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Federal PROBATION

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Electronic Monitoring for Pretrial Release: Assessing the Impact

*By Karla Dhungana Sainju, Stephanie Fahy, Katherine Baggaley, Ashley Baker, Tamar Minassian,
Vanessa Filippelli*

Innovative Justice: Federal Reentry Drug Courts—How Should We Measure Success?

By Timothy D. DeGiusti

Best Practices in Treatment Court Evaluation

By Michael S. Rodi, Charlene Zil, Shannon M. Carey

Outcomes of Motivational Interviewing Training with Probation and Parole Officers:
Findings and Lessons Learned

By Melanie M. Iarussi, Dixie F. Powers

Juvenile Focus

By Alvin W. Cohn

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EDITORIAL STAFF

Charles Robinson, *Executive Editor*
Ellen Wilson Fielding, *Editor*

Federal Probation
Administrative Office of the U.S. Courts
Washington, DC 20544
telephone: 202-502-1651
fax: 202-502-1677
email: Ellen_Fielding@ao.uscourts.gov

Postmaster: Please send address changes to the editor at the address above.

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

Electronic Monitoring for Pretrial Release: Assessing the Impact

Karla Dhungana Sainju

University of Ontario Institute of Technology

Stephanie Fahy

Booz Allen Hamilton

Katherine Baggaley

University of Ontario Institute of Technology

Ashley Baker

University of Ontario Institute of Technology

Tamar Minassian

University of Ontario Institute of Technology

Vanessa Filippelli

University of Ontario Institute of Technology

A 2015 SURVEY of jail populations found that nationwide in the United States two-thirds of the incarcerated population in county jails are pretrial defendants awaiting a resolution for their case (Ortiz, 2015). The question of whether to detain or release defendants while they await trial is one of the most critical decision points in the pretrial phase, given its direct implications for operating costs and the jail population. In certain cases, pretrial detention may be justified for public safety or decreased flight risk, yet research suggests that it can also lead to negative collateral consequences such as job loss, weakened family bonds, increased likelihood of being convicted and sentenced to jail or prison, and increased probable sentence length if incarcerated (Phillips, 2008; Pogrebin, Dodge, & Katsampes, 2001). The use of electronic monitoring (EM) technologies to supervise pretrial defendants may prevent some of these collateral consequences, potentially increase the likelihood of court appearances compared to defendants released without EM, ensure compliance with certain conditions of release,

and alleviate the need to detain defendants at the jurisdiction's expense (DeMichele & Payne, 2009; Lemke, 2009; Wiseman, 2014).

EM technology was developed in the 1960s and started to be incorporated as an alternative sentencing option beginning in the 1980s (Dhungana Sainju et al., 2016). Shortly thereafter, EM was incorporated into the pretrial phase of the justice system and has been used to supervise defendants awaiting trial for over 20 years (Cadigan, 1991; Maes & Mine, 2013; VanNostrand, Rose, & Weibrecht, 2011). A recent census of EM use in the United States highlighted a sharp increase among pretrial defendants and convicted offenders, reporting that individuals monitored with global positioning system (GPS) and radio frequency (RF) bracelets rose almost 140 percent between 2005 and 2015 (Stevenson, Fahy, & Dhungana Sainju, 2016). While the use of EM technologies has primarily been focused on post-conviction populations, an increasing number of pretrial agencies are also incorporating its use to enhance pretrial release. Two surveys conducted among U.S. pretrial

agencies found that more than two-thirds of agencies reported using EM technologies to supervise defendants (Erez et al., 2012; Pretrial Justice Institute, 2009). Based on the more recent numbers from the national census, it would be reasonable to postulate much higher present-day usage of EM technologies within pretrial agencies nationwide.

The implementation of EM at the pretrial phase differs between jurisdictions; however, this study will focus on the application within the county of Santa Clara, California. The current study examines EM as a condition of pretrial release for a general population of adult defendants. It adds to the limited research on pretrial EM programs and discusses EM use within this phase of the justice system.

Literature Review

Despite the growing use of EM, the research on the overall use of it as a supervisory tool has not kept pace (Dhungana Sainju et al., 2016). Earlier examinations of EM suffered from methodological limitations, including

the absence of comparison groups or inappropriate matching procedures. A meta-analysis covering studies conducted through 2002 concluded that the data did not provide enough evidence to support the effectiveness of EM in reducing crime (Renzema & Mayo-Wilson, 2005). More recent studies have attempted to address the previous shortcomings and suggest that EM may be effective in reducing recidivism rates (Bales et al., 2010; Di Tella & Schargrodsky, 2013; Erez et al., 2012; Gies et al., 2012; Gies et al., 2013; Padgett et al., 2006; Wolff et al., 2017). An updated meta-analysis released in 2017 reflects some of these results; however, overall the use of EM still did not lead to statistically significant reductions in re-offending rates. Nevertheless, there were some positive effects for certain types of offenders, such as sex offenders, as an alternative to a prison sentence and as part of specific conditions of release (Belur et al., 2017). The authors of the meta-analysis very aptly point to the complexity in measuring the effectiveness of EM programs given that jurisdictions have varying measures of success and use of the technologies (Belur et al., 2017). The majority of the studies conducted on EM to date examine post-conviction use of EM, and while there are a few outdated and a handful of more recently published studies based on pretrial populations, most suffer from the same issues noted above or focus on domestic violence defendants.

A study conducted in Lake County, Illinois, compared defendants supervised with EM against those who did not have a condition of EM during their release and found that those not placed on EM had a significantly greater number of new arrests and failure to appear (FTA) rates (Coopridner & Kerby, 1990). In contrast, a study of federal defendants on pretrial release found that those electronically monitored had a modest increase in their FTA and re-arrest rates (Cadigan, 1991). Comparing the use of EM for pretrial versus post-conviction programs in the same jurisdiction, Maxfield and Baumer (1990) found that unsuccessful dispositions were more common among the pretrial population. In a follow-up study, the authors noted that success on pretrial house arrest was more likely if the defendant had suitable living arrangements and if the criminal record was limited to minor offenses (Maxfield & Baumer, 1992). A 2009 pilot study of an EM program in Mesa County, Arizona, examining 151 misdemeanor defendants reported that pretrial release with a condition of EM and a reminder

call the day before the defendant's court date significantly reduced failure to appear in court (Lemke, 2009).

However, the studies mentioned above fail to properly account for the differences between the comparison groups or did not have a comparison group at all. There have been a few recent studies that use more statistically rigorous methods and appropriate comparison groups. Erez et al.'s 2012 study revealed that defendants who were placed on GPS monitoring were less likely to violate their curfew orders or be re-arrested (Erez et al., 2012). Furthermore, the effectiveness of EM was found to increase when paired with other sanctions that required the defendant to receive a form of treatment while being monitored (Gur, Ibarra, & Erez, 2016). Both of these studies, however, focused on the use of EM for domestic violence-related charges. Finally, Wolff et al.'s 2017 study examined a matched sample of defendants from the federal pretrial services agency in the district of New Jersey and found that defendants placed on EM were less likely to get arrested for a new crime compared to defendants not placed on EM. There were no significant differences in FTA or technical violation rates between the two groups. Given the limited number of studies on the impact of EM in the pretrial context, there is still a considerable need for additional research, and this study fills an important gap in the literature.

The Current Study

The current study is an examination of the Electronic Monitoring Program (EMP) as a condition of pretrial release within the Office of Pretrial Services in the County of Santa Clara, California. The study uses a quasi-experimental research design and propensity score matching which allows for matched sample comparisons consisting of a "treatment" group, defendants placed on EM, and a "control" group of similar pretrial defendants not on EM. The study looks to examine the difference in pretrial misconduct outcomes between those released with EM as an added condition of pretrial release and those released on supervision without a condition of EM.

The Program

In 2011, the state of California passed Assembly Bill (AB) 109, commonly referred to as *Realignment*, which stipulated that all non-serious, non-violent, or non-sexual offenders will serve their time in county jail rather than in state prison, leading to

an increase of offenders in California's jail population and resulting in counties assuming greater responsibility for individuals who may have previously faced a state prison commitment. To address the issue of jail overcrowding created by AB 109, Santa Clara County received AB 109 funding to implement an electronic monitoring contract and the county began its Electronic Monitoring Program (EMP) in early 2013.

In Santa Clara County, pretrial defendants who have been granted release are released via their own recognizance (OR) or via the supervised own recognizance release program (SORP). The OR release defendants do not have any supervision requirements. They receive a reminder letter of their court date and an automated phone call, but no contact with an officer is required. On the other hand, the SORP defendants are all released with the requirement that they attend regular weekly check-ins and with a list of release conditions, which can include an added level of supervision with EMP as a supervisory release condition. Each defendant undergoes a thorough risk assessment and is screened to ensure that certain technical requirements are met for the proper use of the equipment prior to being placed on the program. The presiding judge also considers recommendations provided by the pretrial court officer, the defendant's charges, prior criminal history, and any investigative reports to determine if a defendant should be placed on EMP. One of the options within the EMP is house arrest as an alternative to confinement in county jail. The use of GPS ankle bracelets allows the department to track the movement of a defendant to help determine compliance with the conditions of release. The defendant can also be assigned to a Remote Alcohol Monitoring (RAM) device that detects the alcohol concentration level in the defendant's breath by requiring the defendant to blow into the device. For visual verification, the device also snaps a picture of the individual taking the test, and both the image and alcohol reading are transmitted electronically. Testing is conducted randomly throughout the day.

Data and Measures

All the data for the current study were provided by the Office of Pretrial Services in Santa Clara County, California. The sample included defendants released between June 1, 2013, and December 31, 2015, on pretrial release status from the Santa Clara County jail. The participants included only those with

closed cases, meaning that they had completed their supervision term; each defendant either successfully completed his or her term without getting revoked, or was revoked due to a new arrest, technical violation, or failure to appear. Only defendants released under the supervised own recognizance release program (SORP) were included in the sample. Within the SORP sample, those placed on EM (either GPS or RAM) were identified as the “*treatment*” group and SORP defendants not placed on EM were identified as the “*control*” group.

Outcome Variables

Santa Clara County pretrial outcome measures reflect the recommendations made by the National Institute of Corrections (NIC, 2011). Appearance rate is the percentage of supervised defendants who make all scheduled court appearances, and the current study measured this outcome with revocations due to a failure to appear (FTA). Safety rate refers to supervised defendants who are not charged with a new offense during the pretrial stage and is measured by revocations due to a new arrest. Last, technical compliance is defined as following all conditions of release, and this was measured by revocations due to a technical violation. Technical violations are behaviors that are not in and of themselves a criminal offense but rather a violation of supervision conditions, such as failing to report for a scheduled office visit or failing to charge the EM device or entering their exclusion zones (geographic areas which the defendant is restricted from entering, such as the victim’s home, work, etc.). Technical violations are defined as either a minor or major infraction. Most minor infractions are handled at the pretrial officer’s discretion without a revocation and can often include a warning, or the defendant may have the conditions modified to respond to the violation. The more serious technical violations such as tampering with the EM device, contact with a protected person(s), or repeated patterns of misbehavior can result in a revocation and return to jail. The technical violations outcome in this study includes only violations that resulted in a revocation.

Matching Variables

A set of matching covariates was identified based on previous empirical studies on EM (Bales et al., 2010; Gies et al., 2012; Gies et al., 2013 etc.) as well as what Nagin, Cullen, and Jonson (2009) advocate as the minimum critical variables that should be taken into

account: gender, age, race, current offense, and prior record. The current study was able to match on all of these variables. The defendant’s current charge was classified as a violent, property, drug, sex, or other offense. In addition, the current charge was identified as a felony or a misdemeanor, and charges were also broken out by those that involved domestic violence, physical injury to a victim, or an armed defendant. Prior criminal history was measured by the number of prior misdemeanors, number of prior driving under the influence (DUI) charges, prior parole cases, prior technical violations, prior FTAs, prior juvenile cases, number of prior other arrests, and the number of prior prison commitments.

All SORP releases are subject to five general supervisory conditions. Since these applied to both the treatment and control groups, they did not have to be included as matching variables. However, in addition to the general conditions, there were an additional 10 special conditions that may be applied based on the defendant’s current charge and circumstances. Given that both groups are assigned these sets of conditions based on their offense and prior history, it was important to include the special conditions in the matching as well. In total, the treatment and control group were matched on 36 variables. All variables included did not affect the assignment of EM included in the model, and the data for both the EM and non-EM groups stem from the same data sources. See Table 1 for the full list of matching variables.

Analytic Strategy

We used propensity score matching to minimize the selection bias, balance the two groups, and ensure that the treatment group and the control group closely resembled each other on key variables. The propensity score was estimated using the set of covariates in Table 1 and was done using logistic regression where the treatment assignment was the outcome variable (EM versus Non-EM) and the selected covariates were the predictors. A nearest neighbor 1:1 matching without replacement was employed. Given that nearest neighbor matching without replacement estimates depends on the order in which the observations get matched, the ordering was randomly done. Additionally, since the use of nearest neighbor also risks the possibility of poor matches if the nearest neighbor is too far away, a caliper or a maximum allowable distance of 0.2 was imposed. This ensured that poor matches were avoided and the quality of

the matching was increased.

The original sample included a total of 6,090 SORP defendants, of whom 220 were placed on EM and 5,870 were not assigned EM. After cleaning the data and dropping cases that included missing variables, the sample was refined down to include 210 EM (“*treatment*”) and 4,545 defendants not on EM (“*control*”) for the pre-matching sample. No baseline item included in the propensity score matching procedure contained missing data. An additional check for the overlap and region of common support between the treatment and control group was conducted through a visual analysis of the density distribution of the propensity scores in each group. Furthermore, a Minima and Maxima comparison was conducted where the observations whose propensity scores were smaller than the minimum and larger than the maximum in the opposite group were deleted. Only one observation was outside this region and was discarded from the analysis. The final sample after propensity score matching procedures resulted in a sample of 416 defendants; 208 in the EM or “*treatment*” group and 208 in the non-EM or “*control*” group. Within the “*treatment*” group there were 113 defendants assigned to GPS and 95 assigned a RAM device.

Each of the three outcomes, revocation due to a new arrest, a technical violation, and failure to appear, was assessed with a survival analysis of time-to-event using a Cox proportional hazards model. The time variable for all outcomes was the days on supervision, calculated using the supervision start date and the end date (either the successful completion date or the revocation date). EM versus Non-EM was included as a treatment variable with no other covariates. Prior to the propensity score matching procedure, Independent Sample T-tests were conducted to examine the differences between the control and treatment group. This step helped to identify any imbalance between the two groups and allowed us to examine the pre-matching baseline characteristics of the groups. Significant differences were found among several variables between the treatment and control group. Table 1 (next page) highlights the differences in pre-matching baseline characteristics.

Results

To assess whether the matching procedure was able to balance the distribution of the relevant covariates in both the control and treatment group, T-tests were conducted again after the

TABLE 1
Pre-matching Baseline Statistics

Measure	Control (Non-EM) Group (Mean or %)	Treatment (EM) Group (Mean or %)
Age	34.20 years old	34.07 years old
Gender	Males: 76%; Females: 24%	Males: 85%; Females: 15% **
Race – White	29.4%	24.7%
Race – Black	10.4%	11.3%
Race – Hispanic	48.8%	50.4%
Race – Asian	8.1%	9.5%
Race – Other	2.5%	2.8%
Substance abuse problem	30%	21% **
Primary offense – Violent	20%	19.9%
Primary offense – Property	18.6%	18.5%
Primary offense – Drug	43.7%	38.5%
Primary offense – Sex	2.8%	7.1% **
Primary offense – Other	14.6%	15.2%
Prior misdemeanors	2.89	1.79 ***
Prior DUIs	.47	.79 ***
Prior parole cases	.23	.18
Prior violations	.12	.13
Prior FTAs	1.10	.29 ***
Prior juvenile cases	.19	.11 **
Prior other arrests	.29	.17 ***
Prior prison commitments	.38	.40
Primary charge – Felony	73.9%	69%
Primary charge – Misdemeanor	25.9%	30.7%
Armed defendant charge	.42%	1.9%
Domestic violence charge	3.1%	3.3%
Victim injury charge	.35%	1.9%
Special condition 1 – do not use or possess illegal drugs/ alcohol	66.9%	62.8%
Special condition 2 – submit to drug / alcohol testing	54.8%	52.3%
Special condition 3 – participate in drug/alcohol/psychological counseling	48.4%	42.3%
Special condition 4 – permit search and seizure of person, residence and vehicle without search warrant	43.2%	25.4% ***
Special Condition 5 – do not operate motor vehicle without valid license and proof of insurance	13.7%	17.1%
Special Condition 6 – do not possess any weapons while case is pending	10.7%	1.4% ***
Special Condition 7 – do not harass, threaten, attack etc. protected person(s)	4.5%	.48% ***
Special Condition 8 – no contact except through attorney with protected person – stay 300 yards away	2.7%	0% ***
Special Condition 9 – must reside at following address unless granted permission to live elsewhere	3.8%	0% ***
Special Condition 10 – defendant to post bail in amount of xx	.2%	0%

Note: Sample size Non-EM group = 4,545; EM group = 210. * $p < .05$, ** $p < .01$, *** $p < .001$

propensity score matching, which showed that the covariates were balanced in both groups; no imbalances or significant differences remained. Additionally, the overall χ^2 balance test was not significant (Hansen & Bowers, 2008) and the L1 measure was larger in the unmatched sample (.995) than in the matched sample (.967), also indicating that matching improved overall balance (Iacus, King, & Porro, 2009). Once the groups were balanced, descriptive statistics were examined across the treatment and control group. See Table 2 for post-matching baseline characteristics.

The largest racial group consisted of Hispanics, at 47.6 percent for the non-EM and 50 percent for the EM group. This was followed by Whites, 28.3 percent for the non-EM and 25 percent for the EM, and Blacks at approximately 12 percent of the sample. The most common primary offense was a drug offense, 36.5 percent and 38.9 percent for the non-EM and EM groups respectively, followed by violent offenses, 18.2 percent for non-EM and 19.2 percent for EM. Approximately 69 percent of the charges in both groups were felonies and 31 percent were misdemeanors. Only .48 percent of the cases in the non-EM and 1.9 percent of the cases in the EM groups included an armed defendant charge. Similarly, only a small percentage, 1.4 percent, in the EM group included a victim injury charge, and no cases in the non-EM group included a victim injury charge. About 61 percent of defendants in each group were assigned to a special condition that stipulated no use or possession of illegal drugs or alcohol, and about 50 percent of each group was required to submit to drug and alcohol testing.

Those in the EM group were supervised for an average of 128.5 days versus 112.1 days for the non-EM groups. Taking a closer look at the differences within the EM group, the GPS-supervised defendants were found to be supervised longer, on average 149.12 days, compared to the defendants on RAM, with an average of 100.43 days.

Prior to running the survival analysis model, the raw outcome data were examined using chi-square tests to look for group differences. The tests showed that there were statistically significant differences in getting revoked for a technical violation and FTAs, but not for new arrests. Next, each outcome was assessed with a survival analysis of time-to-event using a Cox proportional hazards model. The survival analysis found that the EM group had a hazard rate that was 3.39 times higher than the non-EM group for

TABLE 2
Post-Matching Baseline Statistics

Measure	Non-EM Group (Mean or %)	EM Group (Mean or %)
Age	35.31 years old	34.08 years old
Gender	Males: 86%; Females: 14%	Males: 84%; Females: 16%
Race – White	28.3%	25%
Race – Black	12%	11.5%
Race – Hispanic	47.6%	50%
Race – Asian	8.1%	9.6%
Race – Other	2.8%	2.8%
Substance abuse problem	23%	22%
Primary offense – Violent	18.2%	19.2%
Primary offense – Property	17.3%	18.7%
Primary offense – Drug	36.5%	38.9%
Primary offense – Sex	10.5%	7.2%
Primary offense – Other	14.6%	15.2%
Prior misdemeanors	1.89	1.81
Prior DUIs	.83	.77
Prior parole cases	.22	.17
Prior violations	.09	.13
Prior FTAs	.25	.29
Prior juvenile cases	.06	.12
Prior other arrests	.15	.17
Prior prison commitments	.51	.39
Primary charge – Felony	69.7%	69.2%
Primary charge – Misdemeanor	30.2%	30.7%
Armed defendant charge	.48%	1.9%
Domestic violence charge	3.8%	3.3%
Victim injury charge	0%	1.4%
Special condition 1 – do not use or possess illegal drugs/ alcohol	60.5%	62.5%
Special condition 2 – submit to drug / alcohol testing	49.5%	51.9%
Special condition 3 – participate in drug/alcohol/psychological counseling	37.9%	41.8%
Special condition 4 – permit search and seizure of person, residence and vehicle without search warrant	22.6%	25%
Special Condition 5 – do not operate motor vehicle without valid license and proof of insurance	11%	16.8%
Special Condition 6 – do not possess any weapons while case is pending	1.4%	1.4%
Special Condition 7 – do not harass, threaten, attack etc. protected person(s) xx	.96%	.48%
Special Condition 8 – have no contact except through attorney with protected person – stay 300 yards away	0%	0%
Special Condition 9 – must reside at following address unless granted permission to live elsewhere	0%	0%
Special Condition 10 – defendant to post bail in amount of xx	0%	0%

Note: Sample size Non-EM group =208; EM group = 208

getting revoked for a technical violation, Exp(B) 3.396 ($p < .001$). No significant difference was found in the hazard rate between the two groups for revocation due to a new arrest, Exp(B) 1.01 ($p = .982$). And last, for the failure to appear outcome, Exp(B) .341 ($p < .000$), the results suggest that the EM group had a 66 percent reduction in the hazard rate of getting revoked for an FTA compared to the non-EM group. See Table 3 (next page) for the survival analysis results.

