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THIS ISSUE IN BRIEF

The Supervision of Low-Risk Federal Offenders: How the Low-risk Policy Has Changed Federal Supervision Practices without Compromising Community Safety

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SINCE THE EARLY 2000s, the federal probation and pretrial services system has adopted an approach that emphasizes using evidence-based practices to reduce the risk and recurrence of recidivism (Alexander & VanBenschoten, 2008; Cohen & VanBenschoten, 2014; Hughes, 2008). As part of that approach, the federal probation system adopted the risk, needs, and responsivity (RNR) model of correctional supervision (Alexander & VanBenschoten, 2008; Andrews, Bonta, & Hoge, 1990; Andrews & Bonta, 2010). One of the key tenets of the RNR model is that officers should focus on high-risk offenders, while spending minimal time and resources on offenders at low risk to reoffend.

The risk principle is a core component of the RNR model. Specifically, research has shown that focusing time, attention, and resources on low-risk offenders has negligible impacts on recidivism. In fact, intensive supervision of these offenders can produce negative consequences: Low-risk offenders supervised at higher levels are more likely to reoffend compared to low-risk offenders who are placed under supervision programs involving minimal levels of contacts, treatment, monitoring, etc. (Andrews, Bonta & Hoge, 1990; Lowenkamp & Latessa, 2004; Lowenkamp, Holsinger, & Latessa, 2006; Lowenkamp, Flores, Holsinger, Makarios, & Latessa, 2010). The reason is that intense supervision typically results in the intermixing of low- and high-risk offenders. Placing low- and high-risk offenders in the same program can potentially result in negative social learning, with low-risk offenders being influenced by their higher-risk counterparts. In addition, placing low-risk offenders into intensive monitoring regimes could potentially disrupt their prosocial networks, including their ability to maintain long-term employment or remain in stable relationships with non-criminal peers (Lowenkamp & Latessa, 2004).

The federal probation system has developed and implemented a risk assessment instrument (the Post Conviction Risk Assessment or PCRA) that identifies those offenders at lowest risk of recidivism; the system has also promulgated policies to guide officers on the supervision of low-risk offenders (*Guide to Judiciary Policy*, 2014; Johnson, Lowenkamp, VanBenschoten, & Robinson, 2011; Lowenkamp, Johnson, VanBenschoten, Robinson, & Holsinger, 2013). Policy guidance on the supervision of low-risk offenders was put into place on or about June 2012 when the Criminal Law Committee of the Judicial Conference endorsed this policy and recommended its ultimate adoption by the Judicial Conference of the U.S. in September 2012. Now that the low-risk policy has been in effect for a few years, we seek to understand whether the policy of minimizing the resources expended on these offenders has succeeded without compromising community safety or impeding the collection of the court-imposed financial obligations of fines and restitution.

This research is a preliminary analysis of the implications of the low-risk policy that addresses the following questions: (1) Have the number of officer/offender interactions changed after implementation of the low-risk policy? (2) What are the recidivism patterns of low-risk offenders supervised by officers before and after the low-risk policy went into effect? and (3) Has the collection of court-imposed fines and restitution changed since the low-risk policy was adopted? As we will show, we find evidence that low-risk offenders are being supervised less intensively by federal probation officers and that this change in offender management has not compromised community safety nor impeded the collection of court-imposed fines. The collection of restitution obligations, however, declined during the period in which the low-risk policy was implemented. Future studies can assess the influence of the low-risk policy over longer periods and examine whether the negative effect on restitution collections is offset by the benefits of this policy.

We note that this work represents one of the first efforts to investigate the potential impacts of the low-risk supervision model on a system-wide basis. We are unaware of any efforts by other organizations analyzing the effects of instituting this core component of the RNR model for an entire correctional agency. The few empirical assessments of low-risk supervision practices tended to involve smaller field experiments or pilot studies. Hence, this research addresses this gap in the community corrections literature.

The Low-risk Supervision Policy

The low-risk policy became an integral part of post-conviction supervision in June 2012 when it was endorsed by the Criminal Law Committee of the Judicial Conference, which recommended that it be adopted as official policy by the Judicial Conference of the United States. Details about this policy are provided in the *Guide to Judiciary Policy* (judicial policy). This policy states that offenders classified as low risk by either the PCRA or the Risk Prediction Index (RPI) actuarial tool are eligible for supervision under the low-risk policy. The PCRA is a fourth generation risk assessment instrument currently used by federal probation officers to classify offenders into one of the four following recidivism risk categories: low, low/moderate, moderate, and high. Prior to its implementation, federal probation officers relied on the RPI, a second-generation risk assessment tool that classified offenders into high, moderate, or low recidivism risk categories.[1] The low-risk policy references the earlier RPI as well as the PCRA because the PCRA was deployed into the federal system gradually, thus overlapping with the earlier risk instrument that it was replacing.

The low-risk policy states that offenders classified as low risk by either the PCRA or RPI are predicted to reoffend at relatively low rates. Hence, judicial policy instructs officers to limit their supervision activities for low-risk offenders to "monitoring compliance with the conditions of release, if applicable, and responding appropriately to any changes in circumstances." Although judicial policy recommends applying minimal levels of supervision to low-risk offenders, there are important exceptions to this general rule. In particular, judicial policy provides officers with discretion to place low-risk offenders into a higher supervision level when the officer determines through his or her professional judgment that the offender's proclivity to reoffend is underestimated. This reclassification process is known as the professional or supervision override and applies where the officer determines that the offender has met one of the following policy-related criteria: being classified as a sex offender, manifesting persistently violent behavior, evidencing severe mental health issues, or being considered a serious youthful offender. Changes in supervision level occurring for non-policy reasons are labeled discretionary overrides and require written justification by the officer and approval by the supervisor.

For those low-risk offenders not reclassified to higher supervision levels, judicial policy provides additional details on appropriate reporting requirements and monitoring. Of particular importance are the judicial policy's instructions that after completion of the initial case plan, subsequent contact should be minimized unless circumstances warrant further intensive supervision. In addition, the policy recommends that officers forgo subsequent case plans and reassessments unless the officer suspects or has been informed of a negative change in the offender's conduct or conditions. Instead, officers are to rely on notification from law enforcement databases and other sources to learn if a low-risk offender has returned to crime. Judicial policy also informs officers to consider petitioning the court to remove or suspend any unnecessary special conditions imposed on these offenders. By stating that limited resources should be expended on lower risk offenders, the low-risk policy allows officers to conserve their time so that they can focus on offenders at the higher end of the risk continuum. In fact, the low-risk policy provides the framework in which officers can concentrate most of their time, resources, and services on the highest risk offenders.

Low-risk Policy and Officer/ Offender Contacts

We analyzed the relationship between officer/offender contacts and the low-risk policy by calculating the median and average number of monthly contacts for offenders with PCRA assessments received into supervision both before and after implementation of the low-risk policy. The pre-policy period covers offenders received into supervision between June 28, 2009, and June 26, 2012,[2] while the post-policy periods covers offenders received into supervision between June 27, 2012, and August 12, 2015. In addition to examining officer/offender contacts for low-risk offenders, we calculated changes in monthly contacts for the other PCRA risk categories (i.e., low/moderate, moderate, and high risk). By analyzing trends in monthly contact data for all risk levels, we explore whether there was a redistribution of contacts from the lower to higher risk categories during the period examined.

For this section of the article, we used the PCRA rather than the RPI to examine contact patterns by risk level over the period of policy implementation. The PCRA served as the basis for risk differentiation because we are analyzing officer behavior towards offenders rather than outcomes. Using the PCRA allowed us to standardize the measure of risk and driver of officer behavior over the period in which the low-risk policy was integrated into the federal supervision system. Moreover, since the low-risk policy was being promulgated during the same time that the PCRA was being deployed, officers tended to associate the low-risk policy more with the PCRA than with the RPI. We believe this is because the PCRA training included heavy reinforcement of the risk principle to officers.

We extracted officer/offender contact information from the Probation and Pretrial Services Automated Case Tracking System (PACTS), the case management system used by federal officers. In this analysis, the average and median number of monthly total, personal, and collateral officer/offender contacts was calculated during an offender's first six months of supervision.[3] Personal contacts are direct interactions between officers and offenders and include interactions taking place in the probation office, the offender's home, the offender's place of employment, or elsewhere in the community. Personal contacts can also include electronic communications between the officer and offender such as telephone contacts, voice mail, or text messaging.[4] Collateral contacts are officer interactions with third parties familiar with the offender such as treatment providers, law enforcement officers, employers, and family members. These contacts can also be made electronically (through telephone, voice mail, and text messaging).

[1] For more information about the PCRA and RPI, see AOUSC, 2011.

[2] Although the low-risk policy was not officially implemented until September 2012, we used the June 2012 date, because that is when this policy was adopted by the Criminal Law Committee of the Judicial Conference.

[3] In this analysis, supervision encompasses both offenders placed on terms of supervised release (TSR) and those on straight probation. TSR refers to offenders serving a term of supervision after being released from federal prison, while probation refers to a court-imposed sentence involving community monitoring without an incarceration sentence. See 18 USC § 3583 & § 3563.

[4] This definition of personal contacts differs from that used in internal Probation and Pretrial Services reports, which do not count electronic communications between officers and offenders as personal contacts. An examination of this more restricted version of personal contacts revealed patterns similar to those reported in this paper.

We focused on the first six months of supervision because that allowed us to examine three years of post-policy contact patterns covering fiscal years 2013 through 2015. Moreover, officer/offender contacts tend to be more intense during the first six months of supervision and are often driven by an offender's supervision conditions, such as the requirement to undergo mandatory drug testing.[5] All offenders supervised for less than 6 months were excluded from this analysis. Whether trends reported in this paper hold true or become more pronounced beyond the first six months of supervision considered in this study is left for future inquiry.

In total, the study population included 229,919 offenders with PCRA assessments whose monthly contacts with officers could be calculated during their first six months of supervision. This study population was further divided into a pre and post low-risk policy group. The pre low-risk policy group included offenders who started their supervision terms prior to the low-risk policy (i.e., before June 2012), while the post policy cohort included offenders placed on federal supervision after the low-risk policy went into effect (i.e., after June 2012) (see Table 1). Because the PCRA was deployed gradually starting in fiscal year 2009, there is not an even number of offenders in each group. Forty-three percent of offenders in the study population were received into supervision before promulgation of the low-risk policy, while 57 percent had their supervision terms commence after the low-risk policy was put into place.

Table 2 shows the average and median number of monthly officer/offender contacts for low, low/moderate, moderate, and high risk offenders during their first six months under supervision both before and after implementation of the low-risk policy. As expected, the median number of total officer/offender contacts has declined the most for low-risk offenders since this policy was put into place.[6] For example, the median number of total monthly officer/offender contacts for low-risk offenders decreased by 23 percent from over 2 contacts per month prior to the low-risk policy to slightly fewer than 2 contacts per month after implementation of the policy. The median number of total monthly officer/offender contacts also declined by 15 percent for low/moderate-risk offenders.

Apparently, declines in total officer/offender contacts for lower risk offenders were not commensurate with increases in contacts for higher risk offenders. High-risk offenders saw no changes in their total median monthly contacts between the pre and post policy periods, while moderate-risk offenders witnessed a 9 percent reduction in their total median monthly contacts. We note that high-risk offenders constitute an increasing proportion of the federal supervision population, and that officers' caseloads have risen over the last few years (Baber, 2015). Consequently, it is possible that absent the low-risk policy, resources dedicated to higher risk offenders could potentially have declined rather than remain unchanged.

Comparing changes in median personal contacts pre and post policy shows the median number of monthly personal contacts declining by 17 percent for low/moderate risk offenders. The low and moderate risk offenders witnessed similar decreases in median monthly personal contacts (13 percent and 10 percent, respectively). Conversely, high-risk offenders saw no changes in their median monthly personal contacts during the study time frame.

In terms of collateral contacts, low-risk offenders saw their median monthly collateral contacts decline by 40 percent, from .5 contacts per month before the low-risk policy to .3 contacts per month after the low-risk policy came into effect. The median monthly collateral contacts for the other PCRA risk categories remained unchanged.

While an examination of contacts for offenders received into supervision between the pre and post low-risk policy supports that officers are contacting low-risk offenders less frequently, the analysis presented in Table 2 can mask important trends. For example, the practice of supervising lower risk offenders less intensively might have

[5] The *mandatory conditions* of 18 U.S.C. § 3563(a)(5) and (e), 3583(d), and 4209(a) are outlined in the *Guide to Judiciary Policy.* Offenders are required to refrain from any unlawful use of a controlled substance and submit to one drug test within 15 days of release when on probation or supervised release and at least two periodic drug tests thereafter, unless this condition was suspended by the court after a determination that the offender presents a low risk of future substance abuse.

TABLE 1.
Study Population of Federally Supervised Offenders for Low-Risk Contacts Analysis

Risk Policy & PCRA Risk Levels	Number	Percent
All offenders	229,919	100%
Pre-low risk/*	98,044	43%
Low	37,633	16%
Low/Moderate	39,036	17%
Moderate	16,583	7%
High	4,792	2%
Post-low risk/*	131,875	57%
Low	48,836	21%
Low/Moderate	49,615	22%
Moderate	25,531	11%
High	7,893	3%

Note: Includes offenders with actual PCRA assessments received onto federal supervision between fiscal years 2009–2015.

*/Refers to whether offenders were received onto federal supervision before or after enactment of the low-risk policy.

[6] The median is the number separating the higher half of the data from the lower half. In this report, median contacts can be more useful than average contacts because averages can be disproportionately influenced by the small number of offenders with exceptionally high contact rates.

TABLE 2.
Mean and Median Number of Monthly Officer/Offender Contacts Prior to and After Implementation of the Low-Risk Policy

Contact Types & PCRA Risk Levels	Median Contacts Per Month			Mean Contacts Per Month		
	Pre-Low Risk	Post-Low Risk	Percent Change	Pre-Low Risk	Post-Low Risk	Percent Change
Total contacts						
Low	2.2	1.7	-23%	2.6	2.3	-14%
Low/moderate	2.7	2.3	-15%	3.2	2.8	-10%
Moderate	3.3	3.0	-9%	3.9	3.7	-5%
High	4.0	4.0	0%	4.8	4.8	0%
Person						
Low	1.5	1.3	-13%	1.9	1.6	-13%
Low/moderate	1.8	1.5	-17%	2.1	1.9	-10%
Moderate	2.0	1.8	-10%	2.4	2.2	-6%
High	2.3	2.3	0%	2.6	2.6	0%
Collateral						
Low	0.5	0.3	-40%	0.8	0.7	-15%
Low/moderate	0.7	0.7	0%	1.1	1.0	-10%
Moderate	1.0	1.0	0%	1.6	1.5	-4%
High	1.5	1.5	0%	2.1	2.2	3%

Note: Includes offenders with actual PCRA assessments received onto federal supervision between fiscal years 2009-2015.

The pre and post low risk terms refers to whether offenders were received onto federal supervision before or after enactment of the low-risk policy. Contacts based on initial six months under supervision.

gradually permeated the federal probation system, meaning that the patterns of spending less time with lower risk offenders may not be apparent without examining yearly monthly contact trends. Table 3 examines the median monthly officer/offender contact rates on an annual basis for fiscal years 2010 through 2015. The contacts were examined separately by PCRA risk levels and contact types (e.g., total, personal, and collateral).

Total monthly contacts

The median monthly total contacts decreased the most for lower risk offenders, while offenders on the higher end of the PCRA risk continuum witnessed either smaller declines or slight increases in their median contacts. For example, the median monthly total contacts declined by 26 percent for low-risk and 19 percent for low/moderate-risk offenders from 2010 to 2015. In comparison, moderate-risk offenders saw their median monthly total contacts decline by only 6 percent, while high-risk offenders witnessed their total contacts increase by 11 percent, from 3.8 contacts per month to 4.2 contacts per month during the 2010 to 2015 period.

Personal monthly contacts

An examination of trends in personal contacts reveals somewhat similar patterns to those shown for total contacts. For example, the median monthly personal contacts declined by 29 percent for low-risk offenders from nearly 2 contacts per month for fiscal year 2010 to about 1 contact per month for fiscal year 2015. Median monthly contacts also decreased 17 percent for low/moderate risk offenders. In comparison, moderate-risk offenders saw their median monthly personal contacts decline by 10 percent and high-risk offenders saw no changes in their median monthly personal contacts in the period spanning 2010 to 2015. About half of the high-risk offenders were contacted 2 or more times per month during the study period.

Collateral monthly contacts

Unlike personal contacts, collateral contacts manifested patterns more in alignment with the risk principle. Specifically, collateral contacts declined the most for low-risk offenders, while they increased substantially for offenders classified in the highest risk category. For instance, the median number of monthly collateral contacts declined by 40 percent for low-risk offenders from 0.5 contacts per month in 2010 to 0.3 contacts per month in 2015. In addition, median monthly collateral contacts decreased by 13 percent for low/moderate-risk offenders and exhibited no changes for moderate-risk offenders. In comparison, the median number of monthly collateral contacts increased by 31 percent for high-risk offenders from about 1 contact per month in 2010 to nearly 2 contacts per month in 2015.

Figures 1 and 2 show the distribution of monthly total contacts on an annual basis for high- and low-risk offenders. These figures show the percentage of high- and low-risk offenders received into supervision from fiscal years 2010 through 2015 who were contacted less than once per month, 1-1.9 times per month, 2-2.9 times per month, 3-3.9 times per month, and 4 or more times per month. An analysis of changes in the distribution of contacts provides another way of showing whether officers are contacting low-risk offenders less frequently over time compared to their high-risk counterparts.

Over the past six fiscal years, increasingly higher percentages of low-risk offenders were contacted less than once per month. For instance, 7 percent of low-risk offenders placed on supervision in fiscal year 2010 were contacted less than once per month, while 18 percent placed on supervision during fiscal year 2015 were contacted less than once per month. Among high-risk offenders, a slightly higher percentage were contacted 4 times or more per month in 2015 (53 percent) compared to 2010 (48 percent).

TABLE 3.

Median Number of Monthly Officer/Offender Contacts by PCRA Risk Levels, Fiscal Years 2010–2015

	Median Contacts Per Month				Median Person Contacts Per Month				Median Collateral Contacts Per Month			
Fiscal Year	Low	Low/ Moderate	Moderate	High	Low	Low/ Moderate	Moderate	High	Low	Low/ Moderate	Moderate	High
FY-2010	2.3	2.7	3.2	3.8	1.7	1.8	2.0	2.3	0.5	0.8	1.0	1.3
FY-2011	2.2	2.7	3.3	4.3	1.5	1.8	2.2	2.4	0.5	0.7	1.2	1.7
FY-2012	**1.8**	**2.5**	**3.2**	**4.0**	**1.3**	**1.7**	**2.0**	**2.2**	**0.5**	**0.7**	**1.0**	**1.7**
FY-2013	1.8	2.3	3.0	4.0	1.3	1.5	1.8	2.2	0.3	0.7	1.0	1.5
FY-2014	1.7	2.2	3.0	4.0	1.3	1.5	1.8	2.3	0.3	0.7	1.0	1.5
FY-2015	1.7	2.2	3.0	4.2	1.2	1.5	1.8	2.3	0.3	0.7	1.0	1.7
Percent change	-26%	-19%	-6%	11%	-29%	-17%	-10%	0%	-40%	-13%	0%	31%

Note: Includes offenders with actual PCRA assessments received onto federal supervision between fiscal years 2010-2015. Offenders received into supervision during fiscal year 2009 excluded as there were relatively few PCRA assessments during that fiscal year.

Contacts based on initial six months under supervision.

Bold denotes the year that the low-risk policy was implemented.

Low-risk Supervision Policy and Offender Recidivism

Next we examined recidivism of low-risk offenders before and after implementation of the low-risk policy. Three groups of offenders were analyzed. The first were offenders who started and ended their supervision terms before the beginning of the low-risk policy (i.e., before June 2012). The second group comprised offenders whose supervision terms started after the low-risk policy was instituted (i.e., after June 2012). The third group includes offenders who started their supervision terms before the low-risk policy but ended their terms after the policy was instituted. We labeled this third group "split cases." Last, we used the RPI rather than the PCRA for the recidivism analysis because our primary focus in these sections is on outcomes rather than officer behavior. Offender recidivism outcomes and payment patterns are unlikely to be influenced by the risk instrument that officers use.

Table 5 shows the recidivism rates for offenders placed under supervision by risk level before and after the low-risk policy was placed into effect, as well as for split cases. Recidivism rates were calculated within a 12-month period after the supervision start date and include arrests for any felony or misdemeanor offense. In addition, the RPI risk classifications were used because most pre-policy offenders did not have PCRA assessments.

This analysis shows low-risk offenders recidivating at nearly identical rates regardless of whether they were supervised before or after implementation of the low-risk policy or whether their supervision terms spanned the

FIGURE 1.

