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# Federal PROBATION

*a journal of correctional  
philosophy and practice*

Driving Evidence-Based Supervision to the Next Level: Utilizing PCRA, "Drivers," and Effective Supervision Techniques

*By Melissa Alexander, Bradley Whitley, Christopher Bersch*

A Descriptive Analysis of Pretrial Services at the Single-Jurisdictional Level

*By Keith Coopridger*

Technical Revocations of Probation in One Jurisdiction: Uncovering the Hidden Realities

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Getting to the Heart of the Matter: How Probation Officers Make Decisions

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The Federal Probation System: The Struggle to Achieve It and Its First 25 Years

*By Victor H. Evjen*

Juvenile Focus

*By Alvin W. Cohn*

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The articles and reviews that appear in *Federal Probation* express the points of view of the persons who wrote them and not necessarily the points of view of the agencies and organizations with which these persons are affiliated. Moreover, *Federal Probation’s* publication of the articles and reviews is not to be taken as an endorsement of the material by the editors, the Administrative Office of the U.S. Courts, or the Federal Probation and Pretrial Services System.

# Driving Evidence-Based Supervision to the Next Level: Utilizing PCRA, “Drivers,” and Effective Supervision Techniques

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**THE IDEA OF** evidence-based supervision has been a part of the correctional landscape for years, but only in the past decade has the idea of evidence-based practice taken hold in the United States federal probation system. This development began with the movement towards a sophisticated risk assessment tool that provides information on dynamic risk factors and assists in case planning. VanBenschoten (2008) laid out the possibilities of such a tool, and that goal became a reality with the development of the Post Conviction Risk Assessment (PCRA; Johnson, Lowenkamp, VanBenschoten, & Robinson, 2011), which was made available to federal probation offices beginning in 2010. Since the publication of the PCRA, federal districts around the country have focused on training officers on its use. Over the past four years supervision officers within the federal system have received training on the basic tenets of risk assessment, the reliability/validity of the PCRA, the dynamic risk factors included in the PCRA, and scoring of the tool. The PCRA is now being completed on 95 percent of the more than 121,000 active supervision cases nationwide (DSS, June 2014). Now that it has reached this level of adoption, it is time to take the PCRA to the next level: to ensure use of the PCRA in daily supervision tasks, through a more sophisticated analysis of the dynamic risk factors, including how the factors may be most effectively addressed during supervision and how supervisors can support the development of evidence-based supervision.

In this article we will outline what we see as the untapped potential of the PCRA as a basis for effective supervision, including

what we have termed the potential “drivers” of the risk factors captured by the PCRA, as well as examples of interventions officers may consider using to effectively address the drivers. Finally, we discuss ways supervisors can encourage officers in the use of risk assessment in their daily supervision tasks.

## **PCRA: The Beginning**

The PCRA was developed from a data set that included information on roughly 100,000 offenders in the federal system. Based on existing research, items were developed that were classified into five major categories: criminal history, education and employment, substance abuse, social networks, and attitudes. The tool contains items rated by the officer, as well as an 80-item self-report questionnaire that assesses criminal thinking, based on the Psychology Inventory of Criminal Thinking Styles (PICTS, Walters, 2002). Scoring results in offenders being placed in one of four risk categories: High, Moderate, Low/Moderate, and Low. Additionally, the top three dynamic risk factors are noted. Research to date on the tool indicates that it is a reliable and valid assessment of risk (Johnson et al., 2011; Lowenkamp, Johnson, Holsinger, VanBenschoten, & Robinson, 2013).

## **Implementation of “True” Risk Assessment**

Although many probation departments, both state and federal, have claimed to use risk assessments in supervision for decades, in most cases the reality is that they administer risk assessments but fail to use them to adjust supervision commensurate with risk. Rather, officers continue to see offenders at

the same rate (typically monthly) despite differing risk levels, and generally concentrate on monitoring compliance with conditions of supervision, rather than on targeted, proactive efforts to reduce risk. Given this history, during the implementation of PCRA our district made a focused effort to stair-step officers into risk-based supervision. The first step involved ensuring that officers truly understood the PCRA. Officers were trained not only to correctly score the PCRA, but also to understand the rationale behind why specific items were included in the tool. The PCRA manual does an excellent job of noting for each item the research that supports its use, but our experience was that few officers actually read those sections of the manual. Thus, a concerted effort was made to ensure that officers understood the rationale of the individual items included on the PCRA.

Following initial training, we developed a specific implementation plan, with a focus on the quality of the administration and scoring of the PCRA. While we wanted to take the PCRA to scale, developing expertise in scoring the PCRA was viewed as more important than rushing to complete PCRAs on all offenders under our supervision. To attain this goal of expertise in scoring, officers were instructed to complete a minimum of three PCRAs on moderate- to high-risk cases over six weeks, and supervisors reviewed those cases for accuracy and understanding. Any scoring errors were noted, and commonly seen errors were addressed during a booster session held after the six-week period. For the next three months, officers completed a minimum of one PCRA per week, and officers were placed into a “peer review” rotation

where they reviewed each other's cases for PCRA accuracy. Anecdotal conversations with officers indicate that this peer review process resulted in significant knowledge gains about the PCRA, as officers had to explain to one another why a PCRA was scored a certain way.

Incremental additions were made to the requirements for PCRA completion, with realistic targets for both accuracy and completion (i.e., no more than 1 point difference in PCRA scoring for 85 percent of cases scored, 50 percent of cases having a completed PCRA within nine months of initial training). Once the majority of cases had PCRA completed, the focus shifted to ensuring that officers actually used the information. Officers were instructed on ways to provide feedback on the PCRA to offenders, and were encouraged to have collaborative conversations with offenders about the risk factors and what they might mean. Admittedly, this was extremely challenging for many officers. Many did not feel comfortable telling an offender they were "high risk" (though they aren't required to use that terminology) and worried that they would not be able to adequately explain the dynamic risk factors. Although some officers continue to struggle with providing this feedback to offenders, many have developed a "script" for explaining the PCRA.

For example, one officer tells the offender:

What the risk assessment does for us is provides us with a road map for your success. It shows us different areas of your life that may hinder your success. If we start addressing and eliminating these risk factors, we can reduce your risk, which statistically speaking gives you a better chance of success and reaching your goals.

The officer then discusses each risk factor that was elevated on the PCRA, including a discussion of the "drivers" (discussed in greater detail below). The officer specifically asks the offender to come up with ways to address each factor, in order to develop a sense of ownership, and also encourages putting a plan in place, including a timeline, to start addressing each risk factor.

## The Complexity of Dynamic Risk Factors

Once PCRA implementation was complete—that is, almost all cases had a PCRA score—a shift was made to more fully understanding the dynamic risk factors. Although two offenders may have the same PCRA risk level and the same top three risk factors, the presentation of those factors can be very different. What

"drives" the risk factor? We made a concerted effort to move beyond simply noting which PCRA items were scored, and instead took a holistic view of each dynamic risk factor. A list of potential drivers for each factor was developed, though officers are encouraged to include any additional ones that may pertain to a particular case. The major drivers for each dynamic risk factor are outlined below.

## Cognitions

Cognitions refers to an individual's thinking and thinking patterns. There are two main drivers identified for cognitions:

1. The inability to monitor thinking. Many offenders simply react impulsively and are unaware of any thoughts they have prior to behaving. These individuals may say things like "I wasn't thinking, I just reacted." In reality, they did have internal thoughts prior to the behavior, but simply have not slowed down enough to pay attention to them. Alternatively, offenders may be aware of their thoughts ("I thought he disrespected me so I punched him") but lack the skills necessary to analyze those thoughts and replace antisocial thinking with more prosocial thoughts.
2. Antisocial thinking. In addition, or alternatively, the offender may exhibit minor to severe antisocial thinking. The PCRA uses both officer observation and offender self-report to identify potential antisocial thinking. The offender self-report breaks down antisocial thinking into several facets:
  - a. Proactive vs. Reactive. Is the thinking purposeful and goal-directed (i.e., "I deal drugs because I can make a lot of money"), or an impulsive reaction to a situation ("I assaulted him because he disrespected me")?
  - b. Specific criminal thinking style. The self-report identifies eight potential thinking styles, and an offender may have any combination of them. Each is briefly described below:
    - i. Mollification: Blaming Others, Making Excuses; "Everyone in my neighborhood sold drugs."
    - ii. Cutoff: Ignoring responsible actions; "F\$@% it."
    - iii. Entitlement: I should get what I want, feeling above the law; identifies wants as needs; "I've done my time and the system owes me."

- iv. Power orientation: Asserting power over others, attempt to control people and environment; "If I let someone control me, I'm a nobody."
- v. Sentimentality: Self-serving acts of kindness that negate antisocial behavior; "I help out all the old people on my street."
- vi. Superoptimism: Getting away with anything; "My officer will let me get away with one positive UA, plus I know when I'm going to get tested."
- vii. Cognitive Indolence: Lazy thinking; "I can't work in fast food. I can get more money hustling with my boys."
- viii. Discontinuity: Getting sidetracked; "I was clean for a week. I can celebrate with my friends tonight."

## Social Networks

The social networks category impacts a significant number of our offenders, yet officers rarely address it. When they do address social networks, they most often do so in the form of a directive, such as "You aren't allowed to hang out with convicted felons." An analysis of the drivers for this risk factor is particularly important because the items on the PCRA for this factor are limited. In fact, one of the most common reasons this factor is elevated is because the individual is single, so officers often jokingly ask, "So am I supposed to find them a girlfriend?" Officers have learned to view this item in a more complex way: that marriage is typically a prosocial relationship which provides support in decision-making, support of feelings, and assistance with responsibilities; models prosocial behaviors; keeps us in check; gives us feedback and advice; and occupies a majority of our free time. Without that type of relationship, an offender has an abundance of time that may not be occupied. Thus, we try to bring awareness of an offender's free time and how that time needs to be occupied with prosocial people, relationships, and/or activities. A thorough analysis of the social arena can reveal several additional potential areas for intervention:

1. Antisocial Attitudes: One potential reason for antisocial networks may actually be the offender's antisocial thinking. The offender may think "it's no fun being straight" and thus actively seek out antisocial peers.

2. Antisocial peers and/or family: The offender may only be exposed to antisocial peers, i.e., "Everyone I know is on probation."
3. Lack of contact with prosocial people/environments: Similar to item #2 above, the offender may not have contact with any prosocial peers, nor be aware of places or resources from which they may find and develop prosocial relationships.
4. Interpersonal Skills Deficit: An offender may lack the social skills necessary to attract prosocial peers. In thinking about this driver, one may ask: "Would I want to be friends with him?" Similarly, the offender may have poor conflict-resolution skills, get angry easily, and get into verbal/physical altercations. These characteristics and lack of skills will make him unattractive to prosocial peers.
2. Vocational skill deficit: Offenders may have a high school diploma or GED, but no other vocational skills. Or, they may have some level of trade skills, but not the necessary certifications to obtain employment.
3. Interpersonal Skills Deficit: An offender may have interpersonal skill deficits that interfere with being a good employee, and/or result in problems on the job. For example, he or she may have a sense of entitlement (e.g., "my boss can't tell me what to do") or poor conflict-resolution skills that lead to verbal altercations with coworkers, customers, etc.
4. Distorted/antisocial attitudes towards employment: The offender may feel that minimum-wage positions are "beneath" him or her, or feel that making money dealing drugs is better than working 40 hours a week, or have a host of other attitudes that impede employment.
5. Substance abuse: Offenders with active, untreated substance abuse problems will be unable to sustain educational programs or employment.
6. Medical/Mental Health: An offender may have medical conditions that prevent him or her from completing essential job tasks, depression that results in calling in sick frequently (leading to loss of a job), or other medical/mental health conditions that will be problematic if not addressed.
7. Logistical barriers: There may be legitimate barriers such as transportation and child-care that need to be addressed.

## Substance Abuse

Similar to the social networks risk factor, substance abuse may be the result of one or a combination of drivers. The most common ones include:

1. Antisocial Attitudes: The offender harbors antisocial thinking such as "drugs should be legal" or "the government can't tell me what to do with my free time."
2. Poor Coping Skills: Some offenders may use substances in order to deal with their daily lives, e.g., "I need to have a few drinks after a stressful day at work," to deal with physical pain, or to deal with other issues for which they have no effective coping mechanisms.
3. Social Networks: Use may be related to whom the offender is spending time with (for example, "all my family drinks") or offenders may feel pressure from peers to use when they are together.
4. Mental Health: Some offenders may use substances to deal with various mental health conditions, such as depression.
5. Physical Addiction: Some offenders may be physically addicted to a substance, such as heroin, where individuals use the substance to avoid withdrawal symptoms.

## Education/Employment

This risk factor includes both educational and employment issues. To date, we have identified seven potential drivers:

1. Educational deficit: Many offenders have limited employment opportunities because they have less than a GED or only a GED and no additional training.

required as a condition of employment). He also has a felony voluntary manslaughter charge from age 16 on his criminal record. He has poor coping skills (regarding the stress of having 6 children and one on the way) and has peers that use, in addition to a potential addiction to marijuana. Case #2 also has elevated criminal thinking styles of Super Optimism, Entitlement, and Cutoff.

The drivers in these cases will impact the supervision strategies in a multitude of ways, from how often contact is made to what issues are addressed first to what interventions/strategies may be used. For example, in the first case the focus might begin on building motivation for education so he may obtain employment, while in the second case antisocial attitudes would need to be addressed first, since they impact his attitudes towards work and possibly his ability to relate to a boss and/or coworkers.

Discovering which driver(s) may impact an individual offender is a collaborative effort between the officer and the offender. Too often, officers have been the "expert" in what an offender should do, when in reality the offender should be an integral part of the risk-reduction strategy. One officer noted that this collaboration begins when PCRA feedback is given to the offender. After providing a brief explanation of the risk assessment process, the officer asks the offender what he thinks about the information provided, especially the idea that he can actively change his chance of success on supervision. Another officer reported making a concerted effort to discuss social networks, probing for ideas about the benefits of prosocial peers (avoiding negative influence, maintaining sobriety, job leads), asking the offender to think about ways to build a network of prosocial peers, and talking about hobbies, community activities, church, and any other activities that may help structure free time.

## Target Interventions Based on Risk Factors/Drivers

The analysis of risk factors/drivers should in turn drive the specific intervention strategies used during supervision. These may include a variety of what have traditionally been called "controlling" and "correctional" strategies. For instance, consider an offender with a long criminal history of dealing drugs. The PCRA risk level is high, with cognitions, social networks, and education/employment as the risk factors. The driver analysis indicates significant antisocial thinking, an abundance of

An example of how drivers may impact cases differentially may be helpful. Consider these two (actual) cases, both moderate risk according to the PCRA, and both having risk factors of social networks, education/employment, and substance abuse. In case #1, the social network scoring item is that the offender is single, but he also reports that he has no prosocial peers and lots of antisocial peers. He lacks a high school diploma or GED and is unmotivated to improve his education. He also lacks any work history. He has poor coping skills, leading to alcohol/drug use, and also has several peers that use. In contrast, case #2 is also single, but has several female partners (with six children and one on the way) and no prosocial support. He has an associate's degree but lacks significant work history. He has previously been fired for play-fighting at work, suggesting potential antisocial attitudes and/or poor interpersonal skills, and also regularly uses marijuana (so would be unable to pass a drug test, often

antisocial peers, no work history, and antisocial attitudes about work ("I'm not working a regular job, I make too much money dealing"). The officer's strategies would likely include a significant amount of monitoring/surveillance such as unannounced field visits at non-traditional hours, and potentially even a search if the offender has a special condition and it is warranted (i.e., officer suspects continued dealing). Additionally, the officer may start using various STARR (Staff Training Aimed at Reducing Rearrest; Robinson, Lowenkamp, VanBenschoten, Alexander, Holsinger, & Oleson, 2012) techniques, such as teaching/applying the cognitive model, in order to try to break down some of the antisocial thinking.

An officer recently presented another example of a case that, for him, helped underscore the change from the "old" way of supervision to the risk-based, evidence-based way. The offender is in his 20s, a gang member, chronic marijuana user, unemployed with very little job history, and has antisocial thinking patterns. Not surprising to the officer, this offender scored relatively high on the PCRA (moderate, only because he did not have a significant prior criminal history), with dynamic risk factors of cognitions, social networks, and alcohol/drugs. The officer stated:

These results were not surprising by any means; however, the risk factor that I would have normally overlooked in my "old" way of supervision, cognitions, was identified as the top risk factor. I normally would have pressed the issue of employment, not realizing that if the other risk factors were not addressed, he would never be able maintain employment, let alone find it. I could have also easily jumped into addressing whom he associates with or his marijuana problem, but through what I have learned through the implementation of the PCRA and STARR, if I can assist the offender in addressing the way he thinks and recognize some of his destructive thought patterns, it will be much easier for me to work with him in addressing the other risk factors. The PCRA results also prompted me to dig deeper into what was driving these risk factors, and with this particular offender, I did not have to dig very far. He was very blunt on how he lived his life leading up to his instant offense. Though he had a supportive family, he often spent time with his fellow gang members or those involved in criminal activities. This led to him developing a "street mentality" of how society works. He

had the view that it was okay to commit crime at someone else's expense as long as it benefitted him or his friends, that fighting was the way to solve problems, and that marijuana use was not illegal but more of a way to "chill with my people." These conversations helped me with my supervision strategy for this offender, in that my primary focus would be on the drivers of his cognitions and social networks issues, as these were essentially the drivers of his marijuana use.

Given this history, the officer focused on using location monitoring to limit associations with negative peers, while simultaneously teaching the cognitive model (a STARR technique), which helped the offender become more aware of his own criminal thinking as well as the negative influence of his friends. The location monitoring also forced him to spend more time with prosocial influences, his family. The officer reported that he also used STARR techniques of effective reinforcement and disapproval to further influence prosocial behaviors and decrease antisocial ones. Finally, the officer reported learning more about the offender's ethnic culture and the high respect he had for his family, specifically his mother, and thus was able to get his mother involved in some of the strategies. The officer helped the mother understand her son's risk factors so she could assist, such as keeping him busy at home, or how to talk to him in a way where he would be more receptive to her feedback, based on his thinking patterns. The officer readily admits that he initially thought there was "no way" this offender would make it through supervision. However, as a result of the officer using the information gleaned from the risk assessment, along with new intervention strategies such as STARR, the offender has now completed half of his five-year term. The officer has noted a significant change in the offender's attitude and thinking, particularly his view of his responsibilities as an adult. His priorities have now shifted from reputation, pride, and money to family, job, and future outside the criminal lifestyle. The offender has a stronger relationship with his mother, a better understanding of who his prosocial peers are, and comprehends the negative effects of marijuana use. He has discovered the importance of employment, which included working at McDonald's, a humbling experience that he would have never allowed himself at the beginning of supervision. His last two PCRA assessments have yielded a Low/Moderate risk level, with

a continued risk factor being social networks. The supervision strategy for this risk factor has changed from the offender having to avoid his negative peers, to now addressing the driver of a need for more prosocial people in his life outside his family.

## Management Coaching: The Critical Link

As with any change initiative, it is imperative that officers are actively supported when trying to change their supervision strategies. Our front-line supervisors have been critical in this support role. First and foremost, supervisors have focused on education and training in the PCRA, the dynamic risk factors, and the drivers, with a focus on how the risk level and risk factors should drive supervision contacts, conversations, and activities.

The first step in this process is simply encouraging officers to begin talking about risk and risk factors in their contacts. In one office, the supervisor has piloted several specific strategies to provide encouragement and coaching. Perhaps one of the most powerful tools implemented was in fact a very simple one: Officers were instructed to include the PCRA risk level and top three risk factors in every chronological narrative (chrono) of a contact with an offender. Requiring officers to do so forced them to at least think about the factors at each contact, even if they didn't address every one. An example noting a traditional chronological narrative versus a risk-based one showcases the difference this change can make:

**Traditional chrono:** Offender reported to the office, reports no changes. He advises that he has mailed his monthly supervision report. He was confronted about his alcohol use. Offender did admit that he has consumed beer in the last several weeks; however, indicated no other alcohol use. He was issued a verbal reprimand. Indicated I did not like him using any form of alcohol and that it has caused problems for him in the past. He indicated that he understood, but had things in check. Offender submitted to a handheld UA, result was negative.

**Risk-based chrono:** Risk category of Moderate. *Risk Factor Social Networks:* Driver of this factor appears to be multifaceted. Offender has a large portion of free time outside of work that is unoccupied by any prosocial activities. Offender remains by himself at his apartment. Offender also has very few prosocial contacts. Offender

admits that hanging around antisocial peers drove him to many of his arrests and “definitely” led to him using and abusing alcohol and illegal substances. Offender has family in the area, but has not made contact with them since his arrest for the instant offense over 10 years prior. Offender reports his only prosocial contacts are his former case manager at the reentry center and his supervisor at Goodwill. Offender is currently single and has had no past relationships. Offender understands he needs to begin establishing some prosocial activities outside of work and is looking to possibly volunteer or locate a second job. Offender did express some interest in reestablishing contact with his sisters, whom he reports are a good influence. Offender states he is fine being a loner and wants to focus on bettering himself right now, rather than being involved with other people. Officer to counsel offender on this aspect of his life and encourage offender to begin seeking out other relationships and activities that can occupy his time. *Risk Factor Alcohol/Drugs:* Driver of this factor is offender’s very long history of drug and alcohol abuse. Offender admits that his drug use negatively impacted many parts of his life and states his use primarily came from involvement with drug abusing peers, unemployment, and boredom. Offender states he is highly motivated to never engage in drug or alcohol use again and states his last use of any substance was 10 years prior (while in custody of the Bureau of Prisons). Offender states he understands his triggers as stated above and states he will work towards removing these triggers. Officer to continue these discussions in the future to monitor his progress and if he has encountered any risky situations. Officer will continue random UAs in the office and community. Officer will encourage offender to seek out AA/NA or other support networks and will refer offender for treatment upon any positive UA. Handheld UA obtained this date with negative results.

As officers begin to look more closely at risk factors and drivers, they may feel at a loss as to “what to do” regarding certain issues. To address this, we have developed multiple resources to assist them in identifying appropriate interventions. One example of such a resource, which lists various options for interventions/activities through the case plan and case plan review, is included in the appendix. Supervisors also support officers’

selection of interventions/activities through the case plan and case plan review. Again, a comparison of traditional case plans and a risk-based case plan may be helpful. Since the current automated case plan in the federal case management system (PACTS) is not particularly conducive to risk-based supervision, officers have begun using the supervision focus section of the case plan to note risk-based supervision strategies.

***Traditional supervision plan focus:***

Monitor for mental health and substance abuse issues that may arise. Maintain contact with employer and fiancé for collateral reports.

***Risk-based supervision plan focus:*** PCRA

Risk Score Low/Moderate. Risk Factors = Cognitions, Social Networks, Education/Employment. Elevated Thinking Styles = Entitlement, Mollification, Superoptimism. Cognitions: Will introduce the cognitive model and ask offender to apply to at least three situations over next two months. Officer will also work with offender on decision making, using the cognitive model, as well as using STARR techniques to reinforce positive behaviors and address negative ones. Social Networks: The driver of this risk factor appears to be “single” status, indicating free time and also suspected occasional association with negative peers. Will encourage offender to cut all ties with old negative peers. Will brainstorm potential prosocial options including spending time with his children and church activities with family members. Offender is currently employed, which occupies a lot of free time, is a prosocial activity, and keeps him exposed to prosocial peers. Education/Employment: Offender dropped out of high school in the 10th grade and earned his GED in 2005. Will encourage offender to further his education by attending college or obtaining a vocational certification.

Supervisors also provide feedback during both the initial case plan review and subsequent reviews in order to further encourage risk-based supervision. Often this will be communicated in an email notifying the officer that the initial case plan has been approved. The supervisors try to lead with positive reinforcement for items noted, and then follow with suggested additions. An example email is noted below:

Initial case plan approved. PCRA Moderate with risk factors of Social Networks (single/engaged, free time, history of negative peer

association, antisocial beliefs). Supervisor notes the excellent conversation and role play with offender about free time and negative peer avoidance plan. Awesome job!! Keep these conversations alive. Supervisor encourages officer to challenge offender to name/identify prosocial peers/relationships over next 90-120 days, and to effectively reinforce (via STARR skill) prosocial activities/people that occupy his free time. Concerning Risk factor of Alcohol/Drugs, officer has identified why risk factor scoring on the PCRA (due to history of use). Supervisor encourages conversation with offender to target why the use started and what sustained it over the years (negative peers, boredom, antisocial thoughts/beliefs? coping issues re: stress/death of family members?). Need to know what triggered his use and fueled it so we can monitor for situations that may lead to relapse. In terms of Education/Employment risk factor, what is the driver? Educational/vocational deficit, unemployed, job readiness/resume? Good referral to NC Project Re-Entry for readiness assessment/assistance. Continue to monitor and assess for progress and effort.

Through regular feedback on chronos and case plans, supervisors are able to immediately reinforce risk-based interventions, while also providing coaching and feedback. As officers reach each milestone (e.g., first regularly talking about risk), the supervisor moves to focus on even more sophisticated risk-based supervision, including coaching on deeper assessments of what is driving the risk, more collaborative conversations with offenders about risk factors, preventative plans that focus on addressing the risk factors long-term, use of STARR skills to address risk factors, and assessment/documentation of the offender’s understanding of the drivers and ability to link them to past and current behaviors. As officers become better in these areas, the focus moves to consistency in use of risk-based supervision.

The final way in which supervisors coach officers is through the performance evaluation process. Several items in the performance evaluation specifically address the use of risk assessment and risk-based interventions. Supervisors use the tool to provide a summary of the feedback/coaching provided to date and to collaboratively develop future goals with the officer. One example of this targeted growth focus is included below:



Targeted Performance Growth Suggestions: (1) 100 percent breakdown of Risk Factors and their Driver(s)/Root Cause(s). Clear conversation and narrative of that breakdown discussion with the offender much like a physician would discuss with a patient. Clear conversation and narrative of the offender's understanding, acceptance/buy-in, and joint discussion/ideas of how to address or maintain. (2) Maximize the opportunities for STARR Skill Use! Now that you are clearly identifying the risk factors, their drivers, and setting goals/activities to address them, the opportunities to effectively reinforce, disapprove, teach the cognitive model, clarify your role, and problem solve are endless! Let's set a goal to double STARR efforts to approximately 50 percent over the next review period. (3) Consistently tie and document how your efforts, referrals, conversations, and activities are directed at and related to the risk factors/drivers.

### **Risk-based Supervision: The Payoff**

Ultimately, the goal of this type of supervision is more effective supervision that results not only in fewer violations/revocations during supervision, but also in a long-term change in offender behavior. While we are actively collecting data to track the impact of these changes on outcomes, we have seen this goal come to fruition anecdotally in a number of cases, perhaps most poignantly during a phone conversation with an offender who was terminating supervision. During the conversation he was asked specifically about supervision, and whether it seemed "different" than previous ones (he had been on state supervision multiple times, as well as a previous federal term for which he was revoked). He indicated that the supervision this time was quite different from what he had experienced previously, and in particular noted the importance of learning the cognitive model (one of the STARR techniques used with him), which he reported using to help him make decisions in high-risk situations. Here is an excerpt from his comments:

It (supervision) has helped me a whole lot because not only, you know supervising somebody on probation yeah that's their job but by them actually wanting to know how I'm feeling, as far as different

situations, let's me know that ok they're not just doing their job, they showing that they care, they showing that they want to see me to do better, so it has helped me to think differently, and react to a lot of different things in more positive ways, as far as a lot of the questions, and I think it's called cognitive thinking....that is very helpful because it helps you look at the ins and outs before you react to something.

For one I was always the type of person to where I would do something and think about, you know, the consequences of it later....let's say someone makes me mad and I want to punch this person in the face, well as soon as I feel that I want to punch this person in the face I go on and punch him in the face, that's how I used to do, versus now the thought comes up I want to punch him in the face but then I stop and think ok now if I punch this person in the face it can lead to us fightin', police comin', or him shootin' me or us shootin' at each other and what am I gonna get from all this a charge, locked up, hurt, possibly dead, so then I just sit and think ok now if I don't hit him in the face and I just go on about my business then, I'll be ok ain't gotta worry about the police, I ain't gotta worry about gettin' shot, ain't gotta worry about him trying to come back later on with a few of his friends, so basically I go with the positive side, so it actually help me to stop, think, then react.

In addition to helping offenders long-term, the risk-based supervision strategies have proven to be invaluable to officers. When we began implementing evidence-based practices, one officer stated, "I'm willing to try anything, I'm tired of writing 12Cs (violation reports)!" Anecdotally, officers and supervisors have noted a significant drop in violation reports to the court, as officers now have a wider range of interventions that may be used, and have noticed that these interventions are making a difference. Officers have also noted an increase in job satisfaction secondary to this approach, both in terms of managing cases and in terms of their own attitudes towards their work. One officer noted how rewarding it was to be able to "move" a case from a PCRA High to a PCRA Moderate or Low/Moderate. He noted that you actually "see" the success visually in the changes of the scores, as well as having reduced requirements (such as fewer

contacts) for a case. Another noted, "Although I always believed I tried to the best of my ability to supervise offenders and support their positive changes, I never felt terribly effective." She admitted that when evidence-based practices was introduced she was skeptical, stating, "Risk-based supervision was introduced as I was nearing my 20-year anniversary. It was difficult to believe that anyone could suggest a new way of supervising offenders that could really impact the work I did with my clients and their success rate." However, she now notes that she is having "conversations that we never had before." Instead of being the "expert" and telling offenders what they should and shouldn't do, she partners with them to openly discuss pitfalls and barriers and make plans together to address those issues. She summed up the change it has made for her personally by saying

I always knew that being a probation officer was my calling, but I had no idea the level of job satisfaction would be so incredible by using risk-based supervision and interventions. I feel a connection with my clients, one that offers guidance, support and encouragement, while also maintaining the much-needed level of accountability.

### **It's a Marathon, Not a Sprint**

The road to evidence-based supervision has been, and will continue to be, a work in progress. Officers are learning to be more sophisticated in their analyses of risk and developing more and better interventions to try. Management is learning ways to coach officers in their development, ways to reward the use of risk-based supervision, and ways to measure our efforts so we can make changes as needed. The financial crisis of the past few years has only underscored for us the importance of developing the most effective and efficient ways of supervising clients. Our revocation rate has dropped over 30 percent over the past four years, and time will tell if our efforts pay off in the long-term, in terms of reduced rearrest rates for our offenders both during and following supervision. Ultimately, we hold ourselves to the fundamental principle of evidence-based practice: Keep learning, keep trying, and keep developing into the best we can be. Society deserves no less from us.

## Appendix 1. PREVENTATIVE SUPERVISION MEASURES TO ADDRESS RISK FACTORS

### SOCIAL NETWORKS

- Communicate & explain why this is a risk factor.
- Assess & discuss current associations & relationships. Is there prosocial support? Family support?
- Monitor associations through observations, offender discussions, & 3rd-party contacts (family, significant others, employer).
- Assess/discuss their amount of free time and if there is wise use of their free time.
- Discuss, identify, & encourage any identified prosocial interest. Is there a referral that can be made secondary to their interests?
- Model & commend prosocial activities & associations.
- Identify & hold accountable for negative associations & activities.
- Consider a well-thought-out/meaningful community service placement to introduce offender to prosocial models, relationships, and activities.
- Have offender identify their prosocial relationships & activities. Help them create "their plan or goal" to address this risk factor.
- Continuously assess their motivation to change/address this risk factor.

### ALCOHOL/DRUGS (Begin addressing before use/violations occur)

- Communicate & explain why this is a risk factor.
- Identify current/active use vs. history of use.
- Assess cause of the offender's use (antisocial attitude, poor coping skills, social networks, mental health, physical addiction).
- Discuss & monitor the offender's identified relapse triggers.
- Refer for treatment & monitor attendance/participation.
- Encourage/Partner with treatment provider to address identified risk factors.

- Discuss & review what is learned & discussed in treatment with the offender.
- Consider sit-in at treatment session(s) with higher-risk offenders.
- Random/Scheduled testing (urinalysis, sweat patch, breath).
- Monitor for use through 3rd-party contacts (family, employer, significant others).
- Acknowledge milestones and accomplishments.
- Acknowledge & address warning signs/red flags.
- Continuously assess their motivation to change/address this risk factor.

### EDUCATION/EMPLOYMENT

- Communicate & explain how this is a risk factor.
- Review & discuss work history for pattern of behavior that negatively impacted previous jobs.
- Assess education/employment interest.
- Identify & discuss obstacles (transportation, resume, interview skills, appearance, communication skills, authority issues, team issues, timeliness, effort, work ethic, etc.).
- Develop plan to address (referrals, Second Chance Act Funds, soft skills, job search).
- List/Discuss benefits of employment vs. cons of supporting self through crime.
- Set goals & commend accomplishments.
- Assess stability of employment when secured (free time, income vs. expenses).
- Continuously assess their motivation to change/address this risk factor.

### COGNITION

- Identify antisocial attitude/thinking styles through PCRA/Comments/Actions.
- Assess attitude toward supervision.
- Practice/Use cognitive behavior model & worksheets.
- Reward prosocial thoughts, comments, & behaviors.
- Refer for Cognitive Behavior Therapy (CBT) & share PCRA results with provider.

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# A Descriptive Analysis of Pretrial Services at the Single-Jurisdictional Level<sup>1</sup>

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**THIS STUDY DESCRIBES** various patterns of change over time in the Pretrial Services Program in Lake County, Illinois, from 1986 through 2012. The overall objective of the study is to demonstrate the utility and value of “in-house” research at the local, single-jurisdictional level—in this case using a county-based program as the object of analysis. Although the study is limited in scope, I hope it captures some of the research “responsibilities and potential” at the single-jurisdictional level of pretrial services programming (see Mahoney et al., 2001). Moreover, with legal and evidence-based practices emerging as a conceptual and practical framework in which pretrial services programs can more effectively and efficiently use their resources and align themselves with the precepts of “pretrial justice” (see VanNostrand, 2007; VanNostrand, Rose, & Weibrecht, 2010), it seems essential that local programs evaluate and assess their own practices in an objective, research-driven manner as opposed to relying upon opinion and speculation.<sup>2</sup> In this study,

I hope to illustrate that with just a handful of variables, ongoing data collection, and a fairly simple descriptive and comparative method of analysis, pretrial services practitioners can provide factual knowledge of the services they provide to the judiciary and the outcome of these pretrial processes.

Lake County is located just north of Chicago (Cook County); it is considered one of the suburban, “collar” counties that wrap around the city of Chicago and Cook County, with the population of the latter topping five million. As of 2010, the population of Lake County was just over 700,000 persons, with a racial/ethnic mix of 64 percent white, 7 percent African American or black, 20 percent Hispanic or Latino, and 7 percent Asian. Lake County is an area of contrasts: There are, for example, the affluent, racially-homogenous communities of the “North Shore” and the economically and racially-mixed county seat, Waukegan, an old post-industrial town now dominated by a service economy. Lake County has both rural and urban characteristics, with most of its population and built-environment situated along the eastern shores of Lake Michigan but with agricultural, rural-like areas scattered among suburban “bedroom” or residential communities in the rest of the county.

The Pretrial Services Program of the 19th Judicial Circuit, Lake County, Illinois, began operation in October 1983 in response to the county’s jail crowding problem. The initial function of pretrial services was to provide the court with verified information regarding the defendant’s personal, social, and criminal background as it pertained to pretrial release. These “bond reports” assisted the judge in

making a more-informed bond decision; in short, to identify and recommend to the court those defendants who could be considered for a non-financial condition of release (personal recognizance bond). In February 1986 the Pretrial Bond Supervision (PTBS) component was added to the overall responsibilities of pretrial services. Pretrial Bond Supervision is an alternative to the traditional release mechanisms of personal recognizance and cash bonds; it provides for the court a “supervised release” option that involves monitoring defendants in the community to ensure court appearance and minimize the risk of pretrial misconduct.

## **Pretrial Supervision: Growth and Change**

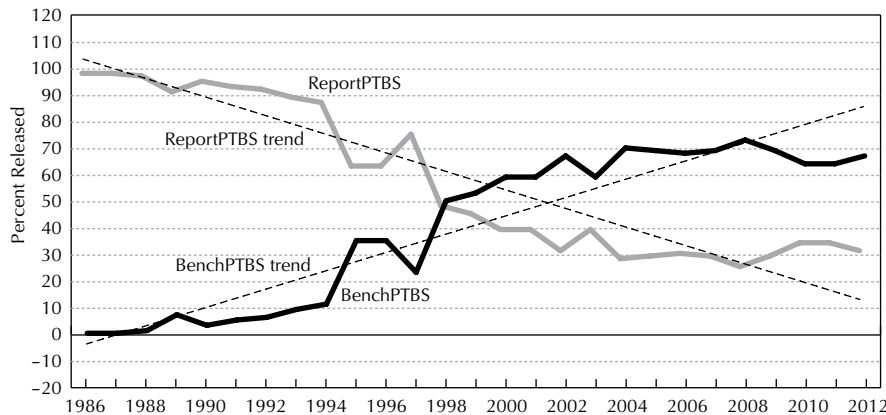
The 27 years of development of pretrial services in Lake County can be described in three words: change, adaptation, and growth. Most of the growth occurred in the Pretrial Bond Supervision (PTBS) component: On average, the number of defendants released to pretrial supervision grew 8 percent per year, while the average number of bond reports completed per year increased 1 percent per year. With the growth in PTBS, some interesting patterns of change have emerged over time. For example, before 1998 the majority of defendants released to pretrial supervision had a bond report completed before their release; since 1998 the majority of supervised released defendants have not had a bond report completed before their release (see Figure 1). Indeed what was once an almost indispensable practice before releasing a defendant onto PTBS—that is, a bond report being done beforehand—has dramatically changed over

<sup>1</sup> The author would like to thank Rose Gray and Robert Verborg of the 19th Judicial Circuit, Lake County, IL, and Marie VanNostrand, Ph.D., for their comments and suggestions on earlier drafts of this article.

<sup>2</sup> As quoted in Mackenzie (2000), “...the basic premise of ‘evidence-based practices’ is that we are all entitled to our own opinions but not to our own facts” (see Sherman, 1999:4). In reference to the concept of “pretrial justice,” VanNostrand and Keebler (2007) provide this definition: “The honoring of the presumption of innocence, the right to bail that is not excessive, and all other legal and constitutional rights afforded to accused persons awaiting trial while balancing these individual rights with the need to protect the community, maintain the integrity of the judicial process, and assure court appearance.”

**FIGURE 1.**

*ReportPTBS and BenchPTBS Defendants, Percent Distribution by Year w/ Trend Lines, 1986–2012*



time. In the nascent years of pretrial supervision, 9 out of every 10 defendants had bond reports completed prior to their supervised release; however, from 1998 through 2012, only 3 out of every 10 defendants had a bond report completed.

One possible explanation for this trend is that as pretrial services has matured as an integral part of the judicial system, it has established an environment of confidence with the judiciary in regard to the functions it performs. Over time, the judiciary as a whole has become more knowledgeable of and familiar with PTBS as a pretrial release option and, as a consequence, judges may be more inclined to release a defendant onto PTBS without a bond report. In addition, the composition of the PTBS population has changed over time, reflecting a greater proportion of PTBS defendants charged with less-serious crimes (see below); previous research by Coopriders, Gray, and Dunne (2003) found that the court is less likely to order a bond report for defendants charged with less-serious crimes. It should also be noted that as of 1998 judges have had independent and direct computerized access to the Circuit Clerk’s criminal record database, thus allowing a judge to examine a defendant’s county-based criminal record and court appearance history. This technological advancement and availability of information “on the bench” may influence a judge’s decision to release a defendant onto PTBS without a bond report or to request a bond report for more information before a release decision is made.

Figure 2 illustrates the yearly variation in the percentage of defendants released to pretrial supervision with and without a financial condition of release. This is important because the original premise of PTBS was that pretrial supervision would operate as an *alternative* to a cash bond, not a mechanism to be used *in conjunction with* a cash bond. Although clearly there is year-to-year variation—in 1996 there was a wide difference between CashPTBS (pretrial bond supervision with a financial condition, 15 percent) and RecogPTBS (pretrial bond supervision without a financial condition, 85 percent); some years saw a one-to-one ratio, and more recently (2011–2012), for every four defendants released onto PTBS without a financial condition six had financial conditions required—the overall trend has been an increase in the proportion of defendants released to supervision with a cash bond

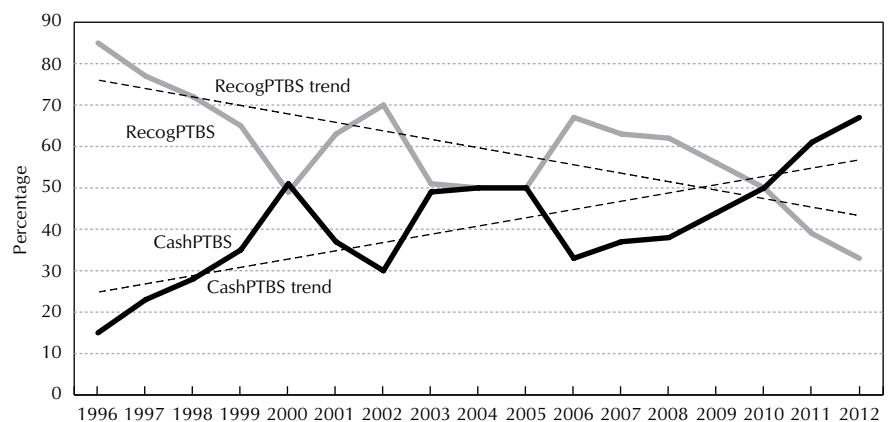
posted.<sup>3</sup> Using a different measure, a month-to-month time series analysis of the number of CashPTBS and RecogPTBS defendants over the same time period reveals an average monthly rate of decline of  $-0.08$  percent in the number of RecogPTBS defendants and a 1.23 percent average monthly rate of increase for CashPTBS defendants.

Of course, this raises the question: Why are we seeing more defendants released to pretrial services in conjunction with cash bonds? The answer is similar to the explanation for more defendants being released to PTBS without a bond evaluation done beforehand: Familiarity begets utility. Casual observation and anecdotal evidence suggest that the State’s Attorney’s Office is requesting that if the defendant is released on a personal recognizance bond, he or she is to be supervised by pretrial services. It also appears that the judge is setting a cash bond at the initial appearance and, if the defendant posts, the defendant is ordered to be supervised by pretrial services, either at the behest of the judge or the State’s Attorney’s Office. In short, both the judge

<sup>3</sup> We first noticed this trend in the mid- to late-1990s (Coopriders, Rose, & Dunne, 2003) and started to collect data thereafter on the number of defendants released to PTBS with and without cash bonds; thus this particular set of data only goes back to 1996. It also should be noted that this finding somewhat mirrors the findings of Cohen and Reaves (2007), whose analysis of State Court Processing Statistics from 1990–2004 reveals that two-thirds of defendants had financial conditions required for release in 2004 compared to only half in 1990. Indeed an increase in the proportion of financial bonds and a decrease in the proportion of release on personal recognizance was the general trend in the 75 largest U.S. counties during the time period studied by the authors.

**FIGURE 2.**

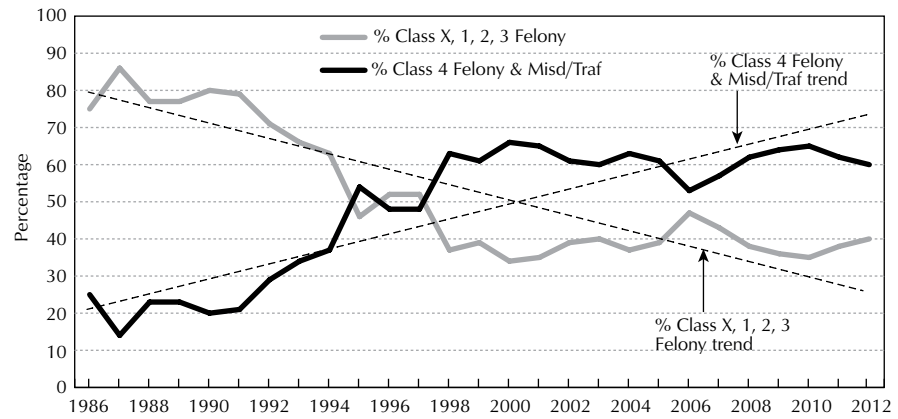
*CashPTBS and RecogPTBS, Percent Distribution by Year w/ Trend Lines, 1996–2012*



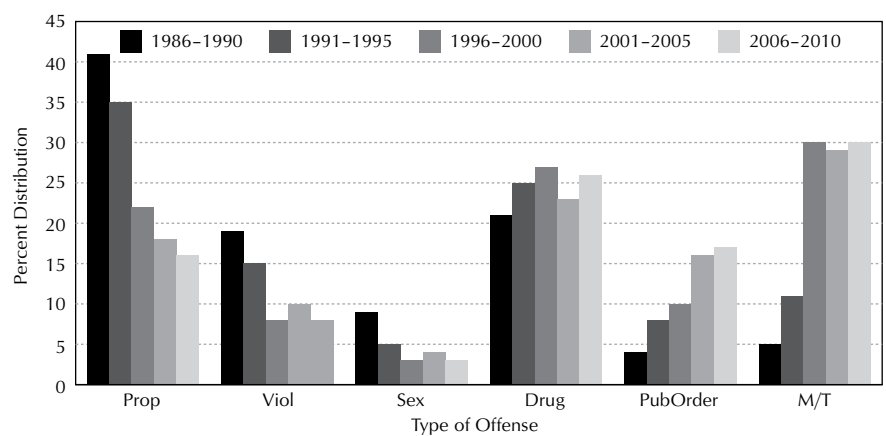
and the state have become more proactively involved in determining who will be supervised. Judicial rotation may also be a factor, since it is quite possible that when judges rotate, so does the “court’s” perspective on the use of bond and supervised release. For example, a judge with a prosecution background might be more inclined to use supervised release with a cash bond than a judge with a “defense” background. Another possible factor is that the defendant is more “at-risk,” but this is a problematical assertion since most defendants are released without an assessment of their risk. And, finally, there may be another shift in the existential purpose of bond supervision: from an alternative to a cash bond, to the use of PTBS in conjunction with a cash bond, and finally to the premise that some supervision is better than no supervision.

Another dimension of change in pretrial supervision is in the class-of-crime and type-of-offense composition of the PTBS population. Generally speaking, the overall trend has been towards supervising a defendant charged with a less-serious crime (see Figures 3 and 4). Figure 3 illustrates that when all the misdemeanor cases are combined with the lowest class of felony cases (N=17,786) and compared with all of the combined more serious Class X, 1, 2, and 3 felony cases (N=13,858), the PTBS composition has almost reversed itself over time.<sup>4</sup> On average, in the formative years of pretrial supervision, about 7 out of every 10 defendants were charged with a Class X, 1, 2, or 3 felony charge; starting in 1998, however, for every 4 defendants charged with a more-serious felony, 6 were charged with less-serious crimes. Much of this increase in less-serious crimes is related to the growth in misdemeanor defendants being placed on supervised release (see Figure 4), the majority of whom were charged with domestic battery and driving under the influence (DUI). Figure 4 also illustrates the change over time in the composition of the PTBS population, but by offense type. The percentage of PTBS defendants charged with property, violent, and sex-related crimes generally declined over time; PTBS drug defendants, comparatively speaking, remained fairly stable over time after some early growth; and public order and misdemeanor defendants increased substantially over time. For the last 15 years, the proportion

**FIGURE 3.**  
*PTBS Defendants by Combined Offense Class, 1986–2012 (with Trend Lines)*



**FIGURE 4.**  
*PTBS Defendants by Offense Type, Five-Year Comparisons, 1986–2010*



of misdemeanor PTBS defendants has seemed to reach a ceiling of about 30 percent.

As for the trend towards placing defendants on PTBS who have been charged with less-serious crimes, this may just be a representation of the type of crimes that are being committed in the community and the police response to them of making arrests. In other words, who gets placed on PTBS is a function of what kinds of crime are most prevalent in the community and who ends up in bond court. The proportion of PTBS defendants charged with less-serious crimes may therefore merely reflect that less-serious crimes are being committed in the community. It can also be hypothesized that, despite being charged with less-serious crimes, the average PTBS defendant today may have a more serious or substantial prior criminal record or a FTA history, thus suggesting a need for supervised pretrial release when considering bond options. And, finally, in reference to the greater number of defendants being

placed on supervised release who have been charged with misdemeanor domestic battery and misdemeanor DUI, what may appear to be a trend towards “net widening” may in reality be a legitimate societal and criminal justice response to the social problems of domestic violence and driving under the influence. If social control is defined as the capacity of a society to regulate itself in relation to its values (Janowitz, 1978, p. 3), then the values of public and personal safety—of being safe in one’s home and on the highway—may be the impetus behind the increased societal and criminal justice scrutiny applied to drunken drivers and domestic batterers. Consequently, judges may recognize the potential danger of domestic batterers and DUI offenders and accordingly order supervised release to minimize risk of harm to others in the community.