The number of defendants revoked for a technical violation was not especially high, representing just over 4 percent ($n = 9$) in the non-EM group and about 17 percent ($n = 35$) in the EM group. These revocations also represent violations among closed cases over a span of two and half years. However, the finding that the EM group had a hazard rate that was 3.39 times higher than the non-EM group for getting revoked due to a technical violation may suggest that the EM group is more likely to fail their supervision conditions, or it could be due to the increased surveillance and/or additional conditions placed on them. This warranted a closer examination of the violation type for each revocation, which revealed that among both groups the most common reason for revocation was substance abuse, with 33 percent ($n = 3$) of the non-EM and 65 percent ($n = 23$) of the EM group getting revoked for this violation. Among the EM group, another 20 percent ($n = 7$) was revoked for device issues. This violation type is exclusive to the EM group, since the non-EM group do not have any device requirements. Another violation type exclusive to the EM group was leaving the house without permission, which occurred in 9 percent ($n = 3$) of the EM violation cases. A total of 56 percent ($n = 5$) of the non-EM group and 3 percent ($n = 1$) of the EM group were revoked for failing to check-in with their pretrial officer. Finally, only 1 defendant in each group was revoked for victim contact. See Table 4 (next page) for the violation types for each group.

While significant differences were found between the EM and non-EM groups, an additional set of within-group analyses was conducted to see if there were differences between the types of technology used for the EM group. The results found that there were no statistically significant differences between those on GPS versus RAM for any of the outcomes. Another set of analysis was also conducted to examine whether there were any differences among the various offender types (violent, property, drug, sex, or other) in

TABLE 3
Survival Analysis Results

Measure	Non-EM (Control) n = 208	EM (Treatment) n = 208	Hazard Ratio Exp(B)	P Value
Revocation for technical violation	4.32% (n = 9)	16.82% (n = 35)	3.39	.001 **
Revocation for new arrest	4.32% (n = 9)	4.80% (n = 10)	1.01	.982
Revocation for failure to appear (FTA)	22.59% (n = 47)	8.17% (n = 17)	.341	.000 ***

Note: Sample size Non-EM group = 208; EM group = 208. * $p < .05$; ** $p < .01$; *** $p < .001$

TABLE 4
Technical Violation Type for EM versus Non-EM Groups

Violation Type	Non-EM Group (n = 9)	EM Group (n = 35)
Substance abuse	33% (n = 3)	65% (n = 23)
Device issues	Not applicable	20% (n = 7)
Failure to check-in	56% (n = 5)	3% (n = 1)
Leave house without permission	Not applicable	9% (n = 3)
Victim contact	11% (n = 1)	3% (n = 1)

the EM group. It was found that drug defendants placed on EM had a 2.73 times higher hazard rate of getting revoked for a technical violation compared to other offense types. This corresponds with the finding above that substance abuse was the most common reason for a technical violation. No significant difference was found among offense types for new arrests. Finally, the only significant difference among offense types for the likelihood of getting revoked for a FTA was that property defendants had a hazard rate that was 3.44 times higher compared to other offense types.

Discussion and Future Work

When considering pretrial release options such as EM, it is important to make sure that they are used in the most effective and least restrictive manner possible. The Pretrial Justice Institute cautions correctional agencies to consider all of the potential harms of being placed on EM to ensure that these devices do not pose similar negative impacts that have been found to result from incarceration (Pretrial Justice Institute, 2014). Pretrial release may be able to cut down on costs and reduce the collateral consequences of incarceration; however, the challenge or risk of using pretrial release is that defendants may not show up to court or they may reoffend during their release. EM as an added condition of pretrial release should only be used when it can ensure court appearance and does not compromise public safety.

The use of EM within the Office of Pretrial

Services in the County of Santa Clara is conducted in a judicious manner. During the time period examined in this study, the number of defendants placed on the EMP program represented 3.6 percent in 2014 and 7 percent in 2015 of the total pretrial cases during that year. The current study found that within the county, the use of EM increased the likelihood of showing up to court, and the EM group did not pose any higher or lower public safety risk by being released. Failing to appear in court is problematic, since it poses additional costs for both the courts and the defendant. Not showing up for a court proceeding can result in a warrant being issued for the defendant's arrest and/or the defendant's bail being increased. The current finding suggests that the use of EM reduces FTA rates and could also imply that if defendants are not being tracked prior to court, they are less likely to show up. From the perspective of cost savings and public safety, these results indicate that the use of EM could have significant positive impacts for pretrial agencies. This is supported by previous cost-benefit analyses conducted on the use of EM, which have found that the use of EM can reduce crime, cut agency costs, and result in positive societal benefits and savings (Roman et al., 2012; WSIPP 2017a; WSIPP 2017b; Yeh, 2010). The 2017 meta-analysis conducted by Belur et al. also reported that EM was found to have a positive impact when used as an alternative to incarceration.

Yet despite EM's being a potentially cost-effective alternative to incarceration, agencies

should also take care to avoid putting the burden of paying for the EM devices on the defendant, which, similar to money bonds, may discriminate based on socio-economic status (Pretrial Justice Institute, 2014). This may also lead to potential technical violations and revocations back to jail for their inability to pay (Markowitz, 2015). Throughout the country in states like Georgia, Arkansas, South Carolina, Colorado, Washington, and Pennsylvania, defendants are placed on EM as a condition of pretrial release and required to pay for their monitoring device. Arguing that the use of EM could be promoting a modern-day debtors' prison where indigent defendants are imprisoned for failing to pay legal fees they cannot afford, critics point to concerns about making individuals pay for their supervision when they have not even been convicted of a crime yet (ACLU, 2010; Markowitz, 2015). It should be noted that defendants in Santa Clara County are not required to pay for their EM devices, and thus no technical violation or revocation was associated with the lack of payment. Additionally, in early 2018 a landmark legal case in the California appellate court involving 64-year old San Francisco resident Kenneth Humphrey set forth a ruling that now requires California judges to consider a defendant's ability to pay when setting bail and to consider non-monetary alternatives to incarceration (Egelko & Sernoffsky, 2018).

The study also found more than a three-fold increase in the likelihood of getting revoked back to jail for a technical violation. As discussed above, the total number of violations in the current study is small, representing about 17 percent (n=35) in the EM group and just over 4 percent (n=9) in the non-EM group over a span of two and a half years; however, the difference between the two groups is still statistically significant. This substantial difference in the increased likelihood of technical violations among defendants on EM and the fact that there were violations associated with being on EM itself also sheds light on the very important consideration of net widening. Net widening describes a process that brings more individuals into the correctional system rather than being used to decrease or to supplement existing sanctions (Mainprize, 1992). It is a commonly reported concern of electronic monitoring, with previous studies suggesting that individuals placed on EM could be effectively supervised with less restrictive conditions than EM (Bonta, Wallace-Capretta & Rooney, 2000; Mainprize, 1992; Nellis, 2014). An examination of whether EM has

a net-widening effect in the pretrial context, however, is limited. As such, this concern that defendants could be pulled deeper into the legal system due to their being subject to more conditions of supervision as a result of being placed on EM warrants further examination.

The present study has some limitations. While statistical matching procedures were used and minimized the selection bias, some potential key variables that may be related to the effectiveness of EM use were not included. These include variables such as employment history, involvement in and quality of a marital relationship, whether the defendant has children to care for, mental health information, and judges' sentencing preferences. Future studies should look to examine such variables to assess their impact on the use of EM. The study also focused on a single jurisdiction in the United States, so it may be hard to generalize the findings to other jurisdictions or countries given the variation in the use and implementation of EM programs. Also of note and a potentially important area for future research is to examine and understand if there are any differences in the uses and experiences of being placed on EM during pretrial release for different demographic groups. The current sample showed that Hispanics made up approximately 50 percent of the sample, and yet they only make up 25.6 percent of Santa Clara County's population. Similarly, Blacks made up 12 percent of the current sample but only represent 2.8 percent of the county population (U.S. Census, 2017). Research spanning decades has shed light on the disturbing disproportionality and staggering disparity of the criminal justice system. Ethnic and racial minority groups are more likely to be over-policed, under-protected, arrested, and incarcerated (Goodey, 2006; Steffensmeier et al., 1998; Thomas, 2013). In light of these disparities, the rising use of EM within the pretrial stage and the limited research on the topic, it is essential that future studies analyze any differences in experiences across various groups.

The evidence on the effectiveness of EM for pretrial use is still limited, and continued examination of how to best use the technology is needed. The use of EM technologies in Santa Clara County provides an example of a jurisdiction where the use of these tools is based on proper screening through empirically-derived pretrial risk assessment tools to decide pretrial release conditions and examining the appropriateness for each individual prior to being placed on EM. Since

the time period of this study, the number of defendants placed on the EMP program has increased to almost 23 percent in 2018; however, this is in part due to the Humphrey's decision discussed above. The agency still remains vigilant in its assessment for the use of EM and monitoring for net-widening and continues to provide the program at no cost to defendants. Previous studies indicate that pretrial detention significantly weakens the defendants' bargaining positions during plea negotiations, increases the probability of being sentenced, and increases the sentence length if convicted (Dobbie, Goldin, & Yang, 2017; Phillips, 2008). Electronic monitoring devices may pose an alternative to pretrial detention, especially if a higher level of supervision is required upon release. However, as noted above, there are also some potential negative impacts if EM is not used judiciously. Based on the findings of the current study, it appears that the use of EM may have some positive impacts such as increasing the likelihood of returning to court. However, the increased likelihood of technical violations suggests that future research should continue to expand on these findings to determine the best use of EM within the pretrial context that protects defendants from the collateral consequences of incarceration and instead increases their likelihood of success during pretrial release.

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Innovative Justice: Federal Reentry Drug Courts—How Should We Measure Success?¹

Judge Timothy D. DeGiusti

U.S. District Court, Western District of Oklahoma

TO BE INNOVATIVE is to introduce new, advanced, and original ideas—to be creative in thinking and approaching challenges.² In the context of perhaps the biggest current challenge in the criminal justice system, to innovate is to do something different than what has been done for decades when dealing with non-violent drug offenders; the historic approach has been to simply incarcerate, and to incarcerate for increasingly lengthy periods of time. In the late 1980s, however, during the height of the crack cocaine epidemic, state courts began to experiment with a different approach, and the first “drug court” was established in Miami, Florida.³

Drug courts are special court dockets featuring an interdisciplinary team and designed to bring treatment resources and techniques to bear in addressing issues confronting offenders suffering from substance abuse disorders. The drug court judge serves as the leader of the team, which usually includes representatives from the prosecutor’s office, the public defender’s office, a probation or community supervision officer, and a substance abuse and mental health treatment provider.⁴ Other

special court dockets, often referred to as “problem-solving courts,” have evolved from the drug court model. Problem-solving courts include juvenile drug courts, family drug courts, reentry courts, and veterans’ courts.⁵ Problem-solving courts are, like drug courts, designed to promote public safety and stabilize communities in order to resolve personal and social problems presented by individuals involved in the criminal justice system.⁶

Communities in the United States currently face levels of drug abuse and addiction, and corresponding incarceration rates, that are truly staggering. Opioids alone account for nearly 100 overdose deaths every day in the United States, and overdoses of all drugs claimed more lives in 2015 than car accidents and gun violence.⁷ In 2016 the federal system handled 67,742 criminal cases across ninety-four judicial districts.⁸ Drug crimes made up the single largest statistical category among all federal offenses in 2016, accounting for 31.6 percent.⁹ Offenses related to methamphet-

amine account for 30.8 percent of these cases, followed by marijuana (24.1 percent), powder cocaine (18.0 percent), heroine (13.1 percent), crack cocaine (7.1 percent), and “other” drugs (mostly prescription opioids) (6.9 percent).¹⁰ The population of federal offenders in 2016 was overwhelmingly male (86.2 percent), and their average age was 37.¹¹ Just below half of the overall federal offender population (46.7 percent) had not completed high school at the time of the commission of their offense.¹²

The vast majority of federal offenders in 2016 (97.3 percent) pleaded guilty. Of those convicted in the federal system that year, 87.5 percent received a sentence composed of prison only, while 7.3 percent received probation, and the remainder received some form of split sentence (a combination of prison and community supervision).¹³ Sentences for drug offenders varied based on the type of drug involved, the specific criminal conduct, and the criminal history of offenders. For the second consecutive year crack cocaine was not the most severely punished drug offense, being eclipsed by methamphetamine with an average length of imprisonment of 90 months.¹⁴ The average length of imprisonment for offenders in cases involving

¹ A version of this article is posted on the Duke Law Scholarship Depository of Duke University School of Law.

² Innovative, Merriam-Webster Online Dictionary, <https://www.merriam-webster.com/dictionary/innovative> (last visited May 4, 2017).

³ Marlowe, et al., *Painting the Current Picture: A National Report on Drug Courts and Other Problem Solving Courts in the United States*, NAT’L DRUG COURT INST. AT 13 (2016).

⁴ *Id.*, at 11.

⁵ *Id.*, at 12.

⁶ Matthew G. Rowland, *Assessing the Case for Formal Recognition and Expansion of Federal Problem-Solving Courts*, Fed. Probation, December 2016, at 3.

⁷ Alice Park, *The Life of an Addict*, Time, Nov. 20, 2017.

⁸ This number is dwarfed by the total number of criminal cases per year handled by state courts. For instance, in 2010 state courts had 20.4 million incoming criminal cases. LaFountain, et al., *Examining the Work of State Courts: An Analysis of 2010 State Court Caseloads* (National Center for State Courts 2012), at 3.

⁹ U.S. Sentencing Comm’n, *Overview of Federal*

Criminal Cases, Fiscal Year 2016, p. 2.

¹⁰ *Id.*, at 5-7.

¹¹ *Id.*, at 3.

¹² U.S. Sentencing Comm’n, *2016 Sourcebook of Federal Sentencing Statistics*, Table 8.

¹³ U.S. Sentencing Comm’n, *Overview of Federal Criminal Cases, Fiscal Year 2016*, p. 4-5.

¹⁴ *Id.*, at 7.

crack cocaine was 84 months, and marijuana offenders had the lowest average terms at 28 months.¹⁵ The vast majority of these cases involved the manufacture, sale, or transportation of drugs, while a relatively small number (1,884 cases) involved simple possession.¹⁶ Weapons were involved in 17.6 percent of all federal drug offenses.¹⁷

Most federal offenders (81.3 percent) sentenced to imprisonment in 2016 were also sentenced to serve a period of supervised release after completion of their term of imprisonment.¹⁸ Supervised release can be characterized as a kind of post-release probation, with certain supervision conditions imposed on the releasee as part of the overall sentence. The average length of supervised release imposed was 47 months.¹⁹ A 2016 study which tracked federal offenders released in 2005 indicates that prior federal offenders recidivate at an alarming pace: 49.3 percent were rearrested within 8 years of their release from prison.²⁰ Recidivism in the state system has been reported to be significantly higher, as much as 68 percent within three years of release from prison.²¹

It is against this backdrop that drug courts and other problem-solving courts do their work. But are drug courts effective? Are they worth their cost in money and other resources? Studies indicate that the answers to these questions differ somewhat for the state and federal systems, with state drug courts generally achieving more positive numbers viewed from the metric of recidivism.

To be sure, there are some generally applicable, fundamental differences between state and federal drug courts—state programs are typically “front-end” oriented, diverting a defendant to the program before a final judicial disposition of his underlying charge while federal programs are mostly “back-end” oriented, and deal with defendants post-conviction and after release from a period

of incarceration. Federal programs therefore typically focus on the offender’s reentry into the community. Despite their differences, state and federal programs are most often evaluated on the same criteria: their effect on recidivism rates. But are metrics other than recidivism worth considering? Should the perceptions of those on the front lines—the participants and administrators of these programs—be considered regarding whether they are worthwhile?

To address these questions, in this article I will explore the development of drug courts and other problem-solving courts in the United States and examine the most common organizational and functional models of those courts. I will sample the literature regarding effectiveness of specialized courts, both in terms of their impact on recidivism and cost-effectiveness. Discussion of federal programs will include a more detailed look at the reentry drug court program in the United States District Court for the Western District of Oklahoma in which the author is directly involved—the Court Assisted Recovery Effort, or “CARE.”

To test the perceptions of those on the front lines of federal reentry programs, surveys were conducted of past federal drug court program participants and staff members regarding their perceptions about the benefits and drawbacks of the programs.²² The design and implementation of the surveys will be discussed. Survey data will be compiled and analyzed, and findings and conclusions discussed. Finally, information gleaned from the surveys will be advanced as an additional metric for consideration in the evaluation of the effectiveness of federal reentry courts and their place within our system of justice.

I. Background and Structure

The first drug court was born of necessity in Miami, Florida in the midst of the cocaine epidemic in 1989.²³ Such innovative programs were a judicial response to overcrowded court dockets and a seemingly

revolving courthouse door for non-violent offenders repeatedly prosecuted for drug-related offenses, or offenses fueled by drug addiction.²⁴

Since their inception, drug and other problem-solving courts have spread rapidly across the country. By the end of 2014, there were 3,057 drug courts in the United States throughout the state judicial systems—a 24 percent increase since 2009.²⁵ In the federal system, problem-solving courts, primarily in the form of drug reentry courts, got off to a slower start. The first such programs emerged in the federal courts in the early 2000s, and by 2008 there were reentry court programs in twenty-one federal districts.²⁶ By 2011 the number of federal drug courts had grown to forty-five.²⁷ Although federal reentry courts reflect significant variation from district to district, most are drug courts focused on offenders with high criminogenic risks and needs.²⁸ The archetype participant suffers from drug and/or alcohol abuse or addiction, is in need of mental health treatment, and often has experienced significant trauma.²⁹ Common challenges to reentry include lack of stable housing, minimal or no social support system, limited vocational experience, and transportation obstacles.

Although the structure of drug reentry courts varies, common characteristics mark most programs. The program team normally consists of representatives from the probation office, the prosecutor’s office, the public defender’s office, and a treatment specialist.³⁰ This group is usually led by a judge, who presides at monthly or bi-monthly court proceedings. The team works collaboratively to provide incentives for positive behavior, and

¹⁵ *Id.*; see also U.S. Sentencing Comm’n, *2016 Sourcebook of Federal Sentencing Statistics*, Figure J, p. 5-116.

¹⁶ *Id.*, at 5.

¹⁷ *Id.*, at 6.

¹⁸ *Id.*, at 5.

¹⁹ *Id.*

²⁰ U.S. Sentencing Comm’n, *Recidivism Among Federal Offenders: A Comprehensive Overview* (2016), p. 5.

²¹ Matthew G. Rowland, *Assessing the Case for Formal Recognition and Expansion of Federal Problem-Solving Courts*, Fed. Probation, December 2016, at 12.

²² It should be noted that the federal reentry programs that participated in the survey do not all share the same emphasis on substance abuse and addiction. Some of the programs *require* as an offender characteristic a serious history of substance abuse in order to participate in the program; others do not require such a characteristic, but neither do they disqualify such an offender from participation in the program.

²³ Marlowe, et al., *Painting the Current Picture: A National Report on Drug Courts and Other Problem Solving Courts in the United States*, NAT’L DRUG COURT INST., 2016, AT 13 (2016).

²⁴ National Association of Drug Court Professionals, National Drug Court Institute, *The Drug Court Judicial Benchbook*, (2017), at 1.

²⁵ Marlowe, et al., *Painting the Current Picture: A National Report on Drug Courts and Other Problem Solving Courts in the United States*, NAT’L DRUG COURT INST. AT 7 (2016).

²⁶ Comm. on Criminal Law of the Judicial Conference of the U.S., *Judge-Involved Supervision Programs in the Fed. System: Background and Research* (January 2017), at 1.

²⁷ Hon. Joan Gottschall & Molly Armour, *Second Chance: Establishing A Reentry Program in the Northern District of Illinois*, 5 DePaul J. for Soc. Just. 31 (2011), at 40.

²⁸ Hon. Laurel Beeler, *Federal Reentry Courts and Other New Models of Supervision*, Fed. Law., March 2013, at 56.

²⁹ *Id.*, at 56.

³⁰ *Id.*, at 57.

sanctions for violations of program rules and other negative behavior.³¹ These programs are typically voluntary. Normally, the main motivation and incentive for participation in the program is the prospect of reduction of the participants' remaining term of supervised release or probation.³²

Drug courts are thought to be most effective when they adhere to the ten "Key Components" established by the National Association of Drug Court Professionals ("NADCP") in 1997.³³

The Key Components are:

1. Drug courts integrate alcohol and other drug treatment services with justice system case processing.
2. Using a non-adversarial approach, prosecution and defense counsel promote public safety while protecting participants' due process rights.
3. Eligible participants are identified early and promptly placed in the drug court program.
4. Drug courts provide access to a continuum of alcohol, drug, and other related treatment and rehabilitation services.
5. Abstinence is monitored by frequent alcohol and other drug testing.
6. A coordinated strategy governs drug court responses to participants' compliance.
7. Ongoing judicial interaction with each drug court participant is essential.
8. Monitoring and evaluation measure the achievement of program goals and gauge effectiveness.
9. Continuing interdisciplinary education promotes effective drug court planning, implementation, and operations.
10. Forging partnerships among drug courts, public agencies, and community-based organizations generates local support and enhances drug court program effectiveness.

The Key Components were developed by a diverse group of drug court practitioners and experts, organized by the NADCP, and were intended to provide guidance for best practices, designs, and operations for adult drug courts.³⁴

The reentry drug court in the United States District Court for the Western District of Oklahoma—the Court Assisted Recovery Effort ("CARE")—substantially mirrors the common drug court structure and generally adheres to the Key Components. The CARE team is led by a district or magistrate judge,³⁵ and includes a representative from the district's United States Attorney's Office, Federal Public Defender's Office, United States Probation Office, and a treatment specialist under contract with the United States Probation Office. Participation is voluntary and is made up entirely of prior offenders on supervised release or probation. Participants in CARE must have a history of drug or alcohol addiction, but serious mental health issues and a substantial history of violent crime are disqualifying characteristics.³⁶

The CARE program holds court proceedings twice per month. The program is composed of four phases—participants in phases 1 and 2 are required to attend both monthly sessions, while those in phases 3 and 4 attend only the first session of each month.³⁷ Requirements such as attendance at twelve-step or similar addiction programs and performance of community service increase as a participant moves through the program phases, while frequency of drug testing often decreases with longer periods of confirmed sobriety. The CARE team holds a staff meeting prior to each court session, during which information regarding the status of each participant is exchanged, any violations of program rules or other misconduct are discussed, potential sanctions for violations are explored, and incentives for achievements are determined.

