Overview of Substance Use Disorder Occurrence and Treatment in the Federal Judiciary

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ONE OF THE MOST well-established evidence-based principles is that supervision interventions should be targeted based on the specific risk levels in each case. Often referred to as the "risk principle," this theory recognizes that it is imprudent to take a one-size-fits-all approach to supervision and treatment. This guiding principle for correctional programming strongly applies to services provided to persons on supervision with substance use disorder identified as a dynamic risk factor.

In the 94 federal judicial districts nationwide, U.S. probation and pretrial services officers play an integral role in the criminal justice system. Officers supervise individuals released to the community to make sure they comply with court-ordered conditions. Often, for the many persons under supervision with a substance use disorder, these conditions will include substance use testing and treatment.

Substance use disorder treatment is a tool that helps U.S. probation and pretrial services officers supervise persons under supervision in the community. Treatment—which includes urine testing and services such as detoxification; residential treatment; individual, family, or group counseling; and medication—is provided to persons who use illegal drugs, abuse prescription drugs or alcohol, and suffer from a substance use disorder. Either these individuals are on probation, parole, or supervised release or they are on pretrial supervision while waiting to appear in court.

For officers who supervise those with a substance use disorder, treatment provides the means to directly address these individuals' alcohol or drug use and to help change their behavior. Treatment is key to enforcing the conditions set for their release, increasing the likelihood that they will choose to obey the law, and controlling the danger they may pose to the community. For persons under pretrial supervision, treatment also helps officers to reasonably ensure that these persons return to court as required.

The Director of the Administrative Office of the U.S. Courts, under 18 U.S.C. § 3672, has the authority to "contract with any appropriate public or private agency or person for the detection of and care in the community of an offender who is an alcohol dependent person, an addict, or a drug-dependent person. . . ." Similar authority is contained within 18 U.S.C. § 3154, which allows pretrial services to contract for treatment services. When the probation or pretrial services office uses this authority and Judiciary funds pay for treatment, it is referred to as "contract" treatment. Probation and pretrial services offices will also frequently use treatment services that are available to the person under supervision in the community without cost to the federal judiciary or through the individual's own healthcare coverage. This is referred to as "noncontract" treatment.

All delegations and authorities related to judiciary procurement are given by the Director conditional on adherence to the limitations and guidelines set forth in the *Guide to Judiciary Policy*. Contracts for treatment services may be awarded only according to procedures and provisions of the procurement manual, Simplified Procurement Procedures for Treatment Services. Treatment services may be procured within one's own district or anywhere in the country where they are needed.

For pretrial supervision, officers supervised 46,336 cases during fiscal year 2018. Of that number, 21,918 had substance abuse treatment conditions. During that same period, 5,988 persons were in substance use contract treatment, which was paid for by the federal judiciary. A total of $14,068,858 was spent on substance use testing and treatment of pretrial services persons under supervision in fiscal year 2018 (50 percent increase since fiscal year 2014).

For post-conviction supervision, federal probation offices supervised 186,509 cases during fiscal year 2018. Of that number, 120,217 had substance abuse treatment conditions. During the same period, federal probation offices had 27,122 persons in substance use contract treatment, which was paid for by the federal judiciary. A total of $45,681,745 was spent on substance use testing and treatment of post-conviction persons under supervision in fiscal year 2018 (56 percent increase since fiscal year 2014).

PPSO regularly tracks drug use trends of persons under probation and pretrial services supervision. This issue has garnered even more attention over the past few years due to the opioid epidemic in the United States. With that in mind, our national positive drug test rates for the following drug types are listed in Table 1 on the next page.

In contrast, our national positive rates for the drug types in Table 2 are also on the next page.

