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a journal of correctional philosophy and practice

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THIS ISSUE IN BRIEF

DEPARTMENTS

"To the Greatest Extent Practicable"—Confronting the Implementation Challenges of the First Step Act

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THE PASSAGE OF the First Step Act (FSA) in December 2018 ushered in the most extensive changes to the federal criminal justice system in decades. While significant "front end" sentencing changes were enacted, perhaps the most notable provisions focused on correctional reform. Specifically, Congress directed the federal Bureau of Prisons to develop a dynamic risk assessment that could identify each inmate's risk level and specify needed correctional interventions. The legislation further directed the Bureau of Prisons to provide adequate evidence-based program capacity to reduce the risk of inmate recidivism, and to implement a process in which program participation could lead to additional time in prerelease custody and/or commencing community-based supervision earlier.[1] The legislation's implementation requirements will likely delay the new risk assessment system's impact on the federal probation system, which supervises federal inmates released into the community. However, other FSA changes are already having significant "back end" impact on the U.S. probation system. In this article we first present a comprehensive overview of some long-standing impediments to providing strong continuity of care for inmates between the BOP and U.S. probation. There follows a detailed explanation of five FSA reentry provisions that currently challenge the U.S. probation system. The article concludes with a discussion of macro-level concerns as well as proposals for legislative, policy, and procedural changes which could better ensure that the federal criminal justice system meets the legislative intent of the FSA.

A (Dis)Continuity of Care?

The term "continuity of care," used here in the context of correctional programming, comes from the health sciences. According to the American Academy of Physicians, a continuity of care "is concerned with quality of care over time. It is the process by which a patient and his/her physician led care team are cooperatively involved in on-going health care management toward a shared goal of high quality, cost effective medical care."[2] This concept has been adopted within community corrections, with "care" being understood as those interventions, services, and case management leading to recidivism reduction. Within the U.S. probation policy, officers are identified as the "primary change agents" for those persons under their supervision, with the goal of their achieving "lawful self-management."[3] Officers directly provide some services and broker others. Improving the continuity of care through better coordination between the BOP, halfway house providers, and U.S. probation would greatly enhance the objectives of the FSA. Below we consider both long-standing as well as more recent impediments that disrupt the continuity of care.

Within the federal criminal justice system, criminal defendants begin under the jurisdiction of the judicial branch while their case is pending. Approximately 25 percent are on pretrial release, while the remaining 75 percent in pretrial detention are managed by the U.S. Marshals Service.[4] If convicted and sentenced to a term of incarceration, a defendant is identified as an inmate and comes under the jurisdiction of the Attorney General and the BOP, in the executive branch. Upon release, an inmate is identified as a "person under supervision" and begins a Term of Supervised Release (TSR) with U.S. probation.[5] Jurisdiction then returns to the judiciary. Defendants thus journey across two separate but equal branches of government during the federal criminal justice process.[6] As one might imagine, this structure may not lend itself to a seamless continuity of care. When fashioning a sentence, the court is directed to consider what may be referred to

[1] 18 U.S.C. 3632.

[2] https://www.aafb.org.policies

[3] *Guide to Judiciary Policies*, Volume 8, Part E, Chapter 3, Section 310.

[4] Judiciary Statistical Table H-9.

[5] *Guide to Judiciary Polices*, Volume 8, Part E, Chapter 1, Section 150.

[6] See J.C. Oleson (2014). A decoupled system: Federal criminal justice and the structural limits of transformation, *Justice System Journal*, 35:4, 383-409, http://dx.doi.org/10.1080/00982 61X.2014.965856.

as the four purposes of punishment.[7] Last but not least among the four is the degree to which the sentence can "provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner."[8] It is arguably in regard to this fourth purpose of punishment that the differences between the BOP and the U.S. probation system need to be evaluated.

Federal inmates serve their custody sentences in prisons distributed across six BOP-defined geographic regions, which do not correspond at all to the 12 judicial circuits within which the federal district courts' probation offices are located. Except for 11 facilities, most of BOP's prisons are located in rural areas, far from the urban and suburban areas where most U.S. probation officers (and their supervised post-release population) are located.[9] Although some probation offices provide "in-reach" to the prisons (e.g., assist with mock job fairs, deliver orientations to supervision),[10] the physical distances complicate efforts for U.S. probation officers to engage directly with inmates in advance of their release.[11]

Another challenge to the continuity of care stems from what one might consider cultural differences between the approaches to rehabilitation of the BOP and U.S. probation. Except for GED participation,[12] the BOP does not require inmates to participate in rehabilitative programing. Indeed, the lynchpin of FSA's new correctional approach is to incentivize inmates to pursue self-improvement through "evidence-based recidivism reduction programs."[13] In contrast to traditional BOP practice, when inmates release and begin a term of supervised release with the judiciary, they are subject to a wide variety of court-imposed special conditions, often mandating various interventions (e.g., sex offender, substance abuse, mental health, and cognitive behavioral treatment). Once under the court's jurisdiction, failure to participate in programming constitutes noncompliance and could lead to more restrictive conditions and even revocation and return to prison. Thus, inmates may spend years, and even decades, not taking advantage of programs within the BOP; after their release, perhaps for the first time, they are required to address the risk factors that led to their criminal behavior.

A critical part of federal reentry is the BOP's system of 203 contracted Residential Reentry Centers (RRCs) or halfway houses.[14] These are typically located near U.S. probation offices in the communities to which inmates return. In some judicial districts, U.S. probation officers have reserved space and/or set "office hours" in the RRCs, and begin risk assessment and collaborative case management with inmates and their RRC case managers.[15] This can be helpful, particularly because the level of rehabilitative services offered to (but not required of) inmates under the BOP's Statement of Work is considered by some to be modest.[16] Since the BOP and judiciary have different appropriations, U.S. probation cannot use judiciary financial resources to pay for needed interventions while inmates are in the RRC. Some probation officers will offer RRC-housed inmates access to probation officer-led Cognitive Behavioral Therapy (CBT), but this is not widespread.[17]

BOP inmates who complete the Residential Drug Abuse Program (RDAP)[18] must participate in community-based substance-abuse treatment while at the RRC if they are to receive a 12-month reduction in their sentence. Yet RDAP institutional and contract treatment records are not consistently provided to U.S. probation. Also, within a strong continuity of care, inmates would be able to maintain their treatment with the same provider after they transition from a halfway house to treatment while on supervision with probation. However, because BOP uses the Federal Acquisition Regulations (FAR) to secure contract treatment services and U.S. probation relies on separate judiciary contracting mechanisms, U.S. probation may not "piggy back" on the BOP's contracts, and vice versa, which reduces treatment effectiveness.

The enactment of the Second Chance Act (SCA) in 2008 greatly expanded the breadth of services U.S. probation officers can provide to persons under supervision. Given the vast range of services authorized under 18 U.S.C. 3672, U.S. probation can address nearly the full breadth of criminogenic needs and responsivity factors (barriers)[19] identified in the Post-Conviction Risk Assessment (PCRA) tool that U.S. probation officers use to assess all persons under post-conviction supervision. In practice, sometimes officers assess inmates nearly as soon as an inmate arrives at the RRC. In other circumstances, officers do not conduct the assessment until the TSR has commenced. However, the BOP does not require RRC staff to use a standardized risk assessment once an inmate arrives at the facility. This lack of consistency and coordination with risk assessment across the BOP, RRCs, and U.S. probation decreases the likelihood of dynamic risk factors and responsivity factors being accurately identified and mitigated with programming.[20]

[7] 18 U.S.C. 3553(a)(2).

[8] 18 U.S.C. 3553(a)(2)(D).

[9] BOP has five Federal Detention Centers, three Metropolitan Correctional Centers, and three Metropolitan Detention Centers. BOP website.

[10] See Whetzel et al. (2014). Inter-Agency collaboration along the reentry continuum. *Federal Probation,* Volume 78, Number 1.

[11] FSA amended 18 U.S.C. 3621(b) and directed BOP to designate inmates to facilities within 500 driving miles from their primary residence. Such distances, however, still limit the ability of inmates' families to visit and U.S. probation officers to easily provide "in-reach."

[12] 18 U.S.C. 3624(f).

[13] 18 U.S.C. 3624(g)(1)(d)(i)(II)(bb).

[14] BOP Power Point (2019).

[15] Whetzel et al. (2014). Interagency collaboration along the reentry continuum. *Federal Probation,* Volume 78, Number 1.

[16] The current BOP *Statement of Work (SOW) for Residential Reentry Centers April 2017* requires the RRC staff to provide an Individualized Program Plan (IPP), job placement resources, employment information assistance, resume writing, interview techniques training, individual and group counseling, and employment job fairs. BOP may also authorize outpatient substance abuse, mental health, and sex offender treatment for some inmates. Some RRCs provide programming above and beyond the SOW, others do not.

[17] During the previous administration, an earlier SOW required CBT to be made available to all inmates. This and other provisions were removed in 2017.

[18] See A Directory of Bureau of Prisons National Programs. The RDAP program provides intensive cognitive-behavioral residential drug abuse treatment in a modified therapeutic community. Participants must complete 500 hours of programming over 9 to 12 months. An analysis by the National Institute on Drug Abuse (NIDA) found that over 3 years, male participants were 16 percent less likely to recidivate and 15 percent less likely to relapse than those who did not participate in the program. Outcomes for females were even better, at an 18 percent reduction in recidivism.

[19] Under SCA authority, U.S. probation can offer transitional housing, vocational training, CBT, education assistance, mentoring, work tools, identification, child-care, non-emergency medical assistance, transportation assistance, etc. Funding, however, is very limited. For more about SCA alignment with PCRA identified criminogenic needs and responsivity factors, see Jay Whetzel and Aaron McGrath (June 2019). Ten Years Gone—Leveraging SCA 2.0 to Improve Outcomes, *Federal Probation.* Volume 83, Number *1.*

[20] In a survey of U.S. probation officers in October 2012, only 20 percent of respondents stated that they share PCRA scores with RRC case managers. See Whetzel et al. (2014), ibid., p. 42. The article

Current BOP policy requires RRC residents to secure employment within 30 days of arrival from prison; additional liberties are contingent upon inmates working and contributing 25 percent of their gross income to the BOP.[21] However, if inmates have chosen not to participate in programming while in custody, their dynamic risk factors may not have been addressed at all.[22] While we do not minimize the importance of gainful employment, many inmates are heavily encumbered financially, and the co-pay requirement can be burdensome, particularly as they prepare to become self-sufficient. For example, the federal Office of Child Support Enforcement (OCSE) in the Department of Health and Human Services (HHS) conducted an analysis of 51,000 federal inmates and found that 29,000 had past-due child support.[23] On average, an inmate who enters prison owing $10,000 in child support will owe $20,000 upon release.[24] In recent years, as inmates have learned that U.S. probation can assist with transitional housing upon release through Second Chance Act funds, there has been an increase in the frequency with which inmates report they have no home to return to, perhaps in expectation that U.S. probation will provide them with housing. Better assessment of inmates' post-release needs and collaborative service delivery across the BOP, RRCs, and U.S. probation is needed.

Despite some limitations, the BOP's vast network of contracted RRCs plays an important role in assisting inmates' transition back into society. RRCs also provide home confinement services for inmates who have done well in the RRC and have a viable home plan. U.S. probation officers also provide this function in some courts (see below). As of August 2019, BOP-contracted RRCs housed 7,847 individuals and monitored the home confinement of 1,790. Among these were 1,427 (15 percent) persons under supervision with U.S. probation.[25] In 2016, however, following an apparent change in DOJ priorities, the BOP determined that its previous practice of routinely exceeding RRC contract limits was in violation of contracting law. Shortly thereafter, 16 smaller RRCs had their contracts terminated without advance notice to the judiciary. The loss of this resource was very disruptive to the affected districts and led to the creation of a high-level Judiciary-BOP working group focused on improving inter-branch communication and collaboration. An additional difficulty concerns ensuring the high quality of RRCs. Given the challenges of siting RRCs (due to local community resistance, zoning restrictions, start-up costs, etc.), contract incumbents have an extreme advantage when the BOP solicits for services, even if they have provided sub-par service. While one recent critic's claim of the BOP's "collapsing infrastructure to implement statutorily approved expansion of pre-release custody"[26] seems overstated, federal probation operations and the continuity of care is disrupted when RRC availability is eliminated or decreased or the quality of contracted RRCs is low.

Last, the BOP and U.S. probation use separate databases and case management systems that are not integrated. The BOP's primary system, SENTRY, is an antiquated, DOS-based system. Federal probation uses its own case management system known as Probation and Pretrial Automated Case Tracking System (PACTS). Since 2015, BOP has given U.S. probation weekly access to data on all inmates within 24 months of release, which has been very helpful in decreasing the likelihood of inmates being released into the community without federal probation being notified. However, only basic inmate records are accessible through SENTRY. More detailed medical, mental health, and treatment records are in separate BOP systems and are not routinely provided by BOP case managers to U.S. probation officers receiving the inmate onto supervision in the community. A robust continuity of care would require integrated data systems that would allow access to all needed information for every practitioner assisting inmates.

As shown above, the reentry nexus of the BOP, RRCs, and U.S. probation needs improvement if we are to realize quality service delivery and recidivism reduction. It is important to be aware of these current limitations as we explore FSA implementation.

Enter the First Step Act

On December 21, 2018, President Trump signed the First Step Act into law (P.L. 115-391). The Act brought together a broad spectrum of lawmakers, from those concerned about the BOP's growing percentage of the DOJ's budget to those focused on reducing the disproportionate impact of mandatory minimum sentences on minority populations, and on the need to enhance the delivery of evidence-based recidivism reduction to inmates.[27] During previous years, various criminal justice reform bills had been advanced, but none gained adequate traction. Passage of the FSA was, for some, almost a surprise, particularly given the scale of the changes enacted.

The enactment of the FSA needs to be understood in context, specifically, in the wake of efforts of the Charles Colson Task Force on Federal Corrections, which Congress established in January 2014. The bi-partisan Task Force spent a year exploring the causes of mass incarceration and gathering information to develop guidance for reducing recidivism and improving public safety. The Task Force's effort was informed by research demonstrating that long sentences do not improve public safety goals and that intensive programming should be reserved for higher risk inmates.[28] Prepared in collaboration with the Urban Institute, the Task Force's final report included the following recommendations:

- Reserve the use of prison for people convicted of the most serious crimes.
- Promote a culture of safety and rehabilitation in federal facilities.
- Incentivize participation in risk reduction programming.
- Ensure successful reintegration by using evidence-based practices and supervision and support.
- Enhance the coordination, performance, accountability, and transparency of federal correctional agencies.
- Reinvest savings to support the expansion of necessary programs, supervision, and treatment.[29]

Taken in its totality, the FSA appears to

notes, "To become a more streamlined collaborative reentry system built upon evidence-based practices, it is essential that we share actuarial risk prediction information along the continuum."

[21] BOP Statement of Work (SOW) Residential Reentry Center. (2017). The subsistence requirement, not imposed on inmates deemed indigent, is imposed "to promote financial responsibility."

[22] For an in-depth assessment of BOP's RRCs, see *Residential Reentry Centers Assessment, Recommendations Report*. Deloitte. (August 2016).

[23] *Project to Avoid Increasing Delinquencies.* Office of Child Support Enforcement *Child Support Fact Sheet Series Number 5.*

[24] Nancy Thoennes. (2002, May). *Child Support Profile: Massachusetts incarcerated and paroled parents.* Center for Policy Research.

[25] BOP PowerPoint presentation (August 2019).

[26] Letter from Lisa Hay, Federal Public Defender, District of Oregon, to BOP Director Dr. Kathleen Hawk-Sawyer (October 14, 2019).

[27] Congressional Research Service. (March 4, 2019). The First Step Act: An Overview https://crsreports.congress.gov

[28] Julie Samuels et al. (May 2019*). Next Steps in Federal Corrections Reform: Implementing and Building on the First Step Act*. Urban Institute.

[29] Julie Samuels et al., ibid.

advance many of the Task Force's recommendations. However, as the FSA is implemented over the next few years, we will see if the Task Force's recommendations and Congressional intent are realized. Below we explore five FSA provisions to which federal probation must respond.

Fair Sentencing Act Retroactive Application

The First Step Act mandated that the Fair Sentencing Act be applied retroactively. Since the 1980s, there have been penalties for crack cocaine offenses that were far longer than those for powder cocaine. The Anti-Drug Abuse Act of 1986 created statutory mandatory minimum penalties that differentiated between powder and crack cocaine, requiring 100 times more powder cocaine than crack to trigger the same mandatory minimums.[30] The Anti-Drug Abuse Act of 1988 then made simple possession of crack cocaine the only drug punishable by a mandatory minimum.[31]

The disparity in sentencing had the effect of creating significantly longer sentences for African-American defendants than for people of other races. Of those sentenced for crack cocaine offenses in 2010, 78.7 percent were African American. Hispanics made up the next largest group at 13 percent.[32]

Between 1995 and 2007, the United States Sentencing Commission (USSC) submitted four reports to Congress recommending various changes in the mandatory minimum sentences for crack offenses, particularly in the case of simple possession and in the 100 to 1 ratio, arguing for a reduction to a 20 to 1 or 1 to 1 ratio, depending on the report.[33] In May of 2007, the USSC submitted amendments to Congress that reduced the crack cocaine sentencing range by 20 percent, or two levels,[34] and was retroactive.[35] A study following those impacted by this change for five years following release found that their recidivism rate was lower than that of a prior cohort who received longer sentences, demonstrating that reductions in sentence length and time served do not decrease public safety.[36] In 2008, the Supreme Court found that judges had the discretion to impose lower sentences based on their disagreement with the 100 to 1 crack to cocaine powder drug ratio.[37]

During this same period, Department of Justice policies also affected sentences imposed in crack cocaine cases. Since 2003, policy directed prosecutors to charge the most serious provable offense supported by the facts, meaning the charge that would garner the longest sentence.[38] In 2010, prosecutors were guided to shift from focusing on most serious crime to focusing on the prosecutor's assessment of each case.[39]

On August 3, 2010, President Obama signed the Fair Sentencing Act into law. This law partially rectified the crack/powder cocaine disparity by increasing the quantities that triggered the mandatory minimum penalty for trafficking crack cocaine from 5 grams to 28 grams for a five-year mandatory minimum and from 50 to 280 grams for a ten-year mandatory minimum. The act also removed a mandatory minimum for simple possession of crack cocaine and reduced the crack/powder ratio from 100 to 1 down to 18 to 1.[40]

Although the Fair Sentencing Act made progress toward levelling the penalties for crack and powder cocaine, it only applied to offenders who were sentenced after August 3, 2010, regardless of when the offense took place.[41] Anyone who had been sentenced prior to this date was unable to benefit from the remedy provided.

In May of 2011, the USSC submitted an amendment to Congress permanently implementing the Fair Sentencing Act in the guidelines and making this reduction retroactive. The Supreme Court held that the penalties applied to offenses committed prior to August 3, 2010, but sentenced after that date.[42] By 2014, the Fair Sentencing Act was fully implemented and the USSC separately reduced the guidelines for all drugs, including crack cocaine, by two levels, making this change retroactive.[43]

Following implementation of the Fair Sentencing Act, the number of crack cocaine defendants sentenced decreased by approximately half. In 2010, 4,730 crack cocaine defendants were sentenced, compared to only 2,366 in 2014.[44]

Now, Section 404 of the First Step Act provides for retroactive application of the Fair Sentencing Act. Retroactive application means Sections 2 and 3 of the Fair Sentencing Act are now available to defendants sentenced before August 3, 2010, who did not previously receive the benefit of the statutory penalty changes made by the act. The motion for a reduction in sentence can be initiated by the inmate, the chief judge of the sentencing district, the director of the Bureau of Prisons, or the prosecuting attorney.[45]

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[30] Pub. L. No. 99-570 (1986).

[31] Pub. L. No. 100-690 (1988).

[32] 2015e. *Report to the Congress: Impact of the Fair Sentencing Act of 2010.* Washington, DC: US Sentencing Commission. http://www.ussc.gov/sites/default/files/pdf/news/congressional-testimony-and-reports/drug-topics/201507_RtC_Fair-Sentencing-Act.pdf.

[33] United States Sentencing Commission [hereinafter USSC or Commission], 2007 REPORT TO THE CONGRESS: COCAINE AND FEDERAL SENTENCING POLICY (May 2007) [hereinafter 2007 Commission Report]; USSC, 2002 REPORT TO THE CONGRESS: COCAINE AND FEDERAL SENTENCING POLICY (May 2002) [hereinafter 2002 Commission Report]; USSC, 1997 SPECIAL REPORT TO THE CONGRESS: COCAINE AND FEDERAL SENTENCING POLICY (AS DIRECTED BY SECTION 2 OF PUB. L. NO. 104–38) (April 1997) [hereinafter 1997 Commission Report]; USSC, 1995 SPECIAL REPORT TO THE CONGRESS: COCAINE AND FEDERAL SENTENCING POLICY (AS DIRECTED BY SECTION 280006 OF PUB. L. NO. 103–322) (February 1995) [hereinafter 1995 Commission Report].

[34] USSG, App. C, amend. 706 (effective Nov. 1, 2007), as amended by amend. 711 (effective Nov. 1, 2007); *Spears v. United States*, 555 U.S. 261 (2009).

[35] USSG, App. C, amend. 713 (effective March 3, 2008). Under 28 U.S.C. § 994(u), when the Commission reduces a guideline range, it is directed to specify whether, and in what circumstances, the reduction should apply to offenders who had been sentenced under the previous, higher version of the guideline.

[36] Charles Colson Task Force on Federal Corrections, *Transforming Prisons, Restoring Lives* (2016)

[37] *United States v. Kimbrough*, 552 U.S. 85 (2007); *Spears v. United States*, 555 U.S. 261 (2009).

[38] U.S. Dept. of Justice, Attorney General Eric Holder, Memorandum: Department Policy on Charging and Sentencing (May 19, 2010).

[39] U.S. Dept. of Justice, Attorney General Eric Holder, Memorandum: Application of the Statutory Mandatory Minimum Sentencing Laws for Crack Cocaine Offenses Amended by the Fair Sentencing Act of 2010 (July 15, 2011).

[40] Fair Sentencing Act of 2010, Pub. L. No. 111-220 (August 3, 2010).

[41] U.S. Dept. of Justice, Attorney General Eric Holder, Memorandum: Department Policy on Charging Mandatory Minimum Sentences and Recidivist Enhancements in Certain Drug Cases (August 12, 2013).

[42] *Dorsey v. United States*, 132 S.Ct. 2321, 2335. (2013).

[43] USSG, App. C, amend. 782 (effective Nov. 1,2014) (reducing drug trafficking offense penalties across all drug types); USSG, App. C., Amend. 788 (effective Nov. 1, 2014) (making the 2-level reduction for all drug types retroactive with the proviso that no offender may be released before November 1, 2015).

[44] U.S. Sentencing Commission, FSA Datafiles.

[45] Pub. L. No. 115-391 (2018).

Impact on Federal Probation

As of October 17, 2019, there have been 2,139 sentence reductions under Section 404 of the First Step Act. To demonstrate further the disparate impact of the crack/powder disparity on people of color, of the 1,987 released, 1,804 were African American. The next most highly represented racial group was Hispanic, at a significantly lower number of 84. Nearly all of those released were male United States citizens, with an average age at resentencing of 45.

Some of the sentencing factors present in this population are relevant to their level of supervision needs. Approximately 42 percent of those released had a special offense characteristic of a weapon, and 11.2 percent had an aggravating role in the offense. More notably, 65.5 percent of those receiving a reduction in sentence qualified for a criminal history category VI, and 57.2 percent were career offenders.[46]

In addition to the importance of releasing over 2,000 defendants, the sentencing factors mentioned above are important when considering workload impacts. Considering the large number of career offenders and high criminal history categories among these defendants, they are more likely to score as moderate or high risk on the PCRA, resulting in increased contacts and higher levels of interventions such as cognitive behavioral therapy, substance use disorder treatment, mental health, and other interventions.

The initial impact of this provision of the First Step Act has largely already been felt. These cases, as approved, have released over time, and therefore their impact has been absorbed differently than the large releases under the good time recalculation provision or the ongoing nature of the earned time credit provision. However, new petitions continue to be filed and granted under this provision. As the application of this provision requires a "covered offense," a finite number of defendants will qualify. This number has been estimated as low as 2,700, while others estimate the number higher. In any case, it is likely that the largest impact of this provision has already been felt by the federal probation system in terms of caseload numbers. However, the impact of the higher risk level of these clients will continue to be felt until their terms of supervision expire.

Good Time Credit

After Fair Sentencing Act retroactivity, granting inmates additional "good time" credit next impacted federal probation. The FSA clarified that 18 U.S.C. 3624(b) directs the BOP to calculate good time on the sentence imposed, not on time served, as had been the practice. The net effect was that inmates on average now receive an additional seven days off for every year imposed, from 47 to 54 days. A surge of 3,100 inmates benefitted from this change and were released on July 19, 2019.[47] According to the BOP, on July 19, 2019, a total of 1,200 inmates were released from RRCs, 800 were released to detainers, and 1,100 were released directly from prison to supervision with federal probation in the community. According to the BOP, the average early release gained was 57 days. The BOP collaborated with federal probation by providing rosters a month in advance so that the federal probation system could work with RRC staff and identified inmates. However, as noted earlier, there are limited means for engaging with inmates who are in institutions. While 3,100 may not seem like an overwhelming number to release at once, consider that on average the BOP releases only 100 inmates per day across the country. Also, a perhaps unintended consequence of the application of credits was that those inmates who had served the longest sentences—perhaps the most institutionalized and most in need of reentry services—went directly into the community with little to no preparation.

From October 11, 2019, through January 2020, another surge of 3,383 inmates was released under recalculated good time. Participants in the 500-hour Residential Drug Abuse Program (RDAP), statutorily established under 18 U.S.C. 3621(b), receive up to 12 months off their sentence. Originally, the BOP took the position that the extra good-time provisions would not be applied to RDAP participants, since they were already receiving a year off. However, Congress did not exclude them in the FSA legislation. While the RDAP program has been demonstrated to reduce recidivism for those who complete it, only inmates with a documented history of serious substance abuse are eligible. The early release of these inmates, most of whom have special conditions for substance abuse treatment by the sentencing court, posed an immediate extra demand for the availability of U.S. probation treatment resources.

Impact on U.S. Probation

The surge of releases through new good-time provisions was not unprecedented. Most recently, beginning in October 2015, approximately 40,000 inmates began releasing months early—over the course of several years—as a result of the United States Sentencing Commission's "Drugs Minus 2" guideline amendment. Going forward, the good-time provision continues, applying to all BOP inmates. As inmates' release dates are updated, U.S. probation should be able to identify subsequent early releases through SENTRY and/or the Offender Release Report,[48] and should be working very closely with the local RRCs and Residential Reentry Managers (RRM).

Expanded Home Confinement

The FSA modified 18 U.S.C. 3624(c)(2), adding, "The Bureau of Prisons *shall* [emphasis added], to the extent practicable, place prisoners with lower risk levels and lower needs on home confinement for the maximum amount of time under this subsection," potentially expanding the use of the home confinement, in which lower risk inmates who have few to no reentry needs bypass RRC placement and return directly to their homes. Previously the statute just noted that home confinement "may be used" and made no mention of focusing on minimum and lower risk inmates. Home confinement is enforced using location monitoring technology and may be provided by either RRC[49] staff or federal probation officers. However, the FSA's expanded language does not *require* the U.S. probation system to accept FLM cases onto their caseloads.

The executive branch (through the U.S. Parole Commission) and the judiciary first collaborated in placing inmates into the community on telephone-monitored curfews in 1986 under the "Curfew Parole Program." In 1988, the BOP and the courts conducted a pilot study using electronic monitoring equipment, with federal probation officers supervising

[46] U.S. Sentencing Commission, First Step Act Datafile.

[47] Some prison reform advocates had argued that the good time provision should have taken effect on the day FSA was enacted, December 21, 2018. Given that the provision was situated in the legislation along with the requirements and deadline for the creation of the risk assessment, 210 days after the passage of the Act, the Department of Justice and BOP took the position that the good time releases would not start until July 19, 2019. For inmates who challenged this perspective and fought for earlier release, courts generally deferred to the BOP's authority to apply the new credit structure.

[48] The Offender Release Report makes some BOP inmate data more easily available to U.S. probation officers.

[49] The average cost of home confinement provided by U.S. probation for the BOP is a third of what the cost is when delivered by RRC staff.

inmates in the community who remained under the jurisdictional authority of the BOP. When the BOP and the courts established a formal interagency reimbursable agreement in 2010, the Federal Location Monitoring (FLM) program was revised. The goal was to move lower risk inmates to their homes in the community in an effort that was more cost effective than halfway house placement and more consistent with application of the risk principle.[50] This program was conducted under the authority of 18 U.S.C. 3624(c)(2), which stated that placing inmates in prerelease status "may be used to place a prisoner in home confinement for the shorter of 10 percent of the term of imprisonment or 6 months."[51]

For a host of reasons, the program never expanded to its potential capacity, with only about 100 BOP inmates on probation supervision at any given time. For one, the statute directs that the U.S. probation system "shall, to the extent practicable, offer assistance to a prisoner during release." Some probation offices (approximately 20 currently) have chosen not to participate at all in the program, apparently deeming the optional workload not "practicable" given other demands.[52] Some offices noted that the 24-hour on-call demand that location monitoring places on officers makes it difficult to fill the positions, and that they must use their officers for their own location monitoring cases.[53] Nevertheless, in 2016, U.S. probation offices around the country offered to accept up to 1,000 BOP inmates into the program. Another factor limiting growth was that the BOP often turns to their network of RRCs, which also offer location monitoring options, albeit at a much higher price to the government.[54] A structural impediment to FLM growth was created with the Second Chance Act of 2008 that expanded the length of time inmates could serve in an RRC from 6 to 12 months under 3624(c)(1). The length of time was not, however, expanded for home confinement. Thus, inmates could leave prison sooner if they requested placement in an RRC rather than FLM. The biggest obstacle to growth of the FLM program, however, was the lack of referrals from the BOP field offices to federal probation. The BOP and the AO continued to promote the program, and in 2018 again modified the agreement to allow for the release of somewhat higher risk inmates and to provide greater breadth of services upon release to the community.

Impact on U.S. Probation

Preliminarily, the statutory addition appears to be increasing the rate of BOP FLM referrals to U.S. probation. As of November 2019, the average daily number of inmates on FLM had increased 150 percent over the traditional average. Due to FSA, the FLM program now figures more prominently in the BOP's approach to reentry in response to FSA. The BOP has advised that RRMs have been directed to use FLM as their default prerelease recommendation. Whether more districts will now decline to participate given other workload demands and a very challenging fiscal environment facing U.S. probation is unknown.

The BOP and U.S. probation will need to revisit the current interagency agreement to better support FSA implementation and incentivize U.S. probation participation. Also, RRM FLM referral rates, including U.S. probation denials, are now being tracked quarterly, including an assessment of why referrals are denied. Last, the probation FLM workload formula was adjusted in 2018 to encourage participation, and it is again being re-evaluated in the current workload measurement process. Further discussions between the BOP and federal probation will be required to improve implementation, consistency, and interagency communication system wide.[55]

Elderly Home Confinement

The FSA included a reauthorization of the Second Chance Act of 2008, which had established a program in 2009-2010 entitled the Elderly and Family Reunification for Certain Non-Violent Offenders Pilot Program, which authorized elderly inmates to complete a portion of their sentence on home confinement. Under the original Second Chance Act pilot, inmates could be eligible for home confinement if they: (1) were over 65 years old; (2) had never been convicted of a violent, sex-related, espionage, or terrorism offense; (3) were not sentenced to a life term; (4) had served the greater of 10 years or 75 percent of their sentence; (5) were not determined by the BOP to have a history of violence or to have engaged in conduct constituting a sex, espionage, or terrorism offense; (6) had not escaped or attempted to escape; (7) were not determined to present a substantial risk of engaging in criminal conduct or of endangering any person or the public; and (8) the BOP had determined that home confinement would result in a substantial cost savings to the government.[56]

In September 2010, upon completion of the pilot, the BOP reported to Congress and recommended that the program not be continued for several reasons. The BOP stated that too few inmates were eligible based upon the statutory provisions. They noted they only housed 4,000 inmates over the age of 65, and many of those had committed their offenses in advanced age; therefore, they could not determine that these inmates would not present a risk of engaging in criminal conduct. The BOP reported that 855 inmates applied, and that 71 (8 percent) were placed in the program. BOP officials also concluded that the pilot did not result in any cost savings to the government, although the U.S. General Accountability Office (GAO) challenged that conclusion.[57]

In May 2015, the Department of Justice's Office of the Inspector General (OIG) issued a report entitled *The Impact of an Aging Inmate Population on the Federal Bureau of Prisons*. The report explored in detail how the aging prison population presented a challenge to the BOP, noting that inmates age 50 and over were the fastest growing portion of its population. OIG estimated that in 2013, 19 percent of the BOP's budget was spent on aging (50 and over) inmates. The OIG report opened by stating:

> *Aging inmates are more costly to incarcerate than their younger counterparts due to increased medical needs. We further found that limited institution staff and inadequate staff training affect the BOP's ability to address the needs of aging inmates. The physical infrastructure of BOP institutions also limits the availability of appropriate*

[50] Trent Cornish and Jay Whetzel. (June 2014). Location Monitoring for Low-Risk Inmates: A Cost-Effective and Evidence-Based Reentry Strategy. *Federal Probation Journal.* Volume 78, Number 1.

[51] For a comprehensive overview of how location monitoring is provided by U.S. probation, see Cornish et al. (2019), Location Monitoring in the Administrative Office of the U.S. Courts, *The Journal of Offender Monitoring* Volume 31, Number 2.

[52] 18 U.S.C. 3624 (c)(3).

[53] Such positions are often, but not always, deemed "specialists" and are more highly paid than line officers with traditional caseloads.

[54] In fiscal year 2018, on average, RRCs charged the BOP $47 per day per inmate, three times the rate U.S. probation charged. BOP PowerPoint, August 2019.

[55] Issues will likely include required frequency of officer/inmate contact, technology requirements, and possibly new funding mechanism.

[56] Congressional Research Service. (March 4, 2019). *The First Step Act of 2018: An Overview.*

[57] It appears from the GAO response that the pilot was limited to home confinement being delivered by the RRCs. There is no record at the AOUSC of U.S. probation participating in the pilot.

housing for aging inmates. Further, BOP does not provide programming opportunities designed specifically to meet the needs of aging inmates. We also determined that aging inmates engage in fewer misconduct incidents while incarcerated and have a lower rate of re-arrest once released; however, BOP policies limit the number of aging inmates who can be considered for early release and, as a result, few are actually released early.[58]

The 2015 OIG report provided detailed examples of their conclusions. Regarding costs, the OIG indicated that BOP institutions with higher percentages of aging inmates spent five times more on medical care than did institutions with the lowest percentage of aging inmates. It noted that while inmates often require assistance with daily living, staff are not responsible for meeting those needs, leaving healthy inmates to care for those who are elderly and more impaired. In looking at one institution's data, the OIG found that, on average, inmates had to wait 114 days to see an outside specialist for cardiology, neurosurgery, pulmonology, and urology. Elderly inmates also need lower bunks and handicapped-accessible cells, but overcrowding makes these increasingly unavailable. Lastly, the OIG's analysis concluded that only 15 percent of aging inmates were rearrested, as opposed to the 41 percent rearrest rate BOP research reported for its entire population.[59]

The FSA reauthorized and expanded the scope of the Elderly Home Confinement (EHC) pilot to all BOP institutions from 2019 to 2023. Notably, the FSA reduced the age requirement from 65 to 60, and the required percentage of sentence completed was reduced from 75 percent to two-thirds. The FSA also authorizes "terminally ill" inmates of any age who have served any portion of their sentence (even life sentences) to be eligible. To meet the terminally ill criterion, a BOP medical doctor must determine the inmate requires a nursing home, intermediate care, or assisted living, or has formally been given a terminally ill diagnosis.[60]

Impact on U.S. Probation

As described earlier, federal probation officers have supervised BOP inmates on location monitoring for years, although the FLM program had not realized the growth that was anticipated. The EHC present several unique challenges compared to the traditional FLM program. Most notably, the two-thirds requirement means that inmates are eligible with significant time yet to serve. Under traditional FLM, inmate participation is limited to 6 months or 10 percent of their sentence, whichever is less. In actuality, most inmates serve two to four months on FLM. However, if an inmate has turned 60 and has completed two-thirds of an 18-year sentence, he or she would be eligible to serve 6 years on home confinement. Typically, within the probation system, location monitoring (including radio-frequency, GPS or voice identification tracking) technologies are reserved for persons under supervision who are higher risk. The limitations on their liberty are intended to mitigate the risk they present to the community. The limited terms and small scale of the FLM program were modest exceptions to this policy. However, supervising low-risk EHC inmates for many months, and even years, with such technology is at odds with U.S. probation's current philosophy and practice. Federal probation can also expect to receive referrals for EHC inmates who are significantly impaired by age-related infirmities and terminal illnesses.

As with traditional FLM cases, elderly inmates remain under the jurisdiction of the BOP. The BOP reported that of the elderly inmates released so far, the longest term to serve is 7 years. Under the statute, federal probation still retains discretion to accept these cases or not. Also, if U.S. probation accepts an inmate, they can send the inmate back to the BOP if the inmate is noncompliant. If EHC inmates have significant medical issues, the BOP has health services administrators in each of the three reentry sectors that coordinate services through the BOP's contract provider NaphCare. For less serious non-emergency medical issues, with the RRM's approval, U.S. probation can provide needed interventions through the Second Chance Act.

Compassionate Release

The FSA amended 18 U.S.C. 3582(c)(1)(A), which directs how the court can modify a term of imprisonment to time served, once it has been imposed. Prior to enactment, the court could only reduce a term of imprisonment if the BOP made a motion when "extraordinary and compelling reasons warrant such a reduction," typically due to an inmate having a terminal illness. The amendment now allows an inmate to petition the court directly if the inmate has exhausted his or her appeals with the BOP, or if 30 days or more have passed without a response from the warden since the inmate requested a reduction. There is no time frame imposed on the court to respond to the petition. The amendment also requires the BOP to inform an inmate's partner, family, or attorney within 72 hours of an inmate being diagnosed with a terminal illness, and to assist an inmate with preparing a petition if requested. Within seven days, partners, family, or attorneys must be granted an opportunity to visit the inmate. The BOP is required to process any such request within 14 days. Last, the FSA directed the BOP to ensure that inmates are aware of the compassionate release process, including their right to appeal to a court if denied by the BOP. Information is to be made available in writing and posted where inmates can access it.[61]

During the previous decade, inmate advocates raised concerns about the way prisons dealt with compassionate release and campaigned to have the BOP improve their processes. Given the FSA provisions, Congress appears to have been convinced that changes were needed to the BOP's traditional response to these requests.

In 2012, Families Against Mandatory Minimums (FAMM) and Human Rights Watch (HRW) released a report entitled *THE ANSWER IS NO—Too Little Compassionate Release in U.S. Federal Prisons*. The report was replete with personal tragic examples of what they considered BOP's unacceptable implementation of compassionate release provisions. The report argued that with the passage of the Sentencing and Reform Act (SRA) of 1984, Congress had given to the judiciary the authority to decide when "extraordinary and compelling" circumstances would justify a reduction in sentence, and to the United States Sentencing Commission (USSC) the job of identifying when those circumstances might exist.[62] However, until passage of FSA, only the BOP had the authority to make a motion to the court to consider a compassionate release request. The FAMM/HRW report noted:

The federal prison system houses over 218,00 prisoners, yet in 2011, the BOP filed only 30 motions for early release, and between January 1 and November 15, 2012,

[58] Office of the Inspector General (OIG), (May 2015) *The Impact of an Aging Inmate Population of the Federal Bureau of Prisons* Department of Justice.

[59] Office of the Inspector General, Ibid.

[60] 34 U.S.C. 60541(g).

[61] 18 U.S.C. 3582.

[62] *THE ANSWER IS NO—Too Little Compassionate Release in U.S. Federal Prisons* (2012), FAMM/Humans Rights Watch.

it filed 37. Since 1992, the annual average number of prisoners who received compassionate release has been less than two dozen. Compassionate release is conspicuous for its absence (emphasis added).[63]

The SRA of 1984 had dramatically restructured sentencing, abolished parole, created the United States Sentencing Commission, and moved the federal criminal justice system to a determinate sentencing structure. While greatly circumscribing judicial discretion in sentencing, the SRA authorized the courts to serve as a "safety valve" in certain circumstances. Under 18 U.S.C. 3582(c)(1)(A)(i), the court was empowered to modify a sentence after imposition if, upon the BOP's motion, the court found there were "extraordinary and compelling reasons," and the reduction was consistent with guidance provided by the USSC. The USSC guidance was to consider whether an inmate suffered from terminal illness, a serious medical condition, age-related medical condition, certain compelling family circumstances, and any BOP-established criteria.[64] The statute likewise directed the court to consider the purposes of sentencing at 18 U.S.C. 3553(a). The FAMM/HRW report argued at length that the BOP, which had sole discretion to move the court for compassionate release and had developed another set of eligibility criterion, had "arrogated to itself discretion to decide whether a prisoner should receive a sentence reduction, even if the prisoner meets its stringent medical criteria. In doing so, the Bureau has usurped the role of the courts. Indeed, it is fair to say the jailers are acting as judges."[65]

Congress had undeniably granted sole discretion to the BOP to make a motion for compassionate release. However, what the FAMM/HRW documented was disturbing to many. Their investigation found that the BOP did not systematically track when inmates made motions for compassionate release. The report successfully accessed data from one federal prison in Butner, North Carolina, which revealed a less than responsive process. In 2011, 164 inmates at Butner made a request to the warden for compassionate release. Of those, 98 were rejected for 1) not being "medically warranted," 2) having detainers, or 3) dying before they could be considered. Sixty-six were referred to the prison's Reduction in Sentence (RIS) Committee and then sent to the warden. Seventeen prisoners died while awaiting the warden's decision. The warden denied 12 for the risk that their release might pose to public safety and sent 15 to the Regional Director for consideration. The Regional Director approved all 15 received, and the BOP director in Washington, D.C., approved 12 of the 15. Another five inmates died, for a total of 22 of the 164 who had made a request, pending a final determination.[66] The FAMM/HWW report prompted further investigation.

In April 2013, the Department of Justice Office of Inspector General (OIG) released a report entitled *The Federal Bureau of Prison's Compassionate Release Program*. The OIG concluded:

> …an effectively managed compassionate release program would result in cost savings for the BOP, as well as assist the BOP in managing its continually growing inmate population and the significant capacity changes it is facing. However, we found that existing BOP compassionate release program has been poorly managed and implemented inconsistently, likely resulting in eligible inmates not being considered for release and in terminally ill inmates dying before theirs requests were decided.[67]

The 85-page report detailed the problems with the BOP's compassionate release program. The OIG found that the BOP did not have:

- clear standards on when compassionate release is warranted.
- formal timeline standards for reviewing requests; additionally, timeliness standards for inmate appeals do not consider special circumstances of medical release requests.
- effective procedures to inform inmates about the program.
- a system to track all requests, the timeliness of the review process, or whether decisions made by wardens and regional directors are consistent with each other or with BOP policy.[68]

The OIG found lots of variation across BOP facilities. The report notes that in some prisons, only inmates with less than 6 months to live were considered for compassionate release, while in other prisons, 12 months was used as a threshold. Some prisons had no timeliness standards for reviewing inmate petitions, while others had standards ranging from 5 to 65 days. Also, an inmate's appeal of a warden or a regional director's denial of petition for compassionate release could take 5 months. Examining inmate handbooks, the OIG found mention of compassionate release in only 8 of 111. The lack of tracking mechanisms prevented the BOP from assessing if inmate requests were being addressed promptly. The OIG examined a sample of files provided by the BOP. They found that 13 percent of inmates whose petitions had been approved by a warden or regional director died while they were awaiting approval by the BOP director.[69]

The OIG's report included multiple recommendations for the BOP to adopt, including expanding the use of compassionate release to address both medical and non-medical conditions for those who would pose little risk to the community if released. The report specifically recommended that the BOP establish time frames for each step of the review process and for appeals. There was particular emphasis on requiring the BOP to inform inmates about compassionate release and to track each request, status, and final disposition; in addition, wardens should document the specific reasons for denying an inmate's petition.[70] Later that year, in November 2013, The Urban Institute issued a report entitled *Stemming the Tide: Strategies to Reduce the Growth and Cut the Cost of the Federal Prisons System*. (At that time, the BOP inmate population had reached 219,000.) The report noted that the BOP "already have early release programs for terminally ill inmates and the elderly, but few inmates are offered this option."[71]

Despite the attention drawn to this matter over the years by FAMM, OIG, and The Urban Institute, in fiscal year 2015, the BOP reported that 99 of 216 petitions submitted to the BOP Director were approved. The other 117 were denied. When one considers the history of compassionate release in the federal criminal justice system, Congress's decision to provide an additional route for terminally ill

[63] Ibid.

[64] United States Sentencing Guidelines Section 1B1.13.

[65] FAMM page 3.

[66] FAMM pages 37-38.

[67] Office of the Inspector General. (April 2013). *The Federal Bureau of Prisons Compassionate Release Program*. Department of Justice, page i.

[68] Office of the Inspector General (April 2013) pages ii-iii.

[69] Ibid.

[70] Ibid, page 56.

[71] Julie Samuels et al. (November 2013). *Stemming the Tide: Strategies to Reduce Growth and Cut the Cost of the Federal Prison System*. The Urban Institute.

and elderly inmates does not seem surprising.

Impact on Federal Probation

Prior to FSA, the court granted compassionate release motions, but they always had the support of the BOP and of the United States Attorney's Office, and they only went forward when all arrangements for the inmate's care had been taken care of in advance. In June 2019, the BOP advised the AOUSC that during 2018 they had received 200 compassionate release petitions from inmates, but this number had increased to 600 in 2019. Seventy-nine inmates had been granted compassionate release so far in 2019.

The compassionate release provisions may pose perhaps the largest challenge, not due to the volume of inmates but rather due to their physical condition.[72] When BOP is supportive of an inmate's petition for compassionate release, the assigned social workers go to great lengths to find the inmate appropriate medical care (e.g., nursing homes) should the motion be granted by the court. Indeed, DOJ's OIG had noted that the BOP social workers are "uniquely qualified" to assist with the transition of terminally ill and elderly inmates to the community. The OIG concluded "only social workers have the extensive training in address the unique needs of aging inmates. Licensed Social Workers can proficiently help with aftercare planning, resource brokering and medical continuity of care during reentry."[73] However, can the court and U.S. probation expect BOP social workers to have the means or obligation to investigate medical release options when the BOP itself is not supporting the petition? The BOP has stated that if they do not support a petition, they are not a party to the case, but that they will provide medical records to the U.S. Attorney's Office upon request.[74] Will the court have to direct the U.S. Attorney's Office to secure the records? Additionally, in some cases, the U.S. Attorney's Office is opposing inmates' motions.

One concern is that U.S. probation officers will be tasked by the court to secure appropriate medical accommodations for inmates whose motions the court wants to grant. Generally, federal probation officers do not have the training, community health care networks, or financial resources to accommodate these situations. It is also not clear what the officer's role should be. Is it simply to assess a proposed release plan? Or does the court expect officers to make professional recommendations about whether the motions should or should not be granted on their merits? Also, there is not yet any recommended standard template or set of procedures for courts, U.S. probation, or the parties to follow in handling compassionate release cases. In some districts (but not all) the court is appointing the Federal Public Defender's Office to represent petitioning inmates.

Earned Time Credit

Perhaps the landmark provision of FSA, Title One introduced a fundamental change in federal correctional practice. Congress required that DOJ, within 210 days of passage of the Act, develop a risk and needs assessment system that classified inmates as minimum, low, medium, or high risk. Within 180 days of releasing the new system, the BOP is required to have assessed all BOP inmates with the new tool, begun assigning inmates to recidivism reducing programming, and begun expanding programs called for by the identified needs. Congress mandated that the BOP develop a wide assortment of incentives to encourage program participation, but the primary incentive was to allow inmates to earn 10 days toward prerelease status or early release under the court's supervision for every 30 days of approved programming. Minimum- and low-risk inmates whose risk levels have not increased over two consecutive assessments would be eligible for an additional 5 days, for up to 15 days for every 30 days of programming.[75] However, there are many disqualifying offenses, including homicide, sex offenses, and heroin distribution. The USSC estimated that nearly 40 percent of BOP inmates would be ineligible to earn any credits.[76] Also, only minimum- and low-risk inmates could use credits to begin their term of supervised release early, and that could not exceed more than one year.[77] Congress also imposed a host of requirements on the DOJ to report on how the risk assessment system was performing and how implementation was proceeding.[78]

Congress' directive created a mammoth undertaking for DOJ and the BOP. To ensure that implementation proceeded as they intended, Congress created several fail-safes. Congress gave the National Institute of Justice responsibility to find a non-governmental agency to oversee the BOP's efforts. The selected organization was responsible for creating an Independent Review Committee (IRC) of outside experts who would ensure objectivity in the creation of the risk assessment system and the development of appropriate programming. The IRC was directed to find independent researchers who would work with the BOP and the BOP's data to create the risk assessment system.[79] Congress clearly wanted assurance that the DOJ would deliver a system consistent with its intentions.

On July 19, 2019, the DOJ announced that it had met the first Congressionally imposed deadline with its release of the Prisoner Assessment Tool Targeting Estimated Risks and Needs (PATTERN), a newly developed risk prediction tool predictive of both institutional misconduct and post-release general and violent recidivism.[80] This was completed under very strict time frames, in large part by building off of previous work conducted by the BOP's Office of Research and Evaluation (ORE). In creating PATTERN, the independent researchers removed elements that were not predictive of post-release recidivism, such as offense severity, and added others related to frequency of institutional programming. The DOJ report also explained that much further work needed

[72] To illustrate the challenges in these types of cases, one sentencing court recently granted a compassionate release motion for an inmate with no home and significant medical needs. The inmate had chronic lung disease that requires oxygen treatment and uses a walker. In the order, the court imposed a 60-day term of supervised release to be served at an RRC. Because the probation office was not aware of the motion when it was filed, it was not able to perform prerelease planning in advance. The court subsequently granted a two week stay on the release to develop a release plan. The RRC however refused to accept the inmate due to his medical needs. After hundreds of hours of coordination between the probation office, the BOP, the federal public defender and after four court orders, the local hospital ultimately accepted the person under supervision, assisted him with Medicaid, and placed him in an assisted-living facility. Following his transportation to the hospital, his supervised release was terminated by the court upon motion of the federal defender. In other instances, hospital administrators have threatened legal action against U.S. probation, demanding that the courts assume the cost for the medical care of an inmate released with no pre-planning or resource coordination.

[73] OIG (May 2015), p. 21.

[74] BOP email correspondence to AOUSC.

[75] 18 U.S.C. 3632.

[76] USSC Sentence and Prison Estimate Summary, S. 756, The First Step Act of 2018 (as enacted on December 21, 2018).

[77] 18 U.S.C. 3632.

[78] 18 U.S.C. 3633.

[79] 18 U.S.C. 3624.

[80] The First Step Act of 2018: Risk and Needs Assessment System. (July 2019). U.S. Department of Justice, Office of the Attorney General.

to be done to complete the "needs" dimension of the risk tool, integrate inmate programming information with PATTERN, and incorporate the information into INSIGHT, the BOP's current case management system.[81]

Impact on U.S. Probation

As mentioned earlier, U.S. probation may not feel the impact of the FSA's earned credit system for several years. The BOP has until January 2020 to assess all eligible inmates using PATTERN and to identify evidence-based recidivism-reducing programming. It appears the BOP will apply a stringent hour-for-hour requirement, whereby an inmate must have 8 hours of coursework to earn a day of credit. For comparative purposes, inmates in the popular RDAP program undergo 500 hours of programming over 9 to 12 months. If successful, they receive 12 months off their sentence. If a strict hour-for-hour system were applied to RDAP program participation, inmates would receive only 20 days toward prerelease status, or 30 days if they were scored as minimum or low. This is a curious contrast. It is unknown if this approach will truly incentivize inmates to engage in recidivism-reducing programming. Given an hour-for-hour approach to earning credits and the BOP's need to add programming capacity, the earned credit system will likely impact U.S. probation only modestly.

Once all inmates have been assessed, they then need to participate in evidence-based recidivism-reducing programming in order to decrease their risk scores. This assumes, however, that the BOP has capacity in the needed interventions to address the identified criminogenic needs. BOP is currently seeking to evaluate all of their current programming and assessing what additional programming their population's risks call for. To the extent that the needed programming is not yet available, the BOP will need to develop it.[82] The BOP will continue to develop PATTERN in order meet statutory demands, but much is already known about the needs of the BOP's population.

During the Obama administration, the DOJ hired multiple consultants to help the BOP assess its needed program capacity. One report, prepared by the Boston Consulting Group (BCG), was entitled *Reducing Recidivism through Programming in the Federal Prison Population*. The DOJ specifically tasked BCG to determine if the system was structured to reduce recidivism. BCG used three different methods to assess inmates' needs, since there was not a "robust needs assessment" in use at the BOP. One of the methods was to use data from a cohort of 38,753 BOP inmates released in 2015 using their federal probation PCRA scores. The cohort was re-weighted statistically to reflect the then-current BOP population. The analysis revealed that BOP inmates had high levels of unmet needs in antisocial cognitions, employment, and substance abuse.[83] Another group of consultants, the Bronner Group, prepared a report focusing on the need to increase educational programming within the BOP. Bronner pointed out that the BOP spends 20 percent as much on inmate education as the nearest sized state prison.[84] The report highlighted the link between correctional education and reduced recidivism and increased wages.[85] The report went on to state that:

> *There are significant savings to be secured from expanded education programs that emphasize mastery of basic skills, high school education, post-secondary education, and occupational training and work readiness programs. In order to achieve these benefits, the quality of credentials must be upgraded to those that are recognized as being first tier, such as high school diplomas rather than GED certificates, transferrable post-secondary academic credits and degree, and nationally recognized industry standard vocational certificates rather than local ad hoc certifications*.[86]

Identifying gaps in programming and having the resources and capacity to meet the need are very different challenges. It is unrealistic to believe the BOP will be able to meet those needs without significant assistance from many other quarters. While the eventual impact of the earned credit may be unclear, it is clear that Congress assumes and expects a high level of collaboration between the BOP and the U.S. probation system under this provision in particular. The statute directs that "the Director of the Bureau of Prisons *shall, to the greatest extent practicable* [emphasis added], enter into agreements with United States Probation and Pretrial Services to supervise prisoners placed in home confinement" and that "United States Probation and Pretrial Services *shall, to the greatest extent practicable* [emphasis added], offer assistance to any prisoner not under its supervision during prerelease custody."[87] The statute also directs the Attorney General, in collaboration with U.S. Probation and Pretrial Services, to "develop guidelines for use by the BOP in determining the appropriate type of pre-release custody or supervised release and level of supervision for a prisoner placed in prerelease custody."[88] Last, Congress directed that any agreements between the BOP and U.S. probation "take into account the resource requirements of United States Probation and Pretrial Services as a result of the transfer of Bureau of Prisons prisoners to prerelease custody or supervised release."[89] The BOP and U.S. probation have begun to formally collaborate to support FSA, although the many dimensions of the Act will require an unprecedented level of interagency coordination at both the national and local levels nationwide.

So What Does "Practicable" Mean?

As detailed earlier, the federal reentry continuum does not currently function in an integrated, coherent fashion. Into that continuum, the FSA now imposes an ambitious and complex set of expectations, and a varied set of rules and programs. Congress clearly wanted to advance the quality of institutional-based risk assessment and to ensure that the BOP created a comprehensive portfolio of programs with which inmates may work to address the risk factors that led them to prison in the first place. The requirements, even if adequately funded, will require massive effort. But the FSA should be seen as presenting an opportunity to move federal corrections fully into the 21st century, building upon all that has been learned about behavior change and recidivism reduction during the past few decades. We present below three macro-level issues as well as specific proposals to improve federal reentry generally and support FSA implementation in particular.

[81] Ibid.

[82] 18 U.S.C. 3621.

[83] Reducing Recidivism Through Programming in the Federal Prison Population Report (September 2016). The Boston Consulting Group.

[84] Education Program Assessment (November 2016), Bronner Group.

[85] The RAND corporation found that people who participate in correctional education while in prison were 43 percent less likely to recidivate than non-participants, and 13 percent more likely to obtain employment. (https://www.rand.org/pubs/research_reports/RR266.html)

[86] Bronner Group.

[87] 18 U.S.C. 3624(g)(7).

[88] 18 U.S.C. 3624(g)(6).

[89] 18 U.S.C. 3624(g)(7).

Beware of Cost Shifting

Congress directed that BOP receive $75 million a year to support FSA implementation. It is unclear whether that level of funding is adequate to fulfill the legislative demands. The judiciary is now absorbing the surge of early releases brought by its enactment, and will have to find a means of meeting the unanticipated workload demand. Some provisions, such as Fair Sentencing Act retroactivity, have largely run their course, although the newly released population creates an influx of higher risk inmates. Other provisions, such as the good time change, are now effectively "baked in" to the process. The good time change may continue, though, to bring inmates who have served the most time out with minimal prerelease preparation unless BOP adjusts RRC placement times. In addition, as detailed above, the FSA, through the elderly home confinement program, directs the BOP to move their oldest, sickest, and arguably most expensive inmates out of their institutions. The compassionate release provisions similarly grant inmates an opportunity to ask the court directly for release if the BOP fails to respond or opposes a request. The concern, then, is who will meet the medical needs of this population? The U.S. probation system is not funded to address this—nor are its officers trained to address it. Last, once the earned time credit system is put in place, the BOP will have a choice of paying contractors for prerelease services, reimbursing the judiciary for FLM placement, or paying nothing and releasing inmates to TSR early. Those do not appear to be equally attractive options, at least from a financial point of view.

Communications

Given the sheer size and scale of BOP operations, as well as the decentralized nature of the judiciary and the U.S. probation system, interagency communication very often has been problematic. Effective FSA implementation is unlikely unless there is much more robust and continual system-wide methods to ensure that stakeholders in both the BOP and U.S. probation communicate and share information better. A 21st century, state-of-the art correctional process requires a systems approach where continuity of care and community safety are shared priorities. It seems that this is what FSA intended. That will not be possible without major improvement in communication.

All Hands on Deck

Effective FSA implementation requires other federal criminal justice stakeholders, particularly U.S. probation and the courts, to do whatever possible consistent with their statutory mission to help the BOP and assist inmates in realizing the possible benefits of recidivism-reducing programming. This arguably begins with acknowledging that, at least in terms of the continuity of care described at the beginning of this paper, the current "normal" process is not working particularly well. Improvements are required if we are to realize a public safety benefit as inmates come onto supervision and, hopefully, achieve "lawful self-management."[90] Will FSA be more than a short-term shift? Will it lead to long-term transformation? Will there be subsequent legislation to ensure that Congress' expectations of implementation are met? One observer of the federal criminal justice system commented that "what might prove to be a bona fide watershed in federal criminal justice could also be squelched by budget shortfalls or staffing limitations, divergent agency goals, or an unwillingness of the rank and file to implement the vision of agency leader."[91] Undoubtedly, robust coordinated efforts among all three branches of government will be needed if the intentions of Congress are to be realized. We provide a few suggestions below.

Specific Proposals

- Increase U.S. probation's incentive to accept elderly inmates onto home confinement through workload or reimbursable agreements.
- Advocate for statutory changes that allow elderly inmates on home confinement to earn one day of "good time" toward their custodial sentence for every day of compliance with conditions.
- Advocate statutory changes that allow the court to early terminate supervision for compassionate release inmates and elderly home confinement inmates without waiting a year.
- Advocate for statutory changes and funding for U.S. probation to provide services pursuant to 18 U.S.C. 3672 to inmates while in the RRC that are not currently delivered under the RRC SOW.
- Conduct nationwide shared training to support FSA implementation with BOP and U.S. probation.
- Advocate for authority and funding for U.S. probation officers to co-locate in each RRC and in each RRM's office to improve communication and collaboration.
- Update BOP and U.S. probation interagency agreement to support traditional FLM and elderly home confinement provisions, including allowing flexibility in technology and reimbursable services.
- Clarify roles and responsibilities under compassionate release for BOP, the court, U.S. probation, the United States Attorney's Office, and federal public defenders.
- Advocate legislation authorizing the court to direct the BOP to make sure medical arrangements are in place before the court grants a compassionate release motion.
- Reinstate Pell grants so that inmates can pursue secondary education and increase BOP's ability to meet the education needs of the population.[92]
- Redirect that BOP-required 25 percent subsistence payments paid by RRC residents instead be set aside for the inmates to use for their own transitional needs.
- Move toward full data integration between BOP and U.S. probation through web-services applications so that inmate data is shared across the criminal justice system consistent with each party's need to know, including risk assessment and case management notes.

[90] Judiciary Policy, ibid.

[91] Oleson, ibid., p. 402.

[92] The Restoring Education and Learning (REAL) Act of 2019, which would reinstate Pell Grant eligibility for individuals in federal and State penal institutions, was introduced in the Senate and House in the spring of 2019.

An Empirical Overview of Searches and Seizures for Persons on Federal Post-conviction Supervision[1]

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IN THE FEDERAL system, convicted persons are typically supervised by federal probation officers under terms of supervised release (TSR) or probation[2] for a period averaging two to three years (Hughes, 2008). During this time, federal officers can, under certain circumstances, conduct searches of the person, residence, place of employment, or property of a supervisee (also referred to as a person under supervision in this article), for the purpose of identifying whether the supervisee is engaging in new criminal activities or violating the terms or conditions of supervised release; officers can also seize any contraband found during the search. Under the federal system, searches can take various forms, including searches that occurred because an officer had "reasonable suspicion" that a supervisee was committing new crimes or violating the terms of the person's supervised release. These searches fall under the label of pre-planned searches and typically must be approved by the probation office chief before they can be executed. Officers can also initiate searches without a pre-approved plan if the person under supervision consents to the search, or if an urgent need arises that fulfills the requirements for an exigent search. Officers, moreover, can seize contraband if it is within plain view while conducting a home visit or during the course of regular interactions with the person under supervision. Finally, officers can search the supervisee's cell phone, computer, and/or electronic devices for various forms of contraband, which usually involves mostly illegal pornographic materials or other forms of electronic cyber-crime. The Judicial Conference[3] endorses guidance that reasonable suspicion should be present when conducting a computer search.

The policies designed to govern officer searches of persons under supervision on federal TSR or probation are well developed and clearly detailed both in the search and seizures guidelines (Search and Seizure Guidelines, 2010) and in the guidelines pertaining to cybercrime (Cybercrime Guidelines, 2016).[4] Although efforts have been made to examine the general patterns of search activity and the types of contraband seized during searches (Vicini, 2019), there have been relatively few efforts to gauge whether searches are associated with risk characteristics of persons under supervision, as measured by the federal post-conviction risk assessment instrument (PCRA), or whether other factors, including the most serious conviction offense, have a stronger correlation with the likelihood of a search occurring. Moreover, there have been few systematic efforts to examine whether community safety is improved by federal searches through an assessment of the extent to which searches uncover contraband. Additionally, no empirical efforts have attempted to ascertain whether searches are associated with a reduction in rearrest activity while the person is under supervision.

This study seeks to provide an empirical overview of these and other issues pertaining to officer searches of persons on federal post-conviction supervision (that is, TSR or probation). Several issues will be covered, including the likelihood of a person being searched while under supervision, the total number of searches conducted by officers within a specified time frame, the most common types of searches (e.g., computer search, pre-planned search, exigent search, consent, etc.) directed against persons under supervision, and the extent to which these different metrics of search activity vary by a supervisee's PCRA risk and supervision levels. The study will also investigate the extent to which searches are associated with other factors not directly attributable to the PCRA, including the most serious conviction offense and the judicial district where the search is conducted. The presence of safety issues encountered during searches will also be explored. Last, the extent to which searches are associated with improvements in community safety will

[1] The author would like to thank Carrie Kent, Charles Robinson, Jay Whetzel, and John Fitzgerald for their helpful suggestions and comments. Special thanks to Ellen Fielding for editing earlier versions of this document. Direct correspondence to Thomas H. Cohen, Administrative Office of the U.S. Courts – Probation and Pretrial Services Office, One Columbus Circle, NE, Washington, DC 20544 (e-mail: thomas_cohen@ao.uscourts.gov).

[2] Supervised release (e.g., TSR) refers to persons sentenced to a term of community supervision following a period of imprisonment within the Federal Bureau of Prisons (18 U.S.C. §3583). Probation refers to persons sentenced to a period of supervision without any imposed incarceration sentence (18 U.S.C. §3561).

[3] The Judicial Conference of the United States is the national policy-making body for the federal courts (AOUSC, 2018).

[4] It should be noted that the search and seizure and cybercrime policy guidelines are available only to the federal judiciary and are not publicly accessible.

be examined through two measures. First, I'll investigate whether searches by federal probation officers resulted in the seizure of contraband that could be used in criminal activity, including illegal drugs, prohibited weapons/firearms, unauthorized cell phones, child pornography, etc. Second, I'll examine whether searches are associated with reductions in rearrest activity during the supervision term of a person under supervision.

By examining these issues, the current study will provide an effort to ground federal search practices within an evidence-based framework. Over the past several years, the U.S. federal probation system has undergone numerous conceptual and structural changes in moving toward an outcome-based approach that emphasizes crime reduction (Alexander & VanBenschoten, 2008; IBM Strategic Assessment, 2004). Presently, one of federal supervision's primary goals is defined as the protection of the community through the reduction of risk and recurrence of crime (that is, recidivism), both during and after the supervision period of a person under supervision (Hughes, 2008). To meet this key objective, the U.S. probation system has attempted to ground its supervision practices within the risk, needs, and responsivity (RNR) framework (AOUSC, 2018), where the intensity and strategies of supervision are guided by a person under supervision's criminogenic risk and needs profile (AOUSC, 2018; Lowenkamp, Johnson, VanBenschoten, Robinson, & Holsinger, 2013). The RNR model postulates that high-risk supervisees should receive more intense levels of correctional services and monitoring stratagems (including searches) than lower risk supervisees (Andrews & Bonta, 2017). An empirical investigation of federal search practices will gauge whether searches are in fact guided by the RNR framework and hence embedded within the system of evidence-based practices that informs the community corrections model (Andrews & Bonta, 2017).

Present Study

The present study will provide an empirical overview of how officers conduct searches on persons under supervision currently on federal terms of supervised release (TSR) or probation. First, I will assess the patterns of officer search activity to explore the extent to which searches are or are not associated with the PCRA risk classification or supervision levels of a person under supervision, and to investigate whether searches are perhaps influenced by other factors outside the PCRA, including the most serious conviction offense and judicial district where the search originated. The following issues will form the main components of this research:

1. How likely is a person under federal supervision to be searched?
2. Given that persons under supervision can be searched multiple times, how often are officers searching them within a specified time frame?
3. What are the most common types of searches (e.g., pre-planned searches, computer searches, exigent searches, etc.) executed by officers?
4. To what extent are searches associated with a person under supervision's PCRA risk or supervision levels?
5. How do other factors. including the most serious conviction offense and judicial district, interplay with the likelihood and number of searches?

The second part delves into outcomes and orients itself to the following issues:

1. How frequently are safety and other issues encountered during the execution of a search?
2. To what extent is contraband seized when a search is conducted?
3. Are persons under supervision subjected to a search less likely to be rearrested while under supervision compared to similarly situated supervisees who are not searched?

Method

Participants

The study sample used to examine the imposition of searches on federally supervised persons initially encompassed all supervisees who were under active federal post-conviction supervision (i.e., TSR or probation) any time during the period between fiscal years 2015 and 2018 (n = 327,904).[5] Searches conducted on earlier cohorts of federally supervised persons were not included because the search data were not uniformly integrated into the electronic reporting system used to capture search events until fiscal year 2015, and the fiscal year 2019 supervision cohort was not included because too little time had passed between the supervision start date and the data extraction date to capture searches and recidivism behavior.[6] It is also important to note that persons under supervision without a search condition were removed from this analysis, as hardly any of these (less than 1 percent) were actually searched (n lost = 183,983). Overall, 44 percent of persons on federal supervision between fiscal years 2015 and 2018 had a search condition; however, the percentage of persons under supervision with a search condition ranged from 4 percent for supervisees convicted of traffic/DUI offenses to 88 percent for supervisees convicted of sex offenses (data not shown in table). Forty-five percent of persons under supervision convicted of drug offenses (the largest offense category within the federal system) had a search condition.

Table 1 (next page) provides a descriptive overview of persons under supervision in the study sample. About two-fifths of the study sample (39 percent) comprised non-Hispanic whites, while most of the remaining persons under supervision were either black (29 percent) or Hispanics of any race (25 percent). Males accounted for 84 percent of the study population, and the average age was about 40 years. Approximately 9 out of 10 supervisees were on TSR. Nearly half of supervisees in the study population (46 percent) were convicted of drug offenses, while the remaining half were primarily convicted of either weapons/firearms (17 percent), financial (16 percent), sex (11 percent), or violent (6 percent) offenses. In regards to the PCRA risk classifications of these supervisees, 29 percent were classified low risk, 38 percent low/moderate, 24 percent moderate, and 9 percent high risk.

Measures

Types of Searches

As previously stated, federal probation officers can conduct several types of searches for the purpose of identifying persons under supervision who might be committing new criminal activity or violating their terms of supervised release. The types of searches used in the federal system are detailed below.

Pre-planned searches: Encompasses searches in which the officer had reasonable suspicion that contraband or evidence of a violation of the conditions of supervision

[5] It should be noted that persons under supervision could have started their supervision terms prior to fiscal year 2015 or anytime between the period spanning fiscal years 2015 through 2018. Regardless of when the supervision term commenced, they were included in the study sample if they were under active supervision sometime between fiscal years 2015 and 2018 and had a search condition allowing them to be searched within this time frame.

[6] The study did not focus on searches executed during the pretrial release phase.

may be found in the place or item being searched and a special condition allowing for a search was attached to the person's supervision term (Search and Seizure Guidelines, 2010). Pre-planned searches can only be conducted after a written search plan has been submitted to the Administrative Office of the U.S. Court's (AO) Safety and Information Reporting System (SIRS) and approved by the chief probation officer (or the chief's designee) of the district where the search is taking place (Search and Seizure Guidelines, 2010).

TABLE 1.
Descriptive statistics of federal supervisees in study sample

Variable	n	% or mean
Race/ethnicity		
White, non-Hispanic	56,161	39.2%
Black, non-Hispanic	41,030	28.7
Hispanic any race	35,121	24.5
American Indian or Alaska Native	6,822	4.8
Asian or Pacific Islander	4,058	2.8
Gender		
Male	120,208	83.5%
Female	23,711	16.5
Type of supervision		
Term of supervised release	128,936	89.6%
Probation	13,741	9.6
Other/a	1,244	0.9
Most serious conviction offense		
Drugs	65,400	45.9%
Weapons/Firearms	23,612	16.6
Financial	22,365	15.7
Sex Offense	15,660	11.0
Violence	8,280	5.8
Immigration/ Customs	5,099	3.6
Public Order	1,135	0.8
Obstruction/Escape	841	0.6
Traffic/DWI	261	0.2
PCRA risk categories		
Low	41,571	28.9%
Low/Moderate	54,670	38.0
Moderate	34,225	23.8
High	13,455	9.4
Average PCRA score	143,921	7.7
Average age (in years)	143,880	39.6
Number of supervisees	143,921	

Includes 143,921 supervisees under federal supervision during the period between fiscal years 2015–2018 with search condition.

PCRA = Post conviction risk assessment

a/Includes transfers, military parole, and other forms of federal supervision.

Exigent searches: Includes searches initiated without the existence of a pre-approved written search plan if exigent circumstances make it reasonably foreseeable that delay will result in danger to any individual or the public or to the loss or destruction of evidence. These searches require both a search condition and the presence of reasonable suspicion; moreover, although prior approval of a formal search plan is not required, the officer instigating this search must receive verbal approval from the chief probation officer (or the chief's designee) prior to conducting this search (Search and Seizure Guidelines, 2010).

Consent searches: Includes searches taking place in the absence of a search condition, reasonable suspicion, or a pre-approved search plan where the person under supervision consented to being searched. These searches tend to be limited in scope and involve mostly persons under supervision providing any form of consent (verbal or non-verbal) to an officer's request to conduct a search (Search and Seizure Guidelines, 2010).

Plain view seizures: Officers have discretion to seize contraband observed during a home visit or other exchanges with the supervisee if the contraband falls within plain view of the officer while justifiably interacting with the supervisee. Under the plain view exception, the officer does not need a search condition, reasonable suspicion, or pre-approved plan to seize contraband found within plain view (Search and Seizure Guidelines, 2010).

Computer searches: There are four types of computer searches currently used by federal officers including initial searches, compliance searches, investigative searches, and suspicionless searches. Officers will typically conduct an initial computer search to provide a baseline analysis of a monitored system, to verify that there is no contraband stored on the system, and to ensure compatibility with any monitoring application placed on the supervisee's electronic devices. Conversely, compliance searches are conducted to ensure that the applications used to monitor a supervisee's electronic devices are working as intended and have not been subjected to tampering; moreover, these searches are employed to verify compliance with supervision conditions (Cybercrime Guidelines, 2016). Suspicionless computer searches entail the search of a supervisee's electronic devices for the presence of contraband without any evidence of wrongdoing. Although suspicionless computer searches are not endorsed by the Judicial Conference, many districts impose search conditions allowing for suspicionless computer searches. The three above-described computer searches—initial, compliance, and suspicionless—can be conducted without the presence of reasonable suspicion; however, they do require a special search condition and/or a supervisee's consent in order to be executed. Unlike the other forms of computer searches, investigative computer searches involve the targeted search of a specific electronic device and cannot occur unless reasonable suspicion has been established.

In this study any searches —pre-planned, exigent, consent, plain view, or computer— executed on persons under supervision during the period encompassing fiscal years 2015 through 2018 were counted as a search. Pre-planned searches that were never executed at the time of data extraction were removed from the analysis. Searches that occurred prior to fiscal year 2015 or after 2018 were also omitted. When an officer conducts a search, information about that search is entered into the AOUSC's Safety and Information Reporting System (SIRS). Details about the search event were extracted from SIRS and then matched with persons on federal post-conviction supervision. Information about the supervisee's PCRA risk characteristics, adjusted PCRA supervision levels, most serious conviction offenses, judicial district, and rearrest activity were obtained from the Probation and Pretrial Services Automated Case Management System or PACTS.

PCRA Risk and Outcome Measures

The PCRA risk classification categories were used to assess a supervisee's risk of general recidivism. The PCRA's history, development, risk scoring scales, and predictive validity are detailed elsewhere (see AOUSC, 2018; Johnson, Lowenkamp, VanBenschoten, & Robinson, 2011; Lowenkamp et al., 2013; Lowenkamp. Holsinger, & Cohen, 2015; Luallen, Radakrishnan, & Rhodes, 2016). In brief, the PCRA is a fourth-generation dynamic risk assessment tool developed to assess the risk of general and violent recidivism among persons placed on supervised

release in the U.S. federal system (AOUSC, 2018; Johnson et al., 2011; Lowenkamp et al., 2013).

In terms of assessing general recidivism, the PCRA's risk mechanism works through a process in which federal probation officers score supervisees on 15 static and dynamic risk predictors measuring criminal history, education/employment, substance abuse, social networks, and supervision attitude characteristics. These 15 predictors are used to generate a raw PCRA score ranging from 0 to 18, which translates into the following four risk categories: low (0–5 points), low/moderate (6–9 points), moderate (10–12 points), or high (13 or more points). These risk categories provide crucial information about a supervisee's likelihood of general recidivism and inform officers about the appropriate levels of supervision intensity that should be adopted (AOUSC, 2018; Johnson et al., 2011; Lowenkamp et al., 2013). While federal officers tend to adhere to the initial PCRA risk designations, it is important to note that judicial policy provides officers with discretion to override supervisees into alternative supervision levels if they think, in their own professional judgment, that the PCRA risk score under or over represents a supervisee's risk to reoffend (Cohen, Pendergast, & VanBenschoten, 2016).

In addition to predicting the probability of general recidivism, a violence trailer was recently integrated into the PCRA in order to provide officers with an assessment of a supervisee's likelihood of committing violent recidivism (Serin, Lowenkamp, Johnson, & Trevino, 2016). The violence trailer works by having officers score persons under supervision on 10 risk factors and 3 criminal thinking styles that are separate from the 15 factors used to gauge the likelihood of general recidivism.[7] The violence trailer produces a risk score that is used to place supervisees into one of three violence predictor risk categories. Since the violence trailer was deployed starting in 2017, an initial violent assessment score was available for only 24 percent of 143,921 persons under supervision included in the current study. Given the limited availability of the violence flags, I chose to focus primarily on the PCRA risk classifications measuring the likelihood of general recidivism.

In the outcomes section of this study, the association between searches and supervisees' recidivism outcomes was examined. Specifically, recidivism was defined to include rearrests for any felony or misdemeanor offenses (excluding arrests for technical violations) that occurred while a person was on supervision during the period spanning fiscal years 2015-2018. Rearrests for new criminal activity were obtained from the New Charge Module, which is a component within PACTS that allows officers to enter details about any new arrest activity that occurred during supervision.[8]

Analytical Plan

Descriptive statistics are primarily used to measure how searches are employed among the federal post-conviction population. However, for the component of this study examining the recidivism rates between searched and non-searched persons under supervision, an exact matching process was employed (see Cook, 2015) to generate comparable groups of searched and non-searched supervisees matched on several characteristics, including age, race/ethnicity, sex, most serious conviction offense, and raw PCRA risk scores. This process allowed us to generate groups of searched and non-searched supervisees that were comparable in their recidivism risk characteristics when examining the association between searches and recidivism outcomes.

Results

Patterns of Search Activity

Relationship between Searches and Most Serious Conviction Offenses

I start with an exploration of how the most serious conviction offenses are associated with the likelihood of being searched and the types of searches because, as will be shown, the most serious conviction offenses had a greater influence on officer search activity than the supervisee's risk characteristics. In general, about 5 percent of persons under supervision on TSR or probation during the period spanning fiscal years 2015 through 2018 were searched by federal probation officers (see Table 2). The search rate reported in Table 2 covers any type of search, including computer searches, consent searches, exigent searches, plain view seizures, or pre-planned searches. Nearly a third of supervisees convicted of sex offenses (31 percent) were searched during their supervision term. Conversely, the overall search rate was about 5 percent or less for supervisees convicted of public-order (5 percent), weapons (4 percent), violence (3 percent), drug (2 percent), or financial (2 percent) offenses. Given that supervisees can be searched multiple times, the average number of searches conducted during the study time frame are shown. On average,

TABLE 2.
Percent of supervisees searched by most serious conviction offense, fiscal years 2015-18

Conviction offense	Number of supervisees	Percent any search	Average searches per supervisee
All supervisees	143,921	5.4%	2.5
Most serious conviction offense			
Sex Offense	15,660	30.8%	3.3
Public Order	1,135	4.7	2.2
Weapons/Firearms	23,612	3.5	1.3
Violence	8,280	2.9	1.3
Drugs	65,400	2.0	1.2
Financial	22,365	2.0	1.4
Obstruction/Escape	841	1.9	1.4
Traffic/DWI	261	1.2	—
Immigration/Customs	5,099	0.9	1.4

Includes 143,921 supervisees under federal supervision during the period between fiscal years 2015–18 with search condition. Data on most serious offense available for 99% of supervisees.

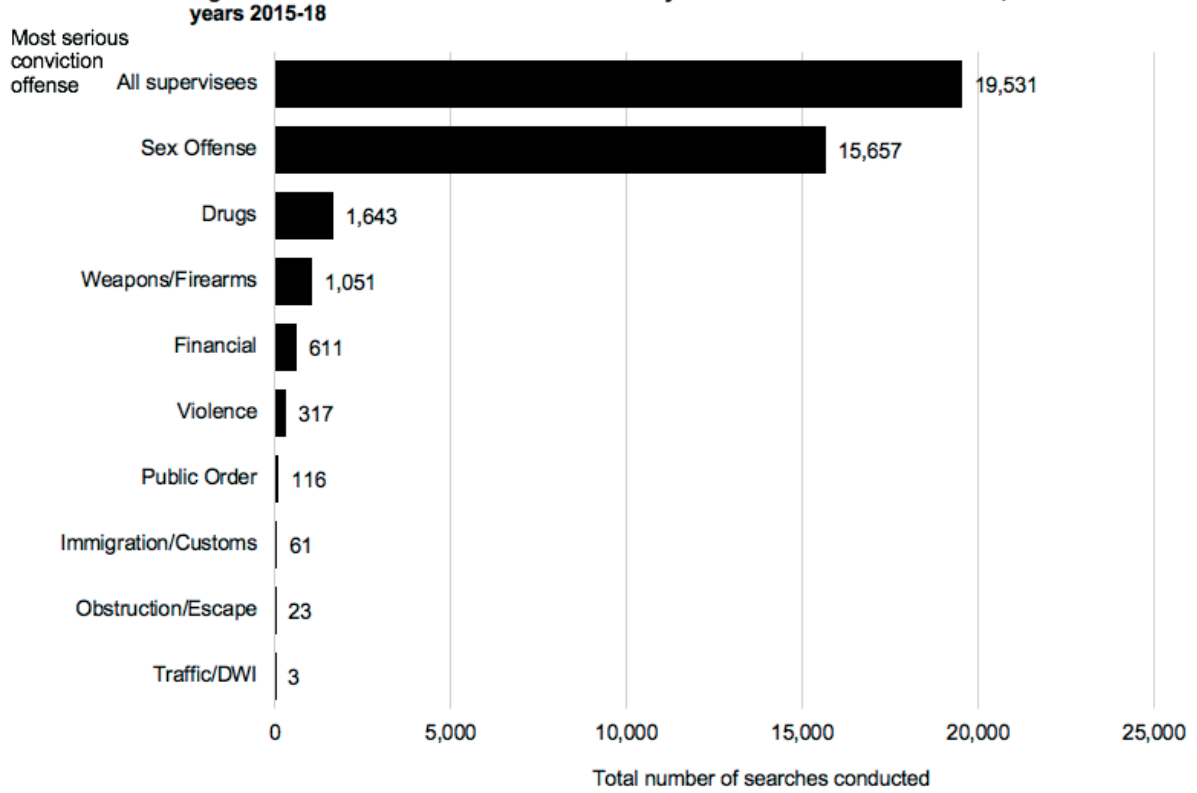
Totals include supervisees with unknown offense types.

— Not enough cases to produce statistically reliable estimates (see Figure 2).

[7] See Serin el al. (2016) for a list of the ten factors embedded within the PCRA violence trailer.

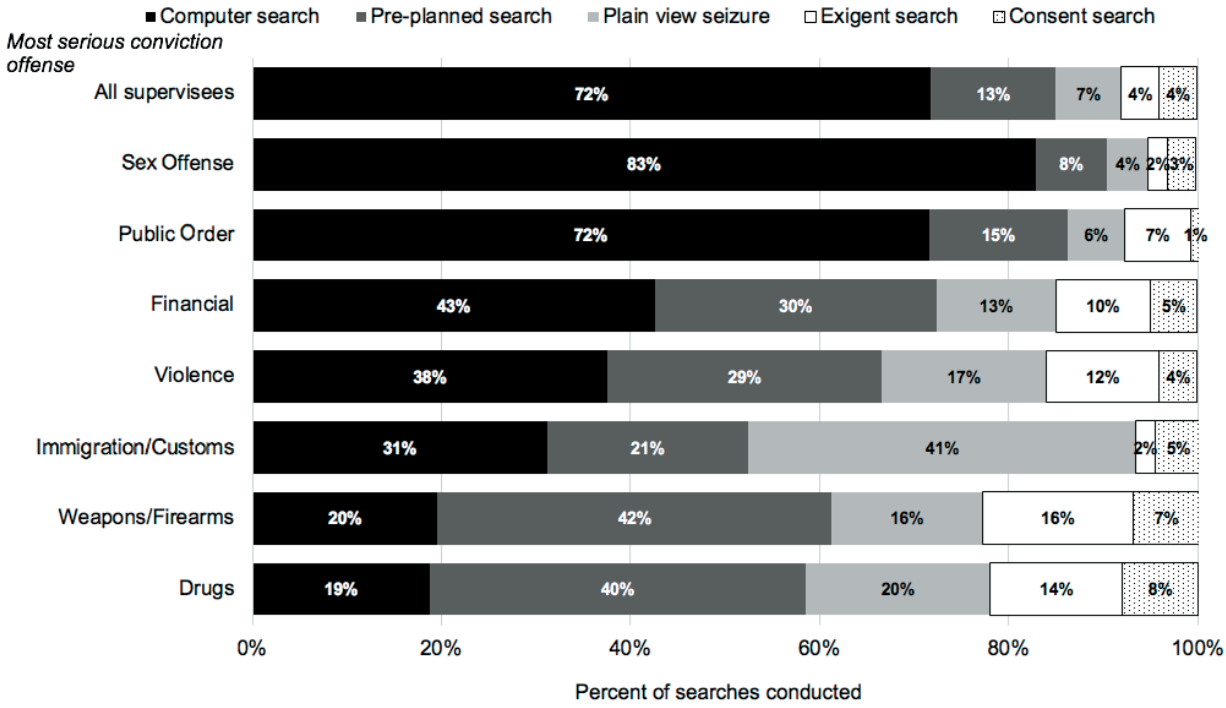
[8] It should be noted that information was extracted from the PACTS new charge module rather than from the rap sheet data. As a check, I examined the arrest rates generated from the new charge module and rap sheets and found relatively similar arrest rates between the two sources.

Figure 1. Total number of searches conducted by most serious conviction offense, fiscal years 2015-18



Note: Includes 19,531 searches conducted on 7,795 supervisees searched on supervision during fiscal years 2015-18. Data on most serious offense type available for 99% of supervisees. Total includes supervisees with unknown or unclassifiable offense types.

Figure 2. Types of searches by most serious conviction offense, fiscal years 2015-18



Note: Includes 19,531 searches involving 7,795 supervisees searched on supervision during fiscal years 2015-18. Traffic offenses and escape/obstruction offenses excluded from figure as there were too few searches of these supervisees (n < 50) to produce statistically reliable estimates.

officers searched supervisees convicted of sex offenses 3 times and supervisees convicted of public-order offenses 2 times while under supervision.[9] The remaining offense categories recorded an average of about 1 search occurring during a supervision term.

In addition to examining the overall search rate and average number of searches, it is useful to review the total number of searches officers conducted within the study time frame broken down by the most serious conviction offense. A total of 19,531 searches took place between fiscal years 2015 through 2018, and four-fifths of these searches were executed on supervisees convicted of sex offenses (see Figure 1, previous page). Among the remaining 3,800 searches, 43 percent were directed at supervisees convicted of drug offenses, 27 percent at supervisees convicted of weapons offenses, and 16 percent at supervisees convicted of financial offenses.

Information about the types of searches (e.g., computer, pre-planned, plain view, exigent, consent) broken down by the most serious conviction offense are provided in Figure 2 on the previous page. For the 19,531 searches, 72 percent involved a computer search, while the remainder encompassed pre-planned searches (13 percent), plain view seizures (7 percent), exigent searches (4 percent), or consent searches (4 percent). Computer searches were the dominant form of search for supervisees convicted of sex or public-order offenses; 83 percent of searches for supervisees convicted of sex offenses, and 72 percent of searches for supervisees convicted of public-order offenses involved a computer search. In comparison, 80 percent of searches for supervisees convicted of drug or weapons offenses involved a non-computer search. Pre-planned searches accounted for about two-fifths of searches directed against supervisees convicted of drug or weapons offenses, while approximately a third of searches executed on these supervisees involved plain view seizures or exigent searches.

Relationship between Searches and PCRA Risk Classifications

The next series of tables and figures gauges whether persons under supervision who were designated higher risk as assessed by the PCRA were more likely to be searched compared to those classified into the lower PCRA risk categories. In general, findings show higher risk supervisees were not subjected to searches at substantially elevated rates compared to their lower risk counterparts. The percentage of supervisees who received any type of search, for example, was essentially the same for those classified into the PCRA low/moderate, moderate, or high-risk categories; about 4 to 5 percent of supervisees in these risk categories were searched during the study period (see Table 3). Interestingly, PCRA low-risk supervisees were nearly two times more likely to be searched (8 percent searched) than PCRA high-risk supervisees (5 percent searched). Much of these findings can be explained by persons convicted of sex offenses, who tend to score on the lower end of the PCRA risk continuum (see Cohen & Spidell, 2016). When persons convicted of sex offenses are removed from the analysis, there was a modest relationship between searches and risk, with the percentage searched increasing from 1 percent for PCRA low-risk supervisees to 4 percent for PCRA high-risk supervisees.

Rather than examining searches by the PCRA risk levels, it can be more instructive to assess the rates at which supervisees are searched according to the supervision levels which officers ultimately assign them. Unlike the original PCRA risk categories, the supervision levels are adjusted to account for supervision overrides (Cohen et al., 2016). An examination of the association between searches and the PCRA supervision levels shows that supervisees placed into the highest supervision levels were 17 times more likely to be searched (17 percent search rate) than supervisees placed into the lowest supervision category (1 percent search rate).

Table 4 (next page) highlights the percentage of persons under supervision searched according to whether they did or did not receive an upwards supervision override. As previously discussed, officers have discretion to override a supervisee's original PCRA risk classifications into higher supervision levels if they determine that, in their own professional judgment, the PCRA score underrepresents a supervisee's likelihood of reoffending (Cohen et al., 2016).[10] Officers can also override certain subcategories of supervisees, particularly those convicted of sex offenses, into higher supervision levels. Our analysis generally shows supervisees with supervision overrides

[9] While the results for convicted public-order persons under supervision might be somewhat surprising, it is important to note that about 7 percent of them had a prior arrest or conviction record for sex offenses.

[10] Only upward overrides are shown, as very few supervision overrides (less than 1 percent) involved downward departures in supervision levels.

TABLE 3.
Percent of supervisees searched by PCRA risk or supervision levels, fiscal years 2015-18

	All Supervisees		Convicted Sex Supervisees Excluded	
PCRA characteristics	Number of supervisees	Percent searched	Number of supervisees	Percent searched
PCRA risk levels				
Low	41,571	7.7%	33,369	0.9%
Low/Moderate	54,670	4.4	50,155	2.2
Moderate	34,225	4.4	32,160	3.3
High	13,455	4.8	12,577	4.2
Violence categories/a				
One	21,611	4.3%	18,661	1.1%
Two	9,326	3.2	8,772	2.4
Three	3,563	3.5	3,431	3.0
PCRA supervision levels/b				
Low	27,494	0.9%	27,351	0.8%
Low/Moderate	45,551	2.3	44,980	2.0
Moderate	31,303	3.9	30,282	3.3
High	27,750	16.6	15,656	5.0

Notes: PCRA = Post Conviction Risk Assessment

a/Violence categories generated from PCRA 2.0 assessments available for 24% of supervisees supervised during fiscal years 2015 through 2018 as officers did not begin conducting PCRA 2.0 assessments until early 2017.

b/PCRA supervision level information available for 92% of supervisees on supervision during fiscal years 2015 through 2018.

TABLE 4.
Percent of supervisees searched by supervision overrides, fiscal years 2015-18

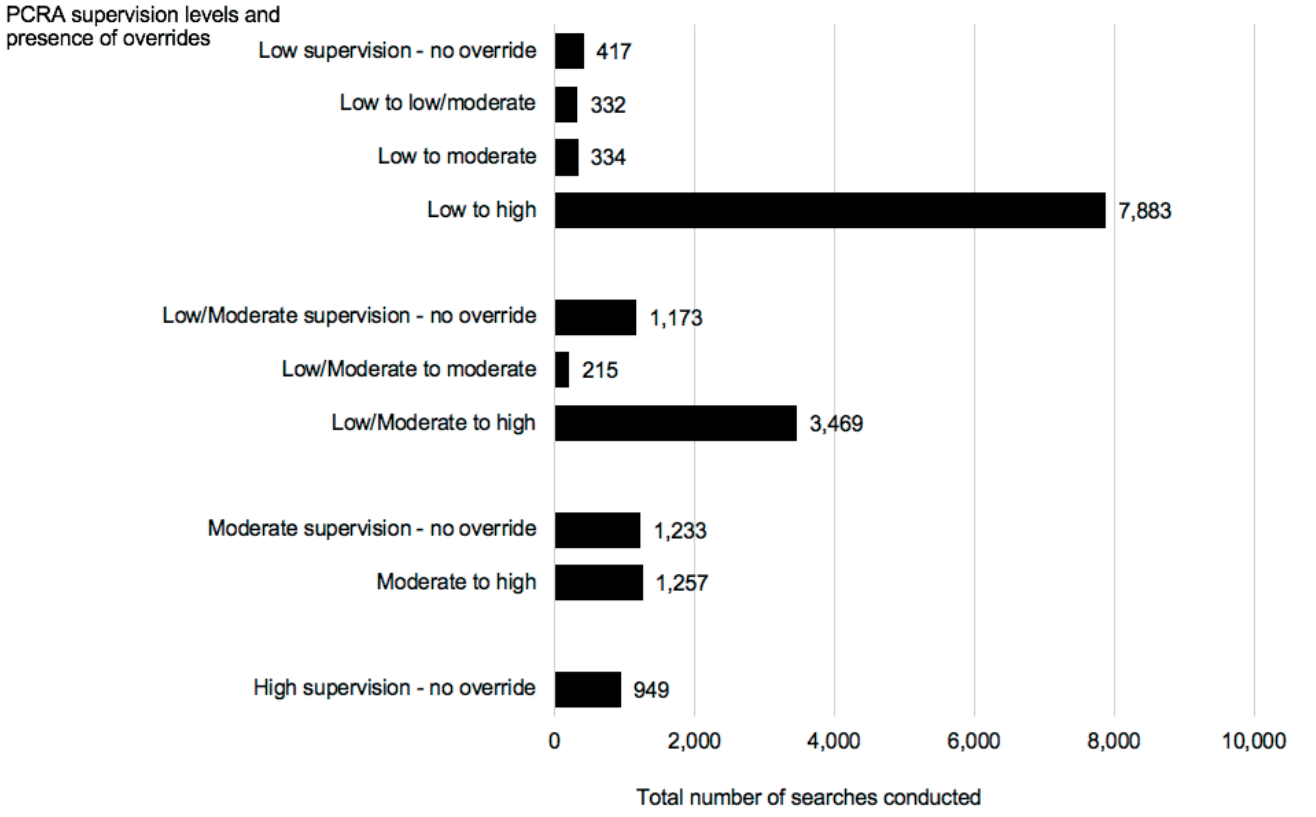
Risk levels and supervision overrides	All Supervisees		Convicted Sex Supervisees Excluded	
	Number of supervisees	Percent searched	Number of supervisees	Percent searched
Low supervision - no override	27,451	0.9%	27,309	0.8%
Low to low/moderate	2,275	5.1	2,011	1.4
Low to moderate	825	15.9	340	3.2
Low to high	6,470	34.8	415	8.4
Low/Moderate supervision - no override	43,262	2.1%	42,957	2.0%
Low/Moderate to moderate	1,629	7.6	1,410	4.8
Low/Moderate to high	4,843	25.0	1,303	7.9
Moderate supervision - no override	28,841	3.3%	28,525	3.2%
Moderate to high	3,417	15.1	1,773	6.8
High supervision - no override	13,020	4.9%	12,165	4.3%

Notes: PCRA supervision override information available for 92% of supervisees on supervision during fiscal years 2015 through 2018. Searches for downward overrides not shown. Less than 1% of supervision overrides involved a downward departure in supervision levels.

having higher search rates than supervisees whose initial PCRA risk designations were never changed. For example, low-risk supervisees who never received any override manifested a 1 percent search rate, while 35 percent of low-risk supervisees overridden into the highest supervision category were searched. Interestingly, low, low/moderate, and moderate-risk supervisees overridden into the highest supervision level were at least 3 times more likely to be searched than those originally classified into the PCRA high-risk category. Similar patterns of elevated search activity occurred for supervisees with supervision overrides across the PCRA risk levels.

Most of these findings can be explained by persons convicted of sex offenses, who are almost always subjected to supervision overrides (see Cohen et al., 2016) and, if searched, are overwhelmingly likely to receive a search focused on computers or other electronic devices (see Figure 4). When persons convicted of sex offenses were omitted from the analysis, the remaining supervisees with

Figure 3. Total number of searches conducted by PCRA supervision levels and presence of overrides, fiscal years 2015-18



PCRA supervision level and override information available for 92% of supervisees on supervision during fiscal years 2015 through 2018. Number of searches for supervisees with downward overrides not shown.

supervision overrides were still more likely to be searched than supervisees whose PCRA risk classifications were unchanged, but the differences were less substantial. Low-risk supervisees overridden into the highest supervision category, for example, were only twice as likely to be searched (8 percent search rate) as supervisees originally classified into the PCRA high-risk category (4 percent search rate).

The importance of overrides in officer search activity can also be gleaned by examining the total number of searches conducted according to whether the person under supervision received an override (see Figure 3). Among the 17,000 searches conducted during the study period,[11] nearly 80 percent were executed on supervisees with an upwards supervision override. For the 3,772 searches executed on supervisees whose risk classifications were not changed, 64 percent targeted supervisees initially assessed into the low/moderate or moderate PCRA risk categories.

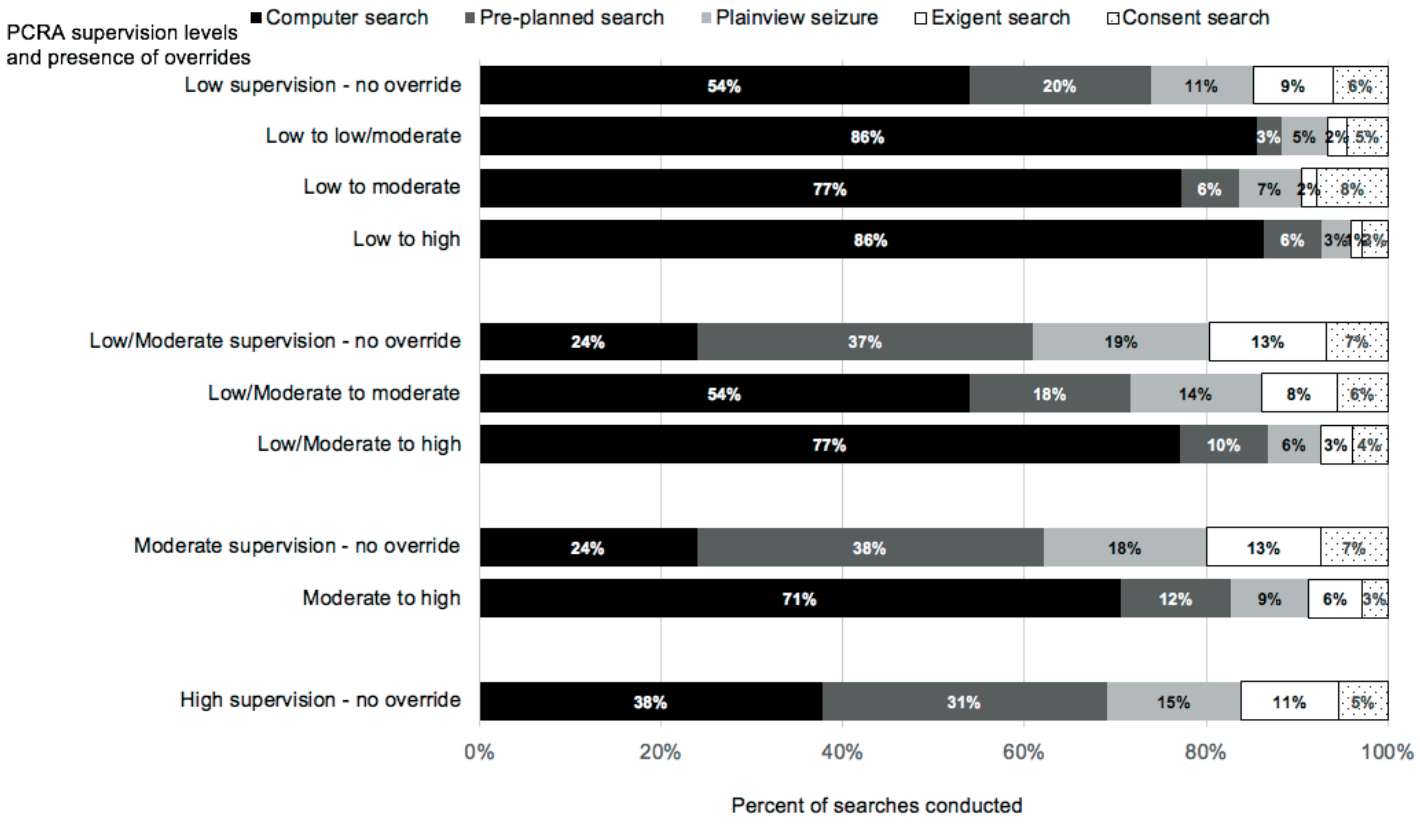
[11] Data on supervision levels and overrides were available for 92 percent of persons under supervision.

Figure 4 presents information on the types of searches conducted according to whether a supervisee witnessed an upwards supervision override or saw no changes in his or her original PCRA risk classification. Not surprisingly, the overwhelming majority of searches executed on persons under supervision with supervision overrides involved computer searches, while supervisees whose original PCRA risk categories remained unchanged were generally more likely to receive non-computer searches. Computer searches, for instance, accounted for 86 percent of all searches conducted on low-risk supervisees placed into the highest supervision category through an override. Pre-planned searches, conversely, comprised approximately two-fifths of searches executed on low/moderate- and moderate-risk supervisees reporting no changes in their supervision levels. It is notable that supervisees with an initial PCRA risk classification of high risk witnessed higher percentages of computer searches (38 percent) than pre-planned searches (31 percent).

Examining Computer Searches Executed on Federally Supervised Supervisees

Given the overwhelming presence of searches focused on a supervisee's cell phones, computers, or other electronic equipment, it is important to provide a brief overview of the types and characteristics of computer searches executed on federally supervised persons. As previously stated, federal probation officers have authority to conduct four types of computer searches: compliance searches, initial searches, investigative searches, and suspicionless searches. Nearly two-fifths of computer searches were executed to ensure a supervisee's compliance with supervision terms, while about a third were initiated for investigative purposes (data not shown). Though the Judicial Conference discourages suspicionless computer searches, about a quarter of computer searches fell within this particular search category. Last, it is important to note that 8 out of 10 computer searches targeted a supervisee's cell phone or tablet, while most of the remaining computer searches

Figure 4. Types of searches conducted by PCRA supervision levels and presence of overrides, fiscal years 2015-18



Note: Includes 17,262 searches involving 7,795 supervisees searched on supervision during fiscal years 2015 - 18.

focused on personal computers or laptops (data not shown).

Computer searches, moreover, can involve divergent investigative methods. Some computer searches, including software-based or forensic inspections, encompass diagnostic investigations of a supervisee's computer or electronic devices, which can be fairly intrusive. Non-software related computer searches, in comparison, consist of officers inspecting electronic devices with the intent of conducting a quick spot check of a supervisee's activities with cell phones, computers, tablets, etc. Figure 5 (below) shows 93 percent of computer searches being conducted against persons convicted of sex offenses; about three-fourths of these searches were non-software related investigations. The remaining computer searches of persons convicted of sex offenses involved software investigations (13 percent), forensic inspections (11 percent), and remote inspections (2 percent).

Examining Searches Across the Federal Judicial Districts

It is also important to acknowledge that there are substantial disparities in the use of searches across the federal judicial districts. Some districts make extensive use of searches, while in other districts, searches are relatively rare or not conducted at all. Eight of the 94 judicial districts, for example, accounted for nearly half of the 19,000 searches executed (data not shown). Each of these eight districts conducted at least 600 searches, with some administering over 1,000 searches between fiscal years 2015 and 2018. In comparison, most of the judicial districts executed 200 or fewer searches. Almost all of these disparities can be explained by the divergent application of non-software related computer searches.

Searches and Outcomes

This section examines the presence of safety and other issues that arose during the search, the percentage of searches resulting in the seizure of contraband, and the association between searches and the rearrest behavior of persons under supervision.