During the CARE court proceedings, participants are seated in the jury box, the presiding judge is at the bench, and CARE team members are seated at a table for counsel in the courtroom. Participants are called to the podium one by one, and the presiding judge and team members ask questions and invite comments regarding the participants' current status. Any matters of misconduct are

addressed at that time, and any sanction for such misconduct is imposed by the presiding judge. Almost always the sanction imposed has been previously discussed with the team and is the product of team consensus. Sanctions range from oral admonitions, writing requirements, and short-term jail sanctions, to termination from the program, with numerous intermediate sanction possibilities along the scale.³⁸ Incentives and rewards run the spectrum of de minimis value gift cards, oral praise, phase advancement, and, ultimately, graduation and potential reduction of the remaining term of supervised release.³⁹

Participation in CARE is voluntary, although some participants are motivated to enter the program in an attempt to avoid possible revocation of supervised release due to noncompliance while on standard supervision. The CARE program normally has between 10 and 15 participants, and is limited to no more than 15 participants by the controlling program document.⁴⁰ This small number of participants is typical of federal reentry courts, and is often a ground for criticism of such "back-end" programs, as they reach only a small segment of the target offender population and fail to achieve economies of scale.

II. Effectiveness of Drug Courts and Reentry Programs

The National Drug Court Institute ("NDCI"), in its 2016 report, declared "[t]he verdict is in: drug courts work..."⁴¹ The NDCI report reviews "[a]t least nine meta-analyses, systematic reviews, and multisite studies conducted by leading scientific organizations" in support of the conclusion that adult drug courts significantly reduce criminal recidivism—usually measured by rearrest rates over at least two years—by an average of approximately 8 percent to 14 percent.⁴² The report goes on to assert that the effects of drug courts lasted for at least three years after participants left the

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ Marlowe, et al., *Painting the Current Picture: A National Report on Drug Courts and Other Problem Solving Courts in the United States*, NAT'L DRUG COURT INST. AT 14 (2016).

⁴² *Id.*, at 15. The NDCI report defines "meta-analysis" as an "advanced statistical procedure that yields a conservative and rigorous estimate of effects of an intervention...statistically averaging the effects of the intervention across...good-quality studies." *Id.*, at Note 1.

³¹ *Id.*

³² *Id.*

³³ Drug Cts. Program Off., U.S. Dep't of Just., *Defining Drug Courts: The Key Components* (1997).

³⁴ Drug Cts. Program Off., U.S. Dep't of Just., *Defining Drug Courts: The Key Components* (1997), p.3.

³⁵ The author has presided over the CARE program in the Western District of Oklahoma since 2012, with the indispensable assistance of Magistrate Judge Suzanne Mitchell and Magistrate Judge Shon Irwin, as well as USPO Katherine Fye, who also assisted in coordination with other probation offices for districts which participated in this study.

³⁶ CARE Program Governing Document (revised May 2015), on file with author.

³⁷ *Id.*

program, with one study finding that effects on recidivism lasted 14 years.⁴³ Moreover, citing a multisite evaluation, the NDCI report asserts drug courts reduce crime, significantly reduce illicit drug and alcohol use, improve participants' family relationships, and increase participants' access to financial and social services.⁴⁴ The report also asserts that drug courts are cost effective, claiming an average return on investment of about \$2-\$4 for every \$1 invested.⁴⁵

Despite the positive returns cited by the NDCI, other organizations have reached conflicting conclusions. For instance, the Drug Policy Alliance stated in 2014 that the available evidence shows drug courts "are no more effective than voluntary treatment, do not demonstrate costs savings, reduce criminal justice involvement, or improve public safety..."⁴⁶ Similarly, the Open Societies Foundation concluded drug courts have had no impact on incarceration rates and time in custody.⁴⁷ Moreover, a 2011 Government Accountability Office review of 260 drug court studies found that less than 20 percent of the studies employed sound social science principles.⁴⁸

The Committee on Criminal Law of the Judicial Conference of the United States in a 2017 report notes promising findings regarding the effectiveness of drug courts when they adhere to the Key Components, but observes that "[d]espite research finding that drug courts are generally effective, particularly when implemented with certain components, variations in how they determine eligibility, provide substance abuse treatment, supervise participants, and enforce compliance complicate evaluations of their effectiveness."⁴⁹ Citing a 2010 report of the Congressional Research Service, the Committee states that

⁴³ *Id.*

⁴⁴ *Id.*

⁴⁵ *Id.*

⁴⁶ See Rowland, *Assessing the Case for Formal Recognition and Expansion of Federal Problem-Solving Courts*, Fed. Probation, December 2016, at 3.

⁴⁷ *Id.* Rowland observes that the Open Societies Foundation relied on the same type of statistical analysis as the National Association of Drug Court Professionals to support the NADCP's positive conclusions.

⁴⁸ *Id.*, at 10-11.

⁴⁹ Comm. on Criminal Law of the Judicial Conference of the U.S., *Judge-Involved Supervision Programs in the Fed. System: Background and Research* (January 2017), at 4.

the findings of numerous drug court program evaluations have been as varied as the drug courts themselves.⁵⁰ The Committee further notes program "implementation challenges," such as taking advantage of economies of scale, continuing training for team members, and dependence on so-called "innovator judges" who provide dynamic leadership at the inception of drug court programs. In this regard, the Committee noted that although such judicial leadership is critical to success of a program early on, drug courts experience difficulties maintaining viability when the innovator judge moves on.⁵¹

In 2016 the Federal Judicial Center (FJC) released its report on the multi-year evaluation of five federal model reentry court programs; the study was conducted at the request of the Judicial Conference Committee on Criminal Law.

The participating volunteer federal districts

⁵⁰ *Id.*

⁵¹ *Id.*, at 5. The notion, however, that involvement of a judge is an essential ingredient for success is debatable, at least in back-end reentry drug court programs. The multi-year Federal Judicial Center study of reentry programs, discussed more *infra.*, found that the judge-involved programs performed no better than programs led by probation officers, nor did those offenders out-perform the group of offenders on standard supervision. Although not in the context of a drug court program, the author's experience in a judge-involved supervision program in the Western District of Oklahoma lends some support to the FJC findings.

Over a five-year period, the author met with offenders shortly after their release from prison, at the time of the commencement of their terms of supervised release. Information developed with the assistance of the United States Probation Office for the Western District of Oklahoma was conveyed to each offender in an informal setting; the information related to strategies for success on supervised release (prevention of recidivism). A follow-up letter was sent to each offender who remained in compliance with conditions of supervised release six months after the initial judicial meeting. At the end of the five-year period, 103 members of the experimental group (offenders who attended a judicial meeting) were compared to a control group of 40 offenders (offenders transferred into the district during the five-year period but who did not take part in a judicial meeting). The experimental group was also compared to offenders in cases handled by the other judges in the district who did not hold post-release judicial meetings. Although study limitations were noted, the experimental group experienced supervised release revocations at a rate slightly higher than the comparison groups. Thus, there was no demonstrable positive impact on revocation rates as a result of the experimental judge-involved program. John Williamson, *Five-Year Report on Judicial Meetings* (2017), on file with the author.

agreed to start, or restart, a reentry program in compliance with a model developed by the Administrative Office of the U.S. Courts' Probation and Pretrial Services Office.⁵² Among other features, each district's experimental program involved two variants: a reentry team led by a federal district or magistrate judge, and a reentry team without a judge member but led by a probation officer.⁵³ The comparison group (control group) was composed of offenders on standard post-conviction supervision.⁵⁴ Eligible participants were randomly assigned into one of the three groups.⁵⁵

The programs generally adhered to the common characteristics of problem-solving courts discussed above, except for the no-judge variant programs. Eligibility criteria eliminated offenders who had a violent or sex crime conviction; a Risk Predication Index score of 2 or lower; fewer than 24 months remaining on their term of supervision; a mental health condition which precluded effective participation; and a residence prohibitively distant from the location of program services.⁵⁶

The FJC report included the following findings:

- Participating districts had difficulty maintaining fidelity to the program model, although there was sufficient fidelity to justify analyses of the combined program sites;
- Among participants in the model programs, completion or graduation rates averaged between 50 percent and 60 percent.
- After 24 months post-release from prison, there was no statistically significant difference in the revocation rates between reentry program participants and offenders assigned to the standard supervision groups, nor was there a significant difference between judge-led groups and probation officer-led groups; and
- Based upon the lack of a statistically significant difference in outcomes for program participants and offenders in the standard supervision groups, the model reentry

⁵² David Rauma, *Evaluation of a Federal Reentry Program Model*, Federal Judicial Center (May 2016), at 4.

⁵³ *Id.*

⁵⁴ *Id.*

⁵⁵ *Id.* Note that participants initially assigned to a reentry program group were able to refuse to participate in the program, and many did refuse—almost 60 percent.

⁵⁶ *Id.*, at 7.

programs were not cost effective.⁵⁷

The FJC study has received some criticism, as have other studies of the effectiveness of problem-solving courts. For instance, the reentry programs' failure to strictly adhere to all aspects of the model, and lack of incentives sufficient to attain more interest and involvement in the programs, have garnered criticism.⁵⁸ Still, the FJC study has no doubt taken some of the wind out of the sails of federal reentry programs. Independent studies of particular federal reentry programs have also produced mixed results.⁵⁹ But the focus of these studies, as with the FJC study, was the impact of the programs on revocation and recidivism rates. This is understandable—these metrics are readily subject to quantification and allow for straightforward comparisons between experimental and control groups. There are however, other metrics by which success can be evaluated; the FJC study itself points to a few—employment, sobriety, and quality of life.⁶⁰ Missing from this list, however, are important considerations regarding the *perceptions of value* by those directly involved in federal reentry drug courts and other reentry programs—the participants and program staff members.

III. Participant and Staff Member Surveys

The focus of the impact of federal reentry court programs on recidivism ignores the perceptions of value and effectiveness of these programs on the front lines: perceptions of participants that the court programs provide them with important tools to help sustain sobriety, improve decision-making, gain and maintain employment, and improve social relationships. These perceptions often in turn positively affect views regarding the fairness and effectiveness of the justice system. Such considerations form a part of what has been described as the building and improvement of

“social capital” which aids the reentry process.⁶¹

Moreover, the views of reentry court staff—judge, prosecutor, defense counsel, probation officer, service provider, and others—also deserve serious consideration in the evaluation of the effectiveness and value of reentry court programs. These programs are typically staffed by experienced criminal justice practitioners who have seen many rehabilitative initiatives come and go over the years, and who are uniquely qualified to judge the impact of reentry programs from a front-lines vantage point.

To get at these views and perceptions, a qualitative approach was employed using separate written surveys for past reentry court program participants, and program staff members (past and present).

A. Research Design

Surveys were sent to past drug reentry court participants no longer subject to federal supervision. This group included program graduates, participants who did not complete the program because their term of supervised release expired prior to graduation, and participants who withdrew or were terminated from the program. The limitation of surveyed individuals to those no longer subject to federal supervision was necessary to ensure that responses were not affected by an offender's desire to remain on good terms with his or her probation officer or fear that candid responses could impact potential action by the court. All survey responses were anonymous.

The past participant survey consisted of nine questions, with a tenth question inviting further, optional comments by the respondent. The questions included a 1-to-5 scale, with 1 corresponding to a “strongly disagree” response, and 5 corresponding to a “strongly agree” response. Past participants were asked the following questions:

1. The court program gave me tools I needed to support my sobriety.
2. The court program, for me, was better than regular supervision by the Probation Office.
3. The court program was not helpful because it put me with others who had more serious drug problems than I did.
4. The involvement of a judge is an important part of the program.
5. Being in the court program helped me

make the transition from prison back into the community.

6. The court program was not worth the time and effort involved for me to participate.
7. I am glad I took part in the program.
8. I would recommend the court program to others.
9. Because of the court program, I feel better about the criminal justice system.
10. Additional comments (optional).

These questions were designed to test attitudes regarding the value of the court programs in general, as well as beliefs regarding specific aspects of the programs. For instance, because the FJC study indicated that offenders on standard supervision fared as well as those in the model reentry programs, question number 2 sought to gauge whether participants felt the more intensive supervision afforded by the program was better suited to their needs than standard supervision.⁶² Similarly, the FJC study found that participants in probation officer-led programs had outcomes comparable to those in judge-led programs. Question number 4 targeted whether participants view the involvement of a judge as an important aspect of the court program. And question number 9 tested an important intangible effect—whether participation in the court program improves participants' perceptions of the criminal justice system.

The staff member survey consisted of ten questions, with an eleventh question inviting further, optional comments by the respondent. Like the past participant survey, the questions included a 1-to-5 scale, with 1 corresponding to a “strongly disagree” response, and 5 corresponding to a “strongly agree” response. As with the past participant survey, all responses were anonymous. Staff members were asked the following questions:

1. The court program effectively meets an important need in connection with the reintegration into the community of offenders with serious substance abuse issues.
2. The results achieved by the court program are not worth the cost in time, money, and other resources required to conduct the program.
3. As compared to my other professional activities, my work with the

⁵⁷ David Rauma, *Evaluation of a Federal Reentry Program Model*, Federal Judicial Center (May 2016), at p. 1-3, 30, 41.

⁵⁸ Matthew G. Rowland, *Assessing the Case of Formal Recognition and Expansion of Federal Problem-Solving Courts*, Fed. Probation, December 2016, at 3.

⁵⁹ Comm. on Criminal Law of the Judicial Conference of the U.S., *Judge-Involved Supervision Programs in the Fed. System: Background and Research* (January 2017), at 13-16.

⁶⁰ David Rauma, *Evaluation of a Federal Reentry Program Model*, Federal Judicial Center (May 2016), at p.3.

⁶¹ Daniel M. Fetsco, *Reentry Courts: An Emerging Use of Judicial Resources in the Struggle to Reduce the Recidivism of Released Offenders*, 13 WYO. L. REV. 591 (2013), at 596-597.

⁶² Noteworthy here is that most reentry court participants experience some period of standard supervision before being admitted into a reentry program, thus giving them a unique ground for comparison of the different levels of supervision.

court program is/was some of my most important professional work.

4. As compared to my other professional activities, my work with the court program is/was some of my most fulfilling professional work.
5. The concept of the court program should be expanded to address other offender populations beyond those with serious substance abuse issues.
6. The goals of the court program can be achieved just as effectively with standard supervision only.
7. The court program over-supervises its participants.
8. Over-supervision in the court program has unintended negative impact on participants.
9. The court program makes the community a safer place.
10. The court program improves the public perception of the criminal justice system.
11. Additional comments (optional).

Like the participant survey questions, the questions for program staff tested general attitudes and beliefs about the effectiveness and value of such programs, and also went to specific areas of interest. For example, question number 2 is directed at the perceived cost effectiveness of the programs; the FJC study concluded that the model reentry programs were not cost effective. Questions 3 and 4 explored staff members' subjective assessment of the relative importance and meaningfulness of their work in the programs as compared to their other professional duties. Questions 7 and 8 measured opinions regarding whether participants are over supervised. Question number 10 goes to beliefs about the effect of the programs on the public perception of the criminal justice system, and offers a direct comparison with question number 9 of the past participant survey.

B. Participating Reentry Court Programs

Reentry court programs in six federal districts participated in the research: Western District of Oklahoma (Oklahoma City and Lawton locations); District of Utah; District of Nevada; Eastern District of Virginia; District of New Jersey (Camden)⁶³; and the Northern

District of Alabama. Other than the District of New Jersey (Camden) as noted, all of the programs either expressly required a history of drug or alcohol addiction in order to participate or did not exclude participants based on that characteristic.

The reentry drug court in the Western District of Oklahoma was described in detail above. The court program in the District of Utah is modeled on traditional state drug courts, but, as with most other federal programs, is a "back-end," post-conviction program. The program is in its eleventh year and operates with a typical interdisciplinary team led by a presiding judge. The program is designed to take at least twelve months to complete all four phases, but the average time to completion is almost eighteen months. Participants are generally high-risk, high-needs offenders, with serious substance abuse issues.⁶⁴

The District of Nevada's Court Led Efforts at Recovery ("CLEAR") program is a cooperative effort between the district court, the Probation Office, the Federal Defender's Office, and the U.S. Attorney's Office. The goal of the program is to address substance dependency and recidivism, and to break the cycle of addiction and criminal behaviors. The program requires a documented history of substance abuse in order for an offender to participate. The program is voluntary and requires at least one year to complete. CLEAR adheres to the familiar drug court model, and serves a high-risk offender population. As with the other programs here, it is a post-conviction program for offenders serving a term of supervised release.

The program operated by the Eastern District of Virginia is known as "SCORE"—Second Chance Offender Rehabilitation Effort. The program consists of five phases, with a stated mission to "provide the means, opportunity, and inspiration for substance abusers to achieve and self-sustain a productive, more meaningful life for themselves." The first four phases of the program involve active substance abuse treatment among other requirements; the fifth, "transitional" phase involves support network meetings and random urinalysis testing.

The Court Assisted Reentry Effort

("CARE") in the Northern District of Alabama is a voluntary program for moderate to high-risk offenders serving terms of supervised release. Its team is composed of two judges, and two representatives each from the U.S. Attorney's Office, the Federal Public Defender's Office, and the Probation Office. The program length is two years—one year of regular CARE court appearances, and one year of standard supervision.

C. Implementation of the Research Design

Each participating district designated a coordinating United States Probation Officer ("USPO") tasked with identifying qualifying past participants and staff members to receive surveys. The requested number of survey packets for each group was mailed to the coordinating USPO. A survey packet included a consent form, the survey questions, and a self-addressed and stamped return envelope, all contained within a stamped mailing envelope which the coordinating USPO addressed using the recipient's last known mailing address. Completed surveys were returned directly to the Western District of Oklahoma and this author—the coordinating USPOs were not required to gather and return surveys.

A significant number of past participant surveys were returned by the Postal Service as undeliverable due to incorrect addresses. This was not unexpected in light of the lack of stable housing experienced by many in the offender population, and because the surveyed group included only those no longer subject to federal supervision. The United States Probation Office does not formally attempt to maintain current addresses for prior offenders no longer subject to active federal supervision. In some cases where particularly large numbers of undeliverable surveys were returned, coordinating USPOs were allowed to attempt a second mailing if more up-to-date address information could be obtained.⁶⁵

Completed surveys were organized by district and group (i.e., past participant or staff member), and the survey results are set forth in the next section. Overall survey results, and district-specific results, were shared with each participating district.

⁶³ The District of New Jersey (Camden) is a reentry program but is not a drug court, as it excludes offenders with a history of drug or alcohol addiction. Thus, some survey questions were inapplicable to respondents from that district. Further, that district currently has no past participants who are no

longer on federal supervision, so it only participated in the staff member survey. For these reasons, the survey results for this program are not included in the analysis of results for the remaining districts, but are reported separately herein.

⁶⁴ Program descriptions are on file with the author.

⁶⁵ For example, of the 50 past participant surveys mailed in the Western District of Oklahoma, 18 were returned by the Postal Service as undeliverable, and 9 responses were received, for a response rate of 18 percent when considering the total number mailed.

D. Survey Results⁶⁶

1. Participant survey

Responses were received from past participants in all five judicial districts surveyed. A total of 23 responses were received out of 125 surveys mailed, for a response rate of 18 percent. As previously noted, a large number of surveys were returned as undeliverable—28 across all participating districts. As shown with respect to response scores from the individual judicial districts, *infra*, response scores were fairly consistent across all the surveyed districts.

The average scores on the participant survey were:

1. The court program gave me tools I needed to support my sobriety.

Average Score: 4.36 (1=strongly disagree – 5=strongly agree)

2. The court program, for me, was better than regular supervision by the Probation Office.

Average Score: 4.57 (1=strongly disagree – 5=strongly agree)

3. The court program was not helpful because it put me with others who had more serious drug problems than I did.

Average score: 1.58 (1=strongly disagree – 5=strongly agree)

4. The involvement of a judge is an important part of the program.

Average score: 4.91 (1=strongly disagree – 5=strongly agree)

5. Being in the court program helped me make the transition from prison back into the community.

Average score 4.32 (1=strongly disagree – 5=strongly agree)

6. The court program was not worth the time and effort involved for me to participate.

Average score: 1.16 (1=strongly disagree – 5=strongly agree)

7. I am glad I took part in the program.

Average score: 4.75 (1=strongly disagree – 5=strongly agree)

8. I would recommend the court program to others.

Average score: 4.77 (1=strongly disagree – 5=strongly agree)

9. Because of the court program, I feel better about the criminal justice system.

Average score: 4.06 (1=strongly disagree – 5=strongly agree)

1.1 Individual comments

Individual comments from the participant survey responses were overwhelmingly positive. A sampling follows:

“The biggest thing I learned from Drug Court was that their [sic] are people who care and not just their [sic] to punish you.”

“I’ve spent over 20 yrs in state & federal prison, due to my alcohol & drug abuse—it has always been a revolving door for me since entering youth corrections at the age of 17.... If it weren’t for this program I’d be in prison, or dead.... The weekly drug court sessions, and UAs really keep you focused. But it also gives you so many resources, to begin a life in the community, as a normal person! I got ID, a bank account, a home, a truck, a dog, a great paying job....I got a LIFE!”

“After being released from prison, I was headed back down the same path of alcohol & drugs. After finally agreeing to participate in the [court] program, I was able to begin to learn how to stay sober...[The court program] saved my life—LITERALLY.”

“I incorage [sic] others to participate in this life changing program.”

“The program changed my life. If it warnt [sic] for the program I would have been back in prison.”

“Being accountable taught me to respect myself and made me want to do the right thing. The praise and encouragement of the court team helped me become a stronger person. This program has changed my life....I’m very grateful.”

“The program was an excellent program that made many tools available for my long-term recovery....I credit this program for saving my life.”

“It has helped me to become the man I am today. Responsible, hard working, honest.”

“The drug program gave me my life back. It is a very good program and should be continued.”

“The key to the program is interacting

with the judge, DA, and the P.O. It made me feel like they actauly [sic] wanted me to succeed instead of thinking that their [sic] out to get me.”

“Yes, I would definetely [sic] reccomend [sic] this program to everyone. But, I also feel that the individual has to want to change in order for anything to work. I witnessed individuals just go through the motions and waste the judge and panel members time.”

