Community Supervision in the Post Mass Incarceration Era

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WHAT IS NEXT for community supervision? With the 90th anniversary of the federal probation system and the 40th anniversary of pretrial pilots in the federal system, now is the time to begin to outline the emerging themes for community supervision in a post mass incarceration era. The United States, through various reforms and crime control strategies, has had an agenda for nearly 30 years that increased the number of people who are incarcerated and the length of the sentence, as well as promulgating enforcement and punishment as the theme of community supervision. While the emphasis on evidence-based practices and using research to guide operations has fostered support for community supervision initiatives focused on offender change, these efforts are often pursued from a risk management perspective that is a component of the mass incarceration perspective. Numerous reviews of these crime control strategies have suggested that the great American experiment with incarceration has societal consequences where the costs outweigh the benefits, and the impact of mass incarceration policies on individuals, families, and communities is too great and affects many generations.

A post mass incarceration era propels us to examine how we can deliver public safety in a manner that serves the greater good for crime control but minimizes the unintended consequences of the incarceration-based punishment system. A number of unanswered questions exist, including how community corrections will handle the expected increase in people under supervision and how community supervision will prevent the backend use of incarceration through violations. In other words, what should community supervision, as a component of the justice system, pursue to mitigate the unintended consequences of mass incarceration?

Three themes emerge to advance community supervision in the next decade: specialized processes for individuals with behavioral health disorders, increasing and intelligent use of technology, and desistance. The next advancements in community supervision must build on the client-centered activities that are part of the cadre of core correctional practices, with an emphasis on integrating public health and citizenship initiatives within the justice setting. It is critical for community supervision to be viewed as a period of time to focus on competency development for the justice-involved person with attention to better management of his or her behavioral health disorders. Accountability, or the focus on conditions or requirements of probation that serve to facilitate offender change and restorative justice to the community, are important to making strides for being accountable for one's behavior, and the individual makes restoration or restitution to the community and/or victim for the harms done. These approaches build on core correctional practices, which have dominated the last decade as the "new model" and toolkit for officers, and emphasize behavioral techniques over monitoring and compliance-driven approaches. Core correctional practices is at the officer level of a set of activities including building working relationships between the justice actor and client; the justice actor uses reinforcements, disapprovals, and authority to assist the client in managing his or her own behavior, and the system emphasizes prosocial modeling, using treatments that include cognitive restructuring and social skills training.

Specialized processes for individuals with behavioral health disorders, technology, and desistance are geared to the goals and operational practices of the supervision agency that can support core correctional practices. These three recommendations for the future (or better yet, to begin right now) are designed to inculcate improvements into the mission and goals of supervision agencies to sustain efforts that promote societal goals of reduced criminal behavior through the individual becoming a contributing member of the community. Stated simply, these recommendations are focused on undoing some of the unintended consequences of mass incarceration and its impact on the culture of supervision agencies that focus on compliance management and risk management.

Administrative Office of the U.S. Courts Leading the Way

The Administrative Office of the U.S. Courts (AO) should be acknowledged for laudatory efforts to advance the practice of supervision, including all aspects of core correctional practices. The efforts to reengineer probation services have focused on the core features of evidence-based supervision: 1) use of standardized risk and need assessment tools, including an instrument developed for their own population (the Post Conviction Risk Assessment, or PCRA); 2) integration of risk and need assessment into supervision systems; 3) use of evidence-based treatments, including manualized services and cognitive behavioral treatments; and 4) use of tool kits to minimize the use of incarceration for violations of probation. All of these ongoing efforts are well supported by the research. The AO also has engaged in a campaign to educate managers and line staff on the research literature as part of an effort to provide a foundation for the implementation of core correctional practices

among its officers. These efforts, discussed elsewhere in this issue and others of *Federal Probation*, have moved federal supervision forward and positioned districts to implement important improvements to the system. The next three sections describe and discuss some recommendations for advancements in this post mass incarceration era.

Recommendation 1: Create Specialized Processes for Behavioral Health Clients

The rate of behavioral health disorders is greater among the justice-involved population (i.e., inmates, probationers, parolees, pretrial defendants, etc.) than among the general population. Substance use disorders are four times greater in the probation and parole population (approximately 36 percent of that population) than in the general population. Mental health disorders occur at twice the rate of the general population. But, the justice system handles most individuals with behavioral health disorders the same as other offenders—they are exposed to the same processes and opportunities for programming as other offenders. Essentially there is little regard for how the behavioral health status of an individual may affect his or her functioning or behaviors, or ability to be successful on supervision. During the past two decades, many new initiatives have been tried within the justice setting for substance abusers (and a few for those with mental health issues). Overall, research on such initiatives has found that using behavioral strategies

within justice settings is feasible and can have positive impacts on client outcomes. But, there is a need to handle behavioral health clients through a different set of processes than the typical one used by the justice system and probation agencies. The future holds that the justice system will screen at any point—arrest, pretrial decisions, sentencing, and correctional initiatives—and make a determination that the individual will be moved to a different process that specializes in managing behavioral health disorder and using treatment, as depicted in Figure 1 below.