**Bond Conditions**

There has been a steady rise in the number and percentage of supervised defendants

<sup>4</sup> In Illinois, felonies range from Class X, the most serious types of felony crimes, to Class 4, the least serious. Misdemeanors range from Class A, the most serious misdemeanor, to Class C, the least serious.

subjected to drug testing and curfew restrictions since 1991 (see Figure 5). Nearly 100 percent of PTBS defendants are now ordered released with the condition of drug testing and nearly 9 out of every 10 defendants have curfew restrictions imposed, despite individual differences in risk levels. Imposing these conditions as a matter of course raises questions, since “blanket” pretrial release conditions contradict the least-restrictive conditions of bond principle, the excessive bail clause of the Eighth Amendment, and the risk principle of evidence-based practices. As VanNostrand, Rose, and Weibrecht (2011) point out:

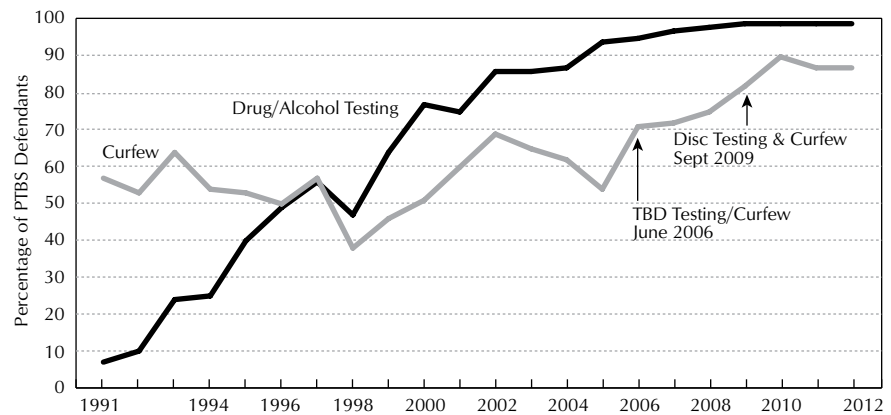
Blanket pretrial release condition is a term used to describe one or more conditions imposed upon defendants...without regard to individualized risk assessment. Constitutional issues arise when blanket pretrial release conditions are imposed upon a group of defendants without an individualized assessment of a particular defendant's risk factors.<sup>5</sup>

The application of least-restrictive conditions of bond to assure court appearance and community safety is a fundamental principle of pretrial justice. In addition, a basic principle of evidence-based practice is that bond conditions should match the level of defendant risk: High-risk defendants receive the more-restrictive conditions of bond and low-risk defendants receive less-restrictive conditions of bond. Drug-testing and curfew restrictions have become such frequently-imposed court-ordered bond conditions that they have, in effect, become standard or “blanket” release conditions rather than special conditions tied to the unique risk level of the defendant. This standardization has created a situation of applying bond conditions that may have nothing to do with the individual defendant's pretrial failure risk. Imposing conditions that may have no direct impact on ensuring court appearance or reducing the risk of new arrest can be viewed as going above and beyond what is necessary to ensure court appearance and community safety; these conditions thus may

<sup>5</sup> See VanNostrand, Rose, and Weibrecht (2011) for a detailed discussion of pretrial legal questions regarding blanket pretrial release conditions. The authors also review the drug-testing literature in relation to the effectiveness of drug testing in reducing pretrial failure (failure to appear and new arrest). They concluded that there is no empirical evidence demonstrating “that when drug testing is applied to defendants as a condition of pretrial release it is effective at deterring or reducing pretrial failure...” (p. 24).

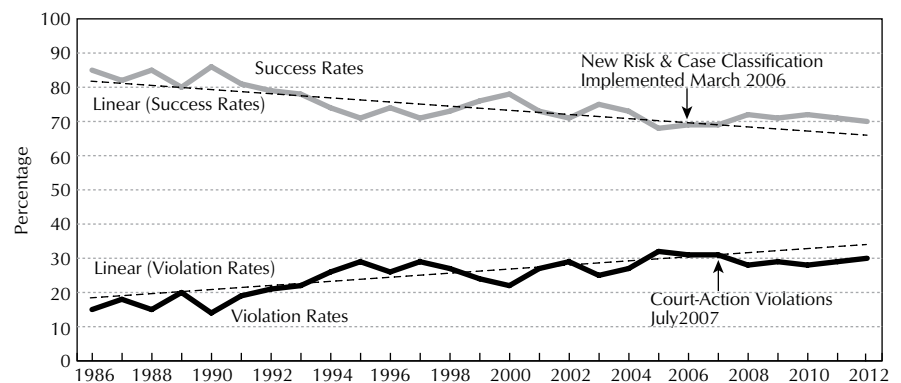
**FIGURE 5.**

*Percentage of PTBS Defendants with Drug/Alcohol Testing and/or Curfew Restrictions Ordered, 1991–2012*



**FIGURE 6.**

*Success and Violation Rates of PTBS Defendants, 1986–2012*



be considered “excessive,” if not unreasonable.<sup>6</sup> In the context of these findings, current supervision strategies, including the use of curfew restrictions, drug testing, and needs assessment, need to be reexamined, with more emphasis given to a defendant's unique risk score as a factor when determining, e.g., the need for a curfew restriction. Perhaps most important, when implementing supervision strategies and imposing bond conditions we ought not to forget what is ultimately to be accomplished: having the defendant return to court and remain arrest free.

<sup>6</sup> Part of this dilemma could be explained by our own practice: Starting in 2006 we implemented a policy of 6 p.m.-6 a.m. curfew “out the door” for all new clients placed on PTBS—assessed for risk or not. We did this in an attempt to stabilize the defendant's residency situation and to ensure that initial field contact would be made. The case officer had the option to remove the curfew at a later date, but what tends to happen is an attitude best expressed as: “...if it works, leave it alone.”

## Violation Trends

From 1986 through 2012, approximately one out of every four PTBS defendants violated pretrial release conditions in some way (FTA, new arrest, or technical violation such as a positive drug test). The general trend over time has been an increase in aggregate violation rates, from a low of 14 percent in 1990 to a high of 32 percent in 2005 (see Figure 6). This could be expected since, as noted earlier, the overall trend has been towards supervising a defendant charged with less-serious crimes, and persons who are charged with less-serious crimes are at greater risk of violating, particularly by failing to appear (Coopridge, Rose, & Dunne, 2003). Notably, since the implementation of objective risk assessment in 2006 and differential levels of supervision based on the level of risk, aggregate success and violation rates have remained relatively stable.

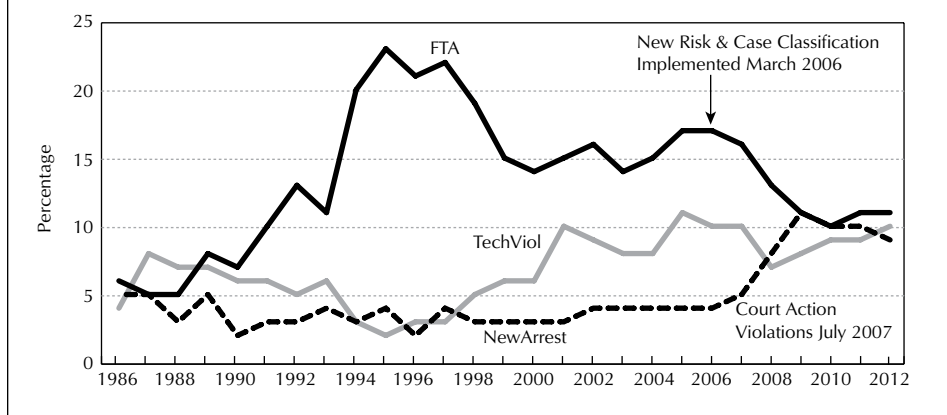
In reference to violation-specific rates, over the 27-year time period, 14 percent of PTBS defendants failed to appear, 5 percent violated with a new arrest, and 7 percent were

returned to jail custody because of technical violations (see Figure 7). Failure-to-appear rates peaked from 1994 through 1997, when they stayed above 20 percent, followed by a relative decline and stability from 1998 through 2006. After implementation of objective risk assessment and case classification based on level of risk in 2006, FTA rates began to decline again and stabilized to around 11 percent starting in 2009. In reference to the first decline in FTA rates, it could be hypothesized that the addition of two new staff at this time contributed to more effective supervision of PTBS clients (smaller caseloads, more contacts); in reference to the second major decline in FTA rates starting in 2006, it could be hypothesized that the implementation of objective risk assessment and differential levels of supervision based on one's level of risk were contributing factors to this FTA rate reduction. Nonetheless, whether measured in rates or in numbers, failing to appear for court represents the primary violation problem: In terms of volume, FTAs made up 53 percent of the total number of violations (N=4,479), followed by technical violations (N=2,287) or 27 percent of the total, and new arrest (N=1,625) or 19 percent of the total.

In reference to the FTA problem, one of the most fundamental goals of pretrial services agencies and programs—indeed, their *raison d'être* if you will—is to minimize failure-to-appear risk and to maximize court-appearance rates. Lake County has always practiced courtdate notification; the standard practice has been a verbal reminder, either by phone or in person, the day before defendants' scheduled court dates. Since failing to appear is Lake County's primary violation problem, it may be incumbent upon us to assess a possible "enhancement" of our courtdate notification procedures, such as mail reminders and automated calling reminders. VanNostrand, Rose, and Weibrecht (2010) reviewed six courtdate notification studies: Every study they examined revealed that some form of courtdate notification—by phone, by mail, or automated system—significantly reduced failure-to-appear rates. Granted that FTA rates and numbers have been going down for several years, missed court appearances still are costly and interfere with the orderly and efficient administration of justice.

<sup>7</sup> Some research has shown that "contact" is related to pretrial misconduct, especially FTA violations; more contact, less pretrial misconduct (see D.C. Bail Agency, 1978; Clarke, Freeman, & Koch, 1976; Austin, Krisberg, & Litsky, 1984).

**FIGURE 7.**  
PTBS Violation-Specific Rates, 1986-2012



New arrest rates remained very stable over time, always 5 percent or less until 2008, when they jumped to 8 percent and have hovered around 10 percent since then. This doubling in new arrest rates is most likely related to an expanded definition of pretrial failure. From the inception of bond supervision, "pretrial failure" had been defined as a defendant's *termination from supervision* as a direct consequence of either

- 1) Failing to appear for a court appearance, which resulted in a bench warrant being issued;
- 2) Obtaining a new arrest, resulting in the defendant's jail incarceration for the new charge; or
- 3) Committing a "technical" or rule violation (positive drug test; curfew violation), which resulted in a bond revocation and a return to jail custody.

The problem with this definition is that it didn't capture pretrial misconduct *occurring while the defendant was being supervised but not resulting in the defendant's termination from PTBS*. For example, some defendants would fail to appear, surrender on the bench warrant, and be returned to PTBS; others might "pick up" a new arrest while under supervision, and some would get remanded on technical violations only to be returned to PTBS after their jail admonishment. These violations were not factored into the original operational definition of pretrial failure. In order to get a more robust measure of violating behavior by PTBS defendants, starting in July 2007 these "process" violations, or what came to be known as "court action" violations, were included in the measurement of pretrial failure.

Interestingly, although from 1986 through 2000 the average technical violation rate was five percent, from 2001 through 2012 the

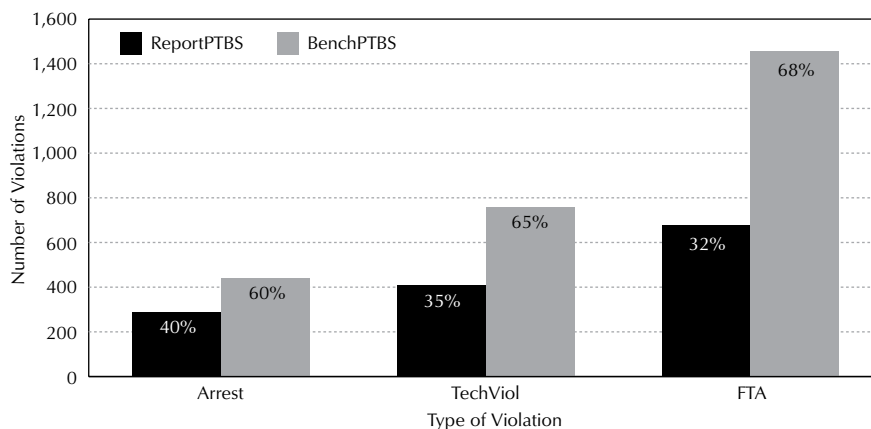
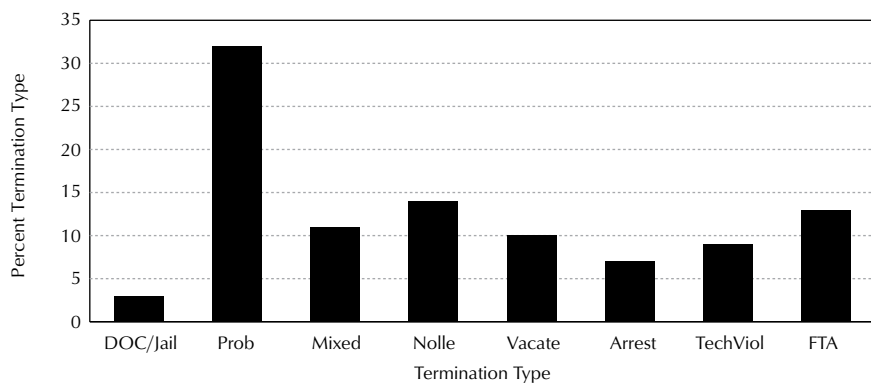
average rate increased to nine percent. Since the reporting of all violations has remained a constant over time, this near-doubling of the technical violation rate is perhaps related to an intensified, less-than-tolerant view of technical violations—positive drug use, failing to report as required, and curfew violations—by the judiciary.

## Violations and the Importance of Bond Reports

Defendants who are released to pretrial services for supervision without a bond report have higher violation rates than those defendants who have a bond report completed prior to their pretrial supervised release (see Figure 8). This finding applies to all violation categories, with the widest disparity in the failure-to-appear violations. For example, of the total number of defendants who failed to appear between 2003 and 2012, fully 68 percent did not have a bond report completed before their release. These findings suggest that screening and assessment before release plays an important role in identifying violation risk and thus ensuring a certain degree of success for those defendants who are released to pretrial supervision.

## Successful Dispositions

Four out of every ten defendants received some form of community-based sentence (e.g., probation, conditional discharge, probation/work release); 14 percent of the defendants had their cases *nolle prossed* or dismissed, and 10 percent of the defendants were removed from pretrial supervision before case disposition because of their compliance (see Figure 9). In other words, nearly seven out of every ten defendants who were released to bond supervision remained in the community after their release from bond supervision. These

**FIGURE 8.***Violations by ReportPTBS and BenchPTBS, 2003–2012***FIGURE 9.***Type of PTBS Termination, 2003–2012*

findings suggest the importance of favoring a presumption of release on personal recognizance—supervised or otherwise—during the pretrial release decision-making process (see National Association of Pretrial Services Agencies, 2004). The vast majority of defendants entering the criminal justice system, at least in this sample, are ultimately returned to the community in one form or another. If this is a valid observation, then the presumption of recognizance release at the earliest possible time seems imperative as well as imposing the least-restrictive set of bond conditions.

### Risk Assessment and Legal and Evidence-Based Practices

Legal and evidence-based practices (LEBP) can be defined as “interventions and practices that are consistent with the pretrial legal foundation, applicable laws, and methods research has proven to be effective in decreasing failures to appear in court and danger to the community during the pretrial stage” (VanNostrand, 2007, p. 12). Applying the

LEBP model to pretrial services programming suggested a need to re-examine how we assessed and supervised pretrial defendants. In the traditional model of supervising our clientele, pretrial defendants were usually monitored at the same level of supervision, with no attempt to differentiate supervision strategies based on measurable differences in levels of risk. In addition, risk was assessed subjectively. That is, prior to implementation of an objective, empirically-validated risk assessment tool, bond recommendations were based on a “subjective” method, i.e., they were predicated on the experience, knowledge, and perceptions of the bond report investigator. In 1987 Lake County developed a rudimentary in-house point scale based on various criteria identified in the literature as being related to pretrial failure. However, its limitations quickly came to light: a bias toward cash bond recommendations and a lack of statistical validation. The instrument became rather meaningless and was eventually shelved, and

the use of the subjective method continued for several years.

A newer approach based on the principles of legal and evidence-based practices assumes that supervision would consider variations in risk levels and introduce interventions and strategies that could minimize the risk of pretrial misconduct. With the LEBP model, the goal of pretrial services changes from simply monitoring bond conditions to objectively assessing risk and prioritizing supervision based on differential levels of risk. Because the Lake County Division of Adult Probation (which was Pretrial Services’ administrative locus) had already been an “evidence-based practice” site for the National Institute of Corrections since 2004, the application of evidence-based practices to pretrial services seemed a logical extension of what was being practiced in the division. By applying relevant principles of EBP—assessing actuarial risk and prioritizing supervision based on level of risk—pretrial decision-making shifted from being based on opinion and subjectivity to being grounded in research and objectivity.

As noted earlier, legal and evidence-based practices is emerging as a practical framework in which pretrial services can more effectively and efficiently use their resources. The application of policies and procedures that are supported by empirical research and driven by a strong commitment to the legal principles that define pretrial justice has been referred to as legal and evidence-based practices. Indeed, what pretrial practitioners have seen develop since the inception of bail reform in the early 1960s is nothing short of the evolution of a “pretrial justice” model or concept and its practical application—i.e., legal and evidence-based practices—at the pretrial stage of criminal justice. VanNostrand (2007) identifies three specific pretrial functions that relate to legal and evidence-based practices: risk assessment, bail recommendations, and pretrial supervision.

Objective risk assessment is a basic principle of evidence-based practices and in Lake County formed the foundation on which changes were made in both the nature of bond recommendation decisions and the nature of pretrial supervision (see Coopridge, 2009). Officially implemented in March 2006, the Lake County Pretrial Risk Assessment Instrument (LCPRAI) is based on the Virginia Pretrial Risk Assessment Instrument, nationally known as the Virginia Model (VanNostrand, 2003). The LCPRAI has been locally validated on the pretrial supervision population in Lake County (most



recently by Spruance & VanNostrand, 2013). The introduction of a research-based and empirically-validated pretrial risk assessment instrument helped to standardize the process of making a bond recommendation *by factoring into this process the same critical variables, thereby generating more consistent and uniform bond recommendations*. Moreover, when compared to bond recommendations made before implementing the objective risk assessment, the use of objective risk assessment persistently produced higher rates of non-financial release recommendations, a finding that corresponds to one of the goals of pretrial services programs: maximizing pretrial release with non-financial conditions of bond (see Mahoney et al., 2001).

The second aim of risk assessment was to establish a case classification system that would prioritize bond supervision in conjunction with the measured level of risk. Rather than supervising all defendants as if they all had the same level of risk, supervision varies in relation to the individual's risk level. High-risk defendants get high-risk supervision; low-risk defendants get low-risk supervision. The LCPRAI provided the empirical foundation for such a case classification system as well as reducing the number of face-to-face field contacts in half. Despite this reduction in contacts and the change in the definition of pretrial failure that, in effect, enlarged the measure of pretrial failure, there was no detrimental impact on violation rates: Aggregate violation rates declined and violation-specific rates, with the exception of new arrests, remained identical to or lower than the pre-implementation rates. In a sense, we are doing more with less while still maintaining another important goal of pretrial services: minimizing pretrial misconduct. What this suggests is that intensive and identical supervision of all PTBS clients is not an effective use of resources; differential levels of supervision based on objective pretrial failure risk and the individualization of bond recommendations will produce just as effective and more efficient outcomes.

## Summary and Discussion

With the advent of pretrial services, bond reports and bond supervision have become important components of Lake County's criminal justice system. Growth and change have been hallmarks of the development of pretrial services. In both the bond report and bond supervision operations, increased workloads have been the general norm: Supervised pretrial release has grown at an annual rate of eight percent; bond reports at a

one-percent rate. Other findings of the present research include:

- 1) Prior to 1998 the majority of defendants released to pretrial supervision had a bond report completed before their release; since 1998 the majority of supervised released defendants have not had a bond report completed before their release;
- 2) Defendants who are released to pretrial services for supervision without a bond report have higher violation rates than those defendants with a bond report completed before their pretrial supervised release;
- 3) The proportion of defendants released to supervision with a cash bond posted has increased; instead of operating as an *alternative* to a cash bond, PTBS has become a mechanism to be used *in conjunction with* a cash bond;
- 4) The overall trend has been towards supervising a defendant charged with a less-serious crime;
- 5) Nearly 100 percent of PTBS defendants are now ordered released with the condition of drug testing and nearly 9 out of every 10 defendants have curfew restrictions imposed as a condition of their release, despite individual differences in risk levels; and
- 6) Failing-to-appear for court represents the primary violation problem.

An important value attached to the optimal development of pretrial services is program self-assessment and ongoing empirical research of program operations. This particular review has been an attempt to do just that by describing various patterns of change over time in some of the functions and procedures in the pretrial services program in Lake County, Illinois. Some of the findings suggest that we are partially moving away from evidence-based practices (e.g., "blanket" release conditions), that an uninformed decision is not a good decision, and that enhancements in courtdate notification procedures may reduce the failure-to-appear problem. Moreover, this study suggests that it may be time to revisit some of the basic principles of pretrial justice, including the presumption for release on a personal recognizance bond, the imposition of the least-restrictive bond conditions to ensure court appearance and public safety, and the application of the risk principle. In short, it may be time for the Lake County stakeholders in pretrial justice—judges, attorneys, and jail and pretrial staff—to reconvene in order to assess the current practices and trends of the delivery of pretrial services as well as determine the direction of its future.

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# Technical Revocations of Probation in One Jurisdiction: Uncovering the Hidden Realities

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**THE INCREASE IN** jail and prison populations across the United States has been attributed, in part, to the increase in probation and parole revocations in recent years (Pew, 2007). Additionally, the number of people on probation and parole in the United States has exponentially increased, with 1 in 31 adults under some form of criminal justice supervision in the community, according to a report from the Pew Center on the States (Pew, 2009). Due to concerns for public safety and the reported “failures” of probation systems nationwide in helping to reduce recidivism and reincarceration, many probation officials have attempted to reduce revocation rates by implementing strategies thought to be effective at increasing successful completions of supervision. Cognitive-behavioral programs, substance abuse treatment based on the risk-needs-responsivity model, and specialty courts to address specific needs of offenders have gained popularity as well as credibility in reducing revocations and recidivism (Aos, Miller & Drake, 2006; Clawson, Bogue, & Joplin, 2005; Gendreau, Little, & Goggin, 1996; Hawken & Kleiman, 2009; Herzog-Evans, 2014; Latessa, 2004; Latessa, 2006; McNeill, 2009). With the growing emphasis on utilizing “evidence-based practices,” new and old probation strategies are continually under evaluation across the United States and abroad using empirical methods to confirm effects of such strategies on probation (and parole) outcomes.

However, more attention is needed for offenders who violate probation but do not necessarily commit new crimes while under supervision; these are generally referred to as technical violators of probation. In other words, offenders may violate the rules the court has ordered they abide by (in order to remain in the community in lieu of incarceration for their crime), their community sentence is subsequently revoked, or taken away, and a sentence of a period of imprisonment is imposed as set forth in the statute. Most scholarly literature regarding technical violations and technical revocations examines relationships among offender risk and need scores, offense types, demographic variables associated with technical violations, and criminal history information (Garber, 2007; Gray, Fields, & Maxwell, 2001; Minor, Wells, & Simms, 2003; Petersilia, 1999).

Many offenders have substance abuse issues; therefore it is not unusual for them to violate supervision by submitting positive drug tests. And most offenders violate their conditions of probation during their community sentence in some way, especially in the beginning when they are adjusting to the rules. Thus, violations for failure to report, failure to maintain employment, failure to complete community service restitution, or failure to pay court-ordered fees are not uncommon.

For the current study we collected data on demographic information, probation offense information, and criminal history, as other studies have. In addition, we gathered data

on a variety of other variables such as type and frequency of technical violations, probation officials’ responses to violations, mental health and substance abuse issues, absconder status, accuracy of revocation reason reported to state officials, probationer refusals for treatment at time of revocation, and the length of imprisonment sentence received upon revocation. We examined these factors to uncover any issues not previously considered in empirical investigations of technical revocations of supervision.

Revocation information for the study jurisdiction shows that almost 50 percent of felony revocations in fiscal year 2013 were attributed to technical violations of supervision. This is a concern for probation officials who are tasked with reducing prison overcrowding and improving probation outcomes.

## **Methods**

### *Study Design*

A case-control design was used for this study. Cases comprised probationers who had their probation revoked due to technical violations, while controls were selected from the population of felony offenders who successfully completed community supervision during the same time period.

### *Sampling*

The sampling frame for this study was a complete list, generated by the probation department from their internal case management records, of all felony offenders reported

**TABLE 1.**  
*Felony Population Revocation Percentages, FY 2005–FY 2013*

| Fiscal Year | Total Felony Population | Total Felons Revoked | Percent of Total Felony Population Revoked | Total Felons Revoked for Technicals | Percent of Total Population Revoked for Technicals | Percent of Total Felony Revocations for Technicals |
|-------------|-------------------------|----------------------|--|-------------------------------------|--|--|
| 2013        | 12,387                  | 1,633                | 13.1                                       | 773                                 | 6.2  | 47.3   |
| 2012        | 12,541                  | 1,729                | 13.8                                       | 800                                 | 6.3  | 46.3   |
| 2011        | 12,701                  | 1,488                | 11.7                                       | 705                                 | 5.5  | 47.3   |
| 2010        | 13,144                  | 1,612                | 12.2                                       | 770                                 | 5.8  | 47.7   |
| 2009        | 13,467                  | 1,659                | 12.3                                       | 741                                 | 5.5  | 44.6   |
| 2008        | 13,340                  | 1,608                | 12   | 761                                 | 5.7  | 47.3   |
| 2007        | 12,825                  | 1,749                | 13.6                                       | 796                                 | 6.2  | 45.5   |
| 2006        | 12,736                  | 1,620                | 12.7                                       | 696                                 | 5.4  | 42.9   |
| 2005        | 12,454                  | 2,037                | 16.3                                       | 1,012                               | 8.1  | 49.6   |

as being revoked for technical violations of probation between September 1, 2012, and August 31, 2013. A random sample of 359 offenders (n=359) was drawn from the total population of revoked felony technical offenders (N=773) and used for secondary data analysis.

A random sample of felony offenders completing supervision successfully during this same time period (n=359) was also drawn from the total population of offenders completing supervision (N=1,416) and comparative analyses were conducted in order to determine what factors were associated with successful completion of supervision.

#### *Variables*

Three types of variables were collected: demographic, supervision, and criminal justice variables (prior criminal record and recidivism information). Demographic variables were used to create a profile of the typical revoked felony technical violator. Supervision variables included information about offenses, technical violations, and the community supervision response to violations. Criminal justice variables provided the researcher with in-depth information regarding prior criminal records.

#### *Data Analysis*

We used a list of county identification numbers to query the probation department's computerized case management system to extract demographic and supervision variables for the study. Data not easily extracted from the system by way of a computer query was collected individually by researchers by reviewing official chronological case notes

then coded. For example, data regarding the number and types of violations an offender had and the responses to those violations had to be determined and coded by reading the chronological case notes for each offender in the sample because of the inconsistencies in individual entry codes. Data was analyzed using the Statistical Package for the Social Sciences (SPSS) computer software. Secondary data analysis involved use of frequency distributions, Chi square tests of independence, and simple and multiple logistic regression analyses.

## **Results**

### *Demographics*

The typical revoked felony technical offender was a single, unemployed white male with low levels of education and income. Sixty-seven percent of those revoked for technical violations were unemployed and 55 percent had no high school diploma or equivalent. The vast majority of offenders in this study, 82.2 percent, were deemed to have a substance use, abuse, or dependence issue determined through an evaluation, random drug testing, or treatment history. Additionally, approximately 16 percent of offenders had a mental health issue determined through self-report, prescribed medication, a mental health evaluation, receiving services through the local mental health authority, or court-ordered supervision on specialized caseloads for the mentally impaired.

After analyzing both revoked felony technical offenders and felony successful completions of supervision data, we found no significant associations between race, offense,

offense level, and successful completion of supervision. However, analyses showed significant relationships between completing supervision and age, gender, employment status, and income level. Employed offenders are 10 times more likely to complete supervision successfully than those who are unemployed. Sixty-seven percent of revoked felony technical offenders were unemployed. Females are twice as likely to complete supervision as males, regardless of age, marital status, education, employment, or income level. Age was also a significant predictor of successful completion of supervision. A year increase in age resulted in about a 5 percent increase in the likelihood of completing supervision successfully. Income level was associated with successful completion of supervision. Those offenders who have an income *above* the federally defined poverty level (FPL) (\$11,600 annually) are three times more likely to complete supervision successfully. Close to 70 percent of revoked felony technical offenders examined during this same time period were living below the FPL.

### *Supervision Variables*

Revoked felony technical offenders were most commonly under supervision for theft/property/fraud offenses (34.4 percent) and drug-related offenses (32.9 percent), followed by violent offenses (13.9 percent), alcohol offenses (8.3 percent), sex offenses (4.5 percent), and other offenses (6.1 percent) (e.g., joyriding, organized crime). Over 50 percent were low-level felons and were sentenced to an average of 8 months incarceration upon revocation, which is only about one-third of the time they could have received by law (maximum 24 months).

If the offender was being supervised on a specialized caseload such as a sex offender caseload or substance abuse caseload just prior to being revoked, this information was collected. Specialized caseloads involve more intensive supervision and officers generally have fewer offenders to supervise compared to regular or non-specialized caseloads. This may afford officers more time to discover technical violations of probation, which can lead to an increase in technical revocations (Clear & Hardyman, 1990; Petersilia, Turner, & Deschenes, 1992; Petersilia & Turner, 1993). However, most revoked felony technical offenders were being supervised on regular caseloads (65 percent) just prior to revocation.

In examining technical violations of supervision, we calculated an average number of technical violations per month to have a

standard metric considering that offenders were placed on supervision in different years. Offenders were under community supervision an average of 22 months before being revoked, and had an average of 2.9 technical violations per month. However, an average of less than one non-jail sanction (.27) imposed to address violations was noted and an average of 14 days in jail as a condition of probation for violations.

In 2005 the jurisdiction developed a Progressive Sanctions Manual, which we used as the guide for determining the ranking of

severity of violations of supervision, along with the specific types and frequency of such violations. Behaviors such as having contact with the injured party, tampering with an electronic monitoring (ELM) device (e.g., global positioning satellite, secure continuous remote alcohol monitoring), being unsuccessfully discharged from treatment, and not reporting for court-ordered jail time are considered high-severity violations. Forty-one percent of offenders had at least one high-severity violation. The most common type of high-severity violation committed was being discharged

from treatment. Almost 57 percent of offenders had at least one medium-severity violation. The most common in this category was a positive drug test. Common low-severity violations include failure to report, failure to pay court-ordered fees,<sup>1</sup> failure to perform community service restitution, absence from treatment, dilute drug tests, and the like. Close to 100 percent of offenders had one or more failure-to-pay violations (recall that 68 percent had an annual income of less than \$10,000). Almost 80 percent of offenders had at least one month in which they were unemployed during their time on community supervision.

**TABLE 2.**

*Characteristics of Revoked Felony Technical Offenders and Felony Successful Completers in the Jurisdiction, FY 2013*

|  | Revoked Felony Technical Offenders |                  |           | Successful Completers |                  |           |
|--|------------------------------------|------------------|-----------|-----------------------|------------------|-----------|
|  | Average                            | Min.             | Max.      | Average               | Min.             | Max.      |
| <b>Age (Years)</b>                                 | <b>32.1</b>                        | <b>18</b>        | <b>82</b> | <b>39.1</b>           | <b>20</b>        | <b>84</b> |
| Years of Education                                 | 11                                 | 1                | 16        | 11.6                  | 0                | 18        |
| Monthly Income (\$)                                | 746                                | 0                | 6,800     | 1,997                 | 0                | 18,000    |
| Length of Original Supervision Sentence (Years)    | 4.5                                | 2                | 10        | 4.4                   | 1                | 10        |
| <b>Gender</b>                                      | <b>%</b>                           | <b>Raw # (n)</b> |           | <b>%</b>              | <b>Raw # (n)</b> |           |
| Male   | 68.7                               | 246              |           | 63.5                  | 227              |           |
| Female   | 31.3                               | 113              |           | 36.5                  | 132              |           |
| Total  | 100.0                              | 359              |           | 100.0                 | 359              |           |
| <b>Race</b>  |                                    |                  |           |                       |                  |           |
| White  | 69.1                               | 248              |           | 72.2                  | 259              |           |
| Black/African American                             | 29.2                               | 105              |           | 27.5                  | 99               |           |
| Asian  | 1.4                                | 5                |           | 0.3                   | 1                |           |
| Other  | .03                                | 1                |           | 0.0                   | 0                |           |
| Total  | 100.0                              | 359              |           | 100                   | 359              |           |
| <b>Marital Status</b>                              |                                    |                  |           |                       |                  |           |
| Married  | 19.2                               | 69               |           | 30.3                  | 109              |           |
| Divorced   | 8.8                                | 32               |           | 12.5                  | 45               |           |
| Single   | 72.0                               | 258              |           | 57.2                  | 205              |           |
| Total  | 100.0                              | 359              |           | 100.0                 | 359              |           |
| <b>Employment Status</b>                           |                                    |                  |           |                       |                  |           |
| Unemployed   | 67.2                               | 241              |           | 13.8                  | 50               |           |
| Student/Disab/Retired/Homemaker                    | 5.4                                | 19               |           | 12.5                  | 45               |           |
| Employed PT  | 7.9                                | 29               |           | 14.2                  | 51               |           |
| Employed FT  | 19.5                               | 70               |           | 59.5                  | 213              |           |
| Total  | 100.0                              | 359              |           | 100.0                 | 359              |           |
| <b>Poverty Status (Federal Poverty Level, FPL)</b> |                                    |                  |           |                       |                  |           |
| Below FPL (\$11,600)                               | 68.0                               | 244              |           | 27.2                  | 98               |           |
| Above FPL  | 32.0                               | 115              |           | 72.8                  | 261              |           |
| Total  | 100.0                              | 359              |           | 100.0                 | 359              |           |

### Absconders

Fifty-one percent of offenders absconded—25.3 percent for six months or less and 28.1 percent for longer than six months. Absconding was defined as failure to report for three consecutive months, and data was coded as not absconding, absconding for less than 6 months, and absconding for more than 6 months. When offenders abscond, violations can mount quickly, as they generally are also failing to abide by other conditions of probation, such as paying court-ordered fees, performing community service, attending classes, etc. For each month an offender fails to follow each of these conditions a separate violation is notated.

No significant associations were found between absconding supervision and race, gender, marital status, employment, income level, prior criminal record (coded as yes or no), prior felony or misdemeanor arrests, prior supervisions, prior revocations, or age at first arrest. It was hypothesized that those with substance use/abuse issues (coded as yes or no) would be more likely to abscond than those without these issues for fear of going to jail. However, those with substance issues were *less* likely to abscond, having a 59 percent lower likelihood of absconding compared to those without these issues, after adjusting for age, race, and gender. Additionally, positive drug test data was examined in relation to absconding and revealed a significant association. Those with positive drug tests have about a 66 percent lower likelihood of absconding than those with no positive drug tests ( $p < .001$ ).

Many of the revoked felony technical offenders in the jurisdiction did have substance use/abuse issues (82 percent), and the probation department is in a position to offer the appropriate assistance in dealing

<sup>1</sup> In some cases, violations were not entered by officers if offenders made a partial payment.

**TABLE 3.**

*Crude and Adjusted Odds Ratio Estimates (OR) for Statistically Significant Predictors of Completion of Community Supervision*

| Variable                            | Crude OR | P value | Adjusted OR | 95% CI    | P value |
|-------------------------------------|----------|---------|-------------|-----------|---------|
| Gender (Females versus Males)       | 1.3      | 0.13    | 2.4         | 1.5, 3.6  | <0.001  |
| Education                           | 1.2      | <0.001  | 1.0         | 1.0, 1.2  |         |
| Employment (Reference = Unemp)      | —        | —       | —           | —         |         |
| Student/Disabled/Retired/Homemaker  | 11.2     | <0.001  | 7.0         | 3.5, 14.0 | <0.001  |
| Employed Part Time                  | 8.6      | <0.001  | 8.7         | 4.7, 16.0 | <0.001  |
| Employed Full Time                  | 14.7     | <0.001  | 10.2        | 6.4, 16.4 | <0.001  |
| Marital Status (Reference = Single) | —        | —       | —           | —         |         |
| Divorced                            | 1.8      | <0.001  | 0.5         | 0.3, 1.0  | .053    |
| Married                             | 2.0      | <0.001  | 0.7         | 0.4, 1.2  | .221    |
| Income (Above FPL versus below FPL) | 5.7      | <0.001  | 3.0         | 2.0, 4.5  | .001    |

with these matters by way of assessments and evaluations, treatment and counseling, and continuity of care. Although these felony offenders were ultimately revoked for technical violations of supervision, many did receive treatment of some kind before being revoked, or were offered treatment. It should be noted that based on court officer documentation close to 20 percent of offenders opted to “take their time” when offered treatment or other alternatives to incarceration when facing revocation. Since documenting offender refusal of treatment or other alternatives to incarceration at the time of revocation is not a department policy, this figure could potentially be higher. In addition, revoked felony technical violators with mental health issues were 56 percent *less* likely to abscond than those without mental health issues after adjusting for age, race, and gender.

Additional analyses were conducted to determine if there were any significant differences between absconding rates for offenders on specialized caseloads and those on regular caseloads. Chi square tests revealed a significant difference: Those on specialized caseloads were *less* likely to abscond than those supervised on regular caseloads, OR = .26 (p<.001).

#### *Criminal Justice Variables*

Revoked felony technical offenders were high-risk offenders with serious criminal records. Eighty percent of offenders in the sample (n=359) had a prior criminal record, and of this group:

- 41 percent of revoked technical offenders had at least one prior felony arrest;
- 73 percent had at least one prior misdemeanor arrest;

- 35 percent had both at least one prior felony and one prior misdemeanor arrest;
- 58 percent had been under some form of community supervision before;
- 34 percent had a prior supervision revocation;
- 60 percent had served time in jail for a conviction;
- 15 percent had previously served prison time.

Eighteen percent of offenders were actually arrested for a new offense while under supervision, but for various reasons were not coded as such in the computerized case management system. Similar results were reported in the previous year’s felony technical revocation report. However, due to state data reporting restrictions, probation departments can only report a revocation as a “new offense” revocation if the subsequent arrest was alleged on the motion to adjudicate/ revoke. Often the new offense arrest prompts filing a motion to adjudicate/revoke before official charges are filed; the supervision is revoked based on other existing technical violations, but must be reported to the state as a “technical revocation.”

#### **Discussion**

This exploratory study sought to determine if there were any factors contributing to technical revocations in the jurisdiction not previously considered by either local or state officials, or that have not been thoroughly reviewed in the scholarly literature. The short answer to this question is yes. Twenty percent of felony offenders officially reported as revoked for technical violations of probation had actually been arrested for a new offense,

but had to be reported as technical revocations because of state reporting regulations. Offenders who have been arrested but whose charges have not been officially filed cannot be counted as new offense revocations, and rightly so. Until guilt for the new offense arrest has been established, the offender is innocent in the eyes of the law.

Moreover, 20 percent of offenders facing revocation for technical violations of probation actually refused treatment or other alternatives to incarceration and opted for imprisonment. This may be accounted for by the fact that close to 50 percent of revoked felony technical offenders were the lowest classification of felony offenders and the average sentence received upon revocation was 8 months, which may contribute to inflation of cases revoked for technical violations of probation. Short sentences provide little motivation to continue on probation. In fact, they may actually discourage offenders from continuing on probation, where the offenders will be held accountable for their actions and required to participate in programming designed to address their criminogenic needs. The population of these lowest-level felons receiving relatively short sentences upon revocation needs closer examination and consideration. A recent evaluation of what works in reducing recidivism in the UK showed that offenders sentenced to less than 12 months incarceration had a higher one-year recidivism rate than similar, matched offenders that were on community supervision or those given between one and four years of incarceration (G4S, 2014).

Absconders accounted for 53 percent of those revoked for technical violations, and technical violations can mount quickly. There is little the probation department can do to help rehabilitate offenders when they stop reporting and/or leave the jurisdiction. However, offenders with substance use/abuse issues were 59 percent less likely to abscond than those with no substance use/abuse issues. What assumptions can be made about these offenders—that they are more amenable to assistance or more motivated to change? Further exploration in this area is needed. On a similar note, offenders with mental health issues were 56 percent less likely to abscond than those without mental health issues. A recent change in the probation department’s failure-to-report policy may improve absconding rates, as supervision officers are now required to contact the offender by phone within two working days of the date of failure

to report, and to conduct a home/field visit within five working days after the end of the first month in which the probationer fails to report.

Offenders completing probation successfully were more often employed and the employed were actually 10 times more likely to complete probation. Employment is an integral part of reentry initiatives in the U.S., and much research has been devoted to this issue (Carter, 2008; Henry & Jacobs, 2007; Matsuyama & Prell, 2010; Prager & Western, 2009; Petersilia, 2003), with the results backing the general conclusion that offenders who are reintegrated into society are much less likely to reoffend. Findings from this research study reaffirm the importance of employment and successful reentry.

The types of offenders being sentenced to community supervision have changed over the years, and due to rising prison populations more high-risk, dangerous offenders are being supervised in the community. Oversight agencies and legislators need to be aware of these issues in order to clearly understand outcomes. It should come as no surprise when offenders fail supervision who have had a lengthy arrest record and a history of failing on community supervision before.

Limitations of the study included the fact that information regarding substance abuse and mental health issues was not readily available for those offenders completing probation successfully, and thus, no statistical tests were conducted to determine if these factors were associated in any way with probation success or failure. Due to time constraints, data regarding technical violations of supervision for those successfully completing supervision was not collected. It would be interesting to examine the differences between the number, types, and severity of violations for offenders revoked for technical violations of supervision and those who complete supervision successfully to gain a better understanding of the two groups. Moreover, the disparity between the number of violations committed and the sanctions or interventions imposed to address

violations needs further exploration. Variation in documentation among probation officers, variation in continuity and consistency in supervision, and a number of court policies that may impact supervision practices (such as when to submit a report of violation to the court, what sanctions to impose for certain violations, and so on) may be impacting technical revocation rates. Nonetheless, this study revealed that there are dynamics involved with technical revocations of supervision, not frequently addressed in the literature, that may help explain the seemingly "high" technical revocation rates.

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# Getting to the Heart of the Matter: How Probation Officers Make Decisions

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**IN THE PAST 10** years, there has been a surge in the literature on emotional labor in criminal justice (Karstedt et al., 2011). Emotional labor goes beyond the physical or cognitive skills required for the job. In her seminal work on emotional labor, Hochschild (1983) defines it as “the management of feeling to create a publicly observable facial and bodily display.” It requires changing and managing emotions so as to influence the response of the person one is interacting with. In order to do this, according to Hochschild, we have to draw deeply on our “self.” Using in-depth interviews with probation officers in one judicial district in a Mountain-West region, I elucidate this use of self and demonstrate the impact it has on the officer’s decision-making regarding his or her client. In this article, I define this use of self as *relatability* and present four types of officer interpretations based on the officer’s level of relatability with the client. I argue that decision-making is affected by the interpretation and evaluation of client narratives as officers listen to them in a highly reflexive way. While these officers are trained to use actuarial tools, my interviews indicate that they to some extent put them aside in favor of a more clinical approach to their work. Their tools and training are based on an actuarial model of risk assessment, but actuarial risk assessment is not the only factor they take into account to make decisions.

The probation officers I interviewed stated that their “real work” is to figure out the best course of action with each client on their caseload. However, as they described their work, it is clear that they are performing a particular kind of emotional labor. The emotional labor they engage in on a daily basis goes beyond

managing their own emotions so as to portray a professional demeanor regardless of what the client presents. The officers I interviewed talked about formulating a relationship with the client so that they could relate and connect to the client to be able to make their evaluation and recommendations. This process is an emotional project. Their ability to create this relationship and use their emotional response is at the crux of being able to come up with a meaningful evaluation.

For this project, I interviewed 20 probation officers from one State probation district in the Mountain-West region of the U.S. My initial goal was to contribute to the implementation literature by seeking to understand the experiences of one segment of the implementation system—front-line probation officers—and in particular, to investigate how they talk about and implement evidence-based practices. Through my interviews, the ways in which the officers fill the gap between the mechanics of what they are told to do (e.g., assess for risk, match treatment to assessment results), and what they actually do when they encounter a complex individual in this complex judicial system came into sharp focus. More specifically, the officers described how they bring themselves into the work in ways that help them bridge the gap between what the assessment tools provide and what they actually need to make case decisions. Officers talked about making decisions in ways that have little to do with the tools provided for them and much to do with their own humanity and their ability to humanize their clients. This is particularly striking because the criminal justice system in general is not known for warmth and client responsiveness.

Further, the training of officers in this State has traditionally involved the “train-and-pray” method where officers are taken out of their contexts, placed in a training facility, provided with in-depth training, and then sent back without follow-up or support on the ground. Therefore, the training has not been context-sensitive. Through interviews, I uncovered how these officers use relational processes to contextualize training. In this paper I describe this emotional labor as well as demonstrating not only that officers use variable frames of reference to approach decision-making, but also that this appears necessary to bridge procedure or training and actual process.

## Method

The 20 probation officers I interviewed have between 5 and 23 years of experience at their jobs. The average length of service is 12 years. They all currently work specialized caseloads in two different locations spanning four different cities. Of the 20 officers, 5 self-identify as people of color; the rest are White. There were only three men in my sample. Being officers on specialized caseloads means they have demonstrated the skills needed to manage higher-risk clients. These include a sex offender caseload, domestic violence caseload, clients on intensive supervised probation, clients on a felony drug court, and juveniles with sexual offense or complicated mental health histories.

The division of probation services in this state is quite progressive. They were early adopters of several different evidence-based practices, including using third-generation assessment tools (e.g., LSI), providing the different judicial districts with support in

adhering to the risk/need principles, and providing departments with routine updates on the latest research in corrections through Research-in-Brief publications. This particular district is one of the more progressive districts within the 21 judicial districts that make up the state. The population in this district is just under 100,000, is predominantly White (88 percent), and is one of the most affluent counties in the state. The district is often willing to pilot new programs and try different things. For example, all officers have access to a skills coach whenever they need support, a therapist with whom they can discuss concerns and debrief difficult situations, and a massage therapist that comes into both offices once a week during lunch and offers chair massages. Another distinction of this district is that the officers know they must make sure that every stone is turned before filing a complaint in court. The officers talk about going to court and knowing that the judge will ask them if they have done everything before filing the complaint. In order to document that they have done so, they often prepare lengthy complaints listing everything that has been tried.

After gaining permission from the chief probation officer, I recruited the probation officers through an email request to be interviewed for this research. Probation officers responded generously and enthusiastically, also recommending other officers I should interview. I was already familiar with the probation officers in this department, including the ones I interviewed, because I have worked with them in different capacities, both as a treatment provider for their clients and as a consultant providing the probation department with training in evidence-based practices. I chose these particular probation officers because of their length of service in the field as well as because they currently supervise specialized caseloads. I conducted all of the interviews, which usually ranged between 45 and 90 minutes. I used a semi-structured format, and recorded and transcribed the interviews in accordance with Institutional Review Board requirements. I asked broad questions and began all interviews by asking the officers to describe their role as a probation officer. I included other questions such as, "What do you think EBPs are?," "What supports you doing your job?," and questions about support and quality of supervisors. I did not initially ask how the officers make decisions; however, because this came up in my first three interviews, I included questions

about negotiating client needs and public safety, a theme that the officers initiated.

After each interview, I took notes on my experience, the themes I noticed, what stood out for me, what seemed familiar about this interview, and what was different. I often noted that I was awed by their willingness to enter into an exploration with the client and that I was struck by their vulnerability as they tried to articulate the complexity of what they do on a daily basis. I used an inductive analytic strategy while coding the transcripts looking for similarities, themes, and recurring phenomena. I also used written memos, peers and others in the probation field to develop and test the ideas I was developing.

### **Probation work—the "real work" behind the scenes**

Probation officers supervise clients in the community for a term determined by the court at sentencing. Clients must obey certain terms and conditions while on probation; in some instances, these terms and conditions drive what the client needs to do on probation. Probation is on a continuum of limitations to freedom that a client can receive. While on probation, clients can receive a variety of sanctions that impose limitations on their freedom. These include electronic home monitoring, day reporting, work release, and jail time. If a client is unsuccessful on probation, the officer can recommend a higher level of containment to the judge. This could include lengthy sentences to halfway house facilities or, in some instances, prison. The officers interviewed in this project have clients with high levels of risk, most of whom could face prison terms if unsuccessful on probation.

Interestingly, several of the officers interviewed contrasted what they actually do with what the public thinks they do, which, as Hannah<sup>1</sup> put it, is "sit behind the desk and send people to prison." These officers see their job as guiding clients through a complicated system so that they can successfully navigate their way out while facilitating some significant lasting change in their lives along the way.