TABLE 1
U.S. Probation and Pretrial Services National Positive Rates – Opioid Related

Drug Type	Calendar Year 2016	Calendar Year 2017	Calendar Year 2018
Opiates	6.3%	5.6%	4.9%
Oxycodone	3.9%	3.2%	2.9%
Fentanyl	1.9%	2.0%	2.6%
Buprenorphine	5.5%	5.7%	5.5%

TABLE 2
U.S. Probation and Pretrial Services National Positive Rates – Non-Opioid Related

Drug Type	Calendar Year 2016	Calendar Year 2017	Calendar Year 2018
Marijuana	12.6%	13.6%	13.9%
Amphetamines	7.8%	8.4%	9.2%
Cocaine	6.6%	7.1%	7.2%

Under 18 U.S.C. § 3154(4) and 3672, the Director of the Administrative Office of the U.S. Courts has the authority to contract for treatment services for those who are released to the community for federal pretrial services and post-conviction supervision. Agreements for treatment services may be awarded according to the Simplified Procurement Procedures for Treatment Services.

The treatment services procurement program includes almost 80 different services to address substance use disorder treatment, mental health treatment, and sex offender treatment. Specific to substance use testing and treatment, there are 25 different services available, along with an additional 6 services that address co-occurring substance use and mental health disorders. (A list of these services appears in the Appendix to this article.) The remainder of this document will provide an overview of some of the available services, along with national expenditures, for fiscal year 2018.

Case Management Services

Case management services are a method of coordinating the care and services of those with a substance use disorder. These services can be used as a way of linking a reentry program to the clinicians and service providers who are involved with the care of those under supervision. In fiscal year 2018, a total of $184,270 was spent on these services, with an average of $401 per person under supervision who received them.

Intake Assessment and Report

A comprehensive biopsychosocial intake assessment and report is conducted by a state-certified substance use disorder counselor or a clinician who meets the standards of practice established by his or her state's regulatory board. The assessor identifies the substance abuse severity of the person under supervision based upon the most current edition of the American Psychiatric Association's *Diagnostic and Statistical Manual of Mental Disorders* (DSM), strengths, weaknesses, and readiness for treatment. In fiscal year 2018, a total of $1,511,885 was spent on this service, with an average of $130 per person under supervision who received the service.

Manualized Cognitive Behavioral Group Counseling

Cognitive behavioral counseling groups offer a structured approach to address the criminal thinking component of substance use. Examples of this type of group are Moral Reconation Therapy,® Thinking for a Change,® Choices & Changes,® and The Change Companies.® The specific curriculum used is designed to address substance use issues. Research has found cognitive behavioral therapy to be very effective.[1] In fiscal year 2018, $3,351,167 was spent on this service, with an average of $682 per person under supervision who received the service.

Substance Use Counseling

Counseling is a clinical interaction between the person under supervision and a trained and certified counselor. The interactions are deliberate and based on various clinical modalities that have demonstrated evidence to change behavior. This can include individual counseling, group counseling, family counseling, group family counseling, intensive outpatient counseling, and treatment readiness group. Individual and group counseling are the two most commonly used forms of counseling. In fiscal year 2018, a total of $10,231,159 was spent on individual counseling, with an average of $545 per person under supervision who received the service. And $5,664,297 was spent on group counseling, with an average of $795 per person under supervision who received the service.[2]

Integrated Treatment for Co-Occurring Disorders

Individuals with co-occurring disorders receive substance use and mental health services in an integrated fashion. When receiving integrated treatment services, persons under supervision will be treated by the same clinician and/or team in the same location. Individual and group counseling are the two most common forms of this service. In fiscal year 2018, a total of $4,737,553 was spent on individual counseling, with an average of $934 per person under supervision who received the service. And $370,570 was spent on group counseling, with an average of $572 per person under supervision who received the service.

Residential Treatment

Residential substance use treatment programs are in-house facilities where the person remains for the duration of the program. They provide a highly structured environment that incorporates counseling, drug testing, and other approaches that involve cooperative living for people receiving treatment. Although the length of treatment can vary based on the person's clinical needs, it typically ranges from 28 days to 9 months. The purpose of this type of treatment is for the person to achieve complete sobriety and not be tempted by his or her disorder. This gives the person enough time to address any underlying issues caused by past substance use.

