fulfilled or exceeded your expectations?

A It really seems to change the participants' lives. Not everybody who starts it graduates. And I believe that even those who don't graduate are given a view of a route they can take away from their addiction. So, I think it's been a wonderful thing from that perspective. And secondarily, I think it's been a very positive thing for those folks who participated in it from a non-participant perspective; in other words, the judges, the treatment providers, the probation officers and the lawyers. It's been a positive experience for all of us, and I think it's been great for the community.

Q You made reference to this earlier, and I'll just see if there's anything you want to elaborate on.

Have your experiences in drug court affected the way you treat non-drug court cases, non-drug court offenders?

A It really has. I mean, from the beginning, we were reinventing the wheel -- we were inventing the wheel. There wasn't much in terms -- I mean, now if you start a drug court, you get a grant and you can go to mentor drug courts and you can watch how they do it and you can go to all kinds of training.

And all we had was an idea based on what someone else was doing. This is the idea that we were going to try to copy. It's kind of like somebody saying a bicycle is a device that has two wheels that's human propelled. We're going to make a bicycle. Oh, okay.

Here's all the materials. And you don't have one in front of you to copy. So, you could come up with all kinds of things as long as it has the two wheels and gets you from Point A to Point B with less effort.

So, we had to fine tune a lot of things. And we had a lot of resources. One of our best tools for learning how to fix, modify aspects of the drug court were the participants themselves because if they could find a way to beat the system, if there was a hole in what we did, they found it.

We used to run confirmations of drug tests. If somebody said, no, no, no, I really didn't use. I don't have a confirmation. Well, we had the onsite test that would be very quick. Confirmation would take about two weeks. And so people would do things like say we want -- we'll pay for the confirmation. They'll even [inaudible]. And what they do is for that two weeks, they just partied like crazy because nothing was going to happen.

You know, that, we learned from a participant from talking with the drug courts and how they handled it and modifying it to basically if you test positive, we run a second onsite test from a different batch just to double check. If both of those come up positive, you're going to have a consequence right now. But that's one example.

And I'm trying to remember what the original question was. I drifted from that.

Q Well, this has always intrigued me. Judges who become drug court judges, it's obviously, the judges I've talked to, something of an eye-opener if not an outright [inaudible].

A Oh, how has it affected [inaudible].

Q How does that change the way you treat non-drug court cases?

A One of the things that we had to do is think in terms of how do you motivate something to do something. And I learned from the drug court participants -- and I knew this, but this really emphasized it -- just because I order somebody to do something doesn't mean it happens. I knew that.

What can I order somebody to do to increase the chances of it? Well, if I can order them to do something but I can confirm and enforce that curves them in the direction that I want, then it's a more positive thing. One example was in terms of employment.

Something we came up with -- we're probably not the first people in the country to do this; I'm not suggesting that, but it's worked very well for us -- is in regular probation for years, as a lawyer and my months as a judge before this happened, I always felt like ordering somebody to get a job, ordering somebody to be full-time employed was a very difficult thing to enforce.

Basically, it was a permission to a probation officer to nag individuals, "Why don't you get job?"

"Okay. I'm trying."

"You're not trying hard enough."

"Well, I'm going to try harder."

How do you know that they tried harder?

"Well, I want you to submit ten applications a week."

I've applied for a few jobs, and I found over the years that if I didn't want a job, I wouldn't apply for it. But I suspect that if I was forced to apply for a job I didn't want, I could find a way where I wouldn't get hired. It's not really hard.

Q Right.

A What you need to do is get the person to want to have a job. If their expectation is they're going to wait for that brain surgery job to come along to get hired when they've never even completed high school, that's no chance. So, we need to get them to lower their sights.

Q Uh-huh.

A But what we could order people to do and enforce is we could require community service in lieu of employment. So, instead of ordering them to get a number of applications per week, we just say, fine.

At this level in the program -- in our program, it's Phase II. We don't require employment in Phase I -- Phase II, we want part-time employment. So, you either have to be employed at least 15 hours a week or you're going to do community service 15 hours a week or any combination. We're okay with that. Work, school, community service -- documented it.

So, if somebody didn't have a pay stub, then they'd be down at their local church or neighborhood association, community center, something, humane society, cleaning out dog cages. We worked out something with them for a while -- something for 15 hours a week.