Rationale for a New Approach.

A range of initiatives has been tried for individuals with behavioral health disorders. Drug treatment courts, which began in the 1990s and now consists of over 800 courts plus many sibling courts (i.e., veteran's courts, mental health courts, prostitution courts, gang courts, etc.), demonstrated that new strategies can improve client outcomes. The drug treatment court model involves a partnership of the judiciary, treatment agencies, supervision agencies, prosecutors, and a defender jointly monitoring the progress of the individual, and the individual is directed to participate in drug treatment and other appropriate programming. The individual is drug-tested routinely, the justice partners are involved in status hearings to monitor the progress of the client, and the system uses sanctions and rewards to reinforce expected behaviors. Drug treatment courts have been instrumental in preparing justice officials to understand substance abuse

disorders and to use behavioral strategies to address compliance and accountability with the conditions of the court. The major drawback is that there is a lack of capacity, due in part to the labor-intensiveness of this strategy (less than 5 percent of offenders with substance use disorders are involved in drug treatment courts), and the treatment courts are infrequently used for those with moderate- to higher-risk criminal behavior. In other words, drug treatment courts demonstrate that great strides can occur with the use of different strategies for drug-involved offenders.

Other initiatives exist that have shown promise in dealing with behavioral health needs of justice-involved individuals. The research on drug treatment courts demonstrates that the special programming reduces recidivism (but has little impact on drug use) (see Aos et al., 2014). Similarly, studies of probation intensive supervision programming with drug treatment (that is, generally with conditions of treatment, testing, and sanctions) finds an impact in the direction of reduced recidivism compared to standard probation (Drake et al., 2013). Recently, the Hawaii's Opportunity Probation with Enforcement (HOPE) program has demonstrated reductions in recidivism among a broad array of offenders. Similar to drug treatment courts, the effort focuses on swift attention to drug use behaviors by the judiciary and probation system—individuals appear in court as soon as a noncompliance is noted—as well as frequent drug testing and use of sanctions to handle negative performance. Reductions in

FIGURE 1.
New Vision for Individuals with Behavioral Health Disorders
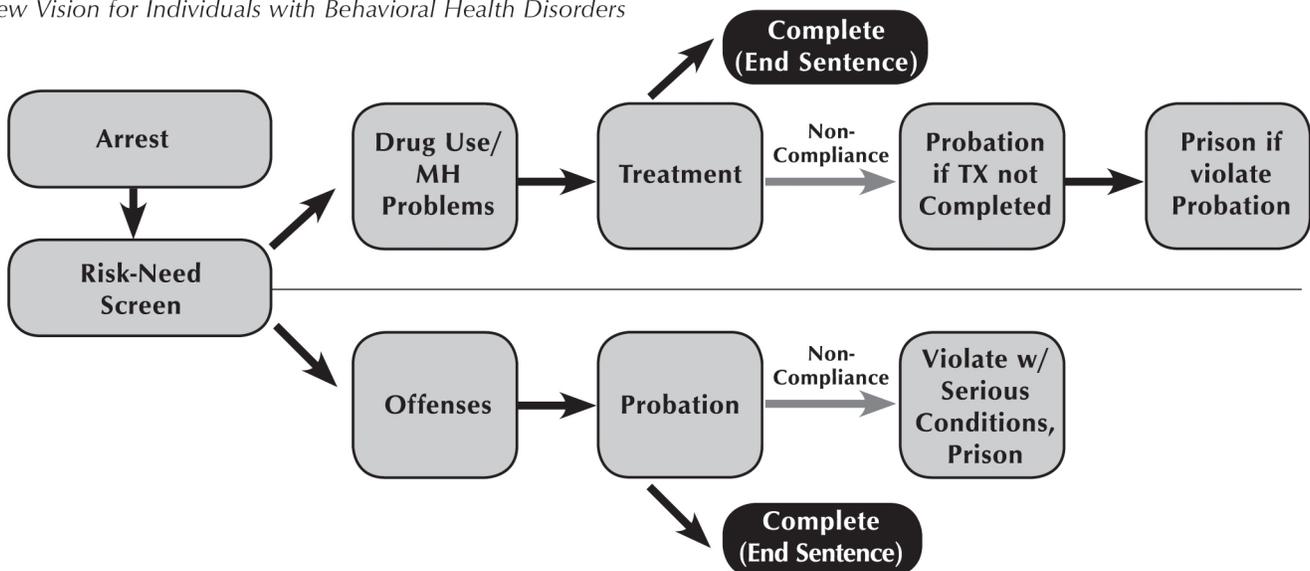
recidivism are also observed in the few studies of this initiative (Hawkins & Kleinman, 2009). And, for mental health disorders, one small study has found that specialized probation caseloads for mental health clients have shown positive impact (Skeem, Manchak, & Peterson, 2011); mental health courts, modeled after drug courts, have not shown reductions in recidivism. Overall the lessons from this collection of studies are that justice-involved individuals with behavioral health disorders need different processes and procedures to assist them in addressing their behavioral health disorders that affect criminal behavior.

Collectively this body of literature has demonstrated that the justice system in its present form is not well equipped to manage those with behavioral health disorders. But a number of benefits exist to manage individuals with behavioral health disorders in a manner to reduce their symptoms and increase their functionality—this will serve public safety more effectively by addressing the factors that affect success on supervision (i.e., substance abuse and mental health). Lessons from the innovations of the past have emphasized the importance of having justice and treatment staff being knowledgeable about behavioral health disorders, particularly patterns of relapse and remission, to foster better outcomes and reduce recidivism. Having dedicated staff schooled in managing behavioral health disorders ensures that the individual receives appropriate treatment and the justice processes reinforce the treatment goals.

Separate Processes for Individuals with Behavioral Health Disorders.

As shown in Figure 1, treating separately from the onset of the criminal justice process those with behavioral health disorders emphasizes the need to address those behavioral health disorders. A separate process means that staff have different expectations, and that the compliance-driven culture of supervision will not interfere with a therapeutic approach focused on treatment engagement. The therapeutic approach can include accountability measures such as drug testing and perhaps liberty restrictions, to reinforce the importance of addressing the behaviors of the individual. In many ways, having a separate process facilitates both a harm reduction and public health approach. In terms of harm reduction, it reduces the potential exposure to incarceration of those with behavioral health disorders, since that environment does not understand behavioral health disorders. From the public

health perspective, it allows the core functions to be modeled more closely after a therapeutic environment. That is, the screening, assessment, treatment referral, case management, and monitoring can use health guidance to reduce relapse. And, given the recent reforms in health care under the Affordable Healthcare Act, the justice system may be able to be reimbursed for performing these functions. Two federal programs are available, depending on the jurisdiction, to reimburse for case management-type functions: Medicaid Administrative Claiming (MAC) and Targeted Case Management (TCM). This means that the processes to handle individuals with behavioral health disorders, depending on the state, may be eligible for reimbursement for core functions. The potential to bring funding into justice agencies can be transformative— the additional funds can be used to reduce caseloads, perform more case management functions that include recovery management strategies, expand the use of clinical staff, and focus attention on the stability factors (housing, food, employment, vocational development) that often are not available in supervision agencies. Collectively, this integration with the healthcare framework is supported by recent healthcare reforms that are looking towards integrating care (particularly behavioral healthcare) into settings frequented by those in need. The justice system has the largest concentration of individuals with behavioral health disorders, and it makes sense that health care functions can be integrated into this setting.

Figure 1 provides an example of how to integrate a healthcare framework into justice processes. As shown here, a risk and need assessment administered shortly after arrest can indicate those that have a serious mental health disorder and/or substance dependence disorder. The distinction is that we are focusing attention on those whose criminal behavior is complicated by their behavioral health disorder, such as bipolar disorders, schizophrenia, etc., or substance dependence on opioids, cocaine, and methamphetamines. It excludes those that are involved in trafficking or those substance abusers whose use (for example, marijuana or alcohol) is part of a lifestyle involved in criminal behavior. Once it is determined that someone meets the criteria for the specialized process for behavioral health disorders, then the goal is to place that person in treatment to address the behavioral health issue. It is envisioned that the individual would be in treatment for at least 12 months

and that other services (such as housing and vocational and educational training) could be offered when progress is made in treatment. This would give the opportunity to engage in evidence-based treatment as well as support services. Case management services would be part of the treatment process, and probation or other justice processes would occur when noncompliance with the treatment conditions, relapse, or other types of services would occur. The emphasis would be on recovery and functionality rather than punishment. Specialized processes, with experts in behavioral health services, should be able to facilitate better outcomes and reduce the use of back-end incarceration, since more individuals would be in recovery. A goal of the system is to engage the individual in quality treatment and case management to prevent relapse—with goals of increasing persistence in treatment and increasing the periods between relapse.

Technology to Augment Supervision Processes

The concept of face-to-face contacts, the main feature of community supervision, is soon to be altered. The complexity of supervision work— face-to-face contacts, collateral contacts, court appearances, review of an individual's progress, addressing compliance issues—requires solutions that can be enhanced through technology. The innovation of electronic monitors (i.e., ankle bracelets that allow for house arrest and area restrictions) in the 1990s is the beginning of a continuing and expanding effort to integrate technology into supervision. The lessons from the use of electronic monitors are that the technology can be effective but it needs to be integrated into supervision where officers (or some personnel) are monitoring the results.

Pattavina (2009) notes that "persuasive technology" is an untapped resource that allows the technology and the information generated from the technology to be used in behavioral interventions in correctional settings. That is, electronic monitoring and other data provide important information that can be used in supervision to help probationers/ parolees learn their daily patterns and then use that information to make strides in their behavior. This is an untapped resource, especially given the rise of mobile technologies; in fact, the extensive availability of mobile phones in society suggests that this is a useful resource to supervision.

In the clinical field, a number of studies have been completed on technology-based

interventions, particularly for managing substance use and related behaviors (see Marsch, Carroll, & Kulik, 2013). One of the early studies by Hester and colleagues (2005) found that using the "Check-Up" format in a computer-based program significantly reduced 12-month drinking among problem drinkers. A study of the A-CHESS smartphone app found that participants of a residential drug treatment program reported significantly fewer risky drinking days than patients in the usual care group (Gustafson et al., 2014). These technologies draw upon the principles of using routine information and then providing feedback reports to the individual. They are very similar to health promotional apps that are used in behavioral management strategies such as FitBit, Weight Watchers, My Fitness Pal, and others that provide real-time activities that focus on goal setting, reminders, and information to the user about how well they are meeting their goals. Although there are no programs specifically for justice-involved individuals, a current study funded by the National Institute on Drug Abuse, MAPIT, is designed to assess a two-session motivational interviewing program that focuses on goal setting and feedback on probation (see Walters et al., 2014).

A common problem in supervision is missed appointments. Dentist offices and other healthcare settings have tackled this problem by providing reminder phone calls the day before the meeting. Now, technology-based reminders are being implemented to help people keep appointments and follow schedules; even the research is focusing on the advantages of these reminder systems. Essentially, these systems have several key features, such as being on all the time like mobile phones, being easy to use, and having the ability to tailor the message to the individual. The use of mobile technologies has certain advantages, because they are always available and they also have geospatial locating capabilities. The potential in the justice setting is limitless, because these technologies can be used to enhance outcomes by addressing issues related to attending supervision meetings and treatment, avoiding high-risk people or situations, and obtaining/maintaining employment. The technologies can provide real-time tips, reminders, and verification of progress on key indicators (Spohr, Taxman, & Walters, 2015).

Persuasive technologies can be useful in probation settings. First, monthly probation contacts can be transformed into brief interventions facilitated by mobile technology, computerized contacts and/or interventions, and electronic monitors. This is a major advance, because most change strategies should focus on micro-behaviors that occur daily instead of on monthly behaviors. In fact, if the justice system is interested in changing behaviors, then there is a need to make the "contacts" more frequent to provide the opportunities to give feedback, guide behaviors, and allow for redirection. Few people can make changes in behavior if they are only receiving feedback infrequently. Second, the persuasive technologies can help clients engage in more shared decision-making efforts. Shared decision-making, in which the use of authority is reduced to allow the individual to contribute to the decision, is an important part of developing ownership in long-term changes. This helps the individual learn to make better, informed decisions. That is, in order to help individuals learn to weigh the costs and benefits of certain decisions (the decisional balance clinical tool), it is important for the individual to have a role in that decision-making. This means that officers and justice-involved individuals need to assess the costs and benefits and then give the individual the opportunity to make a choice. The officer learns to provide feedback in a manner that allows individuals to make decisions with guidance as to their impact on criminal behavior or success on supervision. Finally, the technology can be used to assist individuals in better managing their lives. Reminders, feedback, and goal-setting are all important parts of supervision, but they depend on whether the individual officers routinely engage in core correctional practices. Technology is more consistent—officers can receive reminders and information from the computerized systems just as easily as the probationers/parolees can. These reminders can help reinforce when to use core correctional practices, as well as which practices to use (effective disapproval, positive reinforcers, etc.). This means that technology can advance fidelity to core correctional practices, a plus in transforming supervision.

Desistance and Prosocial Identity

Shadd Maruna (2002) states in *Making Good* that people reintegrating from prison tend to use two different narrative scripts: 1) the redemption script, where they can see themselves as new persons ready to meet the challenges of a crime-free lifestyle; or 2) the condemnation script, where they see themselves as societal failures with little choice but to resume old ways. According to Maruna and other researchers, desistance is a process by which the person ceases criminal behavior and assumes a successful adjustment as a member of the community. It normally occurs over time, with many ups and downs (similar to recovery from substance abuse or a chronic disease). A convergence of key factors that affect desistance has emerged from research, clinical science, and policy analyses but primarily centers on three concepts: citizenship, identity, and role perception.

1. Citizenship refers to the ability of an individual to assume a civil role in society. The role as a member of the community involves the rights of individuals, including voting, employability, ability to live and work freely, and civic activities. Citizenship refers to the individual having a productive role in the community, which includes responsibilities to the community.

2. Identity refers to how a person views himself or herself in society: as part of the community, a prosocial, productive individual; or as an "outlaw" or defier of authority. A person's identity affects the conception of who he or she is in society, including capabilities, options, and available choices.

3. Role refers to whether the person sees himself or herself in traditional roles as a parent, employee, student, or other contributing member of society.

The emphasis on concerns about citizenship was recently validated by the recent report by the National Academy of Sciences in *The Growth of Incarceration in the United States: Exploring Causes and Consequences* (Travis, Western, & Redburn, 2014).

An agenda of desistance would be transformative regarding the mission, goals, and operations of a supervision agency. Unlike traditional goals of rehabilitation, punishment, incapacitation, or retribution, desistance focuses attention on assisting the individual in assuming a prosocial role in society. Some of the core correctional practices focus on assisting the individual in employment or dealing with behavioral health disorders, but desistance would involve the supervision agency in helping facilitate the person's development into citizenship, prosocial identity, or traditional role. The condemnation aspects of supervision that reinforce the person's focus on their past and the wrongs of the past would need to be replaced by a focus on redemption, on how the individual can be a contributing member of society. This would require many of the cognitive behavioral programs, manuals, workbooks,

and other tools that the agency uses to be refocused on the future and moving forward.

To advance a desistance agenda, supervision agencies would need to integrate desistance into the mission and goals of the agency. It would not be sufficient to state that the emphasis is on offender change or even rehabilitation, because many agencies already have this in their mission statement. A restatement of the mission and goal that includes desistance is needed to help internal staff and external stakeholders become aware that something has changed and that the emphasis is now truly on fostering the process of desistance. Desistance is similar to positive psychology, which emphasizes personal growth instead of deviance or problem behavior. "Redemption scripts" or similar efforts to focus on the individual's role in society might be difficult to integrate into a compliance-driven culture that emphasizes rule adherence or "catching people violating the rules." Redemption scripts focus attention on personal development that allows a person to become or assume a prosocial identity. The shift is significant and would require the organization to adopt missions, goals, and operations that focus on desistance, building prosocial identities, and assisting the individual to navigate towards citizenship and traditional roles. While many of the core correctional practices might be useful, the tone and emphasis would need adjustment to be consistent with a desistance framework.

Summary

Great strides have occurred with core correctional practices in community supervision, including the proliferation of training and technical assistance programs to facilitate knowledge and skills about the improvements in community supervision operations. These efforts are built into organizations that have been influenced by the mass incarceration (and mass probation and mass criminalization) policies—the culture of many supervision agencies is focused on risk management strategies that embrace punishment, incarceration of "rule violators," and use of offender change and punishment strategies to reinforce the justice-involved individuals' perception of themselves as *lesser citizens*. A key lesson from the post mass incarceration reform era is that people in the justice system must be able to view themselves with a redemption script to advance efforts to reduce recidivism. The three recommendations are designed to facilitate this by: 1) treating individuals with behavioral health disorders in treatment-oriented processes (that are more akin to public health strategies, and that potentially can take advantage of the Affordable Care Act); 2) using persuasive technology to transform supervision to facilitate individual change by providing feedback loops that can be used to help develop better decision-making; and 3) promoting desistance goals through organizational endorsement of citizenship, identity, and role as important to the mission and goal of supervision agencies. In the next decade, structural changes in supervision fostered by the three recommendations in this article have the potential to dramatically transform supervision into the preferred sentence given the overall improvement in outcomes. These are exciting efforts that can serve to increase social justice and citizenship and reduce health disparities—all three efforts are important to addressing the negative consequences that emerged from the mass incarceration policies and practices.

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