Presence of Safety Issues

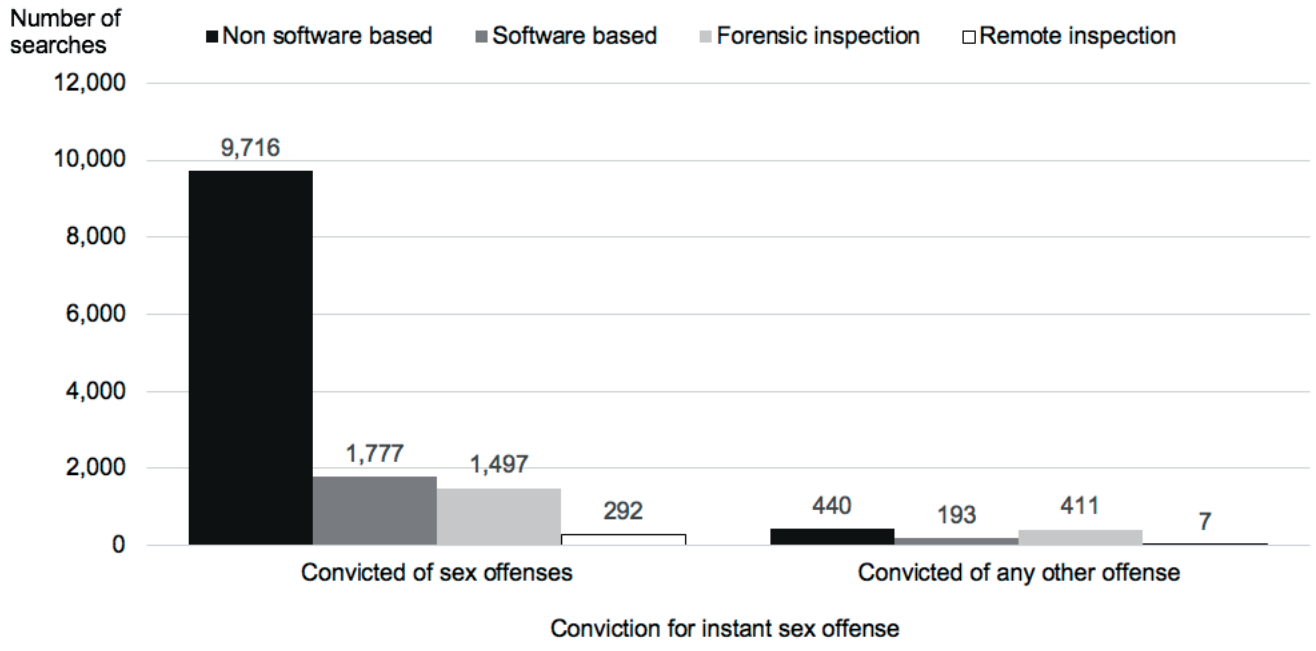
Table 5 (page 23) illustrates the presence of various safety or other issues (e.g., video recording, pre-search surveillance) that arose during an executed search and the association between these safety issues and the searched supervisee's PCRA risk levels and most serious conviction offenses.[12] Officers reported restraining supervisees in 27 percent of searches, arresting supervisees in 16 percent of searches, dealing with safety incidents in 2 percent of searches, encountering risks in 15 percent of searches, and handling third parties in 51 percent of searches. All of these reported safety issues were more likely to be present among searches conducted for high- rather than low-risk supervisees. For example, officers were 4 times more likely to apply restraints for searches conducted on high-risk supervisees (48 percent restrained) than among searches applied to low-risk supervisees (12 percent restrained). Additionally, federal officers had to handle third parties in 38 percent of searches administered on low-risk supervisees, while third parties were an issue of concern for 70 percent of searches conducted on high-risk supervisees. These safety issues also arose more frequently for persons under supervision convicted of drugs or weapons offenses than for the other offense types.

[12] It should be noted that computer searches and plain view seizures were omitted from this table as safety issues were not applicable for these types of searches.

Seizure of Contraband

Illegal contraband was seized in about two-thirds of consent, exigent, or pre-planned searches (see Table 6, next page). It is important to note that, for this analysis, plain-view seizures are omitted, as these types of searches always result in the seizure of illegal items. Computer searches are also omitted, as

Figure 5. Number of computer search types conducted by instant conviction for sex offenses, fiscal years 2015 - 18



Note: Includes supervisees who received a computer search during the time period between fiscal years 2015-18.

TABLE 5.
Presence of safety and other issues by PCRA risk levels and most serious conviction offense

PCRA risk and most serious offense	Supervisee restrained/a	Supervisee arrested/a	Safety Incident occurred/b	Risk encountered/a	Search videotaped/a	Surveillance conducted/c	Third party present/a
All supervisees	27.2%	15.9%	1.8%	15.2%	31.2%	31.2%	51.1%
PCRA risk levels							
Low	11.5%	6.6%	0.6%	10.3%	32.7%	20.7%	37.9%
Low/Moderate	26.4	16.4	2.0	15.1	30.5	32.4	51.3
Moderate	39.0	22.5	2.0	18.8	30.2	38.2	59.2
High	48.1	25.8	3.8	21.2	31.5	39.1	69.6
Most serious conviction offense							
Drugs	42.9%	27.2%	3.2%	19.0%	29.8%	42.2%	65.2%
Financial	27.7	16.4	2.6	17.2	25.9	40.7	61.7
Sex offense	9.6	5.6	0.6	9.6	32.0	19.5	35.2
Violence	39.2	19.6	3.0	17.5	32.9	40.2	62.2
Weapons/Firearms	52.1	27.1	2.7	23.5	32.0	40.1	68.1

Notes: Presence of safety and other issues for supervisees convicted of immigration, obstruction, public-order or traffic offenses not shown as there were too few supervisees in these offense categories to produce reliable estimates.

a/Excludes computer searches and plain-view seizures.

b/Excludes computer searches.

c/Excludes computer searches, consent searches, exigent searches, and plain-view seizures.

relatively few of these searches (13 percent) resulted in contraband being seized (Pyburn, 2019). Among the remaining search types, exigent and pre-planned searches were more likely to yield illegal contraband than consent searches. About two-fifths of consent searches resulted in the seizure of contraband, while over 7 out of 10 exigent searches (78 percent) and pre-planned searches (73 percent) witnessed contraband being seized. By the PCRA risk levels, contraband was 10 percentage points more likely to be seized among high- compared to low-risk supervisees; however, among pre-planned searches, there were negligible differences in the contraband seizure rates across the four PCRA risk categories. In general, contraband seizure rates were highest for supervisees convicted of financial offenses and lowest for supervisees convicted of sex offenses.

TABLE 6.
Percent of searches with contraband seized by PCRA risk levels and most serious conviction offense (computer searches and plain-view seizures excluded)

	Percent with contraband seized			
PCRA risk and most serious offense	All searches	Consent search	Exigent search	Pre-planned search
All supervisees	68.2%	43.2%	78.0%	72.6%
PCRA risk levels				
Low	63.5%	34.9%	84.4%	71.8%
Low/Moderate	68.5	42.2	76.6	72.9
Moderate	71.4	54.6	74.8	73.5
High	73.7	75.0	78.2	72.0
Most serious conviction offense				
Drugs	72.8%	57.9%	77.6%	74.1%
Financial	77.7	72.7	74.6	79.7
Sex offense	62.6	34.2	78.3	71.0
Violence	70.6	64.3	73.0	70.7
Weapons/Firearms	73.0	61.8	79.7	72.2

Notes: Contraband seizures for supervisees convicted of immigration, obstruction, public-order, or traffic offenses not shown as there were too few supervisees in these offense categories to produce reliable estimates.

Percent estimations exclude computer searches and plain-view seizures.

Various forms of illicit contraband are often seized upon the successful completion of a search. The most common types of contraband seized included cell phones, illegal drugs, paraphernalia, computer hardware/software/electronic storage devices, ammunition, financial information and documents related to violations, weapons (firearms and non-firearms), pornography, and cash (Vicini, 2019). Cell phones were typically seized when officers conducted searches to investigate supervisees who were guilty of sex offenses or suspected of drug activity or financial crimes. Furthermore, various types of illegal drugs are frequently seized during searches including marijuana, methamphetamine, cocaine, heroin, fentanyl, designer drugs, and unauthorized prescription narcotics (Vicini, 2019). During fiscal year 2018, for example, one search yielded approximately 80 pounds of marijuana and 130 pounds of methamphetamine (Vicini, 2019). Other searches generated various weapons including pistols, hunting rifles, assault rifles, and shotguns. Lastly, officers reported recovering approximately $700,000 in cash during fiscal year 2018.

Searches and Recidivism

The final part of the extant study focuses on whether searches executed by federal probation officers are associated with reductions in rearrest activity by supervisees compared to supervisees who were never searched. When assessing the extent to which searches might be correlated with supervisee arrest patterns, it is important to account for the fact that searched supervisees differ on a variety of dimensions from non-searched supervisees. Specifically, searched supervisees diverged from non-searched supervisees on several factors associated with their likelihood of recidivism, including their PCRA risk scores, most serious conviction offenses, demographic characteristics, etc. In order to gauge whether supervisees subjected to searches manifested different arrest behavior from that of supervisees not searched, it is important to account or control for the various factors that could influence a supervisee's likelihood of recidivism outside the search event.

An exact matching process (see Cook, 2015) was used in order to statistically account or control for the dissimilarities between searched and non-searched supervisees. Exact matching works by randomly selecting searched and non-searched supervisees who possessed the same characteristics on several risk dimensions. The criterion used in the matching process included the supervisee's age, sex, race/ethnicity, most serious conviction offense, and raw PCRA risk score. After matching, the non-searched supervisee population had the exact same age, sex, race/ethnic, convicted offense types, and PCRA risk distributions as the searched population of persons under supervision (see Appendix, Table 1). Moreover, because computer searches are applied in a very different manner than non-computer searches, two additional matched subgroups were generated. The first compared supervisees subjected to a computer search with a matched group of non-searched supervisees, and the second compared supervisees who received a non-computer search with a matched group of non-searched supervisees. Hence, this process generated three subsamples comparing supervisees who were never searched with matched groups of supervisees receiving (1) any search, (2) computer searches, or (3) non-computer searches. [13]

An examination of the recidivism rates for the matched groups of searched and non-searched persons under supervision across the four PCRA risk levels is provided in Table 7. In general, supervisees who were searched during their supervision terms were significantly more likely to garner a new criminal arrest than non-searched supervisees. For example, the arrest percentages for searched high-risk supervisees were 10 points higher (46 percent arrest rate) than those of high-risk supervisees never subjected to any type of search (36 percent arrest rate).[14] This pattern of higher arrest percentages for the searched compared to non-searched supervisees held for all the PCRA risk classification categories.

A different pattern of supervisee rearrest activity, however, emerges when computer and non-computer searches are examined separately. In general, supervisees subjected to computer searches exhibited recidivism behavior similar to that of matched samples of non-searched supervisees. This finding held regardless of a supervisee's initial PCRA risk classification. Conversely, supervisees garnering non-computer searches were significantly more likely to be rearrested than matched groups of non-searched supervisees. This manifested itself across all the PCRA risk categories, indicating higher rates of failure for searched compared to similarly situated non-searched supervisees.

The finding of higher recidivism rates for supervisees with non-computer searches compared to similarly situated non-searched supervisees can be explained by the nexus between searches and the searching officer's discretion to have law enforcement personnel present at the search to effect an arrest.[15]

TABLE 7.
Percent of matched searched and non-searched supervisees arrested for any offense by PCRA risk level

	Not searched		Searched	
PCRA risk & search type	Number of supervisees	Percent arrested	Number of supervisees	Percent arrested
Any search				
All supervisees	7,143	13.1%	7,143	20.5%***
Low	2,973	3.9	2,973	7.3***
Low/Moderate	2,210	12.9	2,210	22.4***
Moderate	1,416	23.5	1,416	35.5***
High	544	36.0	544	46.3***
Computer search				
All supervisees	4,193	9.1%	4,193	11.0%**
Low	2,366	4.1	2,366	5.5
Low/Moderate	1,147	10.6	1,147	12.7
Moderate	509	20.0	509	23.2
High	171	33.9	171	39.2
Non-computer searches/a				
All supervisees	4,345	17.4%	4,345	28.5%***
Low	1,228	4.9	1,228	11.0***
Low/Moderate	1,523	15.3	1,523	28.2***
Moderate	1,130	25.7	1,130	39.5***
High	464	37.3	464	49.6***

Note: Searched and non-searched supervisees matched on age, race/ethnicity, gender, most serious conviction offense, and PCRA raw scores.

Matching results in the loss of about 7% - 8% of supervisees searched.

a/Includes post searches, exigent searches, consent searches, and plain-view seizures.

***p < .01; ***p < .001*

[13] Given the differences in the use of searches at the district level, I also used logistic regression models with matched subsamples to control for the district where the searches were conducted. Results from the logistic regression models parallel those of the cross-tabulations highlighted in this report.

[14] Chi-square tests show all arrest rate differences between searched and non-searched persons under supervision testing at the .001 level.

[15] It is the policy of the Judicial Conference that a probation officer may not initiate a revocation proceeding by a warrantless arrest and must instead first obtain court approval, after which the United States Marshals Service shall execute the arrest warrant. Given the limitations placed on the federal

Specifically, law enforcement personnel from other local, state, or federal agencies are often present while a search is being conducted by federal probation officers, and these law enforcement officials have the authority to place a person under supervision under arrest prior to the search or at the time when illegal contraband is seized. An examination of the number of days between the search and arrest date, for example, reveals that 26 percent of supervisees who were both searched and arrested were arrested on the same day that they were searched (see Figure 6, below). Moreover, about 43 percent of supervisees subjected to a search and an arrest were arrested within 30 days of their search date. It should be noted that this pattern only held for non-computer searches.

Discussion

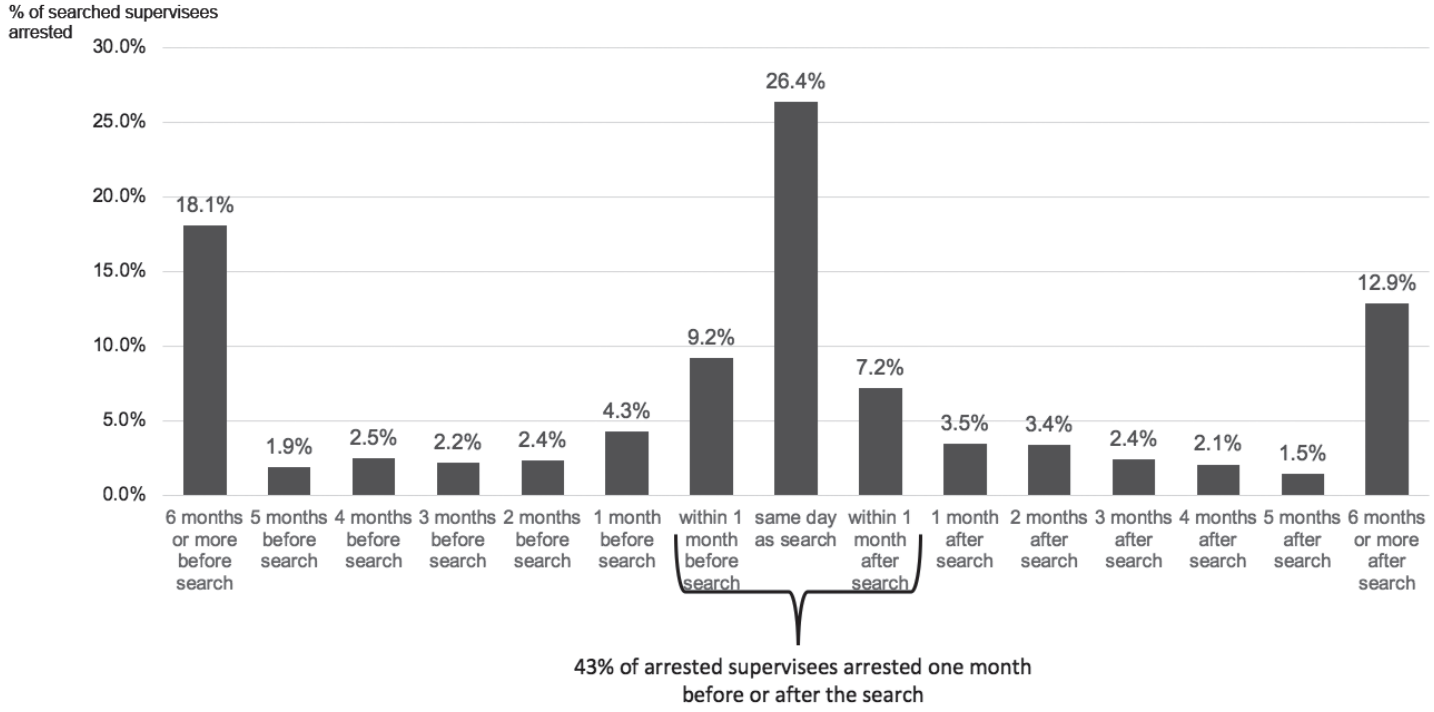
The current study provided a profile of searches conducted on persons under federal post-conviction supervision (that is, TSR or probation). In general, it found that the decision to execute a search was not closely associated with the risk characteristics of supervisees as measured by the PCRA; rather, searches tended to be offense-specific. Notably, the study found that federally supervised persons convicted of sex offenses were substantially more likely to be searched, searched on multiple occasions, and subjected to computer searches than those under federal supervision for non-sex related offenses (e.g., drugs, financial, violence, weapons, etc.). The concentration of searches on those convicted of sex offenses meant that searches were typically directed at supervisees whose supervision levels were adjusted upwards since, as previously noted, nearly all persons convicted of sex offenses initially designated into the PCRA low or low/moderate risk categories were placed by overrides into the highest supervision categories (Cohen et al., 2016). Moreover, certain districts used searches to a substantially greater extent than others, and the differential application of computer searches accounted for most of this inter-district variation. Finally, the majority of computer searches encompassed non-software related spot checks and usually did not uncover contraband. Given that many computer searches are not informed by the presence of reasonable suspicion, it should not be too surprising that most of these searches do not result in the successful seizure of prohibited/unlawful items.

Non-computer searches, in comparison, were somewhat more likely to be executed on supervisees classified as higher risk by the PCRA. Yet, these searches too were mostly focused on supervisees convicted of certain offenses, specifically drugs or weapons, and although there was some association between non-computer searches and supervisee risk, it is notable that relatively few of even the PCRA high-risk persons under supervision (about 5 percent) were subjected to non-computer searches. Non-computer searches tended to occur after approval of a pre-approved search plan, though a sizable minority took place under the plain view, exigent, or consent search doctrines.

Importantly, the current research shows that searches had mixed effects in terms of ensuring community safety. On the one hand, most non-computer searches yielded some form of contraband; about two-thirds of all non-computer searches and three-fourths of pre-planned searches resulted in contraband being seized. This is an important finding, as it demonstrates that when officers conduct searches because they have reasonable suspicion that illegal activity is taking place, and when these searches are executed purposively and strategically, they are likely to result in the seizure of illicit items. Many items seized during searches are often the products of criminal activity or could be used to commit future crimes. Hence, searches have the capacity to enhance community safety by removing illegal drugs, firearms, or cash from public circulation as well as keeping persons under supervision from using these items to either assist in the commission of or engagement in illegal conduct.

probation officer's arrest authority, law enforcement personnel from other entities are often present at searches for the purpose of placing a person under supervision on arrest.

Figure 6. Percentage of supervisees with non-computer searches arrested before, the same day of, or after the search occurred



While evidence suggests that seizure of contraband could improve community safety, the extant research also shows that searches were not correlated with improved recidivism outcomes. Specifically, supervisees subjected to any forms of search did not manifest lower rearrest rates compared to similarly situated supervisees who were never searched. The relationship between searches and rearrests, however, was highly dependent upon the type of search executed. Supervisees targeted with computer searches manifested recidivism rates similar to those of non-searched supervisees; conversely, supervisees receiving non-computer searches were more likely to be rearrested than their non-searched counterparts. The positive association between non-computer searches and arrests results from the fact that officers have discretion to authorize other law enforcement personnel present during the search to execute an arrest when contraband is discovered. In fact, the current study showed that sizable percentages of persons under supervision who had both a non-computer search and an arrest were arrested on the same day that the search occurred.

The current study's findings that searches are most frequently executed on those convicted of sex offenses and aimed at the cell phones and other electronic devices of these supervisees, that non-computer searches are not closely guided by the PCRA's risk classification categories but rather are centered on certain offense types (e.g., drugs and weapons), that the use of searches varies substantially across the federal judicial districts, and that searches are not associated with reductions in a supervisee's rearrest behavior suggest that this strategy of monitoring the behavior of persons under supervision might be better informed by the RNR framework of supervision. In light of this research, officers might want to consider modifying their search stratagems so that they more intensely target moderate- or high-risk supervisees as assessed by the PCRA.

It is also important to note that searches do produce several positive benefits. Importantly, the fact that a sizable percentage of non-computer searches resulted in the seizure of contraband illustrates that these monitoring techniques do uncover various forms of illegal behavior. Moreover, the intensive use of computer searches on those convicted of sex offenses constitutes a mechanism for monitoring these supervisees' internet activity for prohibited conduct. These specific forms of monitoring have the potential to enhance community safety and hence, should be encouraged. Whether the efficacy of searches could be further augmented by more closely grounding this technique within the RNR framework is a topic requiring further debate and discussion within the federal probation system.

References

Administrative Office of the U.S. Courts (2018). *An overview of the federal post-conviction risk assessment*. Washington, D.C.: Administrative Office of the U.S. Courts.

Alexander, M., & VanBenschoten, S. W. (2008). The evolution of supervision in the federal probation system. *Federal Probation*, *72*(2), 15–21.

Andrews, D., & Bonta, J. (2017). *The psychology of criminal conduct* (6th ed.). New York, NY: Routledge.

Cohen, T. H., Pendergast, B., & VanBenschoten, S. (2016). Examining overrides of risk classifications for offenders on federal supervision. *Federal Probation*, *80*(1), 12–21.

Cohen, T. H., & Spidell, M. (2016). How dangerous are they?: An analysis of sex offenders under federal post-conviction supervision. *Federal Probation*, *80*(2), 21–32.

Cook, D. (2015). *CCMATCH: Stata module to randomly match cases and controls based on specified criteria*. Retrieved from http://www.Danielecook.com.

Cybercrime Guidelines (2016). *Guide to judiciary policy: Part K cybercrime*. Washington, D.C.: Administrative Office of the U.S. Courts.

Hughes, J. (2008). Results-based management in federal probation and pretrial services. Federal Probation, 72(2), 4–14.

IBM Strategic Assessment. (2004). *Strategic assessment: Federal probation and pretrial services system*, Washington, D.C.: Administrative Office of the U.S. Courts.

Johnson, J. L., Lowenkamp, C. T., VanBenschoten, S. W., & Robinson, C. R. (2011). The construction and validation of the federal Post-Conviction Risk Assessment (PCRA). *Federal Probation*, *75*(2), 16–29.

Lowenkamp, C. T., Johnson, J., VanBenschoten, S., Robinson, C., & Holsinger, A. (2013). The Federal Post-Conviction Risk Assessment (PCRA): A construction and validation study. *Psychological Services*, *10*(1), 87–96.

Lowenkamp, C. T., Holsinger, A., & Cohen, T. H. (2015). PCRA revisited: Testing the validity of the Federal Post-Conviction Risk Assessment (PCRA). *Psychological Services*, *12*(2), 149–157.

Luallen, J., Radakrishnan, S., & Rhodes, W. (2016). The predictive validity of the Post—Conviction Risk Assessment among federal offenders. *Criminal Justice and Behavior*, *43*(9), 1173–1189.

Pyburn, P. (June 24, 2019). Fiscal year 2018 analysis of computer searches. *News & Views*, *44*(13), 1-2.

Search and Seizure Guidelines (2010). *Search and seizure guidelines for United States probation officers in the supervision of offenders on supervised release or probation*. Washington, D.C.: Administrative Office of the U.S. Courts.

Serin, R., Lowenkamp, C. T., Johnson, J., & Trevino, P. (2016). Using a multi-level risk assessment to inform case planning and risk management: Implications for officers. *Federal Probation*, *80*(2), 10–15.

Vicini, James (Bo). (2019). PPSO releases fiscal year 2018 search and seizure report. *News & Views, 44*(10), 1-5.

Statute citations

18 U.S. Code § 3561. Sentence of probation.

18 U.S. Code § 3583. Inclusion of a term of supervised release after imprisonment.

APPENDIX TABLE 1.
Matching searched and non-searched supervisees

	Non-Matched sample		Matched sample	
Matching variables	Supervisee not searched	Supervisee searched	Supervisee not searched	Supervisee searched
PCRA risk levels				
Low	28.2%	41.2%	41.6%	41.6%
Low/Moderate	38.4	31.0	30.9	30.9
Moderate	24.0	19.5	19.8	19.8
High	9.4	8.3	7.6	7.6
Avg PCRA score	7.7	6.9	6.8	6.8
Most serious conviction offense				
Drugs	47.5%	17.0%	18.0%	18.0%
Financial	16.3	5.8	5.7	5.7
Immigration/Customs	3.8	0.6	0.5	0.5
Obstruction/Escape	0.6	0.2	0.0	0.0
Public Order	0.8	0.7	0.3	0.3
Sex Offense	8.0	62.0	61.4	61.4
Traffic/DWI	0.2	0.0	0.0	0.0
Violence	6.0	3.1	2.8	2.8
Weapons/Firearms	16.9	10.8	11.3	11.3
Race/ethnicity				
American Indian or Alaska Native	4.9%	2.6%	2.2%	2.2%
Asian or Pacific Islander	2.9	1.5	0.8	0.8
Black, non-Hispanic	29.3	17.7	17.7	17.7
Hispanic, any race	25.4	9.3	8.7	8.7
White, non-Hispanic	37.5	68.9	70.7	70.7
Sex				
Male	82.9%	94.5%	95.5%	95.5%
Female	17.1	5.5	4.5	4.5
Avg age (in years)	39.5	42.3	42.2	42.2
Number of supervisees	136,126	7,795	7,143	7,143

Note. Table shows matching procedure used to generate equivalent groups of supervisees with supervisees with no searches and supervisees with any search. Similar matching approaches were used to generate subsamples of supervisees not searched who were matched with supervisees who received computer searches or supervisees targeted with non-computer searches.

Federal Presentence Investigation Report: A National Survey

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ONE OF THE MOST important decisions to be made in the criminal justice system is the selection of an appropriate sentence. The primary vehicle to assist in fulfilling this responsibility is the presentence investigation report. U.S. probation officers are tasked with conducting presentence investigations and with producing a high-quality professional presentence report.

The Probation and Pretrial Services Office (PPSO) of the Administrative Office of the U.S. Courts (AO) contracted with Abt Associates to conduct an evaluation of the presentence investigation process and presentence reports (PSRs). Presentence investigations are designed to collect relevant, objective, and verifiable information on defendants accused of a federal offense. This information is compiled into a comprehensive report to assist the court in making a fair sentencing decision and to assist corrections and community corrections officials in managing offenders under their supervision. The more accurately and efficiently officers complete the PSR, the more effectively the court will be able to perform its duties.[1]

The main objectives of the study were to: (1) determine PSR content most relevant to sentencing recommendations and decisions, and (2) understand tradeoffs of various investigative activities and approaches probation officers undertake. The surveys were designed to:

- Gauge overall perceptions of the "national PSR template" and perceptions about specific parts, sections, and other information within the PSR. (see Exhibit 1 for the parts and sections of the national PSR template as provided in Monograph 107.)
- Determine the extent of district-specific customizations to the template and understand the content of those customizations.
- Understand the degree to which various investigative activities occur across officer caseloads and the importance of those activities in informing judge and officer decisions.
- Identify potential improvements to the national template.

This study involved three key activities: (1) **survey development** consisted of identifying issues and content to be explored in the two surveys. It also included two focus groups (one group of 13 judges from the Criminal Law Committee and one group of 15 probation officers) that were used to develop draft surveys that were pilot-tested with focus group participants. (2) **Survey administration** comprised two electronic surveys: one sent to all 548 active district judges and another to 1,394 federal probation officers identified as "high-frequency users of current PSRs."[2] (3) **Analysis and reporting** consisted of compiling and analyzing the survey data, which was summarized for this report.

Results from the surveys will ultimately be used to assist PPSO in finding ways to modify and improve its existing standards for reporting and provide guidance on when officers should be conducting various presentence investigation activities.

(See Exhibit 1, next page.)

Survey Administration

PPSO's primary objective was to obtain survey results that were representative and generalizable to producers (officers) and users (judges) of the PSR. In service of that goal, the universe of judges and officers from whom PPSO wished to receive feedback was surveyed.

The response rate for judges was 47.6 percent and included responses from each circuit. For officers, the response rate was 79.6 percent and represented officers from 93 districts.[3] Table 1 (next page) summarizes the response rates and time in position for judges and officers who responded to the surveys.

Themes from Survey Responses

Several themes emerged from the survey results. Some of the more common themes included overall satisfaction with depth of information provided in the PSR, overall perceptions of the PSR, district customizations to the national template, reactions to specific parts of the PSR, and perceptions of officers' investigative activities related to the PSR.

[1] *Guide to Judiciary Policy* Vol. 8: Probation and Pretrial Services Pt D: Presentence Investigation Report (Monograph 107).

[2] High-frequency user was defined as an officer who completed 12 or more PSRs during an 18-month period that spanned from April 1, 2017, to September 30, 2018.

[3] Officers in Northern Mariana Islands were not surveyed.

1. Judges and Officers Are Generally Satisfied with the Depth of Information in the PSR

In response to "how satisfied are you with the depth of information provided in the PSR," 49.2 percent of judges indicated that they were "completely satisfied" and 45.5 percent were "satisfied" with the depth of information. Officers, in turn, were asked "how satisfied are you with the depth of information you need to provide in the PSR"; 45.7 percent of officers reported being "completely satisfied" and 46.7 percent are "satisfied" with the depth of information they need to provide.

Most judges and officers reported being satisfied regardless of tenure. Judges with more than 10 years of experience appear to be "completely satisfied" with the depth of information provided in the PSR (53.4 percent), while judges with 1-5 years of experience are merely "satisfied" (56.1 percent). Similar to judges, officers with the most experience are likely to be "completely satisfied" with the depth of information (48.5 percent), whereas those with the least amount of experience (less than one year) are more likely to be "satisfied" (58.8 percent).

Survey results indicate that the majority of judges (94.7 percent) and officers (92.4 percent) expressed being either "completely satisfied" or "satisfied" with the overall depth of information provided in the PSR, regardless of tenure, district, or circuit. Furthermore, most judges and officers are also satisfied with the amount of information provided within each section of all parts of the PSR—a majority of judges and officers indicated that the level of detail provided in all sections of each part is "just right."

In general, these findings suggest that although judges and officers find the depth of information provided in the PSR to be satisfactory, they also believe there is room for improvement.

2. Information within the PSR is Important for Judicial Sentencing Decisions and Officer Sentencing Recommendations

In addition to their overall satisfaction with the depth of information provided in the PSR, judges were asked to identify the importance of each section of the PSR to their sentencing decisions. Officers were asked their opinion about the importance of each section for informing judicial sentencing decisions and for sentencing recommendations.

Although all sections of the PSR are deemed important to some degree by both judges and officers, some sections are deemed significantly more important than others. Judges and officers agreed that the defendant's criminal history was the most important section when it comes to sentencing decisions (87.4 percent and 83.7 percent, respectively). However, judges reported that offender characteristics (78 percent) and the offense (69.8 percent) were the next two most important sections when making sentencing decisions; officers listed the offense (81.6 percent) and sentencing options (57.8 percent) as the second and third most important sections of the PSR for informing sentencing decisions.

When it came to sentencing recommendations, officers were consistent with the sections they thought were "very important": defendant's criminal history (89.8 percent), the offense (86 percent), and sentencing options (60.7 percent). These findings are interesting not principally because of the order of importance selected, but because of the disparity between the importance of the sections. For example, 78 percent of judges consider offender characteristics to be very important in sentencing decisions, but only 56.6 percent of officers felt the same. In contrast, 81.6 percent of officers thought the offense was very important, but only 69.8 percent of judges thought the same. Consequently, officers may be providing more detail than judges think necessary on certain sections.

3. Few Districts Have Made Significant Customizations to the National PSR Template

It is not uncommon for districts to customize national reports to better accommodate their local practices, and the national PSR template is no different. Officers were asked if their district had customized the national PSR template, and 39.3 percent (who represent 85 of the 93 districts surveyed) indicated that their district has made customizations. Another 41.2 percent were unsure if their district had made customizations, while 19.5 percent said their district had not made customizations.

Few officers said that their district modified

EXHIBIT 1.
Parts and Sections of the National PSR Template

Face Sheet	**Part C: Offender Characteristics**
Part A: The Offense	*Personal and Family Data*
Charges and Convictions	*Physical Condition*
The Offense Conduct	*Mental and Emotional Health*
Victim Impact	*Substance Abuse*
Adjustments	*Education and Vocational Skills*
Enhancements	*Employment Record*
Offense Level	*Financial Condition (Ability to Pay)*
Part B: The Defendant's Criminal History	**Part D: Sentencing Options**
Juvenile Adjudications	*Custody*
Adult Criminal Convictions	*Impact of Plea Agreement*
Criminal History Computation	*Supervised Release*
Other Criminal Conduct	*Probation*
Pending Criminal Charges	*Fines*
Other Arrests	*Restitution*
	Denial of Federal Benefits
	Part E: Factors that May Warrant Departure
	Part F: Factors that May Warrant Variance
	Sentencing Recommendation

TABLE 1.
Response Rates and Time in Position of Respondents

Response Rates	Judges	Officers
Number Surveyed	548	1,394
Number Responded	261	1,110
Percent Responded	47.6%	79.6%
Time in Position	**Judges**	**Officers**
Less than 1 year	5.7%	1.5%
1 to 5 years	23.3%	29.8%
6 to 10 years	28.6%	22.3%
More than 10 years	42.4%	46.4%

particular sections within each of the Parts. Officers provided free-text responses to describe some of the "other" customizations that took place in their district. District customizations included:

- Adding entire parts to the template (65.2 percent) added a section on reentry needs
- Streamlining or combining parts of the template (36.3 percent) added macros, building blocks, or drop-down menus
- Removing parts of the template (28.4 percent)
- Other changes (17.2 percent) changed the language or format

4. There is Some Nuance to How Judges and Officers Responded

Table 2 displays the combined percentages of "very important" and "important" responses that judges and officers provided about the importance of each part of the PSR for making sentencing decisions. Although both judges and officers believe all parts of the PSR are important for making a sentencing decision, on average, a higher proportion of officers than judges felt that way. Officers had a higher percentage on five of the eight parts identified on the national PSR template when it came to believing a part was "very important" and "important" for making a sentencing decision. With the exception of the *Face Sheet* and *Offender Characteristics*, the differences between judges' and officers' responses were slight.

TABLE 2.
Importance of Parts of the PSR for Making Sentencing Decisions

National PSR Template Parts	Judges	Officers
Face Sheet	70.7%	50.8%
A: The Offense	93.1%	95.9%
B: The Defendant's Criminal History	99.6%	97.2%
C: Offender Characteristics	97.9%	84.2%
D: Sentencing Options	80.7%	85.8%
E: Factors that May Warrant Departure	69.3%	72.7%
F: Factors that May Warrant Variance	71.0%	75.0%
Sentencing Recommendation	64.5%	66.1%

5. In General, Judges are More Likely than Officers to Support Potential Modifications to the National PSR Template

There were three sections (*Part B: Defendant's Criminal History*, *Part C: Offender Characteristics*, and *Part D: Sentencing Options)* in which judges and officers were asked to provide their reactions to potential modifications to the national PSR template. In each of the three sections, judges were more likely than officers to support the modifications.

In Part B: Defendant's Criminal History, judges were asked if a summary paragraph (see Exhibit 2) of the defendant's criminal history would be helpful to them while officers were asked if the summary paragraph would be something that judges would want.

Judges

- 46.1 percent said that it would be helpful to include in the Defendant's Criminal History section.
- 33.5 percent said that a summary paragraph like this would NOT be helpful.
- 2.4 percent said it would be helpful to include, but not in the Defendant's Criminal History section.

Officers

- 51.3 percent said that a summary paragraph like this would NOT be helpful.
- 19.8 percent reported that their district already provides a similar paragraph, but in a different place.
- 7.9 percent thought it would be helpful to include the summary paragraph in the Defendant's Criminal History section.
- 6.2 percent thought it would be helpful to include the summary paragraph, but not in the Defendant's Criminal History section.

In Part C: Offender Characteristics, judges were asked if a streamlined summary presenting major life events from *Part C: Offender Characteristics* with criminal history events from *Part B: The Defendant's Criminal History* in which the information is synthesized in a chronological narrative would be helpful to them (see Exhibit 3, next page). Officers were asked whether they thought the summary paragraph would be something judges within their district would want (if the technology was available and user friendly to prepare the summary).

Judges

- 73.3 percent thought it would be helpful if provided in addition to information already provided.
- 15.8 percent did not think it would be helpful.
- Officers
- 38.5 percent thought it would be something judges in their district would want.
- 28.4 percent did not think it would be something judges in their district would want.

Interestingly, officers were more likely to think the streamlined summary would be something other users of the PSR in their district would want (41.4 percent) than to think their judges would want it (38.5 percent).

Last, in the **Sentencing Options** section, judges and officers were provided with an example of an alternative format for presenting the applicable penalty range information that is currently in narrative format in the national PSR template (see Exhibit 4, next page). Judges were asked if the alternative format would be helpful to them, while officers were asked if they felt the alternative format would be something judges in their district would want. Both questions assumed that the *Impact of Plea Agreement* and the *Restitution* sections would remain unchanged.

Judges

- 61.2 percent said "Yes," the alternative formatting would be helpful to them.
- 24.9 percent reported that this information is already presented this way in their district.

Officers

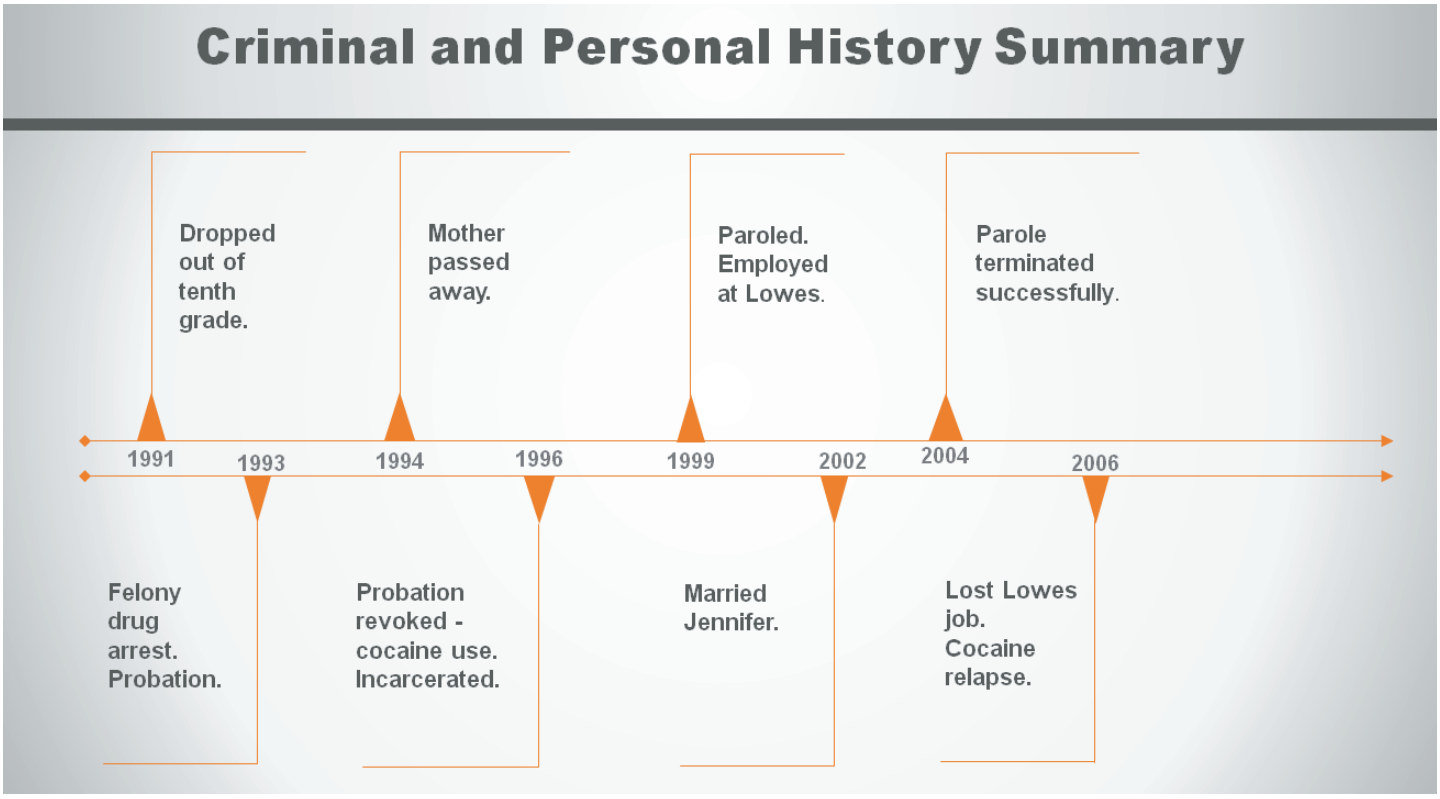
- 40.6 percent thought judges would want the alternative format *in place of* the detailed narrative penalty sections.
- 19.7 percent indicated that their district already uses an alternative format either *in addition to* (17.4 percent) or *in place of* (2.3 percent) the detailed narrative penalty sections.
- 16.8 percent were unsure if their judges would want the alternative format.

Judges were also asked if this format could

EXHIBIT 2.
Example Paragraph

The defendant was first arrested at age 16 and his criminal conduct spans the next ten years. He has two prior drug-related felony convictions (age 20 and 24), a misdemeanor assault conviction (age 21), and petty offenses involving marijuana and public intoxication. He committed one prior felony while on probation and his supervision was revoked.

EXHIBIT 3.
Example of Streamlined Summary of Major Life and Criminal History Events



replace the detailed narrative penalty sections; 62.4 percent of judges replied "Yes," and 11.4 percent were "Unsure."

6. Judges and officers Agree that Not All Investigative Activities Are Important in All Cases

In general, most judges and officers feel that investigative activities should be conducted in at least some cases and these expectations were highest for the following activities:

- Defendant interview
  - 100 percent of *judges* indicated either in "some, most, or all" cases.
  - 99.7 percent of *officers* indicated in "some, most, or all" cases.
- Verification of criminal history
  - 99.2 percent of *judges* specified in "some, most, or all" cases.
  - 99.7 percent of *officers* specified in "some, most, or all" cases.
- Collecting documentation of self-reported information
  - 96.6 percent of *judges* reported in "some, most, or all" cases.
  - 99.4 percent of *officers* reported in "some, most, or all" cases.
- Thorough financial investigation
  - 95.9 percent of *judges* stated in "some, most, or all" cases.
  - 99.2 percent of *officers* stated in "some, most, or all" cases.

Both judges and officers recognize that some investigative activities are not required in all cases, specifically in immigration/illegal reentry cases.

7. In General, Judges' Expectations for and Officers' Conduct of Investigative Activities Are Consistent

Judges expect officers to conduct all investigative activities for at least some of their cases, and for the most part there is agreement between judges' expectations and officers' actual conduct. Nearly all of the judges said the defendant interview (88.5 percent) and verification of criminal history (85.2 percent) should be conducted in "All" cases. Close to half of the judges expect officers to assess suitability for voluntary surrender (49.6 percent) and to collect documentation of self-reported information (44 percent). Similarly, 87.5 percent of officers indicated that they conduct defendant interviews, and 95.7 percent verify criminal history in all their cases. Three out of four officers collect documentation of

EXHIBIT 4.
Alternative Formatting for Applicable Penalty Range Information in Part D: Sentencing Options

	Statutory Provision	Guideline Provision	Plea Agreement
CUSTODY	NMT 20 years, 49 U.S.C. § 46504	4 to 10 months	None
SUPERVISED RELEASE	NMT 3 years, 18 U.S.C. § 3583(b)(2)	2 to 3 years	None
PROBATION	1 to 5 years, 18 U.S.C. § 3561(c)(1)	1 to 5 years	None
FINE	NMT $250,000, 18 U.S.C. § 3571.	$500 to $5,000	None
RESTITUTION	$0	None	$0
SPECIAL ASSESSMENT	$100	$100	None

self-reported information, and nearly two-thirds conduct independent investigations of offense conduct. However, there are some exceptions to the synthesis of expectations and conduct, notably when it comes to conducting actuarial risk assessments as part of investigative activities. Although 68.1 percent of judges expect officers to complete the investigative activity in "some, most, or all" of their cases, 92.5 percent of officers indicated that they do not conduct actuarial risk assessments on any of their cases when completing the PSR.

8. Officers Are Not Using Actuarial Risk Assessment Tools when Completing the PSR

The vast majority of officers (94.3 percent) indicated that they never use an actuarial risk assessment tool (e.g., PCRA, LSI-R, LS/CMI, COMPASS) when completing the PSR. Of the 4.7 percent of officers who said they do use an actuarial risk assessment tool, 96.4 percent stated that they never include the score on the PSR. Additionally, officers were asked how much they agree with several statements about the utility of actuarial risk assessment tools:

Responses to these statements indicate that officers either mostly disagree with the statements or are unsure of the value of actuarial risk assessment tools relative to their other job activities.

Recommendations

Based on the themes identified from the survey results, several recommendations were generated for PPSO to consider moving forward with any potential changes to the structure and content of the PSR.

Do Not Make Major Changes

We recommend that PPSO not make any major changes to the structure and content of the national PSR template without further investigation. Although there was consensus between judges and officers that modifications (i.e., presenting applicable penalty range) to Part D: Sentencing Options would be useful, PPSO could benefit from investigating changes districts have already made and the purpose for which they were made before instituting national changes.

Explore Reactions to Proposed Modifications

PPSO may want to consider exploring some of the nuances of the results, especially reactions to proposed modifications, in more detail. For example, regarding Part B: The Defendant's Criminal History, judges were more likely than officers to say that including a summary paragraph of defendants' criminal history would be helpful to have in this part. Given the value to judges of including a summary paragraph, and the lack of difficulty reported by officers who are already generating such a summary, we recommend that PPSO explore implementing this and similar modifications.

Collaborate with Districts and Judges

As part of their exploration of modifications, we recommend that PPSO work with officers to get a better understanding of what potential obstacles (e.g., lack of resources, training, time) they may face if modifications are made to the national PSR template and work with districts to minimize those obstacles. We also recommend that PPSO work with districts to facilitate buy-in with potential changes and to ensure that officers understand the value of such modifications to judges.

Additionally, we suggest that PPSO engage judges to investigate the possible tradeoffs in reducing or eliminating some details in sections of the PSR where officers feel they provide "too much detail."

Educate Officers on Benefits of Actuarial Risk Assessment Tools

Actuarial risk assessment tools are of great importance to PPSO, and survey findings show that many judges expect officers to conduct an actuarial assessment as part of their investigative activities. However, the vast majority of officers are not using them nor do they seem to understand their value. If PPSO continues to move in the direction of promoting actuarial risk assessment tools as a best practice, we recommend that PPSO work with districts to educate officers on the benefits of these tools through trainings to increase understanding and buy-in.

Developmentally-Grounded Approaches to Juvenile Probation Practice: A Case Study[1]

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JUVENILE PROBATION IS the most common service ordered by the court, reaching approximately 2,500,000 youth per year in the United States (Sickmund, Sladky, & Kang, 2018). Probation can have a significant impact on a youth's future developmental trajectory (Minor & Elrod, 1994; Young, Farrell, & Taxman, 2012) and is worthy of increased attention to ensure it is aligned with promoting youth development. Recent calls to examine the alignment of juvenile probation with principles of youth development have yielded theory-based guideposts for modifying practice (Butts et al., 2007; Goldstein, NeMoyer, Gale-Bentz, Levick, & Feierman, 2016; Schwartz, 2018). Yet, little is known about how these principles can be effectively and feasibly translated into real-world practice.

Probation originated as an alternative to detention and operated outside of the courts' direct supervision (Schwalbe, 2012). As the model grew in popularity, it was increasingly brought under the administration of the courts and operated as an extension of the courts' authority in the community. Consequently, the primary purpose of probation has shifted over time, from rehabilitation to compliance monitoring, with the lines between these two functions often unclear. As noted by Schwalbe (2012), theories guiding approaches to probation are contradictory, and there are wide differences in observed practice among probation officers (Skeem & Manchak, 2008). The two philosophical ends of the probation spectrum are control and care, with practices at either end bearing little resemblance to each other (Paparozzi & Gendreau, 2005). On the control end, probation practice is focused on surveillance through the monitoring of court orders. Officers act as extensions of the court's authority and access the court's authority through violations that lead to detention time or extended sentences. The surveillance approach is the most common approach to probation (Skeem & Manchak, 2008), despite being generally ineffective in reducing recidivism (Gendreau, Goggin, Cullen, & Andrews, 2000; Hyatt & Barnes, 2014).

At the other end of the continuum, the care orientation to probation approaches supervision largely as social work. Officers aligned with this approach may service referrals to rehabilitative programs (Taxman, 2008) and/or directly provide skills coaching to probationers (Whetzel, Paparozzi, Alexander, & Lowenkamp, 2011). Improvements in assessment and referral typically involve the implementation of structured risk and needs assessments to guide service referrals based on the risk of re-offense and personal risk factors (Vincent, Guy, & Grisso, 2012; Andrews & Bonta, 2010; Andrews, Bonta, & Wormith, 2011; Schwalbe, 2012). Examples include the recent NIDA-funded JJ-Trials' effort to increase the identification and referral of youth with substance use needs to external treatment providers (Knight et al., 2015), and organizational change initiatives focused on the implementation of validated risk and needs assessments (Guy, Nelson, Fusco-Morin, & Vincent, 2014; Vincent et al., 2012).

Efforts to reform the therapeutic elements of probation supervision directly have more often been studied with adult rather than youth probationers. These efforts show promising effects (Smith, Schweitzer, Labrecque, & Latessa, 2012; Trotter & Evans, 2012). For example, a study by Raynor & Vanston (2016) found that probation officers' use of relationship skills and "change-promoting" skills was associated with significantly lower

[1] 1 Acknowledgements: This study was supported with a grant from the Annie E. Casey Foundation.

reconviction rates. Overall, however, the use of problem-solving, goal-setting, and emotional regulation skills are generally infrequently used or endorsed by juvenile probation officers as a core job function (Schwalbe, 2012; Trotter & Evans, 2012).

The study of the integration of rehabilitative principles within probation practice is occurring simultaneously with calls to integrate principles of adolescent development in all facets of juvenile justice practice (National Council of Juvenile and Family Court Judges [NCJFCJ], 2018; Schwartz, 2018). The National Research Council released a report in 2012 calling for the reformation of juvenile justice to align with positive youth development principles, including the use of "clearly specified interventions rooted in knowledge about adolescent development and tailored to the particular adolescent's needs and social environment" (p. 10). In 2015, the Annie E. Casey foundation put out an RFP for probation sites interested in developing innovative and transformative models of probation supervision as a response to a number of concerns about the ineffectiveness of traditional surveillance models (Latessa, Smith, Schweitzer, & Labrecque, 2013; Lipsey, 2009). In the foundation's vision, juvenile probation should be limited to youth at the highest risk of reoffense, caseloads should be smaller, and there should be a greater focus on positive development, community engagement, and family support (Mendel & Bishop, 2018). Similarly, in 2017, the NCJFCJ published a resolution calling for the integration of adolescent brain development into juvenile and family courts. In the resolution, the NCJFCJ noted the inherent differences between youth and adults and called for individualized probation services and conditions, family engagement, and community partnerships.

Contemporary juvenile probation practice largely reflects the approach developed for adult probationers, and distinctions in practice between the two populations are not commonly made in the general literature. Consequently, juvenile probation practices are not typically informed by developmental differences in information and emotional processing (King, Fleming, Monahan, & Catalano, 2011), the influence of peers (Butters, 2004), or the influence of families on youth behavior (Chan, Kelly, & Toumbourou, 2013; Dembo, Williams, Wothke, Schmeidler, & Brown, 1992; Guo, Hill, Hawkins, Catalano, & Abbott, 2002). To date, efforts to improve juvenile probation practice have largely focused on improving methods of treatment identification and referral, not directly on the practice of probation supervision itself. Little is known about what developmentally informed probation might look like and whether it would be feasible to implement.

National calls for fundamental reform in juvenile probation recognize the need for adult models to be tailored to better support adolescent development. These calls explicitly or implicitly value a rehabilitative approach to probation rather than surveillance models. At the same time, the changes called for by these influential policy and funding organizations are significant and will require fundamental shifts in the conceptualization and management of probation. In this article, we discuss the process of developing a developmentally-informed model of juvenile probation and examine strengths and challenges of the approach with lessons for other jurisdictions attempting similar reforms.

Overview of Opportunity-Based Probation

The project was a collaboration between the Pierce County Juvenile Court in Washington State and the University of Washington. Pierce County is the second largest jurisdiction in the state, spanning urban, suburban, and rural settings. The probation department has 19 field officers and 2 supervisors, serving 418 youth a year. The project was funded by a competitive Annie E. Casey Probation Transformation grant in which the court articulated a vision for more family-engagement and developmentally informed probation practice. Pierce County had been involved with the Foundation's Juvenile Detention Alternatives Initiative from 2002 and had already demonstrated the capacity to make substantial organizational changes within the area of detention practice and policy. The county applied for the grant because they saw youth returning to probation multiple times even after receiving rehabilitative, evidence-based services. While unsure of what direction reforms might take, the court wanted help in their efforts to support longer term youth development while reducing caseload size and reoffending.

The University of Washington team (PI and research staff) used codesign to develop the model with the court, a specific research to practice methodology (Jagosh et al., 2012; Verbiest, 2018). Co-design is a participatory strategy used to enhance several aspects of program development, including 1) acceptability and feasibility for real-world practice; 2) long-term buy-in and ownership within the development site; and 3) reciprocal learning for the research team about the business demands and expectations of practice sites. In codesign, the researchers' role is to locate and synthesize research findings relevant to the community agency's goals and assist in integrating these principles within real-world programming (Jagosh et al., 2012). The design team included a research psychologist with specialization in adolescent behavioral health and public systems (first author), a probation supervisor, and four probation officers representing a mix of different probation caseload types (sex offender, low/medium/high risk, mental health, substance use). The workgroup also brought in additional stakeholders at different times as needed, including support in information technology, research analysis (second author), and probation management staff.

The design process occurred in four phases: development, piloting, and evaluation and refinement (Martin, 2012). In the development phase, the researcher facilitated biweekly and then monthly workgroup meetings that began with mapping system values and reviewing the research literature on behavior change and motivation principles for adolescents (six months). The workgroup members were also asked to brainstorm techniques and strategies they observed working well to motivate youth, promote success in meeting conditions of probation, and promote improvements in well-being and functioning, as well as areas they wanted to see improve in youth and caregiver engagement and interactions with probation. These values and observations were then discussed in light of available research on adolescent development (Steinberg, 2007), behavior change principles (Higgins & Silverman, 1999; Kok et al., 2015; Moller et al., 2017), and behavioral health treatment strategies for adolescents (Morean et al., 2015; Whittle et al., 2014). The group also reviewed some programmatic examples of efforts to promote more effective behavior change and motivation in probation, including an adult probation model, JSTEPS, developed by Taxman and colleagues (Taxman, 2012), and contingency management for addiction treatment for adolescents (Henggeler et al., 2008).

After reviewing and discussing this literature, the workgroup came to consensus on a set of guiding principles (Table 1, next page) related to rewards, positive recognition, family

support, and preparing stakeholders to accept a new view of probation. These included six principles of adolescent development (drive towards independence, heightened responsivity to rewards, underdeveloped cognitive control, underdeveloped capacity for forward thinking, sensitivity to home environment/parenting, strongly influenced by peers). At least one practical strategy was identified for each research principle. For example, the practical strategies of "youth shapes goals and probation plan with the probation officer" and "probation focuses on connecting youth to community opportunities" were identified under the research principles of "Drive towards independence."

The Prototype Model

In the next phase of design (six months), the workgroup developed a prototype model by applying these guiding principles to the probation case management system already in place. The existing case management system was a structured approach to the identification of needs and triage to services guided by the Risk, Needs, Responsivity model (Andrews, Bonta, & Wormith, 2006). An exhaustive description of the previous model is outside the scope of this paper, but the workgroup focused on elements of the model that could be reasonably adapted without straining the definitions of the internal and state quality assurance requirements. These constraints included: (1) maintaining the general structure of completing an assessment and case plan to guide probation services, (2) retaining a focus on reducing criminogenic needs, (3) meeting the conditions of probation necessary for the youth to have their record sealed (completing restitution and/or community service hours), (4) filing warrants or probation violations for behaviors considered to be flagrant violations of court orders (not residing in an ordered placement/home, failing multiple urinalysis tests, or failing to meet with the probation officer for supervision meetings), and (5) continuing to use evidence-based practices available through court services when indicated. The constraints imposed by these requirements were used as a framework to develop a prototype model that met the guiding values and principles identified by the workgroup.

The prototype of OBP (Table 2) integrated new practices within the four phases of typical probation: pretrial, assessment, case planning, and supervision. The new practices reflected guiding principles around (1) family engagement, (2) structured goal setting, (3) rewards, and (4) positive youth development.

In pretrial, the probation officer provided a brief overview of the OBP model to the youth and parent while they were going through the court hearing process prior to receiving a disposition. During this time, the officer awarded the youth small prizes (rewards) for attending hearings and for completing any pre-disposition activities (e.g., receiving a behavioral health assessment). After disposition and being placed on probation, the PO conducted a risk/needs assessment in a meeting with the youth and caregiver in keeping with the usual probation practice to identify areas of highest needs and strengths related to identified criminogenic needs. Following the assessment meeting, the probation officer then held a separate one-on-one meeting with the caregiver for a focused discussion about the probation process (Family Engagement). Building from research on effective family engagement strategies, this meeting focused on building rapport, clarifying caregiver concerns, and increasing the caregiver's investment in the process. Holding this meeting separately from the assessment was considered important, because it provided a space where the PO could validate the parents' concerns and frustrations without the youth feeling shamed or defensive. In addition to this rapport building, the probation officer discussed the parents' most significant concerns so that they could be brought into a case planning meeting with the youth. Finally, in the caregiver meeting, the probation officer explained how any problematic or noncompliant behaviors by the youth would be handled to prepare the parent for incremental progress and a reward-based structure.

TABLE 1.
Mapping of OBP Model onto Principles of Adolescent Development

Adolescent Development Principle	OBP Model Adaptation
Drive towards independence	Youth shapes goals and probation plan with the probation officer. Probation focuses on connecting youth to community opportunities.
Heightened responsivity to rewards	Success is reinforced with incentives meaningful to the youth.
Underdeveloped cognitive control	Success is frequently and immediately reinforced. Violations or problem behaviors are addressed rapidly.
Underdeveloped capacity for forward thinking	Only three goals are monitored weekly. Probation officers teach and coach goal setting and problem-solving skills.
Sensitive to home environment and parenting	Parent/guardians are engaged upfront as partners in probation. Parents/guardians are supported to proactively address problem behaviors and reinforce positive behaviors.
Strongly influenced by peers	Weekly goal setting and community opportunities support the youths' transition to prosocial peers and community involvement.

TABLE 2.
Components of OBP Model by Probation Phase

Probation Phases	Model Components
Pre-Trial	Provide OBP overview. Provide points for attending hearings, staying crime free and other goals at PC discretion.
Assessment	Conduct risk assessment as usual.
Parent Meeting	At risk assessment or another time, hold parent-only meeting. Discuss parent goals and plans for addressing "relapse" behaviors.
Feedback and Planning session	Briefly review the court order. Develop the feedback goal sheet. Ask youth to identify community opportunity and desired material rewards.
Supervision	Check in weekly, in person biweekly. Set new weekly goals to move youth towards community opportunity. Coach parents on restorative plans when youth not adherent with responsibility and probation goals. Reduce time at PC discretion following community opportunity. At the end of probation, have youth participate in quarterly graduation ceremony.

After holding an assessment and parent meeting, the PO met with both the youth and the caregiver to hold a case planning meeting where they would review the results of the risk/needs assessment using a motivational interviewing (MI) approach (Miller, 2002). Using MI is also an expectation of the non-OBP probation model for developing case plans. In OBP, the probation officer also brought in the caregiver feedback about primary areas of concern and a discussion of the youth's strengths and interests to develop goals (Structured Goal Setting) in three areas: probation goals, responsibility goals, and life goals. Probation goals reflected criminogenic needs and were broken into 1-3 concrete action steps for each week. Using a previous example, if a youth had difficulty managing anger that was driving violent behavior in the home, concrete action steps might include attending an evidence-based group treatment session during that week, identifying common anger triggers and bringing them into the supervision meeting for discussion, and identifying one specific coping skill to practice. As youth were successful with goals, the probation officer shifted them to demand slightly more of the youth. This could include practicing more difficult skills in the same goal category or shifting to a new area (e.g., school attendance). Only one major goal was identified for a youth at a time, but the goal could have up to three subgoal action steps for the week. The responsibility goal was focused on home behaviors that reflected the major area of concern of the caregiver. Identifying this goal occurred in the family meeting and was facilitated by the probation officer, who worked with the caregiver to operationalize a large expectation (e.g., helping out around the house more) into an observable and achievable weekly goal (e.g., do one load of laundry a week). The caregiver was fully responsible for monitoring this goal and letting the probation officer know on a weekly basis whether it was accomplished. The purpose of identifying this caregiver-driven goal was two-fold: To model setting concrete and achievable goals for youth, and to involve the caregivers in positive reinforcement through the awarding of weekly points.

After setting goals in the case planning meeting, the model moved to field supervision. In field supervision, the youth was awarded points and material rewards for successfully accomplishing goals (Rewards). The probation officer checked in with the youth and caregiver weekly until the youth obtained enough points to decrease the frequency of supervision meetings. In this pilot version, points would accumulate until youth decided they wanted to cash points in for prizes. Youth could cash in points for small prizes more frequently or large prizes less frequently. Specific benchmarks of earned points also allowed the youth to earn early time off from probation and a community "opportunity" (Positive Youth Development). Community opportunities were internships, classes, jobs, and other opportunities to develop skills that aligned with the youth's interests and goals for the future.

Current Study

The data used to study the outcomes of this model in Pierce County were primarily qualitative. We obtained this data from a focus group of the pilot project officers and four in-depth interviews with parents (2) and youth (2) who participated in the pilot. The interviewers and focus groups were designed to capture information on feasibility and acceptability of the model. Data from these interviews were summarized and discussed with the design group to inform subsequent refinements to practice. The participating subjects included five probation officers and two probation supervisors who were involved in the pilot of OBP. Three of these probation officers had been involved in the workgroup and two of the probation officers became involved at the piloting stage. One of the supervisors had also been involved extensively in the design process, while the second supervisor knew of the program primarily through his supervision of probation officers involved in the pilot. Consequently, the feedback group was mixed, with those who were involved in development and those who were trained on the model after development. As the officers were expected to deliver OBP without any additional compensation, we viewed all responses as honest assessments of whether the model was feasible to implement, regardless of potential benefits for youth. The probation officers ranged widely in experience, with a minimum of four years of experience in juvenile probation. Two of the probation officers were also involved in the court's quality assurance team and helped train other probation officers on adhering to the state standards for probation case management.

Method

Probation officers and supervisors were asked to participate in a two-hour focus group facilitated by the research team, which included the research facilitator of the OBP workgroup and a research assistant supervised by the facilitator. Focus group participation was voluntary, and participants were given the opportunity to submit their feedback in a non-interview format. The OBP workgroup probation supervisor and the research facilitator collaboratively developed questions to guide the focus group. These questions included: (1) How does OBP differ from your previous approach? (2) What principles in OBP have the most potential to work well to support youth development? (3) What principles seem to work well for mostly all youth and which, if any, work well for some youth and not others? (4) What needs improvement and should anything be eliminated? (5) What specialized skills might probation officers need to implement OBP correctly? and (6) What would you recommend for next steps in developing and implementing the OBP model?

The research team captured the focus group through audio recording and handwritten notes. The recordings were transcribed using an online transcription program, and reviewed by the research team for accuracy. The focus group transcript and notes were subjected to four rounds of content analysis, using the constant comparative method (Glaser, 1965). An analyst on the research team performed the first two rounds of content coding, conferring with the research supervisor in between coding rounds. In the third round of review, the research supervisor and the research analyst discussed these codes and condensed them into general themes, which were presented to members of the OBP workgroup for a (fourth) final round of consensus. This process of triangulation (i.e., using multiple sources of information to cross-check) helped establish trustworthiness and credibility of the findings (Miles, Huberman, & Saldaña, 2014).

Findings

Content analysis of the probation focus group was oriented towards developing constructive feedback that could improve the OBP model and facilitate better program experiences for probation officers and OBP families. Through this process, four unique themes—and three subthemes—emerged (Table 3, next page) that both describe key components of the OBP model and highlight areas for model improvement: benefits of setting achievable goals; balance structure with flexibility; perceived family benefits; time and emotional resources.

Benefits of Setting Achievable Goals

The most commonly mentioned benefit of the model was the benefit of instituting structured goal setting within probation (n = 21 comments). Probation officers noted two specific aspects of structured goal setting as particularly successful: Setting goals that are achievable within a short-term time frame and setting goals that a youth can realistically meet. The respondents mentioned that this practice of setting achievable and realistic goals provided probation officers with tools to scaffold their youth's sense of self-efficacy, with one probation officer observing that "[goal setting] gives those kids who aren't used to experiencing success the ability to experience success and then just not having pressure to…have these super drastic life-altering changes." The respondents also noted that once youth and families are able to establish their capacity to meet smaller goals, probation officers begin to scaffold prosocial growth by progressively setting larger goals: "He's a kid who I think is really used to failing…so I set very very small [goals]…so he can get kind of a taste of success, so that when we set bigger goals later then, you know, it's easier."

Balance Structure with Flexibility

Probation officers also reported that the model structure was beneficial in encouraging them to be more intentional in their work with youth and families (n = 16). Probation officers reported being more intentional in meeting with a youth's caregivers, more intentional about the structure of youth/caregiver check-ins, and more intentional about what goals they were setting for youth and families. For some, these elements were already good probation practice, but OBP helped to keep them focused: "I kind of feel, or, it's what we should be doing anyways, but, [OBP] makes you more intentional." Probation officers reported that the impact of this increased intentionality was improved confidence in their ability to engage with youth and families. At the same time, respondents also noted that they were not always sure how much flexibility they had to alter components of the model (n = 13). One probation officer cautioned that "the [OBP] structure makes it that we are so intentional that I think it could get in the way for some kids." For example, the OBP model indicates that probation officers should meet with youth every week for structured goal setting and general check-ins. However, not all probation officers felt that meeting weekly was an effective use of time, particularly with youth who were demonstrating early success in meeting their goals. "Why are we having this meeting when it could be spread out, it could be extended, because [youth] are doing everything and all the goals are set and they're meeting them all and there's no point to meet weekly." To remedy this particular tension, probation officers suggested that meeting frequency should be set in accordance with the youth's placement in the *cycle of change:* "it should go with the cycle of change, where they are in the cycle of change, because weekly [meetings] is totally extreme for me, it really was." Probation officers expressed that the structure of OBP should be further developed to better account for youth and families' individualized needs. One respondent suggested relaxing expectations somewhat to relieve these pressures and facilitate ease in implementation: "we've got to give ourselves permission of, you know, let's just meet up for lunch, great job…that's actually doing something." Altogether, probation officers valued the increased structure but needed more guidance on how to build in adaptation and flexibility.

TABLE 3.
OBP Probation Focus Group Themes and Illustrative Quotations

Themes	Mentions (n)	Description	Quotation
Benefits of setting achievable goals	21	OBP supports the development of small, short-term, tangible goals that are within the youth's capacity to meet.	"[OBP] breaks down behaviors to where they're a lot more tangible for the youth and family to really specifically target [them]."
Balance structure with flexibility	29	The positive benefits of the OBP model's structure must be met with clearer instructions regarding model adherence and use of discretion.	—
Increased intentionality	16	The structure of OBP's model requires POs to be more intentional when meeting with families, which facilitates increased confidence in PO effectiveness.	"More intentional on meeting with parents and caregivers." "I always walk out [of a meeting] with an outcome as well, where before I could walk out and be… what did I accomplish today?"
Concerns regarding model flexibility	13	More explicit instruction should be provided regarding balancing model adherence with individualized family needs.	"I meet with them more frequently when they're in, you know,[their] pre-contemplative, contemplative [stage]."
Perceived family benefits	19	POs observe that youth and families engage positively with the OBP model.	"[W]e kind of empower [parents] and make them feel like they have a say…" "[W]e are addressing what the parents see as the need and what they want."
Reduction of family crises	9	The OBP model provides specific tools (structured goal setting) to address escalating processes of the family dynamic, resulting in an overall reduction of family crises.	"I think OBP sets it up [for families] to have less crises." "[Families] are not getting into these fights that… can lead to Assault 4s."
Time and emotional resources	12	POs require additional support in meeting the demands of the OBP model.	"[W] have pressure that we put on ourselves, like, I have to have a meeting I have to have a goal…"

Perceived Family Benefits

Overall, probation officers reported the OBP model provided better structure for engaging with families than traditional probation (n = 19). In particular, probation officers credited structured parental involvement as key to its effective family engagement: "the structure of [OBP] empowers the parents." The OBP model integrates parents' goals for their youth into a youths' structured goal setting, thus providing probation officers with a framework to "acknowledge [parent goals] and work with [parent goals] and historically it's been, like, that's a parenting issue not a probation issue, well now it's a probation issue…but it's a probation issue that parents have control a lot of." Integrating these parent goals into youths' structured goal setting subsequently creates tangible markers for youth and family

progress, resulting in a clear feedback system, "I know exactly what we talked about…the goals…[the] action steps…so I always walk out [of meetings] with an outcome as well, where before, I could walk out and be, what did I, what did I just accomplish today?" In effect, the impact of OBP's structured engagement of families is "it helps with the rapport building with parents, as well as empowering them to take control back in their own lives and households."

A specific benefit of OBP's structured family engagement and goal setting, referenced by probation officers, was that it reduced family crises (n = 9). "I think OBP sets it up to have less crises." Probation officers found that parents would set youth and family goals around noncriminal behaviors that would historically escalate into altercations requiring police response: "it is a common theme though, like, most of the time [parents] want goals to be around, like, chores…very appropriate parent stuff." One particular example was of a parent goal for the youth to do his or her laundry a set number of times per week. The probation officer recounted that "[the mom] was like, 'just to come home and see that I don't have as much laundry to do…we are not getting into these fights that can lead to Assault 4s.'" Often, probation officers were able to use these goals as reference points for youth progress. One probation officer recalled a parent meeting where the family-set goal was for the youth to do the dishes regularly without being asked. "I was talking to the mom and she was really upset because [her youth] wasn't following curfew…and I would [ask], 'but how has he been doing with the dishwasher?' And she goes, 'actually…that hasn't been a problem at all.'" Probation officers discussed how, prior to implementing OBP, they would frequently receive distressing phone calls from parents who wanted probation officers to respond to their youth's noncriminal behaviors. After implementing OBP, however, "[we] don't have those phone calls with parents as often, and if [we] do, they're more guided and [we] can redirect and focus on…what we said we are working on."

Time and Emotional Resources

Probation officers also noted (n = 12) the increased amount of time required to adhere to OBP's structured engagement: "it's not just physically a lot more time, it's kind of mentally a lot more time." In particular, the amount of preparation required to effectively conduct a youth or family meeting was noted: "the meetings are so intentional, they require kind of prep work before…it takes a lot more thought than just to go sit at someone's school and say, 'hey, how's it going?'" Elements of the OBP model, like meeting with youth on a weekly basis, placed an additional demand on probation officers that they felt was not always realistic, "meeting weekly has been a challenge, I don't know if I have been actually able to meet with any youth weekly face-to-face." Further, probation officers reported feeling internalized pressure to ensure that youth and parent meetings were particularly goal oriented: "we were just putting a lot of really high expectations that we had to have these really… amazing goals and action steps and so, when it wasn't happening, then it's like…where do we go?" This led to probation officers overloading meetings with goal-oriented content: "I think I have in every single case overshot my goal for the first meeting."

Overall, probation officers reflected an appreciation for the structured focus on goals and family engagement while expressing the need for more flexibility and guidance for adaptation.

Youth and Parent Interviews

Two youth and two parent interviews were conducted to provide a user perspective on OBP implementation. These interviews were subjected to the same content analysis methodology as the probation focus group. The youth and parent interviews were analyzed separately and then combined for themes. Two themes emerged from this analysis: (1) satisfaction with probation and progress and (2) need for more responsive rewards.

Satisfaction with Probation and Progress

Both parents and youth reported satisfaction with the probation process. One youth recalled that the probation officer "[was] asking me all these ideas and what we want for opportunity based…and they were asking me what I thought would be good on probation. And I liked that." Additionally, probation officers were characterized as attentive and responsive to the family's needs, with one parent reporting that "[our probation officer] was pretty good at getting back to me whenever I needed her. So she was very good at that." Both parents and youth noted improvements in their relationships with one another. One youth reported that "[my parents], they're more happy and calm and not so angry and frustrated [with me]." Both youth and parents noted improvements in consequential thinking skills, with one youth commenting "[my probation officer] said, you know, if you do stuff like you did before you'll end up in the same place. And I'm like, okay, well I'll not do that again, or I'll try not to at least. And that was pretty good."

Need for More Responsive Rewards

The youth and parent respondents noted weaknesses with the way rewards were structured in the pilot program. One youth reported that they didn't always feel the incentives were relevant with their interests, which impacted their engagement with the model: "I don't think [the incentives] really helped, because, like, I mean those goals kind of helped, but not the whole point system. To me there was kind of no point." However, youth found that the reward of a reduced probation sentence for completing OBP requirements was a salient incentive: "I liked that I got my felony off and I'm doing better now." Concerning larger programmatic incentives, parents and youth both commented that community opportunities were not always physically accessible for families, which likewise negatively impacted youth engagement with the model. One parent reported, "[The community opportunities] didn't work for us mostly because of timing and distance." One of the parents also shared that OBP should not reduce sentencing elements like community service, which the parent viewed as an important method of accountability. One parent expressed "it would have been kind of cool for that community service piece not to be accomplished some other way [e.g., by attending counseling services]."

Refinement of the Model

The research team brought the themes back to the probation workgroup for a discussion which led to a decision to restructure weekly rewards and positive youth development activities. In the prototype model, youth received weekly points but only received material rewards after deciding to "cash" in points. The probation officers found that the youth were reluctant to cash in points, as this reduced the visible total of points available to them. Consequently, most youth were not receiving a schedule of material rewards consistent with other models of contingency management. To maintain the accumulating balance of points and have the youth receive material rewards more frequently, the team implemented a new structure for giving youth small items (e.g., chips, candy) at each in-person meeting

during which the youth earned at least one point. Total points continued to accumulate towards social rewards, including a lunch "date" with the probation officer and early time off from probation. The "reward" of a community opportunity was also restructured. In the prototype model, this opportunity had to be earned after accumulating sufficient points. However, implementation was challenged by mismatches in timing between when a youth earned sufficient points and the availability of an opportunity. The team also found that some youth were not earning community opportunities because of violations of probation or not earning early off from probation and felt that youth could have benefitted from some of the positive youth development programs available through community partners. Consequently, the community opportunities were restructured to be a required part of the probation plan but without ties to the specific point totals or timing.

The team also instituted a weekly staffing of OBP cases so that officers could discuss challenging situations and receive feedback from the entire group. As noted in the findings, the OBP model required more officer skills and judgment in determining how to handle resistant or rule-breaking behavior. The officers varied quite a bit in how comfortable they were in providing direct therapeutic guidance to the youth or parents, and the team determined that having a case staffing model would help support officers who were less comfortable in this role.

Discussion

Probation officers largely found an alternative, developmentally grounded model of probation feasible to implement. Most of the officers were able to implement more structured and frequent goal setting, apply points, and work in close collaboration with families. The primary concerns about this approach related to the time needed to focus on these new elements and uncertainty about how one could be within the constraints of the new guidelines for practice. The officers noted that structured goal setting and family engagement were particularly helpful. The findings also revealed that shifting typical probation supervision towards a developmental model will require a shift of time and emotional resources that may be challenging for probation departments to absorb. The focus group revealed that, in shifting to a new model, probation officers were not always sure what constituted sufficiently adherent practice and how to make informed adaptations to meet the needs of families. Feedback from parents and youth indicated high satisfaction with the program and with youth and family improvement within the probation period. The interviews also revealed some strain with the schedule of rewards and positive youth activities. Findings from this initial pilot were subsequently incorporated into a refined model that is undergoing another round of evaluation.

This study offers some useful insights into the resources that will be required to shift juvenile probation practice. Consistent with previous studies (Schwalbe, 2012), our small study also found that even in a progressively oriented probation department, typical supervision was still largely governed by an assessment, referral, and monitoring framework, with relatively less attention on the relationship and skills-transfer opportunities between the probation officer and family. Structuring probation similarly to therapeutic case management or even brief psychotherapy was a new role that probation officers accepted with different levels of enthusiasm. As revealed in the focus group, some officers felt that this was the way probation should already be operating, while others experienced some confusion about what constituted adherent practice. Of five probation officers involved in the pilot, one ended up dropping out due to struggles with reconciling the perceived obligations of probation supervision (e.g., violating youth for noncompliant behaviors) and incorporating a youth development approach. This suggests that probation departments should expect some level of strain if they attempt to implement standard expectations for this type of practice, with some officers enthusiastically embracing an approach more consistent with their preferred practice and other officers struggling to accept core assumptions of the model or feeling confident in implementation.

Our findings also speak to the importance of organizational factors involved in system reform. The site of the pilot was a court with leaders in management positions who were already operating with a change management orientation and tolerance for innovation. The strategy for beginning with a pilot with a subgroup of probation officers, in addition to fine tuning the model, was to build awareness and positive outcomes prior to instituting a system-wide expectation. The involved officers were then able to speak to their peers about the benefits of the model, and when the probation department asked for more volunteers to engage in a larger rollout strategy (ongoing now), all but three officers volunteered. The co-design strategy is intended to engage this type of on-site buy-in, which appeared to work successfully with the model now running independently of any external support or consultation. At the same time, because the development and pilot occurred in a supportive organizational climate, the implementation process may look different in sites where there is little leadership buy in.

Limitations

The study findings are limited by the small sample and one court site. Further, the probation officers involved in providing feasibility information about the model were a mix of probation officers who had been involved in the early development work as well as newer officers who were only engaged in the pilot. Consequently, some officers had already invested a significant amount of time in developing a model they felt would work well with court operations and their own probation approach. At the same time, the officers were also motivated to develop a model that would be applicable to the larger probation population, and we believe the feedback offered was relevant to the larger probation officer pool in this particular site. The study findings should be viewed as providing information about the feasibility of instituting reform for juvenile probation and not as generalizable findings about the specific OBP model.

Conclusion

It appears likely that calls to integrate adolescent developmental science into juvenile justice practice will have a sustained and impactful influence. However, little is known about the effort such a shift will require at multiple layers of justice policy and practice. Our study sheds light on the feasibility of integrating these principles in one probation department, with both promising and cautionary findings. Probation officers found changes in goal setting, family engagement, and youth rewards helpful while also expressing a need for more guidance on how to tailor the model to individual youth. The pilot test was also helpful in uncovering ways in which rewards were not working. These findings were integrated into a new model that is currently operating in the same court, two years after beginning the development process. Overall, this study finds that fairly significant shifts in probation practice to align with a developmental approach are achievable, but

success in replication will heavily depend on the readiness of sites for organizational change.

References

Andrews, D. A., & Bonta, J. (2010). Rehabilitating criminal justice policy and practice. *Psychology, Public Policy and Law, 16*(1), 39-55.

Andrews, D. A., Bonta, J., & Wormith, J. S. (2006). The recent past and near future of risk and/or need assessment. *Crime & Delinquency, 52*, 7-27. doi:10.1177/0011128705281756.

Andrews, D. A., Bonta, J., & Wormith, J. S. (2011). The Risk-Need-Responsivity (RNR) model: Does adding the good lives model contribute to effective crime prevention? *Criminal Justice and Behavior, 38*(7), 735-755.

Aos, S., Miller, M., & Drake, E. (2006). *Evidence-based public policy options to reduce future prison construction, criminal justice costs, and crime rates.* Olympia, WA: Washington State Institute for Public Policy.

Butters, J. E. (2004). The impact of peers and social disapproval on high-risk cannabis use: Gender differences and implications for drug education. *Drugs: Education, Prevention & Policy, 11*(5), 381-390. doi:10.1080/09687630410001704437

Butts, J. A., & Roman, J. (2007). *Changing systems: Outcomes from the RWJF Reclaiming Futures initiative on juvenile justice and substance abuse.* Portland, OR: Portland State University, Reclaiming Futures National Program Office.

Chan, G. C. K., Kelly, A. B., & Toumbourou, J. W. (2013). Accounting for the association of family conflict and heavy alcohol use among adolescent girls: The role of depressed mood. *Journal of Studies on Alcohol & Drugs, 74*(3), 396-405.

Dembo, R., Williams, L., Wothke, W., Schmeidler, J., & Brown, C. (1992). The role of family factors, physical abuse, and sexual victimization experiences in high-risk youths' alcohol and other drug use and delinquency: A longitudinal model. *Violence and Victims, 7*(3), 245-266.

Gendreau, P., Goggin, C., Cullen, F., & Andrews, D. (2000). Effects of community sanctions and incarceration on recidivism. *Forum on Corrections Research, 12*(2), 10-13.

Glaser, B. G. (1965). The constant comparative method of qualitative analysis. *Social Problems, 12*(4), 436-445. doi:10.2307/798843

Goldstein, N. E. S., NeMoyer, A., Gale-Bentz, E., Levick, M., & Feierman, J. (2016). "You're on the right track!": Using graduated response systems to address immaturity of judgment and enhance youths' capacities to successfully complete probation. *Temple Law Review, 88*(4), 803-836.

Guo, J., Hill, K. G., Hawkins, J. D., Catalano, R. F., & Abbott, R. D. (2002). A developmental analysis of sociodemographic, family, and peer effects on adolescent illicit drug initiation. *Journal of the American Academy of Child & Adolescent Psychiatry, 41*(7), 838.

Guy, L. S., Nelson, R. J., Fusco-Morin, S. L., & Vincent, G. M. (2014). What do juvenile probation officers think of using the SAVRY and YLS/CMI for case management, and do they use the instruments properly? *International Journal of Forensic Mental Health, 13*(3), 227-241. doi:10.1080/14999013.2014.939789

Henggeler, S. W., Chapman, J. E., Rowland, M. D., Halliday-Boykins, C. A., Randall, J., Shackelford, J., & Schoenwald, S. K. (2008). Statewide adoption and initial implementation of contingency management for substance-abusing adolescents. *Journal of Consulting and Clinical Psychology, 76*(4), 556-567. doi:10.1037/0022-006X.76.4.556

Higgins, S. T., & Silverman, K. (1999). *Motivating behavior change among illicit-drug abusers: Research on contingency management interventions*. Washington, D.C.: American Psychological Association.

Jagosh, J., Macaulay, A. C., Pluye, P., Salsberg, J., Bush, P. L., Henderson, J., . . . Greenhalgh, T. (2012). Uncovering the benefits of participatory research: Implications of a realist review for health research and practice. *Milbank Quarterly, 90*(2), 311-346. doi:10.1111/j.1468-0009.2012.00665.x

King, K. M., Fleming, C. B., Monahan, K. C., & Catalano, R. F. (2011). Changes in self-control problems and attention problems during middle school predict alcohol, tobacco, and marijuana use during high school. *Psychology of Addictive Behaviors, 25*(1), 69-79. doi:10.1037/a0021958

Klockars, C. (1972). A theory of probation supervision. *Journal of Criminal Law, Criminology and Police Science, 63*(4), 550-557. doi:10.2307/1141809

Knight, D., Belenko, S., Robertson, A., Wiley, T., Wasserman, G., Leukefeld, C., . . . Scott, C. (2015). Designing the optimal JJ-TRIALS study: EPIS as a theoretical framework for selection and timing of implementation interventions. *Addiction Science & Clinical Practice, 10*(S1), A29. doi:10.1186/1940-0640-10-S1-A29

Kok, G., Gottlieb, N. H., Peters, G.-J. Y., Mullen, P. D., Parcel, G. S., Ruiter, R. A. C., . . . Bartholomew, L. K. (2015). A taxonomy of behavior change methods: An intervention mapping approach. *Health Psychology Review, 10*(3), 297-312. doi:10.1080/17437199.2015.1077155

Latessa, E., Smith, P., Schweitzer, M., & Labrecque, R. M. (2013). *Evaluation of the Effective Practices in Community Supervision model (EPICS) in Ohio*. Cincinnati, OH: Center for Criminal Justice Research, University of Cincinnati School of Criminal Justice.

Lipsey, M. W. (2009). The primary factors that characterize effective interventions with juvenile offenders: A meta-analytics overview. *Victims & Offenders, 4*(2), 124-147. doi:10.1080/15564880802612573

Martin, B. (2012). *Universal methods of design: 100 ways to research complex problems, develop innovative ideas, and design effective solutions*. Beverly, MA: Rockport Publishers.

Mendel, R. A., & Bishop, S. (2018). *Transforming juvenile probation: A vision for getting it right*. Retrieved from The Annie E. Casey Foundation: https://www.aecf.org/resources/transforming-juvenile-probation/

Miles, M. B., Huberman, A. M., & Saldaña, J. (2014). *Qualitative data analysis: A Methods sourcebook*. Thousand Oaks, CA: SAGE Publications Inc.

Minor, K. I., & Elrod, P. (1994). The effects of a probation intervention on juvenile offenders' self-concepts, loci of control, and perceptions of juvenile justice. *Youth and Society, 25*(4), 490-511.

Moller, A. C., Merchant, G., Conroy, D. E., West, R., Hekler, E., Kugler, K. C., & Michie, S. (2017). Applying and advancing behavior change theories and techniques in the context of a digital health revolution: Proposals for more effectively realizing untapped potential. *Journal of Behavioral Medicine, 40*(1), 85-98. doi:10.1007/s10865-016-9818-7

Morean, M. E., Kong, G., Camenga, D. R., Cavallo, D. A., Carroll, K. M., Pittman, B., & Krishnan-Sarin, S. (2015). Contingency management improves smoking cessation treatment outcomes among highly impulsive adolescent smokers relative to cognitive behavioral therapy. *Addictive Behaviors, 42*, 86-90. doi:10.1016/j.addbeh.2014.11.009

National Council of Juvenile and Family Court Judges. (2018). Resolution regarding juvenile probation and adolescent development. *Juvenile & Family Court Journal, 69*(1), 55-57.

National Research Council. (2013). *Reforming juvenile justice: A developmental approach.* Washington, DC: The National Academies Press.

Paparozzi, M. A., & Gendreau, P. (2005). An intensive supervision program that worked: Service delivery, professional orientation, and organizational supportiveness. *The Prison Journal, 85*(4), 445-466. doi:10.1177/0032885505281529

Raynor, P., & Vanstone, M. (2016). Moving away from social work and half way back

again: New research on skills in probation. *The British Journal of Social Work, 46*(4), 1131-1147. doi:10.1093/bjsw/bcv008

Schwalbe, C. S. (2012). Toward an integrated theory of probation. *Criminal Justice and Behavior, 39*(2), 185-201. doi:10.1177/0093854811430185

Schwartz, R. G. (2018). A 21st century developmentally appropriate juvenile probation approach. *Juvenile and Family Court Journal, 69*(1), 41-54. doi:10.1111/jfcj.12108

Sickmund, M., Sladky, A., & Kang, W. (2018). *Easy access to juvenile court statistics: 1985 - 2015*. Retrieved from: http://www.ojjdp.gov/ojstatbb/ezajcs/

Skeem, J. L., & Manchak, S. (2008). Back to the future: From Klockars' model of effective supervision to evidence-based practice in probation. *Journal of Offender Rehabilitation, 47*(3), 220-247. doi:10.1080/10509670802134069

Smith, P., Schweitzer, M., Labrecque, R. M., & Latessa, E. J. (2012). Improving probation officers' supervision skills: An evaluation of the EPICS model. *Journal of Crime and Justice, 35*(2), 189-199. doi:10.1080/0735648X.2012.674826

Steinberg, L. (2007). Risk taking in adolescence: New perspectives from brain and behavioral science. *Current Directions in Psychological Sciences, 16*(2), 55-59.

Taxman, F. (2008). No illusions: Offender and organizational change in Maryland's proactive community supervision efforts. *Criminology and Public Policy, 7*(2), 275-302.

Taxman, F. (2012). Justice steps: Implementing contingency management in criminal justice settings. *Journal of Substance Abuse Treatment, 43*(3), e3-e3. doi:10.1016/j.jsat.2012.08.030

Trotter, C., & Evans, P. (2012). An analysis of supervision skills in youth probation. *Australian & New Zealand Journal of Criminology, 45*(2), 255-273. doi:10.1177/0004865812443678

Vincent, G. M., Guy, L. S., & Grisso, T. (2012). *Risk assessment in juvenile justice: A guidebook for implementation*: Chicago, IL: MacArthur Foundation, Models for Change.

Whetzel, J., Paparozzi, M., Alexander, M., & Lowenkamp, C. (2011). Goodbye to a worn-out dichotomy: Law enforcement, social work, and a balanced approach. *Federal Probation*, *75*(2), 7-12.

Whittle, S., Simmons, J. G., Dennison, M., Vijayakumar, N., Schwartz, O., Yap, M. B. H., . . . Allen, N. B. (2014). Positive parenting predicts the development of adolescent brain structure: A longitudinal study. *Developmental Cognitive Neuroscience, 8*, 7-17. doi:10.1016/j.dcn.2013.10.006

Young, D. W., Farrell, J. L., & Taxman, F. S. (2012). Impacts of juvenile probation training models on youth recidivism. *Justice Quarterly, 30*(6). doi:10.1080/07418825.2012.673633

Preventing Delinquency through Integrated Physical and Behavioral Health Screening and Services: Lessons Learned for Policy and Practice

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IT HAS BEEN well established that youth involved in the juvenile justice system have extensive trauma histories as well as unmet physical and behavioral health issues. While it is unclear what drives youth engagement in delinquent behavior, these issues tend to co-occur and interact in ways that increase the risk of juvenile justice involvement. In recent years, there has been increased attention on the development of strategies that can help prevent youth involvement in the juvenile justice system by providing at-risk youth with the necessary supports and treatment that can help ensure they are put on a path to succeed and thrive in life. One of the biggest challenges for prevention programs is identifying youth who are most in need of these services. While schools can play an important role in identifying high-risk youth, this process tends to be more reactive, only referring youth to services after they have engaged in problematic behaviors. Thus, universal screening programs in schools may be a more effective method for identifying students in need of comprehensive services to address unmet physical and behavioral health needs that can put them at risk for becoming involved in the juvenile justice system.

The main purpose of this article is to describe a pilot universal screening program that was incorporated into a school-based health clinic so that other districts that are considering using an integrated healthcare approach to address health-related risk factors for delinquency may benefit from the lessons learned through this pilot project. This article is organized into four sections. The first is a review of the literature on the relationship between physical and behavioral health and criminal justice involvement. Second, we review school-based strategies for addressing physical and behavioral health issues among the student population and gaps in current services provided by school-based health centers (SBHCs). Third, we provide a description of a pilot universal screening program developed by Health Care Integrated Services (HCIS) to identify and link students to treatment and supportive services that address through an integrated treatment model unmet physical and behavioral health needs as well as trauma associated with negative life experiences. Finally, we examine the potential challenges of this universal screening model that should be addressed in future applications of this paradigm in other school-based settings.

Health and Delinquency

Due to the high prevalence of untreated physical and behavioral health issues found in justice-involved populations, many researchers have examined how health-related issues might increase the risk of engagement in delinquent behavior and criminal justice involvement (Kort-Butler, 2017; Link, Ward, & Stansfield, 2019; Schroeder, Hill, Haynes, & Bradley, 2011). While youth with mental health disorders are overrepresented in the juvenile justice system, there is growing evidence that justice-involved individuals with mental illness tend to engage in offending behavior for the same reasons as those without mental illness (Bonta, Blais, & Wilson, 2014). Substance abuse in particular has been found to be a major risk factor for offending for those with and without mental illness (Bonta et al., 2014). Additionally, having a co-occurring substance use disorder along with another mental health disorder has been found to increase engagement in crime when compared to persons who suffer from only

one type of disorder (Baillargeon et al., 2009; Wilson, Draine, Hadley, Metraux, & Evans, 2011).

When assessing the relationship between physical health issues and offending, there is some evidence that minor health issues may have a significant influence on engagement in violent behavior (Stogner, Gibson, & Miller, 2014) and the use of illicit substances (Stogner & Gibson, 2011). Stogner and Gibson (2010) theorize that physical health issues can lead to three types of strains posited by Robert Agnew in his general strain theory (Agnew, 1992): the failure to achieve positively valued goals (e.g., losing a part in a school theater performance due to repeated health-related absences), the removal of positive stimuli (e.g., not being able to participate in recreational activities due to illness), and the introduction of negative stimuli (experiencing pain or discomfort due to illness). These health-related strains can in turn lead to negative emotions such as anger and depression, which in turn create pressure for the person to do something to address these negative emotions. The findings from the literature suggest there are hundreds of different types of coping strategies that individuals can use to alleviate the negative emotions when faced with stressors, many of which are legal (Carver, Scheier, & Weintraub, 1989). Coping strategies are typically categorized as either active or avoidant; Individuals who employ active coping strategies attempt to gain control over the stressor, while those who employ avoidant coping strategies tend to avoid, escape, or disengage from the stressor (Compas, Connor-Smith, Saltzman, Thomsen, & Wadsworth, 2001). Studies examining coping strategies used by adolescents show that adolescents who used more active coping strategies when responding to stress are less likely to engage in offending behaviors than those who do not (Robertson, Stein, & Schaefer-Rohleder, 2010; Shulman & Cauffman, 2011). Overall, this line of research suggests that treating physical health issues that are causing a student to experience certain strains in his or her life may lead to a reduction in anger and depressive symptoms and subsequently reduce the likelihood of his or her engagement in delinquent behavior.

Improving Student Health and Behavioral Outcomes

Universal screening at school entry can be an effective way to identify students likely to develop recurrent comorbid health and behavioral issues, and would provide a basis for developing optimal targeted treatment and intervention programs. However, the majority of school-based screening programs identified in the literature tend to focus on only one behavioral health issue—specifically, identifying students with either serious mental health issues or substance misuse issues. Thus, there is a need to provide a more comprehensive screening program that can identify both unaddressed physical and behavioral health issues simultaneously. However, it is not enough to just identify these health issues. It is also necessary to ensure that students have access to services that can help them address the issues uncovered during the screening process in a timely manner.

Over the past two decades, school-based clinics have been growing in popularity and are viewed as a source for providing primary and behavioral health care to K-12 students. These clinics have been found to be proficient in increasing student access to health care services, especially in medically underserved areas (Brown & Bolen, 2003). School-based clinics have also been found to be a very effective and efficient means of addressing issues such as PTSD (Rolfsnes & Idsoe, 2011), anxiety (Mychailyszyn, Brodman, Read, & Kendall, 2012), depression (Farahmand, Grant, Polo, & Duffy, 2011), obesity (Lavelle, Mackay, & Pell, 2012), and substance use (Mitchell, Wilson, Eggers, & MacKenzie, 2012) in an easily accessible location for the students. Additionally, there is some evidence that the use of school-based services is associated with a reduction in school dropout among the highest risk students (Kerns, 2011).

There is growing recognition of the need to use a public health approach to address juvenile justice involvement that includes a combination of primary, secondary, and tertiary prevention strategies for addressing risk factors for delinquency. However, prior research suggests that just addressing the physical and behavioral health issues of at-risk youth may not be enough to reduce their involvement in delinquent behavior. For instance, Runton and Hudak (2016) found that implementing an SBHC in a Virginia School system did not have a significant impact on student's risk behaviors. Thus, while increasing access to comprehensive school-based physical and behavioral health services has been found to improve the health conditions that can interfere with learning, this may not be enough to prevent juvenile justice involvement if all of the risk factors are not adequately addressed.

SBHCs are uniquely positioned to provide a wide range of services to help address not only physical and behavioral health issues but also other risk factors for involvement in the juvenile justice system. While many SBHCs in the United States provide a wide range of physical and behavioral health services to its student population, it is unclear the extent to which these services are delivered in an integrated way. A number of studies have highlighted the fact that one condition or issue can negatively impact the recovery process of another. For instance, substance use has been found to be associated with low psychiatric medication adherence (Calhoun, 2018; Fenton, Blyler, & Heinssen, 1997) while physical health issues have been found to have an indirect effect on substance abuse treatment engagement through their impact on psychological functioning (Joe, Lehman, Rowan, Knight, & Flynn, 2019). In California there has been a big push for health systems to provide Whole Person Care (WPC) that can address the physical, mental, and social needs of an individual as part of a single care plan. In integrated health settings, collaborative care models consist of a team of primary care providers, care managers, and behavioral health specialists who work together to evaluate, treat, and monitor patient progress. Findings from a recent meta-analysis suggest that team-based collaborative care models are very effective in addressing the physical and health needs of youth (Asarnow, Rozenman, Wiblin, & Zeltzer, 2015).

HCIS Universal Screening Program

Youth residing in the Southern California city of Compton are exposed to high rates of violence and other adverse childhood events that put them at risk of developing a wide range of physical and behavioral health problems that can persist throughout life if unaddressed. Considering that Compton has been designated a medically underserved area, there are limited resources to address the multiple health care needs of the youth in this area. In 2014, HCIS implemented an integrated school-based health clinic on the grounds of a high school in Compton to provide a comprehensive response to the lack of integration of traditional primary health care, behavioral health, and social services systems in the area that tend to work independently of each other.

The HCIS vision is to create and sustain a culture of health and learning on campus

for K-12 students through the implementation of holistic models of care that uniquely integrate prevention, intervention, education, and social justice in ways that promote equity for economically disadvantaged and medically underserved youth in California. HCIS has observed that, as a result of growing up in cycles of poverty and complex trauma, students often exhibit symptoms of multiple underlying health issues, including substance abuse, suicidal ideation and other mental health disorders, cognitive impairment, and overlapping chronic physical health conditions. The cumulative impact of these issues hinders the chances for success in the classroom, thus contributing to the perpetuation of the cycle of poverty, marginalization, and juvenile justice involvement. In alignment with the evidence from the literature, HCIS realized that it is impossible to fully address one issue without addressing other issues that may be negatively impacting the healthy development of children in disadvantaged communities. To that end, HCIS has pioneered a unique program to maximize youth wellness and success in the classroom and in life based on best practices identified in the literature for delivering integrative health services.

During the 2018-2019 academic school year, HCIS received funding from the California Department of Education to improve the health and wellness of students attending the participating high school in Compton through a universal physical and behavioral health screening program. As part of this screening program, the HCIS clinic team (1) offered a comprehensive screening assessment to the entire student population to identify students with physical health issues, behavioral health issues, and current exposure to adverse experiences; (2) developed a tailored treatment and service plan that acknowledged all needs simultaneously; (3) communicated this plan to the student patients and their parents/caregivers; (4) linked the student patients to services within the school-based clinic or to an outside community provider; and (5) implemented the integrated treatment and service plan in ways that provided the continuity of care for both physical and behavioral health issues.

Prior to the grant, approximately 33 percent of the student population used clinic services to address an acute health care issue. Therefore, it was unclear to what extent other students were experiencing major physical and behavioral health issues that were interfering with their academic achievement and subsequently increasing their risk for engaging in delinquent behaviors. Thus, one of the major goals of this pilot universal screening program was to identify the full physical and behavioral health needs of the student population and to remove barriers to addressing these needs through an integrated system of care. Overall, the universal screening program was successfully implemented into HCIS's clinic practice with wide support from school staff, students, and parents. A total of 627 students participated in the universal screening program during the first five months of the grant program, with only one parent and six students choosing to opt out of the program. Furthermore, the HCIS clinical team was successful in identifying students in critical need of physical/behavioral health services. Approximately 30 percent of the students were identified as needing critical medical attention based on having a positive screen for being suicidal, a psychiatric disorder, and/or other severe health condition. Another 16 percent were identified as having a less severe health issue that was affecting their academic performance. About 44 percent of the students screened through the program had a combination of physical, psychiatric, and psychosocial issues that needed to be addressed.

Lessons Learned

While the HCIS universal screening program was successful in identifying students with unaddressed physical and behavioral health needs, HCIS staff experienced a number of challenges throughout the program. We will describe here both challenges and lessons learned from the first five months of the HCIS universal screening program. The lessons described in this article are collectively articulated by the HCIS clinical staff team, which includes the executive director of the clinic, the project director, nurse practitioners, and behavioral health specialists. Together, the team identified the following primary challenges and lessons learned from the pilot screening program, including: a) incorporating the universal screening program into the school system, b) providing an interdisciplinary team approach to treatment planning and monitoring, c) using electronic health records for patient monitoring, d) building relationships with other community providers, e) engaging students and parents/caregivers in the treatment planning process, and f) SBHCs can serve as a supplement to traditional primary care systems.

Incorporating the Universal Screening Program into the School System

Implementing a universal screening program in a high school setting can be disruptive to student learning, because clinic staff often have to pull students out of their classes to conduct the initial screening. Thus, it is important to include the school principal and any other relevant school staff in the planning phase of the program to identify classes that students can afford to miss. For this particular program, the planning committee came to the conclusion that the best time for conducting the universal screening with students would be during their physical education (P.E.) period. However, the planning team quickly learned that a substantial number of students were not taking P.E. during the grant period. Therefore the planning committee developed a decision tree to determine other classes that students can be pulled from that would not be too disruptive for the student, teacher, and fellow classmates.

Interdisciplinary Team Approach to Treatment Planning and Monitoring

Even though the primary care team and the behavioral team conducted their own screening assessments with the students, the clinic adopted a team-based collaborative care approach when determining the treatment and service plan for each student that was in line with best practices for level 5 integration as specified in the Center for Integrated Solutions' Framework for Levels of Integrated Healthcare. Specifically, since a substantial number of students were in need of both primary care and behavioral health care, it was necessary for all clinical staff to collaborate on treatment planning and monitoring for all shared patients.

Using Electronic Health Records for Patient Monitoring

When using a collaborative team-based model to deliver integrated health care services, it is important that all members of the team have current information about each patient. When dealing with over 600 patients, it can be challenging to establish the progress of each patient and whether modification of the treatment plan is needed when only using paper medical records. Thus, the digitization of electronic health records (EHRs) can help facilitate the exchange of information to support clinical activities in a fast and efficient manner. Additionally, electronic health records can help make it easier for members

of the clinic team to follow up with patients and track continuing care within the clinic as well as with providers in the community. Also the ability to create specialized reports within EHR systems can provide the clinical team with information on how well they are meeting their enrollment goals as well as uncover any emerging health trends within their patient population.

Building Relationships with Other Community Providers

An unexpected outcome of the screening program was the uncovering of an alarming number of students at the high school in need of critical mental health care. The large number of students in need of critical mental health care stretched the capacity of the clinic to be responsive to the immediate mental health needs of these critical cases. This and the fact that the HCIS clinic is only open during regular school hours made it necessary for HCIS staff to establish relationships with outside community providers. This can help ensure that the students with critical health needs always have a place to go after school, during holidays, and vacations. However, there is a risk that some of the students' health and social needs go unaddressed when relying too heavily on outside providers to provide some of the services included in a patient's treatment plan. Developing a Memorandum of Understanding with these outside providers can help reduce some of this risk. Additionally, school-based clinic staff need to also be proactive in following up with their student patients to ensure they are getting the treatment they need and developing alternative plans when gaps in service are discovered. In medically underserved areas such as Compton, finding alternative providers in the area may be challenging. In these situations, telehealth providers might be able to fulfill any gaps in services.

Engaging Students and Parents/ Caregivers in the Treatment Process

The process of family and adolescent participation in the care and follow up of the students begins with parental consent. When a condition or concern is discovered through the screening, assessment, and evaluation process, a follow-up referral is initiated. The referral process begins with the adolescent being given a consent form to have their parents sign so the HCIS clinical team can initiate the referral process. Adolescents who do not return the consent form are brought back to the clinic and reminded that they need to have their parent/guardian sign the consent and return it to clinic. If there is a concern that the adolescent needs further medical care and evaluation, then a notice is sent to the parents to inform them of this finding and to ensure that they are advised of the importance to have follow-up medical evaluation or specialty consultation. The notice also invites parents to contact the clinic to discuss their child's needs and any other information they will need to make an informed decision about their child's health care.

SBHCs Can Serve as a Supplement to Traditional Primary Care Systems

The importance of universal behavioral health screenings and physical exams conducted in the school-based health setting has allowed the clinical staffing to discover conditions that are either missed by students' regular health care providers or had developed between office visits. For those students who never received regular episodic care, the school-based health setting made these critical care discoveries for the first time. The HCIS clinical team has found that even though some students have received immediate referral to their own primary care provider for treatment, most have returned to the HCIS clinic for monitoring of specific conditions and reported never receiving a follow-up from their perspective providers. The use of the HCIS clinic for follow-up care has been largely due to underlying issues such as transportation barriers that make it difficult for them to get to their personal primary doctor or their parents/caregivers being unable to take time off from work to take them to follow-up appointments.

Conclusion

The lessons learned that are presented in this article are designed to assist other school-based clinics in their planning and implementation of a similar universal screening program. We recognize that this is not a formal process evaluation, but, given the innovative nature of the screening program to address a current gap in treatment services provided in medically underserved areas, we feel that there is valuable insight to be gained from the clinic's experiences with providing integrated screening and treatment in a high school setting. We recommend that additional school districts consider adopting a public health approach to addressing delinquency and juvenile justice involvement by implementing an integrated school-based universal screening program for all K-12 students in their district.

References

Agnew, R. (1992). Foundation for general strain theory of crime and delinquency. *Criminology*, *30*(1), 47–88.

Asarnow, J. R., Rozenman, M., Wiblin, J., & Zeltzer, L. (2015). Integrated medical-behavioral care compared with usual primary care for child and adolescent behavioral health: A Meta-analysis. *JAMA Pediatrics*, *169*(10), 929. https://doi.org/10.1001/jamapediatrics.2015.1141

Baillargeon, J., Williams, B., Mellow, J., Harzke, A. J., Hoge, S., Baillargeon, G., & Greifinger, R. (2009). Parole revocation among prison inmates with psychiatric and substance use disorders. *Psychiatric Services*, *60*(11). https://doi.org/10.1176/appi.ps.60.11.1516

Bonta, J., Blais, J., & Wilson, H. A. (2014). A theoretically informed meta-analysis of the risk for general and violent recidivism for mentally disordered offenders. *Aggression and Violent Behavior*, *19*(3), 278–287. https://doi.org/10.1016/j.avb.2014.04.014

Brown, M. B., & Bolen, L. M. (2003). School-based health centers: Strategies for meeting the physical and mental health needs of children and families. *Psychology in the Schools*, *40*(3), 279–287. https://doi.org/10.1002/pits.10084

Calhoun, S. (2018). The clinician-patient working alliance: Is it a significant predictor of psychiatric medication adherence in a sample of recently released parolees? *Journal of Forensic Psychiatry and Psychology*, *29*(5), 782–793.

Carver, C. S., Scheier, M. F., & Weintraub, J. K. (1989). Assessing coping strategies: A theoretically based approach. *Journal of Personality and Social Psychology*, *56*(2), 267–283. https://doi.org/10.1037/0022-3514.56.2.267

Compas, B. E., Connor-Smith, J. K., Saltzman, H., Thomsen, A. H., & Wadsworth, M. E. (2001). Coping with stress during childhood and adolescence: Problems, progress, and potential in theory and research. *Psychological Bulletin*, *127*(1), 87–127. https://doi.org/10.1037/0033-2909.127.1.87

Farahmand, F. K., Grant, K. E., Polo, A. J., & Duffy, S. N. (2011). School-based mental health and behavioral programs for low-income, urban youth: A systematic and meta-analytic review. *Clinical Psychology: Science and Practice*, *18*(4), 372–390. https://doi.org/10.1111/j.1468-2850.2011.01265.x

Fenton, W. S., Blyler, C. R., & Heinssen, R. K. (1997). Determinants of medication compliance in schizophrenia: Empirical and clinical findings. *Schizophrenia Bulletin*, *23*(4), 637–651. https://doi.org/10.1093/

schbul/23.4.637
Joe, G. W., Lehman, W. E. K., Rowan, G. A., Knight, K., & Flynn, P. M. (2019). The role of physical and psychological health problems in the drug use treatment process. *Journal of Substance Abuse Treatment*, *102*, 23–32. https://doi.org/10.1016/j.jsat.2019.03.011
Kerns, S. E. U. (2011). Adolescent use of school-based health centers and high school dropout. *Archives of Pediatrics & Adolescent Medicine*, *165*(7), 617. https://doi.org/10.1001/archpediatrics.2011.10
Kort-Butler, L. A. (2017). Health-related strains and subsequent delinquency and marijuana use. *Youth & Society*, *49*(8), 1077–1103. https://doi.org/10.1177/0044118X15578436
Lavelle, H. V., Mackay, D. F., & Pell, J. P. (2012). Systematic review and meta-analysis of school-based interventions to reduce body mass index. *Journal of Public Health*, *34*(3), 360–369. https://doi.org/10.1093/pubmed/fdr116
Link, N. W., Ward, J. T., & Stansfield, R. (2019). Consequences of mental and physical health for reentry and recidivism: Toward a health-based model of desistance. *Criminology*, 1745-9125.12213. https://doi.org/10.1111/1745-9125.12213
Mitchell, O., Wilson, D. B., Eggers, A., & MacKenzie, D. L. (2012). Assessing the effectiveness of drug courts on recidivism: A meta-analytic review of traditional and non-traditional drug courts. *Journal of Criminal Justice*, *40*(1), 60–71. https://doi.org/10.1016/j.jcrimjus.2011.11.009
Mychailyszyn, M. P., Brodman, D. M., Read, K. L., & Kendall, P. C. (2012). Cognitive-behavioral school-based interventions for anxious and depressed youth: A meta-analysis of outcomes. *Clinical Psychology: Science and Practice*, *19*(2), 129–153. https://doi.org/10.1111/j.1468-2850.2012.01279.x
Robertson, A. R., Stein, J. A., & Schaefer-Rohleder, L. (2010). Effects of Hurricane Katrina and other adverse life events on adolescent female offenders: A test of general strain theory. *Journal of Research in Crime and Delinquency*, *47*(4), 469–495. https://doi.org/10.1177/0022427810375577
Rolfsnes, E. S., & Idsoe, T. (2011). School-based intervention programs for PTSD symptoms: A review and meta-analysis. *Journal of Traumatic Stress*, *24*(2), 155–165. https://doi.org/10.1002/jts.20622
Runton, N. G., & Hudak, R. P. (2016). The influence of school-based health centers on adolescents' youth risk behaviors. *Journal of Pediatric Health Care*, *30*(3), e1–e9. https://doi.org/10.1016/j.pedhc.2015.07.005
Schroeder, R. D., Hill, T. D., Haynes, S. H., & Bradley, C. (2011). Physical health and crime among low-income urban women: An application of general strain theory. *Journal of Criminal Justice*, *39*(1), 21–29. https://doi.org/10.1016/j.jcrimjus.2010.09.009
Shulman, E. P., & Cauffman, E. (2011). Coping while incarcerated: A study of male juvenile offenders. *Journal of Research on Adolescence*, *21*(4), 818–826. https://doi.org/10.1111/j.1532-7795.2011.00740.x
Stogner, J., & Gibson, C. L. (2010). Healthy, wealthy, and wise: Incorporating health issues as a source of strain in Agnew's general strain theory. *Journal of Criminal Justice*, *38*(6), 1150–1159. https://doi.org/10.1016/j.jcrimjus.2010.09.003
Stogner, J., & Gibson, C. L. (2011). The influence of health strain on the initiation and frequency of substance use in a national sample of adolescents. *Journal of Drug Issues*, *41*(1), 69–93. https://doi.org/10.1177/002204261104100104
Stogner, J., Gibson, C. L., & Miller, J. M. (2014). Examining the reciprocal nature of the health-violence relationship: Results from a nationally representative sample. *Justice Quarterly*, *31*(3), 473–499. https://doi.org/10.1080/07418825.2012.723029
Wilson, A. B., Draine, J., Hadley, T., Metraux, S., & Evans, A. (2011). Examining the impact of mental illness and substance use on recidivism in a county jail. *International Journal of Law and Psychiatry*, *34*(4), 264–268. https://doi.org/10.1016/j.ijlp.2011.07.004

Using a Train-the-Trainer Model to Promote Practice Change among Agencies Serving Justice-Involved Youth[1]

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THERE IS A sizeable gap between the development and testing of innovations in health care and their delivery in routine practice settings. This gap is noted in many behavioral healthcare fields, including substance abuse (McGovern, Fox, Xie, & Drake, 2004; Miller, Sorensen, Selzer, & Brigham, 2006; Nilsen, 2010; Wandersman et al., 2008). While implementation science in recent years has focused on improving the use of evidence-based substance abuse intervention and prevention practices (EBP), very few studies have examined EBP implementation in settings that serve juvenile justice-involved youth (Development Services Group, Inc., 2015), which comprise a large number of youth presenting to substance abuse treatment (e.g., 39.6 percent of youth entering publicly funded treatment in 2017 were referred by the court/criminal justice system; Substance Abuse and Mental Health Services Administration, 2019). Much of the literature addressing EBP implementation in those settings identifies the problem (the gap between science and practice; Development Services Group, Inc. 2015; McKee & Rapp, 2014; Seave, 2011), the challenges to implementation (e.g., EBP design and fit, training challenges, McKee & Rapp, 2014; Seave, 2011), and system-level suggestions for implementation (e.g., state-level implementation; Walker, Bumbarger, & Phillippi Jr., 2015; Welsh & Greenwood, 2015), but do not provide insight into implementation at the direct-care provider level. While it is known that the field is using EBPs (Henderson, Taxman, & Young, 2008), the lack of information about EBP implementation at the provider-level represents a significant gap in the literature.

Research suggests that substance abuse treatment programs serving juvenile justice-involved youth use a variety of EBPs, and the adoption of EBPs is related to a range of factors including organizational mechanisms, training and resources, and network connections, as well as the scope of program changes required to adopt a new innovation (Henderson, Taxman, & Young, 2008). Little is known, however, about the *process* of adopting those practices, specifically regarding how training occurs following an external developer-led training. Examining these factors among providers for juvenile justice-involved youth would help fill the gap in the literature.

It can be reasonably inferred from research findings that agencies that cross-train, thus promoting knowledge/training transfer by training additional staff on EBPs, will have greater likelihood of fully implementing new practices, as new responsibilities are equally shared across staff. One common method of training and dissemination for an EBP is the train-the-trainer (T3) model, where experts or developers train providers in an EBP so they can subsequently train additional providers within their organization. The T3 approach has been shown to serve as an effective dissemination tool in fields such as medicine (Zisblatt, Hayes, Lazure, Hardesty, White, & Alford, 2017), patient education (Shen, Jiang, & Chen, 2018), mental health (Becker, 2017; Greif, Becker, & Hildebrandt, 2015; Hoagwood et al., 2017; Segre, Brock, O'Hara, Gorman, & Engeldinger, 2011), nursing (Wittenberg, Ferrell, Goldsmith, Ragan, & Buller, 2018), child welfare (Brown, Baker, & Wilcox, 2012), child care (Muldoon & Cosbey, 2018), and law enforcement settings

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(Molinaro, Fisher, Mosser, & Satin, 2019).

Implementation literature identifies a few facilitating and limiting factors for EBP adoption in substance abuse and juvenile justice settings for which T3 models may be especially well-suited. T3 models could benefit agencies by increasing trainer network contacts and promoting more in-house training opportunities for staff overall, both of which are related to agency EBP adoption (Brown & Flynn, 2002; Knudsen et al., 2005; Henderson, Taxman, & Young, 2008). A pervasive challenge for organizations is getting training directly to the providers who will use the EBP (Seave, 2011). Thus, T3 has the benefit of allowing agencies to offer training on their own schedules to ensure that the service providers who will be implementing the strategies receive the resources they need immediately. In-house trainings have the added benefit of building agency infrastructure and allowing organizations to gradually gain independence from the intervention developer.

Naturalistic studies that allow observation of implementation in real-world settings provide an improved understanding of how interventions are used; what is feasible, appropriate, and acceptable to organizations (Proctor, Landsverk, Aarons, Chambers, Glisson, & Millman, 2009); how to promote movement from agency contemplation and preparation for intervention adoption to intervention implementation (Aarons et al., 2011; Becan et al., 2018), and helps inform researchers/intervention developers of how to best package interventions for scaling up/dissemination (Chambers, Glasgow, & Stange, 2013). Therefore, acknowledging the potential impact of T3 on subsequent EBP adoption, the current study uses a naturalistic approach to examine implementation of an EBP using a T3 model among substance abuse treatment agencies. Forty agencies serving youth involved in the juvenile justice system, both community-based and juvenile justice-secure settings, were provided with a standard two-day training on an established motivational enhancement curriculum and followed to monitor additional within-agency training and use. The primary aim is to describe the process and utility of using T3 approaches as an implementation strategy across varying treatment modalities, including implications for agencies serving justice involved youth.

Methods

Procedure

This research is part of a 5-year National Institute on Drug Abuse (NIDA), National Institutes of Health (NIH), and Department of Health and Human Services (DHHS) funded grant to study implementation factors related to the adoption of EBPs in a large sample of adolescent treatment sites across the U.S. The project was structured as two phases. Effectiveness was examined in Phase 1 (Becan, Knight, Crawley, Joe, & Flynn, 2015; Knight, Dansereau, Becan, Rowan-Szal & Flynn, 2015; Knight, Joe, Becan, Crawley, Theisen, & Flynn, 2019). Phase 2 examined implementation of Treatment Readiness and Induction Package (TRIP) in multiple juvenile-justice and community-based sites in the United States (Joe, Becan, Knight, & Flynn, 2017).

The current study is based on Phase 2 data, as collected in 2013. Programs were selected to represent major modalities for adolescents receiving treatment for substance use (including community residential and outpatient programs, and secure juvenile justice facilities). Regional Addiction Technology Transfer Centers (ATTCs) assisted with program recruitment. With the help of four ATTCs (Great Lakes, South Southwest, Pacific Southwest, and Northeast and Caribbean), the full implementation sample included 312 counselors from 52 adolescent treatment facilities located in 4 U.S. states. The Institutional Review Boards (IRBs) for the research center and the treatment programs reviewed and approved study protocols.

All agencies participated in a two-day developer-led regional training (approximately 13 training hours) on the Treatment Readiness and Induction Package (TRIP). Program directors helped to identify 1-2 clinical staff from each participating program to serve as agency representatives and attend the TRIP curriculum training. Agency representatives were selected to support use of train-the-trainer approaches in promoting use and dispersion among staff and clients (Yarber et al., 2015). Specifically, identification of these individuals was informed by the degree to which he/she (1) serves in a clinical role in treatment of adolescents, (2) provides group-based substance use treatment services, (3) either uses or has a willingness to use EBPs, (4) is interested in working to improve their agency's use of EBPs by serving as an in-house trainer, and (5) is anticipated to remain at the agency through the duration of the project (12 months following the training) and, ideally, beyond the project. These individuals were trained in preparing their organization for implementing TRIP.

The TRIP curriculum is derived from Mapping-Enhanced Counseling (MEC; Dansereau & Simpson, 2009), as listed on NREPP (National Registry of Evidence-Based Programs and Practices; Substance Abuse and Mental Health Services Administration [SAMHSA], 2008) with over 80 studies demonstrating its effectiveness, particularly as a means of promoting problem recognition, treatment motivation, thoughtful and objective decision making, and therapeutic engagement (Becan, Knight, Crawley, Joe, & Flynn, 2015; Knight, Dansereau, Becan, Rowan, & Flynn, 2015; Knight et al. 2016). MEC is particularly advantageous for use in adolescent treatment settings (World Health Organization [WHO], 2017), because it helps adolescents recognize impulsivity, which often translates into higher risk-taking, including drug use, illegal activity, and unprotected sex. TRIP is packaged as eight 90-minute group-based sessions (Bartholomew, Dansereau, Knight, Becan, & Flynn, 2011).

For this study, the regional training included hands-on experience applying MEC concepts and delivering the 90-minute modules, and instructions on core and periphery components to allow for adaptation (visit www.ibr.tcu.edu for the full curriculum). Participants practiced use of freestyle maps (drawn "from scratch") and guide maps ("fill in the blank" templates that "guide" thinking around a particular topic) to visually illustrate clients' thoughts, feelings, and actions and how they relate to each other. Use of graphic visualization tools (primarily node-link mapping; Czuchry & Dansereau, 2003); has been shown through cognitive behavioral studies to enhance client and counselor communication and thinking around recovery. The developer-led training explicitly included discussion on intervention and system adaptations, including why adaptations might facilitate implementation, what adaptations could be made, and the possibility of adaptation at the system or organization level. At conclusion of the staff training, the agency representatives had an opportunity to reflect on possible changes in preparation for implementation (e.g., shift in staff responsibilities). Agencies were given the full curriculum, T3 users guide on training other staff (training slides, clinical manual, start-up curriculum materials), and the choice to implement TRIP components within the four months following the training. Research staff provided technical assistance as requested from participating agencies on conducting in-house trainings

and implementing TRIP.

Data collection procedures for this study consist of a 30-minute follow-up clinical staff survey at 4 months after the developer-led staff training which addressed implementation of the EBP at their treatment program. These data were collected electronically using Qualtrics (a secure cloud-based online survey platform). Additionally, one month prior to the training, the program director (or program designee) completed the Survey of Structure and Operations (SSO; Knight, Broome, Simpson, & Flynn, 2008), which included organization-level information modeled on the National Survey of Substance Abuse Treatment Services (N-SSATS, e.g., clinical capacity, length of stay, service modality, clinical and ancillary services and programs).

Sample Descriptions and Inclusion Criteria

Both responses from agency representatives and from non-trainees were vital for this study in determining the degree to which the TRIP curriculum was further disseminated and used beyond those that attended the developer-led training. Agency inclusion criteria for this study were based on completion of the training follow-up survey by at least one agency representative (staff who attended the developer-led training) and by at least one non-agency representative (staff who did not attend the training). Forty-seven agencies had at least one survey from either an agency representative or non-representative, with 39 agencies that had both respondents. Therefore, the final sample for examining use of train-the-trainer approaches at four months post training, included a staff survey from 238 clinical staff (54 agency representatives, 184 non-agency representatives), representing 39 facilities.

Based on the SSO director survey, agencies were classified into 4 treatment modality groups: juvenile justice primary (with 80 patient or more juvenile justice-referred clients; n = 11 agencies; M = 92 percent JJ-referred clients), community residential (n = 12 agencies; M = 33 percent JJ-referred clients), community outpatient (n = 13 agencies; M = 34 percent JJ-referred clients), and agencies providing both community residential and outpatient services (n = 3 agencies; M = 70 percent JJ-referred clients). On average, these programs reported a capacity to serve 127 clients (80 clients for residential, 118 clients for both juvenile justice and outpatient), with 109 days for typical planned length of treatment (95 days for residential, 98 days for outpatient, 154 days for juvenile justice), providing clients approximately 15 hours per week in group sessions (1 hour for juvenile justice, 8 hours for outpatient, 27 hours for residential), and offering motivational interviewing as a therapeutic approach. These programs typically serve male clients (72 percent; 75 percent juvenile justice and residential, 66 percent outpatient); White (45 percent; 39 percent juvenile justice, 50 percent residential, 41 percent outpatient), Hispanic (32 percent; 33 percent juvenile justice, 31 percent residential, 33 percent outpatient), or African American (23 percent; 34 percent juvenile justice, 16 percent residential, 23 percent outpatient); and mostly between the ages of 16-18 (49 percent; 49 percent juvenile justice, 53 percent residential, 43 percent outpatient) or ages 13-15 (32 percent; 44 percent juvenile justice, 30 percent residential, 25 percent outpatient).

Agency staff for this sample were mostly female (63 percent); white (71 percent), Hispanic (14 percent), or African American (14 percent); Master's as highest degree (54 percent); currently certified (47 percent); over 5 years of experience in drug abuse counseling (43 percent); employed in their current job for 1-3 years (33 percent) or over 5 years (31 percent); with a majority facilitating adolescent clinical groups at their agency (67 percent); average age was 42. Demographics of those selected to serve as agency representatives did not vary from the larger staff sample, with one exception. Agency representatives reported slightly more experience in drug abuse counseling (65 percent with 5+ years of experience, compared to 43 percent for non-representatives).

Measures: Staff Training Follow-Up Survey

The follow-up survey (Bartholomew, Joe, Rowan-Szal, & Simpson 2007) asked staff whether they provided training/instruction on TRIP materials to colleagues and other counselors at their agency, as well as frequency with which they used the TRIP curriculum among youth on their caseload. Agency representatives were asked additional questions on agency implementation of the TRIP curriculum, including the typical way in which TRIP is conducted with youth (e.g., group size, session duration, session frequency, open/closed group session, curriculum timing during client's length of stay), the time needed to implement TRIP following the two-day developer-led training, and the degree to which organizational changes were made to facilitate TRIP implementation. A total of 8 organizational changes were included on the representative survey, asking about changes to programming (e.g., TRIP replaced existing program elements), scheduling changes (e.g., lengthened time allocated for group sessions), staffing changes (e.g., realigned staff responsibilities), and physical environmental changes.

The degree to which TRIP is dispersed among agency staff was conceptualized into three generations of training. When agency staff reported no occurrence of an in-house training on the TRIP curriculum, those agencies were classified into the category of "first generation training," whereby TRIP training was exclusively restricted to the staff representatives who attended the developer-led training. Agencies were classified into the category of "second generation training" when staff reported receiving in-house trainings, with agencies classified into "third generation trainings" when staff reported both having received and providing in-house training.

Results

The following section discusses findings from this naturalistic study on ways in which agencies integrated the curriculum into clinical practice, as well as the degree to which TRIP as a motivational enhancement curriculum was dispersed internally through staff trainings and clinical sessions.

Implementation Approach

Strategies needed to prepare for TRIP implementation varied among agency modalities, as well as time to implement TRIP. Leading up to practice adoption, agencies made an average of 2.5 environmental changes to prepare their organization for adopting TRIP. The most frequent change, occurring among 51 percent of the agencies (67 percent of residential, 45 percent of juvenile justice, and 38 percent of outpatient agencies), consisted of replacing existing clinical programming elements with the TRIP curriculum. Other common changes reported by approximately 37 percent of agencies reflect adapting staff responsibilities and client daily schedules, as well as changing in-house terminology to be more consistent with the TRIP curriculum (e.g., "let's map it out"). Agencies seldom reported modifying time allocated for group sessions, sharing/using staff from other locations, or making physical changes to the environment. No programs reported hiring new staff specifically

to conduct TRIP groups, suggesting that TRIP can be adopted following standard shift in staff responsibilities. A majority of agencies implemented TRIP within the first month following the developer-led training (49 percent); with proportionally faster time to implementation for outpatient and residential programs (62 percent and 58 percent agencies respectively, implemented within the first month), compared to slower time to implement for JJ agencies (only 36 percent of JJ agencies implemented within the first month).

Consistent with how TRIP was developed and effectiveness tested, a majority of agencies (93 percent) facilitated the TRIP clinical sessions during the clients' first 30 days of treatment and conducted TRIP as an open-group session (85 percent, allowing clients to enter the TRIP sessions at any point in session rotations). Regardless of modality, agencies typically implemented TRIP one time per week (59 percent), facilitated by one clinician, with an average of 8-10 clients per session.

Additionally, while a majority of residential and outpatient agencies implemented TRIP as an eight 90-minute clinical package (consistent with initial clinical testing), JJ agencies tended to divide the eight 90-minute sessions into two 45-minute segments. Further variations among modalities were exemplified through the proportion of clients who received TRIP. A majority of clients (56 percent) on average received the curriculum, ranging from 45 percent in outpatient settings to 62-63 percent within JJ settings and residential settings.

Agency Level Dispersion: Generations of Training by Modality and Practice Use

The degree to which TRIP is dispersed among agency staff varied widely (see Table 1, next page). In total, only 7 facilities (18 percent of 39 agencies) reported no knowledge/training transfer beyond the agency representatives who attended the developer-led training (first-generation training), with only 2 facilities (5 percent of 39 agencies) who reported no TRIP curriculum use. The remaining 32 agencies, reported knowledge/training transfer as facilitated by agency representative trainees alone (second generation trainings, 16 facilities, 41 percent of agencies), or facilitated by both agency representative and in-house trainees (third generation training; 16 facilities, 41 percent of agencies). Generally juvenile justice and outpatient agencies dispersed the TRIP curriculum through second generations of training (46 percent and 54 percent respectively), with residential agencies typically dispersing across three generations (42 percent). Regarding practice use, in general, most agencies (66.7 percent) jointly used agency representatives and in-house trainees to administer the TRIP curriculum to clients; with some variation by modality, ranging from 42 percent of residential agencies, 64 percent of juvenile justice, and 85 percent of outpatient settings who used both sets of trainees to implement TRIP.

Staff Level Dispersion: Representative and In-House Training and Use

While the above section discussed how agencies collectively disperse new curricula (e.g., description of generations of training), the current section will discuss the degree to which clinical staff are exposed to EBPs through in-house training. Regardless of modality, a majority of agency representatives (83 percent) provided an in-house training; with a moderate variation by modality from 79-80 percent of juvenile justice and outpatient to 94 percent of residential representatives providing an in-house training (see Figure 1, next page). In total, the train-the-trainer approach resulted in an additional 82 staff trained (46 percent of staff received an in-house training); with variation by modality, ranging from 38-39 percent trained staff for juvenile justice and residential agencies to 49 percent of trained staff for outpatient agencies. Among the in-house trainees, 18 percent provided an additional in-house training; ranging from additional knowledge transfer among 13-14 percent juvenile justice and outpatient in-house trainees to 31 percent of in-house residential trainees (see Figure 2, next page).

Regarding curriculum use, a majority of trained staff used the curriculum, regardless of training source or serving as a trainer. Specifically, 85 percent of agency representatives used the TRIP curriculum; with variation by modality ranging from 88 percent and 67 percent for residential and juvenile justice representatives respectively, to 95 percent of outpatient representatives. Approximately 70 percent of agency representatives both trained and used the intervention. Likewise, 85 percent of in-house trainees used TRIP; with moderate variation by modality, ranging from 86-87 percent for juvenile justice and residential settings to 96 percent for outpatient settings. Unlike agency representatives, a majority (66 percent) of in-house trained staff used the intervention; however, they did not provide additional training,

This naturalistic study offers further insight into the relationship between training transfer and how TRIP is implemented. Specifically, findings suggest that with each generation of training, proportionally more clients received the intervention, with 65 percent and 59 percent of clients reportedly receiving TRIP for agencies classified as second- and third-generation trainings, respectively; compared to a lower 20 percent of clients receiving the intervention for agencies classified as first generation. Thus, initially supporting that dispersion (conducting in-house trainings) acts as a facilitator to widespread adoption. Further, findings suggest that agencies who more widely disperse EBPs also implement faster than agencies who report no knowledge/training transfer beyond those who attend a developer-led training. In fact, while 50 percent of agencies classified as third-generation trainings and 56 percent of agencies in second-generation trainings started TRIP within the first month, only 28 percent of agencies classified as first-generation training implemented it during the first month (43 percent implemented it during the second month).

Discussion

This study offers a novel examination of the utility and process of using train-the-trainer (T3) on implementation of best practices among substance abuse programs that serve juvenile justice-involved youth, and adds to the literature on T3 effectiveness. Results show that T3 approaches were widely used within this sample of agencies, resulting in widespread training and practice use. In general, regardless of treatment modality, T3 served as a means for agency representatives (those sent to developer-led trainings) to share knowledge with other agency staff through subsequent in-house trainings. In-house trainings resulted in 46 percent more staff being trained in the EBP, most (80 percent) of whom used the curriculum. The impact of these in-house trainings is evidenced by a 32 percent increase in youth who received the EBP. These data demonstrate the potential ease in transferring knowledge and future self-sustainment/independence from developers to sustain EBPs.

Results document interesting differences between modalities with regard to the use of T3. Compared to residential and outpatient agencies, JJ-secure agencies reported a longer lag between initial training of agency

TABLE 1.
Agency Level Dispersion: Generations of Training by Modality and Practice Utilization

	Total Agencies (N=39)			Juvenile Justice (n=11)			Residential (n = 12)			Outpatient (n=13)			Both Residential and Outpatient (n = 3)		
Generation	**1**	**2**	**3**	**1**	**2**	**3**	**1**	**2**	**3**	**1**	**2**	**3**	**1**	**2**	**3**
TRIP Used by															
Both Trainees (n=16, 66.7%)		13	13		3	4		2	3		7	4		1	2
Rep. Trainees Only (n=7, 17.9%)	5	1	1	1			3	1	1	1					
Agency Trainees Only (n=4, 10.3%)		2	2		2				1			1			
Neither Trainee (n=2, 5.1%)	2			1			1								
Modality by Generation N(%)	7 (17.9)	16 (41)	16 (41)	2 (18.2)	5 (45.5)	4 (36.4)	4 (33.3)	3 (25)	5 (41.7)	1 (7.7)	7 (53.8)	5 (38.5)	0 (0)	1 (33.3)	2 (66.7)

Note: Generation 1: Agencies where TRIP training was exclusively restricted to staff representatives who attended the developer-led training (no in-house training occurred on TRIP curriculum). Generation 2: Agencies where staff representatives who attended the developer-led training provided an in-house training (however no report of additonal trainings conducted by in-house trained staff). Generation 3: Agencies where staff reported both having received an in-house training from agency representatives, as well as providing additional in-house trainings.

Figure 1. Staff Level Dispersion: Representative Training and Utilization

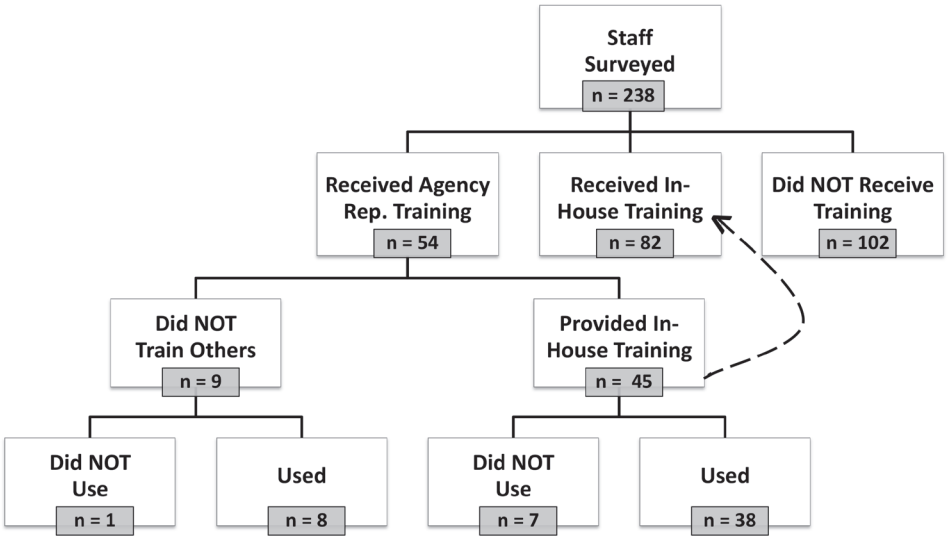
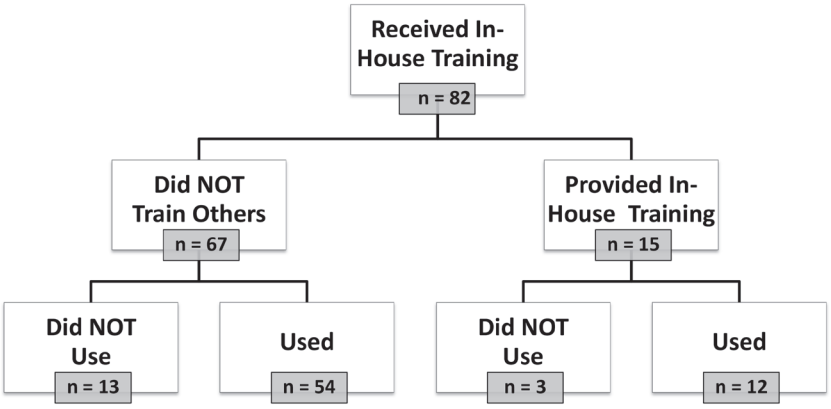


Figure 2. Staff Level Dispersion: In-House Training and Utilization



representatives and TRIP implementation (greater than 2 months) and were less likely to progress to a third-generation training (where those trained in-house served as trainers to others). Yet despite these differences, JJ agencies reported greater numbers of youth receiving TRIP, suggesting better penetration within the agency. Several reasons could account for these findings, including differences in JJ organizational structure and decision-making policy (e.g., leadership sign-off on planned changes, required approvals by oversight entities), agency size and resources (e.g., saturation of staff in smaller facilities, availability of a "training department" in larger facilities), and attitudes toward innovative practices. Further work is needed to fully understand how these and other factors contribute to greater uptake in JJ settings despite stopping at generation 2.

The delay in implementation followed by greater penetration seen in JJ agencies may reflect the degree to which agencies were prepared to change and/or were investing in deliberate preparation activities. According to program change (e.g., Simpson & Flynn, 2007) and implementation process models (e.g., Aarons, Hurlburt, & Horwitz, 2011), agencies that are successful at implementing an EBP must first prepare the environment. Preparation can involve the shifting of staff responsibilities (as was done in 36 percent of agencies in this sample), targeted efforts to gain buy-in from leadership, identification of change agents who are charged with orchestrating planned changes, identifying potential barriers and solutions, and cultivating a workplace climate that is receptive to change (e.g.,

through staff education, active participation in decision making, use of data to illustrate need for change, offering incentives). Prior work suggests that factors such as staff adaptability and organizational innovation/flexibility can impact JJ staff attitudes regarding best practices for substance use treatment (Knight, Joe, Morse, Smith, Knudsen, Johnson, Wasserman… Wiley, 2018), and intentional efforts to plan how an intervention will be implemented results in greater reach and sustainability (Wiltsey Stirman, Kimberly, Cook, Calloway, Castro, & Charns, 2012).

Results of this study also document that agencies took advantage of the ability to customize the curriculum for their specific agency and client needs. Indeed, engaging in a dynamic adaptation process, where agencies work to carefully adapt an intervention to meet their needs while maintaining integrity and fidelity to core components, is important in ensuring fit and increasing likelihood of sustainment over time (Aarons et al., 2012). Although most agencies implemented the TRIP curriculum as recommended, customizations included breaking each of the 8 sessions into two 45-minute segments to better fit into programming schedules.

While the current study uses sound methodology to document the utility of the train-the-trainer model for promoting uptake of TRIP, several limitations should be noted. First, data on how TRIP was implemented were based on clinician descriptions rather than observations and were therefore subject to recall bias. Second, measures of fidelity to the intervention were not included, so the degree to which TRIP was being implemented as intended cannot be determined. Third, the investigation was limited to one specific practice—the TRIP curriculum—implemented within adolescent treatment settings; therefore, generalizing to other evidence-based practices, other populations, and other settings should be done with caution. Finally, no youth outcomes were measured as part of this study, which precludes inferences regarding the effectiveness of TRIP for intended outcomes (c.f., Becan, Knight, Crawley, Joe, & Flynn, 2015; Knight, Dansereau, Becan, Rowan-Szal, & Flynn, 2015; Knight, Joe, Becan, Crawley, Theisen, & Flynn, 2019).

In conclusion, train-the-trainer approaches are readily adopted within treatment settings that serve justice-involved youth. Further, T3 appears effective for developing internal expertise on an EBP so that agencies need not rely on intervention developers for ongoing training. Developing such expertise is essential if decisions around customization are to be well-informed, barriers to implementation are to be addressed on an ongoing basis as they arise, and agencies are to be successful in maintaining the EBP as new staff are hired. Future studies identifying organization factors that impact both the uptake and sustainment of EBPs and that provide specific recommendations for how to overcome challenges unique to serving justice-involved populations are needed.

References

Aarons, G. A., Green, A. E., Palinkas, L. A., Self-Brown, S., Whitaker, D. J., Lutzker, J. R., . . . Chaffin, M. J. (2012). Dynamic Adaptation Process to implement an evidence-based child maltreatment intervention. *Implementation Science, 7*(1), 32. https://doi.org/10.1186/1748-5908-7-32

Aarons, G. A., Hurlburt, M., & Horwitz, S. M. (2011). Advancing a conceptual model of evidence-based practice implementation in public service sectors. *Administration and Policy in Mental Health and Mental Health Services Research, 38*(1), 4-23.

Bartholomew, N. G., Dansereau, D. F., Becan, J. E., & Knight, D. K. (2011, June). *Strategies for engaging adolescents in treatment.* Training for Treatment Retention and Induction (TRIP) Research Sites, Fort Worth, TX.

Bartholomew, N. G., Joe, G. W., Rowan-Szal, G. A., & Simpson, D. D. (2007). Counselor assessments of training and adoption barriers. *Journal of Substance Abuse Treatment, 33*(2), 193-199. PMCID: PMC1989156

Becan, J. E., Bartkowski, J. P., Knight, D. K., Wiley, T. R. A., DiClemente, R., Ducharme, L., Welsh, W. N., Bowser, D., McCollister, K., Hiller, M., Spaulding, A. C., Flynn, P. M., Swartzendruber, A., Dickson, M. F., Horan Fisher, J., & Aarons, G. A. (2018). A model for rigorously applying the Exploration, Preparation, Implementation, and Sustainment (EPIS) Framework in the design and measurement of a large scale collaborative multi-site study. *Health & Justice*, 6(1):9. doi: 10.1186/s40352-018-0068-3 PMCID: PMC5899075

Becan, J. E., Knight, D. K., Crawley, R. D., Joe, G. W., & Flynn, P. M. (2015). Effectiveness of the Treatment Readiness and Induction Program for increasing adolescent motivation for change. *Journal of Substance Abuse Treatment, 50*, 38-49. PMCID: PMC4304896

Becker, C. B. (2017). From efficacy to global impact: Lessons learned about what not to do in translating our research to reach. *Behavior Therapy, 48(5),* 718-730. doi: 10.1016/j.beth.2016.12.007

Brown, S. M., Baker, C. N., & Wilcox, P. (2012). Risking connection trauma training: A pathway toward trauma-informed care in child congregate care settings. *Psychological Trauma: Theory, Research, Practice, and Policy, 45(5),* 507-515. doi: 10.1037/a0025269

Brown, B. S., & Flynn, P. M. (2002). The federal role in drug abuse technology transfer: a history and perspective. *Journal of Substance Abuse Treatment, 22 (4),* 245-257.