So, then the message would get across to the participants, "I'm going to be working one way or the other. Maybe it would be better to work and have a paycheck." And that really works.

Phase III, it's at least 30 hours a week. As we talk, we're both used to working. 30 hours a week would be a luxury. That would be time off. That's a normal weekend is 30 hours.

But from the perspective of somebody that has not held down a full-time job and has been fighting that concept, 30 hours a week is pretty darn good. So, we have that. So what I started doing is doing that with my regular probationers. I'd say "Work, school, treatment, community service or any combination, but adding up to at least 30 hours a week." And I endorse that when I teach at the Judicial College for new judges, "Put that in as a condition." That, you can enforce, and I believe you're going to see a lot more people employed. I know the drug court people are employed.

Q Another thing that gets talked about and that I've seen the effect of is the -- and many participants refer to this is that connection that they make with the judge. An unusual part of drug court is that one-on-one discussion that goes on in the hearing between the judge and the participant.

You especially are very striking in -- I haven't seen anybody else in New Mexico do this. Not only do you not sit behind the bench and talk to the participants with them behind the podium, which is often the case in most other drug court programs I've visited, but you come out from behind the bench, you invite them out from behind the seating area, the bar there, and you meet with them one-on-one, about two or three feet of interpersonal distance between you.

What could you share about that one-on-one interaction, and does any of that interaction that -- you know, that rapport or connection that you find you make in drug court with drug court participants, do you find yourself trying to establish that or carry that over to any of your other non-drug court cases?

A What was the first part again?

Q Well, I'm just curious about your perspective because you're more dramatic in how you do that than most.

(Inaudible conversation.)

A Why do I do that? I could say that what I'm trying to do with them -- drug court's sort of the spaghetti theory of drug treatment. And what I mean by that is, the spaghetti theory, if you throw enough spaghetti at the walls, see if some of it sticks. We throw so different motivators at participants in drug court.

[Inaudible] by themselves are okay. They're pretty good. You know, they're not necessarily better than any form of treatment, not necessarily worse. Same with groups, same with individuals, same with so many different things.

What is it that clicked for one particular drug court participant? It could be anything. And one of our motivators is to try to establish a rapport with the participant. That communication that you describe, I mean, it just made sense to me to try to establish a connection with the participants. I'm not their buddy, I'm not their close personal friend, but I care and I want them to know that I care. I want them to know that I am trying to see things from their perspective and trying to reinforce the good things and, frankly, let them know that I'm not going to accept scams, manipulations, that I'm in tune with that, as well. And it just seemed to me to be a good way to communicate.

In terms of how it affects how I deal with other defendants and [inaudible], I have always tried to talk with people and let them know why I'm doing what I'm doing. I don't have any illusions that someone will say, "Oh, now I understand why I'm going to prison for 25 years. I guess you're right after all."

But at the same time, even in sentencing somebody to a sense of that length or longer, you know, I just think it's important to look them in the eye and just say, "You know what, you did this. This is what I'm doing. I believe this is correct and this is why." And why I don't harbor illusions of them thinking it's a great thing, I'm amazed at the number of individuals who looked at me in the eye right back and said, yeah, okay, and just seemed to understand, "I guess it was bad that I shot this guy four times and something needs to happen."

I don't expect them not to appeal me. I don't expect them to send me flowers afterwards or anything like that. But if I'm sentencing somebody to probation or sentencing something of that nature, I also think it's important to say, "This is why I'm doing what I'm doing. I see something in you. I want you to understand what that is."

All of that having been said, from the sentencing panels of the Judicial College, a lot of the defendants would come in and spoken at those sentencing panels about what they heard -- not what judges say, but from the sentencing scenario, a lot of them are so stressed out they don't hear anything other than jail or not jail. So what's the bottom line? An awful lot will leave the courtroom and ask their attorney, "What just happened?" And if I can improve the level of communication by trying to talk more directly to people, I'm certainly going to make that attempt. But that attempt, I think, is more fruitful in signing conditions of release, seeing somebody on a probation violation hearing or something like that. But it doesn't mean I won't try.

Q Bring back just to drug courts, do you have a favorite story or memory about a drug court participant in your program?

A I've got two.

Q Go ahead.

A One of the things that happens and it really just brought home the fact that this is a completely different program and that people process information differently after being exposed to drug court and the values that we're trying to get across, early on -- I think it was probably the second or third year of the program -- I had an individual that received a certificate going from Phase I to Phase II. We don't just have the graduations. There are many ceremonies as people go from phase to phase. You've [inaudible], you've accomplished something here. Now the nature of treatment is going to change, the number of contacts is going to change. It's because you have done so well. People applaud when they come up and get their certificates and they're recognized for that and they get a handshake, a pat on the back -- not literally, but figuratively.

On one occasion this individual went from Phase I to Phase II. And the first probation officer was the supervisor [inaudible] came into my office after we'd done drug court and said, "You're not going to believe this. You need to see" so-and-so, this individual that was a participant.

And I said, "Okay."

So, he came in, and he handed me back the certificate and he said, "I can't accept this."

And so I asked him what he was talking about.

He said he had been able to fake a clean urine relatively recently and had been able to get by with having used and, therefore, falsely received credit for that and got the certificate. And he said, "I thought about it after I got the certificate. I didn't really earn this and I can't accept it."

And I said, "Well, you understand that not only does this mean you don't get your certificate, I'm going to remand you for having used," because the information on using doesn't just have to come from a drug test. If you came and say, "I've used," I'll take you at your word.

So [inaudible] "Okay, fine," and put him in jail for that short period of time, but it was still in jail.

And that's got to be one of the more odd experiences I had as a judge, period, not just at drug court, because people don't come in and send themselves to jail.

You know, we discussed it and he acknowledged he knew what this meant and he was fine with it. What that meant to me is he began to value something other than just continuing to use drugs at whatever cost to himself, his family, society. He wanted to do things right. A lot of them aren't going to change.

The other story was I had this woman come in and see me -- and one of the benefits you get as a judge, little perks you get every once in a while, somebody will come in and give you feedback. You'll see hundreds if not thousands of people in a given year, and every once in a while one will come back and say you've had a positive influence. Sometimes you'll get letters saying, you know, "I hate you." Those are actually much more [inaudible] than the other [inaudible] frightening.

This woman came to see me, stopped by my office, and she said, "I don't know if you remember me."

I said, "I do, but I don't remember -- you know, you look familiar, the name is familiar, but I don't really remember."

She said, "Well, I flunked out of drug court and you sent me to prison."

I said, "Oh, really?"

She said, "I just wanted to let you know how I'm doing," and she's talking about how great her job is, she's really happy with her kids. She, you know, just had a very positive outlook, was just so excited about where her life was going.

And so I told her, "Wait a minute. What you told me is you flunked out of drug court and I sent you to prison. Why are you coming back to thank me? What did I do?"

And she said, "Well, I may have flunked out of drug court, [inaudible] just wasn't ready for recovery. But what I learned from drug court was I had control over my life. Even though I wasn't ready then, after I got out of prison, I knew what I wanted to do and had a way to go about doing it." And she gave drug court and me credit.

So, again, it was just sort of an odd thing that happened. I had mixed emotions about, you know, getting credit for that. You know, you take the credit for [inaudible].

Q My next question has to do with (tape garbled) and originally she would have been considered a failure. She flunked and was sent to jail.

A By any measure, she -- in terms of was she successful in completing drug court (tape garbled) performance measures, she was not a success under the, quote, "performance measures."

In terms of the human being, in terms of the criminal justice system, in terms of (tape garbled) judge, she's not only successful --

Q This tape is still running, so I'm going to let it go. It must have hiccupped there. Well, continuing on with this idea of failures, she's obviously a failure that resurrected herself.

A True.

Q But in her words, due to the program and your guidance --

A That's what everybody does. Think about anything you decided you wanted to learn. Music, school, addiction issues, anything. The teachers don't get you to learn. You learn it yourself with their help and encouragement.

Q Right.

A But the individual participants are the ones that get credit for their successes. It's the whole "You can lead a horse to water." I mean, we're leading these horses to water [inaudible] streams.

Q Right.

A But they've got to make a choice, and she just -- if anybody get credit for drug court successes, it's the participants who go through it. We're just providing opportunities.

Q Well, this next question might not really make sense. It would to people who happen to be listening in on this conversation, so I'll ask it anyway and just see how you take it.