Distribution of Monthly Officer/Offender Total Contacts for Low-Risk PCRA Offenders, Fiscal Years 2010–2015

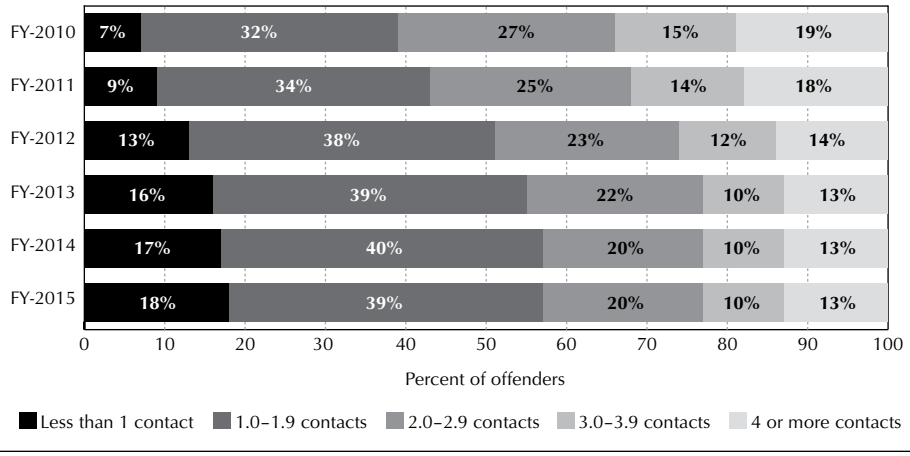
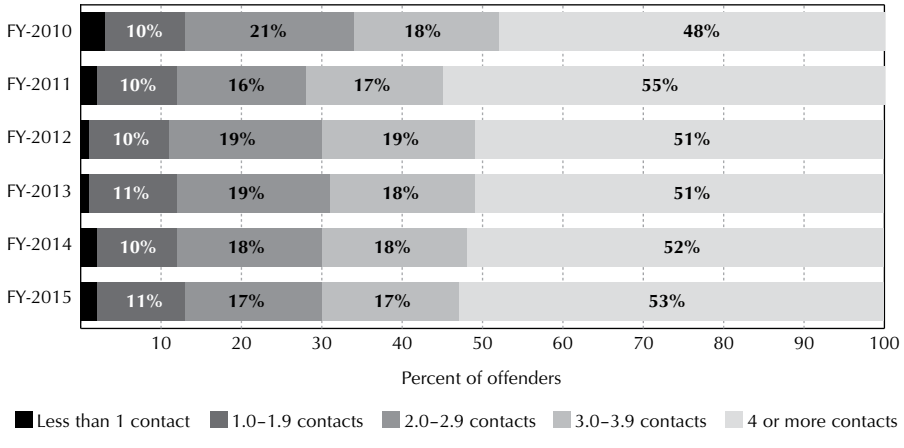


FIGURE 2.

Distribution of Monthly Officer/Offender Total Contacts for High-Risk Offenders, Fiscal Years 2010–2015



Note: Percentages not shown for offenders with less than 1 contact per month. These ranged from 1%–3%.

TABLE 4.
Descriptive Statistics for the Low-Risk Recidivism Anaylsis

Supervision Period	Number	Percent
Pre Low-Risk Policy	208,595	53%
Post Low-Risk Policy	64,102	16%
Split Low-Risk Policy	121,134	31%
RPI Category		
Low Risk	150,685	38%
Moderate Risk	176,524	45%
High Risk	66,622	17%
12 Month Rearrest	393,831	13%

pre- and post-policy periods. For instance, the recidivism rates for low-risk offenders were essentially unchanged between the pre-policy group (6 percent arrest rate) and post-policy group (4 percent arrest rate). Offenders in the split category had recidivism rates of 4 percent. Including splits in the pre-policy group produced relatively similar recidivism patterns for the pre (5 percent) and post (4 percent) policy groups. When low-risk splits were merged into the post-policy cohort, the recidivism rates were 6 percent for the pre-policy group to 4 percent for the post-policy group.[7]

Low-risk Supervision Policy and the Payment of Court-imposed Financial Obligations

Last, we examined the relationship between the low-risk policy and the payment of court-ordered fines and restitution. As with the recidivism analysis, we used the RPI rather than the PCRA because the focus was on outcomes rather than officer behavior. We combined data from PACTS with data from the Clerk's Office Civil and Criminal Accounting Module (CCAM). The CCAM tracks the criminal monetary penalties owed and payments made by offenders, as well as funds disbursed and monies owed to victims of crime.[8]

We examined the repayment patterns for two types of low-risk offenders. The first were offenders who finished supervision before the low-risk policy started (i.e., before June 2012), and the second were offenders who entered supervision after the policy was implemented (i.e., after June 2012). Since the pre-policy group was under supervision for longer periods of time and hence, had more time to make repayments than the post-policy group, we standardized the repayment follow-up periods for both study groups. Specifically, we divided the pre and post policy groups into three subgroups based on their time under federal supervision: 1) offenders with less than one year of supervision, 2) offenders with 1-2 years of supervision, and 3) offenders with 2-3 years of supervision.

Table 6 shows the average amount assessed by the courts in fines and restitution by offender risk level and the year they started supervision. Fines are monetary payments incurred as part of the sentence and are based on an offender's ability to pay, while restitution refer to monetary payments that seek to compensate victims for their losses. Restitution obligations can be assessed against individuals or, in cases of joint and several liability, against multiple parties for the same monetary amount. Joint and several liability makes each of multiple defendants liable for the entirety of a victim's loss irrespective of each defendant's degree of fault (WilsonElser, 2013). The median amounts owed in single restitution and joint and several restitution more than doubled for low-risk offenders between fiscal years 2009 and 2015.[9] The median restitution and joint and several restitution amount imposed also increased for moderate- and high-risk offenders.

Given the large increases in court-imposed amounts over the last seven years, we examined assessments by offense type to see if a particular offense type was driving these results. For low-risk offenders, fraud cases comprised over 60 percent of the joint and several restitution amounts and 40 percent of the single restitution obligations. The joint and several restitution and single restitution amounts imposed by the courts for fraud cases nearly doubled from 2009 through 2015, approximating the overall increases for these obligation types (data not shown in report). In future studies, we will explore continuing to investigate possible drivers of the increase.

[7] It should also be noted that the recidivism rates declined slightly for moderate- and high-risk offenders.

[8] Please note that different datasets were used to examine officer/offender contacts, recidivism patterns, and information on the collection of fees/fines.

[9] When examining amounts owed, we used median amounts because large values skew the means.

TABLE 5.
Recidivism Rates for Offenders Prior to and After Implementation of the Low-Risk Supervision Policy, by RPI Groups

	Low		Moderate		High		All	
Supervision Policy Group	Number	Percent Arrested	Number	Percent Arrested	Number	Percent Arrested	Number	Percent Arrested
All	150,685	5%	176,524	14%	66,622	27%	393,831	13%
Pre Policy	82,046	6%	92,940	17%	33,609	30%	208,595	15%
Post Policy	23,580	4%	27,907	13%	12,615	26%	64,102	12%
Split	45,059	4%	55,677	11%	20,398	21%	121,134	10%
Pre (Including Splits)	127,105	5%	148,617	15%	54,007	27%	329,729	13%
Post	23,580	4%	27,907	13%	12,615	26%	64,102	12%
Pre	82,046	6%	92,940	17%	33,609	30%	208,595	15%
Post (Including Splits)	68,639	4%	83,854	12%	33,013	23%	185,236	11%

Note: Risk classifications based on the RPI. Arrest rates calculated within a 12-month period.

Table 7 shows the payment rates and average amounts paid for offenders supervised before and after implementation of the low-risk policy. Overall, low-risk offenders who were supervised before institution of the low-risk policy paid a greater percentage of all their financial obligations than those under supervision after the implementation of this policy. This is especially pronounced with regards to restitution, both individual and joint and several obligations. On average, pre-policy low-risk offenders supervised for two years or less paid about half their individual restitution ordered, while post-policy low-risk offenders on supervision for similar time periods paid between 28 percent-37 percent of their restitution obligations. The differences in payment rates among low-risk offenders were less marked between the pre and post policy groups for court-imposed fines. On average, the fine payment rates were about 90 percent for the pre-policy group and 84 percent for the post-policy group. Court-imposed fines were probably paid at higher rates than court-imposed restitution penalties because fines are assessed based on an offender's ability to pay. Restitution penalties, on the other hand, are based on the actual financial damages caused by offenders.

Conclusion and Implications

The low-risk supervision policy institutionalized that officers should expend minimal amounts of time and resources on low-risk offenders, while placing most of their efforts on offenders classified into the higher risk categories. Low-risk offenders should be provided with minimal supervision services, because research has shown that correctional interventions aimed at reducing recidivism for these offenders tend to be ineffective and can actually produce higher recidivism rates for this risk group (Andrews, Bonta & Hoge, 1990; Lowenkamp & Latessa, 2004; Lowenkamp, Holsinger, & Latessa, 2006). The current research examined the relationship between the low-risk policy and officer/offender contact patterns, explored whether the recidivism rates had changed after enactment of this policy, and analyzed whether the collection of court-imposed financial penalties differed after the low-risk policy took effect.

In general, findings are supportive of the low-risk policy. This research shows that low- and low/moderate risk offenders in the post policy group have fewer officer/offender contacts compared to their pre-policy counterparts. This finding suggests that the low-risk policy is influencing officer behavior by encouraging federal officers to engage in fewer interactions with offenders on the lower end of the risk continuum. Importantly, the policy of supervising low-risk offenders less intensively has not compromised community safety. Post-policy low-risk offenders were no more likely to recidivate compared to their pre-policy counterparts. This finding indicates that federal officers can spend less time and resources on low-risk offenders without an accompanying rise in their recidivism rates.

For the most part, federal probation officers continued to successfully monitor

TABLE 6.
Court-Assigned Fines, Restitution, and Joint and Several Restitution by Supervision Year

	Fine			Restitution			Joint/Several Restitution		
Fiscal year	Number	Mean	Median	Number	Mean	Median	Number	Mean	Median
				Low Risk					
2009	2,905	$20,680	$1,500	3,957	$418,932	$35,435	3,229	$649,643	$40,786
2010	3,065	$10,720	$1,500	4,113	$1,356,499	$41,627	3,793	$766,517	$52,397
2011	3,132	$24,899	$1,500	4,233	$600,112	$44,855	4,246	$1,407,249	$63,394
2012	2,950	$50,046	$2,000	4,335	$548,136	$55,800	4,294	$780,935	$68,545
2013	2,999	$16,137	$2,000	4,386	$649,946	$61,114	4,889	$828,933	$64,404
2014	3,062	$30,830	$2,000	4,461	$554,189	$76,894	4,210	$2,914,723	$78,457
2015	1,993	$17,204	$2,000	2,929	$982,220	$85,090	3,246	$1,040,297	$90,950
				Moderate Risk					
2009	2,105	$4,540	$1,000	1,962	$56,956	$8,338	2,118	$77,903	$6,750
2010	2,078	$2,582	$1,000	1,960	$67,390	$8,243	2,088	$118,963	$11,861
2011	2,277	$2,976	$1,000	1,970	$152,472	$8,501	2,540	$99,636	$10,809
2012	2,035	$2,943	$1,000	1,821	$94,423	$10,000	1,937	$165,627	$10,491
2013	1,952	$6,191	$1,000	1,846	$95,683	$9,369	2,014	$164,676	$11,925
2014	1,831	$2,810	$1,000	1,781	$131,154	$9,800	2,026	$225,532	$14,143
2015	1,305	$2,906	$1,000	1,277	$167,494	$10,978	1,556	$254,819	$15,253
				High Risk					
2009	1,217	$2,337	$1,000	1,627	$31,875	$4,930	1,652	$30,772	$6,300
2010	1,215	$5,651	$1,000	1,671	$30,805	$4,600	1,656	$28,958	$5,027
2011	1,316	$2,129	$1,000	1,736	$29,727	$4,976	1,718	$45,776	$6,198
2012	1,235	$3,082	$1,000	1,746	$50,457	$5,312	1,660	$44,930	$7,000
2013	1,215	$2,845	$1,000	1,731	$39,692	$5,001	1,564	$50,342	$6,001
2014	1,255	$2,045	$1,000	1,631	$37,152	$4,763	1,784	$33,049	$5,060
2015	878	$2,056	$1,000	1,262	$40,939	$4,834	1,262	$59,908	$5,818

TABLE 7.
Repayment Ratio and Amount While Under Supervision Pre and Post Policy

	Pre-Low Risk Policy					Post-Low Risk Policy				
		Payment Rate		Amount Paid			Payment Rate		Amount Paid	
Payment types	Number	Mean	Median	Mean	Median	Number	Mean	Median	Mean	Median
Low Risk										
Fines										
Under One Year of Supervision	2,305	93%	100%	$4,114	$500	2,193	91%	100%	$5,388	$500
One to Two Years of Supervision	1,148	91%	100%	$9,356	$1,318	2,457	83%	100%	$29,870	$1,858
Two to Three Years of Supervision	448	92%	100%	$11,250	$2,000	1,131	79%	100%	$7,694	$2,200
Joint/Several Restitution										
Under One Year of Supervision	312	19%	3%	$19,625	$2,102	569	15%	1%	$20,451	$1,400
One to Two Years of Supervision	440	24%	7%	$34,441	$3,368	1,948	14%	2%	$46,231	$2,913
Two to Three Years of Supervision	351	19%	4%	$35,155	$3,820	1,553	13%	2%	$27,418	$4,680
Restitution										
Under One Year of Supervision	1,131	49%	38%	$35,682	$1,276	1,667	37%	7%	$18,493	$1,260
One to Two Years of Supervision	1,341	49%	28%	$26,601	$2,316	4,429	28%	5%	$17,438	$2,366
Two to Three Years of Supervision	784	40%	15%	$32,426	$3,622	2,944	23%	4%	$18,270	$3,428
Moderate Risk										
Fines										
Under One Year of Supervision	1,505	83%	100%	$838	$375	1,143	74%	100%	$681	$300
One to Two Years of Supervision	674	80%	100%	$1,468	$532	1,345	63%	76%	$1,272	$540
Two to Three Years of Supervision	310	85%	100%	$2,172	$1,000	826	66%	78%	$1,469	$950
Joint/Several Restitution										
Under One Year of Supervision	326	24%	9%	$5,830	$949	326	15%	3%	$3,591	$511
One to Two Years of Supervision	378	24%	7%	$6,132	$873	988	18%	4%	$8,285	$888
Two to Three Years of Supervision	229	27%	8%	$4,408	$1,375	660	19%	6%	$4,633	$1,578
Restitution										
Under One Year of Supervision	682	37%	13%	$2,223	$589	610	30%	7%	$1,467	$400
One to Two Years of Supervision	591	42%	20%	$2,670	$830	1,532	28%	7%	$4,966	$751
Two to Three Years of Supervision	369	43%	23%	$3,546	$1,350	1,039	31%	9%	$3,348	$1,240
High Risk										
Fines										
Under One Year of Supervision	638	61%	70%	$809	$328	1,143	74%	100%	$681	$300
One to Two Years of Supervision	466	67%	96%	$1,071	$500	1,345	63%	76%	$1,272	$540
Two to Three Years of Supervision	204	74%	100%	$1,061	$793	826	66%	78%	$1,469	$950
Joint/Several Restitution										
Under One Year of Supervision	395	19%	5%	$2,140	$403	326	15%	3%	$3,591	$511
One to Two Years of Supervision	266	23%	10%	$2,408	$692	988	18%	4%	$8,285	$888
Two to Three Years of Supervision	129	27%	8%	$2,379	$918	660	19%	6%	$4,633	$1,578
Restitution										
Under One Year of Supervision	824	34%	13%	$1,399	$404	610	30%	7%	$1,467	$400
One to Two Years of Supervision	595	37%	15%	$1,514	$580	1,532	28%	7%	$4,966	$751
Two to Three Years of Supervision	255	46%	25%	$1,929	$879	1,039	31%	9%	$3,348	$1,240

the collection of court-owed fines despite the fact that less time and resources were being expended on the low-risk population. Restitution payments, however, did decrease noticeably under the low-risk policy. This finding could indicate that low-risk offenders are less amenable to paying restitution under a policy that minimizes their contacts with officers. It's important to note that restitution has historically been paid at lower rates than fines, and that this was true prior to the low-risk policy. Hence, while payment of restitution has decreased among post-policy low-risk offenders, the payment rate has always been less than for fines.

Among higher risk offenders, the expected increase in officer/offender contacts did not completely occur. Specifically, moderate-risk offenders recorded slight decreases in their median contacts while high-risk offenders saw some rise in their contact activity. Changes in collateral contacts accounted for most of the increases in contact activity for high-risk offenders. Conversely, personal contacts remained essentially unchanged for offenders in the highest risk category. It is crucial to note that the number of offenders per officer increased by an average of 15 offenders during the time period covered by this study. Moreover, the federal system has received an increase in the proportion of higher risk offenders. According to a recently published report, the average PCRA scores rose from 5.09 to 6.55 between 2005 and 2011 (Baber, 2015). The increase in the number of offenders being supervised per officer, combined with a rise in the risk level, may explain why median contacts have remained unchanged for these high-risk offenders. Lastly, some of the declines in contact activity for low-, low/moderate-, and moderate-risk offenders may be explained by budget sequestration, which resulted in cutbacks in officer services for all levels of offenders.

There are limitations in this study that could be addressed by additional research. In sum, this is a descriptive analysis that examines how the low-risk policy is related to the contact patterns and the recidivism rates for offenders classified as low risk. It suggests that implementation of the low-risk policy resulted in less intense supervision practices and that the minimization of contacts with low-risk offenders has not jeopardized public safety. More rigorous research approaches could be used to further understand how officers are modifying their supervision strategies under the low-risk policy and the effect of this policy on supervision outcomes of arrests and revocations. Specifically, methods including propensity score matching and regression discontinuity could be applied to introduce statistical controls. Also, subsequent research could examine other aspects of supervision practices, including whether the provision of substance abuse and mental health treatment services and monitoring services such as drug testing have declined for low-risk offenders.

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Examining Overrides of Risk Classifications for Offenders on Federal Supervision

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THE FEDERAL PROBATION and pretrial services system employs approaches grounded on evidence-based practices to ensure community safety and reduce recidivism (Alexander & VanBenschoten, 2008; Cohen & VanBenschoten, 2014; Hughes, 2008). In order to meet these objectives, federal probation has adopted the risk, needs, and responsivity (RNR) model of correctional supervision practices (Alexander & VanBenschoten, 2008; Andrews, Bonta, & Hoge, 1990; Andrews & Bonta, 2010). One of the key events in federal probation's embrace of the RNR model was the decision to construct, develop, and implement the Post Conviction Risk Assessment instrument (PCRA). The PCRA is a dynamic actuarial risk assessment instrument developed for federal probation officers that incorporates most of the aspects of the RNR model into federal supervision. Through the PCRA, officers can classify offenders into different risk levels and identify those who are most likely to recidivate (the risk principle), ascertain dynamic criminogenic characteristics that if addressed could reduce reoffending behavior (the need principle) and tailor interventions and treatments that take into account an offender's learning styles and potential treatment barriers (the responsivity principle) (AOUSC, 2011).[2]

The PCRA has been empirically shown to effectively predict the likelihood that an offender will recidivate during his or her supervision period (Johnson, Lowenkamp, VanBenschoten, & Robinson, 2011; Lowenkamp, Johnson, VanBenschoten, Robinson, & Holsinger, 2013; Lowenkamp, Holsinger, & Cohen, 2015). Moreover, several studies have shown the PCRA's efficacy at measuring change in an offender's recidivism risk factors over time and the relationship between change in actuarial risk and arrest outcomes (Lowenkamp et al., 2013; Cohen & VanBenschoten, 2014; Cohen, Lowenkamp, & VanBenschoten, 2016).

It is crucial to note that officers do not have to supervise offenders according to their original PCRA risk designations. Specifically, judicial policy allows officers the option of departing from the PCRA's risk classification scheme by changing the risk level originally assigned to the offender (*Guide to Judiciary Policy*, 2014). For example, offenders placed in the low-risk category by the PCRA could be overridden to a higher risk level for supervision purposes should the officer, upon reviewing the offender's profile, feel that in his or her professional judgment the PCRA score underrepresents his or her risk to reoffend. This component of the risk classification process is referred to as professional discretion or supervision override and is one of the major principles of effective evidence-based supervision practices. The rationale for allowing overrides in risk assessment mechanisms is that actuarial scores cannot always capture the unique characteristics of individuals that officers can identify through various investigation techniques (Schmidt, Sinclair, & Thomasdottir, 2016). Professional overrides, hence, allow officers to depart from the actuarial score when the totality of an offender's characteristics suggests that the offender should be supervised at a level that diverges from the risk classification. The override function is woven not only into the PCRA but into many risk classification instruments (Andrews et al., 1990; McCafferty, 2015).

As we will subsequently discuss, judicial policy allows overrides for reasons we call policy-related if the offender meets the following specified criteria: sex offender, persistently violent, mental health issues, or serious youthful offender. Conversely, all other overrides are labeled "discretionary overrides." Although judicial policy gives officers the discretion to override, there have been few empirical efforts to examine officer overrides in the federal supervision system. This research will examine several key issues, including the overall prevalence of overrides for offenders under federal supervision, the types of overrides (i.e., policy or discretionary) used by officers, and

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[2] See Johnson, Lowenkamp, VanBenschoten, and Robinson (2011) and Lowenkamp, Johnson, VanBenschoten, Robinson, and Holsinger (2013) for information about the construction, validation, and implementation of the PCRA in the federal supervision system.

the rationales provided by officers when using discretionary overrides.

In this article we will also explore the adjustments in risk levels that occur as a result of overrides and whether offenders with overrides are supervised differently in terms of their monthly officer/offender contacts and treatment services compared to offenders without overrides. Last, we will examine whether offenders with overrides are recidivating at rates similar to their original or reclassified risk levels. In other words, are the recidivism rates for low-risk offenders reclassified for supervision purposes into high-risk levels similar to that of offenders initially classified as high risk, or are the arrest rates for these offenders more similar to those of low-risk offenders?

In the next section, we provide an overview of the federal supervision system's override policy. Afterwards, we detail the methodological framework used for this study.

Policy on Supervision Overrides

According to Volume 8E, §440, of the *Guide to Judiciary Policy* (the *Guide*), officers may diverge from the PCRA's risk classification scheme by placing offenders into different—higher or lower—risk levels. To understand how officers employ supervision overrides, we first detail the PCRA's risk classification mechanism. The PCRA assesses an offender's risk of recidivism through a process in which federal probation officers score offenders on 15 static and dynamic risk predictors related to an offender's criminal history, education/employment, substance abuse, social networks, and supervision attitude characteristics.[3] Officers use these 15 predictors to generate a raw PCRA score ranging from 0 to 18, which translates into the following four risk categories: low (0-5 points), low/moderate (6-9 points), moderate (10-12 points), or high (13 or more points). These risk categories provide crucial information about an offender's likelihood of recidivism and inform officers about the appropriate levels of supervision intensity that should be allocated (AOUSC, 2011; Johnson et al., 2011; Lowenkamp et al., 2013).

The *Guide* incorporates the principle that officers should be able to use professional judgment when determining the most suitable levels of supervision intensity by providing guidance on when officers should exercise their discretion to override offenders (Andrews et al., 1990). According to the *Guide*, supervision overrides should occur in cases where the officer believes that the PCRA has not adequately assessed an offender's risk of recidivism. The low-risk PCRA classification of an offender, for example, can be overridden to a higher risk level (e.g., moderate or high risk) if the officer thinks that the offender's likelihood of recidivism is being underestimated by the PCRA. Conversely, officers can override the classifications of higher-risk offenders into lower risk levels if they deem that the initial PCRA calculation overstated the offender's recidivism risk.

The *Guide* also states that overrides should be relatively rare and that officers should use overrides for only certain case types (in the case of policy overrides) or supply rationales for employing overrides (in the case of discretionary overrides). Policy overrides involve instances where officers move offenders into higher or lower supervision levels because the offenders meet one or more of the following criteria: (1) they are classified as sex offenders, (2) they evidence patterns of persistently violent behavior, (3) they manifest past or current indications of severe mental illness, or (4) they are youthful offenders with extensive criminal histories. In addition to policy overrides, the *Guide* provides officers with latitude to issue overrides for other reasons; in this case they are discretionary overrides. A comprehensive justification is required whenever the officer decides to override an offender for discretionary reasons. Regardless of whether an officer overrides for policy or discretionary reasons, any override request must be reviewed and approved by a supervising officer (AOUSC, 2011; *Guide to Judiciary Policy*, 2014).

Data and Methods

Participants

Data for this study were obtained from 94 U.S. federal judicial districts and comprised 58,524 initial PCRA assessments conducted between August 31, 2012, and December 30, 2013. These assessments were drawn from a larger dataset containing 182,927 initial PCRA assessments conducted within the time frame spanning August 1, 2010, through December 31, 2014.[4] PCRA assessments prior to 2012 were excluded from this study because the supervision override data were not electronically available until August 31, 2012 (*n* lost = 90,585). In addition, offenders with PCRA assessments occurring after 2013 were removed because our recidivism follow-up period ended on December 31, 2014 (*n* lost = 33,818). Since we wanted to track offender recidivism patterns for at least 12 months, we excluded offenders who received their PCRA assessments with fewer than 12 months of recidivism follow-up. Despite the omission of these offenders, the study population mirrors that of larger populations analyzed for other PCRA studies in terms of their overall risk factors and demographic characteristics (see Lowenkamp et al., 2015). Moreover, the percentage of offenders receiving professional overrides has been relatively stable over the past several fiscal years. Hence, the findings gleaned from these 58,500 offenders should be generalizable to the larger population of offenders currently under supervision in the federal system.[5]

The risk and demographic characteristics of offenders in the study population are provided in Table 1. According to the PCRA, 75 percent of offenders assessed within the study period were initially classified as either low (35 percent) or low/moderate (40 percent) risk, while the remaining 25 percent fell into the moderate (19 percent) or high risk (6 percent) classification categories. Interestingly, the risk distribution changes somewhat once supervision overrides are taken into account. After accounting for override adjustments, the percentage of offenders classified as low risk decreases from 35 percent to 31 percent, while the percentage placed in the highest risk category increases from 6 percent to 11 percent. Additional details on override adjustments will be provided in the findings section of this paper.

Regarding the study population's demographic characteristics, 57 percent were white and 37 percent were black. Hispanics comprised 24 percent of the sample. Over four fifths (84 percent) of these offenders were male and the average age was 39 years. Last, 85 percent were placed on supervised release, while the remainder had been directly sentenced to a term of probation.[6]

[3] See AOUSC (2011) for a detailed discussion of the PCRA's recidivism predictors.

[4] We used the initial PCRA assessment date rather than the actual supervision start date to anchor this study because when the PCRA was deployed, PCRAs were done on offenders who might have been well into their supervision term. Since our focus was on examining supervision overrides for all offenders receiving PCRA assessments, we were not concerned with restricting our study population to offenders with short time periods between their supervision start and PCRA assessment dates.

[5] According to federal probation's internal reporting systems, a total of 135,468 offenders were on federal supervision as of 9/30/2015.

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

TABLE 1.
Characteristics of Federal Offenders in Study Sample

Offender Characteristics	Descriptive Information
Original PCRA Risk Levels	
Low	34.9%
Low/Moderate	40.3%
Moderate	19.0%
High	5.7%
Adjusted Supervision Levels	
Low	30.7%
Low/Moderate	38.5%
Moderate	19.4%
High	11.4%
Supervised Release	85.0%
Male Offender	84.3%
Race	
White	57.2%
Black	36.6%
Other	6.2%
Hispanic Offender	23.9%
Mean Age	39.3 yrs.
Number of Offenders	58,524

Note: Includes offenders with PCRA assessments that occurred between August 31, 2012, and December 31, 2013.

Measuring Discretionary Supervision Overrides

In this study, we explored the rationales provided by officers for discretionary overrides in greater detail. This research presented several challenges in that officers can, and often do, provide extensive written rationales in the text fields when justifying a discretionary override.

While these text fields provide rich information about an offender's risk characteristics, they do not lend themselves to quantifiable analysis. We addressed this issue by using text-mining techniques to categorize these rationales into broader groups such as substance abuse problems, evidence of noncompliant behavior, electronic monitoring, and gang activity, which could be used for analytical purposes. Ultimately, we were able to successfully classify 90 percent of the 3,121 discretionary overrides into broader categories. Interestingly, 45 percent of the 3,121 discretionary overrides were identified through this text-mining process as having occurred for policy reasons. In other words, officers had provided policy justifications (e.g., sex offender; offender has serious mental health issues) for the discretionary overrides. For consistency purposes, we recoded these discretionary departures into the appropriate policy override categories. Hence the percentage of offenders with policy and discretionary overrides reported in this study will differ from that shown in federal probation's internal reporting systems.[7]

Finally, in certain sections of this paper we combined the policy overrides involving history of persistently violent behavior, evidence of severe mental illness, or youthful offenders with extensive criminal histories into an "other" policy override category. We combined these override types into one category because, as will be shown, there were relatively few offenders overridden for these specific policy types.

Offender Recidivism Outcomes

Recidivism is defined in this study as the arrest of an offender for either a felony or misdemeanor offense (excluding arrests for technical violations) within one year after the PCRA reassessment date. In addition to measuring any arrests, we also identified arrests for violent offenses committed within one year after the initial PCRA assessment. Violent arrests were defined using the definitions from the National Crime Information Center (NCIC), which included homicide and related offenses, kidnapping, rape and sexual assault, robbery, and assault. The recidivism data were gathered through the NCIC and Access to Law Enforcement System databases (ATLAS).[8]

Analytical Plan

The current study uses descriptive statistics to explore overrides for offenders on federal supervision. It examines the overall frequency of overrides and investigates the types of overrides (e.g., policy or discretionary) employed by officers, with specific inquiries into the rationales used for discretionary overrides. This research also explores the adjustments in risk levels that result from overrides and whether officers deliver supervision services commensurate with the reclassified risk level. The research then analyzes whether the recidivism rates for offenders with overrides are comparable to those offenders classified at their original or adjusted risk levels.

Findings

Overall Prevalence of Professional Overrides

We initially focus on the prevalence of overrides for offenders under federal supervision. Overall, 9 percent of the 58,524 offenders in our study population received supervision overrides (see Table 2). Among offenders with overrides, officers overrode about two-thirds (68 percent) for policy reasons, while discretionary overrides accounted for the remainder of supervision adjustments. Examining the relationship between officer overrides and initial PCRA risk levels shows that overrides occurred more frequently for low- than high-risk offenders. For instance, 13 percent of low-risk offenders were overridden to another risk level compared to 9 percent of low/moderate and 8 percent of moderate-risk offenders. Less than 1 percent of offenders initially classified in the high-risk category were overridden to a lower supervision level. A combination of sex offender policy and discretionary overrides drove the override rates for lower-risk offenders. Interestingly, other-policy overrides were slightly more frequent for moderate (3 percent) than for low-risk (1 percent) offenders.

Table 3 shows override rates by an offender's most serious conviction offense and demographic characteristics. The override rate was highest for sex offenders; over three-fourths of these offenders (77 percent) were placed into supervision levels that differed from their initial PCRA risk classifications. In addition, the override rates for offenders convicted of firearms (12 percent) and violent offenses (11 percent) were slightly higher than the 9 percent baseline override rate. The fact that most sex offenders were overridden to higher risk levels is not surprising, since policy provides officers with discretion to adjust the supervision levels for these offenders upwards at the beginning of supervision while the officer thoroughly assesses the offender (*Guide to Judiciary Policy*, 2014). Offenders convicted of firearms and violent offenses also garnered overrides at higher rates, because they are more likely to have characteristics that would justify policy overrides for persistently violent behavior.

[7] See Decision Support Systems (DSS) report #1193 on policy and discretionary override rates.

[8] ATLAS is a software program used by the Administrative Office of the U.S. Courts that provides an interface for performing criminal record checks through a systematic search of official state and federal rap sheets. It is widely used by probation and pretrial services officers to perform criminal record checks on defendants and offenders for supervision and investigation purposes (Baber, 2010).

TABLE 2.
Percent of Federal Offenders with Any, Policy, or Discretionary Overrides

Initial PCRA risk	Number of offenders	All overrides	Policy Overrides			Discretionary Override
			Any	Sex offender	Other	
Total	58,524	9.4%	6.5%	4.6%	1.8%	2.9%
Low	20,439	12.5%	8.2%	6.8%	1.4%	4.3%
Low/Moderate	23,599	8.5%	5.9%	3.8%	2.1%	2.6%
Moderate	11,130	8.4%	6.5%	3.8%	2.7%	1.9%
High	3,356	0.2%	0.0%	0.0%	0.0%	0.2%

Note: Other policy includes mental health, persistently violent, and youthful offender overrides.

TABLE 3.
Percent of Federal Offenders with Policy or Discretionary Overrides, by Offense Type and Demographic Characteristics

Offense & Demographics	Number of Offenders	Percentage of Offenders with		
		Any Overrride	Policy	Discretionary
Conviction offense				
Sex Offense	2,268	76.6%	75.9%	0.7%
Firearms	8,667	12.4%	9.9%	2.5%
Violence	2,809	10.5%	7.2%	3.3%
Other	2,829	8.7%	4.7%	4.0%
White Collar	10,963	6.1%	2.5%	3.6%
Drug	26,865	5.0%	2.0%	3.0%
Immigration	2,581	3.4%	1.6%	1.8%
Public Order	1,417	3.5%	1.1%	2.5%
Gender				
Male	49,326	10.1%	7.2%	2.9%
Female	9,198	5.6%	2.5%	3.1%
Race				
Other	3,600	11.8%	9.7%	2.1%
White	33,382	11.1%	8.0%	3.1%
Black	21,385	6.4%	3.6%	2.8%
Ethnicity				
Not Hispanic	43,887	10.7%	7.6%	3.1%
Hispanic	13,749	5.3%	2.9%	2.4%

Note: Offense types excludes offenders convicted of escape/obstruction, technical violations, and other offenses.

Types of Policy and Discretionary Overrides

Next, we examine the types of policy and discretionary overrides used by officers. Figure 1 focuses on policy overrides. This figure includes overrides that were originally submitted as discretionary before being re-coded into policy overrides. Nearly three-fourths (72 percent) of policy overrides were for offenders who met the sex offender criteria. The remainder of policy overrides involved severe mental illness (16 percent) and persistently violent behavior (12 percent).

Figure 2 displays the most common discretionary overrides. In over a third (35 percent) of discretionary overrides, the officer cited the offender's substance abuse problems as a reason for adjusting the supervision level. Evidence of noncompliant behavior accounted for 17 percent of discretionary overrides, while 10 percent or more occurred because the officer indicated that issues related to location monitoring (13 percent), employment (12 percent), criminal history (11 percent), or financial penalties (10 percent) necessitated a supervision adjustment.[9]

It is notable that some of the justifications provided by officers for discretionary overrides are already being measured through the PCRA. For example, evidence of noncompliant behavior and criminal history are currently measured in the PCRA's criminal history section, while employment issues and substance abuse problems are scored in its education/employment and substance abuse domains. Moreover, other rationales such as location monitoring and the collection of financial penalties suggest that issues related to workload and case activity might be driving the override decision rather than enhanced recidivism risk. Substantial amounts of officer

[9] Because officers write their rationales for overrides, multiple reasons could be attributed to one offender.

FIGURE 1.
Override Types for Federal Offenders with Policy Overrides

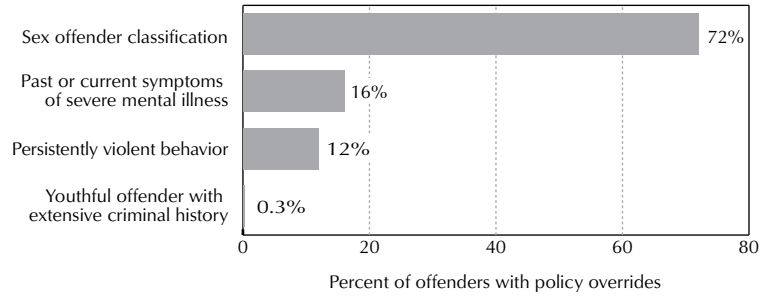
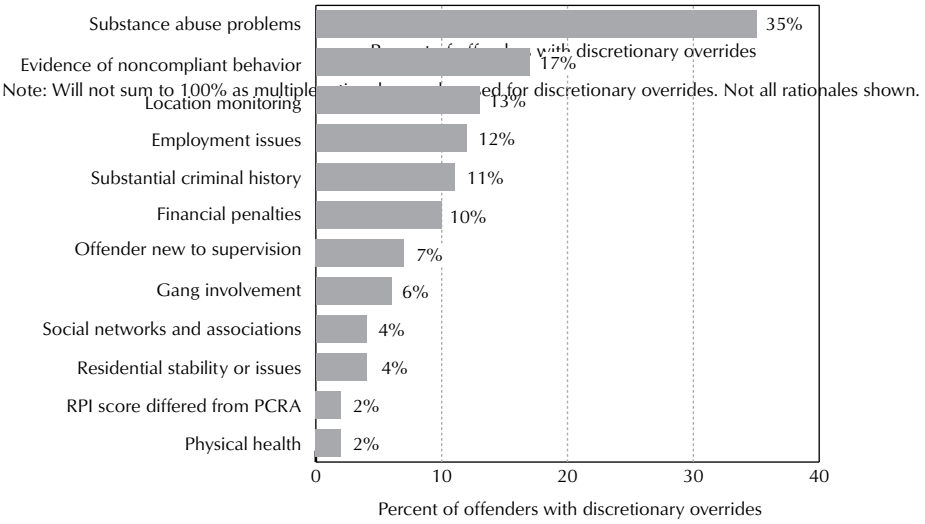


FIGURE 2.
Override Rationales for Federal Offenders with Discretionary Overrides



Note: Will not sum to 100% as multiple rationales can be used for discretionary overrides.
Not all rationales shown.

time, for instance, can be involved monitoring offenders with location monitoring conditions, and hence officers might be responding to these additional workload demands by adjusting risk levels upwards.

Adjustments in Risk Levels for Offenders with Overrides

Tables 4 and 5 examine the adjustments in risk levels that result from supervision overrides. In general, overrides are upward adjustments of an offender's risk levels. Of the roughly 5,500 offenders with overrides, only 2 percent were adjusted downwards. The decision to override an offender often meant that they were reclassified into the highest risk level. For example, half of the low risk and three-fifths of the low/moderate risk offenders with overrides were reclassified into the high risk category.

The type of override often influenced whether the offender's supervision category was adjusted by one or multiple levels. Sex offender policy overrides, for example, almost always resulted in offenders being placed in the highest risk category, irrespective of their initial PCRA risk designation. Over 80 percent of low risk and nearly 90 percent of low/moderate risk offenders with sex offender overrides were reclassified into the highest risk category. The reclassification of lower risk sex offenders into the highest risk levels should not be too surprising, as policy recommends that sex offenders initially be placed into the highest risk category while officers conduct a thorough review of the offender's proclivities for aggressive sexual behavior. After completing this assessment, the *Guide* recommends that officers reclassify those sex offenders deemed not at the highest risk into a lower risk category (*Guide to Judiciary Policy*, 2014).

Other-policy and discretionary overrides resulted in less substantial adjustments in risk levels. About 60 percent of low-risk offenders with other-policy overrides, for example, had their risk levels adjusted upwards by only one level. Moreover, approximately three-fourths of low and two-thirds of low/moderate risk offenders with discretionary overrides were placed into risk categories one level higher than their original levels.

TABLE 4.
Adjustments in Supervision Levels for Federal Offenders with Overrides, by Initial Risk Level

		Adjusted Supervision Levels			
Initial Risk Levels	Number with Overrides	Low	Low/ Moderate	Moderate	High
Low	2,558	—	36.3%	14.0%	49.7%
Low/Moderate	2,006	3.1%	—	39.2%	57.7%
Moderate	933	0.6%	2.1%	—	97.2%
High	6	0.0%	16.7%	83.3%	—

Note: Includes only offenders with supervision overrides.

TABLE 5.

Adjustments in Supervision Levels for Federal Offenders with Overrides, by Initial Risk Level and Override Types

Initial Risk Levels	Number with Overrides	Adjusted Supervision Levels			
		Low	Low/ Moderate	Moderate	High
Policy-Sex Offender					
Low	1,393	—	6.5%	12.1%	81.3%
Low/Moderate	898	0.0%	—	10.6%	89.4%
Moderate	426	0.0%	0.0%	—	100.0%
High	0	0.0%	0.0%	0.0%	—
Policy-Other					
Low	285	—	59.3%	26.3%	14.4%
Low/Moderate	492	0.6%	—	58.3%	41.1%
Moderate	297	0.0%	1.0%	—	99.0%
High	1	0.0%	0.0%	100.0%	—
Discretionary					
Low	880	—	75.9%	13.0%	11.1%
Low/Moderate	616	9.6%	—	65.8%	24.7%
Moderate	210	2.9%	7.6%	—	89.5%
High	5	0.0%	20.0%	80.0%	—

Note: Includes only offenders with supervision overrides.

Other policy includes mental health, persistently violent, and youthful offender overrides.

Comparing Supervision Intensity for Offenders with and without Overrides

In this section, we explore whether offenders with overrides were supervised more intensively by probation officers than offenders without overrides. Supervision intensity is measured by the average number of monthly officer/offender contacts and the provision of treatment services.

Table 6 depicts the average number of monthly officer/offender contacts for offenders with and without supervision overrides. The bold font indicates offenders without override adjustments. Officer/offender contacts are categorized into any contacts, personal contacts, and collateral contacts. Personal contacts involve direct interactions between officers and offenders and typically take place in an officer's office or an offender's home. Collateral contacts involve officers interacting with persons familiar with the offender such as treatment providers, law enforcement officers, employers, or family members.

Examining the average number of monthly officer/offender contacts shows that override offenders were contacted at rates nearly equaling their adjusted rather than their original risk categories. For example, the average

TABLE 6.

Average Number of Monthly Total, Personal, or Collateral Contacts, by Original and Adjusted Risk Levels

Initial Risk Levels	Adjusted Supervision Levels							
	Low		Low/Moderate		Moderate		High	
	Number	Average Contacts	Number	Average Contacts	Number	Average Contacts	Number	Average Contacts
Average Total Monthly Contacts								
Low	**17,458**	**1.1**	924	1.6	358	2.1	1,271	3.1
Low/Moderate	57	1.0	**21,285**	**1.7**	780	2.3	1,151	3.3
Moderate	6	—	20	1.3	**10,055**	**2.5**	888	3.7
High	0	—	1	—	5	—	**3,259**	**3.3**
Average Personal Monthly Contacts								
Low	**17,458**	**0.7**	924	1.0	358	1.2	1,271	1.8
Low/Moderate	57	0.6	**21,285**	**1.1**	780	1.3	1,151	1.8
Moderate	6	—	20	0.8	**10,055**	**1.4**	888	1.8
High	0	—	1	—	5	—	**3,259**	**1.7**
Average Collateral Monthly Contacts								
Low	**17,458**	**0.3**	924	0.5	358	0.9	1,271	1.4
Low/Moderate	57	0.4	**21,285**	**0.6**	780	0.9	1,151	1.5
Moderate	6	—	20	0.5	**10,055**	**1.1**	888	1.8
High	0	—	1	—	5	—	**3,259**	**1.6**

Note: Bold font denotes that no override occurred.

Officer/offender contact data available for 98% of offenders.

— Not enough cases to produced statistically reliable estimates.

number of total monthly contacts for low-risk offenders placed into the high supervision category (3.1 monthly contacts) approximates that of high-risk offenders without overrides (3.3 monthly contacts). Similar patterns were observed for the personal and collateral contacts. For instance, low/moderate risk offenders overridden into the high supervision category received about the same number of monthly personal contacts (1.8 personal contacts per month) as offenders with an initial high risk classification (1.7 personal contacts per month).

Table 7 examines the provision of contractual treatment services for federally supervised offenders with and without overrides. Offenders received contractual treatment services if substance abuse, mental health, or sexual offending services were provided through contracts held by the probation office. In general, this means that the probation office paid for all or part of the services delivered. It should be noted that non-contractual treatment services are frequently provided to federally supervised offenders, meaning that officers are by policy encouraged to procure community services where available. Non-contractual treatment services are typically not reported in federal probation's data system and hence are unavailable for analytical purposes.

Table 7 shows offenders with overrides receiving contractual treatment services at substantially higher rates than their counterparts without overrides. For instance, the percentage of low-risk offenders with supervision overrides receiving contractual treatment services (55 percent) was five times higher than low-risk offenders without supervision adjustments (10 percent). The use of contract treatment services was particularly evident for sex offenders with policy overrides. The percentage of low/moderate or moderate risk sex offenders with policy overrides receiving contract treatment services equaled or exceeded 70 percent; moreover, 80 percent of low-risk sex offenders with policy overrides received treatment services. Offenders with other-policy or discretionary overrides were also more likely to receive treatment services commensurate with their adjusted risk classifications than offenders without supervision adjustments.

TABLE 7.

Percent of Offenders Provided with Contract Treatment Services, by Initial PCRA Risk Level and Override Types

		Any Treatment Service/a	
Original & Adjusted Risk Levels	**Number**	**Percent Receive**	**Avg Hours Per Month**
Low Risk—No Adjust	**17,881**	**10.3%**	**1.3**
Low Risk with Overrides			
All Overrides	2,558	55.3%	4.1
Policy-Sex Offender	1,393	80.8%	4.7
Policy-Other/b	285	31.2%	1.3
Discretionary	880	22.7%	1.7
Low/Moderate Risk—No Adjust	**21,593**	**24.7%**	**1.7**
Low/Moderate Risk with Overrides			
All Overrides	2,006	52.4%	3.3
Policy-Sex Offender	898	73.3%	4.0
Policy-Other/b	492	38.2%	2.1
Discretionary	616	33.3%	2.0
Moderate Risk—No Adjust	**10,197**	**39.5%**	**2.0**
Moderate Risk with Overrides			
All Overrides	933	57.7%	3.1
Policy-Sex Offender	426	70.0%	3.8
Policy-Other/b	297	50.8%	2.1
Discretionary	210	42.4%	2.3
High Risk—No Adjust	**3,350**	**49.2%**	**2.3**

Note: Excludes high-risk offenders with downward adjustment because there were too few of these offenders (N=6) to provide statistically reliable estimates.

a/Any treatment services includes offenders receiving contract services for sex offender, substance abuse, or mental health treatment.

b/Policy-other includes overrides for mental health, persistently violent, or youthful offenders.

Examining the Recidivism Rates for Offenders Receiving Supervision Overrides

The next series of tables and figures focuses on the relationship between supervision overrides and recidivism. Specifically, we examined whether offenders overridden into another risk category recidivated at rates that were consistent with either their original or their adjusted risk levels. Stated differently, this section explores whether low-risk offenders, for example, placed into the high-risk category exhibited reoffending behavior similar to that of their initial (e.g., low risk) or adjusted (e.g., high risk) risk classification.

Table 8 examines the overall arrest rates for offenders by their initial and adjusted PCRA risk levels. Offenders whose risk levels were not adjusted through supervision overrides are identified by bold font. In general, this table shows that offenders with upward overrides reoffended at rates comparable to their original rather than adjusted risk levels. For example, the recidivism rates for low-risk offenders overridden into supervision categories of low/moderate (4 percent arrest rate), moderate (5 percent arrest rate), or high (4 percent arrest rate) risk were essentially the same as low-risk offenders without overrides (4 percent arrest rate). Similar patterns of offenders with upward overrides also held for low/moderate and moderate risk offenders.

Unlike the upward overrides, offenders with downward overrides reoffended at rates nearly equivalent to their adjusted rather than initial risk levels. For instance, the 20 moderate risk offenders adjusted into the low/moderate category recidivated at rates (10 percent arrest rate) similar to that of offenders originally designated low/moderate risk (11 percent arrest rate). The relatively few numbers of offenders with downward overrides implies that these findings should be interpreted with some degree of caution.

An examination of the relationship between supervision overrides and rearrests for violent offenses reveals similar findings

(see Table 9). Basically, the violent arrest rates for offenders overridden into higher risk levels were nearly identical to their original as opposed to adjusted risk levels. For instance, low/moderate offenders placed into the moderate or high supervision levels exhibited arrest rates for violent offenses (2 percent to 3 percent violent arrest rate) similar to low/moderate risk offenders without overrides (2 percent violent arrest rate).

Next, we restricted our analysis to only those offenders receiving overrides and examined their recidivism rates first by their initial (see Figure 3) and then by their adjusted risk levels (see Figure 4). Specifically, we sought to explore the extent to which the relationship between the PCRA's risk categories and recidivism changes once the initial risk groups have been adjusted to account for supervision overrides. We also explored these relationships for the individual override types of policy-sex offender, policy-other, and discretionary.

Figure 3 shows the association between rearrest rates and initial PCRA risk categories for each of the override types. In general, the recidivism rates increase incrementally by original PCRA risk levels irrespective of the officer's basis for override. Among sex offenders with policy overrides, for example, the arrest rates involving any offense increased from 4 percent for low risk to 9 percent for low/moderate and 21 percent for high-risk offenders. Similar patterns of monotonically increasing arrest rates by initial PCRA risk category also held for offenders with policy-other and discretionary overrides.

Figure 4 displays the relationship between rearrest rates and adjusted risk levels for each of the override types. Unlike the previous analysis, this figure shows a diminishment in the relationship between recidivism rates and PCRA risk categories once the offender's risk levels have been adjusted by an override. This is particularly true for sex offenders, where the arrest rates were essentially the same across the four adjusted risk levels of low/moderate (5 percent arrest rate), moderate (5 percent arrest rate), and high (9 percent arrest rate) risk.

In comparison to sex offenders, there was a closer relationship between adjusted risk levels and recidivism outcomes for offenders with other policy or discretionary overrides. The percentage of other-policy offenders arrested for any offense increased in the following incremental pattern: 6 percent low/moderate risk, 11 percent moderate risk, and 19 percent high risk. Among offenders with discretionary overrides, those in the lower adjusted risk categories (e.g., low or low/moderate supervision levels) were less likely to be rearrested than those in the higher adjusted risk categories; however, the recidivism rates for offenders reclassified into the moderate (12 percent arrest rate) or high (14 percent arrest rate) risk levels were relatively similar.

In general, the recidivism analysis shows offenders with upward overrides being rearrested at rates comparable to their original rather than adjusted risk levels. These findings, however, were not uniform across the

TABLE 8.

Twelve-Month Arrest Rates for Federal Offenders with Overrides, by Initial Risk and Adjusted Supervision Levels

	Adjusted Supervision Levels							
	Low		Low/Moderate		Moderate		High	
Initial Risk Levels	Number	Percent Arrested	Number	Percent Arrested	Number	Percent Arrested	Number	Percent Arrested
Low	**17,881**	**4.0%**	928	3.6%	358	4.8%	1,272	4.2%
Low/Moderate	62	6.5%	**21,593**	**10.9%**	787	12.6%	1,157	10.8%
Moderate	6	—	20	10.0%	**10,197**	**21.0%**	907	21.0%
High	0	—	1	—	5	—	**3,350**	**32.0%**

Note: Bold font denotes that no supervision override occurred.

Percentages show arrest rates within 12 months of first PCRA assessment.

— Not enough cases to produced statistically reliable estimates.

TABLE 9.

Twelve-Month Violent Arrest Rates for Federal Offenders with Overrides, by Initial Risk and Adjusted Supervision Levels

	Adjusted Supervision Levels							
	Low		Low/Moderate		Moderate		High	
Initial Risk Levels	Number	Percent Violent Arrests	Number	Percent Violent Arrests	Number	Percent Arrested	Number	Percent Violent Arrests
Low	**17,881**	**0.6%**	928	0.5%	358	0.6%	1,272	0.6%
Low/Moderate	62	0.0%	**21,593**	**2.2%**	787	2.3%	1,157	2.7%
Moderate	6	—	20	0.0%	**10,197**	**5.3%**	907	5.3%
High	0	—	1	—	5	—	**3,350**	**8.7%**

Note: Bold font denotes that no supervision override occurred.

Percentages show arrest rates for violent offenses within 12 months of first PCRA assessment.

— Not enough cases to produced statistically reliable estimates.

FIGURE 3.

Percent of Offenders with Overrides Arrested for Any Offense, by Initial PCRA Risk Classifications and Override Types

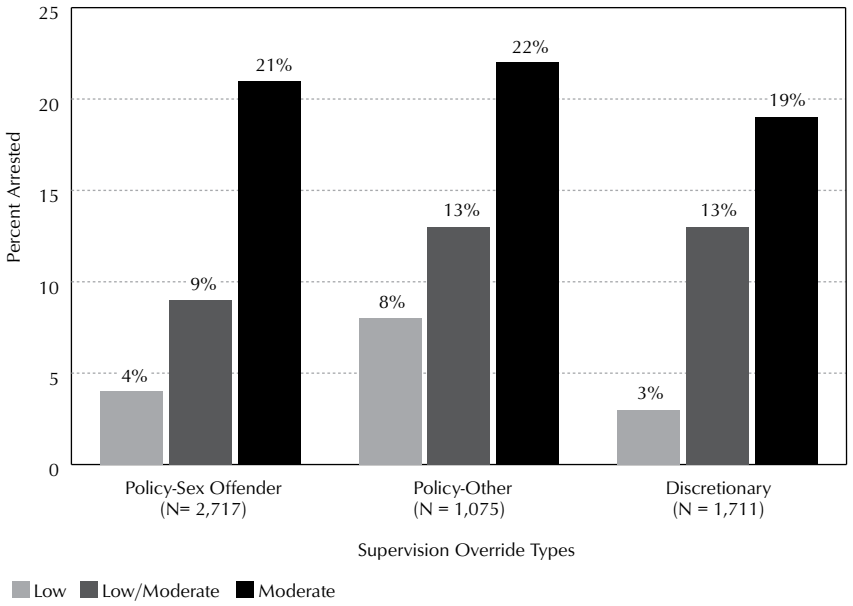
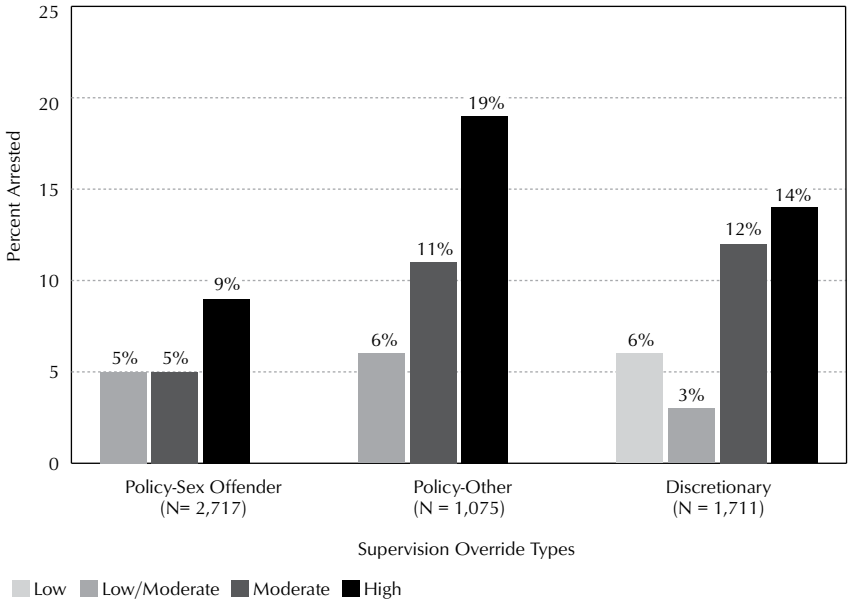


FIGURE 4.

Percent of Offenders with Overrides Arrested, by Adjusted PCRA Supervision Levels and Override Types



override types. The relationship between the reclassified risk levels and recidivism diminished the most for the sex offender overrides. Part of this pattern can be explained by the fact that most sex offenders are overridden because of judicial policy into one supervision category (i.e., high risk), hence negating the PCRA's ability to adequately differentiate between sex offenders who are at high or low risk to reoffend. Although policy dictates that officers should override sex offenders into the highest risk category while an assessment of their overall dangerousness is being conducted, it also states that officers should reclassify these offenders into lower risk categories if it is determined that they do not represent a serious danger (*Guide to Judiciary Policy*, 2014). In regards to the other-policy and discretionary overrides, since most of these offenders are adjusted by only one risk level, the research shows a continual close relationship between the rearrest rates and adjusted risk levels for these override types.

Conclusion

This research examined professional overrides for offenders under federal supervision. In general, officers used the override option infrequently, with almost 10 percent of the 58,500 PCRA assessments in our study population being overridden. Two-thirds of adjustments involved policy rather than discretionary overrides. Among the policy overrides, nearly three-fourths (72 percent) were because the offender is a sex offender, while the remainder involved rationales for persistently violent behavior or severe mental illness. Unlike the policy overrides, officers are required to provide written justifications for their decision to exercise discretionary overrides. The most common discretionary rationales cited involved issues related to substance abuse problems, evidence of noncompliant behavior, location monitoring, employment issues, substantial criminal history, and financial penalties. Some of these rationales cited are already measured by the PCRA (e.g., substance abuse problems, criminal history), while others, including location monitoring and financial penalties, are indicative of increased workload and case activity.

Almost all overrides were an upward adjustment, with the offender being placed into a risk level higher than that designated by the PCRA. Offenders with policy-sex offender overrides received the largest adjustments; they tended to be placed in the highest risk levels irrespective of their initial risk designation.

Conversely, offenders with other-policy or discretionary overrides were more likely to be reclassified into a risk category one level higher than their original risk level. Overrides also influenced actual supervision practices, with overridden offenders being contacted by officers and receiving treatment services at higher rates than those without overrides. Finally, this research shows offenders with overrides recidivating at rates consistent with their initial as opposed to adjusted risk levels.

In general, the findings detailed in this paper are on par with the relatively small number of studies examining professional overrides in correctional systems. Specifically, the 10 percent override rate for federal offenders is within the range reported in other studies that show override rates of 7 percent to 17 percent for non-sex offenders.[10] Similar to the current research, nearly all of the professional override studies have demonstrated a weaker correlation between the adjusted risk levels and recidivism compared to the original risk levels (McCafferty, 2015). In addition to examining these issues, this research has extended our knowledge of professional overrides by examining why officers decide to use overrides and the relationship between overrides and supervision intensity. Future research on this topic might want to further investigate the correlation between specific types of discretionary overrides and recidivism as well as employ multivariate techniques to obtain a better understanding of how adjustments in risk are correlated with recidivism net of statistical controls.

[10] For a review of supervision overrides in other community correctional systems see McCafferty (2016); Vaswani and Merone (2014); Wormith, Hogg, and Guzzo (2012); and Wormith, Hogg, and Guzzo (2015).

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Trademarks, Press Releases, and Policy: Will Rigorous Research Get in the Way?

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The institutional goal of science is the extension of certified knowledge.
—Merton, 1942, 117

RESEARCH SIMPLY CAN'T catch a break—it does not move quickly, or perhaps it does not get conducted, written up, reviewed and revised, disseminated, and read as fast as policy and practice can take hold. It is no secret that reports regarding new practices or concepts can be written up and more broadly branded, trademarked, marketed, and distributed to policy makers and practitioners when the information is not subjected to replication and peer review. Let's face it, rigorous research simply cannot be summarized in a tweet of 140 characters or less, and few would follow a twitter feed long enough to wait on a replication study before drafting state legislation and introducing reforms to policy and practice. The question remains, though, what are the implications for this when policies and practices are adopted and substantial funding is allocated without an adequate level of empirical support?

Before introducing the current study, it may be beneficial to offer some context for how these concerns have evolved. Perhaps taking a lesson from history would be beneficial to explain why or how the value of rigorous research and replication lost a bit of its luster. Perhaps history could also explain why rigorous research and replication may be running in second place behind the well-marketed and branded reports that attract such a wide, but more importantly, influential audience.

There have been several studies, even some subjected to peer review but without the findings being replicated elsewhere, that have widely influenced policy and practice or were simply catapulted to the elevated status being described as having achieved scientific merit. Labeling or study branding may be to blame for some of this, but it is unclear if labeling is the sole culprit, especially if the study resulted in a fundamental discussion of existing practices within criminal justice. A brief summary of some of these studies and their impact follows.

There have been several persuasive individual studies that have been labeled as "classic" or even "famous" despite a lack of methodological rigor and limited replication of findings. As Kulig, Pratt, and Cullen (2016) describe it, these studies, including the Stanford Prison Experiment, are often held in such high regard that few scholars question or critique the methodology or findings, despite the clear limitations that may be observed. So, in spite of the Stanford Prison Experiment suffering from both methodological and ethical challenges, this study has been branded a classic, but there may be an underlying reason for why it is held in such high regard. Kulig et al. (2016) clearly recognized that the Stanford Prison Experiment was "groundbreaking" because it called attention to the inhumanity of prisons and their impact on incarcerated individuals. The overall findings were timely and responded to shared concerns that imprisonment may be very detrimental. Essentially, this study propelled the discussion forward regarding imprisonment and the conditions in which individuals are incarcerated. Unfortunately, although attempts have been made to replicate the Stanford Prison Experiment, similar findings have not followed (Reicher & Haslam, 2006; Kulig et al., 2016).

Another single study that lacked methodological rigor but garnered much attention and sweeping political support both from conservatives and liberals is Martinson's 1974 "Nothing Works" article. This narrative review of 231 studies examining the effectiveness of rehabilitation programs suggested that rehabilitative models failed to produce any appreciable impact on recidivism; as Lipton (1998) expressed, Martinson's assertive summary was promptly deemed as fact (Sarre, 1999). As a result, there was growing interest in lengthier but determinate prison sentences without the addition of treatment and programming. Multiple studies followed questioning Martinson's infamous pronouncement, and one year following the publication of the "Nothing Works" article, Palmer (1975)

concluded that 48 percent of the 82[1] studies reviewed by Martinson indicated that some rehabilitative programs were actually associated with reduced recidivism. Interestingly, by 1979, Martinson had recanted his findings, although this report was not as widely read as the original "Nothing Works" article. Decades of research followed, providing further empirical support for the effectiveness of rehabilitative approaches, but none of these later endeavors received the amount of publicity and broad but blind acceptance that the Nothing Works doctrine received.

While Martinson's conclusion that nothing works was widely accepted without critical review, the field has also borne witness to other correctional interventions being touted with great fanfare but with minimal replication and evaluation. The most recent intervention that seems to be spreading at an alarming rate despite limited research support is Project HOPE (Hawaii Opportunity with Probation Enforcement). Project HOPE uses swift and certain sanctioning practices for individuals placed on community supervision. It is important to note that there is some evidence to suggest the effectiveness of Project HOPE (Hawken & Kleiman, 2009); however, other researchers have pointed out that Project HOPE has not been subjected to considerable replication and evaluation. Further, the fundamental components of Project HOPE, namely deterrence and sanction-based approaches, have been questioned in previous meta-analytic reviews (see, for example, Gendreau, 2000) and, at a minimum, require additional and more rigorous review (Duriez, Cullen, & Manchak, 2014).

Several explanations have been offered as to why Project HOPE became such an overnight sensation, as the language used by its proponents to describe it carries an extraordinary amount of weight, including "There aren't any magic bullets that can end America's battle with crime and addiction. But HOPE comes closer than anything we have seen in a long time" (Gelb, 2011, p. 2 as cited in Duriez, Cullen, & Manchak, 2014). Given the broad and overwhelming praise that Project HOPE has received, it should come as no surprise that similar deterrence-based HOPE strategies have found their way into state criminal justice reforms and legislation.

Responding to Duriez et al.'s (2014) account of the limited research on the effectiveness of Project HOPE, Kleiman, Kilmer, and Fisher (2014) suggested that while replication of Project HOPE is not a standard recommendation for jurisdictions, the consideration should be directed toward adopting and following swift, certain, and fair sanctioning practices within community-based supervision. Given the attempted but perhaps unsuccessful replication of a similar Project HOPE-based program in Delaware, it seems that swift and certain sanctioning is hardly guaranteed to be an effective model for other jurisdictions or to be easily transferrable, with fidelity and similarly impressive results, to other settings (Duriez et al., 2014; O'Connell, Visher, Martin, Parker, & Brent, 2011). Cullen, Manchak, and Duriez's (2014) rejoinder to the Kleiman et al. (2014) response summarized the upshot of the lively discussion as "buyer beware." This is rather poignant, as a lesson learned from well-branded and marketed research is that we must all become better-informed consumers of information. This certainly does not suggest dismissing information outright, but instead calls us to review evidence within the context of its limitations. This approach has been referred to as "organized skepticism," wherein scholars make a conscious effort to operate from logic and empiricism rather than tradition and belief (Merton, 1942 and see Kulig, Pratt, & Cullen, 2016).

The current study focuses on the pretrial field. There has been an increasing interest in studying pretrial risk assessments and supervision practices to identify what the strongest predictors of pretrial failure are and what pretrial practices are most effective in reducing a defendant's risk of experiencing pretrial failure. Pretrial research is still in its infancy, and this area of criminal justice research does not compare with the extensive research conducted in the post-disposition field (Bechtel, Holsinger, Lowenkamp, & Warren, 2015). Similar to what has been noted within correctional literature, multiple pretrial studies have not yet been subjected to rigorous blind peer review and replication. The implications, of course, are that these pretrial practices and risk assessment instruments may be adopted without a clear understanding of these limitations; specifically, these practices may not prove effective if implemented elsewhere, and the risk assessments may not properly predict pretrial failure on a different target population. Widely marketed reports often use labels and branding that have the potential for attracting attention but do little to truly inform the consumer. For example, one such report describes two pretrial risk assessment instruments, the Ohio Risk Assessment System – Pretrial (ORAS-PAT) and the Virginia Pretrial Risk Assessment Instrument (VPRAI), as the "gold standards" for pretrial risk assessment, although neither of these two tools have been subjected to any blind peer review process regarding how well they predict pretrial failure (Lawrence, 2013, p.10).

Recently, there has been growing interest in understanding the impact of pretrial detention. Certainly, this is an appropriate topic to evaluate and is worthy of study since it has the potential to substantially inform practice. One study looking at data from over 150,000 defendants booked into Kentucky jails between July 2009 and June 2010 sought to examine whether or not the length of pretrial detention increased a defendant's likelihood to experience pretrial failure, including failure to appear and new arrest pending case disposition. The study revealed several interesting things. First, longer stays in pretrial detention, in particular 2 to 3 days (as opposed to 1 day or less), resulted in an increase in the likelihood of failure to appear and new arrest pending case disposition. Second, low-risk defendants were most likely to experience a greater likelihood for failure to appear and new arrest pending case disposition when detained for 2 to 3, and 4 to 7 days. Moderate-risk defendants were also found to experience higher rates of new arrest pending case disposition when exposed to pretrial detention stays of 2 to 3 days. The study also examined the impact of the length of pretrial detention on post-disposition recidivism and suggested that a stay of 2 days or longer was associated with post-disposition recidivism when measured at both 1 year and 2 years post disposition. These results appeared to be strongest when examining the impact on low-risk defendants (Lowenkamp, VanNostrand, & Holsinger, 2013). While this study did not undergo blind peer review, it has sparked great interest in the pretrial field among both practitioners and researchers. In an effort to "practice what we preach" by replicating and expanding upon this research, in the current study we seek to effect an organized skepticism in the pretrial literature by evaluating the impact of pretrial detention length on pretrial failure, and specifically whether or not longer stints of pretrial detention result in an increased likelihood for pretrial failure. The relationship between length of time spent in pretrial incarceration and various outcomes

[1] Palmer (1975) examined a subset of Martinson's 231 studies to exclude those that used an outcome measure other than recidivism (e.g., change in attitude, adjustment to the community, educational achievement).

may be more complex than anyone in the field realizes at this point. This alone should serve as a clarion call for more research investigating every aspect of the issue.[2] Using the State Court Processing Statistics (SCPS) data from the Bureau of Justice Statistics, the study that follows is the first replication to test the impact of pretrial detention on pretrial failure.

Method

Data Source & Participants

The data used for this study come from the State Court Processing Statistics 1990-2009: Felony Defendants in Large Urban Counties (U.S. Department of Justice, Bureau of Justice Statistics, 2013). A detailed description of these data is available in the study codebook. In summary, this dataset contains data on 151,459 felony cases processed in 40 of the 75 most populous counties during even-numbered years from 1990-2006 and 2009. Data collected on these cases include defendant demographics, criminal history, pretrial release and detention, pretrial conduct, adjudication, and sentencing information.

Measures

Demographic measures used in this study include age in years, gender (coded as 1 for female and 0 for male), race (coded as 0 for white, 1 for black, and 2 for other) and Hispanic origin (coded 0 for not of Hispanic origin and 1 for Hispanic origin).

Data related to case processing included the number of days from arrest to release, offense type (violent, property, drug, or public order), release type (financial release, nonfinancial release, emergency release, held on bail, denied bail, release conditions unknown, detained reasons unknown, and case closed). Measures of conduct while on pretrial release were developed based on data included in the dataset. Three outcome measures were created: failure to appear (FTA), arrest for any new criminal conduct (arrest), and arrest for a new violent crime (violent).

Two measures were created based on the measure "days from arrest to release." One measure is a log transformation of "days from arrest to release" and the other is the squared value of the log transformation. These measures were developed for two reasons. First the distribution of "days from arrest to release" was highly skewed and leptokurtic (not normally distributed). To induce normality and thus make the measure useful in multivariate models the variable was transformed using a log transformation. The second variable created is simply the squared value of the transformed variable. This was done to address the possible nonlinear relationship between "days from arrest to release" and one or more of the outcomes of interest.

In an effort to control for differences in defendant characteristics that relate to pretrial outcomes of interest, three risk scales were developed. These three risk scales predict the three outcomes described above: FTA, arrest, and violent. The variables used to create the FTA scale are the number of prior FTAs, criminal justice system status, the number of prior arrests, gender, offense type, and number of current charges. The risk scale predicting arrest contains measures of prior commitments to jail, criminal justice system status, number of prior serious arrests, number of arrests, gender, offense type, and number of current charges. The risk scale predicting violence contains measures of criminal justice system status, number of prior serious arrests, number of prior arrests, offense type, number of charges, prior convictions for violent offenses, and gender. All three scales produced acceptable AUC-ROC values (0.64, 0.68, 0.68 for the FTA, arrest, and violent scales respectively).

Analysis

Analysis in this study included bivariate and multivariate statistical models examining the relationship between days from arrest to release and the three outcomes of interest. Since this study focuses on the released population only, the sample was reduced by excluding those defendants that were not released pretrial (n = 55,349). The sample was further reduced by excluding those cases with missing data on one of the key variables (n = 24,896), yielding a final sample size of 47,387. For comparison purposes we provide the descriptive statistics for the entire sample as well as the reduced sample (see Table 1).

In addition to the bivariate and multivariate tests run on the sample of 47,387 cases, a series of matched samples was developed for analysis. These matched samples provide a more rigorous test of the relationship between days detained pretrial and the outcomes of interest. The matching process involved matching defendants who were released in a particular number of days (for example all defendants released on day 5) to defendants released in 0 days. The defendants were matched on county, offense type, gender, age, race, Hispanic origin, type of release, and each of the three risk scales. This matching process was repeated for defendants released in 1 day up to 10+ days. This, in effect, created 10 matched samples comparing the outcomes of defendants released on day 0 to defendants released on day 1, day 2, day 3…day 10+. Since these samples were matched on all the relevant controls, only bivariate analyses were run on these samples.

Results

Table 1 provides descriptive statistics on the defendant's demographic data, case-related information, and the risk scales. These data are presented for both the complete sample and the reduced sample. While many of the differences between the entire sample and the reduced sample are statistically significant, it can be argued that the two samples are similar although not identical. Even so, the differences noted here probably preclude extending the findings with the reduced sample to the sample containing detained offenders and those that were released but excluded due to missing data.

The sample used for most of the subsequent analyses in this manuscript is the released sample with complete data. This sample is, on average, 30 years old and typically male (78 percent). Fifty percent of the defendants were black, and 48 percent were white. The majority of defendants (88 percent) were not of Hispanic origin. The offense of arrest was categorized as a drug offense (36 percent), followed by property offense (32 percent), violent offense (22 percent) and public order (10 percent). The majority of released defendants were released by financial release (52 percent).

Table 2 provides the failure rates for released defendants with missing data (eventually excluded from the sample) and those without missing data. About 20 percent of the sample is identified as having at least one failure to appear. Defendants are arrested for a new crime while on pretrial release 15 percent of the time (18 percent of the time for those with missing data). Finally, 2 percent of the sample is arrested for a violent offense while on pretrial release.

The main purpose of this manuscript is to explore the relationship between days detained prior to pretrial release and pretrial

[2] In a separate analysis conducted by Holsinger (2016), length of time in pretrial detention was observed to be significantly and positively correlated with FTA (every time increment of pretrial detention), but completely unrelated to NCA. Further, length of time incarcerated pretrial was found to be significantly related to post-disposition NCA at the 12-month point, but not the 24-month point in time.

TABLE 1.
Descriptive Statistics on Demographic Characteristics, Current Offense Type, and Release Type for Entire Sample and Released Sample with Complete Data

	All Cases		Released with Complete Data	
Measure	**Number**	**Mean or Percent**	**Number**	**Mean or Percent**
Age	149,972	30.37	47,387	30.45 (10.72)
Days from Arrest to Release	86,253	10.44 (29.52)	47,387	10.34(29.58)
Days from Arrest to Release	86,253	0.41 (2.13)	47,387	0.35 (2.17)
Risk Scale 1 (FTA)*	118,303	21.77 (9.06)	47,387	20.49 (8.43)
Risk Scale 2 (arrest)*	124,326	18.42 (9.89)	47,387	15.96 (9.09)
Risk Scale 3 (violent)*	125,925	2.11 (1.61)	47,387	1.75 (1.36)
Gender*				
Female	25,518	17	10,461	22
Male	125,407	83	36,926	78
Missing	534	<1	—	—
Race*				
White	55,848	37	22,525	48
Black	69,611	46	23,659	50
Native American, Alaskan Native	535	<1	217	<1
Asian, Pacific Islander	2,549	2	986	2
Missing	22,916	15	—	—
Hispanic Origin*				
Yes	32,822	22	5,635	12
No	97,721	65	41,752	88
Missing	20,916	14	—	—
Offense Type*				
Violent	37,456	25	10,479	22
Property	47,117	31	14,970	32
Drug	52,353	35	17,191	36
Public Order	14,471	10	4,747	10
General Release Category*				
Financial Release	43,225	29	24,783	52
Nonfinancial Release	42,325	28	21,066	44
Emergency Release	744	0	344	<1
Held on Bail	44,767	30	—	—
Denied Bail	8,380	6	—	—
Release Conditions Unknown	4,108	3	1,194	3
Detained, Reasons Unknown	2,202	1	—	—
Case Closed	2,001	1	—	—
Missing	3,707	2	—	—

* $p \leq 0.001$

TABLE 2.
Descriptive Statistics on Outcome Measures for Entire Sample and Released Sample with Complete Data

	Released with Missing Data		Released with Complete Data	
Measure	**Number**	**Mean or Percent**	**Number**	**Mean or Percent**
Arrest for Any New Crime*				
No	31,772	82	40,171	85
Yes	6,899	18	7,216	15
Failure to Appear*				
No	32,090	77	38,133	80
Yes	9,684	23	9,254	20
Arrest for New Violent Crime				
No	37,604	98	46,588	98
Yes	756	2	799	2

* $p \leq 0.001$

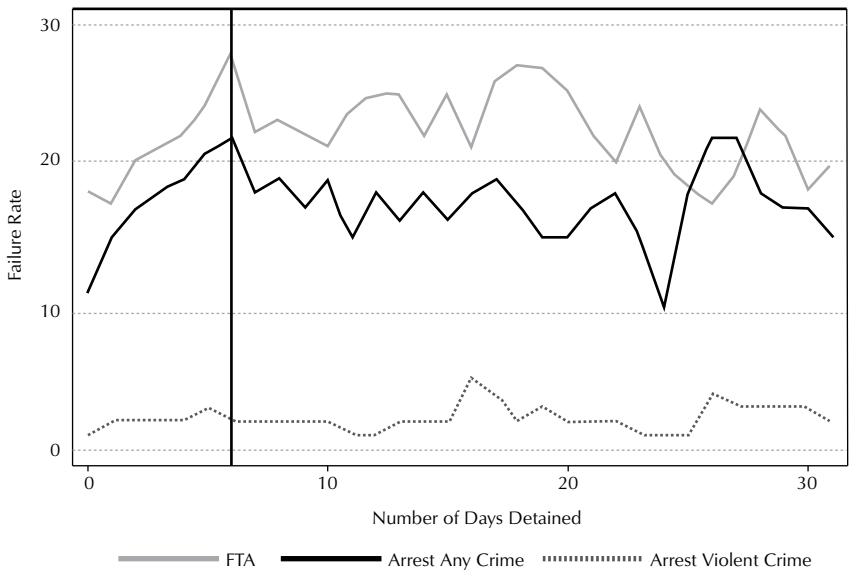
outcomes. Given prior findings regarding this relationship, we suspected that the relationship was nonlinear. Figure 1 plots the failure rates by day of release for each of the three outcomes of interest. As suspected, for both FTA and arrest the rates follow an upward trend up to and including day 6 but then begin to drop and then follow a somewhat random pattern with an overall downward trend. This pattern seems to be absent from the trend for arrest for a violent crime.

Given the nonlinearity of the relationship between the number of days detained and FTA and arrest, a squared term was included in the logistic regression models predicting FTA and arrest. The squared term was not included in the model predicting arrest for a violent crime. These logistic regression models are presented in Table 3 and indicate that days detained and the associated squared term are statistically significant only when predicting arrest. As the number of days increases, so too does the likelihood of arrest for any crime while on pretrial release. This positive effect of days detained on arrest seems to diminish as one moves up the scale of days detained. It should be noted that when predicting FTA and violent arrest the days detained prior to release are not significant predictors.

The risk category (based off the risk score) is a significant predictor of each of the three outcomes. Defendants in the moderate category are about 2 to 2.5 times as likely to experience the outcome as those in the low-risk category. High-risk defendants are roughly 4.5 to 5.5 times as likely to experience the outcome when compared to low-risk defendants.

Age and race are significant predictors in two of the three outcomes. Older defendants were less likely to experience the outcomes

FIGURE 1.
Failure Rates By Days Detained (greater than 31 days recoded to 31)



arrest (any criminal arrest) or violent (arrest for a violent offense). Black defendants were more likely to experience an FTA or violent compared to white defendants and defendants of "other" races. There was no effect of gender[3] or ethnicity (Hispanic origin) in any of the three models.

Release type was a significant predictor of FTA. Those released through nonfinancial release, emergency release, or in situations where release conditions were not known were more likely to fail to appear than those defendants released by financial release. Those released by nonfinancial release and unknown conditions of release were about 1.5 times as likely to fail to appear compared to those released on a financial release. Those released on emergency release were about 2.9 times as likely to FTA as those released by financial release.

Tables 4, 5, and 6 present the failure rates for FTA, arrest, and violent (respectively) using the matched samples. As indicated earlier, the matching process we used generated 10 samples that contained defendants released on a particular day matched to those released on day 0 (arrested and released the same day). The failure rates were then calculated for each

[3] Recall that gender was included in each of the risk scales.

TABLE 3.
Logistic Regression Models Predicting each Outcome

Variable	Failure to Appear	Any Criminal Arrest	Violent Arrest
Days Detained Transformed	1.04	1.07*	1.06
Days Detained Transformed Squared	1.00	0.97*	—
Release Type			
Financial Release			
Nonfinancial Release	1.46*	1.12	0.99
Emergency Release	2.86*	0.98	0.40
Release Conditions Unknown	1.58*	1.16	1.41
Risk Category			
Low			
Moderate	2.12*	2.53*	2.59*
High	4.53*	5.39*	5.76*
Offense Type			
Violent			
Property	0.90	1.05	1.04
Drug	0.95	1.06	0.95
Public Order	1.15	1.09	1.10
Age	1.00	0.97*	0.96*
Race			
White			
Black	1.26*	1.16	1.48*
Other	0.75	0.95	0.94
Gender			
Male			
Female	0.97	0.97	0.83
Hispanic Origin			
No			
Yes	1.04	1.14	1.12
Constant	0.10*	0.17*	0.02*

TABLE 4.
FTA Rates by Days Detained Matched Cases

	0 Days		More than 0 Days		
Days	Number	Percent	Number	Percent	p
1	3814	16	3814	15	0.41
2	1374	19	1374	18	0.88
3	711	18	711	20	0.28
4	548	15	548	21	0.01
5	443	19	443	24	0.07
6	371	22	371	24	0.60
7	336	16	336	19	0.42
8	297	18	297	23	0.13
9	214	17	214	16	0.90
10+	2375	19	2375	21	0.09

group and are presented in two columns. The column labeled "0 days" contains the failure rates for each of the 10 matched samples of those released in 0 days. For illustration purposes consider the row labeled "1" under the "Days" column. This row indicates that we could match 3,814 defendants released on day 1 to 3,814 defendants released on day 0. The failure rate for those released on day 0 is 16 percent, whereas the failure rate for those released on day 1 is 15 percent. The row labeled "8" under the "Days" column indicates that there were 297 defendants released on day 8 that could be matched to 297 defendants released on day 0. The failure rate for those released on day 0 is 18 percent, whereas the failure rate for those released on day 8 is 23 percent. It should be noted that in only one instance does the difference in FTA rates reach statistical significance (those released on day 4 compared to the matched sample of those released on day 0).

Table 5 contains the arrest failure rates for each of the matched samples. Three of the ten samples generated differences that were significant and favored the group of defendants released on day 0. When compared to defendants released on days 1, 4, and 10 or more, the defendants released on day 0 had a significantly lower rate of arrest for any crime.

Finally, Table 6 contains the rates of arrest for a violent crime for the ten matched samples. In Table 6 only one difference is statistically significant. Defendants released on day 10 or more have a significantly higher arrest rate for a violent offense compared to the matched sample that was released on day 0.

Discussion

Using empirical evidence to inform, guide, and evaluate policy and practice is the hallmark of providing ethical and professional human service. Unfortunately, the accumulation of knowledge is often a painstakingly slow process that is seemingly never-ending. Areas of policy and practice for which little to no research evidence exists can become quite vulnerable in this regard. In an era of near-instantaneous communication and information sharing, the time required for a research project to go from inception to completion and publication must be trying (to say the least!) for those charged with creating evidence-based policy. In fact, several recent publications within the discipline of criminology/criminal justice have focused on this very issue. The need for informed policy and practice exists in real-time, while the world of

TABLE 5.
Arrest for Any New Crime Rates by Days Detained Matched Cases

	0 Days		More than 0 Days		
Days	Number	Percent	Number	Percent	p
1	3814	10	3814	12	0.01
2	1374	11	1374	13	0.18
3	711	12	711	15	0.10
4	548	10	548	15	0.01
5	443	12	443	16	0.10
6	371	13	371	15	0.46
7	336	13	336	15	0.43
8	294	14	294	17	0.31
9	214	9	214	9	1.00
10+	2375	11	2375	13	0.01

TABLE 6.
Arrest for New Violent Crime Rates by Days Detained Matched Cases

	0 Days		More than 0 Days		
Days	Number	Percent	Number	Percent	p
1	3814	1.02	3814	1.47	0.08
2	1374	1.09	1374	1.67	0.19
3	711	1.97	711	1.13	0.20
4	548	1.46	548	1.64	0.81
5	443	2.26	443	3.16	0.41
6	371	1.62	371	1.62	1.00
7	336	0.89	336	1.79	0.31
8	294	1.00	294	2.4	0.20
9	214	0.00	214	1.4	0.08
10+	2375	1.05	2375	1.81	0.03

empirical research often exists in a vacuum, devoid of "real world" demands.

Project HOPE serves as one example of this quandary. Although an initial study supports the efficacy of Project HOPE's punishment-based strategy for reducing recidivism, program demand has come to supersede calls for additional investigations seeking to replicate the program's initial findings in diverse settings across different client populations (Duriez, Cullen, & Manchak, 2014). So much so that a number of states have adopted HOPE-similar programs more on the basis of hype, branding, and marketing than on the basis of replicated and methodologically rigorous evidence attesting to validity. Another potential example of hastily informed policy surrounds pretrial research. While this is clearly an underdeveloped area of research (Bechtel et al., 2015), recent policy has emerged that relies primarily on the results of one study (Lowenkamp, VanNostrand, & Holsinger, 2013) to support its branded, trademarked, and widely marketed pretrial release policy proposal. We see this as problematic. Accordingly, this research sought to contribute to the existing pretrial literature by replicating the research of Lowenkamp, VanNostrand, and Holsinger using a large, diverse, and fairly representative sample drawn from the 75 largest U.S. counties.[4] Specifically, this study examined the effect of pretrial detention length on several measures of pretrial failure.

The analyses conducted here reveal a number of important findings, particularly as they compare to those of Lowenkamp, VanNostrand, and Holsinger (2013). First, bivariate analysis of failure rates by the number of days detained indicates that there is a sharp increase in both FTA and predisposition arrest (but not violent crime arrest) through the first six days in detention. After that however, the bivariate relationship seems to become random. This pattern corresponds with Lowenkamp et al.'s (2013) findings to some extent in that the first few days of detention seem to impact pretrial outcome (again, based on results from bivariate analysis). Results of this research support the immediacy of the impact that detention has on pretrial outcome, while the results of Lowenkamp et al. (2013) show that the deleterious effects of detention begin to surface after days two or three.

Multivariate analysis further investigating the relationship between detention and pretrial outcome lends credence to the skepticism discussed above. Once we controlled for a number of other variables that are potentially relevant toward the prediction of pretrial outcome, the bivariate and apparent relationships between number of days detained and each of the three outcomes are largely explained away. Given the fairly large sample used for these analyses, and given that sample size drives significance, the importance of this finding should not be overlooked. Analyses indicate that the insignificance of days detained is due, in large part, to the offender risk variable, which demonstrated significant and relatively strong relationships with all three outcome measures (FTA, any criminal arrest, and violent arrest). In this model, financial release, race, and age were also significantly related to some of the outcome measures (but not all three).

In addition to attempting a replication of the Lowenkamp et al. (2013) study, this research also employed a more rigorous analytical approach to exploring the relationship between pretrial detention and outcome through the use of matched samples. Because defendants serving 0 days of pretrial detention were matched to those serving a particular number of days (ranging from 1-10+) in pretrial detention on characteristics theoretically relevant to pretrial misconduct once released, each of the two groups of defendants were rendered essentially "equal." The rigor inherent in this type of analysis is powerful because any difference in defendant outcomes is then more likely to be attributable to the only other thing left to vary, namely time spent in pretrial detention.

Results from the matched samples analyses comparing defendants who served 0 days to defendants who served 1 through 10+ days in detention indicate that the effect of pretrial detention on outcomes disappears in almost every comparison. Although there were a handful of significant relationships evidenced in these matched analyses, recall that 30 different matched comparisons were conducted

[4] Note that the sample used in Lowenkamp, VanNostrand, & Holsinger was drawn from one state—Kentucky.

(10 for each of the three outcomes) and only 5 were significant at the $p < 0.05$ level of significance. While the sample sizes for the matched analyses are smaller than those in the multivariate tests, they are still large enough that meaningful differences would have attained statistical significance. We think that the relatively large sample size employed in these analyses explains at least some of the five significant relationships and conclude that predicting pretrial outcome is likely a very complicated issue that may or may not be affected by days spent in pretrial detention. Furthermore, we absolutely caution against creating, branding, and marketing any policy that is informed by just the Lowenkamp et al. (2013) study, or even that study and this one taken together. Clearly, the inconsistent and in some cases contradictory findings of this and the Lowenkamp et al. (2013) study make the obvious case against deriving policy from one or even a few studies, particularly those that have not undergone the peer review process and/or are lacking in methodological rigor.

There were several limitations present in this research. First, these data include only felony defendants, so the results presented cannot speak to any potential effects of pretrial detention on outcome for defendants with less serious charges. Second, these data were collected from the most populous counties in the U.S., rendering the applicability of these results to smaller and more rural counties questionable. Third, because we were interested in examining pretrial days in detention on pretrial outcome, we were forced to exclude a large number of defendants from our sample who were not released pretrial (and thus could not have experienced FTA or been arrested) as well as a large number of defendants for whom key data were missing. Although analyses comparing these two groups of felony defendants (those with complete versus missing data) did reveal some significant differences between the two groups, we contend that these differences are not substantive (refer back to Tables 1 & 2). Finally, the matching process used in this study was fairly restrictive and led to many cases being eliminated from the matched analysis, as a usable match was not identified. As such, future research attempting to replicate these findings might consider other methods of sample matching, such as propensity score matching, in which propensity score values can be used as matching and/or regression weights that will allow for the use of a greater percentage of cases.

In conclusion, this research represents the second study to examine the effect of days in pretrial detention on pretrial outcome, and the first attempt at fostering an organized skepticism about this topic. We feel this skepticism is especially justified given the policy implications derived from the first study by Lowenkamp et al. (2013). That study, using data solely from the state of Kentucky, found that longer stays in pretrial detention affected pretrial outcome. However, the data used in the present study (collected from a national sample) shows the effect only in bivariate models (save for one multivariate model). Furthermore, the effects of days in pretrial detention on pretrial outcome evidenced here appear to be few (a mere 5 significant effects out of 30 models) as well as inconsistent, especially once the results of the matched models are considered. Unfortunately, these findings fail to replicate the Lowenkamp et al. (2013) results and seem to indicate that this is very possibly a function of increased methodological rigor.

Undoubtedly, a balance must be struck between the need for replication, peer review, and disseminating information broadly, but reliably, to stakeholders, practitioners, researchers, and students alike. There has to be a consensus that both peer-reviewed journals and research reports that do not undergo a peer-reviewed process or have yet to be subjected to replication serve a valuable purpose. Primarily, we must seek to increase the knowledge of the consumer, but also clearly offer what the limitations are for the existing research and what next steps should occur before broad adoption and implementation of new practices and tools follow. The next steps for the current study will be to submit this evaluation for blind peer review. Although this process will certainly require additional time, we reserve the right to market and broadly share the results—perhaps with a 140-character tweet.

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A Case Study of the Implementation of Staff Training Aimed at Reducing Rearrest (STARR)

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THE IMPLEMENTATION of evidence-based practices (EBP) into community corrections has become one of the most important initiatives in the field. Although the early focus was on effective programs for offenders, more recent emphasis has been on the skills needed for probation officers to provide effective supervision. This shift was partially due to a meta-analysis indicating that community supervision, as currently practiced, had virtually no effect on recidivism rates (Bonta, Rugge, Scott, Bourgon, & Yessine, 2008). However, Bonta et al. also noted that many officers were not practicing the risk-need-responsivity (RNR) principles, which is crucial to impacting recidivism rates. Prior meta-analytic reviews of treatment programs (see Andrews & Bonta, 2010) have found that not following RNR principles actually results in an increase in recidivism, while preliminary studies of officers randomly assigned to training in RNR show those offenders supervised by officers who adhere to the RNR model had lower recidivism rates. Given the potential for substantial reductions if the principles are followed, a number of training programs have been developed, including the Strategic Training Initiative in Community Supervision (STICS), Effective Practices in Community Supervision (EPICS), and Staff Training Aimed at Reducing Rearrest (STARR). All of these programs aim to teach officers specific skills related to the risk-need-responsivity principles, with a particular emphasis on the use of cognitive-behavioral techniques. However, implementation research in a variety of settings has indicated that formal training alone is not effective in changing professional behavior, and research to date on the implementation of these programs shows similar results (Bonta et al., 2008). Research in other helping professions has noted the need for follow-up support to ensure that skills learned in training result in changes during actual practice (Miller, Yahne, Moyers, Martinez, & Pirritano, 2004; Walters, Matson, Baer, & Ziedonis, 2005).

There is a substantial body of literature on the effectiveness of correction interventions and practices (see McGuire, 2000; Taxman, Shepardson, & Byrne, 2005; White and Graham, 2010) and works that highlight specific *Principles of Correctional Interventions* (National Institute of Corrections, n.d.) as central to evidence-based practices with offenders (see also Crime and Justice Institute, 2009; Lowenkamp, Latessa, & Smith, 2006; Taxman et al., 2005). As noted by Rhine, Mawhorr, & Parks (2006), however, weak implementation can derail an otherwise effective program. The present study describes the strategy utilized by a federal probation district office in the implementation of the STARR training program. The purpose of this study is to highlight one district's efforts to protect program integrity, the challenges faced by those efforts, and the outcomes of those efforts. The hope is that this information will help other federal probation offices improve their own implementation of the STARR program, as well as other criminal justice agencies seeking to implement similar programs or practices.

Implementation Best Practices

Numerous factors contribute to the success or demise of program and policy implementation (see Fixsen, Naoom, Blase, Friedman, & Wallace, 2005, for a comprehensive review). It is well established that failure to implement a program as originally intended (aka treatment fidelity or program integrity) contributes to the ineffectiveness of many social programs. Research increasingly identifies principles and strategies to increase program integrity (e.g.,

Crime and Justice Institute, 2009; Taxman, Henderson, & Belenko, 2009). The present discussion highlights elements of successful implementation using the drivers/stages model from the National Implementation Research Network (NIRN), as described elsewhere (Alexander, 2011). These represent the core attributes used to assess the actual implementation of the STARR program in a federal probation district office.

According to the NIRN model of implementation, the three main drivers for successful implementation include Staff Competency, Organizational Supports, and Leadership. The staging of staff training must be carefully considered, based on existing competencies, willingness, and consideration of those who can "champion" the cause to their peers. Organizational supports include collecting data regarding how implementation is going, removing barriers to implementation, and ensuring that the system as a whole (i.e., judges, attorneys, etc.) is supportive of the implementation efforts. Finally, strong visible leadership, from middle managers to top leaders, is critical. Just being supportive is not enough to safeguard against deviations in the implementation process. Leaders must have the capacity to understand and appreciate the implementation process, as well as possess the leadership skills to navigate potential pitfalls and direct staff members towards success.

Monitoring the progress of the implementation is vital in order to properly assess the various dynamics that may hinder or bolster the success of the process. The mechanism or individual assigned to monitor must be cognizant of the changing states of the various components to the program. For example, a supervisor must be intimately familiar with the stages of implementation and how his staff is responding to the changes. The NIRN model also describes the stages of implementation organizations must go through to ensure effective implementation. They include Exploration, Installation, Initial Implementation, and Full Implementation. One of the first issues to acknowledge is the amount of time it will take to reach full implementation. Research consistently shows that implementation takes two to four years to complete (Fixsen et al., 2005). In the Exploration stage, management and staff must be given the time and opportunity to fully explore the potential change, talk through issues, and allow staff time to "get ready" for change. During the installation stage, the district should begin preparing for implementation, which includes planning training, anticipating policy changes, setting up measurement tools, and identifying the broader district issues that may need to be addressed. Finally, implementation begins. During the initial implementation, training starts and the expectation begins that officers will actually "do" something different. Full implementation is reached when 50 percent of staff meet performance criteria for a specific skill, and the program or practice has reached scale when 60 percent of the population who could benefit are actually receiving the service (Van Dyke, 2011, personal communication).

The next section will introduce the program under review and discuss the training mechanisms. Because this particular program has been described at length elsewhere (e.g., Lowenkamp, Alexander, & Robinson, 2014; Robinson et al., 2012), the focus will be to highlight the approaches used to facilitate the implementation of STARR in one federal probation district.

The STARR Program and Federal Community Supervision

Rooted in cognitive behavioral therapy, STARR is an evidence-based practice that shapes how federal community supervision officers interact with offenders (Robinson et al., 2012). More specifically, STARR teaches officers how to provide more effective supervision by better understanding offenders' risk factors and decision-making processes, and using that knowledge to enhance how and what they communicate with offenders. Through more constructive and informative interactions, offenders can learn how to make positive decisions and refrain from engaging in future criminal and dysfunctional activities (Hansen, 2008; Lowenkamp, Lowenkamp, & Robinson, 2010; Skeem & Manchuk, 2008). This approach is consistent with the risk-need-responsivity model of correctional interventions (see Andrews & Bonta, 2003; Andrews, Bonta, & Hoge, 1990). Briefly summarized, the principles of the model recommend that the level of services provided should be consistent with an offender's risk level, services should target the specific dynamic risk factors of a particular offender, and services should be delivered in a manner that most is effective for offenders. The service delivery model that is most commonly identified as broadly effective with offender populations is the use of cognitive-behavioral strategies (Andrews, 2006; Hansen, 2008; National Institute of Justice, n.d.; Taxman et al., 2005).

STARR emphasizes the development of several key supervision skills that are to be used during interactions with offenders, including role clarification, effective reinforcement and disapproval, problem-solving, and understanding and teaching the cognitive model. These are evidence-based strategies and practices noted in the literature on the effective supervision of involuntary clients. Many of these skills are built on the principles of cognitive-behavioral interventions and motivational interviewing (e.g., Bourgon, Gutierrez, & Ashton, 2011; Trotter, 2006).

According to the Administrative Office of the U.S. Courts, as of late 2015, 65 of the 94 federal districts were involved in some level of STARR training and use of the skills. To date, few studies have empirically evaluated the effectiveness of the program. Challenges to quantitative assessments include the maturity of the program, the lack of systematic data collection, and limited resources to conduct rigorous evaluations. However, early studies of STARR indicate that STARR is effective at reducing recidivism (Lowenkamp, Holsinger, Robinson, & Alexander, 2014; Robinson, Lowenkamp, Holsinger, VanBenschoten, Alexander, & Oleson, 2012; Robinson, VanBenschoten, Alexander, & Lowenkamp, 2011) and the reduction may persist over a more significant period of time (Lowenkamp, Holsinger, Robinson, & Alexander, 2014). These suggest that, if properly implemented, STARR can lead to more successful supervision outcomes and long-term desistance among offenders. Additionally, a recent meta-analsyis of training programs aimed at core correctional practices noted a 13 percent lower failure rate for those officers trained in CCPs versus those providing standard supervision (Chadwick, Dewolf, & Serin, 2015). Such results have garnered the attention of community corrections practitioners and researchers and prompted the expansion of STARR throughout the federal probation system.

While STARR is built around core correctional practices and evidence-based strategies, its effectiveness will be significantly impacted by the actual implementation of the program by district offices and individual officers. The following discussion highlights the implementation in one district and assesses this with reference to implementation processes noted previously. Information on the implementation of STARR was obtained by direct observation of STARR training and booster

sessions, conversations with officers and coaches in the district, a survey of district officers, and data provided by the district's chief probation officer (CPO).

Implementation of STARR

The rollout of STARR in the district reviewed actually began with general training for staff on the concepts of evidence-based practices. This step was considered crucial, in order to provide officers and supervisors with a baseline understanding of EBP and help them see "why" STARR was being implemented. Following this training, the CPO issued a request for volunteers to participate in the national training of STARR in Washington, D.C. in late 2010. Two officers volunteered and attended the training. Training of additional officers began in August of 2011 with another small group of volunteers. As the training progressed, the initial two officers, along with two additional officers, were selected to serve as trainers/coaches, based on their demonstrated skill and enthusiasm for the program, and completed additional STARR training. Although the training was initially voluntary, the chief probation officer informed staff that all officers would eventually be required to be trained in STARR, although a specific date for completion was not established. Starting with the third wave of training, specific satellite offices were selected for training based on an informal assessment of readiness and supervisory support. Additional offices were added based on the availability of coaches, with the goal that coaches would not have more than 3-4 new officers to coach at any given time.

The training used numerous types of learning techniques to educate officers about the purpose and goals of STARR and how to apply it across a variety of client interactions. The CPO or selected trainers (also referred to as "coaches") delivered an initial 1-2 day instruction in person in a conference room using PowerPoint presentations, a flipchart, blank cognitive model charts, and video and audio tapes. Training moved beyond mere information delivery, however, by incorporating mock client interactions and role play. Research notes that training which uses directed practice and active participation results in improved implementation by attendees (Crime & Justice Institute, 2009; Lowenkamp, Lowenkamp, & Robinson, 2010; Robinson et al., 2012; Taxman, Henderson, Young, & Farrell, 2012). Comments from the CPO and coaches indicate that the training design also enhanced the office environment by forging a sense of community and trust among the officers. Through role play and immediate feedback in the initial training, the officers became comfortable with asking questions to ensure their understanding of the skill and how to realistically use it. The feedback emphasized the positive aspects of the officer's first attempt at the skill, helping officers gain confidence. This development of initial confidence and comradery continued beyond the training session and seemingly strengthened the officers' commitment to using STARR.

Numerous booster sessions followed the initial training. Each booster focused on one specific previously learned STARR skill to improve understanding and comfort level using the skill when interacting with the client. The first booster occurred approximately one month after the training and boosters occurred approximately each month thereafter. Officers were required to continue monthly boosters until proficiency was reached, as measured by a proficiency rating scale. Once proficient, officers continued booster sessions on a quarterly basis. Officers were trained in waves, based on availability of coaches. To date, officers in the earliest wave have attended on average between 15 and 20 booster sessions, while those in the later waves have attended on average 5-15 sessions. Similar to the initial training, the booster sessions were reported as supportive and encouraged a team dynamic. Interactions between officers and trainers emphasized professional development and the goal of improving supervision strategies and outcomes. During these sessions, trainers reintroduced a particular skill and discussed any challenges/concerns officers had regarding that skill. Examples of recordings of client interactions were shared with the group as learning opportunities to provide feedback on the strengths and weaknesses of the interactions and the use of the skill. The team members were encouraged to provide additional feedback from their experiences and how they overcame various obstacles. Finally, officers would role play the skill in order to obtain immediate feedback. Trainers would then assess whether additional booster sessions and/or techniques were needed to address the skill. For each of the four main STARR skills (effective reinforcement, effective disapproval, teaching the cognitive model, applying the cognitive model), there were generally 3-5 booster sessions provided.

As part of the ongoing training, officers were required to submit audio recordings to their coaches to assess their progress with a particular skill; two tapes per month per officer were required until proficiency was reached, at which time the requirement decreased to two tapes per skill per quarter. The tapes were considered vital to the training because they allowed officers to compare how they thought a conversation had gone to how it actually occurred or how it might be perceived by others.[1] Officers were encouraged to submit all tapes, regardless of quality of the interaction, with an emphasis that they would learn the most from what they considered their "bad" tapes. Each tape was assessed using both coaching and proficiency forms tailored for each skill.[2] Common across the skills were questions regarding the appropriateness of using the skill for that interaction, the strengths of the interactions, and areas for improvement. Also captured was the coach's assessment of the clarity of the skill used, the comfort level of the officer, and how likely it was that the offender understood the officer's comments. Feedback in this manner allowed officers to self-evaluate and to receive constructive feedback from their trainer and peers in a manner that appears to have fostered officer improvement and consistency.

Possibly the most critical element of the training design was the reliance on coaches to conduct the booster sessions and provide feedback for the tapes (see Alexander et al., 2014; also Hertneck, 2013; Taxman et al., 2012). Each officer selected to serve as a coach received additional training specific to coaching and was mentored by an expert trainer. Successful implementation is difficult without strategic follow-up and continued training, which the booster sessions provided (Alexander, 2011; Alexander et al., 2014; Lowenkamp, Lowenkamp, & Robinson, 2010). To facilitate useful monitoring and feedback, coaches were encouraged to maintain a safe learning atmosphere and had to be

[1] There is little doubt that the use of tape recording interactions was initially cumbersome and raised concerns among some officers. However, the CPO was adamant that the recording of the interactions was critical to improving the quality of training and booster sessions as well as communicating to district officers the importance of STARR. Probation offices interested in improving the logistics of audio recording interactions and the data management of recordings, including obtaining offender approval, should contact the authors for more information.

[2] The evaluation form used to assess skill proficiency was developed and pretested through collaboration between the district office and a local university (see Holcomb et al., 2014). Copies of the evaluation form used by the district to assess skill proficiency can be obtained by contacting the authors.

competent in their own skill sets in order to assess the quality of others' efforts (Alexander et al., 2014).

Evidence of STARR Implementation

TABLE 1.
Table 1 notes the timeline for implementation of STARR in the district.

Initial training for first group of volunteers (N=2)	Nov. 2010
Training for second group of volunteers (N = 8)	Aug. 2011
Training for third group (N = 4)	June 2012
Training for final group (N = 7)	June 2013

The following section assesses the implementation of STARR based upon the criteria noted earlier. Discussion notes those aspects of implementation that appear to have been more successful and areas that could be improved and adapted by future training initiatives.

Drivers

As noted earlier, staff and participant support for organizational change is essential for program integrity. A variety of tools are available to assess staff support for organizational change and program integrity (e.g., Crime and Justice Institute, 2009; Institute of Behavioral Research, n.d; Lowenkamp, Lowenkamp, & Robinson, 2010). From the earliest introduction of the program, the vast majority of the officers volunteered for the training. Both the chief and deputy chief probation officer made concerted efforts to communicate the purpose, value, and likely impact of successful implementation of STARR to district staff. Once training was underway and the majority of officers had considerable STARR training, a survey was disseminated to assess the officers' readiness for change. The questionnaire was a modified version of the Organizational Readiness for Change (CJ-DATS 2 BSCO-CO) questionnaire developed by the Institute of Behavioral Research (n.d.). While it is preferable to assess staff readiness for change before implementation, this was not possible in the present circumstances. Nevertheless, survey responses are presented as a meaningful assessment of the district's organizational culture and officers' support for new organizational initiatives and practice, both critical elements for successful implementation of new programs (see Lehman, Greener, & Simpson, 2002; Courtney, Joe, Rowan-Szal, & Simpson, 2007).

The original version of the Organizational Readiness to Change survey had over 100 questions. For a more efficient instrument, questions that were determined not to be critical for the present purpose were eliminated. Furthermore, survey questions were modified to reflect *community* supervision, especially federal probation, rather than the institutional treatment focus of the original survey. Otherwise, the survey is substantively similar to the original version.[3] The survey was administered in an online format to the 12 officers (approximately half of the supervision officers in the district) who had completed substantial STARR training in the district[4] at the time of the survey. All officers completed the survey, for a 100 percent response rate. Discussion of survey results focuses on those questions most closely related to officer perceptions of the necessity, relevance, and value of changes to current officer practice and training intended to improve that practice. These results are presented in Table 2.

First, several questions asked respondents about their perceptions of the need for organizational or officer guidance *before* the implementation of STARR. In other words, did officers believe that there were problems or areas of improvement that STARR was intended to target? Responses to six questions indicate that officers believed that their district needed greater guidance to improve multiple aspects of offender supervision (Likert scale of 1=Disagree Strongly and 5=Agree Strongly; mean=3.77; min=2.5, max=4.5). The specific questions asked about increasing offender participation, improving rapport with offenders, improving offenders' thinking and problem-solving skills, improving behavioral management of offenders, improving cognitive focus of offenders, and identifying and using evidence-based practices. The individual items most concerning for officers were the latter two items (4.09 and 4.45 respectively). It is possible that the timing of the survey may complicate the interpretation of these results. After all, respondents had already undergone significant STARR training and were being asked to think back to organizational and officer practice before STARR training. Furthermore, the training could have influenced how officers remembered circumstances before STARR training. Suggesting that officers would have responded less strongly about the need for improved practice before STARR, however, means that the training increased officer awareness about the importance and need for such training.

A second area targeted in the survey was the perception of officers' own effectiveness and competency in performing their duties. In general, officers indicated that, on average, they were confident in their skill sets and their desire to improve. Seven questions[5] were used to create an index score for self-confidence (1=Disagree Strongly to 5=Agree Strongly; mean 3.94, range 3.14 to 4.86). Again, the timing of the survey may complicate specific interpretations of these results since officers had already been engaged in the training program. It is impossible to control for the impact of STARR training on officer perceptions of their confidence in these skills. If these results are interpreted as independent of training, then these officers had a fairly high degree of confidence in their professional skills before STARR. It is an equally plausible explanation that STARR training was partially responsible for the relatively high perceptions of professional competence. To assess willingness to seek self-improvement, five independent

[3] The version of the ORC survey that was used in the present study (9CJ-DATS 2 BSCO-CO) has recently been revised and is available as the TCU ORC D4 version at http://ibr.tcu.edu/wp-content/uploads/2014/01/ORC-D4-Rev-Aug09.pdf. The authors wish to thank Kevin Knight at IBR for his assistance with information and assistance in our revisions.

[4] One of the original purposes of the survey was to examine the relationship between responses on the survey and actual use of STARR skills. This would have provided additional information on the factors related to officer implementation of STARR. Unfortunately, personnel changes following the administration of the survey greatly minimized the value of the survey for such purposes. The results are presented as evidence of attitudes of officers trained in STARR towards organizational change and evidence-based practices, which can have a direct impact on successful implementation.

[5] Self-confidence measures included: 1) you feel you have the skills needed to get your offenders to discuss their progress with you; 2) other officers often ask your advice about district procedures; 3) learning and using new procedures is easy for you; 4) you are considered an experienced source of advice about supervision services; 5) you feel appreciated for the job you do at work; 6) you are effective and confident doing your job; and 7) you are able to adapt quickly when you have to make changes.

TABLE 2.

Survey Measures and Questions	Min/Max Range	Avgerage Hours Per Month
Need for Guidance Prior to Implementation (1=Strongly Disagree to 5=Strongly Agree)	**2.5/4.5**	**3.77**
Increasing participation by offenders in services	2/5	3
Improving rapport with offenders	2/5	3.45
Improving offenders' thinking and problem solving skills	2/5	3.82
Improving behavior management of offenders	2/5	3.82
Improving cognitive focus of offenders during sessions	2/5	4.09
Identifying and using evidence-based practices	3/5	4.45
Self Confidence (1 = Strongly Disagree to 5 = Strongly Agree)	**3.14/4.86**	**3.94**
You Have the skills needed to get offenders to discuss their progress with you	4/5	4.33
Other officers ask your advice about district procedures	1/5	3.58
Learning and using new procedures is easy for you	2/5	3.83
You are considered an experienced source about supervision services	2/5	3.67
You feel appreciated for the job you do at work	2/5	4
You are effective and confident doing your job	3/5	4.08
You are able to adapt quickly when you have to make changes	3/5	4.08
Self Improvement (1 = Strongly Disagree to 5 = Strongly Agree)	**3/4.8**	**3.67**
Regularly read professional articles and books on supervision	2/5	3.17
Review new techniques and case supervision information regularly	2/4	3.5
Willing to try new ideas even if some officers are reluctant	4/5	4.33
Frequently share knowledge of new offender supervision ideas with others	2/5	3.33
Do a good job of regularly updating and improving your skills	3/5	4.0
Supervisor Encouragement (1 = Strongly Disagree to 5 = Strongly Agree)	**2.67/5**	**4.11**
Encourages new ways of looking at how we do our jobs	3/5	4.08
Gives special recognition to others' work when it is very good	2/5	4.08
Emphasizes using new ideas, services, techniques etc. before most other districts	3/5	4.17
Resistance to EBP (1 = Strongly Disagree to 5 = Strongly Agree)	**NA**	**NA**
Research-based treatments/interventions are **not** useful practice	1/3	2.18
Would **not** use interventions/techniques in which you had to follow guidelines	1/3	2.18
Stress (1 = Strongly Disagree to 5 = Strongly Agree)	**NA**	**NA**
Officers at your district often show signs of high stress or strain	4/5	4.42
Officer frustration is common where you work	2/5	3.5
Officers are able to spend the time needed with offenders	1/5	2.75
Your district has enough supervision officers to meet current offender needs	1/5	1.92
More officers are needed to help meet needs at your district	2/5	4.42
Heavier workload reduces the effectiveness of your district	4/5	4.5

questions[6] were used due to different coding conventions. Of the five measures related to self-improvement, the lowest average response was 3.17 (regularly read professional articles and books), and the two highest were 4.0 (good job of regularly updating and improving skills) and 4.33 (willing to try new ideas).

Officers were also asked directly about their level of resistance to organizational change such as implementing evidence-based practices. Two measures were particularly informative for officer resistance. When asked the degree to which officers agreed with a) whether research-based treatments or interventions were not useful practice, and b) if they would not use interventions or techniques that had to follow instructions or guidelines (1=Strongly Disagree and 5 = Strongly Agree), the results showed that the officers reported considerable disagreement with both statements (mean = 2.18 for both).[7] This indicates that officers saw value in evidence-based practices and were receptive to incorporating this in their own practice. This minimizes the likelihood that their participation in STARR training was merely perfunctory. Coupled with the above findings, the officers in this district seemed ready, willing, and confident in their abilities to learn new approaches.

As noted previously, organizational support and commitment are essential for successful implementation (Alexander, 2011; Taxman, Henderson, & Belenko, 2009; Lehman et al., 2002; Paparozzi & Gendreau, 2005). One of the most critical aspects of organizational change is the role and attitude of a participant's direct supervisor. Several survey questions focused on the role of the supervisor in encouraging new approaches in effective practice and the officer's resistance towards evidence-based practices or following specific guidelines in general. Three measures were combined to create an index score for supervisor encouragement. The questions asked about the supervisor's willingness to consider new ideas and strategies, recognition of staff success, and the supervisor's willingness to consider new ideas and practices before other districts. Results presented in Table 2 indicate that officers generally agreed with each of these statements (overall average of 4.11). Thus, officers appear to view their supervisors as supportive of new practices and officer success, both critical to the implementation of evidence-based strategies and practices.

The final area of organizational culture that the survey was used to measure was officer perceptions of district resources and officer stress. Extreme responses to questions in these areas could suggest barriers to the implementation of new practices. Extreme shortages in personnel may result in overburdened officers who are unable or unwilling to dedicate the time to developing new skills or tactics. It is also possible that such environments can create the perceived need for more effective and efficient means of supervising offenders and, therefore, create an opportunity to legitimize organizational change. Research indicates that caseload size is not independently associated with the use of evidence-based practices, but that organizational culture and support are critical to that relationship (Jalbert et al., 2011). Officers at the present district did report relatively high levels of stress and workload.[8] All officers agreed or strongly agreed that officers showed signs of high stress and strain (mean=4.42), but were less certain that frustration is commonplace across officers (mean=3.50). One source of potential stress was that officers generally disagreed with the statement that they were able to spend the time needed with offenders (mean = 2.75). They also disagreed that the district had enough officers to meet current offender needs (mean = 1.92). Furthermore, officers agreed that more officers were needed to help meet needs (mean = 4.42) and that heavy officer workload reduces the effectiveness of the district (mean = 4.50). It is nearly universal that community corrections professionals believe caseloads are too high. Furthermore, community correctional agencies reportedly receive insufficient funding to perform their (frequently increasing) responsibilities. Results indicate that the present district is not especially unique in perceptions about the lack of resources to supervise offenders. The finding that officers believe there is insufficient time to work with offenders is especially relevant for STARR training, because one of the intended purposes of developing STARR skills is to help officers use their time interacting with offenders more effectively. Recent literature suggests that officers can affect positive change with as little as 20 minutes, if those interactions use core correctional practices and evidence-based strategies (Lowenkamp et al., 2104; Lowenkamp, Lowenkamp, & Robinson; Trotter, 2006).

Overall, the highlighted results from the survey demonstrated that the officers in this district were ready to change. They felt overworked and not able to spend adequate time with the offenders, but were receptive to new and innovative ideas, felt supported by their supervisor, were confident in their own skill sets, and for the purposes of staff buy-in, were open to learn new and better approaches. It is possible that because the survey was disseminated after the training was underway, some of these measures could have been influenced by the training and coaching, particularly with a sample of one district office; however, there appears to have been little meaningful resistance among those who had already been trained. Furthermore, the district office culture, especially as it relates to a supervisory role in implementing organizational change, appears to have been receptive to new training and officer strategies.

Sustaining Initial Implementation and Reaching Full Implementation

Successful implementation is a long road, generally taking 2-5 years to complete. It is well-documented that criminal justice reform is frequently short-lived and modified before any meaningful change can be expected to take place (Lab, 2004). To minimize such decay, research notes the importance of subsequent training to maintain and improve program integrity (Alexander, 2011; Taxman et al., 2012). Providing continual officer support was a central element of the implementation strategy for STARR. After the initial training, the first booster session was held approximately a month later. As noted previously, these sessions occurred approximately once a month and continue even at this time of publication, five years after initial training began. Such long-term commitment to an implementation

[6] Self-improvement measures include: 1) You regularly read professional articles and books on supervision of correction offenders, 2) you review new techniques and case supervision information regularly, 3) you are willing to try new ideas even if some officers are reluctant, 4) you frequently share your knowledge of new offender supervision ideas with others, and 5) you do a good job of regularly updating and improving your skills.

[7] Questions were asked in the negative to avoid the problem of agreement bias and repetitive format.

[8] It should be noted that the survey was administered in mid-November 2013. This was approximately four weeks after the conclusion of a two-week federal government shutdown, which may have contributed to higher level of staff stress. The survey was to be originally released in September 2013, but when a possible shutdown was being discussed in the news media, it was decided to postpone the administration of the survey. Researchers spoke with the district CPO before submitting the survey to ensure that office operations and the office environment had returned to normal. Nevertheless, it is impossible to determine what, if any, effect the proximity of the survey to the shutdown had on officer responses.

process is a cornerstone of ensuring that changes in practice become permanent. The sustainment of the use of STARR is evident in the percentage of contacts that include at least one STARR skill, as shown in Chart 1. Even with new officers being added each year, for which STARR skill use will be limited due to the newness of the skill, the yearly averages for skill use increased and now represent at least half of all contacts.

Feedback

Multiple mechanisms for feedback were incorporated in the STARR training, including both group and individual feedback by peers, coaches, and supervisors. Conversations with district officers indicated that this feedback led to officers feeling more confident in their skills and improved their proficiency. The coaches themselves were carefully selected by the CPO due to their leadership and performance skills. As noted earlier, each coach received specialized training in how to be an effective STARR coach. They were also mentored by an expert STARR trainer before and throughout officer training. Thus, the district provided opportunities for feedback to both officers and the coaches who worked with officers.

For the officers, the coaches provided constructive criticism and suggestions targeting several different areas. Built into the curriculum of the initial training and boosters were role play and critical assessments of audio recordings. In booster sessions, coaches gave immediate feedback, peers could ask questions and offer helpful suggestions, and officers were able to learn from feedback given not only to themselves but to their co-workers. Officers also submitted tapes of client interactions on a regular basis. The coaches used a standardized form to evaluate tapes, but also had the freedom to add their critiques or suggestions that were in addition to the items on the evaluation form.[9] Finally, coaches made a concerted effort to be available to the officer (by phone, email, or in person) on a regular basis, which helped to foster a strong teaching environment. Overall, the officers believed the coaching they received was invaluable (see Alexander et al., 2014).

Evaluation

The final component to assessing STARR implementation is an evaluation of officer skill competency and the frequency of their use of STARR strategies with offenders. Research notes the importance of having an evaluation plan in place before the start of the program implementation (Alexander, 2011; Crime & Justice Institute, 2009). As noted previously, full implementation is considered reached once 50 percent of staff meet performance criteria for a specific skill.

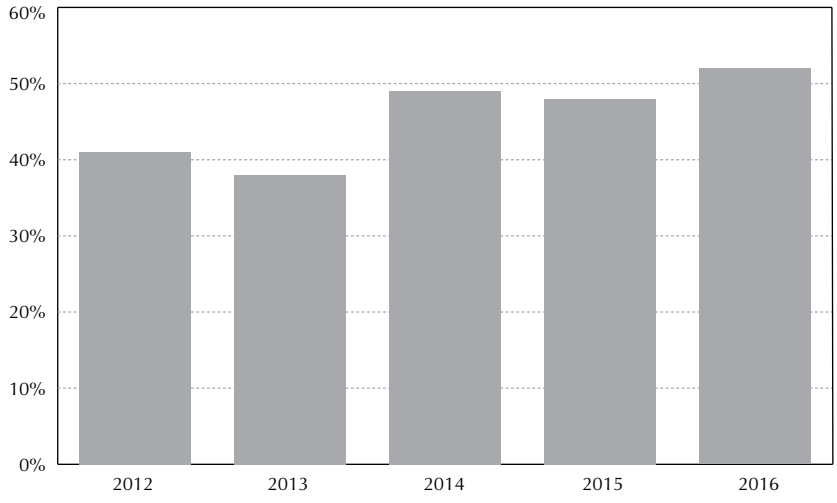
Similar to the design of the feedback component of STARR, measures of STARR skills were carefully crafted. The initial proficiency evaluation form was created by the district coaches and the CPO, who was one of the STARR developers. To improve the validity and reliability of the instrument, researchers at a regional university conducted an external review of the instrument (see Clodfelter, Alexander, Holcomb, Marcum, & Richards, 2014), and the instrument went through numerous revisions before being finalized. The initial group of officers trained were rated on proficiency by the researchers and students, who evaluated 2 audio tapes per skill per officer to determine if the officers were competent on the skill. For each skill, this totaled roughly 24 tapes that each of the approximately 20 coders analyzed. Detailed results were provided to the district CPO (see Holcomb, Marcum, Richards, Clodfelter, & Alexander, 2014), and these results were shared with coaches and officers to improve feedback and further training. Nearly all of the officers who underwent initial training were able to demonstrate a high level of proficiency with STARR skills in the first round of coding. Since the initial evaluation, the district has continued to use the proficiency rating scale for both the original officers and all officers trained in subsequent waves. Once deemed proficient, officers must demonstrate continued proficiency through submission of quarterly audiotapes; if they do not maintain proficiency, booster sessions are reinstated. To date, approximately 75 percent of officers have reached proficiency.

In addition to assessing the quality of interactions, the district tracks the frequency of skill usage in order to assess the scale of the intervention. Although no specific standards have been researched regarding what may constituent "sufficient" STARR skill intervention, the district has set a goal of 40-60 percent of all client interactions including a STARR skill. A monthly report of STARR skill use is distributed to coaches and supervisors, who then follow up with officers regarding their skill use. The district communicates specific expectations for skill usage during the training process. Newly trained officers have a low expectation (5 percent of interactions) to try to ensure that officers are motivated to attempt the newly learned skills, rather than be discouraged by an unattainable goal. As officers progress through training, the frequency of skill usage is increased. STARR skill usage is reviewed regularly by the CPO, coaches, and individual officers to increase the likelihood that officers are actually using STARR skills when appropriate. Data for the 2015 calendar year notes that, on average, officers trained in the STARR skills were using the skills in 46.8 percent of interactions, with a range of monthly use from 12 percent

[9] The evaluation instrument is available from the authors.

CHART 1.

Yearly Percentage of Contacts which Include Use of a STARR Skill



(generally at the beginning of officer training) to 92 percent for the most seasoned officer (one of the initial volunteers trained in 2011). Furthermore, STARR training appears to have become part of the organizational culture, as STARR skills are included as part of the hiring process and are part of the performance evaluation. All of these elements suggest that the use of STARR skills have become essential to successful supervision rather than a temporary program or tactic to be merely tolerated.

Recommendations and Conclusion

Although numerous aspects of the execution of STARR training were deemed successful, several areas of improvement were recognized by researchers and district staff. The first important challenge was estimating the increased workload on the coaches and how it would affect their ability to manage their numerous responsibilities. It was expected that the feedback and evaluation strategies would be comprehensive, but it was not anticipated how cumbersome it would be to balance their new STARR responsibilities with existing job requirements. We recommend that supervisors carefully select coaches with excellent time management skills and take steps to redistribute or modify coaches' non-STARR responsibilities to provide them with sufficient time to perform their critical function in implementing STARR.

It was also determined that, while the training and coaching of STARR skills were well defined and articulated, the *global skills* emphasized in training were more challenging. Global skills are consistent with core correctional practices and reflect attitudinal and relational characteristics of interactions such as empathy, collaboration, and autonomy, which have been found to be critical elements of successful interventions with involuntary clients (see Clark, 2005; Trotter, 2006; Walters, Clark, Gingerich, & Meltzer, 2007). These concepts are more abstract and difficult to define and, therefore, harder to provide feedback and evaluation. While the instrument revision process included measures on these global skills, coaches occasionally found it difficult to evaluate interactions on these measures. As a result, the district's STARR team has continued to refine the proficiency instruments for the global skills.

Rhine et al. (2006) argued that the failure of evidence-based practices to show effective change in corrections was not due to the lack of knowledge of behaviors and expected outcomes within particular frameworks, but rather caused by the inability to implement the programs or policies in a manner that would sustain change over time. In particular, they challenged that without proper training, monitoring, and supervision of program integrity, implementation of criminal justice reform is likely to fail. Thus, ensuring that a program is implemented as intended is a prerequisite to any further assessment of the program's effectiveness.

The purpose of the present study was to describe the implementation of STARR in one federal district and determine whether an outcome evaluation was warranted. After all, if officers were not adequately trained in STARR or using those skills in their actual supervision practice, then it would not be prudent to examine the relationship between STARR and offender outcomes. Navigating district officers through the implementation process was a key component of the implementation design of STARR in this district. In fact, the CPO and coaches consider it essential to officer support and participation, which enhanced program integrity and prevented decay since the officers were invested. While the team felt that some proficiency instruments needed further revision, the CPO, coaches, and research team went to great lengths to produce an assessment tool that would be useful for a wider audience of STARR trainers and supervisors.

Currently, all locations in the district are trained and appear to be actively using STARR. This level of engagement is in part due to the documented early success of STARR (see Robinson et al., 2012). But perhaps more importantly, the implementation of STARR was strongly supported by both the upper and middle management of the district. Often in bureaucratic agencies, ideas of best practices are informally implemented and difficult to sustain. In this context, supervisors may be resistant to improve officer practice consistent with existing evidence. It appears that the role and support of the CPO in this particular district garnered support and buy-in from the officers, which aided in the implementation process. STARR utilization is now included as part of the officer's annual review, further demonstrating how STARR has become an integral part of the culture in this district.

The remaining question is whether STARR is associated with improved offender outcomes. As noted previously, such an investigation was not warranted until it was determined that officers were sufficiently trained in STARR and were using it in their everyday supervision activities. The present study indicates that, at least in the district under review, STARR has been implemented sufficiently for future analysis. Now that a sufficient period of time has passed since the implementation of STARR, it is possible to conduct outcome analyses on a variety of offender outcomes. Such a study is currently underway. Researchers and probation administrators seeking to determine the impact of STARR or similar programs are encouraged to first determine if the program has been fully implemented in a manner consistent with its original design. Without such information, any evaluation will be of limited value. Hopefully, the present study provides insight into important questions and means of assessing implementation for community correctional agencies.

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Street-level Discretion and Organizational Effectiveness in Probation Services

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IN HIS 19th-CENTURY commentaries, Max Weber (1946) tried to make sense of a rapidly changing world. Weber (1946), a German political economist, observed the Industrial Revolution transforming what was once an agrarian landscape into a capitalistic society. The period was marked by unprecedented mass production and consumption of goods (Thompson, 1967). Weber (1946) also saw the Prussian army—comprising some disparate territories—come together as it had not before and quickly defeat the seemingly superior military force of Austria. Amidst these events, Weber (1946) perceived that a common feature of the industrialized factories and the newly unified Prussian army was organization, which he identified as a key to possible collective success. This supposition became the basis of Weber's (1946) theory of bureaucracy.

Weber (1946) argued that industrialized factories are rational systems (which he termed "bureaucracies") in which the organization itself serves as a means for achieving desired ends "within the limits imposed by given conditions and constraints" (Simon, 1964, p. 573). The formal structure of these organizations serves the attainment of goals (Scott & Davis, 2007). A chain of command is a main source of power among workers as their hierarchical position defines the amount of power they hold (Weber, 1946). Formalization (creation of and emphasis on written rules and structured procedures) legitimizes inequalities in hierarchical relationships and is a normative control mechanism because workers are more likely to comply with directives exercised by an individual holding a designated organizational position (Zucker, 1977). For Weber (1946), bureaucracies provide a clear roadmap to producing efficient, effective, and productive systems.

An inherent contradiction in Weber's (1946) theory is that top-down directives serve to achieve goals, but the attainment of these goals is contingent upon compliance from the bottom up (Etzioni, 1964). If, as Weber (1946) contests, the formal hierarchal structure is the preeminent source of power in an organization, how can workers at the bottom of the hierarchy have such control over the success of the organization? A major drawback of Weber's (1946) theory, according to critics, is its preoccupation with workers as an amalgamated group. The consideration of workers as individual actors reveals that low-level power exists because the bureaucratic structure affords these workers autonomy and considerable freedom in their daily activities, a reality known as discretion.

In this article, we will explore several aspects of this Weberian omission as they pertain to probation departments, given that these organizations exhibit high levels of bureaucratization. What is discretion? How is discretion exercised within probation departments? Why does discretion exist among probation officers? How does discretion affect organizational goal attainment? We will conclude by discussing how an understanding of discretion can inform policies and practices in probation departments and suggest ways to better inform this knowledge base.

What is Discretion?

A byproduct of the rational structure of bureaucracies is that it permits low-level workers to exercise a great deal of discretion. Hawkins (1992) characterizes discretion as the "means by which law […] is translated into action" (p. 11). Although workers exercise discretion at all levels of criminal justice organizations, it is most prevalent among frontline workers at the bottom of the organizational hierarchy, which Lipsky (1980) refers to as street-level bureaucrats. Lipsky (1980) refers to criminal justice line staff such as police and probation officers as street-level bureaucrats because they demonstrate a high degree of discretion and constantly interact with the public in the course of their duties. Street-level bureaucrats differ from low-level staff in most other professions because they have considerable power within the organization, their relationship with clients is non-voluntary, and the job encompasses a give and take of resources and referrals (Lipsky, 1980). Examples of street-level bureaucrats include teachers, probation officers, and social workers.

Discretion is an unavoidable aspect of the street-level bureaucrat's role. Organizations increase formalization to control the behavior of subordinates, but the unpredictable environment these workers face requires them to interpret and translate formal policies into practices that can be carried out (Hawkins, 1992). That is, because they do not receive specific instruction about how to implement policies, they have to make decisions about how and when to apply them. Lipsky (1980) explains why a high degree of discretion

exists among street-level bureaucrats: (1) The circumstances they encounter daily are too idiosyncratic to apply standardized guidelines; (2) They must constantly respond to the human element of situations, which is sporadic and ever-changing; and (3) Street-level bureaucrats are public servants, and discretion is imperative to the legitimacy of the state. As such, the rules and guidelines bureaucracies establish are ill-suited to the uncertain, vague, or changing situations that street-level bureaucrats encounter daily (Hawkins, 1992).

Discretion in Probation

On a practical level, discretion is essential to street-level bureaucrats because of resource, information, and time constraints. For instance, it is impractical for probation officers to cite clients for all violations incurred (Lipsky, 1980). Filing violations for every failed drug test or missed visit takes up too much time, though these are technically legitimate reasons to revoke probation. In recent decades, many correctional agencies have developed graduated sanction systems that prescribe escalating responses to certain violations. For instance, a positive drug test may result in additional drug treatment meetings or missed visits may lead to an extension of the probation term, but there is no violation incurred unless the behavior becomes repetitive (Wodahl, Ogle, Kadleck, & Gerow, 2013).

Systems like risk assessment instruments and sanctioning grids (both of which prescribe responses for probation officers) can be controversial among line staff (Makarios, McCafferty, Steiner, & Travis, 2012; Turner, Braithwaite, Kearney, Murphy, & Haerle, 2012) because of the limits they place on officers' discretion. Conflict need not break out, though, if managers can communicate the usefulness of these discretion-limiting tools and promote staff "buy-in." In most cases, these tools are not implemented due to a desire to take away decision-making from officers, but rather to standardize behavior, make responses consistent across probation offices, and improve efficiency (Makarios et al., 2012; Steiner, Travis, & Makarios, 2011; Turner et al., 2012). Such standardization is important because it allows agencies to deliver unified responses to violations and may limit potential complaints about discrimination against clients. Recommendations for implementation of these standardization tools will be discussed later.

The Limitations of Discretion in Probation Services

Weber (1946) discusses the attainment of goals at the organizational level; however, the existence of discretion within a bureaucracy means that individuals also directly affect goal attainment. Even though Weber (1946) theorizes that the organization itself serves goal attainment, the discretion individual workers exercise may also serve as a means to this end. First, discretion allows for the consideration of idiosyncrasies that help actors select an outcome that is appropriate given the unique circumstances (Feldman, 1992). For instance, a probation officer may treat an offender who has intellectual and developmental disabilities differently than an offender without cognitive limitations when determining whether to file a violation (Hutchison, Hummer, & Wooditch, 2013). In this situation, the differential treatment that arises from discretion is arguably more equitable than the universal application of rules that characterize Weberian (1946) bureaucracies. Second, discretion may yield more favorable offender outcomes. For instance, correctional programming has shifted from a one-size-fits-all approach to one based around tailoring treatment to an individual's needs and prior experiences. Studies support the notion that this individualized, discretionary approach to treatment is more effective than a formalized, blanket approach to treatment (Andrews & Bonta, 2010).

Although there are some benefits to discretion, empirical research in this area identifies a number of limitations that lead to ineffective and unjust outcomes. Street-level bureaucrats operate within organizations that Weber describes as rational because they coordinate actions in a way that efficiently leads to predetermined goals. However, irrational workers operate within this supposedly rational system.

Mounting empirical research suggests that a wholly rational decision-maker is impossible (March & Simon, 1958; Simon, 1955). Situations are far too complex and uncertain for actors to be rational in their decision-making. Simon (1964) argues that the information the actor has available, cognitive limitations, and the amount of time available for making the decision serve to "bound" or limit rationality. In essence, actors lack the ability to truly optimize their decision-making. For instance, a probation officer may decide not to revoke an individual's probation due to a minor violation of the rules or conditions of his or her supervision because she thinks another option—even just talking with the probationer—may resolve the situation. This use of imperfect options to make a satisfactory decision is known as "satisficing" (Simon, 1955). Because the officer is unable to consider every possible option she has available and does not have the capacity to foresee the consequences of her decision with accuracy, she will choose one of many options, even though no option may be the best solution. Workers also make trade-offs and allow ethical concerns to inform their actions, which may be detrimental to the success of the organization (Loewenstein, 1996). For example, an administrator facing budget cuts may opt to discontinue effective rehabilitative programming (Mair & Burke, 2013), and weighing on this decision may be her reluctance to lay off employees whom she has befriended.

Despite the thoughtful structuring of organizations to maximize efficiency, bureaucracies remain cooperative systems in the sense that they depend on the willingness of workers to achieve desired outputs (Barnard, 1938). Thus, the autonomy of street-level bureaucrats affords them the ability to resist actions that lead to specified organizational goals. A number of reasons may account for this opposition.

First, organizational goals may conflict with the workers' personal views or values. Scholars increasingly advocate for evidence-based policy, which is the process of implementing research-backed policies that we know will successfully reduce crime (Sherman, 1998); however, some practitioners resist organizational changes to this end (McCarty et al., 2007). A study conducted by Miller and Maloney (2013), for instance, finds that agencies adopt risk-need assessments (an evidence-based approach) to ensure that probation officers provide clients with appropriate services; however, officers frequently ignore the results of such assessments and even manipulate the treatment recommendations to correspond with their own treatment decisions (see also Viglione, Rudes, & Taxman, 2015). Weber (1946) suggests that bureaucracies serve the pursuit of organizational goals, but he neglects the fact that individuals select organizational goals. As such, specific organizational goals may favor some individuals over others (Scott & Davis, 2007). This is problematic, because a worker's values influence his or her actions. A nationally representative survey of wardens, probation/parole administrators, and other

justice administrators finds, for instance, that the value administrators place on rehabilitation for drug offenders predicts the extent to which their agencies implement substance abuse treatment programming (Henderson & Taxman, 2009).

Second, the means of reaching organizational goals may conflict with the worker's role expectations. Over the past few decades, for example, the correctional system has experienced a slow transition from a punitive agenda to one placing more emphasis on rehabilitation (Cullen & Gendreau, 2000; Gendreau, 1996). Such a paradigm shift requires that probation officers also shift their roles (the behaviors the organization expects of the individual) and become similarly more rehabilitative and less punitive, a change they may not embrace (Rizzo, House, & Lirtzman, 1970). For instance, in the wake of statewide policy changes that limited the use of incarceration as a response to technical violations, parole officers in California developed resistance tactics (such as piling charges to make a client's behavior appear more egregious) in order to circumvent this initiative (Rudes, 2012).

Third, a threat to bureaucratic control that Weber (1946) misses in his systems-level hyper-focus is that a street-level bureaucrat may elect to disregard directives because he or she no longer perceives the bureaucracy as the dominant authority. For instance, a "shadow structure" may operate behind the organizational structure. Shadow structures refer to the informal side of organizations, including unspoken rules and social networks that may work to circumvent formal procedures (Kanter, 1977). Viglione and colleagues (2015), for instance, examined the implementation of validated risk and needs assessment tools among probation officers in two adult probation settings. They found that while the use of assessment tools was widespread, *how* probation officers used the instruments misaligned with agency policy and the underlying principles of the assessment. Despite formal training on the tool, probation officers did not use the tool to guide their supervision or case management decisions and even manually adjusted risk scores based on their own judgment. This practice is problematic given that research finds that (1) probation officers overwhelmingly over-classify offenders based on perceived risk (Oleson, VanBenschoten, Robinson, Lowenkamp, & Holsinger, 2012), (2) recommendations from risk and needs instruments have been found to be superior to gut-level decision-making (Andrews & Bonta, 2010), and (3) such manipulation introduces inconsistences across decision-making that arise from extralegal factors such as the probation officer's age and the offender's prior offenses (Reese, Curtis, & Whitworth, 1988). These examples demonstrate how social realities influence power structures within bureaucracies, rather than deriving power dynamics from the worker's position in the formal hierarchy, as Weber (1946) contests should be the case.

Organizational Practices to Maximize the Benefits of Discretion

The extensive empirical research above suggests that (1) the total abolition of discretion is impossible and (2) unrestrained discretion among probation officers warrants concern. These two realizations debunk the theoretical and practical usefulness of Weber's (1946) concept of organizational rationality. However, prior research also provides knowledge that can translate into effectiveness and efficiency by controlling and shaping how street-level bureaucrats exercise discretion. The following discussion outlines ways to overcome the shortcomings of discretion through policies and practices of the organization.

Probation departments can successfully manage discretion by increasing formalization—creating and emphasizing written rules and structured procedures (Scott & Davis, 2007). The addition of policies and regulations clarifies the role expectations and "make[s] it clear that some behaviors are absolutely inappropriate for criminal justice actors no matter what the justification" (King & Dunn, 2004, p. 351). Prior studies argue that formalization, such as imposing sentencing guidelines (Albonetti, 1997; Norman & Wadman, 2000), provides probation officers with guidance in their decision-making, in turn limiting unwarranted disparities in case management (see also Hagan, 1979; Pruitt & Wilson, 1983).

The benefit of increasing formalization is that without such direction, street-level bureaucrats may rely upon informal organizational norms that lead to inequity or injustice. One way to increase formalization within an organization is through education about key terms and practices that workers encounter daily. James Bonta and colleagues studied whether probation officers have the appropriate interpersonal skills, role modeling, and communication skills to work effectively with offenders in an evidence-based assessment model of risk, needs, and responsivity. The general findings from their studies are that probation officers do not have these skills, but when officers do possess these skills, they do not use them in the context of offender supervision (Bonta et al., 2011). Officer skills are important because the probation process relies upon officers creating an environment in which offenders can change. More recently, attention has been given to enhancing the training of officers through curriculums that focus on structuring sessions, building relationships, and using behavioral techniques, cognitive techniques, and effective correctional skills (Bonta et al., 2011; Oleson, VanBenschoten, Robinson, Lowenkamp, & Holsinger, 2011). The premise is that in order for officers to use evidence-based practices, their workflow needs to be adapted to the principles of their work environment, including attention to intake and assessment, monitoring compliance, monitoring treatment compliance, and reinforcing cognitive restructuring (Taxman, 2014). Providing training and education to officers decreases discretion within agencies because officers can use a common language and an established set of skills.

Administrative policies may also be effective at changing the overall organizational culture and departmental norms, such as regarding the proper implementation of assessment instruments (Kunda, 2006). For instance, agencies could devise policies that require risk and needs assessments, inform case management plans, or prohibit the probation officer from using the override option to manually set risk levels without approval from supervisors. The benefit of increasing bureaucratization, however, may vary by the size of the probation department. Research suggests that the behavior of actors in larger departments is more loosely-coupled (Mastrofski, Ritti, & Hoffmaster, 1987), referring to a weak connection between the formal organizational structure and the behavior of workers.

Poor communication within organizations greatly impedes the cooperation of employees (Chen & Komortia, 1994; Dawes, McTavish, & Shaklee, 1977). The solicitation of advice from low-level workers increases their compliance with directives because workers feel heard. It is important for probation departments to open communication lines to inform staff of new practices or policies. Skogan (2008) argues, for instance, that when officers first hear about new initiatives at City Hall press conferences, they feel that the department values the input of the community more than it

does that of its own personnel. Organizational leaders within the department can play an important role in the communication process by starting conversations with staff about implementing new and existing practices. Just allowing street-level workers to express their concerns about new policies and practices can go a long way toward increasing employee "buy-in" (Farrell, Young, & Taxman, 2011; Rudes, 2012; Rudes, Viglione, & Porter, 2013; Schlager, 2009). Middle managers are the key to this process because they serve as the link between high-level administrators and street-level workers (Rudes, 2012). Communication from management may also effectively control street-level workers informally by offering encouragement or promoting adoption of practices (Marquart, 1986).

Sensemaking is another important aspect determining whether employees comply with discretion-limiting directives. Sensemaking is the process of extracting cues or making sense out of circumstances, which guides everyday actions (Weick, 1995). An organization's communication system can help workers make sense of directives because the meaning workers attach to an intervention strongly predicts whether they will implement it (Greenhalgh et al., 2004). For example, probation officers have been found to be resistant to basing case management decisions on the findings of risk and need assessment tools (Viglione et al., 2015). A sensemaking approach advises that probation officers will more readily implement and abide by recommendations of assessment tools if the agency expresses that the foremost intention is to produce fair and consistent outcomes among clients. Such a message combats the perception that an officer's discretion is being constrained by the department due to a lack of trust or disregard for their vast experience (Klein & Knight, 2005).

Directions for Future Research on Discretion in Probation Services

There is good reason to further our understanding of discretion as it operates within bureaucracies in general and probation departments in particular. To better establish policies and procedures that minimize the shortcomings while at the same time preserving the benefits of discretion, there are several recommendations for future research. Mastrofski (2004) outlines four problem areas of discretion research: weak research designs, insufficient generalizability, underdeveloped theory, and inattention to aspects of discretion that have important implications for policy and practice.

A main critique of extant discretion research pertains to methodology. For instance, Mastrofski (2004) notes that even though studies demonstrate that college-educated officers perform better than those without a college education, research is "unable to distinguish the contributions of the actual educational experience in college from the selection effects of getting into college and completing it" (p. 594). Although randomized experiments are impractical in this instance, researchers need to (and can) develop studies that allow them to make stronger causal inferences. Further, researchers must pursue these ends in a variety of criminal justice arenas and settings: Studies on discretion in a large probation department in the United States may not be generalizable to a small probation department in Central Europe, for instance. Additionally, research on discretion among prison workers may not be generalizable to community corrections officers because they are situated within different bureaucracies with different organizational structures and goals (as defined by Weber, 1946).

Finally, research on discretion is only as useful as its ability to inform the policies and practices of probation departments. Empirical research predominately focuses on select aspects of discretion (e.g., sanction decisions, use of force), with insufficient attention devoted to numerous other aspects that could inform a wider breadth of worker behavior (e.g., critical thinking, deescalating dangerous situations). For example, finding effective responses to violations of probation and parole is important for several reasons. First, Bureau of Justice Statistics data show that more than a third of the new admissions to state prisons in the United States consist of parole (primarily) and probation violators (Janetta & Burrell, 2014). Research has shown that many of these violators can be safely managed in the community at a much lower cost than that of housing them in jails and prisons. Still, countless probation and parole violations are filed as preventative measures, and thousands of offenders are incarcerated. There is no reliable evidence to support this use of violations, and recent research from Washington State found no reduction in new criminal activity from confining technical violators (Drake & Aos, 2012). Janetta and Burrell (2014) suggest that there is both a political and research challenge facing parole and probation practices. The political challenge is to provide a robust set of universal options for responding to violations beyond doing nothing or returning to custody. The research challenge is to illuminate the relationship between the criminal behaviors officers want to prevent and the use of technical violations. In other words, we must ask what behaviors technical violations are effective in preventing and compare the answer to our goals.

One way to minimize discretion in parole and probation is to introduce tools to guide officers in their decision-making at different steps of the probation process. For example, a risk and needs tool guided by probationer-level information can reduce discretion by introducing guidelines based on assessment results. Research finds that assessment results are not regularly integrated into case management and supervisory decisions (Viglione et al., 2015). Such neglect of information from these instruments is embedded in organizational factors beyond the control of individuals. The same study identified the need to better define how to use assessment information in probation practice. With considerable research supporting the usefulness of assessments for improving decision-making consistency and accuracy and appropriate supervision strategies (Haas & DeTardo-Bora, 2009; Luong & Wormith, 2011; Makarios & Latessa, 2013; Miller & Maloney, 2013; Oleson et al., 2011, 2012), there is greater need for future research on how the use of assessment tools can affect supervision discretion. Once researchers address these broader analytical concerns, they will facilitate the theoretical development of discretion and identify ways to encourage appropriate behavior more effectively through policies, practices, and structures.

Conclusion

Probation departments are constantly in search of ways to rein in the discretion of their officers. Researchers have an obligation not only to study discretion of low-level workers, but also to shed light on how to control it judiciously. After all, discretion of public servants is a necessary component of democracies (Berkley, 1970), insofar as rules sufficiently govern the behavior of actors (Hawkins, 1992). Thus, developments in how street-level workers exercise discretion must encourage behavior that produces fair outcomes while at the same time being free from tyrannical control.

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Extralegal Factors and the Imposition of Lifetime Supervised Release for Child Pornography Offenders

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A LARGE BODY of federal sentencing research has examined the effects of legal and extralegal factors on sentencing outcomes (Albonetti, 1997; Doerner & Demuth, 2010; Mustard, 2001). This literature focuses on sentence length and/or the decision to incarcerate as the dependent variable. Surprisingly, researchers have ignored a second and equally important outcome of the federal sentence—the supervised release term. Supervised release is a period of post-conviction community supervision that is imposed at the time of sentencing.[1] Not to be confused with parole, supervised release adds a period of supervision to be served upon completion of the sentence of imprisonment. Parole on the other hand, is a period of supervision carved out from the length of the original sentence.[2]

Once a sentencing court determines that a term of supervised release is authorized or required, the court must then decide the length of the term. The maximum authorized supervised release term for Class A or B felonies is five years, three years for Class C and D felonies, and one year for Class E felonies or misdemeanors.[3] Interestingly, the supervised release term for child pornography offenses is not guided by the class of the felony. Instead, the length of the term is guided by 18 U.S.C 3583(k).[4] Under the statute, the length of the supervised release term for child pornography offenders is a minimum of five years to life.

In determining where within the five years to life range to impose supervised release for child pornography offenders, the court is to consider statutory sentencing factors which include the nature and circumstances of the offense and history and characteristics of the offender; deterrence; public protection; and needed educational/vocational training, medical care, or other correctional treatment of the offender.[5] However, Congress declared harsher penalties for all child pornography offenders with specific directives to the U.S. Sentencing Commission (USSC) to include policy statements in the sentencing guidelines regarding the imposition of supervised release. According to the policy statement, if the offense of conviction is a sex offense including child pornography offenses, the statutory maximum term of supervised release, which is a life term, is recommended.[6] Under the Federal Sentencing Guidelines, such policy statements are to be considered by the sentencing judge (Shockley, 2010).

If the policy statement in the guidelines recommending the maximum supervised release term for all child pornography offenses is followed directly, one would expect that the exact same sentence of lifetime supervised release would be meted out across all child pornography cases. However, only approximately 38 percent of child pornography offenders convicted in federal court in fiscal year 2010 received a life term of supervised release (USSC Sourcebook, 2010). Such data suggests two things: (1) a disconnect between Congressional will and the will of the sentencing court, and (2) the possibility of unwarranted supervised release sentencing disparities for child pornography offenders. An unwarranted sentencing disparity refers to unequal sentencing resulting from unfair, unjustifiable, or unexplained causes rather than a legitimate use of judicial discretion (Rigsby, 2010).

The length of the supervised release term imposed by the court is of particular importance for child pornography offenders subject to the enhanced supervised release provisions because the statute also provides for the revocation of supervised release resulting in the incarceration of the defendant for the

[1] A sentencing court is authorized and, in some cases, statutorily required to impose a term of supervised release in addition to a term of imprisonment (see general supervised release statute under 18 U.S.C 3583 in Federal Criminal Code and Rules).

[2] The Sentencing Reform Act of 1984 abolished parole for federal offenders who committed their offenses on or after November 1, 1987.

[3] A Class A felony carries a maximum imprisonment term of life or death. A Class B felony carries a maximum imprisonment term of twenty-five years or more. A Class C felony is less than twenty-five years imprisonment but more than ten years. A Class D felony is less than ten years imprisonment but more than five. A Class E felony is less than five years imprisonment but more than one year.

[4] For all child pornography offenses, the general supervised release statute (18 U.S.C 3583) is trumped by 18 U.S.C 3583(k) which authorizes the term and length of the supervised release.

[5] See 18 U.S.C. 3553(a) in Federal Criminal Code and Rules.

[6] See Section 5D1.2(b)(2) of the USSC Federal Sentencing Guidelines Manual 2012.

remainder of the period.[7] For example, if a defendant who is required to register under the Sex Offender Registration and Notification Act (SORNA) engages in any conduct constituting a new sex offense, including child pornography while on supervised release, the court shall revoke the term of supervised release and require the defendant to serve a term of imprisonment. Under this same example, child pornography offenders serving lifetime supervised release, if revoked, would face life imprisonment. In addition to having the threat of life imprisonment if revoked, child pornography offenders sentenced to lifetime supervised release will never be discharged from supervision.[8]

In this study I seek to explore whether the imposition of a life term, which represents the most severe term of supervised release, is guided solely by legal factors or whether extralegal characteristics also influence a judicial officer's decision to impose a life term of supervised release for child pornography offenders. What is currently known about the relationship between extralegal factors and sentencing outcomes generally is that minorities, men, younger individuals, and those with less education have a higher probability of incarceration and receive longer prison sentences in federal court than do whites, women, older individuals, and those with more education (Albonetti, 1997; