

FOREWORD

The Hon. Vincent J. Reilly, Jr.

Former Schenectady County Supreme Court Judge

The Albany Law School Government Law Review has requested that I share my personal opinions, reflections and observations concerning the impact of Drug Court on the people who have participated in the Schenectady Drug Court during the nearly three-year period I had the privilege of presiding as Judge. I have also been asked to reflect on the current opioid epidemic gripping the United States and to predict its future course.

To begin, it is necessary to make some observations about addiction. Addiction is generally defined as the abuse of a substance by an individual despite the fact that the use produces negative and deleterious consequences on the user.¹ The negative consequences include loss of health, the alienation of personal relationships, financial loss, and the exercise of poor judgment.² Addictive behavior has plagued mankind for centuries. It was not until the 1950s that it was recognized as a medical disease subject to treatment.³ Prior to that time, it was simply considered a moral character defect solely within a person's ability to correct on their own. Perhaps this thinking was promoted and encouraged by the manifestations of the addict's disease which includes denial in the face of confrontation and unreasonable refusal of help and intervention by others concerned about their welfare. This behavior by the afflicted created a shroud of secrecy which resulted in others being discouraged from speaking out or questioning the addictive behavior. With the recognition of addiction as a treatable disease, the shroud of secrecy is slowly being lifted. Public

¹ See *Drug Abuse and Addiction*, NAT'L INST. ON DRUG ABUSE, <https://www.drugabuse.gov/publications/drugs-brains-behavior-science-addiction/drug-abuse-addiction> (last visited May 10, 2018).

² *Id.*

³ *The History of Addiction Treatment – Part Four*, ALL ABOUT RECOVERY TREATMENT CTR., <https://www.allaboutrecoveryinc.com/history-addiction-treatment-part-4> (last visited May 10, 2018).

attention is just now being focused on addiction, much like a cancer addiction is an indiscriminate disease.⁴ It can affect all cross sections of society; rich or poor, educated or uneducated, all ethnicities and racial groups, and both males and females.

Drug Courts have proven to be an effective means of treatment. As originally conceived, the courts were a judicial response to the addiction to alcohol and the negative consequences of violating society's criminal laws. As more and more addictive substances became available, the courts quickly expanded their scope to include all illegal drug use. Like many diseases, effective treatment begins with an acceptance and acknowledgment by the patient that they are suffering from the disease.⁵ This is particularly difficult for the active addict because of the symptom of denial. The addict must also be willing to effect meaningful change in his/her life. The potential penalties from criminal prosecution and the opportunity for treatment help overcome both of these obstacles.

The individuals who appeared before me were nearly all initially solely motivated by a desire to avoid incarceration. Some were also genuinely motivated by the opportunity of treatment because they were tired of the lifestyle they had been living and wanted something better. Most of them were distrustful of authority figures such as myself. The challenge for the Drug Court Team was to overcome their lack of trust and skepticism, to engage them in treatment, expose them to skills that would allow them to deal with life on life's terms rather than their own, and provide them with support and hope of recovery. Fundamental to all these objectives was a requirement of total honesty with themselves and others. The Court's role included rewarding the participants for good behavior and justly punishing them for bad behavior.

The impact of Drug Court is best measured by the comments of its graduates. The comments come after they have been sentenced and are therefore considered genuine expressions, for they no longer have anything to either gain or lose. The expressions of gratitude are for the efforts of the Drug Court Team, the treatment

⁴ See Tamara Keith, *Presidential Candidates Confront Obstacles to Opioid Addiction*, NPR (May 11, 2016, 4:27 PM), <https://www.npr.org/2016/05/11/477693468/presidential-candidates-confront-obstacles-to-opioid-addiction-treatment> (interview between Tamara Keith and Ari Shapiro).

⁵ *The 5 Stages of Addiction Recovery*, CRC HEALTH, <https://www.crchealth.com/find-a-treatment-center/washington-treatment-information/5-stages-addiction-recovery/> (last visited May 11, 2018).

teams, their fellow participants, and their families, all of whom have supported their journey to a sober life. Many express pride and a new sense of self-esteem. The hopelessness, distrust, and despair, so evident at the commencement of their experience, has been replaced with hope, confidence, trust, and a renewed energy to improve themselves. Regrettably, not all participants graduate and some end up in prison.

The Capital Region has not been spared by the opioid epidemic. Drug Court participants have overdosed and unfortunately, some have died. The drugs of choice consist of cocaine, heroin, and legally and illegally manufactured opioids. I am hopeful that with the recognition of addiction as a treatable disease, the increased awareness that addiction is not a moral character flaw, but rather a treatable disease, and the tragic loss of life being brought about by the current misuse of opioids, that much like what transpired with cigarettes will occur with the opioid epidemic. Increased interdiction of the supply by law enforcement, coupled with education as to the dangers of use, increased treatment opportunities, and the renewed willingness to reach out and say something to someone who is struggling are essential. Doing nothing is not an option!