Were there any failures that have stayed with you. And if so, why? Any participant that you thought just somehow when they didn't make it that challenged you in some way or -

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A I can't -- yeah, I can't -- I mean, there's a lot of individuals that you hear about -- you know, graduates -- there's a graduate we've had come and speak at graduations and heard recently that she was arrested. And, you know, she was an inspiration when she came in as a graduate talking to new graduates. And it makes me sad when I hear about that. I would be reluctant to call her a failure because with addiction, relapse is part of recovery. And [inaudible] strength and energy, you know, I don't think that she is a failure and, therefore, defined by that and never succeed past that. But you have those kind of things that happen periodically, and that's sad.

[Inaudible] and I think that there's been [inaudible] with drug courts. If you don't allow yourself to get emotionally pulled from the participants, you [inaudible] a certain amount of energy. And I'm not quite sure how to put it, but I think that that energy that you can put into it through being somewhat emotionally invested yourself gives strength to the participants. They don't want to let you down, and that sense, I think, is stronger [inaudible] really care.

Q And you have to be there for them when they need you so that --

A Yeah.

Q -- pulls you in a direction that you're not physically geared to lead or emotionally ready to go [inaudible].

A Yeah. It's like the Grand Canyon. That didn't happen overnight. There's a couple of grains of sand, every day, every weekend, every month, every year. [Inaudible] you can't -- [inaudible] successful as a drug court judge [inaudible] if you don't allow yourself to be somewhat involved emotionally [inaudible].

Unlike --

(Side B)

Q Give it just a second here to get past the leader. Okay. And you were talking about the sandy desert.

A I was just saying unlike sandy desert or a steel beam subject to rust, as human beings, we can recover. We can rebuild. That's the whole concept of training. You run

today, recover tomorrow and the next day instead of running three days in a row. But there's still sort of, I think, emotional scar tissue that develops. And so that's a tough thing.

But in terms of failures, I'm intrigued with the idea of people being exposed to drug court and that stain on the back of their minds over the years. Even if it's 20 years from now, if they'd say -- if that's part of them being able to say, "You know what, I've had it with this. I'm going to change my life. I remember seeing Peter Bochert speak at one of the graduations and that's going to be the thing that [inaudible]." Whatever it is. Is that a failure? I don't think so. So, I have a hard time thinking of any of our folks as failures. I've sent them to prison --

Q Instead of failures, then, because this is something of interest to me, but what can drug courts learn from those who do not successfully complete the program? Maybe they're not failures in this way, but folks can think about the term "failure." But when somebody doesn't complete the program, what do you as a drug court judge or a drug court team do? Just say, "Well, that one didn't work," or do you look to learn from that in some way?

A We look to learn from it. I think it's going to be fair to say that we spent a lot more time doing that earlier on in the program than we do now. And it's not because we don't care now. It's just there's been quite a few refinements over the years.

Let me give you an example. There's a number of folks that I think sabotage themselves. The first individual that was scheduled to graduate from drug court way back when, he was going to graduate in 1996, and we were very excited about it and talked to him about it. And I'm trying to think. I don't remember if it was 24 hours, 48 hours -- it was within a week before the graduation, he picked up a DWI charge. And he had been clean, he had been doing great in the program for six months, eight months before that. It was pretty obvious that the reason why he picked up the DWI -- it was obvious to us in talking to him -- I don't know if he would disagree with us because we weren't happy -- but I think the situation was he sabotaged himself because he wasn't ready to graduate.

Q Uh-huh.

A Those kind of things, we looked at what we were doing. Okay, why don't we beef up aftercare? Maybe we develop an aftercare program. At the time, we didn't have one.

Q Right.

A He was feeling a lot of stress not just because he was about to graduate but because he was going to be the first graduate and felt pressure because of that. He just didn't want to deal with that.

So, we see those kind of things and you roll things in to try to deal with that. I can't say that we do a full [inaudible] analysis now like we used to when we had fewer than a dozen participants.

What we look at, you know, some people are just going to decide to go on and commit more crimes. You know, they've had [inaudible] sanctions, but they're not ready to live the lifestyle.

Q So you do have a group that you feel, "We just can't reach them with this program or at this time in their lives, their development"?

A I think the short answer to that question is yes. But a longer answer is we don't know who they are until we find out.

Q Right.

A Because the other thing we've seen over time is we'd start up with folks and, you know [inaudible] this happened a lot more early on. We do, I think, a lot less consciously now than we used to. But you have these folks and you say, "There's no way this woman or this man is going to make it through drug court. They've got enrolled so many times in so many programs there's no way they're going to make it." Or you think, "This person is going to be cake. You know, this is the first time they've been in trouble with the law. You know, they're this particular income/educational bracket. They're going to just sail right through drug court."