**Taylor:** I like to often put it out to the clients that really my job is to make sure that they're in a better place when they come out of the system than when they came in, and really trying to diagnose and figure out exactly why the person's in the system and really trying to get those things taken care of.

**Cathy:** I really see myself as a guide through a very complicated system. I am really big on education so what I do with the clients is in the beginning my intakes are usually across three, um, appointments, and I am pretty in-depth about their terms and conditions; what they mean, what's expected of them with accountability, monitoring, treatment.

**Beth:** (My role is) moving people through a system that's really confusing and, um, helping them to better their life with whatever tools we have. Moving them from point A to point B and in the process hopefully giving them what they need so they don't end up back where they were.

Probation officers are provided with a variety of tools and trainings in order to accomplish their work. However, they believe that they were hired for their ability to do "real work" and not necessarily for their "book-knowledge," as Beth put it in her interview. This "real work" goes beyond what they are expected to do according to policy or procedure. Training tells them to use a particular assessment tool and make decisions in a certain way; the "real work," according to them, begins when they start talking to the individual, gather information, and respond using their gut in a way that goes beyond what procedure would tell them to do. This emotional labor allows them to make more nuanced, flexible, client-centered decisions and to involve more of themselves in the work. In fact, several of the officers discount what the system provides them in terms of decision-making tools. For example, when a client is placed on an officer's caseload, the officer receives a report outlining the details of the case and recommendations about how to proceed. Many of them state that they do not read this information before meeting the client, lest it cloud the "real work" that they need to do.

Rita describes this by telling me that she doesn't read the information provided to her before her first meeting with her client. Instead, "I just have them talk to me about them. You know, not about what's on the paper, but talk to me about you." Hannah talks about something similar when she says, "I feel the real work comes from when we are interacting in the office and I find out more about them." It is in these interactions that the officers figure out what's next for the client.

Officers also talk about being able to do "real work" as a skill that not everyone possesses. Some of them make the distinction

<sup>1</sup> All names have been changed to protect the identity of the officers.



between people who are book-smart but have no relational skills and those that can “do relationship” in such a way that they gather all the information needed to make supportive decisions for the client.

**Beth:** Communication is key, but I also think that it’s a personality style comes in with it. I think that some people don’t generally know how to have relationships so you’re teaching book smart people how to have relationships by using things that other people [who] already know how to do the job already do automatically.

Given that these officers have specialized caseloads with high-risk clients that most other districts would ordinarily incarcerate (e.g., LSI scores in the high 30s and low 40s), these officers in particular are working with complex people in a complex system. They are provided with tools to help with decision-making, but the tools can be two-dimensional and can miss some important things crucial to the success of the client. During these interviews, a strong theme of how the officers fill the gap between what the tools provide and what they actually need arose and became the focus of my analysis. Or as Gayle put it, “Paper misses the point and technical words miss the point.”

### Filling the gap

Knowledge, or the construction of knowledge, is an iterative process and emphasis needs to be placed on knowing through the active and continuous engagement of the environment (Giddens, 1984 & Orlikowski, 2002). In this way, knowledge is performative—we clarify and extend our knowledge through action (Weick, 1995). Knowing and practice draw each other into existence. This filling the gap that the POs identify themselves as doing is an active process; it is not just a passive interpretation of what is going on but an active “authoring” of how to explain and make sense of what happens. These interviews describe the process of how these officers make meaning out of situations and use the tacit knowledge that they have about themselves, people, the organization, and the way it works to tackle the situation at hand. And these processes help clarify what prerequisites might be necessary within the organization and the individual for their efforts to make sense and their knowledge to be more accurately transformed into action. The three ways these officers describe filling the gap can be categorized as: using self-as-reference; using others-as-reference; and on-the-job experience. The organization as a

whole both strongly influences or moderates these and is also a beneficiary of them.

**Self-as-reference:** When describing how they make decisions about what to do with a client, officers frequently emphasized developing a relationship with the client. They stressed, for example, the importance of talking with the client to figure out what is going on, and also being flexible and willing to let their understanding change. Some officers alluded to paying attention to what is driving crime rather than what the actual offense is, as evidenced in Hannah’s explanation. She suggested that we first have to look at what else is going on for the client because, “What I have found is that a lot of the domestic violence will stem from substance abuse issues. So I look in his file but I also talk to him to figure out how his behavior makes sense.” In this way, Hannah was describing the emotion work she does to engage with the client and not be blinded by the instant offense. Instead, she suggested that she tries to make sense of what the client has done to see if it makes sense to her, “to see how it leads into that offense, whether it’s theft or robbery, was he high at the time, what causes him to do these type of criminal things? How does his behavior make sense?”

Beth explains something similar:

You get in the room with them and feel what it feels like to be with them—real, true, whatever that is. I try and join them and try to be there with them and get their experience so I can understand what we’re doing. And then I kind of pull myself out and go, “OK so what’s happenin’ there.” You know, things are not making sense, or are they doing things because that’s what they were taught that, or this might be some kind of negative or not helpful behavior, then we kind of dig that up and then it makes more sense to know where to go.

This intuitive process of decision-making that relies strongly on building a relationship with higher-risk clients is echoed in all the interviews. When asked what things they take into consideration, each officer highlighted different things (e.g., criminal history, family, mental health, substance abuse); however, the common piece was that they all make decisions on a case-by-case basis and only after talking extensively with the client. What is curious is what they referenced to make sense of what they were hearing: The common thread was **using themselves** as a reference for making decisions about whether a particular behavior is concerning or not. They seem to believe that they are quite similar to the clients

(e.g., Taylor: “A side-step this way or that and I could be my client”; Gayle: “I try and think, do their actions make sense”; Leah: “I put myself in their shoes”), and in this way they really humanize the clients.

**Taylor:** When I tell people what I do, they say, “Isn’t it tough to work with those people?” and it’s like, “those people,” they assume that we are so different from “those people.”

What all three officers were saying here is that they try to relate to the clients. They are attempting to make sense of their client’s behavior by seeing if they can relate to their behavior. It therefore seems that the more relatable the client is, the easier it would be for the officer to make decisions and subsequently the more client-centered the decisions would be. For the officer to “feel into” the client, as Beth put it, the client needs to be someone they can relate with or come to grips with. So maybe when the probation officers say “enough is enough” or acknowledge that they do not know what decision to make, what they are really saying is, “I am not able to relate to this person. This person does not make sense from where I am sitting and therefore I do not know what to do next.” Or as Lindy put it, “At times it’s like I just don’t get it. You know, I just can’t get them.”

The extent to which the client is relatable influences how the officer responds to the client’s level of risk. From a policy and procedure point of view, responses to clients presenting a higher safety threat would be uniform. That is indeed not the case because of the officer’s relationship with the client and how easily the officer can relate to the client. As highlighted by Beth, “Even with the same client, different things will happen with different POs.” The officers have to reconcile what they know about case decision-making through their training with what they know and feel about the client. This interaction is summarized in the Table 1.

Based on Table 1, when the client is relatable, self is used as a reference, empathy is high, and the officers usually describe having positive relationships. When the safety threat is high but the client is still relatable, officers will be quite creative and go to great lengths to support the client. They will also use others for support (e.g., treatment team, other officers, supervisor) and share the burden of the decision. Tina summarizes this process well when she says:

TABLE 1.

|   |               | FROM TRAINING AND ASSESSMENT  |   |
|---|---------------|---|---|
|   |               | Low safety threat   | High safety threat  |
| FROM WHAT THEY KNOW AND FEEL ABOUT THE CLIENT | Relatable     | <p><b>“We’re the same”<br/>Friend</b></p> <p>Reference: Self</p> <p>Response:</p> <ul style="list-style-type: none"> <li>• High empathy</li> <li>• Minimal intervention</li> <li>• Positive relationship</li> </ul>   | <p><b>“I’m worried about you”<br/>Problem child</b></p> <p>Reference: Self</p> <p>Response:</p> <ul style="list-style-type: none"> <li>• High creativity</li> <li>• Use others for support</li> <li>• Get buy-in from other parties involved</li> <li>• More likely to take risks for the client</li> <li>• “Goes to bat” for the client</li> </ul>           |
|   | Not Relatable | <p><b>“You’re weird”<br/>Weirdo</b></p> <p>Reference: Procedure</p> <p>Response:</p> <ul style="list-style-type: none"> <li>• Defined as strange case</li> <li>• Viewed with suspicion</li> <li>• Officer stays alert for any high-risk behavior and responds quickly</li> <li>• Seek external cues for ideas about what to do</li> </ul> | <p><b>“You’re weird and you worry me”<br/>Scary</b></p> <p>Reference: Procedure</p> <p>Response:</p> <ul style="list-style-type: none"> <li>• Risk-limiting behavior</li> <li>• Easier to make harsh decisions</li> <li>• More likely to respond with containment</li> <li>• Assume the worst</li> <li>• Send to external resources for evaluation</li> </ul> |

You think about the person, understand them and then make a decision and feel ok with it and the person walks out the door and you’re like, “oh god, please say that I made an OK decision on your case, like you’re not going to walk out that door and go, you know, beat the crap out of your victim again. But, I mean I think generally for me, I feel like it’s helped being a part of a team, because you have other people that are helping you make some of those calls, and it sort of does lift a burden.

**Case example of Problem Child:** Lindy described working on a tough case and the lengths to which she was willing to go:

This guy had a lot going on, I mean a LOT. And everyone was worried about him, you know. But I could really get what was going on. I mean I am not saying I thought he was okay or anything, just that when I talked to him about what was going on, it made sense. And so I asked my supervisor if we could try something different with him . . . . And you know, if I explain something my supervisor will back me up . . . . And so we put him in treatment, I had him calling me every day to let me know he was okay, and we put him on SCRAM (an

alcohol monitoring device), and I mean I didn’t hold back. Because otherwise, what’s the alternative? Prison? I mean I knew prison was not it for this guy, you know.

If the client is not relatable, as in the case example that follows next, then the officer tends to reference policies and procedures when making a decision about a client. The officer’s willingness to take risk lowers, as can be seen in Cathy’s explanation of a difficult case with whom she had difficulty building a relationship. Here she provides us with a **case example of Scary**:

**Cathy:** He didn’t have a prior sex offense but he had deviant sexual interest. We had two of the three most potent combinations and I really feel really strongly that he’s just unmanageable and I gave him chances but I am not going to continue. I tried to talk it through with him, I really did. But he’s unmanageable.

**Me:** By unmanageable you mean his behavior?

**Cathy:** Yeah, his behavior, but also just . . . . It’s hard to explain. I talk to him and try and understand, but I can’t. (Pause) If the court allows me I am bumping him

up to community corrections—that’s my recommendation. I don’t think he’ll make it. With some others, if I can see what’s going on and I don’t see that criminality, I give them lots of chances. And I’m very patient usually.

Here Cathy explains that there was something about the client that worried her, although it didn’t seem to be just his behavior. She reflected on her inability to understand him and that this lack of being able to understand him contributed to her being less “patient” and more willing to seek a harsher sentence.

**Implications:** The use of self-as-reference has enormous implications for the organization, especially if the organization has probation officers who are rigid in their ways of thinking (not a completely uncommon occurrence) and have very narrow views about how things work and how people should behave. It would be harder for them to relate to people, i.e., their clients, and if so, would explain why, given the same client, some officers would decide to go a gentler route and others might be extremely harsh. So if the officer can easily make this statement: “If I were in your shoes, I could see doing what you did, and so I respond to you with understanding and compassion, and in ways that would actually help me were I in your shoes,” then things go more humanely. This then becomes a process of empathic decision-making. Unfortunately, teaching empathy is quite the challenge, because it is the ability to suspend oneself and enter into the world of the client, truly seeing things as they would but keeping certain aspects of oneself intact, like right and wrong, or at least not losing one’s balance.

**Colleagues-as-reference:** The officers I interviewed also talked a great deal about using each other as resources to build their ability to do their jobs. They describe talking with others about what they would have done differently or to get ideas in a difficult case. For example, Hannah emphasized the importance of reaching out to her colleagues in her work. “That’s how you learn,” she explained, adding, “That’s how you grow, that’s how you do—you know, you enhance what you do.” She equated willingness to reach out with commitment to the work. A truly committed officer would, in her view, “take time to go to another person and say, ‘you know, I’m just struggling with something, and I’m just trying to find a good way to do this.’” Hannah also shared that she has been the recipient of this

kind of interaction where she has had people come to her and say just that. She then went on to highlight the gap in training and the importance of using colleagues by stating, “Coz training that they give you only goes so far. You got to know how people do things. It’s difficult, you know, the work I mean” (emphasis in the original).

Here, Hannah is highlighting the gap she experiences between training she has received and the “how” of doing the work. She answers the question about how officers fill the gap between the information they receive in training and the actual “how” of doing the job. She also describes the work as difficult and complex, which is something that most of the officers interviewed also mention. Describing work as complex serves them by allowing and supporting the sharing of knowledge. If the officers interpreted what they do as simple acts of following tools and procedures, it would limit the creativity and flexibility with which they might approach a client situation. Officers therefore describe their work as extremely complex, which serves several goals. First, it increases their interest in, commitment to, and engagement with their job. Second, it allows them to ask questions that might ordinarily be considered things they should know.

**Cathy:** I’m continually challenged by them (clients) and I like that. I never have a dull day. Never.

**Rita:** So, you know, I look at my job as a learning process because I really am fascinated with people, and how they operate, and how they make the decisions that they make. And it’s just the transformation of seeing these people within the nine months to a year is just amazing to me. It’s difficult, but it’s amazing.

**Implications:** Using others-as-reference has implications for the organization as a whole. It is incumbent upon the organization to support this social interaction and the ways that officers make decisions or fill the gap, because if the organization wants officers to do things a certain way, training only goes so far. Peer interactions do much of the teaching, so the organization has a high stake in this.

**Experience:** The third way that officers seem to fill this gap between “what” they learn and “how” to actually do the work is through experience—trying different things and having some of them not work. An example is believing the client and letting him or her off monitoring only to find out that the client is

actually using. For learning by experience to occur, the organization needs tolerance for mistakes (which, incidentally, the officers in this district describe as true of the organization they work in).

**Beth:** Once you do something wrong it’s not scary anymore because you’ve already done it. And then you learn and you can do it right. I tended to do it wrong and then go like, I’ve done both sides you know, because sometimes you really don’t know what you’re doing. They don’t train you at all. You know, you kinda are just doing it on your own. I truly feel like they don’t teach that kind of stuff. That we really here what they’re striving to get us to do is something that we develop on our own.

**Implications:** Officers talk about developing instincts through their work and after experiences, both positive and negative, that tell them how to handle future situations. Instincts are also informed reactions that are muddled by officers’ personal experience, moral biases, and most important, what they know about the way things work in the agency. This is picked up, sometimes nonverbally, from peers, from training on-the-job, and from the norms and culture of the agency they are working in. From these they begin to form models that they then reflexively refer to when a decision needs to be made. As a result, across the corrections system officers could be approaching situations with a limited, sometimes inadequate model or frame of reference from which to make decisions that reduce recidivism and reliably facilitate positive results for the clients. When these models go unexamined, the officers become prisoners of their own anecdotes, norms, and “the way things work.” Such a prison does not allow for building or sharing knowledge, or changing the way things are done.

Criminal justice organizations tend to emphasize about-ism (Keller, 2010) in trainings. They focus on teaching people about what they need to know, rather than how to operationalize what they know. It is the operationalizing of what they are learning that officers attempt to fill through self, others, and trial and error.

## Recommendations and Conclusion

This article explores the emotional labor that probation officers engage in when making case decisions about their clients. The officer interviews and my analysis of them demonstrate how officers draw on their “selves” and

each other in order to conduct this emotional labor. This reliance on emotional labor highlights a gap in the current focus of training in probation work; it emphasizes the importance of paying attention to the emotional labor officers engage in during the decision-making process. In order to address this gap, I offer the following recommendations:

1. Have ongoing and open conversations about mental/gut models that officers have, rather than try and train them out of the way they ordinarily think. It is these models that they use to make decisions and therefore examining and exploring these is helpful.
2. Take a page out of EBPs for clients and apply them to staff. How staff work with clients resides inside the staff members. Rather than asking staff to use terms that are external to them or impose ways of thinking on them, begin by eliciting their own ways of working. Start with what the staff already do. Talk with them, observe them doing what they do.
3. One danger of state trainings being so focused on tools and evidence-based practices is that we might end up training out these very important intuitive or gut-feeling aspects and have officers inadvertently rely on insufficient tools. The worry here is that it is unclear how these officers developed these ways of working with clients that are intuitive and client-centered. Because if we remove tools and training, we might get officers doing their own thing and causing potential harm. I have worked with such officers who disregard tools and go with what they call their gut instinct. Unfortunately, how they then communicate leaves the client feeling discouraged, shamed, and defensive. Perhaps this is the key: Developing the gut instinct or feeling is one thing; however, it is really important to help officers develop ways of engaging and talking with the clients that get them the information they need to make good decisions.
4. In some ways the work of a probation officer is isolating. Officers are working with complicated individuals and making difficult decisions by themselves. There was a need to be seen more clearly by both their supervisors and perhaps also by the community at large. Officers expressed the need to be seen for what they really do by their supervisors throughout their interviews. However, how officers are being measured and evaluated in their jobs fails

- to capture what they are doing in their jobs. Because the officers fill the gap between what they are told to do and what they actually do in real-time, evaluation of their work needs to happen in real-time as well.
5. The override principle often talked about in assessment training is very alive and well and therefore implementing evidence-based practices needs to happen in conjunction with developing and refining the use of this existing override principle.
6. Both supervisors and trainers need to support and emphasize the complexity of probation officers' work, because such support can not only raise officers' level of job satisfaction but also encourage knowledge-sharing.

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# The Federal Probation System: The Struggle To Achieve It and Its First 25 Years

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*The coming year, 2015, is the occasion for three important anniversaries for the federal probation and pretrial services system. Ninety years ago, in March 1925, Calvin Coolidge signed into law the act establishing a federal probation system. Seventy-five years ago, in 1940, the federal probation system moved from the Department of Justice in the Executive Branch to the Administrative Office of the U.S. Courts. Finally, forty years ago federal pretrial services came into being as a demonstration project in 10 courts; several years later it spread throughout the federal judiciary with the 1982 passage of the Pretrial Services Act.*

*The upcoming year's anniversaries will be celebrated in the federal probation and pretrial services system in a number of ways, including a special September 2015 issue of Federal Probation dedicated to tracking what we have accomplished and proposing where the next 10 years should take us.*

*Meanwhile, we lay the groundwork for this year-long commemoration by reprinting below former Assistant Chief of Probation Victor H. Evjen's account of the genesis and first 25 years of federal probation. This article is reprinted from the June 1975 Special Golden Anniversary Issue of Federal Probation.*

**THE FIRST PROBATION** law in the United States was enacted by the Massachusetts legislature April 26, 1878. But it was not until 1925, when 30 states and at least 12 countries already had probation laws for adults, that a Federal probation law was enacted. Through a suspended sentence United States district courts had used a form of probation for nearly a century. But the use of the suspended sentence was met with mounting disapproval by

the Department of Justice which considered suspension of sentence an infringement on executive pardoning power and therefore unconstitutional. The reaction of many judges ranged from "strong disapproval to open defiance." It was apparent the controversy had to be settled by the Supreme Court.

In 1915 Attorney General T. W. Gregory selected a case from the Northern District of Ohio where Judge John M. Killits suspended "during the good behavior of the defendant" the execution of a sentence of 5 years and ordered the court term to remain open for that period. The defendant, a first offender and a young man of reputable background, had pleaded guilty to embezzling \$4,700 by falsifying entries in the books of a Toledo bank. He had made full restitution and the bank's officers did not wish to prosecute. The Government moved that Judge Killits' order be vacated as being "beyond the powers of the court." The motion was denied by Judge Killits. A petition for writ of mandamus was prepared and filed with the Supreme Court on June 1, 1915. Judge Killits, as respondent, filed his answer October 14, 1915. He pointed out that the power to suspend sentence had been exercised continuously by Federal judges, that the Department of Justice had acquiesced in it for many years, and that it was the only amelioration possible as there was no Federal probation system. In one circuit, incidentally, it was admitted the practice of suspending sentences had in substance existed for "probably sixty years."

On December 4, 1916, the Supreme Court handed down its decision (*Ex parte United States*, 242 U.S. 27). The unanimous opinion, delivered by Chief Justice Edward D. White,

held that Federal courts had no inherent power to suspend sentence indefinitely and that there was no reason nor right "to continue a practice which is inconsistent with the Constitution since its exercise in the very nature of things amounts to a refusal by the judicial power to perform a duty resting upon it and, as a consequence thereof, to an interference with both the legislative and executive authority as fixed by the Constitution." Probation legislation was suggested as a remedy. Until enactment of a probation law, district courts, as a result of the Killits ruling, would be deprived of the power to suspend sentence or to use any form of probation.

At least 60 districts in 39 states were suspending sentences at the time of the Killits case and more than 2,000 persons were at large on suspended sentences. Following the Killits decision two proclamations were signed by President Wilson on June 14, 1917, and August 21, 1917, respectively, granting amnesty and pardon to certain classes of cases under suspended sentences (see Department of Justice Circular No. 705, dated July 12, 1917).

## Efforts To Achieve a Probation Law

The efforts to enact a probation law were fraught with difficulties the proponents of probation never anticipated. It was difficult to obtain agreement on a nationwide plan. As far back as 1890 attorneys general and their assistants expressed strong opposition not only to the suspended sentence but to probation as well. Attorney General George W. Wickersham was one exception. In 1909 he recommended enactment of a suspension of

sentence law and in 1912 supported in principle a probation bill before a Senate committee.

The first bills for a Federal probation law were introduced in 1909. One of the bills, prepared by the New York State Probation Commission and the National Probation Association and introduced by Senator Robert L. Owen of Oklahoma, provided for a suspension of sentence and probation and compensation of \$5 per diem for probation officers. The bill was greeted with indifference by some and considerable opposition by others.

At the time of the Killits decision several bills had been pending before the House Judiciary Committee. At the request of the Committee, Congressman Carl Hayden of Arizona introduced a bill which provided for a suspended sentence and probation, except for serious offenses and second felonies, but made no provision for probation officers. Despite its limitations, the bill passed both the House and the Senate and was sent to President Wilson on February 28, 1917. On advice of his attorney general, he allowed the bill to die by "pocket veto."

It should be mentioned at this point that one of the prime movers for a Federal probation law and prominently in the forefront throughout the entire crusade for a Federal Probation Act was Charles L. Chute who was active in the early days with the New York State Probation Commission and from 1921 to 1948 was general secretary of the National Probation Association (now the NCCD).

Many members of Congress were unfamiliar with probation. Some judges confused probation with parole, several using the term "parole" when sending to Mr. Chute their opinions about probation. When Federal judges were first circularized in 1916 for their views, about half were opposed to probation, regarding it as a form of leniency. Some favored probation for juveniles, but not for adults. Some were satisfied to continue suspending sentences and others believed the suspended sentence was beyond the powers of the court.

In 1919 Federal judges were asked again for their views as to a probation law. The responses were more favorable, but some still felt no need for probation, asserting that uniformity and severity of punishment would serve as a crime deterrent. Others continued to believe salaried probation officers were unnecessary and that United States marshals and volunteers could perform satisfactorily the functions of a probation officer.

In early 1920 Congressman Augustine Lonergan of Connecticut introduced a probation bill in the House resembling the New York State law. A companion bill was introduced in the Senate by Senator Calder of New York. This marked the beginning of a new effort to achieve a Federal probation law. A small but strong committee representing the National Probation Association in support of the bill wrote Attorney General A. Mitchell Palmer, hoping to obtain his endorsement of the bill. Of strict law and order inclinations, Palmer replied: ". . . after careful consideration I have felt compelled to reach the conclusion that, in view of the present parole law, the executive pardoning power and the supervision of the Attorney General over prosecutions generally, there exists no immediate need for the inauguration of a probation system." It was believed by the NPA committee that Palmer's reply was prepared by subordinates who had a long-standing opposition to probation.

On March 8, 1920, Mr. Chute succeeded in arranging a meeting with Palmer, bringing with him a team of Washington probation officers, staff members of the U.S. Children's Bureau, and others, including Edwin J. Cooley, chief probation officer of New York City's magistrates courts. Cooley, in particular, impressed the Attorney General who, the next morning, announced in Washington papers that he would use all the influence of his office to enact a probation law. He pointed out that under the existing law judges had no legal power to suspend sentences in any case nor to place even first offenders on probation. He said "federal judges can surely be trusted with the discretion of selecting cases for probation if state judges can," and added that probation had been successful in the states where it had been used the most and that a Federal probation system would in no way interfere with the Federal parole system (established in 1910).