The two most common forms of this

[1] Research shows that cognitive behavioral group treatment is among the most successful interventions with substance-dependent offenders. (Note: D.B. Wilson, L.A. Bouffard, and D.L. McKenzie, "A Quantitative Review of Structured Group-Oriented Cognitive-Behavioral Programs for Offenders," *Criminal Justice and Behavior*, Vol. 32, No. 2, pp. 172-204, 2005. When and where available, this should be the default choice of treatment for substance-dependent offenders.

[2] While the average money spent per client on group counseling is more than the average spent on individual counseling, it should be noted that group counseling sessions generally occur with greater frequency and over a longer period.

service are short-term[3] and long-term[4] residential treatment. Residential treatment is an option for individuals struggling with severe forms of substance use disorder. It is intended for individuals who are in need of a more intensive approach that removes outside influences and distractions. Residential treatment placements often occur as a result of clinical assessment or are the result of a court order. Often it is a last-ditch effort before supervision is revoked. In fiscal year 2018, a total of $12,737,406 was spent on short-term residential treatment, with an average of $4,582 per person under supervision who received the service, and $1,753,269 was spent on long-term residential treatment, with an average of $6,130 per person under supervision who received the service.

Medication-Assisted Treatment

When traditional therapies are not effective in isolation, medication-assisted treatment (MAT) can provide the necessary physical stabilization to improve the success of treatment. Medications are frequently used in combination with counseling to treat specific forms of a substance use disorder. MAT is approved for the treatment of alcohol use disorder and opioid use disorder.

An effective treatment for opioid use disorder includes MAT, which combines behavioral therapy and medications. The Food and Drug Administration (FDA) has approved methadone, buprenorphine (buprenorphine with naloxone), and naltrexone for the treatment of opioid use disorder. Naltrexone is an opioid antagonist, methadone is an opioid agonist, and buprenorphine is a partial opioid agonist.[5] MAT can be challenging due to the high cost and need for properly licensed physicians.

An opioid agonist is a drug that activates the opioid (mu) receptors on nerve cells in the brain. A full agonist (methadone) continues to produce effects on the receptors until all receptors are fully activated or until the maximum effect is reached—resulting in a relief of cravings, blocking of the euphoric effects associated with heroin and other opioids, and prevention of withdrawal.

A partial agonist (such as buprenorphine) activates the mu receptors, but not to the same extent as a full agonist; the effects increase until a plateau is reached. Once a plateau is reached and maintained, those with opioid addiction will not experience withdrawal symptoms.

An opioid antagonist (such as naltrexone) binds to the opioid receptors with greater affinity than agonists, but does not activate the receptors. It blocks the receptor; therefore, preventing the neurons from responding to opioids—effectively blocking the effects of opioids. The result is a reversal of the effects of opioids and is used in the management of opioid use disorder to aid in the prevention of relapse. MAT has been found to reduce morbidity and mortality, decrease overdose deaths, reduce transmission of infectious disease, increase treatment retention, improve social functioning, and reduce criminal activity.[6]

Methadone, in use since 1964 for the treatment of opioid use disorder, may be dispensed only in federally approved opioid treatment programs (OTPs). Treatment protocols require that a client take the medication at the clinic where it is dispensed daily. Take-home dosages generally are allowed only for clients who have been on an established maintenance program for an extended period.

In October 2002, the FDA approved buprenorphine for the treatment of opioid use disorder. Physicians who obtain specialized training may prescribe buprenorphine. Some of these physicians are private, office-based practices; others are affiliated with substance abuse treatment facilities or programs and may prescribe buprenorphine to clients at those facilities. OTPs may also prescribe and/or dispense buprenorphine. In October 2010, the FDA approved extended-release, injectable naltrexone to treat and prevent relapse in clients with opioid use disorder following medical withdrawal management from opioids. Extended-release injectable naltrexone may be prescribed by any person who is licensed to prescribe medication (e.g., physician, physician assistant, nurse practitioner), or qualified staff may order its administration.

The U.S. probation and pretrial services system has traditionally not used medication in the treatment of substance use disorders. However, due to the emphasis on the opioid epidemic, the federal judiciary has increasingly used MAT through contract services. Many jurisdictions also can use noncontract services in the community to connect those under supervision with MAT at no cost to the judiciary. The use of contract MAT by probation and pretrial services offices is still extremely limited due to a combination of factors, such as resistance at all levels,[7] cost, and its use being limited to alcohol and opioid use disorder.

A recent survey of all 94 judicial districts on their use of MAT showed that of 90 districts that responded, there were 828 cases with federal supervisees receiving MAT. Only nine districts reported the use of MAT in more than 25 cases. Of those, only four districts reported the use of it in more than 50 cases. The district reporting the highest number of cases (94) receiving MAT is Massachusetts. Thirty-seven districts reported having 10 or fewer cases receiving MAT, and 10 districts are not using MAT because there is not a current need for it.

In fiscal year 2018, a total of $659,069 was spent on agonist/antagonist treatment, with an average of $3,787 per person under supervision who received the service. This was for 174 persons under supervision in 5 districts. In the same period, $80,186 was spent on inpatient detoxification medication, with an average of $1,215 per person under supervision who received the service. This was for 66 persons under supervision in 2 districts. Last, $48,568 was spent on methadone maintenance medication, with an average of $1,734 per person under supervision who received the service. This was for 28 persons under supervision in 3 districts. Note that the methadone detoxification service was not used at all during this period.

Since 2014, the federal judiciary has emphasized the importance of an individualized and integrated approach to the treatment of substance use disorder in individuals under supervision. Training in the procurement of substance use disorder treatment services is provided annually to probation and pretrial services staff and there is continual programmatic support for the supervision of individuals under supervision with treatment

[3] For those needing residential treatment for up to 90 days.

[4] For those needing residential treatment for up to 270 days.

[5] Center for Substance Abuse Treatment. (2005). "Medication-Assisted Treatment for Opioid Addiction in Opioid Treatment Programs." *Treatment Improvement Protocols* (TIP) Series 43 (Rev. ed.; HHS Publication No. SMA 12-4214). Rockville, MD: Substance Abuse and Mental Health Services Administration.

[6] Volkow, N. D., Frieden, T. R., Hyde, P. S., & Cha, S. S. (2014). "Medication-Assisted Therapies—Tackling the Opioid-Overdose Epidemic." *New England Journal of Medicine*, 370(22), 2063–2066.

[7] Court, probation, and pretrial services staff, clinical staff, and patient resistance to the use of medication-assisted treatment (MAT), a lack of perceived effectiveness of MAT, and lack of knowledge about how to implement MAT within their treatment setting.

needs. We have also partnered with the Federal Judicial Center on educational programs for probation and pretrial services for drug and alcohol treatment specialists; in these programs there was an emphasis on substance use disorder treatment being a collaborative process. The federal judiciary continually analyzes data from the national and local levels to assess for programmatic and training needs, and to watch for trends in the federal probation and pretrial services system that require a response to address substance use disorder treatment services needs.

Appendix

Services for Substance Use Testing and Treatment

- Urine Collection/Testing & Reporting
- Urine Collection/NIDT Device Testing
- Sweat Patch/Application & Removal
- Breathalyzer
- Case Management Services
- Intake Assessment and Report
- Clinical Group Cognitive Behavioral Therapy
- Manualized Group Cognitive Behavioral Therapy
- Individual Counseling
- Group Counseling
- Family Counseling
- Group Family Counseling
- Intensive Outpatient Counseling
- Treatment Readiness Group
- Agonist/Antagonist Medication
- Administrative Fee Agonist/Antagonist Medication
- Medical Detoxification
- Non-Medical Detoxification
- Inpatient Detoxification Medication
- Administration of Agonist/Antagonist Medication
- Agonist/Antagonist Medication Monitoring
- Therapeutic Community Residential Treatment
- Short-Term Residential Treatment
- Long-Term Residential Treatment
- Confined Treatment Alternative

Services for Co-Occurring Substance Use and Mental Health Disorders

- Individual Counseling for Co-occurring Disorders
- Group Counseling for Co-occurring Disorders
- Treatment Readiness Group for Co-occurring Disorders
- Family Counseling for Co-occurring Disorders
- Short-Term Residential for Co-Occurring Disorders
- Long-Term Residential for Co-Occurring Disorders