And so many times those expectations both ways have been shattered. I don't assume anything anymore. You know, what I've come to believe is anyone can make it and anyone can mess it up. We do our best to make sure the folks who look like they're messing up have fair opportunities, but I don't think we're doing them any favors if we change the rules to help somebody get through that we think should get through. If they're not getting through on their efforts, they didn't earn it.

And there's a [inaudible] saying from the Drug Court Institute some years ago, they did some exit interviews from people in drug courts, that one thing that we're pretty much in agreement on, the folks that have completed drug courts, is they didn't feel that judges should be too lenient. They give them the room to mess up, and they didn't think it was fair, so they tend to resent the situation.

Back when there was discussion in the state whether or not drugs should be legalized, I engaged in dialogue with drug court participants then.

Q [Inaudible].

A Yes. And what drugs should be legalized, what drugs should not be legalized. And so I was curious as to whether these participants would say, "Well, yeah, if drugs were legal, then I wouldn't have to worry about this kind of thing and I've got drug court out of my life."

And I frankly don't remember a single drug court participant endorsing legalization of drugs. They seem to all feel that if they were legal, there would be more opportunities to use and they didn't want anything else making it harder for them to stop.

Q Not to keep them out of trouble with the law, perhaps, but to keep them out of trouble in their lives --

A Right.

Q Let's see. Well, I guess I want to ask -- so you haven't come up with a kind of either intuitive profile of those your program just can't help? In other words, those that refer into your program see this person as an eligible -- you know, this person looks eligible for the drug court program. It helps so many, let's refer them and see if they take them.

And your team, as it gets together and reviews that eligibility, just sees some things in the mix that just say, "We're not going to be able to help this person"? There's a strict eligibility criteria such as non-violent offenders, that kind of thing, which I believe your program actually does look at violent offenders --

A Correct.

Q -- on a case-by-case basis now, now that you're not funded by a federal grant.

A Well, it still -- we look on it -- let me take it back.

If there was a previous violent felony, generally speaking, they're not going to get in. If there's a previous misdemeanor violent crime, maybe. We'd look at it case by case. But you don't just look at a classification. If it's a child abuse, for example, well, is it because the person was using drugs and [inaudible] with the child, or was it they're literally torturing the child? Both are child abuse, but there's more of a conscious act of [inaudible] violence alone that may be lacking in the other.

I saw a graph one time that really influenced me. If you look at a continuum of likelihood to use drugs and threat to the community. And [inaudible] association with screening people for drug court and drug treatment. And we're fine with people being really high on the chance of using drugs. You know, at various times people have said, "Well, are you cherry picking clients? Are you picking people that aren't likely to use drugs?"

And my position has always been do not do that. In fact, if we're going to do anything, I'd just as soon keep people out of the program that are not likely to abuse drugs. If somebody doesn't -- if they're a drug dealer and selling small quantities but they've never used themselves, drug court is not right for them.

Q Right.

A So, if they're really high likelihood of using and abusing drugs, we'll give them a shot and we'll try. If there's a high likelihood of them being a threat to the community, then it's a different equation because those decisions and my view of them aren't necessarily tied to "I smoke too much pot; therefore, I go knife somebody." That's just not part of it. There's just different kind of chemistry and choices [inaudible].

The quote I've heard that I've found useful is, "A hammer is a great tool, but not every problem is a nail."

Q Right.

A Drug court is a wonderful program. For those folks who can benefit from it, we're in the right position. And sometimes jail is the right thing.

Q Right. What advice would you give to anyone who wants to start a drug court?

A I think they should start one. I mean, how should they go about it? What should they do? I mean, the perspective I come from, which is a kind of dinosaur in this respect, is when we started it, we didn't have a lot of training programs available. We didn't have them. They didn't exist. We had the encouragement of, you know, Joe Taylor??? and others that had done it in those far flung areas of the country. It's a relatively small group.

Now, if you go to a national association conference, it's you and a thousand of your closest friends or more.

Q 3,000, I think [inaudible] last one in Seattle.

A I haven't been to one for a couple years. You know, it's wonderful to have that huge a community to draw from. And that's why I'm saying I'm sort of a dinosaur for good or ill. I'm not used to drawing from that for educational resources. I'm used to trying to figure it out on my own. And you don't have to do that anymore.

If you want to figure out how to do a drug court, talk with some people that are doing it. Go visit the drug courts, watch, learn.

The thing I'd also caution folks about is don't give up the idea of trying something new. That's one of the great things about drug courts is they're made to be tailored to the needs

in their particular community. But the participants and the judges and everybody, how are you going to sell it to the folks on the street?

You know, is this a [inaudible] program or is this, you know, a tough-on-crime program? It all depends on your perspective.

Q What are some of the challenges you see to the continued growth of drug courts? And if we can keep that just to New Mexico, that would help.

A Yeah. I think drug courts, therapeutic justice, specialty courts, they are all designed for particular clientele [inaudible] any fill-in-the-blank type of crime you're trying to deal with, they would not be involved in the criminal justice system. [Inaudible]. We can't -- I don't think we can stop -- [inaudible] court. We'll just have intermediate sanctions, you know, for significant crimes of violence. So, you've got that to think about.

Keep in mind that these are people [inaudible] sentencing philosophy as rehabilitation. And this is the best from a rehabilitation to try for the clientele. You've got three primary areas of limitations [inaudible] -- clientele and the community. And if you don't have all of those in place, you can't have a successful drug court. You're not going to have a drug court at all and not one that's going to last here.

Q You've touched on this in different ways throughout our discussion here -- more of a conversation than an interview, but you know, however it feels to you, we'll go with it. But I'll put it in this question and see if you feel the need to flesh it out or just refer to some of your earlier comments.

Do you believe drug courts and their offshoots -- specialty courts, therapeutic courts, mental health and domestic violence courts are the ones I was specifically thinking of -- will remain as separate programs, or will the drug court model become more embedded in standard court proceedings?

A Well, I don't think that our -- and I don't think there should be really bright lines between methodology for drug courts and specialty courts and regular court processes. I gave the example of the employment situation and regular probation.

You've got folks on regular probation who would never be appropriate for drug court [inaudible] full-time job. They're just -- he embezzled a lot of money because they like to spend money, not because they have a drug problem. You want the restitution to get done. You want them employed. How do I get them to be employed? You use the techniques for [inaudible] people in the direction you want them to go to change their behavior. So, I don't think there should be bright lines there.

But if that's what your question is, I don't think you should say, no, this is a drug court technique. I won't use that.

There's no -- there's nothing bad about plagiarizing good ideas in the criminal justice system. And so to that extent, I think it's a great thing to have this cross pollenization. So, I don't know if that answers your question.

Q No, I think it does. There are -- I'm trying to remember the formal name of the organization. It's like the -- it's not the Center for State Courts, but it's an organization like that that looks at that kind of court policy and procedure nationwide. And they've adopted a platform that says they will do everything possible to promote problem-solving court procedures and practices and philosophy within standard court procedure.

And I've always had a tough time getting a handle on the unique collaboration that goes on in the drug court model and the drug court team and that sharing of information that

goes on between the public defenders and the district attorney's office where they often change roles in the staffing of our [inaudible].

A Right.

Q And seeing that, just how does that actually morph into standard court procedure where there -- you know, like your civil cases or -- I think it's clear, like you say, a murder court program isn't going to exist. You can't embed it into some of the cases. But how can it become standard procedure, I think is the way they sometimes refer to it.

A There's sort of -- there's a couple of things that this brings to mind. One is the collaborative approach that you get used to using in drug court. Another is the habit of being willing to think outside the box, to think of creative solutions to common problems. The collaborative aspect, I don't think is appropriate in all instances. I've heard attorneys say, "Let's all get together and work this out," for all kinds of [inaudible], civil, criminal. You know, let's look at it as a problem solving -- not just problem-solving court but the process. Let's all gain strength from this.

[Inaudible] a few years ago about bringing the victim of a very serious crime of violence and the perpetrator together to try to achieve -- you know, sometimes you just want the bad guy to go away and leave you alone. You shouldn't force people to collaborate in some case. The adversarial process is just great for certain instances.

But I think being open to a collaborative process is important, and I think that in some ways it's not used as much as it could be. People also get in the habits of the adversarial process.

The collaborative side, non-collaborative side, I think, remains more to the traditional adversarial parties -- the defense and prosecution; the plaintiff, the defendant. But you still have the habit of thinking outside the box. Tools I've acquired working with drug court I use almost every day in dealing with parties in civil cases now.