The Volstead Act (Prohibition Amendment) passed by Congress in 1919 created difficulties in obtaining support of a probation law. Congressman Andrew J. Volstead of Minnesota, chairman of the Judiciary Committee, was opposed to any enactment which would interfere with the Act he authored. Any action to be taken on the bill thus depended to a large extent upon him. He, together with other prohibitionists then in control of the Congress, believed judges would place violators of the prohibition law on probation. In an effort to stem such action, the prohibitionists introduced a bill which provided for a prison sentence for every

prohibition violator! They ignored the fact that there were overcrowded prison conditions.

## Judges Voice Opposition to a Probation Law

Some judges continued to express opposition to probation in principle. Judge George W. English of the Eastern District of Illinois in a letter to Mr. Chute, dated July 10, 1919, said he was "unalterably and uncompromisingly opposed to any interference by outside parties, in determining who or what the qualifications of key appointees, as ministerial officers of my Court may be." He objected to Civil Service or the Department of Justice having anything to do with the appointment of probation officers.

Replying to a letter Mr. Chute wrote in December 1923 to a number of Federal judges seeking endorsement of a Federal Probation Act, Judge J. Foster Symes of the District of Colorado wrote:

I have your letter of December 10th, asking my endorsement for a Federal probation act. Frankly, permit me to say that I do not favor any such law, except possibly in the case of juvenile offenders. My observation of probation laws is that it has been abused and has tended to weaken the enforcement of our criminal laws.

What we need in this country is not a movement such as you advocate, to create new officials with resulting expense, but a movement to make the enforcement of our criminal laws more certain and swift.

I believe that one reason why the Federal laws are respected more than the state laws is the feeling among the criminal classes that there is a greater certainty of punishment.

In response to Mr. Chute's letter Judge D.C. Westenhaver of the Northern District of Ohio wrote:

Replying to your request for my opinion, I beg to say that I am opposed to the bill in its entirety. In my opinion, the power to suspend sentence and place offenders on parole should not be confided to the district judges nor anyone else . . . . In my opinion, the suspension, indeterminate sentence and parole systems wherever they exist, are one of the main causes contributing to the demoralization of the administration of criminal justice . . . . I sincerely hope your organization will abandon this project. (12-14-23)

A letter from Judge John F. McGee of the District of Minnesota read, in part:

I most sincerely hope that you will fail in your efforts, as I think they could not be more misdirected. The United States district courts have already been converted into police courts, and the efforts of your Association are directed towards converting them into juvenile courts also . . . . In this country, due to the efforts of people like yourselves, the murderer has a cell bedecked with flowers and is surrounded by a lot of silly people. The criminal should understand when he violates the law that he is going to a penal institution and is going to stay there. Just such efforts as your organization is making are largely responsible for the crime wave that is passing over *this* country today and threatening to engulf our institutions . . . . What we need in the administration of criminal laws in this country is celerity and severity. (12-19-23)

In his reply to Mr. Chute's letter, Judge Arthur J. Tuttle of Detroit wrote:

There is a large element in our country today who are crying out against the power which the federal Judges already have. If you add to this absolute power to let people walk out of court practically free who have violated the law, you are going to increase this sentiment against the federal judges . . . . I don't think the bill ought to pass and I think this is the reason why you have failed in your past efforts . . . . I am satisfied, however, that you are on the wrong track, that you are going to make a bad matter worse if you succeed in what you are trying to do . . . . I think neither this bill nor any other bill similar to it ought to be enacted into law. (12-14-23)

It should be pointed out that Judge Tuttle later became an "enthusiastic booster" of probation. There also may have been a change in the attitude of the other three judges who are quoted as being opposed to a Federal probation law.

Notwithstanding the opposition of many judges to probation in the Federal courts, there were a number of judges, and also U.S. attorneys, who supported a probation law, referring to the proposed bill as "meeting a crying need," that it was "one of the most meritorious pieces of legislation that has been proposed in recent years," and that "it will remedy a most vital defect in the administration of the federal criminal laws."

## Objections Raised by the Department of Justice

Opposition to probation, however, prevailed in the Department of Justice. One of the assistants to new Attorney General Harry M. Daugherty was convinced the Department should stand firmly against probation, commenting: "I thoroughly agree with Judge McGee and hope that no such mushy policy will be indulged in as Congress turning courts into maudlin reform associations . . . . The place to do reforming is *inside* the walls and not with the law-breakers running loose in society."

In a 1924 memorandum to the Attorney General, a staff assistant wrote:

It [probation] is all a part of a wave of maudlin rot of misplaced sympathy for criminals that is going over the country. It would be a crime, however, if a probation system is established in the federal courts. Heaven knows they are losing in prestige fast enough . . . . for the sake of preserving the dignity and maintaining what is left of wholesome fear for the United States tribunal . . . . this Department should certainly go on record against a probation system being installed in federal courts.

Even the Department's superintendent of prisons in 1924 referred to probation as "part of maudlin sympathy for criminals." (Note how "maudlin" has been used in the three statements quoted above—maudlin reform, maudlin rot, maudlin sympathy.)

On December 12, 1923, Senator Royal S. Copeland, of New York, a strong advocate of social legislation, introduced in the Senate a new bill (S. 1042) which removed some of the recurring objections of the Department of Justice and some members of Congress, particularly the costs required to administer a probation law. The bill was sponsored in the House (H.R. 5195) by Representative George S. Graham of Pennsylvania, new chairman of the Judiciary Committee. The bill limited one probation officer to each judge. There was no objection to this limitation, but there was divided opinion on the civil service provision.

On March 5, 1924, Attorney General Daugherty wrote to Chairman Graham commenting on his bill:

. . . we all know that our country is crime-ridden and that our criminal laws and procedure protect the criminal class to such an extent that the paramount welfare of the whole people is disregarded and disrespect for law encouraged. If it were practicable to devise a humanitarian

but wise probation system whereby first offenders against federal laws could be reformed without imprisonment and same could be administered uniformly, justly, and economically, without encouraging crime and disrespect for federal laws, I would favor same. The proposed bill does not seem to provide such a system.

Daugherty stated further there were approximately 125 Federal judges who undoubtedly would insist on at least one probation officer and that salaries, clerical assistants, travel costs, etc., would amount to an estimated \$500,000 per annum—a large amount at that time. He doubted, moreover, the feasibility of placing salaried probation officers under civil service and concluded by stating "the present need for a probation system does not seem to be sufficiently urgent to necessitate its creation at this time."

It should be pointed out that there was a growing understanding and appreciation of the value of probation as a form of individualized treatment. The prison system was unable to handle the increasing number of commitments. A high proportion of offenders were being sent to prison for the first time—63 percent during the fiscal year 1923. There also was a growing realization of the economic advantages of probation.

## Probation Bill Becomes Law

The bills introduced by Senator Copeland (S. 1042) and Representative Graham (H.R. 5195) were reported favorably in the Senate and the House, unamended. On May 24, 1924, Senator Copeland called his bill on third reading. The Senate passed it unanimously. But in the House there were misgivings and opposition. The bill was brought before the House six times by Graham, only to receive bitter attacks by a few in opposition. One prohibitionist said all the "wets" were supporting the bill and that the bill would permit judges to place all bootleggers on probation! Another congressman believed there should be a provision limiting probation to first offenders.

An intensive effort was made among House members by the National Probation Association to overcome objections to the bill. On February 16, 1925, the bill was brought up again in the House and on March 2 for the sixth and last time. Despite continued opposition by some of the "drys" as well as "wets," the bill was passed by a vote of 170 to 49 and sent to President Coolidge. As former governor of Massachusetts he was familiar with the functioning of probation and on March 4, 1925, approved the bill. Thus, 47 years after the enactment of the first probation law in the United States, the Federal courts now had a probation law. It is interesting

to note that approximately 34 bills were introduced between 1909 and 1925 to establish a Federal probation law.

For a more detailed account of the struggle to enact a Federal probation law, the reader is encouraged to read chapter 6, "The Campaign for a Federal Act," in *Crime, Courts, and Probation* by Charles L. Chute and Marjorie Bell of the National Probation and Parole Association (now NCCD).

### Provisions of the Probation Act

The Act to provide for the establishment of a probation system in the United States courts, except in the District of Columbia<sup>1</sup> (chapter 521, 43 Statutes at Large, 1260, 1261) gave the court, after conviction or after a plea of guilty or nolo contendere for any crime or offense not punishable by death or life imprisonment, the power to suspend the imposition or execution of sentence and place the defendant upon probation for such period and upon such terms and conditions it deemed best, and to revoke or modify any condition of probation or change the period of probation, provided the period of probation, together with any extension thereof, did not exceed 5 years. A fine, restitution, or reparation could be made a condition of probation as well as the support of those for whom the probationer was legally responsible. The probation officer was to report to the court on the conduct of each probationer. The court could discharge the probationer from further supervision, or terminate the proceedings against him, or extend the period of probation.

The probation officer was given the power to arrest a probationer without a warrant. At any time after the probation period, but within the maximum period for which the defendant might originally have been sentenced, the court could issue a warrant, have the defendant brought before it, revoke probation or the suspension of sentence, and impose any sentence which might originally have been imposed.

The Act authorized the judge to appoint one or more persons to serve as probation officers *without* compensation and to appoint *one* probation officer with salary, the salary to be approved by the Attorney General. A civil

service competitive examination was required of probation officers who were to receive salaries. The judge, in his discretion, was empowered to remove any probation officer serving his court. Actual expenses incurred in the performance of probation duties were allowed by the Act.

It was the duty of the probation officer to investigate any case referred to him by the court and to furnish each person on probation with a written statement of the conditions while under supervision. The Act provided that the probation officer use all suitable methods, not inconsistent with the conditions imposed by the court, to aid persons on probation and to bring about improvement in their conduct and condition. Each probation officer was to keep records of his work and an accurate and complete account of all moneys collected from probationers. He was to make such reports to the Attorney General as he required and to perform such other duties as the court directed.

### Civil Service Selection

It was not until August 4, 1926, that the U.S. Civil Service Commission announced an open competitive examination for probation officers, paying an entrance salary of \$2,400 a year. After a probation period of 6 months, salaries could be advanced up to a maximum of \$3,000 a year. In requesting certification of eligibles, the appointing officer had the right to specify the sex. Applicants had to be high school graduates or have at least 14 credits for college entrance. If the applicant did not meet these requirements, but was otherwise qualified, he could take a 1 1/4-hour noncompetitive "mental test."

The experience requirements were (a) at least 1 year in paid probation work; or (b) at least 3 years in paid systematic and organized social work with an established social agency (1 year of college work could be substituted for each year lacking of this experience with courses in the social sciences, or 1 year in a recognized school of social work). The age requirement was 21 through 54. Retirement age was 70. An oral examination was required, unless waived, for all eligible applicants.

### Early Years of the Probation System

Civil Service examinations had to be conducted throughout the country. Lists of eligibles were not ready until January 1927. Thus it was not until April 1927, 2 years after enactment of the Federal Probation

Act, that the first salaried probation officer was appointed. Two more were appointed in the fiscal year 1927, three in 1928, and two in 1929. The \$50,000 appropriation recommended by the Bureau of the Budget for 1927 was reduced to \$30,000 because the full appropriation of the preceding year had not been drawn upon except for expenses of volunteers. The appropriation for 1928, 1929, and 1930 was \$25,000. It was increased to \$200,000 in 1931. By June 30, 1931, 62 salaried probation officers and 11 clerk-stenographers served 54 districts.

Caseloads were excessive. In 1932 the average caseload for the 63 salaried probation officers was 400! But despite unrealistic caseloads, the salaried officers demonstrated that they filled a longfelt need. They assumed supervision of those probationers released to volunteers who had offered little or nothing in the way of help.

In August 1933, 133 judges were asked for their views as to salaried probation officers. Of the 90 judges responding, 34 expressed no need for salaried officers. Seventy-five were opposed to civil service appointments. At least 700 volunteers were being used as probation officers. Among them were deputy marshals, narcotic agents, assistant U.S. attorneys, lawyers, and even relatives. In a few instances clerks of court and marshals combined probation supervision with their other duties.

### Probation Act Is Amended

There was dissatisfaction among judges with the original Probation Act. An attempt was made in 1928 to amend it by doing away with the civil service provisions and giving judges the power to appoint more than one probation officer. The Act, moreover, made no provisions for a probation director for the entire system. Until the appointment of a supervisor of probation in 1930, following an amendment to the original law, the probation system was administered by the superintendent of prisons who also was in charge of the prison industries and parole. There were no uniform probation practices nor statistics.

On June 6, 1930, President Hoover signed an act amending the original probation law, 46 U.S. Statutes at Large 503-4 (1930). The amended section 3 removed the appointment of probation officers from civil service and permitted more than one salaried probation officer for each judge. When more than one officer was appointed, provision was made for the judge to designate one as chief probation officer who would direct the work of

<sup>1</sup> On August 2, 1949, the probation office of the U.S. District Court for the District of Columbia was transferred to the Administrative Office for budgetary and administration purposes and on June 20, 1958, the Federal Probation Act became applicable to the District of Columbia (Public Law 85-463, 85th Congress.)



all probation officers serving in the court or courts. Appointments were made by the court, but the salaries were fixed by the Attorney General who also provided for the necessary expenses of probation officers, including clerical service and expenses for travel when approved by the court.

Section 4, as amended, provided that the probation officer perform such duties with respect to parole, including field supervision, as the Attorney General may request. Provision also was made for the Attorney General to investigate the work of probation officers, to make recommendations to the court concerning their work, to have access to all probation records, to collect for publication statistical and other information concerning the work of probation officers, to prescribe record forms and statistics, to formulate general rules for the conduct of probation work, to promote the efficient administration of the probation system and the enforcement of probation laws in all courts, and to incorporate in his annual report a statement concerning the operation of the probation system. The Attorney General delegated these functions to the director of the Bureau of Prisons.

## Supervisor of Probation Appointed

In December 1929 Sanford Bates, newly appointed superintendent of Federal prisons (title changed by law in 1930 to Director, Bureau of Prisons), asked Colonel Joel R. Moore to be the first supervisor of probation. Colonel Moore, who had been employed with the Records Court of Detroit for 10 years, accepted the challenge and entered on duty June 18, 1930.

Colonel Moore's first assignment was to sell judges on the appointment of probation officers, to establish policies and uniform practices, and to locate office facilities for probation officers. In July 1930, on recommendation of Colonel Moore and Mr. Bates, the following appointment standards were announced by the Department of Justice:

1. *Age*: the ideal age of a probation officer is 30 to 45; it is improbable that persons under 25 will have acquired the kind of experience essential for success in probation work.
2. *Experience*: (a) high school plus 1 year of paid experience in probation work, or (b) high school plus 1 year in college, or (c) high school plus 2 years successful experience, (unpaid) in a probation or other social agency where instruction

and guidance have been offered by qualified administrators.

3. *Personal qualifications*: maturity plus high native intelligence, moral character, understanding and sympathy, courtesy and discretion, patience and mental and physical energy. (D. of J. Circular No. 2116, 7-5-30, p. 1.)

Since the Attorney General had no means of enforcing the qualifications established by the Department of Justice, appointments to a large extent were of a political nature. Among those appointed as probation officers in the early years were deputy clerks, prohibition agents, tax collectors, policemen, deputy marshals, deputy sheriffs, salesmen, a street-car conductor, a farmer, a prison guard, and a retired vaudeville entertainer! Relatives of the judge were among them. A master's thesis study by Edwin B. Zeigler in 1931 revealed that 14 of the 60 probation officers in service at that time had not completed high school, 14 were high school graduates, 11 had some college work, 11 had graduated from college, and 9 had taken some type of graduate work.

The 1930 personnel standards were in effect until January 1938 when efforts were made by the Attorney General to improve them. The new standards included (1) a degree from a college or university of recognized standing or equivalent training in an allied field (1 year of study in a recognized school of social work could be substituted for 2 years of college training); (2) at least 2 years of full-time experience in an accredited professional family or other casework agency, or equivalent experience in an allied field; (3) a maximum age limit of 53; (4) a pleasing personality and a good reputation; and (5) sufficient physical fitness to meet the standards prescribed by the U.S. Public Health Service.

When Colonel Moore entered on duty he was confronted with the task of how to utilize most advantageously the \$200,000 appropriated for the fiscal year 1931 when, as already stated, there were 62 probation officers and 11 clerk-stenographers. Quarters and facilities for probation services were meager. The officer in Mobile kept office hours between sessions of court at a table for counsel in the court room. The Los Angeles officer held down the end of a table in the reception room of the marshal's quarters. In Macon, Georgia, the probation officer was given space, without charge, in the law office of a retired lawyer friend. The officer for the Middle District of Pennsylvania had his office at his residence.

"Neither the courts nor the Department of Justice had exercised paternal responsibilities for the probation officer's needs," Colonel Moore recalled. "He (the probation officer) had to shift pretty much for himself. Only a fervent spirit and a dogged determination to do their work gave those new probation officers the incentive to carry on."

In the depression days it was difficult to obtain sufficient funds for travel costs. Probation travel was new to the Budget Bureau. "We had to fight for every increase in travel expenses for our continually growing service," said Colonel Moore.

Restricted in both time and travel funds, Colonel Moore had to maintain most of his field contacts through correspondence. In October 1930 a mimeographed *News Letter* was prepared for probation personnel. In July 1931 it became *Ye News Letter*, an issue of 17 pages. In Colonel Moore's words, "It served as a morale builder and a source of inspiration, instruction, and as an incentive to greater efforts . . . Its chatty personal-mention columns, its travel notes, and reporting of interesting situations helped to unify aims and to build coherence in activities."

Inservice training conferences were conducted in the early years as a regular practice. The first such conference met in October 1930 with the American Prison Congress. Thirty-two officers attended. A second conference, attended by 62 officers, was held in June 1931 in conjunction with the National Conference of Social Workers. Training conferences continued throughout the early years in various parts of the country, often on college and university campuses.

When Colonel Moore left the Federal probation service in 1937 to become warden of the State Prison of Southern Michigan, there were 171 salaried probation officers with an average caseload of 175 per officer. Commenting on Colonel Moore's 7 years as probation supervisor, Sanford Bates said: "The vigor and effectiveness of the federal probation system in its early years were in large part due to his vision and perseverance."

## Expansion Phase

Following the resignation of Colonel Moore, Richard A. Chappell, who was appointed a Federal probation officer in 1928 and named chief probation officer for the Northern District of Georgia in 1930, was called to Washington in 1937 to be supervisor of probation in the Bureau of Prisons. In 1939 he was named chief of probation and parole services,

succeeding Dr. F. Lovell Bixby when he was appointed warden of the Federal Reformatory at Chillicothe, Ohio.

On August 7, 1939, a bill to establish the Administrative Office of the United States Courts was approved by President Roosevelt, the statute to take effect November 6. On that date Elmore Whitehurst, clerk of the House Judiciary Committee, was appointed assistant director. On November 22, Henry P. Chandler, a Chicago attorney and past president of the Chicago Bar Association, was named director by the Supreme Court and entered on duty December 1. He served as director for 19 years until his retirement in October 1956.

Probation officers were excluded from the Act establishing the Administrative Office and like United States attorneys and marshals were subject to the Department of Justice. The Department argued that the supervision of probationers, like that of parolees, was an executive function and should remain with the Department. On January 6, 1940, Mr. Chandler brought the matter in writing to Chief Justice Hughes who believed that probation officers, being appointed by the courts and subject to their direction, were a part of the judicial establishment and that the law for the Administrative Office in the form enacted contemplated that probation officers should come under it. Later in January the Judicial Conference adopted that view and settled the question.

In meeting with James V. Bennett, director of the Bureau of Prisons, Mr. Chandler stated that if he assumed supervision of the probation service he would make every effort to build upon the values that had been developed under the Department and "to coordinate the administration of probation still with the correctional methods that remain in the Department of Justice." The Judicial Conference instructed Mr. Chandler to undertake his duties in relation to probation "in a spirit of full cooperation with the Attorney General and the Director of the Bureau of Prisons."

When steps were taken to arrange for transfer of the appropriation for the probation service to the Administrative Office there was objection from the House Appropriations Committee which believed there would be a relaxing of the appointment qualifications for probation officers and that probation officers would pay little attention to the supervision of parolees who were a responsibility of the Department of Justice. The Committee reluctantly agreed to the transfer of the

appropriations but did so with this warning from Congressman Louis C. Rabaut:

We have agreed to this change with "our tongues in our cheek," so to speak, hopeful that the dual problem of probation and parole can be successfully handled under this new set-up. If proper attention is not given by probation officers to the matter of paroled convicts, however . . . you may expect a move to be made by me and other members of the committee to place this probation service back under the Department of Justice.

On July 1, 1940, general supervision of the probation service came under the Administrative Office. On recommendation of Mr. Bennett, Mr. Chappell was appointed chief of probation by Mr. Chandler, and on the recommendation of Mr. Chappell, Victor H. Evjen, who had been a probation officer with the Chicago Juvenile Court and the United States District Court for the Northern District of Illinois, was appointed assistant chief of probation. These two constituted the headquarters professional staff until 1948 when Louis J. Sharp, Federal probation officer at St. Louis, was appointed as a second assistant chief of probation.

In all of their contacts with judges and probation officers Mr. Chandler and his Probation Division staff emphasized that the duties to supervise persons on probation and parole were equal and that parole services were in no way to be subordinated. He made it clear that he would not cease to appeal to judges to appoint only qualified officers who would perform efficiently and serve the public interests. In reporting the appropriation bill for 1942 Congressman Rabaut said: "It is with considerable pleasure and interest that the committee has observed that, in the matter of recent appointments of probation officers, there has apparently been no compromise whatever with the standards which were previously employed, when this unit was in the Department of Justice, as to the character or type of applicants appointed."

### Judicial Conference Establishes Appointment Qualifications

At its October 1940 meeting the Judicial Conference expressed its conviction "that in view of the responsibility and volume of their work, probation officers should be appointed solely on the basis of merit without regard to political considerations, and that training, experience, and traits of character appropriate to the specialized work of a probation officer

should in every instance be deemed essential qualifications." No more specific qualifications were formulated at that time, but pursuant to a resolution of the Judicial Conference at its September 1941 session the Chief Justice appointed a Committee on Standards of Qualifications of Probation Officers to determine whether it would be advisable to supplement the 1940 statement of principle by recommending definite qualifications for the appointment of probation officers and, if so, what the qualifications should be. To assist the work of the Committee, Mr. Chappell corresponded with 30 recognized probation leaders throughout the country, requesting their views as to qualifications for probation officers. He also conferred with the U.S. Civil Service Commission.

In its report<sup>2</sup> the Committee recommended the following requisite qualifications:

- (1) Exemplary character;
- (2) Good health and vigor;
- (3) An age at the time of appointment within the range of 24 to 45 years inclusive;
- (4) A liberal education of not less than collegiate grade, evidenced by a bachelor's degree (B.A. or B.S.) from a college of recognized standing, or its equivalent; and
- (5) Experience in personnel work for the welfare of others of not less than 2 years of specific training for welfare work (a) in a school of social service of recognized standing, or (b) in a professional course of a college or university of recognized standing.

The Committee recommended that future appointments of officers be for a probation period of 6 months, and that district courts be encouraged to call on the Administrative Office for help in assessing the qualifications of applicants and conducting competitive examinations if desired by the court. The report of the Committee was unanimously approved and adopted by the Judicial Conference at its September 1942 meeting.

Although most of the probation leaders with whom Mr. Chappell corresponded favored selection by civil service, the Committee stated in its report that this method had been tried before with results not altogether satisfactory. The Committee did not consider whether it was desirable to return to the civil service system.

It should be brought out that neither the Administrative Office nor the Judicial Conference could go beyond persuasion since

<sup>2</sup> See FEDERAL PROBATION, October-December 1942, pp. 3-7

there was no legal limitation of the power of appointment in the district courts. The standards of qualification were not readily accepted by all judges, some of them relying upon the term “equivalent” as a loophole.

During the 10-year period following the October 1940 Judicial Conference statement as to the essential qualifications of probation officers and the 1942 requisite qualifications (see footnote 2), 161 appointments were made. Of that number, 94, or 58.4 percent, met the requirements of both education and experience (compared with 39.7 percent prior to 1940), 16.1 percent met the requirement of education only, 11.2 percent met only the experience requirement, and 14.3 percent met neither requirement. Appointments since 1950, however, were in increasing compliance with the Conference standards.<sup>3</sup>

## Inservice Training

*Institutes*—Mention has been made of the training conferences held by Colonel Moore during the early years of the probation service. Inservice training institutes of 3- and 4-day duration continued throughout the thirties and forties to be a helpful means of keeping probation officers abreast of the latest thinking in the overall correctional field, acquiring new insights, skills, and knowledge, and utilizing specialized training and experience to their fullest potential. Institutes were held in five regions of the country at 2-year intervals. They consisted of work sessions, small group meetings, formal papers by correctional and social work leaders, and discussions of day-to-day problems. They generally were held in cooperation with universities, with members of their sociology, social work, psychology, and education departments and school of law serving as lecturers. Representatives of the Bureau of Prisons central office and its institutions, the U.S. Board of Parole, and the U.S. Public Health Service addressed the institutes and participated in forum discussions.