Chambers, D. A., Glasgow, R. E., & Stange, K. C. (2013). The dynamic sustainability framework: Addressing the paradox of sustainment amid ongoing change. *Implementation Science*, 8:117. Retrieved May 16, 2018 from http://implementationscience.biomedcentral.com/articles/10.1186/1748-5908-8-117

Czuchry, M., & Dansereau, D. F. (2003). A model of the effects of node-link mapping on drug abuse counseling. *Addictive Behaviors, 28*(3), 537-549.

Dansereau, D. F., & Simpson, D. D. (2009). A picture is worth a thousand words: The case for graphic representations. *Professional Psychology: Research and Practice, 40*(1), 104-110.

Development Services Group, Inc. (2015). Implementation science. Literature review. Washington, D.C.: Office of Juvenile Justice and Delinquency Prevention. https://www.ojjdp.gov/mpg/litreviews/Implementation_Science.pdf

Greif, R., Becker, C. B., & Hildebrandt, T. (2015). Reducing eating disorder risk factors: A pilot effectiveness trial of a train-the-trainer approach to dissemination and implementation. *International Journal of Eating Disorders, 48(8),* 1122-1131. doi: 10.1002/eat.22442

Henderson, C. E., Taxman, F. S., & Young, D. W. (2008). A Rasch model analysis of evidence-based treatment practices used in the criminal justice system. *Drug and Alcohol Dependence, 93(1-2),* 163-175. doi: 10.1016/j.drugalcdep.2007.09.010

Hoagwood, K. E., Olin, S. S., Storfer-Isser, A., Kuppinger, A., Shorter, P., Wang, N. M., Pollock, M., Peth-Pierce, R., & Horwitz, S. (2017). Evaluation of a train-the-trainers model for family peer advocates in children's mental health. *Journal of Child and Family Studies, 27,* 1130-1136. doi: 10.1007/s10826-017-0961-8

Joe, G. W., Becan, J. E., Knight, D. K., & Flynn, P M. (2017). A structural model of treatment program and individual counselor leadership in innovation transfer. *BMC Health Services Research, 17*:230. PMCID: PMC5364669

Knight, D. K., Broome, K. M., Simpson, D. D.,

Flynn, P M. (2008). Program structure and counselor-client contact in outpatient substance abuse treatment. *Health Serv Res.*, *43*(2):616–34.

Knight, D. K., Dansereau, D. F., Becan, J. E., Rowan, G. A., & Flynn, P. M. (2015). Effectiveness of a theoretically-based judgment and decision making intervention for adolescents. *Journal of Youth and Adolescence, 44*, 1024-1038. PMCID: PMC4208977

Knight, D. K., Joe, G. W., Becan, J. E., Crawley, R. D., Theisen, S. E., & Flynn, P. M. (2019). Effectiveness of an intervention for improving intrinsic motivation among adolescent males in a secure substance use treatment setting. *Criminal Justice and Behavior, 46*(1), 101-114.

Knight, D. K., Joe, G. W., Crawley, R. D., Becan, J. E., Dansereau, D. F., & Flynn, P. M. (2016). The effectiveness of the Treatment Readiness and Induction Program (TRIP) for improving during-treatment outcomes. *Journal of Substance Abuse Treatment, 62*, 20-27. PMCID: PMC4304896

Knight, D. K., Joe, G. W., Morse, D. T., Smith, C., Knudsen, H., Johnson, I., Wasserman, G. A., Arrigona, N., McReynolds, L. S., Becan, J. E., Leukefeld, C., & Wiley, T. R. A. (2018). Organizational context and individual adaptability in promoting perceived importance and use of best practices for substance use. *Journal of Behavioral Health Services & Research*. doi: 10.1007/s11414-018-9618-7. [Epub ahead of print] PubMed PMID: 29777368

Knudsen, H. K., Roman, P. M., Ducharme, L. J. (2005). Does service diversification enhance organizational survival? Evidence from the private substance abuse treatment system. *Journal of Behavioral Health Services & Research, 32*(2005), pp. 241-252.

McGovern, M. P., Fox, T. S., Xie, H., & Drake, R. E. (2004). A survey of clinical practices and readiness to adopt evidence-based practices: Dissemination research in an addiction treatment system. *Journal of Substance Abuse Treatment, 26*(4), 305-312. doi: 10.1016/j.jsat.2004.03.003

McKee, E. C., & Rapp, L. (2014). The current status of evidence-based practice in juvenile justice. *Journal of Evidence-Based Social Work, 11,* 308-317. doi: 10.1080/10911359.2014.897099

Miller, W. R., Sorensen, J. L., Selzer, J. A., & Bringham, G. S. (2006). Disseminating evidence-based practices in substance abuse treatment: A review with suggestions. *Journal of Substance Abuse Treatment, 31*(1), 25-39. doi: 10.1016/j.jsat.2006.03.005

Molinaro, P. F., Fisher, R. P., Mosser, A. E., & Satin, G. E. (2019). Train-the-trainer: Methodology to learn the cognitive interview. *Journal of Investigative Psychology and Offender Profiling, 16*(1), 32-43. doi: 10.1002/jip.1518

Muldoon, D., & Cosbey, J. (2018). A family-centered feeding intervention to promote food acceptance and decrease challenging behaviors in children with ASD: Report of follow-up data on a train-the-trainer model using EAT-UP. *American Journal of Speech-Language Pathology, 27*(1), 278-287. doi: 10.1044/2017_AJSLP-17-0105

Nilsen, P. (2010). Brief alcohol intervention—where to from here? Challenges remain for research and practice. *Addiction, 105*(6), 954-959. doi: 10.1111/j.1360-0443.2009.02779.x

NREPP: SAMHSA'S National Registry of Evidence-based Programs and Practices. (2008). TCU (Texas Christian University) Mapping-Enhanced Counseling. Rockville, MD: Substance Abuse and Mental Health Services Administration. Retrieved May 16, 2018 from https://nrepp.samhsa.gov/Legacy/ViewIntervention.aspx?id=161

Proctor, E. K., Landsverk, J., Aarons, G., Chambers, D., Glisson, C., & Mittman, B. (2009). Implementation research in mental health services: An emerging science with conceptual, methodological, and training challenges. *Administration and Policy in Mental Health and Mental Health Services Research, 36*(1), 24-34.

Seave, P. L. (2011). Evidence-based practices reduce juvenile recidivism: Can state government effectively promote implementation among probation departments? *American Journal of Community Psychology, 48*(1-2). doi: 10.1007/s10464-010-9416-8

Segre, L. S., Brock, R. L., O'Hara, M. W., Gorman, L. L., & Engeldinger, J. (2011). Disseminating perinatal depression screening as a public health initiative: A train-the-trainer approach. *Maternal and Child Health Journal, 15*(6), 814-821. doi: 10.1007/s10995-010-0644-1

Shen, Z., Jiang, C., & Chen, L. (2018). Evaluation of a train-the-trainer program for stable coronary artery disease management in community settings: A pilot study. *Patient Education and Counseling, 101*(2), 256-265. doi: 10.1016/j.pec.2017.07.025

Simpson, D. D., & Flynn, P. M. (2007). Moving innovations into treatment: A stage-based approach to program change. *Journal of Substance Abuse Treatment, 33*(2), 111-120. PMCID: PMC1995028

Substance Abuse and Mental Health Services Administration, Center for Behavioral Health Statistics and Quality. Treatment Episode Data Set (TEDS): 2017. Admissions to and discharges from publicly-funded substance use treatment. Rockville, MD: Substance Abuse and Mental Health Services Administration, 2019.

Walker, S. C., Bumbarger, B. K., Phillippi, Jr., S. W. (2015). Achieving successful evidence-based practice implementation in juvenile justice: The importance of diagnostic and evaluative capacity. *Evaluation and Program Planning, 52,* 189-197.

Wandersman, A., Duffy, J., Flaspohler, P., Noonan, R., Lubell, K., Stillman, L., Blachman, M., Dunville, R., & Saul, J. (2008). Bridging the gap between prevention research and practice: The interactive systems framework for dissemination and implementation. *American Journal of Community Psychology, 41*(3-4), 171-181. doi: 10.1007/s10464-008-9174-z

Welsh, B. C., & Greenwood, P. W. (2015). Making it happen: State progress in implementing evidence-based programs for delinquent youth. *Youth Violence and Juvenile Justice, 13*(3), 243-257. doi: 10.1177/1541204014541708

Wiltsey Stirman, S., Kimberly, J., Cook, N., Calloway, A., Castro, F., & Charns, M. (2012). The sustainability of new programs and innovations: A review of the empirical literature and recommendations for future research. *Implementation Science*, *7*, 17-17.

Wittenberg, E., Ferrell, B., Goldsmith, J., Ragan, S. L., & Buller, H. (2018). Comfort TMSM communication for oncology nurses: Program overview and preliminary evaluation of a nationwide train-the-trainer course. *Patient Education and Counseling, 101*(3), 467-474. doi: 10.1016/j.pec.2017.09.012

World Health Organization. (2017, May). Adolescents: Health risks and solutions. Retrieved May 16, 2018 from http://www.who.int/mediacentre/factsheets/fs345/en/

Yarber, L., Brownson, C. A., Jacob, R. R., Baker, E. A., Jones, E., Baumann, C., . . . Brownson, R. C. (2015). Evaluating a train-the-trainer approach for improving capacity for evidence-based decision making in public health. *BMC Health Services Research, 15*:547. Retrieved May 16, 2018 from https://bmchealthservres.biomedcentral.com/articles/10.1186/s12913-015-1224-2

Zisblatt, L., Hayes, S. M., Lazure, P., Hardesty, I., White, J. L., & Alford, D. P. (2017). Safe and competent opioid prescribing education: Increasing dissemination with a train-the-trainer program. *Substance Abuse, 38*(2), 168-176. doi: 10.1080/08897077.2016.1275927

JUVENILE FOCUS

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Treatment Disparity for Opioid Use Disorder

White Americans have had "near exclusive access" to buprenorphine (brand name Suboxone), a medication used to treat opioid use disorder, reports Martha Bebinger for *NPR*. According to a study published in *JAMA Psychiatry* by Pooja A. Lagisetty and colleagues, although the national prevalence of opioid misuse is similar for black and white adults, between 2012 and 2015 buprenorphine treatment was overwhelmingly concentrated among whites and those with either private insurance or who self-payed.

Stop and Frisk

African American boys who lived in New York City neighborhoods that experienced a high stop-and-frisk rate performed more poorly in school, according to Joscha Legewie and Jeffrey Fagan in the *American Sociological Review*. Under Mayor Rudy Giuliani, the New York Police Department launched "Operation Impact" in 2004 to place more police officers in crime hot spots, referred to as impact zones. Impact zones rotated, lasting from five months to more than seven years, and increased pedestrian stops by 33 percent as part of the "Stop, Question and Frisk" program later deemed unconstitutional. Roughly four in five people stopped were people of color.

In "Aggressive Policing and the Educational Performance of Minority Youth," Legewie and Fagan compared school and police records in the impact zones. Comparing academic results before and after the imposition of the impact zone, detrimental impacts for African American boys emerged at age 12 and grew through age 15, increasing the black-white test score gap by an equivalent amount to low teacher quality. The study did not find a statistically significant impact for white and Latino boys or for girls of any ethnicity. The authors argue that "a better understanding and regular assessment of the social consequences of policing should play a key role in evaluation of police programs and police accountability."

Recidivism Data

The recidivism data presented in a BJS report can offer helpful perspective on the risks posed by people after release. Whether measured as rearrest, reconviction, or return to prison, BJS found that people whose most serious commitment offense was rape or sexual assault were much less likely to reoffend after release than those who served time for other offense types. The BJS report shows that within 9 years after release:

- Less than 67 percent of those who served time for rape or sexual assault were rearrested for any offense, making rearrest 20 percent less likely for this group than for all other offense categories combined (84 percent). Only those who served time for homicide had a lower rate of rearrest (60 percent).
- People who served sentences for sex offenses were much less likely to be rearrested for another sex offense (7.7 percent) than for a property (24 percent), drug (18.5 percent), or public order (59 percent) offense (a category which includes probation and parole violations).
- Only half of those who served sentences for rape or sexual assault had a new arrest that led to a conviction (for any offense), compared to 69 percent of everyone released in 2005 (in the 29 states with data).

While the data were more limited on returns to prison, the study found that within 5 years after release, people who had served sentences for rape or sexual assault also had a lower return-to-prison rate (40 percent) compared to the overall rate for all offense types combined (55 percent). BJS notes that some of these returns to prison were likely for parole or probation violations, but because of data limitations, it is impossible to say how many were for new offenses, much less how many were for rape or sexual assault.

In sum, the BJS data show that people who served time for sex offenses had markedly lower recidivism rates than almost any other group.

Jail Suicides

Suicide is the leading cause of death for people incarcerated in jail in the United States, accounting for more than 30 percent of deaths in custody. In 2014, the rate of suicide in local jails (50 per 100,000 people) was the highest observed since 2000 and remained more than three times higher than rates of suicide in either prison (16 per 100,000) or the community (13 per 100,000). Although the rate of jail suicide dropped dramatically between 1986 and its low point in 2008 (from 107 to 29 per 100,000 people), the rate has since fluctuated between 40 per 100,000 and 50 per 100,000. Mortality rates in jail are highest for men and white people, and this is even more pronounced for jail suicide: Men incarcerated in jail are 57 percent more likely to die by suicide than women, and white people who are incarcerated are 5.25 and 3.5 times more likely to die by suicide than black or Latino people. These deaths do not account for the incidence of nonsuicidal self-harm in jails, a phenomenon that is less well researched but also a significant health concern and an ongoing challenge in correctional facilities.

A national survey of U.S. prisons found that 2 percent of people who are incarcerated engaged in self-injurious behavior each year and that 85 percent of prisons reported that it happened at least weekly. There are multiple reasons for elevated rates of suicide and self-harm. People incarcerated in jail may face facility-level risk factors such as overcrowding; situational risk factors such as the stress and isolation of incarceration; and individual risk

factors such as mental illness, substance use, a history of trauma, or a history of engaging in self-harm or suicide attempts. Although suicide is not in itself a mental illness, it may be the result of undiagnosed or untreated mental health disorders, and decades of research show that correctional systems in the United States are ill-equipped to meet the underlying needs of people with mental illnesses. A 2017 survey from the Bureau of Justice Statistics found that 26 percent of people incarcerated in jail met the threshold for serious psychological distress in the past 30 days (compared to 5 percent in the general population), yet only one-third (35 percent) of them had received mental health treatment since admission to jail.

Capital Punishment

This report provides statistics from the Bureau of Justice Statistics' annual data collection on capital punishment. It includes statistics on the number of prisoners executed each year from 1977 through 2017, the number and race of prisoners under sentence of death at year-end 2017 by state, and the average elapsed time from sentence to execution by year from 1977 through 2017.

Highlights:

At year-end 2017, a total of 32 states and the Federal Bureau of Prisons (BOP) held 2,703 prisoners under sentence of death, which was 94 (3 percent) less than at year-end 2016.

- In 2017, the number of prisoners held under sentence of death declined for the 17th consecutive year.
- Eighteen states held fewer prisoners under sentence of death at year-end 2017 than at year-end 2016, 3 states and the BOP held more prisoners, and 11 states held the same number.
- Three states accounted for 59 percent of the national decline in prisoners under sentence of death in 2017: Florida (down 33 prisoners), Delaware (down 12), and Texas (down 10).

Opioids

An estimated 2 million Americans suffered from addiction to prescription opioids or illegal opioids in 2018. About two-thirds of deadly drug overdoses in 2016 were due to opioids. The epidemic is also hitting young people hard. In 2017, about 75 percent of drug overdoses among 15-24 year olds were related to opioids. Stop Youth Opioid Abuse is a multi-channel effort from the Office of National Drug Control Policy (ONDCP), the Ad Council, and the Truth Initiative that focuses on preventing and reducing the misuse of opioids among youth and young adults. The campaign also hosts a website, opioids.thetruth.com, which includes information about opioids, the epidemic, and evidence-based drug treatment

Female Prisoners

In 2016, about 81,000 women were released from state prisons nationwide, and women and girls accounted for at least 1.8 million releases from local jails in 2013 (the last year all jails were surveyed). While many people are released from jail within a day or so and may not need reentry support, jail releases can't be overlooked, especially for women, who are more likely than men to be incarcerated in jails as opposed to prisons. (Moreover, jails typically provide fewer programs and services than prisons, so individuals released from jails are even less likely to have received necessary treatment or services while incarcerated than those in prison.)

Those figures mean that nationally, about 1 in 8 (13 percent) of all individuals released from state prisons—and more than 1 in 6 (18 percent) jail releases—are women. In 20 states, at least 1 in 5 (20 percent) individuals released from incarceration (either prison or jail) is female. Fully half of all states release at least 1,000 women from prison annually; in Texas, it's over 12,000 women per year.

Car Crash Deaths

Since the turn of the century, more Americans have died in car crashes (624,000) than died in both World Wars, and the overwhelming majority of the wrecks were caused by speeding, or drunk or distracted drivers. By contrast, the data show that the opioid epidemic killed nearly 100,000 people between 2006 and 2012. During the same time fame, speeding, drunk, and distracted driving caused 190,455 deaths. Among the deaths, 94 percent are caused by human error. The AAA Foundation for Traffic Safety determined that those who talk on a cellphone while driving are four times more likely to crash, and those who text and drive are up to 8 times more likely to crash. The number of drivers who say they talk on their cellphones regularly or fairly often while driving has jumped 46 percent since 2013. A study found that 21 percent of crashes involved a drowsy driver—causing 100,000 deaths.

Probation-Parole Violations

A quarter of all state prison admissions can be traced to minor parole violations like missing curfews or appointments. That pencils out to 95,000 people a day. Nationwide taxpayers shell out $2.8 billion a year to lock up people for such infractions—behaviors that would not normally result in prison sentences, according to the Council of State Governments. More than 4.5 U.S. adults, or nearly 2 percent of the population, are on parole or probation, according to the Pew Foundation. The share of state prison admissions stemming from parole or probation violations swells to 45 percent when people who commit new crimes while out on community-based supervision are included.

Suicides

The Centers for Disease Control and Prevention states in a recent report that between 1999 and 2017, suicide rates in the U.S. rose to their highest level since World War II. The increase can be found among women and men, and in every racial and ethnic group. Researchers posit that the opioid epidemic may be partly to blame, along with general feelings of despair, bullying, and lack of emotional support.

Educated Fathers

Fathers in the U.S. tend to be better educated than men without children, and relatively few men have children past age 40, according to the Census Bureau, which also found that more than 60 percent of the 121 million adult men were fathers. About three-quarters of the fathers were married, 13 percent were divorced, and 8 percent had never been married. Just under a quarter of U.S. men between ages 40 and 50 were childless, and about 17 percent had never been married by the time they were in their 40s. More than 83 percent of Hispanic men were fathers, around 80 percent of black and Asian men were dads, and around three-quarters of white men were fathers.

Overheated Vehicles

Last year, 52 children died after being trapped inside an overheated vehicle—the country's deadliest year in the past 20, according to the National Safety Council. Since 1998, 805 children have died in hot cars, more than half under age 2, and 53 percent of the time the driver of the car forgot that the child was in the back seat of the car.

Police-Involved Deaths

An article published in the Proceedings of the National Academy of Sciences of the United States of America (116(34):16793-16798) by Edwards, Lee, and Esposito uses novel data on police-involved deaths to estimate how the risk of being killed by police use-of-force in the United States varies across social groups. The authors estimate the lifetime and age-specific risks of being killed by police by race and sex, and also provide estimates of the proportion of all deaths accounted for by police use-of-force. The study finds that African American men and women, American Indian/Alaska Native men and women, and Latino men face higher lifetime risk of being killed by police than do their white peers. Latino women and Asian/Pacific Islander men and women face lower risk of being killed by police than do their white peers. Risk is highest for Black men, who (at current levels of risk) face about a 1 in 1,000 chance of being killed by police over the life course. The average lifetime odds of being killed by police are about 1 in 2,000 for men and about 1 in 33,000 for women. Risk peaks between the ages of 20 and 35 for all groups. For young men of color, police use-of-force is among the leading causes of death. Violent encounters with the police have profound effects on health, neighborhoods, life chances, and politics. Policing plays a key role in maintaining structural inequalities between between people of color and white people in the United States.

Muslim Prisoners

Research shows that within the 34 states that provided data, Muslims are overrepresented in state prisons by a factor of eight relative to the general population. In some state systems, Muslims are overrepresented by a factor of closer to eighteen, with more than 20 percent of prisoners identifying as Muslim. The absolute number of Muslim prisoners has also increased over time, even as prison populations in many states have tended to decrease in the last few years. Despite Muslims constituting a significant and growing share of prisoners, many state departments of correction still have policies that are outdated, under-accommodating, or non-accommodating of Muslim prisoners. Second, we analyzed Muslim prisoner cases brought in federal court to identify the free exercise areas that are of most frequent concern to Muslim prisoners. The most commonly litigated problems were difficulties obtaining an adequate religiously compliant diet, as well as problems worshipping in groups.

Police Calls for Service

According to the Council of State Governments (CSG) Justice Center, enforcement agencies across the country are being challenged by a growing number of calls for service involving people who have mental health needs. Increasingly, officers are called on to be the first—and often the only—responders to calls involving people experiencing a mental health crisis. These calls can be among the most complex and time-consuming for officers to resolve, redirecting them from addressing other public safety concerns and violent crime. They can also draw intense public scrutiny and can be potentially dangerous for officers and people who have mental health needs. When these calls come into 911/dispatch, the appropriate community-based resources are often lacking to make referrals, and more understanding is needed to relay accurate information to officers. As such, there is increasing urgency to ensure that officers and 911 dispatchers have the training, tools, and support to safely connect people to needed mental health services.

To respond to these challenges, police departments are increasingly seeking help from the behavioral health system to acces, a community's array of available services and alternatives to arrest, such as crisis stabilization services, mental health hotlines, and other community-based resources. However, even when officers are fully informed, service capacity is typically insufficient to meet the community's need. As a result, officers encounter the same familiar faces over and over again, only to witness the health of these individuals deteriorate over time.

Women Prisoners

Women face many physical, medical, and psychological challenges in prison due to their high levels of mental illness and trauma history, higher likelihood of having and parenting minor children, and unique pregnancy and reproductive health care needs. A higher percentage of women than men find themselves in prison for minor drug and property offenses. Indeed, even as the rate of imprisonment for women has risen dramatically in recent years, the percentage sentenced for more serious crimes has fallen. Children are also among the victims of the United States' high incarceration rates. Since women are more likely than men to be the primary or sole caretaker of their children prior to incarceration, children and families are profoundly affected by the rising numbers of women sent to prison. Between 1991 and 2007, the number of children with a mother in prison more than doubled. About 62 percent of women in state prisons, and 56 percent of women in federal prison, have minor children.

Juvenile Solitary Confinement

In 2016, the Center for Children's Law and Policy, Council of Juvenile Correctional Administrators, Center for Juvenile Justice Reform at Georgetown University, and Justice Policy Institute launched the Stop Solitary for Kids campaign. The Campaign's goal is to safely reduce and ultimately end the dangerous practice of solitary confinement for young people in juvenile and adult facilities. The Campaign works with advocates, lawmakers, state and local government official, state juvenile justice agency directors, superintendents of state and local juvenile facilities, parents, youth, and community leaders to highlight effective strategies to reduce and eliminate solitary confinement. The practice—alternatively described as "room confinement," "isolation," "separation," or "seclusion"—is the involuntary placement of a youth alone in a room or other area for any reason other than as a temporary response to behavior that risks immediate physical harm. The harms of solitary confinement are experienced most acutely by youth with mental illness, youth with trauma histories, youth of color, and LGBTQ and gender non-conforming youth. *Not in Isolation* is a practical guide to help leaders and agencies develop roadmaps to reducing room confinement in their facilities. Because there are multiple existing resources documenting the negative effects of room confinement on youth and staff, *Not in Isolation* instead focuses on ways to avoid and prevent the practice of room confinement altogether.

Jail Population

"A total of 4.9 million people go to jail every year—that's a higher number than the populations of 24 U.S. states," said Alexi Jones, author of the report *Arrest, Release, Repeat,* published by Prison Policy Initiative (PPI),. "But what's even more troubling is that people who are jailed have high rates of economic and health problems, problems that local governments should not be addressing through incarceration."

The report reveals that:

- 49 percent of people with multiple arrests in the past year had annual incomes below $10,000, compared to 36 percent of people arrested only once and 21 percent of people with no arrests.

- Despite making up only 13 percent of the general population, Black men and women account for 21 percent of people who were arrested just once and 28 percent of people arrested multiple times.
- People with multiple arrests are much more likely than the general public to suffer from substance use disorders and other illnesses, and much less likely to have access to health care.
- The vast majority of people with multiple arrests are jailed for nonviolent offenses such as drug possession, theft, or trespassing. The Office of Juvenile Justice and Delinquency Prevention and the National Institute of Justice today released *Juvenile Arrests, 2017*, which documents recent trends by analyzing arrest data reported by local law enforcement agencies to the FBI's Uniform Crime Report. Overall, juvenile arrests have been declining for more than a decade, but patterns vary by demographic group and offense.

In addition, the report states that at least 1 in 4 people who go to jail in a given year will return to jail over the course of a year. At least 428,000 people will go to jail three or more times over the course of a year—the first national estimate of a population often referred to as "frequent utilizers."

The report also provides breakdowns according to race, finding that:

- Black Americans are overrepresented among people who were arrested in 2017. Despite making up only 13 percent of the general population, Black men and women account for 21 percent of people who were arrested just once and 28 percent of people arrested multiple times in 2017.
- Poverty is strongly correlated with multiple arrests. Nearly half (49 percent) of people with multiple arrests in the past year had individual incomes below $10,000 per year. In contrast, about a third (36 percent) of people arrested only once, and only one in five (21 percent) people who had no arrests, had incomes below $10,000.
- Low educational attainment increases the likelihood of arrest, especially multiple arrests. Two-thirds (66 percent) of people with multiple arrests had no more than a high school education, compared to half (51 percent) of those who were arrested once and a third (33 percent) of people who had no arrests in the past year.
- People with multiple arrests are 4 times more likely to be unemployed (15 percent) than those with no arrests in the past year (4 percent).
- Most people arrested multiple times don't pose a serious public safety risk. The vast majority (88 percent) of people who were arrested and jailed multiple times had not been arrested for a serious crime.

Murder Data

Crime in the United States reports data on murder victims. Each *Crime in the United States* report, published by the FBI, presents estimates of the number of crimes reported to law enforcement agencies. Although many crimes are never reported, murder is one crime that is nearly always reported. An estimated 17,284 murders were reported to law enforcement agencies in 2017, or 5.3 murders for every 100,000 U.S. residents. The murder rate was essentially constant between 1999 and 2006 and then fell 22 percent through 2014, reaching its lowest level since at least 1980. The rate has increased in each of the last 3 years, however, so that by 2017, the rate was at the highest level since 2009. Of all murder victims in 2017, 92 percent (or 15,889 victims) were 18 years old or older. The other 1,395 murder victims were younger than age 18 (i.e., juveniles). The number of juvenile murder victims declined 33 percent between 2007 and 2013, reaching its lowest level since at least 1980. Following 4 years of increase, the number of juvenile murder victims in 2017 was 16 percent above the 2013 low point and 52 percent below the 1993 peak, when an estimated 2,880 juveniles were murdered. Of all juveniles murdered in 2017, 34 percent were younger than age 5, 72 percent were male, 43 percent were white, and more than half (56 percent) were killed by a firearm.

Death Penalty

According to the Death Penalty Information Center, 25 people were executed in the United States in 2018. The number of death sentences imposed was 42. According to the Criminal Justice Project of the NAACP, there are 2,673 people on death row. Since 1976, when the death penalty was reinstated by the US Supreme Court, 1,499 people have been executed (as of May 31, 2019). Since 1973, there have been 165 death row exonerations (as of May 2019). Twenty-nine of them are from the state of Florida. The U.S. government and U.S. military have 62 people awaiting execution as of December 21, 2018. The U.S. government has executed three people since 1988, when the federal death penalty statute was reinstated. According to the Criminal Justice Project of the NAACP, there are 54 women on death row in the United States as of April 1, 2019. As of April 1, 2019, sixteen women have been executed since the reinstatement of the death penalty. Twenty-two individuals were executed between 1976 and 2005 for crimes committed as juveniles. On March 1, 2005, the Supreme Court ruled that the execution of juvenile offenders is unconstitutional.

Juvenile Arrest Data

The juvenile arrest rate for aggravated assault declined in the last 5 years, the robbery arrest rate stayed about the same, and the murder arrest rate increased annually since 2012. Juvenile arrest rates for property crimes have declined in recent years. By 2017, juvenile arrest rates for larceny-theft, burglary, and arson were at their lowest levels since at least 1980, while rates for motor vehicle theft increased annually since 2013. The violent crime arrest rate for older juveniles (ages 15 to 17) was lower than the rates for young adults (ages 18 to 20 and 21 to 24). Male and female juvenile arrest rates have declined in the last 10 years; however, the relative declines have been greater for males than for females across many offenses. As a result, the female share of juvenile arrests has grown since 1980. Juvenile arrest rates involving violent crimes (such as murder and robbery) tend to be much higher for black youth than for white youth. Conversely, arrest rates for liquor law violations were higher for American Indian and white youth than black youth.

- Office of Juvenile Justice and Delinquency Prevention and the National Institute of Justice today released *Juvenile Arrests, 2017*, which documents recent trends by analyzing arrest data reported by local law enforcement agencies to the FBI's Uniform Crime Report. Overall, juvenile arrests have been declining for more than a decade, but patterns vary by demographic group and offense.

Juvenile Arrests

In 2017, U.S. law enforcement agencies arrested more than 809,700 persons younger than 18 years old. This was the lowest number since at least 1980—and 70 percent below its 1996 peak of nearly 2.7 million. However, juvenile arrests for certain offenses increased in the last few years. Relative declines in arrests have been greater for boys than for girls across many offenses. As a result, the female share of juvenile arrests has grown from 18 percent in 1980 to 29 percent in 2017.

Data Snapshot Highlights Youth in Residential Placement

The National Center for Juvenile Justice and OJJDP have released a Data Snapshot that provides an overview of trends and characteristics of youth in residential placement in 2017. The Data Snapshot reports that the number of detained and committed youth in residential placement continues to decline. Following are some highlights:

- There were 43,580 youth in residential placement in 2017.
- Relative declines from 1999 to 2017 were greater for committed youth (65 percent) than for detained youth (45 percent).
- The offense profiles for detained and committed youth (technical violations and status, drug, public order, property, and person offenses) were similar in 2017.

Prison Downsizing

U.S. Prison Population Trends: Massive Buildup and Modest Decline, finds that 39 states and the federal government had downsized their prisons as of 2017. Five states—Alaska, New Jersey, Vermont, Connecticut, and New York—led the nation in reducing their prison populations by over 30 percent since reaching their peak levels. Some Southern states, which have exceptionally high rates of incarceration, also achieved double-digit percentage reductions in their prison populations since reaching their peak levels, including Alabama (25 percent), South Carolina (17 percent), Louisiana (16 percent), and Mississippi (15 percent).

But 14 states downsized their prisons by less than 5 percent. Eleven states, led by Arkansas, had their highest ever prison populations in 2017. Additionally, Alaska—one of the current leaders in state decarceration—repealed several aspects of its major criminal justice reform initiatives in 2019. While some critics have charged that decarceration would lead to rising crime, states with the most substantial reductions in their prison populations have often outpaced the nationwide crime drop. The study found 14 states downsized their prisons by less than 5 percent. Eleven states, led by Arkansas, had their highest ever prison populations in 2017. Additionally, Alaska—one of the current leaders in state decarceration—repealed several aspects of its major criminal justice reform initiatives in 2019.

Victimization Data

The longstanding general trend of declining violent crime in the United States, which began in the 1990s, has reversed direction in recent years, based on findings from the National Crime Victimization Survey (NCVS), which is one of two major sources of crime statistics in the United States. Meanwhile, the long-term decline in property crime has continued in recent years. After declining 62 percent from 1994 to 2015 (the most recent year in which a one-year decline was observed), the number of violent-crime victims increased from 2015 to 2016, and again from 2016 to 2018. Among U.S. residents age 12 or older, the number of violent-crime victims rose from 2.7 million in 2015 to 3.3 million in 2018, an increase of 604,000 victims. This overall rise was driven by increases in the number of victims of rape or sexual assault, aggravated assault, and simple assault. From 2015 to 2018, the portion of U.S. residents age 12 or older who were victims of violent crime rose from 0.98 percent to 1.18 percent (up 20 percent). Over that span, the portion of white persons age 12 or older who were victims of violent crime rose from 0.96 percent to 1.19 percent (up 24 percent), the portion of males who were victims rose from 0.94 percent to 1.21 percent (up 29 percent), and the portion of females who were victims rose from 1.03 percent to 1.16 percent (up 13 percent).

Violent Victimization

The total number of violent victimizations (that is, the total number of times that people were victims of violent crime) increased from 5,007,000 victimizations of U.S. residents age 12 or older in 2015 to 6,386,000 victimizations in 2018. Across that period, the rate of violent victimizations increased from 18.6 to 23.2 victimizations per 1,000 persons age 12 or older. Excluding simple assault, the rate of violent victimizations increased from 6.8 to 8.6 victimizations per 1,000 persons age 12 or older. The increase in the rate of violent victimizations was largely due to crimes that were not reported to police. From 2015 to 2018, the rate of violent victimizations that went unreported to police rose from 9.5 to 12.9 per 1,000 persons age 12 or older, while the rate of violent victimizations that were reported to police showed no statistically significant change.

There were increases in some forms of violent victimizations from 2017 to 2018. The total rate of completed (as opposed to attempted or threatened) violent victimizations increased from 5.6 to 6.9 per 1,000 persons age 12 or older over that span, while the rate of rape or sexual assault (completed, attempted, or threatened) increased from 1.4 to 2.7 victimizations per 1,000 persons age 12 or older.

Capital Punishment

"Capital Punishment, 2017: Selected Findings" provides statistics from the Bureau of Justice Statistics annual data collection on capital punishment. The report includes statistics on the number of prisoners executed each year from 1977 through 2017, the number and race of prisoners under sentence of death at year-end 2017 by state, and the average elapsed time from sentence to execution by year from 1977 through 2017.

Findings include:

- At year-end 2017, 32 states and the Federal Bureau of Prisons held 2,703 prisoners under sentence of death, which was 94 (3 percent) less than at year-end 2016.
- In 2017, the number of prisoners held under sentence of death declined for the 17th consecutive year.
- Eighteen states held fewer prisoners under sentence of death at year-end 2017 than at year-end 2016, 3 states and the BOP held more prisoners, and 11 states held the same number.
- Three states accounted for 59 percent of the national decline in prisoners under sentence of death in 2017: Florida (down 33 prisoners), Delaware (down 12), and Texas (down 10).

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