[Inaudible] not just go [inaudible] with this. It may be a discovery issue in a case [inaudible] going to trial. But on a discovery issue, we can either solve this together or under the Rules of Discovery, if I go to a hearing on this motion to compel, whoever loses pays attorney's fees. So, if you-all work it out, and I'm happy to participate in working that out, if you walk away saying, okay, we have a solution, the [inaudible] option is not [inaudible].

So now generally there's an incentive to both of them because they don't know who's going to lose, but they -- a gamble going on. I think I'll win, but it might not be me and it'll be expensive if it's not.

But you have still the positive thing of let's try to achieve something together. That sounds a lot better than let's fight this thing out. If it's got to be fought out, we can do it.

Q And you've learned at least some of that through your work on drug courts?

A Sure.

Q Do you see any benefit or do you see problems with judges within a court -- a large court like your own here at the Second -- being put on a schedule where they have to circulate through the drug court? In other words, they have to be the drug court judge for a quarter, for six months, by way of an actual -- as a judicial education?

A I think exposure to drug court in that fashion would be a good thing. But, you know, I'd be reluctant to take a judge who didn't want to do drug court, didn't feel comfortable doing it, didn't -- you know, for whatever reason, didn't have a connection, and say, "And you must do this."

Q But why do you think they wouldn't want to do drug court? And that very nature that they wouldn't want to because they wouldn't want to participate in [inaudible]?

A Why would somebody not want to wear a beard?

Q Well, I'm clueless there myself, but --

A As we both sit here wearing beards.

Q That's right.

A Everybody has their own approach, their own insights, their own perceptions, their own styles. Some people don't feel comfortable with, you know, the therapeutic justice model; or they feel comfortable, think it's a great idea, but it's just not the right thing for them.

I'm not trying to be too touchie-feelie about it, but [inaudible]. If you have somebody who has an affinity for it, loves doing it and enjoys it, I think it's going to be a better experience for that individual as well as the participants. I mean, I never want to forget about the participants.

If you put somebody in there that has non-interest, has negative [inaudible], like I said, if you don't have collaboration, if you don't have the participants, you don't have the cash, you don't have the community support, it's not going to work.

When it comes to the players in a drug court, if the DA wants to really torpedo this program, they can. If the defense bar wants to torpedo the program, they can. If the judiciary wants to torpedo it, they can, even unconsciously. And so you want to make sure everybody's on board.

I've seen drug courts where the judge just said, "Okay, we're going to have a drug court and this is how it's going to work." It's not a collaborative effort. That's that judge's style.

Q Right.

A And, you know, one drug court I'm aware of that started that way struggled for a while and is doing fine now, but literally had barriers to overcome to get there.

But I think the exposure is terrific. Like I said, a hammer is a great tool. [Inaudible].

I've got a lot from it, but [inaudible] just slow and I couldn't have figured it out without being exposed to drug court and somebody else doesn't need it. I like the idea of exposure and coming to see it.

Q You spoke about burnout. Do you plan to remain involved with drug courts?

A At some point when I retire. You know, so there will be an end at some point.

I've got -- I mean, just timing-wise for me, I'm probably going to be having somebody move in to take my drug court caseload in the foreseeable future. It's probably months away as opposed to weeks or days -- as opposed to years, as well.

Part of my thinking on that is if that happens before I actually retire, it may be a better thing because I'm allowed to help, if necessary.

Q Right.

A But it's like you're in a great relationship with somebody and say, well, how can you ever see this ending? I mean, drug court is a wonderful thing and it's been such a positive experience. But, you know, I also think in terms of maybe being time to move on at some point.

Q Judge Knowles, you've answered all my questions and then some that I had originally come in here thinking to ask. But is there anything else you'd like to say about

your involvement with drug courts, your own or those around the state, that I didn't think to ask?

A Just to reiterate, it really came from the original question. The first piece of advice I'd give somebody who's thinking about doing it is do it. It's a terrific, terrific thing. It's probably the best thing I've done in my life for my world.

You know, if I look back at deathbed, "What have I done to make my world a better place," I don't have kids, I love my dogs, don't think in terms of, okay, I've contributed these dogs and growing dogs to the world. If there's anything that may have improved my world to some extent for me having been here, I would say it's drug court. So that's an okay thing.

Q Very good. Thanks very much for your time.