“I would like to add that the program saved my life, it was a tough program but everything they had available to me helped me break free from years and years of pain.... My [court] team treated me like a human being, not like a criminal. ...I’ve been out of [the program] for almost 2 yrs and have been sober for 3!”

“This program works better than any re-hab out there because this program has what no other re-hab has and that is a judge involved in the program and has the power to send you to jail....”

“I am grateful I was part of [the program]. It was hard and nerve wrecking at times but it was well worth the effort.”

2. Staff member survey

Responses were received from past and present program staff members in all five judicial districts surveyed.⁶⁷ A total of 54 responses were received; the response rate of the various districts ranged from 60 percent to 87 percent. Again, response scores across the participating judicial districts were fairly consistent. The average scores on the staff member survey were:

1. The court program effectively meets an important need in connection with the reintegration into the community of offenders with serious substance abuse issues.

Average Score: 4.34 (1=strongly disagree – 5=strongly agree)

2. The results achieved by the court program are not worth the cost in time, money, and other resources required to conduct the program.

Average Score: 1.82 (1=strongly disagree – 5=strongly agree)

3. As compared to my other professional

⁶⁶ Completed surveys, and question-score tabulations, are on file with the author.

⁶⁷ As previously noted, staff member survey responses from the District of New Jersey, Camden, are reported separately, *infra*.

activities, my work with the court program is/was some of my most important professional work.

Average Score: 4.10 (1=strongly disagree – 5=strongly agree)

4. As compared to my other professional activities, my work with the court program is/was some of my most fulfilling professional work.

Average Score: 4.13 (1=strongly disagree – 5=strongly agree)

5. The concept of the court program should be expanded to address other offender populations beyond those with serious substance abuse issues.

Average Score: 4.08 (1=strongly disagree – 5=strongly agree)

6. The goals of the court program can be achieved just as effectively with standard supervision only.

Average Score: 1.62 (1=strongly disagree – 5=strongly agree)

7. The court program over-supervises its participants.

Average Score: 1.70 (1=strongly disagree – 5=strongly agree)

8. Over-supervision in the court program has unintended negative impact on participants.

Average Score: 1.84 (1=strongly disagree – 5=strongly agree)

9. The court program makes the community a safer place.

Average Score: 4.12 (1=strongly disagree – 5=strongly agree)

10. The court program improves the public perception of the criminal justice system.

Average Score: 4.17 (1=strongly disagree – 5=strongly agree)

2.1 Staff individual comments

Individual comments from the staff member survey responses were substantially positive, although some critical comments were made. A sampling follows:

“...([W]orking) one-on-one with people coming out of prison has been my most rewarding work as a judge....The “cost” is nothing because the work is priceless.”

“Over supervision is a problem. Most can’t do it all. Work, test, treatment, community service.”

“One measure of success is complete sobriety and no recidivism. And that should always be our goal. But there are

other more nuanced measures of success that should not be overlooked when considering what reentry programs are about and whether they are effective. Our drug court program helps people who have lived through a lot of trauma learn how to trust again, even if in a limited way. They learn how to see themselves as more than victims and as more than a collection of their worst actions.”

“I think that reentry courts should be expanded and improved. The staff needs regular training...the right staff member is key to having a good program.”

“Our program suffered from consistency issues; consistency in who was accepted into the program (high vs low risk) & consistency in following the guidelines of the program.”

“It is an expensive program in money and other resources, but lives were saved – I am convinced – and certainly lives were improved and it is difficult to put a price on those results.”

“My involvement in this program is one of the proudest achievements of my life as a lawyer.”

“The level of care & dedication to the participants is unsurpassed by any other agency staff I have worked with...I am immensely grateful for the time I had as a part of this amazing team & program!!!”

“Courts that do not have any programs like this are missing the boat and the reason we do what we do.”

“I believe the costs associated with having a high risk reentry court are worth it; however, I believe we could more efficiently achieve the same results with fewer reentry court team members.”

“...([B]ecause) participation is voluntary, few eligible supervisees enroll.”

“This program fills a niche not available through regular supervision.”

“We have strong success while participants are in the program. However, post-graduation we struggle.”

“I am in recovery (28 years) and understand that not all will get recovery, but the value of the 40-50 percent who do succeed is well worth the cost and effort. I also note that the drug court experience has a positive effect on the people who work there, they like seeing sick people get well, they are so used to seeing bad news, we love what we are doing.”

3. District-by-district response scores

3.1. Participant survey

a) District of Utah

Question#	Average Score
1	4.75
2	5.00
3	1.25
4	5.00
5	5.00
6	1.00
7	5.00
8	5.00
9	5.00

b) Northern District of Alabama

Question#	Average Score
1	4.00
2	5.00
3	1.00
4	5.00
5	4.00
6	1.50
7	4.00
8	4.50
9	3.50

c) Western District of Oklahoma

Question#	Average Score
1	4.55
2	4.55
3	2.33
4	4.55
5	4.28
6	1.33
7	4.77
8	4.88
9	4.50

d) Eastern District of Virginia

Question#	Average Score
1	4.50
2	4.33
3	1.33
4	5.00
5	4.33
6	1.00
7	5.00
8	5.00
9	3.83

e) District of Nevada

Question#	Average Score
1	4.00
2	4.00
3	2.00
4	5.00
5	4.00
6	1.00
7	5.00
8	4.50
9	3.50

3.2. Staff survey*a) District of Utah*

Question#	Average Score
1	4.08
2	2.33
3	3.75
4	3.75
5	3.83
6	1.58
7	2.00
8	2.25
9	3.91
10	4.08

b) Northern District of Alabama

Question#	Average Score
1	4.00
2	1.50
3	3.83
4	4.16
5	4.40
6	1.83
7	1.50
8	2.00
9	4.16
10	4.16

c) Western District of Oklahoma

Question#	Average Score
1	4.71
2	1.85
3	4.33
4	4.33
5	4.04
6	1.80
7	1.90
8	1.90
9	4.00
10	4.40

d) Eastern District of Virginia

Question#	Average Score
1	4.44
2	2.44
3	4.11
4	4.11
5	3.67
6	1.89
7	1.44
8	1.89
9	4.22
10	4.22

e) District of Nevada

Question#	Average Score
1	4.50
2	1.00
3	4.50
4	4.33
5	4.50
6	1.00
7	1.66
8	1.16
9	4.33
10	4.00

f) District of New Jersey (Camden)⁶⁸

Question#	Average Score
1	N/A
2	1.83
3	4.00
4	4.16
5	N/A
6	2.16
7	1.83
8	2.50
9	3.50
10	3.16

E. Discussion

The importance of a judge to the success of drug courts, and specifically, drug reentry courts, has been the subject of some debate. As mentioned, the FJC study found that participants in probation officer-led programs fared about the same as those in judge-led programs. But Question No. 4 of the participant survey testing attitudes regarding the involvement of judges in reentry programs generated the strongest positive response of any survey question—a 4.91 “strongly agree” average response that judges are an important aspect of the programs. This response is even more significant in light of the fact that

offenders’ typical experience involving a judge has, presumably, not been very positive from their perspective, especially in the federal system in which the trial judge determines all criminal sentences.

Three participant questions go to the issue of whether the court programs are more, or less, effective than standard supervision: Question Nos. 2, 6, and 7. Significantly, average responses to each of these questions strongly suggest that program participants believe the more intense supervision of the reentry programs over standard supervision was beneficial for them. Question No. 2 directly asks whether participants believed the court program, for them, was better than regular supervision by the probation office. The average response was 4.57. Similarly, Question No. 6 tests whether the program was worth the time and effort required to participate. That question, stated negatively, generated the strongest level of disagreement in the participant survey, 1.16. And Question No. 7, which simply states, “I’m glad I took part in the program,” had an average score of 4.75, an indication of strong agreement. Thus, despite the more intense level of supervision involved with the reentry court programs, participants strongly believe that it was better than standard supervision, it was worth the extra time and effort required of them, and they are glad they participated.

Two questions test beliefs about whether the reentry programs provide meaningful and effective tools and assistance for reintegration into the community. Question No. 1 goes to the effectiveness of the program in helping participants maintain sobriety. The average score was 4.36, indicating strong agreement that the programs provide needed tools to remain free of substance abuse. Likewise, Question No. 5, asking whether being in the program helped with the transition from prison to the community, garnered strong agreement at 4.32.

The notion that reentry programs over-supervise participants, leading to poor outcomes for lower risk offenders, is addressed by several questions in the participant survey. Question Nos. 2, 3, 6, and 7 all shed light on this issue from the participants’ perspective, but the most direct of these is Question No. 3, which stated “The court program was not helpful because it put me with others who had more serious drug problems than I did.” The average response (1.58) indicates moderately strong disagreement, 1.42 points below the neutral response point of 3.00. Average

⁶⁸ The staff member survey scores for the District of New Jersey (Camden) were not included in the overall average for participating districts because participants with serious substance abuse problems are disqualified from taking part in its reentry program.

responses to the other questions in this group strongly suggest program participants do not believe they were over-supervised.

Finally, two questions test whether the programs positively impacted the participants' perceptions of the criminal justice system, one directly and one indirectly. Question No. 8, with an average score of 4.77, reflects strong agreement that past participants would recommend the program to others, and Question No. 9 reflects moderately strong agreement (4.06) that the program has improved how they view the criminal justice system.

Results of the staff member survey correspond significantly to results of the past participant survey in several respects. For instance, program staff express moderately strong agreement that the programs effectively help offenders reintegrate into the community (Question No. 1, average score of 4.34), moderately strong disagreement that the programs are not worth their cost (Question No. 2, 1.82), and closely similar agreement that the programs improve perceptions of the criminal justice system (Question No. 10, 4.17). Likewise, staff responses reflect the opinion that participants are not over-supervised (*see* Question Nos. 7 and 8), and that the programs are superior to standard supervision at addressing issues of the target offender population (*see* Question No. 6).

Noteworthy in the staff member responses is how their level of satisfaction with the work they do in connection with reentry programs compares with that of their other professional duties. In Question No. 3, reentry court staff members expressed moderately strong agreement (average score of 4.10) that their work with the court program is some of their most important professional work, and in Question No. 4, they similarly expressed agreement (4.13) that such work is some of their most fulfilling professional work.

The optional comments from both surveyed groups, as sampled above, were positive, with those of the past participants overwhelmingly positive.

This study, while informative, was limited in several important respects. The sample size of the past participant group is particularly small; only 23 responses were received. The respondents in this group may also reflect a degree of self-selection. Although surveys were sent to past participants who failed to complete the programs as well as those who

graduated, common sense suggests that past participants who graduated were presumably more likely to respond, and more likely to hold positive views of the programs. Some validation of the participant responses, however, can be gleaned from the staff member survey responses; the staff members responded at a much higher rate, and presumably those respondents were somewhat less susceptible to problems of self-selection.

Future studies of this kind would benefit from efforts to simplify and enhance the process of obtaining feedback from past program participants. For instance, programs could conduct "exit interviews" of participants upon graduation or termination from the program. This technique, of course, is not without potential problems—past participants would likely provide negative views immediately following termination from the program as a result of the court's recent action. A better approach would be a concerted effort to maintain accurate contact information for past participants after their terms of supervised release expire. Such a database would substantially mitigate a major obstacle encountered in the present study: the low response rate from past participants as a result of numerous survey packets being returned by the Postal Service as undeliverable.

Despite the flaws of the study, it does reflect the views and perceptions of those most closely involved in federal reentry courts—the participants and program staff members—regarding whether such programs are effective and worthwhile. Significantly, participants in these "back-end" federal reentry courts have already been convicted of at least one serious offense, and typically have already completed a term of imprisonment, by the time they experience the reentry program. Many have been exposed to standard post-release supervision by the United States Probation Office for a period of time prior to their participation in the reentry program, and have also participated in drug abuse monitoring and treatment. They are not criminal justice "rookies," yet their survey responses lend strong support for federal drug reentry courts.

The same can be said for the views of court program staff. Reentry court teams typically have decades of combined criminal justice experience, and have seen numerous rehabilitative programs come and go. These professionals,

like the court program participants, voice strong support for federal reentry courts.

IV. Conclusion

The perceptions and beliefs revealed in this study—those of the people on the front lines of federal reentry drug courts—provide significant insight regarding the perceived effectiveness and positive impact of reentry courts. The voices which speak through the surveys in this study deserve to be heard in the ongoing debate concerning whether such programs should be continued, funded, and even expanded. Federal reentry courts represent one of the most significant and innovative efforts within the federal system to address the epidemic of drug abuse within the offender population and assist offenders to reintegrate into their communities. The perceptions and beliefs about the success and effectiveness of these programs held by those on the front lines should be among the metrics used to measure their worth, and should inform policy-makers when considering whether such programs should be encouraged, and formally funded, in the federal system.

The views of those on the front lines are also valuable for refining the methods and practices of currently operating federal reentry courts. For example, over-supervision of participants, although not revealed by this study as a substantial concern (average staff member response of 1.84 that over-supervision led to negative consequences), clearly should be considered by reentry courts as an area where improvement is needed. Reentry programs should consider alternative tracks for participants with significantly different risk prediction scores, tailoring the level of supervision to avoid over-supervising relatively low-risk participants.

Similarly, reentry programs that are probation officer-led, or that are considering evolving to such an approach, should be informed by the exceptionally strong participant agreement that the involvement of a judge is an important part of the reentry program (average score of 4.91). It is beyond debate that committed and effective participation by the U.S. Probation Office is essential to the success of a federal reentry court, but the coordinated and complementary contributions of probation officers *and* judges as members of the reentry court team provide an important dynamic for success.

Best Practices in Treatment Court Evaluation

*Michael S. Rodi
Charlene Zil
Shannon M. Carey
NPC Research*

NUMBERING MORE THAN 3,000 programs across the country, drug treatment courts (also known as drug courts) are a significant evidence-based component of many communities' approach to addressing the needs of individuals involved in the criminal justice system who have substance use problems. The goal of drug courts is to reduce recidivism and promote recovery and stability for individuals by working to resolve the underlying issues related to criminal activity (NADCP, 2015).

An essential tenet of adult drug treatment court programs (accounting for more than half of all treatment courts) is the role of probation and other community supervision agencies (NADCP, 2015). Community supervision officers are among the core team members whose active involvement with the treatment court is associated with significantly lower rates of recidivism and greater cost savings (Carey et al., 2008; Cissner, Franklin, et al., 2013; Rossman et al., 2011; Shaffer, 2010). Probation officers may be responsible for testing participants for substance use, conducting home visits, and providing interventions to reduce criminal thinking and increase participants' problem-solving capabilities. Additionally, probation officers, who often act as case managers on treatment courts, may be involved with connecting participants to essential social services

such as housing, job skills training, and life skills. Probation may also be responsible for monitoring other short-term outcomes such as treatment compliance and employment attainment. These intermediate outcomes can be early indicators of treatment courts' impact on long-term outcomes, such as rearrests and supervision revocations, with long-term outcomes ultimately demonstrating the impact of the treatment court intervention.

Best practices in treatment courts are well aligned with those in the field of community supervision. For example, treatment courts that use evidence-based assessments of risk and need to inform decision-making outperform those that do not (Bhati, Roman, & Chalfin, 2008; Sevigny, Pollack, & Reuter, 2013). Similarly, probation programs that use assessments of risk, need, and responsivity to guide supervision decisions and interactions between probation officers and probationers are associated with better outcomes than those that do not use such assessments (e.g., MacKenzie, 2000). Treatment courts, like probation programs, also have better outcomes when participants are linked to a broad array of services and supports. Finally, the use of evaluations that provide feedback on program practices and policies, as well as outcome evaluations, are related to higher program effectiveness (Carey et al., 2012; Cissner et al., 2013).

Best Practices in Evaluating Treatment Court Programs

Treatment court programs that engage an independent evaluator and use evaluation feedback to change policy or practice have significantly lower rates of recidivism and are substantially more cost effective than those programs that did not have an evaluation (Carey et al., 2008, 2012). Program evaluation leads to program improvement through several mechanisms. First, data collection efforts highlight the salience of collecting and sharing information about program performance. Collecting and sharing information by itself tends to focus teams on aligning their regular practice with their training in and understanding of best practices. Independent evaluators are also more likely to uncover shortcomings that are not apparent to program staff, and can raise concerns without fear of personal or professional reprisal (Heck & Thanner, 2006). Program evaluation also asks program leaders to shift their attention away from their day-to-day administrative duties and take a broader assessment of how their services are functioning. This change of focus may lead to a realignment of policies and practices with those supported by research. Evaluation findings may also compel program leaders and other stakeholders to dive more deeply into practices across partner agencies, including training

and support, as well as the scope and quality of services offered by community-based organizations, such as behavioral healthcare providers. Evaluation findings shared with community leaders may engender support for program improvement efforts, including the enhancement of evidence-based services and sustained program support. Finally, and most obviously, program evaluation feedback may help identify places for program improvement or enhancement, and bolster practices and policies to address them.

Comprehensive treatment court program evaluations, similar to other criminal justice interventions, typically include process and outcome components. These components are addressed separately in the following subsections.

Process Evaluations

Process evaluations focus on the extent to which the program is implementing policies and practices as intended, as well as how those policies and practices are experienced by program partners and participants. Comprehensive process evaluations require direct observation of program practice—such as pre-court staffing meetings and status hearings; interviews with all team members; review of the program handbook, policy manual, and other documents; and focus groups or interviews with program participants, as well as interviews or focus groups with community service providers and other stakeholders. Data drawn from these sources can be mapped onto a list of best practices to help agencies target change in those areas where they may be operating in ways that are inconsistent with best practices. Table 1 provides examples of questions appropriate for a treatment court process evaluation and includes data sources and data collection strategies. As the table suggests, the evaluation can tap the same data sources and collection strategies to address a wide range of process evaluation questions.

The following steps describe best practices in how to implement a treatment court program process evaluation.

1. Convene a steering committee that includes team members and other stakeholders to identify evaluation priorities and to determine if there is internal capacity to conduct a process evaluation. Note that process evaluations, since they typically involve direct observation as well as direct interactions with staff and participants, can be difficult to implement with internal

TABLE 1
Process Evaluation Questions, Data Sources, and Collection Strategies

Examples of Process Evaluation Questions	Data Sources	Data Collection Strategies
How are participants being assessed for risk and need?	<ul style="list-style-type: none"> • Treatment court team members • Program records • Policy and procedure manuals 	<ul style="list-style-type: none"> • Interviews with team members • Review of participant records • Review of policy and procedure manuals
How are the risk and need assessment results being used to determine eligibility and to guide the type, frequency, and intensity of services?	<ul style="list-style-type: none"> • Treatment court team members • Program records 	<ul style="list-style-type: none"> • Interviews with team members • Reviews of participant records
To what extent are program policies and practices aligned with best practice standards and community context?	<ul style="list-style-type: none"> • Treatment court team members • Participants • Policy and procedure manuals 	<ul style="list-style-type: none"> • Interviews with team members • Focus groups/interviews with participants • Direct observation of team meetings and status hearings
Are participants being connected with behavioral healthcare and other community services to address their risks and needs?	<ul style="list-style-type: none"> • Treatment court team members • Program records • Participants 	<ul style="list-style-type: none"> • Interviews with team members • Focus groups/interviews with participants • Review of program records
What is the substance use testing regimen?	<ul style="list-style-type: none"> • Treatment court team members • Program records • Participants • Policy and procedure manuals 	<ul style="list-style-type: none"> • Interviews with team members • Focus groups/interviews with participants • Review of program records
How does the program use sanctions, incentives, therapeutic adjustments and monitoring to modify participants' behavior?	<ul style="list-style-type: none"> • Treatment court team members • Program records • Participants • Policy and procedure manuals 	<ul style="list-style-type: none"> • Interviews with team members • Focus groups/interviews with participants • Review of program records • Review of policy and procedure manuals
How do treatment court team members and program participants view the strengths and weaknesses of the treatment court?	<ul style="list-style-type: none"> • Treatment court team members • Participants 	<ul style="list-style-type: none"> • Interviews with team members • Focus groups/interviews with participants
What are the facilitators of and challenges to implementing evidence-based practices?	<ul style="list-style-type: none"> • Treatment court team members 	<ul style="list-style-type: none"> • Interviews with team members
To what extent is the team implementing the program according to their intended design?	<ul style="list-style-type: none"> • Treatment court team members • Program records • Participants • Policy and procedure manuals 	<ul style="list-style-type: none"> • Interviews with team members • Focus groups/interviews with participants • Review of program records • Review of policy and procedure manuals
To what extent is the treatment court being implemented with fidelity to the treatment court model?	<ul style="list-style-type: none"> • Treatment court team members • Program records • Participants • Policy and procedure manuals 	<ul style="list-style-type: none"> • Interviews with team members • Focus groups/interviews with participants • Review of program records • Review of policy and procedure manuals • Observations of program activities

staff. Power differentials and apparent conflicts of interest tend to make individuals uncomfortable and may make them less willing to be candid; therefore they are better performed by an outside evaluator. (However, regular self-review of treatment court practices and best practice standards is recommended.)

2. Develop evaluation questions that address your evaluation priorities. Evaluation questions should be discrete

and measurable, such as those proposed above.

3. Develop a cross-walk that maps data collection strategies to each of the evaluation questions, as illustrated in Table 1.
4. Develop or find existing observation, interview, and focus group tools to help guide data collection.
5. Assign staff and develop a timeline to collect the information. Note again, that if internal staff are collecting these

data, then program leaders should strategize to minimize the appearance of conflicts of interest and minimize the power differential between those being observed or questioned and the observer, interviewer, or facilitator.

6. Review the data as it pertains to each of the evaluation questions, and work to identify trends within and across respondent groups and how those trends may or may not be reflected in any document reviews or observations.¹
7. Use the trends and other information to develop responses to the evaluation questions.²
8. Report and disseminate your findings (see the Reporting and Dissemination section below).

Outcome Evaluations

Whereas process evaluations focus attention on the extent to which the team is implementing the treatment court program consistent with best practices and according to design, an outcome evaluation is essential to understanding whether the program is achieving its goals. Programs achieve their goals by achieving specific outcomes. Evaluators can divide treatment court program outcomes into those achieved while the participants are in the program (in-program outcomes), and those experienced after they leave (chiefly, recidivism—including criminal justice and child welfare).

In-Program Outcomes. In-program outcomes are important indicators of participant progress and offer a reasonable predictor of post-program outcomes, including recidivism. The primary focus of in-program outcomes is to monitor whether the program is delivering services with fidelity to the intended model and to provide timely feedback to program stakeholders regarding changes in program service delivery. In-program outcomes also include measures of participant success in completing program requirements such as negative drug tests, graduation rates, and whether participants have obtained housing and employment.

In-program outcome evaluations do not typically require a comparison group. In 2006, the National Association of Drug Court Professionals convened the National Research Advisory Committee (NRAC) that, among other tasks, created standard, simple in-program measures that treatment court teams could track and use to evaluate their programs (Heck & Thanner, 2006). The NRAC performance measures include:

- Retention—the number of participants who completed the treatment court divided by the number who entered the program.
- Sobriety—the number of negative drug and alcohol tests divided by the total number of tests performed.
- Recidivism—the number of participants arrested while participating in the program for a new crime divided by the number who entered the program, and the number of participants adjudicated officially for a technical violation divided by the number who entered the program.
- Units of Service—the number of treatment sessions, probation sessions, court hearings, and other program-required activities attended.
- Length of Stay—the number of days from entry to discharge or the participant's last in-person contact with staff.

Treatment court teams may also want to consider other outcomes of local interest, and can consult lists of outcomes promulgated by different organizations, including the national Center for State Courts (Waters, Cheesman, Gibson, & Dazevedo, 2010), the Center for Court Innovation (Rempel, 2007), the Organization of American States (Marlowe, 2015), the National Center for DWI Courts (Marlowe, 2010), and the National Institute of Justice (NIJ, 2010).

It is understandable that programs may focus more on in-program outcomes than they do on post-program outcomes. Not only are in-program outcomes easier to measure (and they are normal components of the terms of program participation agreements), but they are also the factors that impact the team members most directly in terms of their interactions with participants (i.e., it is likely that progress in these in-program domains makes the team members' jobs more or less rewarding). However, a disproportionate focus on proximal (in-program) goals is problematic for several reasons. First, the goal of any behavior-based program is to transfer control from the authorities (treatment court team members) to the participants. To achieve

this, team members and other treatment court stakeholders need to be thinking about longer term outcomes associated with independence and sustained behavioral change. Second, in-program outcomes do not entirely account for the cyclical, multi-system impact of long-term outcomes, such as criminal recidivism (discussed below). That is, some proportion of treatment court participants are likely to commit additional criminal acts, and while success under supervision may predict lower levels of subsequent criminal activity (DeVall, Gregory, & Hartmann, 2015), many of those who successfully complete the program may also find themselves back in the criminal justice system. Therefore, focusing on proximal outcomes risks distracting from longer term outcomes, such as recidivism.

Post-Program Outcomes. Post-program outcomes include sustaining in-program outcomes listed above over time, and are increasingly meaningful as participants spend more time in, and following their exit from, the treatment court program. In addition, treatment court evaluations should address the fundamental goal of reducing the rates at which offenders with substance use problems return to criminal activity by answering the following question: To what extent do participants experience new arrests, violations, convictions, and incarceration following program exit?

Depending on the availability of data, evaluators may measure recidivism in terms of new arrests, convictions, or incarceration (or all three) within the 2- to 5-year period following program entry. Because of the different social and fiscal costs associated with different crimes, offenses should be disaggregated by severity (i.e., felony vs. misdemeanor, or summary offense) and type (e.g., person, property, drug). The measure of recidivism (e.g., rearrests, re-incarceration, new convictions, etc.) will also drive the observation period necessary to provide a sufficient window of opportunity for the event to occur. For example, rearrests will occur sooner (and more frequently) than new convictions and therefore require a shorter observation period. Best practice standards suggest that the observation period for rearrests should be at least 3 years following program entry (NADCP, 2015). Finally, while this article focuses on adult treatment drug courts, generally, other treatment court programs (such as family courts, mental health courts, etc.) should define recidivism both in terms of criminal justice recidivism and

¹ It is unlikely that probation departments have evaluation staff that are formally trained in qualitative methodology such as thematic analysis, but even an informal review of qualitative data by untrained staff is likely to find trends and issues that may be addressed by changing policy or practice.

² Most process evaluations will also raise new questions and identify unanticipated program strengths and challenges.

according to the specific goals of those programs and ensure that observation periods match those measures.

To determine the extent to which participation in the treatment court program is associated with better outcomes than would be expected through standard court processing, treatment court teams must compare post-program outcomes with those experienced by a similar group of individuals that did not participate in the program. An evaluator experienced in quantitative methods is key, as comparison groups must be selected so that they do not bias the results. Examples of biased comparison groups include individuals refusing to participate in treatment court; individuals denied access due to their clinical or criminal histories; or individuals that dropped out or were terminated from the treatment court program (NADCP, 2015). An appropriate comparison group should be as identical as possible in demographics and background to participants enrolled in the program, but composed of individuals who were not offered the program. Examples of good comparison groups include groups assigned randomly; individuals waitlisted for the treatment court program (due to program capacity); individuals arrested (or otherwise eligible) just before the treatment court was established; or individuals arrested in jurisdictions similar in socioeconomic or law enforcement practices (NADCP, 2015). Again, a skilled evaluator is key in identifying an appropriate group and to mitigate any sampling biases.

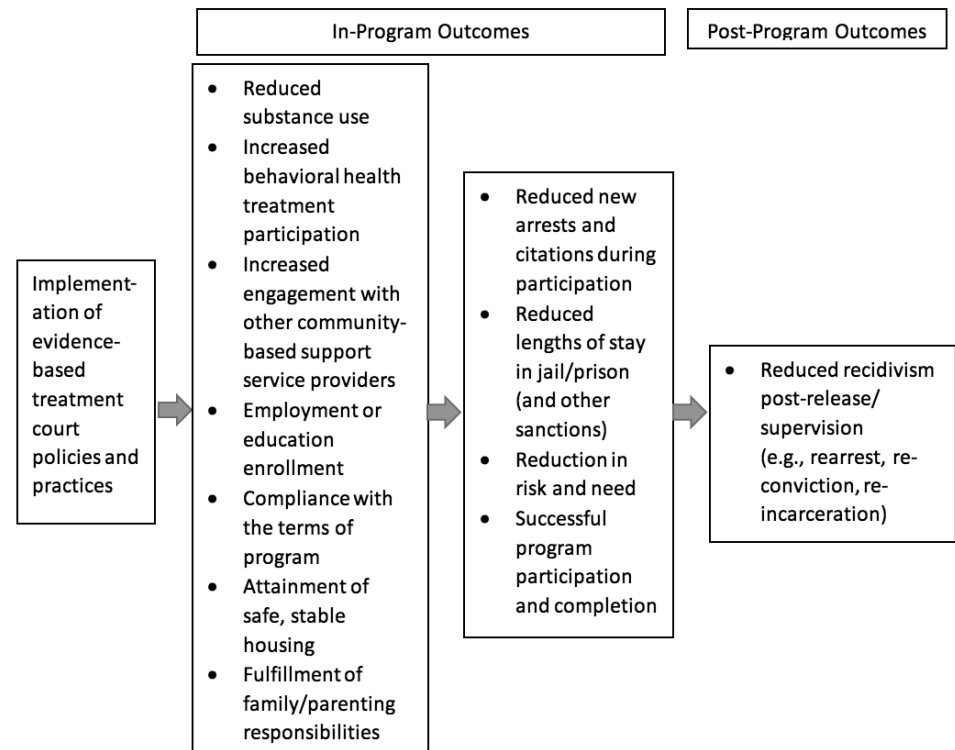
Figure 1 illustrates a logic model that shows the inter-relationships between in-program and post-program outcomes for probation programs.

Information gathered from the qualitative process evaluation questions lend themselves to thematic analysis by which the evaluator draws together all of the data and then codes data according to a schema based on the evaluation questions. Outcome evaluation questions are better addressed by quantitative evaluation methods summarized in Table 2 and discussed in greater detail in the next subsection.

Outcome Evaluation Data Sources and Analysis Methods. Table 2 summarizes the data sources and analysis methods by which probation departments and treatment courts may evaluate their policies and practices.

The following steps describe best practices in how to implement a treatment court outcome evaluation. As mentioned previously, treatment court programs should

FIGURE 1
Simple Evaluation Logic Model



consult with an experienced evaluator when reviewing post-program outcomes; however, program staff can assist evaluators by collecting and reviewing in-program outcomes as described below:

9. Develop evaluation questions that address your evaluation priorities. Evaluation questions should be discrete and measurable, such as those proposed above.
10. Implement an electronic database to track participant information related to the evaluation questions of interest. At a minimum, these include participant demographics and background information (e.g., gender, race, education level, employment status, instant offense, risk and need assessment scores, etc.) and program service information (e.g., program entry and exit dates, discharge status, etc.). Supplement this information with data elements related to your highest priorities (e.g., reductions in substance use, treatment compliance, safe and stable housing, etc.). (Note: The majority of the data needed for treatment court evaluation is the same data necessary for good quality probation and treatment court case management.)

11. Assign staff members to enter information into the database as is appropriate to their responsibilities (e.g., treatment providers are responsible for entering information related to treatment sessions attended, probation officers are responsible for entering information related to substance use test results, etc.). Data should be entered within 48 hours of the respective events (Marlowe, 2010).
12. Review in-program data as it pertains to each of the evaluation questions and try to identify trends within and across groups (e.g., compare graduates to non-graduates, men to women, by race/ethnicity, etc.).
13. Monitor in-program trends over time for changes.
14. Use the trends and other information to develop responses to the evaluation questions.
15. Report and disseminate your findings (see the Reporting and Dissemination section).

Reporting and Dissemination

The observation effect notwithstanding, program evaluation will have limited impact unless findings are regularly and meaningfully

TABLE 2
Outcome Evaluation Questions, Data Elements, and Analysis Methods

	Examples of Outcome Evaluation Questions	Data Elements	Data Analysis Methods
In-Program Outcomes	What is the retention rate and completion rate of the treatment court?	<ul style="list-style-type: none"> Total number of participants Number successfully completing program 	<ul style="list-style-type: none"> Compare the number of individuals successfully completing the program to those that entered
	Are participants completing treatment court within the intended time frame?	<ul style="list-style-type: none"> Length of time in program (start/end dates) Discharge status Minimum time necessary to complete program 	<ul style="list-style-type: none"> Calculate the average length of time participants spend in the program (by discharge status) and compare with the intended time frame
	What factors are associated with successful completion of the program?	<ul style="list-style-type: none"> Demographics Criminal history Services received 	<ul style="list-style-type: none"> Compare the proportion of participants by demographics, background, and service utilization rates of those that successfully completed the program and those that did not
	How does participation in treatment court impact substance use?	<ul style="list-style-type: none"> Substance use assessment results (e.g., mild, moderate, severe substance use disorder) at program entry and exit Dates of substance use tests Results of substance use tests (e.g., positive, negative) If positive, type of substance used 	<ul style="list-style-type: none"> Compare the proportion of participants with mild, moderate, and severe substance use disorders at program entry versus program exit Calculate the rate of negative drug tests over time (e.g., first month after entering program, 2-3 months, 4-6 months) Review changes in types of substances used
	To what extent do participants engage in behavioral health treatment?	<ul style="list-style-type: none"> Dates of referral to behavioral health treatment providers Dates of treatment sessions Treatment modality Treatment discharge status 	<ul style="list-style-type: none"> Calculate the rate of engagement (number participating out of the number referred for treatment) Calculate the average number of hours/units of treatment Calculate the rate of successful treatment completion (the number successfully discharged out of the number referred)
	To what extent do participants increase their employment or educational engagement?	<ul style="list-style-type: none"> Employment status at program entry and exit (e.g., full time vs. part-time work, number of hours per week, monthly income) Highest education level completed at program entry and exit Dates of employment or education classes attended and completion status 	<ul style="list-style-type: none"> Compare the proportion of participants with full-time employment (or number of hours, monthly income) at program entry versus those at program exit Compare the proportion of participants with GEDs (or post-secondary education) at program entry versus program exit Calculate the attendance rate at employment/education classes or calculate the rate of successful completion (out of those referred)
	Do participants gain safe and stable housing?	<ul style="list-style-type: none"> Type of housing at program entry and exit (e.g., own home, rented apartment, living with friends/family, homeless, etc.) Length of time at current address Number of places lived in last year 	<ul style="list-style-type: none"> Compare the proportion of participants living in stable versus temporary housing at program entry and program exit
	How do participants access other community-based support service providers	<ul style="list-style-type: none"> Number of individuals identified as needing community-based support services, and by type Number of individuals accessing services, by type 	<ul style="list-style-type: none"> Calculate the proportion of participants accessing services, out of those identified/referred for services, by type of service needed
	To what extent do participants experience reductions in risk and need?	<ul style="list-style-type: none"> Risk and need assessment results (e.g., high risk, high need) at program entry and exit 	<ul style="list-style-type: none"> Compare the proportion of participants in each risk/need quadrant at program entry and exit
	What is the rearrest rate while participants are engaged with the treatment court?	<ul style="list-style-type: none"> Dates of rearrests Charge severity (e.g., misdemeanor, felony) Charge type (e.g., person, property, drug, DUI, other) 	<ul style="list-style-type: none"> Calculate the percent of all participants arrested for a new charge, while participating in treatment court, by severity and charge type
	What is the revocation rate while participants are engaged with treatment court?	<ul style="list-style-type: none"> Dates of revocation Type of revocation (e.g., criminal, technical) 	<ul style="list-style-type: none"> Calculate the percent of all participants arrested for a new charge, while participating in treatment court, by revocation type
	How often are participants incarcerated while engaged with treatment court?	<ul style="list-style-type: none"> Entry and exit dates of incarceration Incarceration type (e.g., jail, prison) 	<ul style="list-style-type: none"> Calculate the percent of all participants incarcerated while participating in treatment court Calculate the average number of days incarcerated while in the program, by incarceration type

reported to key constituencies and used by those constituencies to improve and enhance program processes. As noted earlier, those programs that collect and use evaluation information are more successful and cost efficient (Carey et al., 2008, 2012). Dissemination of evaluation findings—across treatment court program partners—for program improvement and quality monitoring serves as a learning tool for those partner agencies. Reporting and dissemination, when well implemented, also acknowledge the cross-systems nature of effective probation programs. Each system (e.g., the courts, law enforcement, prosecutor, defense bar, etc.) will have its own interests and concerns and will view your evaluation results through its own lens. In other words, reporting and dissemination should be responsive to the audiences receiving the information. Further, because treatment court programs intersect with many other systems, the costs and benefits of those programs accrue differently to those systems. For example, if a probation program reports lower recidivism after probationers are offered more intensive behavioral health care through the treatment court, there are savings to law enforcement, the courts, and probation but higher costs (at least initially) to the behavioral health care system and the courts. Reporting and dissemination should explore these phenomena and address the real or theoretical costs and savings so that partners from all systems have information to assess and plan for how policy and practice changes may impact their work.³

Reporting and dissemination activities are also critical for garnering community and political support to sustain and expand successful policies and practices. Unfortunately, many of the best practices in criminal justice are restricted to a subset of the eligible population. Many treatment courts are underfunded and rely on temporary grant funding to innovate but cannot maintain those innovations or expand them to meet the full scope and scale of the needs of their community. Disseminating program evaluation results can help garner the support needed to sustain program best practices. Finally, the content and format of reporting is most impactful when it directly relates findings to specific policies and practices.

³ Cost studies, not addressed in this article, are based on process and outcome evaluation data and help the program determine if participation is associated with lower or higher costs to the public as well as how those costs and savings are distributed across different systems and agencies.

TABLE 2 (cont.)
Outcome Evaluation Questions, Data Elements, and Analysis Methods

	Examples of Outcome Evaluation Questions	Data Elements	Data Analysis Methods
Post-Program Outcomes	How does participation in treatment court impact criminal justice recidivism (rearrests)?	<ul style="list-style-type: none"> • Dates of arrests • Charge type • Charge severity 	<ul style="list-style-type: none"> • Calculate the proportion of treatment court program participants rearrested for a new offense and compare to the proportion of comparison group members rearrested during same time period • Calculate the average number of rearrests per program participant and compare to the average number of rearrests in the comparison group • Compare rearrests by charge type and severity
	How does participation in treatment court impact supervision revocations	<ul style="list-style-type: none"> • Dates of supervision revocations • Type of revocation (criminal vs. technical) 	<ul style="list-style-type: none"> • Calculate the percent of treatment court program participants revoked and compare to the percent of comparison group members revoked during a similar time period
	Does participation in treatment court reduce reincarceration?	<ul style="list-style-type: none"> • Entry/exit dates of incarceration • Incarceration type (e.g., jail, prison) 	<ul style="list-style-type: none"> • Calculate the percent of treatment court participants incarcerated and compare to the percent of comparison group members incarcerated • Calculate the average number of days treatment court participants are reincarcerated and compare to the average number of days comparison group members are reincarcerated

Summary

As communities continue to increase their reliance on treatment courts, probation, and other methods of community supervision in lieu of incarceration, there is a corresponding need for rigorous evaluation to ensure that these programs are meeting the needs of those sentenced to probation, and maintaining community safety (Klinge, 2013). Although treatment courts in general are effective in reducing crime, individual treatment courts may, in some cases, have no effect on—or even increase—recidivism (e.g., Carey et al., 2012; Carey & Waller, 2011; Cissner et al., 2013; Government Accountability Office, 2011). Evaluating the program process and outcomes is associated with significantly better outcomes (Carey et al., 2008, 2012) and should be a regular part of treatment court operations (NADCP, 2015). Outcome evaluations should

focus on criminal justice recidivism in particular—both to follow the original intent of the treatment court model (to reduce criminal recidivism and the use of jail among individuals with substance use disorders) and because costs to the criminal justice and allied systems, as well as social costs, are driven by continued criminal activity.

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Outcomes of Motivational Interviewing Training with Probation and Parole Officers: Findings and Lessons Learned

Melanie M. Iarussi

Nova Southeastern University

Dixie F. Powers

Auburn University

PROBATION AND PAROLE officers are considered to be “change agents” in that they encourage their clients to comply with the terms of probation or parole and engage in positive life changes (Alexander, VanBenschoten, & Walters, 2008, p. 61). Previous studies have shown that positive working alliances (Blasko & Jeglic, 2016; Kennealy, Skeem, Manchak, & Eno Loudon, 2012) and strength-based interventions (Woldgabreal, Day, & Ward, 2016) can facilitate positive behavior changes, including reduced recidivism rates, among people who have a history of criminal behavior. Therefore, specific methods that foster strong working alliances and capitalize on client strengths can be valuable assets to the probation and parole supervision process. Motivational interviewing (MI) is one evidence-based approach that appears to be a natural fit for delivering such services. MI promotes a working relationship between officer and client that is grounded in the belief that the client is capable of making positive changes and has the autonomy to pursue a specific goal related to behavior change. In this study, parole and probation officers completed training in MI as part of a planned implementation of MI within a state probation and parole agency.

Motivational Interviewing

Since William Miller originated it in 1983, MI has been applied to a diverse range of

helping professions, including mental health counseling, healthcare, and offender rehabilitation. As defined by Miller and Rollnick (2013), “Motivational Interviewing is a collaborative conversation style used to elicit and strengthen a person’s own motivation and commitment to change” (p. 12). The method of MI involves the spirit of MI (partnership; acceptance of the person as a human being including expressions of empathy, autonomy, and affirmation; compassion; and evocation) and strategies to elicit and strengthen the client’s movement toward positive change. Persuasion and pushing clients to see the officer’s point (i.e., arguing) are avoided in MI; instead, the emphasis is on listening and drawing out motivations that are already within the client (Miller & Rollnick, 2013). Consistent with the collaborative nature of MI, the officer elicits the client’s ideas about change so that the client can identify and verbalize his or her intrinsic motivation for change (Miller & Rollnick, 2013). Research has found that when helpers use MI-consistent skills, clients are more likely to respond with change talk, or client statements in favor of change (Moyers & Martin, 2006; Moyers et al., 2007; Moyers et al., 2009). Further, change talk has been found to increase the probability of actual behavior change, especially when combined with statements expressing commitment to change (Amrhein Miller, Yahne, Palmer, & Fulcher, 2003; Moyers, Martin, Christopher, Houck,

Tonigan, & Amrhein, 2007; Moyers, Martin, Houck, Christopher, & Tonigan, 2009).

MI is considered particularly useful with clients who present with lower degrees of motivation or readiness for change. MI was designed for clients who are ambivalent about change or opposed to engaging in relationships with helping professionals. The helper meets the client in his or her current level of readiness to change to avoid evoking discord (known to many by the term resistance) in the relationship between the officer and client, which can ultimately further reinforce the client’s unwillingness to acknowledge a problem. Given that most clients on probation and parole supervision are in early stages of readiness to change, MI is a natural strategy for officers to encourage positive change.

MI in the Criminal Justice System

The historical approach to offender reform has been driven heavily by punishment and confrontation, often creating a culture of “us versus them” between officers and offenders, which can inhibit effective rehabilitation (Ginsburg, Mann, Rotgers, & Weekes, 2002). In contrast, compassion and respectful treatment are hallmarks of MI (Miller, 2013). MI is an evidence-based practice and can help the probation officers focus on behavior changes, as well as preparing officers to diminish resistance, resolve ambivalence toward behavior change (Clark, Walters, Gingerich, & Meltzer,

2006), and help the client discover self-efficacy and autonomy. By using MI, officers focus on eliciting intrinsic motivation and developing discrepancies in a motivational style (Clark et al., 2006). MI focuses on collaborative partnerships between officer and client, instead of coercing individuals into changing. MI promotes uncovering and understanding clients' genuine personal reasons for pursuing change. In this process of eliciting the client's motivation, the officer invites the client to share and then respectfully listens to the client's relevant experiences, perceptions, values, and goals. Such conversations allow clients to feel heard, valued, and engaged in their own process of change.

MI equips probation and parole officers with skills to reduce discord in the relationship with clients, including clients lacking engagement in the change process, feeling defensive, or being oppositional. By diminishing discord, officers create the potential for a meaningful, collaborative conversation about change. By using active listening skills that are essential to MI practice, officers develop an interpersonal environment that fosters rapport and effective supervision (Bogue & Nandi, 2012).

MI has shown strong evidence in reducing substance use, which tends to be prevalent amongst offender populations (Alexander et al., 2008; Antiss, Polaschek, & Wilson, 2011; Lundahl, Burke, Tollefson, Kunz, & Browell, 2010; McMurrin, 2009). Further, MI has demonstrated positive change with short, direct interactions between practitioner and client, which are common in probation and parole settings (Alexander et al., 2008). MI has also been endorsed in criminal justice settings, because of its cost-effective interventions and adaptable style that can be taught to a variety of professionals (Miller & Rollnick, 2013).

Effectiveness of MI with Offenders

MI is considered effective in enhancing motivation for change leading to positive behavior changes. In addition, MI has produced strong evidence of treatment retention among clients with substance use problems, which tend to be highly prevalent in the offender population (McMurrin, 2009). According to the National Institute on Drug Abuse (2014), an estimated 70 percent of state and 64 percent of federal offenders used substances regularly before incarceration. MI has also demonstrated effectiveness in reducing recidivism, increasing readiness to change, and increasing rates of initiating substance use treatment among clients on supervision, especially when officers

delivered MI techniques with fidelity (Austin, Williams, & Kilgour, 2011; McMurrin, 2009; Mendel & Hipkins, 2002; Spohr, Taxman, Rodriguez, & Walker, 2016). In a recent study of participants who engaged in binge drinking and had recently committed an intimate partner violence offense, those who received a single MI session attended more subsequent treatment sessions and exhibited a lower percentage of dropout rates compared to those who did not engage in one MI session (Crane, Eckhardt, & Schlauch, 2015). Considering the evidence base supporting using MI with offenders, training probation officers to implement MI techniques with integrity may lead to positive change amongst offender populations.

MI Training with Correctional Staff

Strategies used to train helping professionals in MI include one to three day workshops, practice feedback, clinical supervision (Baer, Wells, Rosengren, Hartzler, Beadnell, & Dunn, 2009; Miller & Rollnick, 2013), experiential activities, computer training, training manuals (Beidas & Kendall, 2010), educational modules (Nesbitt, Murray, & Mensink, 2014), behavioral role play (Lane, Hood, & Rollnick, 2008), and infusion into curriculum via didactic lectures (Madson Schumacher, Noble, & Bonnell, 2013; Martino, Haeseler, Belitsky, Pantalon, & Fortin, 2007). The strategies often found to be most effective include workshops, manuals, and active learning opportunities, such as modeling and clinical supervision (Beidas & Kendall, 2010). However, without follow-up components (e.g., practice feedback, coaching), skills acquired in an initial training (e.g., workshop) have been found to diminish over time (Miller & Mount, 2001; Miller et al., 2004; Schwalbe, Oh, & Zweben, 2014).

Previous studies have evaluated the effectiveness of MI training among probation and parole officers. For example, Walters, Vader, Nguyen, Harris, and Eells (2010) trained 20 probation officers who volunteered for MI training, which included a two-day workshop, a half-day "booster" training, and up to two practice feedback meetings, and found the training improved officers' skills. However, this study was conducted with officers who volunteered for the training, and information is lacking on training effectiveness with adult probation officers who are required to complete MI training. In juvenile corrections, Hohman, Doran, and Koutsenok (2009) investigated the effectiveness of three

days of MI training with juvenile correctional staff and found it to be effective in enhancing trainees' MI knowledge and skills. This study also indicated that trainees' motivation to learn MI was not related to training outcomes. With the same trainees, Doran, Hohman, and Koutsenok (2011) found that a two-day advanced training following the initial three-day training advanced trainees' skill further, with the most improvement resulting from the least amount of time lapsing in between trainings.

From their findings, researchers of MI training research derive the following suggestions for successful MI trainings (Alexander et al., 2008; Miller & Rollnick, 2013; Bogue & Nandi, 2012): (a) offering initial learning (e.g., workshop) as well as practice feedback, (b) incorporating the eight stages of learning MI (Miller & Moyers, 2006), (c) using a MI trainer who has completed required training recommended by Motivational Interviewing Network of Trainers (MINT), (d) having one or two individuals on staff to help others learn MI, and (e) providing periodic and objective feedback for the staff and the program with evaluations. Despite these guidelines, more evidence is needed to inform successful implementation of MI in correctional services (Forsberg, Ernst, Sundqvist, & Farbring, 2011).

Method

The current study investigated within and between group differences in MI knowledge, confidence, and skills among probation and parole officers who completed MI training required by their state agency. Research questions were as follows: 1) Do MI training workshops significantly impact probation and parole officers' knowledge and understanding of MI? 2) Do MI training workshops significantly impact probation and parole officers' self-efficacy to help their clients make positive behavior changes? 3) Do MI training workshops significantly impact probation and parole officers' self-report of using techniques consistent with MI? 4) Do MI training workshops significantly impact probation and parole officers' ability to demonstrate skills that are consistent with MI? and 5) Are there significant differences between the three training groups on pre-scores, post-scores, or changes in scores from pre- to post-tests?

Procedure

Trainees were selected by a state agency to participate in mandatory MI training.

This study was approved by the Institutional Review Board prior to data collection. Before and after each training, trainees received an envelope that contained the information letter and the data collection instruments. Trainees were informed this was for research purposes and was voluntary. Group A was provided with a third envelope four months after the initial training when they met for the coaches training. Participants used codes to link their pre- and post-tests without identifying them.

Participants

Participants in Group A ($N=28$) included district managers ($N=5$), senior officers ($N=19$), and others who did not report their position ($N=4$). Groups B ($N=18$) and C ($N=21$) comprised probation and parole officers. Of the participants who completed the demographic form ($N=59$), 76 percent were male and 22 percent were female (1.5 percent did not disclose), 32 percent identified as African American, 62 percent as white, and 3 percent as Hispanic. Participants ranged in age from 23-60 with an average age of 42. Participants reported they had been working in their positions for an average of 7 years and working with offenders for an average of 11 years. Approximately 71 percent of participants had a Bachelor's degree and 29 percent had a Master's degree. Majority of participants ($N=50$; 84.75 percent) reported no previous MI training, two (3.39 percent) participants reported 1-2 hours of previous training in MI, three (5.08 percent) endorsed 3-5 hours, one indicated 5-10 hours, two (3.39 percent) indicated 11-15 hours, and one (1.69 percent) reported 16-20 hours of previous MI training.

Trainings

All trainings were conducted by the same trainer (first author), who is a member of the Motivational Interviewing Network of Trainers. Workshop format included didactic learning followed by a demonstration. Trainees then practiced the skills in small groups and received feedback from the trainer. Group A completed 21-hour training workshop and then submitted audio-recordings of their use of MI to receive follow-up practice feedback. The trainer provided written practice feedback using Motivational Interviewing Treatment Integrity manual (MITI 3.1.1; Moyers, Martin, Manuel, Miller, & Ernst, 2010), and invited the trainee to participate in a coaching session via telephone. Eleven (34 percent) participants submitted tapes to the trainer and received written

feedback. The number of tapes submitted ranged from one to nine. Of those 11 participants, seven also engaged in a telephone coaching session with the trainer.

Group A completed a five-hour coaches training approximately four months after their initial training. They were then assigned as coaches to officers in Groups B and C. Groups B and C completed 15-hour training workshops with the trainer.

Instruments

MI Knowledge Test. Participant's knowledge of MI was measured using the Motivational Interviewing Knowledge and Attitudes Test (MIKAT) modified from Leffingwell (2006). The MIKAT contains two sections with 14 true/false questions and a checklist. The true/false questions assess commonly held beliefs that are contrary to the beliefs of MI, while the checklist measures understanding of the principals of MI. The MIKAT was administered before and after training to measure changes in participants' knowledge of MI.

Self-Efficacy Questionnaire. Evangeli's (2009) confidence questions (CQ) measured participants' confidence in their ability to increase offenders' motivation to alter behaviors in the areas of improving self-control, changing criminal thinking, learning and using healthy coping skills, exploring values, setting goals, academic success, and gaining employment. Participants were asked to specify how they align with the provided statement, "I am confident that I can increase offenders' level of motivation regarding..." using a five-point Likert scale. The questionnaire was administered before and after training to measure the change in participants' confidence in their abilities to increase student motivation.

MI Techniques Questionnaire. To assess the MI techniques implemented by participants, a version of Evangeli's (2009) techniques questionnaire (TQ) was administered. Participants ranked the frequency with which they used MI techniques using a five-point Likert scale. Techniques listed on the questionnaire focus on various MI techniques that increase behavior change (e.g., discussion about behavior change, using summaries, ensuring choice, and acknowledging challenges of change). Assessments were completed before and after participants' trainings to measure changes in techniques used to help clients increase motivation.

Officer Responses Questionnaire. The Officer Response Questionnaire (ORQ) was

developed by Walters, Alexander, and Vader (2008) to assess the trainees' ability to respond empathically using MI techniques. The questionnaire provides sample client statements (e.g., "I've been looking for work, but it's impossible for someone on probation to find a good job"), then the participant provided a response of what the officer would say to be supportive to the offender (e.g., "You have been working for a job, but it has been difficult."). Statements were rated from 1 to 5, with 5 meaning demonstration of effective MI techniques (Walters et al., 2008).

MI Practice. For the 11 (39 percent) trainees who submitted recordings of their use of MI with clients, the trainer used the Motivational Interviewing Treatment Integrity (MITI 3.1.1; Moyers et al., 2010) to determine the level of MI competency attained by trainees. The MITI is a behavioral coding system that provides benchmark scores for "beginning proficiency" and "competency." The MITI consists of two main components: global scores and behavior counts. The global scores are each evaluated on a five-point scale and include five dimensions: evocation, collaboration, autonomy/support, direction, and empathy. Behavioral counts are tallied and include seven categories: giving information, open questions, closed questions, MI-adherent, MI non-adherent, and simple and complex reflections. As recommended by Moyers et al. (2010), random 20-minute segments of officers' conversations with clients were evaluated; however, the majority of conversations were under 20 minutes.

Results

Nonparametric tests were run to test the hypotheses of this study. Assumptions required for parametric tests were not met, often due to outliers in the data, and we chose to maintain the outliers in the data and run nonparametric tests to preserve the integrity of the study. Findings reported below respond to each of the five research questions. Table 1 shows all median scores.

MI Knowledge

A Friedman test was run to determine if there were differences in Group A's knowledge of MI over the course of MI training (pre, post, and 4-month). Scores on the MIKAT stayed the same from before the workshop ($Mdn = 57$), to after the workshop ($Mdn = 57$), and increased at follow-up ($Mdn = 61$). However, these differences were not statistically significant, $\chi^2(2) = 4.854, p = .088$.

TABLE 1
Pretest and Posttest Medians, Analyses, and Findings

Variable	Group	Pre	Post	4mo	Analysis	Results
MI Knowledge (Multiple choice % Correct)	A	57	57	61	Friedman test	$\chi^2(2) = 4.854, p = .088$
	B	57	64	—	Wilcoxon Signed Rank	$z = -2.083, p < .005^*$
	C	57	64	—	Wilcoxon Signed Rank	$z = -2.083, p < .005^*$
MI Knowledge (# MI-Consistent Behaviors)	A	2	4	6	Friedman test	$\chi^2(2) = 32.771, p < .0005^{**}$
	B	2.5	4	—	Wilcoxon Signed Rank	$z = -3.622, p < .0005^*$
	C	2	4	—	Wilcoxon Signed Rank	$z = -3.559, p < .0005^*$
Confidence	A	46	46	44	Friedman test	$\chi^2(2) = 1.486, p = .476$
	B	44.5	52	—	Wilcoxon Signed Rank	$z = -3.011, p < .005^*$
	C	45	51	—	Wilcoxon Signed Rank	$z = -2.310, p < .05^*$
MI Techniques Used	A	37	37	39	One-way RM ANOVA	$F(2, 36) = 1.142, p = 0.330$
MI Skills	A	1.2	2.8	2.4	Friedman test	$\chi^2(2) = 11.485, p < .003^{***}$
	B	1.0	2.6	—	Wilcoxon Signed Rank	$z = -3.147, p < .005^*$
	C	1.0	3.0	—	Wilcoxon Signed Rank	$z = -3.413, p < .005^*$

Note: *Statistically significant difference was detected. **Statistically significant difference was detected. Pairwise comparisons with a Bonferroni correction for multiple comparisons; the number of MI-consistent behaviors correctly selected was statistically significantly different between pre- and post-workshop scores ($p < .0005$) and pre-workshop to follow-up scores ($p < .0005$). ***Pairwise comparisons were used with a Bonferroni correction for multiple comparisons. Group A's MI skills were significantly different between pre- and post-workshop ($p < .006$) and pre-workshop to follow-up ($p < .047$).

Significant differences were detected in the number of MI-consistent behaviors selected in that median scores increased from two correctly identified behaviors pre-workshop to four post-workshop to six at follow-up $\chi^2(2) = 32.771, p < .0005$. Pairwise comparisons were performed with a Bonferroni correction for multiple comparisons. The number of MI-consistent behaviors correctly selected was statistically significantly different between pre- and post-workshop scores ($p < .0005$) and pre-workshop to follow-up scores ($p < .0005$). There were also significant differences detected in the number of MI-inconsistent behaviors incorrectly selected in that median scores decreased from five MI-inconsistent behaviors incorrectly selected pre-workshop to two post-workshop, and then to three at follow-up $\chi^2(2) = 21.493, p < .0005$. Pairwise comparisons were performed with a Bonferroni correction for multiple comparisons. MI-inconsistent behaviors incorrectly selected scores were statistically significantly different between pre- and post-workshop ($p < .0005$) and pre-workshop to follow-up ($p < .034$).

Wilcoxon Signed Rank Tests were run to determine if there were differences in Group B and C's knowledge of MI from pre to post MI training. The training elicited a statistically significant median increase in MI knowledge for Group B and C, $z = -2.083, p < .005$. MI-consistent behaviors correctly

selected were statistically significantly different between pre- and post-workshop for Groups B and C ($z = -3.622, p < .0005$; $z = -3.559, p < .0005$ respectively), and significant differences were also detected in the number of MI-inconsistent behaviors incorrectly selected for both groups ($z = -3.655, p < .0005$; $z = -3.277, p < .005$).

Self-Efficacy

A Friedman test was run to determine if there were differences in Group A's self-efficacy in using MI techniques over the course of MI training (pre-workshop, post-workshop, and at a 4-month follow-up). Self-efficacy scores remained the same before and after the workshop ($Mdn = 46$), but then decreased at follow-up ($Mdn = 44$). These differences were not statistically significant, $\chi^2(2) = 1.486, p = .476$. Wilcoxon Signed Rank Tests were run to determine if there were differences in Group B and C's self-efficacy in using MI techniques over the course of MI training. The training elicited a statistically significant median increase in self-efficacy to use MI techniques for Group B, $z = -3.011, p < .005$ and for Group C, $z = -2.310, p < .05$.

MI-Consistent Techniques

Changes in probation and parole officers' self-report of using techniques consistent with MI were only tested for Group A, because they had a 4-month follow-up assessment to determine

if techniques changed, whereas Groups B and C only had pre- and post-assessments from a training that was two consecutive days and therefore did not allow them time to change their techniques between assessments. A one-way repeated measures ANOVA with Bonferroni post hoc test was conducted with Group A to determine whether there were statistically significant differences in trainees' self-reported use of MI techniques over the course of MI training (pre-workshop, post-workshop, and 4-month follow-up). There was one outlier, which was reduced by two points, and the data was normally distributed at each time point, as assessed by boxplot and Shapiro-Wilk test ($p > .05$), respectively. The assumption of sphericity was met, as assessed by Mauchly's test of sphericity, $\chi^2(2) = 2.209, p = .331$. Findings showed that the training did not lead to any statistically significant changes in self-reported use of MI techniques, $F(2, 36) = 1.142, p = 0.330$.

MI Skills

A Friedman test was run to determine if there were differences in Group A's ability to produce MI-consistent responses over the course of MI training (pre-workshop, post-workshop, and 4-month follow-up) as measured by responses on the ORQ. Statistically significant differences were detected in Group A's demonstrations of MI skills $\chi^2(2) = 11.485, p < .003$. Pairwise comparisons were used with a

Bonferroni correction for multiple comparisons. Group A's MI skills were significantly different between pre- and post-workshop ($p < .006$) and pre-workshop to follow-up ($p < .047$). Wilcoxon Signed Rank Tests were run to determine if there were significant differences in Group B and C's demonstrations of MI skills before and after training. The training elicited a statistically significant median increase in MI skills for Group B, $z = -3.147$, $p < .005$, and for Group C, $z = -3.413$, $p < .005$.

Between-Group Differences

A Kruskal-Wallis H test was run to determine if there were differences in trainees pre- and post-scores between the three groups of participants. Distributions of all dependent variable scores were similar for all groups, as assessed by visual inspection of a boxplot. Median scores were not statistically significantly different between groups on any of the pre-training tests: Self-Efficacy, $H(2) = .426$, $p = .808$; Reported use of MI-Consistent Techniques, $H(2) = 3.274$, $p = .195$; MI Knowledge Percent Correct, $H(2) = 2.369$, $p = .306$; MI-Consistent Behaviors Selected Correctly, $H(2) = 3.904$, $p = .142$, and Number of MI-Inconsistent Behaviors Selected Incorrectly $H(2) = 4.273$, $p = .118$; and MI Skills, $H(2) = .089$, $p = .956$.

When examining post-scores, self-efficacy post-scores were significantly different between groups, $H(2) = 10.157$, $p = .006$. Subsequently, pairwise comparisons were performed using Dunn's (1964) procedure with a Bonferroni correction for multiple comparisons (adjusted p-values are presented). This post hoc analysis revealed statistically significant differences in self-efficacy post-scores between Group A ($Mdn = 46$) and Group B ($Mdn = 52$) ($p = .006$). Reported use of MI-consistent techniques was not tested for differences between groups due to trainees having no time between pre- and post-tests to adjust their practice. All other post-scores were not significantly different between groups: MI Knowledge Percent Correct, $H(2) = 4.096$, $p = .129$; MI-Consistent Behaviors Selected Correctly, $H(2) = 3.376$, $p = .185$, and Number of MI-Inconsistent Behaviors Selected Incorrectly $H(2) = 2.558$, $p = .278$; and MI Skills, $H(2) = 1.135$, $p = .567$.

When examining group differences in changes in scores from pre- to post-tests, we found self-efficacy significantly different between groups $H(2) = 7.143$, $p = .028$. Pairwise comparisons post hoc analysis revealed significant differences in self-efficacy

TABLE 2
Group A's Scores on the MITI After Completing a 3-Day Training

	Below Beginning Proficiency	Beginning Proficiency	Competency
Average Global	18.2% (2)	9.1% (1)	72.7% (8)
Open Questions	36.4% (4)	45.5% (5)	18.2% (2)
Complex Reflections	27.3% (3)	9.1% (1)	63.6% (7)
MI Adherent	9.1% (1)	0.0% (0)	90.9% (10)
Reflection-to-Question Ratio	63.6% (7)	9.1% (1)	27.3% (3)

Note: $N = 11$. According to the MITI 3.1.1, for the MI spirit the benchmark for beginning proficiency is 3.5 and 4.0 for competence. For open questions, below proficiency is <50%; beginning proficiency 50%-69%; and competency is 70% and above of total questions asked. For complex reflections, below proficiency is <40%; beginning proficiency is 40%-49%; and competency is 50% and above of total reflections made. For MI-adherent behaviors, below proficiency is <90%; beginning proficiency 90%-99%; and competency is 100% of total MI adherent and MI non-adherent behaviors. For reflection-to-question ratio, below proficiency is <1.00; beginning proficiency 1.00-1.99; and competency is 2.00.

change scores between Group A ($Mdn = 1$) and Group B ($Mdn = 5.5$) ($p = .043$). All other change scores were not significantly different between groups: MI Knowledge Percent Correct, $H(2) = 2.265$, $p = .322$; MI-Consistent Behaviors Selected Correctly, $H(2) = 2.307$, $p = .315$, and Number of MI-Consistent Behaviors Selected Incorrectly $H(2) = 1.416$, $p = .493$; and MI Skills, $H(2) = 3.051$, $p = .218$.

MI Practice

Scores on the MITI showed that the majority of participants scored in a competency range for global scores, complex reflections, and MI adherent skills. Trainees scored below competency for percent open questions and reflection-to-question ratio. A summary of scores is presented in Table 2.

Discussion

Results of this study suggest that the MI training workshops were largely successful in increasing officers' MI knowledge, skill, and self-efficacy in using MI, despite the trainings being with officers who did not volunteer for to complete training. Improvements related to MI knowledge were variable on the multiple choice scores; however, trainees' abilities to correctly choose behaviors that were consistent with MI improved consistently across groups. It is notable that trainees who completed two days of training (Groups B and C) scored higher in MI knowledge in their post-test compared to the leadership group (Group A), who completed three days of initial training. In addition to knowing about MI, trainees in each of the groups demonstrated significant improvements in their ability to demonstrate MI-consistent skills as measured on the Officer Response Questionnaire. This finding is promising, as the ultimate hope is

for trainees to execute the MI approach with offenders to assist them in making lasting changes to avoid future incarceration or other involvement in the criminal justice system. This hope was reinforced by the finding from Group A's practice feedback showing gains in global scores, complex reflections, and MI adherent skills. These findings also suggest that trainees need more practice to ask more open questions and reflections compared to closed questions. Finally, Groups B and C demonstrated significant improvement in self-efficacy scores, suggesting they felt capable and confident in their abilities to execute MI with individuals who are on probation or parole. Self-efficacy was the only variable that was significantly different between groups in that the post-tests and change scores were significantly higher in Group B compared to A.

Limitations

This study was conducted in collaboration with one probation/parole state agency, and it includes data from officers who were selected by the agency to participate in these trainings. Therefore, randomization was not possible. Unanticipated challenges in accessing recordings of trainees' use of MI resulted in only 39 percent of trainees submitting tapes, and they varied regarding the number of tapes submitted. Therefore, the amount and frequency of practice feedback provided to trainees was inconsistent. There was insufficient data to run analysis on those who engaged in telephone coaching and those who did not, which was an intended aim of this study.