*Training Center*—In November 1949 the Administrative Office in cooperation with the U.S. District Court for the Northern District of Illinois established a training center at Chicago for the Federal probation service.

<sup>3</sup> After implementation of the Judiciary Salary Plan, adopted by the Judicial Conference in 1961, all but one of the probation officers appointed through December 1974 met the minimum requirements, including a bachelor's degree. Approximately 38 percent had a master's degree. Only one officer was not a college graduate. He had 16 years' prior experience as a Federal probation officer and was reappointed after an interim period of 7 years as a municipal court probation officer.

Under the direction of Ben S. Meeker, chief probation officer at Chicago, the training center sought and obtained the cooperation of the University of Chicago in developing courses of instruction. Recognized leaders in the correctional and related fields served on the Center's faculty. An indoctrination course was offered for newly appointed officers shortly following their entrance on duty and periodic refresher courses for all officers.

*Monographs*—In 1943 the Probation Division published a monograph, *The Presentence Investigation Report* (revised in 1965) to serve as a guideline for conducting investigations and writing reports. In 1952 *The Case Record and Case Recording* was prepared in an effort to establish uniform case file procedures.

*Manual*—In 1949 a 325-page *Probation Officers Manual*, prepared principally by Mr. Sharp, was distributed to the field. Prior to this time probation policies, methods, and procedures had been disseminated largely through bulletins and memoranda.

*Periodical*—FEDERAL PROBATION, published quarterly by the Administrative Office in cooperation with the Federal Bureau of Prisons, was another source of training through its articles on all phases of the prevention and control of delinquency and crime, book reviews, and digests of professional journals. As previously mentioned, the Quarterly had its beginning in 1930 as a mimeographed *News Letter*. In September 1937, after acquiring the format of a professional periodical, its title was changed to FEDERAL PROBATION and was edited by Eugene S. Zemans. It made its first appearance in printed form in February 1939 with Mr. Chappell, then supervisor of probation in the Bureau of Prisons, as editor until 1953 when he was appointed a member, and later chairman, of the U.S. Board of Parole. When the Federal Probation System was transferred to the Administrative Office in 1940, Mr. Chappell, in addition to his responsibilities as chief of probation, continued as editor.

The quality of articles in the journal attracted the attention of college and university libraries and a wide range of persons in the correctional, judicial, law enforcement, educational, welfare, and crime prevention fields. It was mailed upon request, without charge. In 1950 the controlled circulation was approximately 4,500 and included 25 countries.<sup>4</sup>

<sup>4</sup> As of December 31, 1974, the circulation was 38,500 and included more than 50 countries.

Since 1940 the journal has been published jointly by the Administrative Office and the Bureau of Prisons. It was first printed at the U.S. Penitentiary at Fort Leavenworth, Kansas, and later by the Federal Reformatory at El Reno, Oklahoma, in their respective printshops operated by the Federal Prison Industries, Inc. Approximately 98 percent of the inmates assigned to the printing plant had no prior experience in printshop activities.

## Investigation and Supervision

The investigative and supervisory functions of the Federal Probation System throughout its first 25 years were substantially the same as they are today. It has worked continuously in close association with the Bureau of Prisons and since 1930 also with the Board of Parole when the amendment to the original probation act provided that probation officers would perform such duties relating to parole as the Attorney General shall request. It cooperated with the two narcotic hospitals of the U.S. Public Health Service at that time, transmitting to them copies of presentence reports on addicts committed as a condition of probation, keeping in touch with the families of addict patients, and supervising them following their release.

Probation officers worked cooperatively with Federal law enforcement agencies (Federal Bureau of Investigation, Secret Service, Narcotic Bureau, Alcohol Tax Unit; Post Office Inspection Service, Immigration Service, Securities and Exchange Commission, Intelligence Unit of the Internal Revenue, and the Military Police and Shore Patrol), obtaining from them arrest data, sharing information about defendants, and notifying each other of violations of probation and parole. Community institutions and agencies were called on for assistance in helping probationers and parolees to become productive, responsible, law-abiding persons.

In 1944 the Federal Probation System was asked by the Army and the Air Force to supervise military prisoners released from disciplinary barracks.

*Investigations*—Although it is a long-standing and well established principle that probation cannot succeed unless special care is exercised by the court in selecting persons for probation, presentence reports in the early years were perfunctory in many instances, some consisting of a single paragraph based on limited knowledge and even on biases and hunches! In 1930 a 4-page printed presentence worksheet served as the basis for a report to

the court. The filled-in worksheet frequently comprised the report. It contained a limited space under each of the following headings: (1) Complaint, (2) Statement of Defendants and Others, (3) Physical Condition, (4) Mental Condition, (5) Personal and Family History, (6) Habits, Associates, and Spare-Time Activities, (7) Employment History, (8) Home and Neighborhood Conditions, (9) Religious and Social Affiliations, (10) Social Agencies, Institutions, and Individuals Interested, (11) Analytical Summary, and (12) Plan, In Brief, Proposed. These were the outline headings generally followed at the time by juvenile courts and progressive adult courts and continued to be those recommended for use by Federal probation officers until 1941 when the Probation Division, with the assistance of the Bureau of Prisons and a small committee of chief probation officers, prepared a mimeographed guideline which set forth a standard outline, some investigation methods and procedures, and suggestions for writing the report. In 1943 the guidelines were broadened in scope and reproduced in the printed monograph, *The Presentence Investigation Report* (revised in 1965). This monograph contributed to uniformity in the format and content of reports across the country. Uniformity was essential then as today inasmuch as officers called on the network of offices in other cities for verification of data and information to complete their reports. In some instances data requested made up the larger part of a report. Uniform reports, as today, were also helpful to the Bureau of Prisons in commitment cases and to the Board of Parole in its parole considerations.

In the early years some judges did not require presentence reports, relying, in the disposition of their cases, on the report of the U.S. attorney, the arrest record, and the defendant's reputation locally. In other courts investigations were made in a relatively low proportion of cases. A few courts required investigations in virtually all criminal cases.

Rule 32-c of the *Federal Rules of Criminal Procedure* (1933) prescribed that the probation service of the court shall make a presentence investigation report to the court before the imposition of sentence or the granting of probation unless the court directed otherwise. Although it was anticipated this was to be the normal and expected procedure, some courts required no investigation unless requested by the judge. It was argued that either way, the same ends were being achieved.

Reliable statistics on the number of defendants receiving presentence investigations were not maintained during the first 25-year period. What constituted a completely developed presentence report had not been defined. A partial report touching on only a few areas of what was considered to be a full-blown report was counted as a full report. Moreover, when two or three officers contributed data to the presentence report in its final form, each officer often would report a presentence investigation. This resulted in more investigations than defendants! It is estimated that in the forties between 50 and 60 percent of the defendants before the court received presentence investigations.

In addition to presentence investigations, probation officers conducted postsentence investigations, special investigations for the U.S. attorney on juveniles and youth offenders, investigations requested by Bureau of Prisons institutions, and also prerelease, violation, and transfer investigations on parolees, persons on conditional release, and military parolees.

*Supervision*—As already stated, Federal probation officers supervised only probationers until 1930 when the 1910 Parole Act was amended, giving them, in addition, responsibility for the field supervision of parolees. In 1932 the Parole Act was further amended, providing for the release of prisoners prior to the expiration of their maximum term by earned "good time." They were released "as if on parole" and were known as being on conditional release (now referred to as mandatory release). They became an additional supervision responsibility of the probation officer.

As previously mentioned, the Federal Probation System, in response to a request from the Army and the Air Force in 1946, offered its facilities for the supervision of military parolees. And in 1947 the Judicial Conference recommended that courts be encouraged to use "deferred prosecution" in worthy cases of juveniles (under 18), and that they be under the informal supervision of probation officers. Under this procedure, which still prevails, the U.S. attorney deferred prosecution of carefully selected juveniles and placed them under supervision of a probation officer for a definite period. On satisfactory completion of the term the U.S. attorney could dismiss the case or, in instances of subsequent delinquencies, process the original complaint forthwith. Thus the Federal probation officer supervised five categories of offenders: probationers, parolees, persons

on conditional release, military offenders, and juveniles under deferred prosecution.

Mention should be made of the Federal Juvenile Delinquency Act (18 U.S.C. 5031-5037), enacted June 16, 1938, which gave recognition to the long-established principle that juvenile offenders need specialized care and treatment. The Act defined a juvenile as a person under 18 and provided that he should be proceeded against as a juvenile delinquent unless the Attorney General directed otherwise. He could be placed on probation for a period not to exceed his minority or committed to the custody of the Attorney General for a like period.

Attention should also be called to the Federal Youth Corrections Act (18 U.S.C. 5005-5026), enacted September 30, 1950. The Act established a specialized procedure for dealing with youthful offenders 18 and over, but under the age of 22 at the time of conviction, who were considered tractable. The Act provided for a flexible institutional treatment plan for those committed under it. Where the offense and record of previous delinquencies indicated a need for a longer period of correctional treatment than was possible under the Federal Juvenile Delinquency Act, a juvenile, with approval of the Attorney General, could be prosecuted as a youth offender.

The probation officer played a prominent role in the detention pending disposition, investigation, diversion,<sup>5</sup> hearing (or criminal proceeding), and supervision of the juvenile and the youth offender.

The number of juveniles coming to the attention of probation officers, including those not heard under the Act, reached a high of 3,891 in 1946, followed by a decline through 1950 when there were 1,999 juveniles. Those heard under the Act ranged from a low of 43 percent of all juveniles in 1939, the first year the Act was operative, to a high of 69.6 percent in 1946, or an average of approximately 66 percent for the period 1939 through 1950.

<sup>5</sup> Where it was agreed upon by the U.S. Attorney to be in the best interests of the Government and the juvenile or youth offender, every effort was made to divert him to local jurisdictions under the provisions of 18 U.S.C. 5001, enacted June 11, 1932.

**TABLE 1.**  
*Size of Staff and Supervision Caseload 1930–1950*

| Fiscal Year ended June 30 | Number of probation officers | Number under supervision | Average caseload per officer <sup>1</sup> |
|---------------------------|------------------------------|--------------------------|---|
| 1930                      | 8                            | 2                        | 2   |
| 1931                      | 62                           | 2                        | 2   |
| 1932                      | 63                           | 25,213                   | 400                                       |
| 1933                      | 92                           | 34,109                   | 371                                       |
| 1934                      | 110                          | 26,028                   | 237                                       |
| 1935                      | 119                          | 20,133                   | 169                                       |
| 1936                      | 142                          | 25,401                   | 179                                       |
| 1937                      | 171                          | 29,862                   | 175                                       |
| 1938                      | 172                          | 27,467                   | 185                                       |
| 1939                      | 206                          | 28,325                   | 160                                       |
| 1940                      | 233                          | 34,562                   | 148                                       |
| 1941                      | 239                          | 35,187                   | 147                                       |
| 1942                      | 251                          | 34,359                   | 137                                       |
| 1943                      | 265                          | 30,974                   | 117                                       |
| 1944                      | 269                          | 30,153                   | 112                                       |
| 1946                      | 274                          | 30,194                   | 110                                       |
| 1946                      | 280                          | 30,618                   | 109                                       |
| 1947                      | 280                          | 32,321                   | 115                                       |
| 1948                      | 285                          | 32,613                   | 114                                       |
| 1949                      | 287                          | 29,726                   | 103                                       |
| 1950                      | 303 <sup>3</sup>             | 30,087                   | 100                                       |

<sup>1</sup>In 1956 the Probation Division adopted a weighted figure to reflect the workload of an officer. The new method of computation included presentence investigations in addition to supervision cases. A value of 4 units was given to each presentence investigation completed per month and 1 unit for each supervision case. Thus, if an officer completed 6 investigations per month and supervised 51 persons, his workload was 75 (24 plus 51). This method was continued until 1969 when the weighted figure was discontinued. Instead, the average number of supervision cases and the average number of presentence investigations, respectively, were shown for each officer.

<sup>2</sup>No figures available.

<sup>3</sup>On December 31, 1974, there were 1,468 probation officers.

In 1939, 41 percent of the juveniles were proceeded against under regular criminal statutes compared with a low of 1.5 percent in 1944. For the period 1944 through 1950 the proportion heard under criminal procedure averaged slightly less than 3 percent and the proportion handled without court action (diverted or dismissed) was approximately 30 percent.

Table 1 on the following page gives the supervision caseload from 1930 to 1950.

*Violation rates*—In any assessment of violation rates it should be kept in mind they seldom are comparable from district to district. Officers with heavy workloads, for example, may not be as responsive to violations as those with smaller workloads. A court which is more selective in its grant of probation may be expected to have a lower proportion of violations. A “when to revoke” policy may differ among probation officers

and among judges, even in the same district. Some courts may revoke probation for a technical infraction of the probation conditions while others do so only for violation of law. An efficient police department or sheriff’s office may bring to the probation officer’s attention a greater proportion of arrests. Varying conditions and circumstances from district to district and from one year to another, such as unemployment, social unrest, changes in criminal statutes, etc., would preclude comparable data and valid comparisons. But despite these variables, violation rates for probationers, interestingly, changed but little from 1932, when violation figures were first available, to 1950.

Violation rates maintained by the Administrative Office from 1940 to 1948 were computed on the same basis as that adopted before the probation service was transferred from the Department of Justice, viz, the

proportion of all persons under supervision during the year who violated. Although this method was used by a number of nonfederal probation services, the late Ronald R. Beattie, chief statistician for the Administrative Office, believed a more realistic measure would be a rate based on the number removed from supervision during the year and the number who committed violations. Beginning with 1948, violation rates were computed on this basis. Under this method the violation rate for probationers that year, for example, was 11.8 percent instead of 3.9 percent under the method used in previous years. The average violation rate for the 10-year period from 1941 to 1950 was 11.5 percent for probationers, 14.1 percent for parolees, 14.4 percent for persons on conditional release, and 3.3 percent for military parolees.

In 1959 probation officers were requested to submit to the Administrative Office reports on all violations, whether or not probation was revoked. Prior to this the practice had been to report only violations in those instances where probation had been revoked. This improved procedure helped to achieve uniformity in reporting violations.<sup>6</sup>

*Postprobation adjustment studies*—Starting in 1948 a postprobation study of 403 probationers known to the Federal probation office for the Northern District of Alabama was conducted by the sociology department at the University of Alabama. These probationers’ supervision had terminated successfully during the period July 1, 1937, to December 31, 1942. They were interviewed by probation officers in the districts where they resided at the time of the study and their records were cleared with the Federal Bureau of Investigation, local courts, and local law-enforcement offices. During a postprobation median period of 7 1/2 years, 83.6 percent had no subsequent convictions of any kind (see FEDERAL PROBATION, June 1951, pp. 3-11).

<sup>6</sup>In 1963 another step was taken to obtain greater uniformity in reporting and also an understanding of the nature of the violations reported. Violation rates were determined for three types of violations—technical, minor, and major. A *technical* violation was an infraction of the conditions of probation, excluding a conviction for a new offense. A *minor* violation resulted from a conviction of a new offense where the period of imprisonment was less than 90 days, or where any probation granted on the new offense did not exceed 1 year. A *major* violation occurred when the violator had been convicted of a new offense and had been committed to imprisonment for 90 days or more, placed on probation for over 1 year, or had absconded with a felony charge outstanding. This method of reporting violations continues today.

In 1951 the sociology department at the University of Pennsylvania conducted a similar evaluative study of 500 probationers whose supervision under the probation office for the Eastern District of Pennsylvania had been completed during the period 1939 to 1944. The study, which covered a 5-year period for each probationer, found that 82.3 percent had no subsequent conviction. In an effort to assure a high degree of comparability between the two studies, the sampling procedures in both studies were reported to be virtually identical (see FEDERAL PROBATION, September 1955, pp. 10-16).

## Probation and the War

This account of the first 25 years of the Federal Probation System would not be complete without commenting on the significant work performed by probation officers during World War II. They were engaged in many activities related to the war effort such as helping selective service boards determine the acceptability of persons with convictions, dealing with violators of the Selective Service Act, assisting war industries in determining which persons convicted of offenses might be considered for employment, cooperating with the Army in determining the suitability of persons with convictions who had been recruited or inducted, and supervising military parolees. Together with the Bureau of Prisons the Administrative Office succeeded in removing barriers to employment of persons considered good risks despite criminal records. The U.S. Civil Service Commission relaxed its rules, permitting, on recommendation of the probation officer, employment of probationers

in government with the exception of certain classified positions. These activities relating to the prosecution of the war were performed by probation officers in addition to their regular supervisory and investigative duties. The supervision caseload during the war years averaged 119 per officer—with a high of 137 in 1942.

In the summer of 1946, as previously mentioned, the Administrative Office, at the request of the Department of the Army, agreed to have probation officers investigate parole plans of Army and Air Force prisoners and supervise them following release on parole from disciplinary barracks. Probation officers worked in close conjunction with The Adjutant General's Office and the commandants of the 16 disciplinary barracks at that time. The service rendered by probation officers was expressed by military authorities as "of inestimable value to the Army and Air Force" in the operation of their parole programs. The success of their parole program, they said, "may be attributed largely to the keen human interest and thorough professional guidance which the officers of the federal probation service extend to each parolee under their supervision, even under conditions which have taxed their facilities."

The number of supervised military parolees reached its peak at the close of fiscal year 1948 when there were 2,447 under supervision. The following year the number dropped to 1,064, and in 1950 to 927.

Through September 1946 a total of 8,313 probationers had entered the armed services through induction or enlistment and maintained contact throughout their service with

their probation officers. Only 61, or less than 1 percent, were known to have been dishonorably discharged.

During the war 76 probation officers, or approximately 28 percent of all probation officer positions in 1945, entered military service. The chief and assistant chief of probation also entered service. During their absence Lewis J. Grout, chief probation officer at Kansas City, Missouri, served as chief, and Louis J. Sharp, probation officer at St. Louis, Missouri, was assistant chief.

Here ends a capsule history of the struggle for a Federal Probation Act which began as far back as 1909, and some of the highlights of the Federal Probation System during its first quarter century of operation.

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# JUVENILE FOCUS

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*Administration of Justice Services, Inc.*

## Kids and Gangs

Public safety and public health experts have joined forces to encourage a new way of thinking about keeping kids out of gangs. In a recently released article in the *NIJ Journal*, the editors of *Changing Course: Preventing Gang Membership*—a book co-published by the National Institute of Justice and the Centers for Disease Control and Prevention—explore strategies to halt the impact of gangs on the nation's youth, families, neighborhoods, and society at large. One of the goals of the book, say the *Changing Course* editors, is to help practitioners and policymakers make evidence-based decisions about gang-prevention programs and strategies. Written in a compellingly readable style by public health and public safety experts from across the country, the book explores issues such as:

- Why kids are attracted to gangs
- What child development issues are key to understanding risks for gang-joining
- What schools, communities, law enforcement, public health, and families can do to prevent kids from joining a gang

## Family Visitation of Detained Youth

According to exploratory research by the Vera Institute of Justice (Vera), increased family visitation is associated with better educational outcomes and behavior in incarcerated youth. With funds from the OJJDP, Vera will conduct a 2-year study of the effect of expanded family visitation policies and practices on youth during confinement in Indiana Department of Correction, Division of Youth Services (DYS) facilities and reentry into their communities. This research will inform juvenile justice leaders of ways to keep incarcerated young people and their families connected, improve youth's long-term outcomes, and lower their recidivism rates.

## Coordination, Collaboration, Capacity

The White House recently announced the release of *Coordination, Collaboration, Capacity: Federal Strategic Action Plan on Services for Victims of Human Trafficking in the United States, 2013-2017* at the OVC Human Trafficking Survivor Forum and Listening Session. The plan reaffirms the American values of freedom and equality and builds on the progress that our nation has made in combating human trafficking and modern-day forms of slavery through government action as well as partnerships with allied professionals and concerned citizens.

Read the Plan to learn more about its goals and objectives and the actions that federal agencies will take to ensure that all victims of human trafficking in the United States are identified and have access to the services they need to recover.

## AMBER Alerts on Twitter

The National Center for Missing & Exploited Children (NCMEC) announced the launch of an AMBER Alert Twitter account to allow 49 million users nationwide to receive AMBER Alerts using the handle @AMBERAlert. This announcement comes on AMBER Alert Awareness Day, which recognizes the AMBER Alert program of urgent bulletins to assist in the search for and rescue of abducted children. The alerts are distributed by media, transportation agencies, the wireless industry, Internet service providers, the trucking industry, and others. OJJDP administers the national training and technical assistance program, which expands and enhances the national AMBER Alert network; increases and improves law enforcement response to missing, endangered, and abducted children; creates greater community capacity in understanding broader issues related to exploitation and abuse of children; and enhances public participation

in the recovery of missing, endangered, and abducted children. To that end, OJJDP works closely with NCMEC and other key partners.

## School Discipline Guidance Package

The U.S. Departments of Justice and Education released a school discipline guidance package to help states, districts, and schools enhance school climate and improve discipline policies and practices. The guidance package is a product of the Supportive School Discipline Initiative (SSDI), a collaboration between the two agencies. SSDI, which is a priority for the Department of Justice, coordinates the Department's work with Education and other federal agencies to keep children and teens in school, engaged in learning, and out of courts. The initiative addresses overuse of harsh and exclusionary school disciplinary policies and practices and supports the development of safe and productive education environments and training for the adults who interact with students in and out of school. The guidance package provides resources for creating safe, supportive, and inclusive school climates and a compendium of federal laws and regulations regarding school discipline.

## Statistics

BJS has released reports on homicide patterns and trends from 1992 to 2011, and on the federal criminal justice system's annual activity and criminal case processing, 2010.

The Bureau of Justice Statistics (BJS) has released the following reports:

- **Homicide in the U.S. Known to Law Enforcement, 2011** (NCJ 243035): Presents data on homicide trends from 1992 to 2011. The report describes homicide patterns and trends by age, sex, and race of the victim. It explores weapon use, with a focus on trends in firearm use and homicide trends by city size. It also includes special discussions of missing

offender data and firearm use in nonfatal violent victimizations.

- **Federal Justice Statistics, 2010** (NCJ 239913). Describes the annual activity, workloads, and outcomes associated with the federal criminal justice system from arrest to imprisonment, using data from the U.S. Marshals Service (USMS), Drug Enforcement Administration (DEA), Executive Office for U.S. Attorneys (EOUSA), Administrative Office of the U.S. Courts (AOUSC), and the Federal Bureau of Prisons (BOP).
- **Federal Justice Statistics, 2010—Statistical Tables** (NCJ 239914). Describes criminal case processing in the federal justice system, including arrest and booking through sentencing and corrections.

## Standards of Care for Status Offenders

The Coalition for Juvenile Justice has released “National Standards for the Care of Youth Charged with Status Offenses.” This report, created as part of the coalition’s SOS Project, provides policy and practice recommendations for limiting or avoiding court involvement for youth who commit noncriminal offenses—such as truancy or running away—and calls for an end to all secure detention for these youth. Instead, the National Standards promote system reform and the adoption of research-supported policies, programs, and practices that address the needs of youth, their families, and their communities without unwarranted juvenile justice system involvement.

## Prisons and Sentencing

*On the Chopping Block 2013* documents state prison closures and attributes the trend to several factors:

- A declining prison population in many states
- State fiscal constraints
- Sentencing and parole reforms in the areas of drug policy, diversion programs, and reductions in parole revocations to prison

*The State of Sentencing 2013* documents reforms in 31 states in both the adult and juvenile justice systems, including:

- Expanding alternatives to incarceration for drug offenses
- Policies to reduce returns to prison for supervision violators
- Comprehensive juvenile justice measures that emphasize prevention and diversion

## Mentoring Children of Incarcerated Parents

OJJDP has released “Mentoring Children of Incarcerated Parents.” In 2013, OJJDP and the White House Domestic Policy Council and Office of Public Engagement hosted a listening session on mentoring children of incarcerated parents for juvenile justice professionals, families, and allies to share their expertise and experiences. The listening session continues OJJDP’s commitment to ensure that all young people get the best possible start in life. The report summarizes participants’ recommendations, ways to reach this unique at-risk population, and evidence-based mentoring practices that can serve the needs and support the strengths of children of incarcerated parents.

## Resource Center on Mental Health and Juvenile Justice Established

The National Center for Mental Health and Juvenile Justice has launched the Mental Health and Juvenile Justice Collaborative for Change, one of four new online resource centers that the John D. and Catherine T. MacArthur Foundation supports as part of the new Models for Change Resource Center Partnership. The Collaborative for Change offers information and resources on mental health reforms that states involved in the Models for Change initiative have developed and provides training and technical assistance for effectively implementing the reforms nationwide.

Among the topics:

- Mental health screening and risk/needs assessment for youth in juvenile justice settings.
- Diversion strategies and program models for youth with mental health needs.
- Training for juvenile justice staff and police on adolescent development and mental health needs.
- Coordination and integration of juvenile justice and child welfare systems to improve outcomes for youth.

## Online Behaviors as Real-World Threats

The Bureau of Justice Assistance has released “Real Crimes in Virtual Worlds.” This report, developed by Drexel University and Drakontas, focuses on how threatening behaviors among youth within online video games, virtual worlds, and social networks can pose real-world threats in schools. These

online behaviors include bullying, threats, harassment, stalking, and abuse. The report highlights how virtual environments can help law enforcement, school resource officers, and school administrators become aware of real-world criminal intent, and offers strategies for detecting and preventing online threats to improve school safety.

## Standards of Care for Status Offenders

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## Zero Tolerance Policies

The Center on Youth Justice at the Vera Institute of Justice has released “A Generation Later: What We’ve Learned about Zero Tolerance in Schools.” This policy brief examines research revealing that zero tolerance discipline policies do not make schools more orderly or safe and might have the opposite effect. Policies that push students out of school might increase their involvement in the juvenile justice system and have negative life-long effects. The brief describes alternatives to zero tolerance policies that keep young people safer and in school.

## Correctional Education

Through a cooperative agreement with the Correctional Education Association (CEA), the National Institute of Corrections (NIC) developed new training for correctional educators across the country as they face implementation of the education Common Core Standards with incarcerated offenders. The results of this partnership helped bridge the gap in training for administering the 2014 online General Education Development (GED) exam, encouraging inmates to opt for schooling past state requirements for a specific number of days.



The need for the new training arose as the GED Testing Service exam moves to an exclusively online format beginning in January 2014. With GED testing service no longer offering the paper test to inmates, facilities must weigh their security needs against the needs of reentry programs that rely on receipt high school equivalencies as a measure of success. In addition, GED Testing Service will implement new guidelines that could potentially affect the success rate of even those who take the exclusively electronic exam. The NIC training, produced in conjunction with the Correctional Education Association, includes a new GED manual and a two-hour training DVD specific to the 2014 model and online structure. Both of these items will be made available to correctional educators nationally via CEA. Thirty states and over 1,500 correctional educators received training on the new guidelines and instructions.

## PREA

The National Institute of Corrections (NIC) helps systems resolve the question of next steps on how to comply with Prison Rape Elimination Act (PREA) standards by offering a variety of materials and assistance tools. One such offering is a new set of e-courses designed for correctional staff charged with ensuring and demonstrating compliance with selected PREA standards: specifically, those working with standards addressing basic investigations, medical and behavioral health responses, and implementation and compliance coordination.

The PREA e-courses reflect the national standards and provide implementation guidance in five topic areas. Course titles include:

- Behavioral Health Care for Sexual Assault Victims in a Confinement Setting
- PREA Coordinators' Roles and Responsibilities
- PREA Audit Process and Instrument Overview
- Investigating Sexual Abuse in a Confinement Setting
- Medical Health Care for Sexual Assault Victims in a Confinement Setting

NIC developed the PREA e-courses in response to questions from the field on the new standards. As a pioneer on the issue, NIC addressed sexual misconduct concerns prior to the passage of PREA by providing training specific to staff sexual misconduct and later, while the PREA standards were under development, through its e-course *Your Role: Responding to Sexual Abuse*. This e-course

remains relevant and available. Through the new e-courses, NIC aims to help corrections professionals comply with PREA standards effectively and efficiently, ultimately leading to the overall mission of providing calmer, safer facilities and environments for inmates and officers. Each NIC e-course is available at no charge at NIC's website.

## Sexual Victimization

BJS publication of *Sexual Victimization Reported by Adult Correctional Authorities, 2009–11* presents counts of nonconsensual sexual acts, abusive sexual contacts, staff sexual misconduct, and staff sexual harassment reported to correctional authorities in adult prisons, jails, and other adult correctional facilities in 2009, 2010, and 2011. An in-depth examination of substantiated incidents is also presented, covering the number and characteristics of victims and perpetrators, location, time of day, nature of the injuries, impact on the victims, and sanctions imposed on the perpetrators. Companion tables in *Survey of Sexual Violence in Adult Correctional Facilities, 2009–11—Statistical Tables*, include counts of types of sexual victimization reported for the Federal Bureau of Prisons, state prison systems, facilities operated by the U.S. military and Immigration and Customs Enforcement, sampled jail jurisdictions, privately operated jails and prisons, and jails in Indian country. Data are from the Bureau of Justice Statistics' Survey of Sexual Violence (SSV), which has annually collected official records on allegations and substantiated incidents of inmate-on-inmate and staff-on-inmate sexual victimization since 2004.

### Highlights:

- Correctional administrators reported 8,763 allegations of sexual victimization in prisons, jails, and other adult correctional facilities in 2011, a statistically significant increase over the number of allegations reported in 2009 (7,855) and 2010 (8,404).
- About half of all allegations (51 percent) involved nonconsensual sexual acts (the most serious, including penetration) or abusive sexual contacts (less serious, including unwanted touching, grabbing, and groping) of inmates with other inmates. Nearly half (49 percent) involved staff sexual misconduct (any sexual act directed toward an inmate by staff) or sexual harassment (demeaning verbal statements of a sexual nature) directed toward inmates.
- In 2011, a total of 902 allegations of sexual victimization (10 percent) were

substantiated (i.e., determined to have occurred upon investigation). The total number of substantiated incidents has not changed significantly since 2005 (885).

- Victims were physically injured in 18 percent of substantiated incidents of inmate-on-inmate sexual victimization, compared to less than 1 percent of incidents of staff-on-inmate victimization.
- More than half (54 percent) of all substantiated incidents of staff sexual misconduct and a quarter (26 percent) of all incidents of staff sexual harassment were committed by female staff.
- Overall, more than three-quarters (78 percent) of staff perpetrators were fired or resigned. Nearly half (45 percent) were arrested, referred for prosecution, or convicted.

## Tribal Child Welfare Programs

The Children's Bureau, in the Department of Health and Human Services, has released a brief online video introducing concepts described in the report "A Roadmap for Collaborative and Effective Evaluation in Tribal Communities," that the Children's Bureau's Child Welfare Research & Evaluation Tribal Workgroup has developed. The video highlights the difficult history of evaluation and research in tribal communities and explores a new narrative for conducting culturally responsive and scientifically rigorous evaluations to support ongoing improvement in tribal child welfare programs.

## Victim Guide

The Institute of Medicine and the National Research Council have released a guide for victim and support service providers summarizing their report "Confronting Commercial Sexual Exploitation and Sex Trafficking of Minors in the United States." The OJJDP-sponsored report examines current approaches addressing commercial sexual exploitation and sex trafficking of children. The guide highlights information relevant for providers of victim and support services and includes key terms, risk factors, emerging service strategies, challenges of providing services, and recommendations for preventing, identifying, and responding to these crimes.

## OJP Initiatives

The Office of Justice Programs (OJP) has launched a new, searchable online document of current funding opportunities and new initiatives, the OJP Program Plan. It

features the latest and most complete information regarding both competitive and noncompetitive grants, training and technical assistance, research, and other resources available to the justice community. The Program Plan is divided into 10 thematically organized sections:

- Initiatives to Address a Wide Range of Criminal and Juvenile Justice Issues
- Breaking the Cycles of Mental Illness, Substance Abuse, and Crime
- Preventing and Intervening in Juvenile Offending and Victimization
- Managing Offenders to Reduce Recidivism and Promote Successful Reentry
- Effective Interventions to Address Violence, Victimization, and Victims' Rights
- Enhancing Law Enforcement Initiatives
- Supporting Innovation in Adjudication
- Advancing Technology to Prevent and Solve Crime
- Innovations in Justice Information Sharing
- Resources to Address Justice Issues in Tribal Communities

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### Sentencing

In 2012, in its *Miller v. Alabama* decision, the Supreme Court struck down laws in 28 states that mandated life without parole (LWOP) for some juveniles. *Slow to Act: State Responses to the 2012 Supreme Court Mandate on Life without Parole* details what has happened since. In the wake of the Supreme Court decision, a majority of these states have not passed new laws to address fair sentencing; others have replaced LWOP with mandatory decades-long sentences that dodge the intent of the decision. This report updates how legislatures and courts in those 28 states and elsewhere have responded.

- While the Court struck down laws in 28 states, only 13 of those states have passed new sentencing laws.

- Some statutes passed since *Miller* set the minimum sentence for youth convicted of homicide for as much as 40 years.
- Of the 13 states that have passed new legislation, only four allow for the *Miller* decision to be applied retroactively. Six state Supreme Courts have ruled in favor of applying the decision retroactively, as well.
- Only 12 states and the District of Columbia ban juvenile life without parole (JLWOP). No other country sentences people to die in prison for crimes committed as youth.

### Youth Violence

The Centers for Disease Control and Prevention (CDC) has released *Preventing Youth Violence: Opportunities for Action*. This report provides information, evidence-based strategies, and action steps to help community leaders and members, public health professionals, families, and young people reduce or prevent youth violence. View or download the full report and its companion guide *Taking Action to Prevent Youth Violence on the CDC's Website*.

### Youth in Their Communities

The National Council on Crime and Delinquency (NCCD) has released "Close to Home: Strategies to Place Young People in Their Communities." This policy brief describes strategies for juvenile justice stakeholders to reduce the number of young people placed in secure facilities. Key strategies include developing a decision point to review alternatives to out-of-home placement, building a local continuum of placement and treatment options, and reducing lengths of stay in facilities at various points in the system. This brief is part of a series based on NCCD's national study on reducing youth incarceration.

### Status Offense Reform

The Coalition for Juvenile Justice (CJJ) has released online publications to help juvenile justice stakeholders reform their approach to addressing status offenses, such as truancy, running away, violating curfew laws, and possessing alcohol or tobacco. The publications were released as a follow-up to the CJJ report "National Standards for the Care of Youth Charged with Status Offenses," which provides recommendations for diverting youth charged with status offenses from the juvenile justice system. Learn about CJJ's Safety, Opportunity and Success Project to support family- and community-based alternatives for status offenses.

Visit the Vera Institute's Status Offense Reform Center, funded by the MacArthur Foundation's Models for Change Resource Center Partnership, and read about the Models for Change initiative.

### Recognizing Child Abuse

OJJDP has published the guide *Recognizing When a Child's Injury or Illness Is Caused by Abuse*. The guide provides information to help law enforcement differentiate between physical abuse and accidental injury during a child abuse investigation. The guide also identifies questions that law enforcement should address during an investigation, describes how to conduct a caretaker assessment when a child is injured, and highlights ways to work with the medical community to distinguish types of injuries and bruises. Read other publications in OJJDP's *Portable Guides To Investigating Child Abuse* series.

### Suicidal Thoughts Among Detained Youth

OJJDP has released *Suicidal Thoughts and Behaviors Among Detained Youth*. The bulletin is part of OJJDP's *Beyond Detention* series, which examines the findings of the Northwestern Juvenile Project—a large-scale longitudinal study of youth detained at the Cook County Juvenile Temporary Detention Center in Chicago, IL. This bulletin summarizes the study's methods, findings, and implications of suicidal thoughts and behaviors among detained youth ages 10-18. The authors examined rates of suicidal ideation and behaviors, the relationship between suicide attempts and psychiatric disorders, and differences by gender and race/ethnicity. Key findings include:

- Approximately 1 in 10 juvenile detainees contemplated suicide in the past 6 months prior to detention, and 11 percent had attempted suicide.
- More than one-third of detainees thought about death or dying in the 6 months prior to detention.
- Suicide attempts were most prevalent in female detainees and youth with anxiety disorders.
- Fewer than half of the detainees with suicidal thoughts told anyone.

The research signals the need for juvenile detention facilities to screen youth for suicide risk and increase psychiatric services.

## Five Things About Deterrence

The latest in NIJ's Five Things series focuses on how to deter criminals. Based on Daniel Nagin's essay "Deterrence in the 21st Century," Five Things About Deterrence summarizes years of research that teach us that the certainty, not the severity, of punishment deters crime. Seeing a police officer with handcuffs and a radio is more likely to influence a criminal's behavior than passing a new law increasing penalties.

The Five Things About Deterrence include:

1. The certainty of being caught is a vastly more powerful deterrent than the punishment.
2. Sending an offender to prison isn't a very effective way to deter crime.
3. Police deter crime by increasing the perception that criminals will be caught and punished.
4. Increasing the severity of punishment does little to deter crime.
5. There is no proof that the death penalty deters criminals.

Read the full recommendations and download a copy of Five Things About Deterrence.

## Indigent Defense

State governments spent \$2.2 billion nationally on indigent defense in 2012, the lowest amount spent during the 5-year period from 2008 through 2012. During this time, state government indigent defense expenditures ranged from \$2.2 billion to \$2.4 billion, showing an average annual decrease of 1.1 percent. Read more in *State Government Indigent Defense Expenditures, FY 2008–2012* (NCJ 246684) and *Indigent Defense Services in the United States, FY 2008–2012* (NCJ 246683).

## Prosecution & Racial Justice in New York County

The Vera Institute of Justice has released an NIJ-funded study involving researchers who partnered with the District Attorney of New York County (DANY) to examine racial and ethnic disparities in criminal case outcomes in New York County. The two-year study focused on the role of prosecutors during several points of a criminal case—case acceptance for prosecution, dismissals, pretrial detention, plea bargaining, and sentencing recommendations—and whether prosecutorial discretion contributes to racially and ethnically disparate outcomes.

The report found that the best predictors of case outcomes were factors that directly

pertained to legal aspects of a case—including the seriousness of the charge, the defendant's prior record, and the offense type—but race remained a factor in case outcomes. DANY prosecutes nearly all cases, with no racial or ethnic difference at case screening, but for subsequent decisions, racial and ethnic disparities varied by prosecutor decision point and offense category. Compared to white defendants, black and Latino defendants were more likely to be detained, to receive a custodial plea offer, and to be incarcerated. They were also more likely to benefit from case dismissal. Asian defendants had the most favorable outcomes across all discretionary points. Read *Prosecution and Racial Justice in New York County—Technical Report*. Read *Race and Prosecution in Manhattan—Research Summary*.

## Alternatives to Youth Incarceration

The Youth Advocate Programs Policy and Advocacy Center has released "Safely Home." This report highlights cost-effective, community-based alternatives to incarceration for high-needs youth. Some key findings:

- More than 8 of 10 youth remained arrest-free and 9 of 10 were at home after completing their community-based programs.
- Intensive programs based in the community can serve 3 to 4 youth safely for the same cost as incarcerating one child.

The report details elements of effective community-based alternatives, including individualized services, cultural competence, positive youth development, safety and crisis planning, and no reject/no eject policies that promote unconditional caring.

## Justice Research Series

OJJDP and the National Institute of Justice (NIJ) have jointly released "Changing Lives: Prevention and Intervention to Reduce Serious Offending," part of the Justice Research series. This bulletin reviews effective programs that mitigate risk factors for delinquency and crime among juveniles and young adults to prevent future serious criminal behavior. These programs are grouped by family, school, peers and community, individual, and employment. This bulletin summarizes the final report from the NIJ Study Group on the Transitions From Juvenile Delinquency and Adult Crime.

## The Juveniles in Residential Placement

OJJDP has released "Juveniles in Residential Placement, 2011." The bulletin presents information from the 2011 Census of Juveniles in Residential Placement, conducted by the U.S. Census Bureau and sponsored by OJJDP. Findings from this biennial survey of public and private juvenile residential facilities offer a detailed picture of the young people in residential placement in the United States. The data indicate that while the population of juvenile offenders in residential placement has declined 42 percent since 1997, the residential placement rate for black youth was more than 4.5 times the rate for white youth, and the rate for Hispanic youth was 1.8 times the rate for white youth.

## Deaths in Local Jails

The mortality rate for jails and prisons increased 2 percent in 2012. Deaths in jails, up 8 percent in 2012, were solely responsible for this increase. This is the first increase in jail deaths since 2009. Read more in *Mortality in Local Jails and State Prisons, 2000–2012—Statistical Tables* (NCJ 247448).

## BJS Updated Online Tools

NCVS Victimization Analysis Tool (NVAT) provides data from 1993 to 2013. You can examine data on both violent and property victimization by selected victim, household, and incident characteristics. Arrest Data Analysis Tool provides data from 1980 to 2012. You can view national arrest estimates, customized either by age and sex or by age group and race, for many different offenses. This tool also enables you to view local arrests. Federal Criminal Case Processing Statistics provides data from 1998 to 2012. You can generate data on federal law enforcement, prosecution, courts, and incarceration, or search by title and section of the U.S. Criminal Code.

## OJJDP, MacArthur Foundation Renew Partnership

In a renewed private-public partnership, the Office of Justice Programs' Office of Juvenile Justice and Delinquency Prevention (OJJDP) and the John D. and Catherine T. MacArthur Foundation are jointly providing \$2 million to advance juvenile justice reform.

OJJDP and the MacArthur Foundation will each provide two years of funding at \$125,000 per year to the following four organizations to support innovative reforms in treatment and services for youth: the Center for Children's

Law and Policy; the National Youth Screening and Assessment Project at the University of Massachusetts Medical School; the National Center for Mental Health and Juvenile Justice at Policy Research, Inc.; and the Robert F. Kennedy National Resource Center for Juvenile Justice.

Through this partnership, established in 2011, OJJDP and MacArthur will support training and technical assistance for states and local governments to meet the mental health needs of system-involved youth, reduce racial and ethnic disparities, and promote coordination and integration for youth involved in both the child welfare and juvenile justice systems. The funding will support the following projects:

- **Disproportionate Minority Contact Reduction:** Employing a collaborative, data-driven approach to improve equity and enhance outcomes for youth of color who come into contact with the juvenile justice system. The Center for Children's Law and Policy (CCLP) will provide technical assistance and project oversight. Contact CCLP at [tdavis@cclp.org](mailto:tdavis@cclp.org).
- **Risk Assessment and Behavioral Health Screening:** Using evidence-based tools for effective case planning to achieve reductions in out-of-home placements and delinquency. The National Youth Screening and Assessment Project (NYSAP) at the University of Massachusetts Medical School will provide technical assistance, research, and project oversight. Contact NYSAP at [gina.vincent@umassmed.edu](mailto:gina.vincent@umassmed.edu).
- **Mental Health Training for Juvenile Justice:** Providing comprehensive adolescent development and mental health training to juvenile correctional and detention staff to improve staff knowledge, understanding, and ability to respond to youth with mental health needs. The National Center for Mental Health and Juvenile Justice at Policy Research, Inc., will provide technical assistance and project oversight. Contact NCMHJJ at [kskowyra@prainc.com](mailto:kskowyra@prainc.com).
- **Dual-Status Youth Technical Assistance Initiative:** Designing and implementing multi-system responses to improve outcomes for youth involved in both the child welfare and juvenile justice systems, and help systems work more effectively and efficiently together. Technical assistance using a proven framework for system coordination and integration will be provided by the Robert F. Kennedy National

Resource Center for Juvenile Justice, led by Robert F. Kennedy Children's Action Corps. Contact RFK NRCJJ at [jtuell@rfk-children.org](mailto:jtuell@rfk-children.org).

## The Campaign for Youth Justice (CFYJ)

A national advocacy organization dedicated to ending the practice of trying, sentencing, and incarcerating youth under 18 in the adult criminal justice system released a new report today, *State Trends: Updates from the 2013–2014 Legislative Session*. The report looks at states that have taken and are taking steps to remove children from the adult criminal justice system.

## State Reform Trends

*State Reform Trends* published by Models for Change documents the continuation of four trends in justice reform efforts across the country to roll back transfer laws in the country, from arrest through sentencing. Building on efforts from the last decade, states continue to amend and eliminate harmful statutes and policies created in the 1990s that placed tens of thousands of youth in the adult criminal justice system. In 2014, advocacy, research, operative Prison Rape Elimination Act (PREA) regulations, and fiscal analysis assisted in the introduction of bills in nine states to remove youth from the adult criminal justice system and give youth an opportunity at more rehabilitative services.

## Federal Advisory Committee

The Federal Advisory Committee on Juvenile Justice (FACJJ) has issued its 2013 Report. This report makes recommendations to the President, Congress, and OJJDP on four areas of major concern to the juvenile justice community:

- Evidence-based youth justice practices.
- Youth engagement.
- Youth justice and schools.
- Youth justice and disproportionate minority contact.

The report also addresses the need for reauthorization of the Juvenile Justice and Delinquency Prevention Act and affirms the important roles OJJDP can play—providing leadership on critical juvenile justice issues and supporting investments in funding to promote effective practices.

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OJJDP and the National Institute of Justice (NIJ) have jointly released “Changing Lives:

Prevention and Intervention to Reduce Serious Offending,” part of the Justice Research series. This bulletin reviews effective programs that mitigate risk factors for delinquency and crime among juveniles and young adults to prevent future serious criminal behavior. These programs are grouped by family, school, peers and community, individual, and employment. This bulletin summarizes the final report from the NIJ Study Group on the Transitions From Juvenile Delinquency and Adult Crime.

## Forensic Research

Just as research and development in medicine is crucial to advancing public health, R&D in forensic science is crucial to improving public safety and the administration of justice. Since 2009, NIJ has awarded more than 250 grants worth more than \$100 million for forensic science research. This portfolio has contributed significant changes to the way forensic scientists work by improving the reliability of forensic markers and measurements, validating processes, and increasing efficiencies through the development of technology or the retirement of weak methods. Strengthening the scientific foundation of forensics helps law enforcement identify suspects more quickly, prosecutors bring charges more accurately, and defense lawyers exonerate the innocent.

## Health Care Sector Guide

Health care professionals frequently come into contact with youth who have past, ongoing, or potential sexual exploitation for commercial purposes or sex trafficking victimization. However, according to the 2013 report from the Institute of Medicine and National Research Council, *Confronting Commercial Sexual Exploitation and Sex Trafficking of Minors in the United States*, the United States is in the early stages of recognizing, understanding, and developing solutions to prevent these crimes. A new supplement to the report *Guide for the Health Care Sector* is designed for use by health care professionals and in settings where youth are treated for injury and illness or taught about prevention. The guide includes key terms, risk factors, and consequences; barriers to identifying victims and survivors; current practices; and recommendations. This project was funded by the U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention.

## Model Programs Guide

OJJDP's Model Programs Guide (MPG), an online resource of evidence-based juvenile justice and youth prevention, intervention, and reentry programs, has added three new literature reviews. MPG literature reviews provide practitioners and policymakers with relevant research and evaluations on more than 40 juvenile justice topics and programs. These three literature reviews address:

- Commercial Sexual Exploitation of Children/Sex Trafficking.
- LGBTQ Youths in the Juvenile Justice System.
- Alternatives to Detention and Confinement.

## Racial Perceptions

The Sentencing Project has a new publication *Race and Punishment: Racial Perceptions of Crime and Support for Punitive Policies*, authored by Nazgol Ghandnoosh, Ph.D. The publication synthesizes two decades of research revealing that white Americans'

strong association of crime with blacks and Latinos is related to their support for punitive policies that disproportionately impact people of color.

Key findings of the report include:

- White Americans overestimate the proportion of crime committed by people of color, and associate people of color with criminality. For example, white respondents in a 2010 survey overestimated the actual share of burglaries, illegal drug sales, and juvenile crime committed by African Americans by 20-30 percent.
- Studies have shown that whites who associate crime with blacks and Latinos are more likely to support punitive policies—including capital punishment and mandatory minimum sentencing—than whites with weaker racial associations of crime.
- These patterns help to explain why whites are more punitive than blacks and Latinos even though they are less likely to be victims of crime. In 2013, a majority of

whites supported the death penalty for someone convicted of murder, while half of Hispanics and a majority of blacks opposed this punishment.

- Racial perceptions of crime not only influence public opinion about criminal justice policies, they also directly influence the work of criminal justice practitioners and policymakers who operate with their own often-unintentional biases.

The report recommends proven interventions for the media, policymakers, and criminal justice professionals to reduce racial perceptions of crime and mitigate their effects on the justice system. These include addressing disparities in crime reporting, reducing the severity and disparate impact of criminal sentencing, and tackling racial bias in the formal policies and discretionary decisions of criminal justice practitioners.

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