Implications and Lessons Learned

The findings of this study should be understood in the context that trainees did not volunteer to partake in these trainings.

Trainees presented to trainings with a range of degrees of readiness to learn about and to implement MI, and, therefore, assessing and considering trainees motivation and attitudes toward MI training would be beneficial when interpreting the effectiveness of such trainings. For example, Doran et al. (2011) used a two-item *Quick Readiness Measure* to assess trainees' motivation to use MI and their beliefs about its usefulness, but the authors did not find that trainees' motivation to use MI impacted their MI skills. We recommend that future trainings with mandated trainees include a more comprehensive assessment of trainees' attitudes toward learning MI and integrating it into practice, such as an adaptation of the *Readiness to Change Questionnaire-Clinical Skills Adaptation* and the *What I Want From Training* instrument (Barrick & Homish, 2011). In addition, based on the findings of this study, it appears that additional time in trainings to deconstruct current practice habits inconsistent with MI (e.g., asking closed questions) is necessary.

Implementation strategies can be identified and incorporated to enhance the adoption, implementation, and sustainability of MI among probation and parole agencies (Proctor et al., 2011). Several strategies identified by Powell et al. (2012) were included in this training design, including the trainer's meetings and frequent communication with the director of training to develop strategies and relationships and solidify buy-in. Alexander et al. (2008) suggested providing education before the trainings, such as a two-hour introduction to evidence-based practices. The value of such a strategy was evident in the current trainings when most trainees in Group A were not familiar with MI upon their arrival to the training. Providing information about the approach and evidence supporting its use can help develop trainee buy-in prior to arriving for the training.

In the spirit of a strategy Powell (2012) referred to as identifying and preparing champions, the trainer encouraged the leadership group (Group A) to complete a coaches training and engage peer learning communities to help them develop their MI skills further and to be able to assist officers in developing their MI skills. The officers in this study engaged in the 5-hour coaches training, but did not develop peer learning communities as recommended. Unfortunately, out of the three groups trained, the leadership group anecdotally appeared to be the most reluctant to adopt MI, and although gains occurred during the

3-day training, challenges emerged when the agency's technological difficulties impeded training. The tone from trainees was that the demands from the agency on the officers were high, and yet the (technological) support was not in place for them to be successful. This resulted in lost momentum and negative attitudes, which likely influenced subsequent trainees' attitudes toward the trainings (Bogue & Nandi, 2012) and Groups B and C failing to receive consistent practice feedback from Group A as planned. Thus, it might be beneficial to discuss and even complete a trial run of providing post-workshop practice feedback prior to attempting this with trainees.

Offering incentives after the workshop to incorporate feedback provided could also be a useful strategy (Powell, 2012), especially to balance the already heavy weight officers feel from managing large caseloads and being asked to do "another thing" in learning and implementing MI. For example, officers might receive monetary or other incentives if they demonstrate MI competency or improvements over time. Incentives might also be beneficial for champions who develop and engage in peer communities focused on the use of MI.

A final lesson learned involved the instrument used to provide feedback to the members of Group A who submitted recordings. They were exposed to the MITI in the training workshop, and this was the instrument used to provide practice feedback following the workshop to those who were able to successfully implement recordings. However, trainees reported that the MITI was overly complex. In the coaches training, we changed instruments to the Behavior Change Counseling Index (BECCI) – Criminal Justice Version (Lane, 2002), an instrument that provides practice feedback on a Likert scale and that was specifically designed for criminal justice settings. The coaches decided to use this instrument when providing feedback to officers in Groups B and C on their use of MI.

Future Research

MI training and dissemination in probation settings is still a rich area for research. Future research is needed to capture the effectiveness of practice feedback after the initial training. Outcome data about specific implementation strategies, such as education prior to training workshops and offering incentives for implementing MI and for engaging in learning communities, are also needed to better understand which strategies result in

officers using MI with greater fidelity after an initial training.

Conclusion

With its humanistic base and strategies that emphasize client autonomy and promoting lasting changes, MI in correctional settings appears to be a natural fit. In this study, we learned that MI training can be mostly successful when officers are mandated to training. However, recommendations for improving such trainings from implementation research will likely enhance the effectiveness of such trainings. Future research is needed to further inform training and implementation practices.

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JUVENILE FOCUS

ALVIN W. COHN, D.CRIM.

Administration of Justice Services, Inc.

Tribal Youth Training

OJJDP's Tribal Youth Training and Technical Assistance Center has launched its new website. The center's goal is to help tribes build capacity to develop, expand, improve, and maintain their juvenile justice systems. The website serves as a clearinghouse of culturally appropriate resources, training, and technical assistance and provides information in areas such as juvenile healing to wellness courts; tribal youth-specific prevention, intervention, and treatment programming; and tribal-state collaborations to meet the needs of American Indian and Alaska Native children exposed to violence. Visit OJJDP's Tribal Youth Training and Technical Assistance Center website to learn more about OJJDP's tribal youth programs and services.

Courtrooms and Youth Outcomes

With support from OJJDP, the National Center for Juvenile Justice has published *5 Ways Juvenile Court Judges Can Use Data*. The brief provides examples of how juvenile court judges can use data to learn more about their courtroom practices and the jurisdictions they serve. This publication is the first in a series that will include briefs for law enforcement and corrections administrators. Developed through the OJJDP-funded Juvenile Justice Model Data Project, this effort seeks to improve the quality and consistency of juvenile justice data through developing guidance for states and jurisdictions on how to collect, analyze, and use juvenile justice data.

Juvenile Residential Placement and Juvenile Homicide Data

OJJDP's Statistical Briefing Book has been updated. Developed for OJJDP by the National Center for Juvenile Justice, the research division of the National Council of Juvenile and Family Court Judges, the Statistical Briefing

Book provides easy online access to statistics on a variety of juvenile justice topics. The updates include answers to new frequently asked questions (FAQs) describing racial and ethnic fairness in the special topics section. Additional FAQs were updated in several areas, including a description of the number and characteristics of child maltreatment victims and trends in school crime victimization. The data analysis tool for Easy Access to FBI Arrest Statistics has been updated to include county-level arrest estimates through 2014.

National Gang Center

The National Gang Center (NGC) has launched its redesigned website. The new website's focus areas are criminal justice, safe communities, and research. There is an inquiries section for quicker responses from staff and new forms to request technical assistance, consultations, and training. The website also includes the NGC blog, which features blog posts on topics, such as responding to gangs in schools and using social media for gang investigations. Users can also access the OJJDP Comprehensive Gang Model, which is designed to help community efforts to combat gang activity. It includes tools for identifying appropriate target areas and groups to focus resources on. Jointly funded by OJJDP and the Bureau of Justice Assistance, the National Gang Center works to reduce gang-related crime and violence by delivering resources, training, and technical assistance to practitioners nationwide.

National Mentoring Resource Center

The OJJDP-sponsored National Mentoring Resource Center has released a suite of tools to help mentors and mentees thrive through enhanced support of matches and a successful closure process. These tools include resources on how to clarify expectations to

avoid mentoring match challenges; estimate staffing hours needed to make, support, and close matches; and examine the health of a match.

Sexual Exploitation

The annual number of persons prosecuted for commercial sexual exploitation of children (CSEC) cases filed in U.S. district court nearly doubled between 2004 and 2013, increasing from 1,405 to 2,776 cases, the Bureau of Justice Statistics announced today. During the period, a CSEC crime was the most serious offense or lead charge for 37,105 suspects referred to U.S. attorneys for investigation. Suspects referred for the possession of child pornography (72 percent) accounted for the majority of all CSEC suspects, followed by those suspected of child sex trafficking (18 percent) and child pornography production (10 percent). Most suspects arrested for CSEC crimes were male (97 percent), were U.S. citizens (97 percent), were white (82 percent), had no prior felony convictions (79 percent), and were not married (70 percent). CSEC suspects had a median age of 39 years, and more than half (56 percent) had no more than a high-school education.

Of the 36,080 suspects with a CSEC lead charge in matters that were concluded by U.S. attorneys from 2004 through 2013, 60 percent were prosecuted in U.S. district court, 36 percent were declined for prosecution by U.S. attorneys, and 4 percent were disposed by U.S. magistrates. Nine out of 10 adjudicated CSEC cases resulted in a conviction from a guilty plea. Trials led to a conviction in 4 percent of CSEC adjudications. Nearly all (98 percent) CSEC defendants convicted in U.S. district court received prison time. This was higher than the percentage of persons sentenced to federal prison in all other major offense categories, including property (63 percent), public order (64 percent), violent (91 percent),

weapon (92 percent), drug (93 percent), and immigration (96 percent) offenses. Prison sentences for defendants convicted of CSEC offenses were among the longest in the federal justice system. Between 2004 and 2013, the mean prison sentence for convicted CSEC defendants nearly doubled, increasing from 70 to 139 months.

Homicide Explanations

The Office of Justice Programs' National Institute of Justice published an article online that explores potential explanations for the rapid increase of homicide rates in some U.S. cities. The document considers two possibilities: the expansion in illicit drug markets brought about by the heroin and synthetic opioid epidemic, and de-policing, the intentional reduction in policing by officers.

Inconsistencies in Publicly Available Data

According to the Innocence Project, a national litigation and public policy organization dedicated to exonerating wrongfully convicted individuals, 342 people have been exonerated as a result of DNA analysis as of July 31, 2016. The Innocence Project lists six "contributing causes" for wrongful convictions:

- Eyewitness misidentification
- False confessions or admissions
- Government misconduct
- Inadequate defense
- Informants (e.g., jailhouse snitches)
- Unvalidated or improper forensic science

However, Dr. Jon Gould (who has written extensively about erroneous convictions) and his colleagues caution that "without a comparison or control group of cases, researchers risk labeling these factors as 'causes' of erroneous convictions when they may be merely correlates." They designed a unique experimental strategy to study factors leading to rightful acquittals or dismissal of charges against an innocent defendant—near misses—that were not present in cases that led to the conviction of an innocent person. After identifying a set of erroneous convictions and near misses and analyzing the cases using bivariate and logistic regression techniques, Gould and his colleagues identified 10 "factors" (not causes) that led to a wrongful conviction of an innocent defendant instead of a dismissal or acquittal:

- Younger defendant.
- Criminal history.
- Weak prosecution case.

- Prosecution withheld evidence.
- Lying by a non-eyewitness.
- Unintentional witness misidentification.
- Misinterpreting forensic evidence at trial.
- Weak defense.
- Defendant offered a family witness.
- States with a "punitive" culture.
- School Referrals

School-Justice Partnerships

The National Council of Juvenile and Family Court Judges (NCJFCJ) is at the forefront of a collaborative initiative to reduce the number of referrals to the juvenile justice system for school-based behaviors through the establishment of judicially-led School-Justice Partnerships. These partnerships seek to enhance collaboration and coordination among schools, mental and behavioral health professionals, law enforcement, and juvenile justice officials to help students succeed in school and prevent negative outcomes for youths and communities. The NCJFCJ and project partners have provided training and technical assistance to support local collaborative efforts to reduce the number of school-based arrests and referrals to juvenile court. Judicially-led School-Justice Partnerships on judicial leadership convene local system partners—juvenile court, education, law enforcement, community mental and behavioral health providers, youths and families, and the community-at-large—to identify areas for improvement and effective solutions required to reduce the rate of school-based arrests and referrals to juvenile court.

Juvenile Corrections

The field of juvenile corrections has experienced numerous improvements over the past few decades. Much has changed as the field has embraced evidence-based practices and focused on the delivery of treatment and other services to improve youth and system outcomes. Juvenile correctional administrators rely on accurate and timely data to ensure facility practices and operations reflect evidence-based practices and are aligned with their rehabilitative missions. For example, knowing criminogenic risk levels and needs of youth can assist with individual treatment planning, while the same data in the aggregate can help plan the range of services available to youth. Knowing the proportion of youth who reoffend or return after release provides administrators with a measurable outcome to assess performance and make improvements.

Dating Abuse

The report provides a summary of a randomized control trial of 220 adolescents recruited to test the effectiveness of Real Talk, a brief motivational interview-style intervention to prevent dating abuse perpetration. A subset of those in the intervention group experienced significantly better gains in dating abuse perpetration reduction than those in the control group. Despite the potentially modest impacts, the low cost may make Real Talk an effective intervention. The report provides a summary of a randomized control trial of 220 adolescents recruited to test the effectiveness of Real Talk, a brief motivational interview-style intervention to prevent dating abuse perpetration.

Victimization Data

The report on the National Crime Victimization Survey (NCVS) shows national data on criminal victimization reported and not reported to police in 2016, including the characteristics of crimes and victims and outcomes of victimization. The report examines violent crimes (rape or sexual assault, robbery, aggravated assault, and simple assault) and property crimes (household burglary, motor vehicle theft, and theft). It also includes data on domestic violence, intimate partner violence, injury to victims, and weapon use. Data are from the National Crime Victimization Survey (NCVS), which collects information from a nationally representative sample of U.S. households on nonfatal crimes, reported and not reported to the police, against persons age 12 or older. During 2016, about 134,690 households and 224,520 persons were interviewed for the NCVS.

Highlights:

- In 2016, U.S. residents age 12 or older experienced 5.7 million violent victimizations—a rate of 21.1 victimizations per 1,000 persons age 12 or older.
- The rate of stranger violence (8.2 per 1,000 persons) was higher than the rate of intimate partner violence (2.2 per 1,000).
- In 2016, U.S. households experienced 15.9 million property crimes—a rate of 119.4 per 1,000 households.
- Motor vehicle thefts (80%) were the most likely of all crime types to be reported to police.
- In 2016, a total of 1.3% of all persons age 12 or older experienced one or more violent victimizations.

School Crime

Nationally, school crime rates have decreased since the early 1990s. Though violent crime against students increased from 2010 to 2013, the student victimization rate declined 70 percent between 1992 and 2013. Though most schools report at least one violent crime per school year, serious violent crimes—including sexual violence, threats or physical attacks involving weapons, and robbery—occur in far fewer schools. Student fear of being harmed has also decreased.

Recidivism

Every year, an estimated 650,000 offenders are released from the nation's prisons, according to the U.S. Department of Justice. However, national recidivism rates remain high, with some studies finding that two-thirds of inmates are rearrested. Upon release, many ex-prisoners are supervised by probation and parole officers who have an opportunity to help offenders make positive changes and stay out of the criminal justice system.

Mentoring Girls

According to OJJDP's Statistical Briefing Book, girls accounted for more than one-fourth (28 percent) of the delinquency cases handled by juvenile courts in 2015. Identifying programs that can help prevent and reduce girls' delinquency is essential for decreasing their involvement in the juvenile justice system and lowering crime rates overall.

In 2013, OJJDP funded the University of Virginia to evaluate whether youth participation in the Young Women Leaders Program (YWLP) reduced offending and improved other outcomes 5 years later. YWLP pairs female college mentors with at-risk seventh-grade girls in Charlottesville, VA, for structured group activities and one-on-one mentoring in an afterschool setting. The targeted schools have higher proportions of students with risk factors for delinquency, which include poverty, foster care placements, serious emotional problems, school failure, and school dropout rates that are higher than state averages.

The researchers conducted a study with approximately 360 girls who started the program between 2007 and 2010. Five years after the girls' program participation ended, OJJDP funded follow-up data collection on approximately half the sample. The second study also explored how processes involved in the program delivery and qualities of the mentoring relationship might influence the program's impact.

Researchers found that higher levels of mentee participation were associated with positive outcomes. As the girls increased their involvement in the program, they experienced improvements in self-esteem and reductions in delinquent behavior. Self-esteem and delinquency measures were based on self-reported responses to the Global Self-Worth Scale and the Problem Behavior Frequency Scale Reentry Guide for Youth - OJJDP produced this guide to help youth and their families plan and prepare for reentry so the youth go on to live productive and crime-free lives. The guide is divided into two sections. Part one outlines steps youth can take to plan for reentry while they are in placement (e.g., building a reentry team, developing a plan with the team, getting help from lawyers and mentors, connecting with support services, and planning ahead for school and work). Part two outlines steps youth can take to be successful upon return to their communities (e.g., using all available social and medical services, following all probation order/parole agreement requirements and conditions, completing school, and getting a job and managing money).

Parental Kidnapping

JJDP developed this guide to help local, state, and federal law enforcement authorities successfully investigate international parental kidnapping cases. In addition to offering suggestions to prevent international child kidnappings by family members, the guide describes the role of law enforcement as the initial responder and investigator; discusses applicable laws, treaties, and legal remedies for child recovery and reunification; and outlines considerations for criminal prosecution and extradition of offenders.

Juvenile Court Data

OJJDP sponsors the National Juvenile Court Data Archive to collect and analyze data contributions from juvenile courts across the nation. Detailed information about delinquency and petitioned status offense cases processed in juvenile courts has been updated through 2015 on OJJDP's Statistical Briefing Book.

Following are the latest developments:

- According to the data snapshot *Characteristics of Delinquency Cases Handled in Juvenile Court in 2015*, the number of delinquency cases peaked in 1997, then fell 53 percent by 2015.
- OJJDP recently updated three data analysis tools. *Easy Access to Juvenile Court Statistics* helps users analyze national estimates of

delinquency cases based on age, gender, race, referral offense, use of detention, adjudication, and case disposition. *Easy Access to State and County Juvenile Court Case Counts* provides users with quick access to state and county juvenile court case counts for delinquency, status offenses, and dependency cases. *The National DMC Databook* allows users to review levels of disproportionate minority contact at various stages of juvenile justice system processing using national-level data sources.

- *Frequently Asked Questions (FAQs) About Juveniles in Court* provides the latest answers on trends in the delinquency and petitioned status offense cases that the nation's juvenile courts handled and case processing characteristics—including decisions related to detention, intake, adjudication, and judicial disposition. *FAQs on Juveniles on Probation* provides information about how courts use probation and the number and characteristics of cases that receive a probation disposition.

Homicide Data

In a recent investigation that mapped more than 52,000 homicides in 50 major U.S. cities from the past decade, the *Washington Post* found the homicide arrest rate as 63 percent for white victims, 48 percent for Latinx victims, and 46 percent for black victims. In addition, Wesley Lowery and colleagues report that "despite a nationwide drop in violence to historic lows, 34 of the 50 cities have a lower homicide arrest rate now than a decade ago." The investigative team learned that the majority of low-arrest areas are in low-income black neighborhoods.

Recidivism

This BJS report examines the recidivism patterns of former prisoners during a 9-year follow-up period. The report provides data on the number and types of crimes prisoners commit after release, by offender characteristics, commitment offense, whether the arrest was within or outside the state of release, and whether released prisoners had no subsequent arrests during the follow-up period. It also shows how recidivism and desistance patterns change when using longer or shorter follow-up periods, including cumulative and annual arrest percentages, year of first arrest following release from prison, and the total number of arrests of released prisoners. Findings are based on data from BJS's Recidivism Study of State Prisoners Released in 2005 data

collection, which tracked a sample of former prisoners from 30 states for 9 years following release in 2005. Source data are from prisoner records reported by state departments of corrections to BJS's National Corrections Reporting Program and national criminal history records from the FBI's Interstate Identification Index and state criminal history repositories via the International Justice and Public Safety Network.

Highlights:

- The 401,288 state prisoners released in 2005 had 1,994,000 arrests during the 9-year period, an average of 5 arrests per released prisoner. Sixty percent of these arrests occurred during years 4 through 9.
- An estimated 68 percent of released prisoners were arrested within 3 years, 79 percent within 6 years, and 83 percent within 9 years.
- Eighty-two percent of prisoners arrested during the 9-year period were arrested within the first 3 years.
- Almost half (47 percent) of prisoners who did not have an arrest within 3 years of release were arrested during years 4 through 9.
- Forty-four percent of released prisoners were arrested during the first year following release, while 24 percent were arrested during year 9.

Prison Sexual Victimization

This BJS report describes activities during 2017 and 2018 by the Bureau of Justice Statistics (BJS) to collect data and report on the incidence and effects of sexual victimization in correctional facilities, as required by the Prison Rape Elimination Act of 2003 (PREA) (P.L. 108-79). The report summarizes BJS's efforts during 2017 and 2018, which included item-by-item assessments of the Survey of Sexual Victimization (SSV), National Inmate Survey (NIS), and National Survey of Youth in Custody (NSYC). The report also discusses findings from the 2015 SSV, competitive solicitations for the NIS-4 Prisons and NIS-4 Jails, and data collection for the NSYC-3. This report meets the PREA requirement to report on BJS's activities for the preceding calendar year by June 30 of each year.

Highlights:

- Correctional administrators reported 24,661 allegations of sexual victimization in 2015, nearly triple the number recorded in 2011 (8,768 allegations).
- Substantiated allegations rose from 902 in 2011 to 1,473 in 2015 (up 63%).

(Substantiated allegations are those in which an investigation determined that an event occurred, based on a preponderance of the evidence.)

- In 2014, unfounded allegations (8,372) exceeded unsubstantiated allegations (7,783) for the first time in SSV data collection. Prior to 2014, more allegations were unsubstantiated than were unfounded. (Unfounded allegations are those in which an investigation determined that an event did not occur. Unsubstantiated allegations are those in which an investigation concluded that evidence was insufficient to determine whether an event occurred.)
- Among the 24,661 allegations of sexual victimization in 2015, a total of 1,473 were substantiated, 10,142 were unfounded, 10,313 were unsubstantiated, and 2,733 were still under investigation.
- The sharp rise in unfounded or unsubstantiated allegations of sexual victimization coincided with the release of the National Standards to Prevent, Detect, and Respond to Prison Rape in 2012.

Opioids and Crime

People addicted to prescription opioids or heroin are far more likely to have run-ins with the law than those who don't use opioids, according to a study published Friday in JAMA Network Open. The study provides the first nationwide estimate for the number of people using opioids who end up in the American criminal justice system. The results suggest a need to engage law enforcement officials and corrections systems to tackle the opioid epidemic. The connection between the criminal justice system and substance abuse is well-known. About 65 percent of people who are incarcerated are known to have a substance use disorder, according to the National Institute on Drug Abuse. And yet there is little national data tracking the intersection of the criminal justice system and the ongoing opioid epidemic.

Hate Crimes

Reported hate crimes in the U.S. rose 17 percent last year, the third consecutive year that such crimes increased, according to the FBI. The data also reveal that there was an even larger increase in anti-Semitic attacks. Law enforcement agencies reported that 7,175 hate crimes occurred in 2017, up from 6,121 in 2016. That increase was fueled in part by more police departments reporting hate crimes data to the FBI. The sharp increase in hate crimes

in 2017 came even as overall violent crime fell slightly by 0.2 percent, after increases in 2015 and 2016. More than half of hate crimes, about 3 out of every 5, targeted the victim's religion; 2,013 targeted black Americans, while 938 targeted Jewish Americans, which represents an increase of 37 percent in 2017. Incidents targeting people for their sexual orientation accounted for 1,130 hate crimes. Anti-Islamic hate crimes declined 11 percent last year, with 373 such incidents reported.

Campus Violence

As reported in *Indicators of School Crime and Safety, 2017*, between 2001 and 2015 the overall number of on-campus crimes reported in degree-granting postsecondary institutions decreased by 34 percent. However, even though crime in general is down, reported sexual violence is up. To police college campuses, a majority of four-year colleges and universities in the United States rely on sworn police officers to provide law enforcement services. Additionally, nearly all campuses have a mass notification system in place to alert students, faculty, and staff in emergency situations.

Heroin Use

The number of people who used heroin for the first time dropped more than 50 percent between 2016 and 2017—from 170,000 to 81,000—according to the 2017 National Survey on Drug Use and Health (NSDUH). In 2016, there was an estimated 170,000 new heroin users; in 2017, it was 81,000. NSDUH is an annual survey sponsored by the Substance Abuse and Mental Health Services Administration (SAMHSA). Researchers interviewed 67,500 people from across the country about substance abuse, mental health and mental health disorders, substance use treatment, and more.

Marijuana Use

Nationwide, 12.4 percent of high school students and 4.5 percent of middle schoolers have used marijuana with an e-cigarette (also known as “vaping”) in their lifetimes, according to a study recently published in JAMA Pediatrics. The study used data from the 2016 National Youth Tobacco Survey. In recent years, tobacco vaping has grown in popularity among teens. Because some e-cigarettes are small enough to fit into the palm of your hand, and some are odorless, they are able to be used discreetly—sometimes even on school grounds. Studies have linked tobacco vaping to future marijuana use.

Here's what else they found:

- Between 2016 and 2017, there was an increase in the percentage of people receiving substance use treatment (from 9.2 percent to 13 percent).
- About 7 percent of pregnant women report using marijuana in the last year.

Juvenile Health Gaps

Disparities in juvenile justice contact impact well-documented racial health gaps among adults in the United States, reports *Undark*. Juvenile detention, for example, increases stress, fragments healthcare during key preventative windows, and makes justice-involved youth more likely to go long stretches without health insurance. As justice-involved youth age, they are more likely to engage in sexual behavior that puts them at risk for sexually transmitted infections, show more symptoms of depression, and have overall worse health.

Youth and Justice

The United States has more justice-involved youth than other industrialized countries, and while youth of color account for one-third of the adolescent population, they comprise two-thirds of those in juvenile detention.

Curfew Laws

Despite studies that show they are ineffective at reducing crime, juvenile curfew laws remain on the books in many jurisdictions. Though they are generally local laws, nine states have state-wide curfew policies. Ivonne Roman of Newark's Police Department, writing for *The Marshall Project*, highlights research showing that these laws damage already-strained relationships between police and youth of color and are actually prone to increase offending during curfew hours, perhaps because deserted streets invite crime. Curfew arrests peaked in 1996, at the urging of the Clinton administration, and have declined by 83 percent in the ensuing years. However, curfew enforcement is among the most racially disproportionate law enforcement practices. African American youth are more than three times as likely to be arrested for curfew violations as white peers.

Decarceration

From 1980 until its peak in 2009, the total federal and state prison population of the United States climbed from about 330,000 to more than 1.6 million—a nearly 400 percent increase—while the total general population of the country grew by only 36 percent,

and the crime rate fell by 42 percent. The catalyst of this prison expansion was policy changes that prioritized “getting tough” on crime. The national prison population began a gradual descent after 2009, lessening by nearly 113,000 (6 percent) from 2009 through 2016. Several factors contributed to this decline: ongoing decreases in crime rates leading to fewer felony convictions; scaling back “war on drugs” policies; increased interest in evidence-based approaches to sentencing and reentry; and growing concerns about the fiscal cost of corrections and its impact on other state priorities. The state of California alone was responsible for 36 percent of the overall population decline, a function of a 2011 U.S. Supreme Court ruling declaring its overcrowded prison system to be unconstitutional and subsequent legislative responses to reduce the use of state incarceration.

Juvenile Court

Approximately one million youth appear in juvenile court each year. In every state, youth and families face juvenile justice costs, fees, fines, or restitution. Youth who can't afford to pay for their freedom often face serious consequences, including incarceration or extended probation. Many families either go into debt trying to pay these costs or must choose between paying for basic necessities, like groceries, and paying court costs and fees.

Costs for Juveniles

The Price of Justice analyzes statutes in all 50 states regarding the cost of court-appointed counsel, including fees for public defenders. In most states, youth or their families must pay for legal assistance even if they are determined to be indigent. Charging families—especially those living in poverty—for “free” attorneys leads to devastating consequences.

Moreover, while the justice system should be a level playing field, these fines and fees also exacerbate disparities based on race and class. Research has shown that youth of color are pushed deeper into the juvenile justice system than their white counterparts, even for the same types of behavior. This, in turn, has placed a disproportionate financial burden on youth and families of color. Imposing legal costs likely magnifies this burden.

Substance Abuse

SBIRT (Screening, Brief Intervention, and Referral to Treatment) is an evidence-based practice used to identify, reduce, and prevent problematic use, abuse, and dependence on

alcohol and illicit drugs. It is a comprehensive, integrated public health approach to the delivery of early intervention and treatment services for persons with substance use disorders, as well as those at risk of developing these disorders. Where are intervention services provided for the at-risk substance user before more serious consequences occur? At primary care centers, hospital emergency rooms, trauma centers, and other community settings.

Critical Issues:

- *Screening*: Quickly evaluates the severity of substance use and identifies the appropriate level of treatment.
- *Brief intervention*: Focuses on increasing insight and awareness for substance use and motivation toward changes in behavior.
- *Referral to treatment*: Provides those identified as in need of more extensive treatment with access to specialty care.

Juvenile Facility Closures

The Council of Juvenile Correctional Administrators has developed the “Facility Closure and Strategic Downsizing of Juvenile Justice Systems” toolkit. The number of residential facilities housing youth in the juvenile justice system declined by one third in the United States between 2006 and 2016. This toolkit is designed to help juvenile justice agencies successfully close a facility and carry out related system improvements. This includes communicating about closure; meeting youth, family, and staff needs; re-examining practices; managing logistics; and reallocating resources to support youth and communities.

Prisoner Statistics

The National Prisoner Statistics (NPS) data collection began in 1926 in response to a congressional mandate to gather information on persons incarcerated in state and federal prisons. Originally under the auspices of the United States Census Bureau, the collection moved to the Bureau of Prisons in 1950, and then in 1971 to the National Criminal Justice Information and Statistics Service, the precursor to the Bureau of Justice Statistics (BJS), which was established in 1979. Since 1979, the Census Bureau has been the NPS data collection agent. The NPS is administered to 51 respondents. Before 2001, the District of Columbia was also a respondent, but responsibility for housing the District of Columbia's sentenced prisoners was transferred to the federal Bureau of Prisons, and by year end 2001 the District of Columbia

no longer operated a prison system. The NPS provides an enumeration of persons in state and federal prisons and collects data on key characteristics of the nation's prison population. NPS has been adapted over time to keep pace with the changing information needs of the public, researchers, and federal, state, and local governments.

Mothers in Jail

Mothers in jail are being torn from their families and losing contact with their children even before they have been convicted of a crime, Human Rights Watch and the American Civil Liberties Union said in a joint report released today. The 121-page report, "You Miss So Much When You're Gone: The Lasting Harm of Jailing Mothers Before Trial in Oklahoma," finds that jailing mothers even for short periods of time can result in overwhelming debt and loss of child custody. Based on more than 160 interviews with jailed and formerly jailed mothers, substitute caregivers, children, attorneys, service providers, child welfare employees, and advocates, this joint report by Human Rights Watch and the American Civil Liberties Union (ACLU) documents the harms experienced by women with minor children jailed pretrial in Oklahoma—which incarcerates more women per capita than any other state.

"Moms know that the cost of staying in jail and fighting charges could be losing custody of their children," Jasmine Sankofa, the report's author, and Aryeh Neier, Fellow at Human Rights Watch and the ACLU said. "Every day they are jailed, they are missing out on their children's lives, and many have limited means of remaining in contact. This creates enormous pressure to plead guilty, even if they are wrongly charged."

OJJDP

Through comprehensive and coordinated efforts at the federal, state, and local levels, OJP's Office of Juvenile Justice and Delinquency Prevention (OJJDP) aims to reduce youth crime and violence. OJJDP supports prevention and early intervention programs that are making a difference for young people and their communities, and through research and programming works to strengthen the nation's juvenile justice system. Other OJP components, including the Bureau of Justice Assistance, the National Institute of Justice, and the Office for Victims of Crime, also provide programming and research support for outreach to juveniles and their families.

Police Contacts

This study presents data on the nature and frequency of contact between police and U.S. residents age 16 or older, including demographic characteristics of residents, the reason for and outcomes of the contact, police threats or use of nonfatal force, and residents' perceptions of police behavior during the contact.

Highlights:

- The portion of U.S. residents age 16 or older who had contact with the police in the preceding 12 months declined from 26 percent in 2011 to 21 percent in 2015, a drop of more than 9 million people (from 62.9 million to 53.5 million).
- The number of persons experiencing police-initiated contact fell by 8 million (down 23 percent), the number of persons who initiated contact with the police fell by 6 million (down 19 percent), and the number experiencing contact from traffic accidents did not change significantly.
- Whites (23 percent) were more likely than blacks (20 percent) or Hispanics (17 percent) to have contact with police.
- Police were equally likely to initiate contact with blacks and whites (11 percent each) but were less likely to initiate contact with Hispanics (9 percent).

Children in Brief Indicators

The Federal Interagency Forum on Child and Family Statistics, a collection of 23 federal government agencies involved in research and activities related to children and families, has released *America's Children in Brief: Key National Indicators of Well-Being, 2018*. The report focuses on six measures of the status of children—exposure to violence, residential placement of juveniles, poverty and extreme poverty, health insurance continuity, homelessness, and prescription opioid misuse and use disorders. The report also includes updated statistics on children and families across 41 indicators in the areas of family and social environment, economic circumstances, healthcare, physical environment and safety, behavior, education, and health. OJJDP oversaw the collection of data for well-being indicators related to two of the six measures—exposure to violence and residential placement of juveniles. Highlights from OJJDP data in this year's report include:

Exposure to violence. More than one-third of all children surveyed in 2014 had experienced a physical assault and 5 percent had been sexually victimized in the past year.

Residential placement of juveniles. The overall residential placement rate, which calculates the number of juvenile offenders placed in secure and nonsecure residential facilities, fell from 356 per 100,000 juveniles in 1997 to 152 per 100,000 in 2015.

Other highlights from the report include:

Poverty and extreme poverty. In 2016, 18 percent of all children ages 0–17 were living in poverty (that is, in families with incomes below 100 percent of the poverty threshold), down from 22 percent in 2010. The percentage of children living in families in extreme poverty (below 50 percent of the poverty threshold) was 8 percent in 2016, down from 10 percent in 2010.

Homelessness. In the 2015–2016 school year, 1.4 million students (or about 3 percent of students in U.S. public elementary and secondary schools) were reported as being homeless.

Federal Data on Racial Disparities in Police Contact

Police officers were more likely to stop black and Hispanic drivers than white drivers nationwide in 2015 and were over twice as likely to threaten or use physical force against blacks and Hispanics that they stopped compared to whites, according to a new report from the Bureau of Justice Statistics. Although police initiated contact with 8 million fewer people in 2015 compared to 2011, 9.8 percent of blacks over age 16 experienced the most common type of police contact, traffic stops, compared to 8.6 percent of Hispanics and 7.6 percent of whites in the same age group. Blacks also experienced a higher rate of street stops compared to whites and Hispanics. The report uncovered further racial disparities in resident-initiated police contact, with blacks and Hispanics having been less likely than whites to reach out to law enforcement to report a crime or non-crime emergency, or to seek help.

Jails and Psychiatric Treatment

Holding Alaskans forced into psychiatric treatment by a court order in jail cells because there's no room in hospitals is unconstitutional, a lawsuit against the state filed by a disability rights group charges. The lawsuit, filed by the Disability Law Center of Alaska in Anchorage Superior Court, asks the courts to immediately stop the practice. People in the midst of psychotic episodes are spending days in cells in the Anchorage jail, where they are treated no differently than inmates—though they haven't been charged with any crime, a violation of due process rights, said

David Fleurant, the executive director of the Disability Law Center.

Inmates and Education

The National Reentry Resource Center offers on its website information about the Prison Policy Initiative's report *Getting Back on Course: Educational Exclusion and Attainment Among Formerly Incarcerated People*. Using data from the National Former Prisoner Survey, this report reveals that formerly incarcerated people are often relegated to the lowest rungs of the educational ladder; more than half hold only a high school diploma or GED, and a quarter hold no credential at all. While incarcerated, and even after release from prison, people rarely get the chance to make up for the educational opportunities from which they've been excluded—opportunities that impact their chances of reentry success.

Education is especially critical for people seeking employment after release from prison. Building on our previous research, which revealed a 27 percent unemployment rate among formerly incarcerated people, we find that those with low levels of formal education face even higher unemployment rates. In particular, formerly incarcerated people without a high school credential report extreme unemployment rates, and the outlook is particularly bleak for people of color. The report concludes with a series of fundamental policy recommendations to reduce current inequalities faced by criminalized people across the United States.

Judicial Selections

The U.S. Supreme Court isn't the only institution roiled by a highly politicized judicial selection process. In a new report, the Brennan Center calls for reform to state supreme courts, where high-cost elections have become the norm. The report, *Choosing State Judges: A Plan for Reform*, urges states to abolish elections for state supreme court justices and instead adopt a transparent, publicly accountable appointment process for their highest courts. It also calls for the adoption of a lengthy single term for state supreme court justices, along with other reforms designed to rein in the role of money and politics in state courts.

As the Brennan Center's research has shown, million-dollar campaigns for state supreme court seats are fast becoming the national norm, and national political groups and business interests regularly pour money into these campaigns. Brennan Center research

shows that one-third of all elected state justices have been through at least one million-dollar race, and 90 percent of voters believe campaign cash affects judicial decision making. The culmination of a three-year research project, the Brennan Center's latest policy report makes the following recommendations:

- The 38 states that have elections or retention elections for state supreme court justices should eliminate them.
- States should adopt a publicly accountable appointment process where an independent, bipartisan commission vets candidates and creates a shortlist for appointment by the governor.
- Those commissions should have transparent procedures and clear criteria for vetting candidates, and their membership should be bipartisan, appointed by diverse stakeholders, and include non-lawyers.
- State justices should serve for a single, lengthy term rather than face elections or a political reappointment process to retain their seats.

The report also lays out suggestions for how states that use elections can mitigate the influence of big-money politics, such as adopting a more accountable process for interim appointments, strengthening recusal rules, and adopting public financing for judicial races, among other key reforms.

Violent Crime

Based on revised estimates from the National Crime Victimization Survey (NCVS), from 2015 to 2016, violent criminal victimizations increased against males and persons in their mid-20s to mid-30s. Among males, the rate of violent victimization increased from 15.9 per 1,000 males age 12 or older to 19.6 per 1,000. Among persons ages 25 to 34, violent victimizations increased from 21.8 to 28.4 per 1,000 persons. This report is the 44th in a series that began in 1973. It provides revised official estimates of violent crime and property crime reported and not reported to police, which replace previously released 2016 estimates that did not permit year-to-year-comparisons.

Contacts with Police

Contacts between police and the public fell over a 4-year period. The portion of U.S. residents age 16 or older who had experienced contact with the police in the preceding 12 months declined from 26 percent in 2011 to 21 percent in 2015. The number of residents who had experienced contact with police dropped by more than 9 million people,

from 62.9 million to 53.5 million during the period. This report is the eleventh in a series that began in 1996. It examines the nature and frequency of contact between police and U.S. residents.

Women in the Criminal Justice System

Women in the U.S. experience a starkly different criminal justice system than men do, but data on their experiences is difficult to find and put into context. In a new report produced in collaboration with the ACLU's Campaign for Smart Justice, the Prison Policy Initiative fills this gap in the data with a rich visual snapshot of how many women are locked up in the U.S., where, and why.

- 56 percent of women in prisons or jails are there for drug or property offenses, compared with approximately 40 percent of the general incarcerated population (which is almost entirely male).
- 10,700 immigrant women are in confinement every day awaiting deportation or an immigration hearing.
- 54,000 women are behind bars every day without a conviction, typically because they cannot afford money bail.
- While 219,000 women are behind bars every day, over 1 million are on probation, suggesting that probation reform is also a women's issue.

"With this big-picture view of women in the criminal justice system, it's easier to see why many state-level reforms unintentionally leave women behind," Kajstura said. Her analysis particularly underscores the need for local reforms to county jails:

- Incarcerated women are far more likely than men to be held in local jails, both before trial and while serving their sentences.
- Of all immigrant women held for ICE, 4,700 are not in detention centers, but "rented" beds in local jails.
- 80 percent of women in jail are mothers, and most are the primary caretakers of their children.
- Mental health care is notoriously bad in jails, where suicide rates are literally off the charts.

Gunshot Wounds

The number of children and teens treated in hospital emergency rooms for gunshot wounds averages 8,300 a year in the U.S. About 86 percent of these gunshot victims are male, with the highest incidence among

boys aged 15 to 17. Most of the injuries—about 49 percent—were caused by assault or intentional shooting. Another 39 percent were considered unintentional injuries and 2 percent involved suicide attempts. Overall, 6 percent of these youths died in the ER. The findings came from the analysis of data

involving 75,086 victims under age 18 who were treated at an ER between 2006 and 2014. Treating young gunshot victims in ERs cost an average of \$20 million a year.

Foster Care

Teenagers transitioning from foster care to

adulthood face obstacles that leave them trailing their peers in education, employment, housing, and early parenthood. The foster care population in the U.S. has risen every year for the past five years, from 397,000 at the end of 2012 to 443,000 last year. Of that population, more than 171,000 are 14 or older.

CONTRIBUTORS

To This Issue

Katherine Baggaley

Housekeeping Manager, Facilities Management, Inn of Waterloo Hotel and Conference Center. Previously, Research Assistant, University of Ontario Institute of Technology. M.A. in Criminology, University of Ontario Institute of Technology. Co-author of "Electronic Monitoring in the United States: The Transition and Expansion of Usage in Offender Populations," *Journal of Offender Monitoring* (2017).

Ashley Baker

Probation and Parole Officer, Ministry of Community Safety and Correctional Services (MCSCS). Previously, Research Assistant, University of Ontario Institute of Technology. M.A. in Criminology, University of Ontario Institute of Technology. Co-author of "Electronic Monitoring in the United States: The Transition and Expansion of Usage in Offender Populations," *Journal of Offender Monitoring* (2017).

Shannon M. Carey

Co-president and senior research associate, NPC Research. Ph.D., Portland State University. Author of "Racial and Gender Disparities in Treatment Courts: Do They Exist and Is There Anything We Can Do to Change Them?" (2018).

Timothy D. DeGiusti

U.S. District Court Judge, Oklahoma Western District Court. J.D., University of Oklahoma College of Law. Co-author of "JHEALTH: How the Tenth Circuit is Improving the Health and Performance of Federal Judges," *Judicature* (Spring, 2018).

Stephanie Fahy

Senior Research Associate, Booz Allen Hamilton. Ph.D., Northeastern University. Previously, Research Officer, The Pew Charitable Trusts. Co-author of "The Use of GPS and RF Devices to Monitor Defendants and Convicted Offenders in the United States," *Journal of Offender Monitoring* (2017).

Vanessa Filippelli

Aftermarket Parts Analyst, Babcock & Wilcox PowerGeneration Group. M.A. in Criminology, University of Ontario Institute of Technology. Co-author of "Electronic Monitoring in the United States: The Transition and Expansion of Usage in Offender Populations," *Journal of Offender Monitoring* (2017).

Melanie M. Iarussi

Associate Professor, Nova Southeastern University. Previously, Associate Professor, Auburn University. Ph.D., Kent State University. Author of "Experiences of College Students in Recovery," *Journal of Addiction and Offender Counseling*, 39, 46-62 (2018).

Tamar Minassian

Probation and Parole Officer, Ministry of Community Safety and Correctional Services (MCSCS). Previously, Research Assistant, University of Ontario Institute of Technology. M.A. in Criminology, University of Ontario Institute of Technology. Co-author of "Electronic Monitoring in the United States: The Transition and Expansion of Usage in Offender Populations," *Journal of Offender Monitoring* (2017).

Dixie F. Powers

Professor, Adjunct Faculty, Auburn University. Ph.D., Auburn University. Co-author of "Counselor Training and Poverty-related Competencies: Implications and Recommendations for Counselor Training Programs," *ACA's Vistas* (2016).

Michael S. Rodi

Senior Research Associate, NPC Research. Ph.D., Vanderbilt University. Co-author of (2015) "What Happens When Systems Work Together to Meet the Needs of Families Impacted by Substance Use? Enhanced Collaboration, Promising Results," *Child Welfare Journal* (2015).

Karla Dhungana Sainju

Assistant Professor of Criminology, University of Ontario Institute of Technology. Previously, Senior Research Associate, The Pew Charitable Trusts. Ph.D. in Criminology, Florida State University. Co-author of "Electronic Monitoring in the United States: The Transition and Expansion of Usage in Offender Populations," *Journal of Offender Monitoring* (2017).

Charlene Zil

Researcher, NPC Research. Previously, Senior Evaluation Specialist, Portland Public Schools. M.P.A., Portland State University.

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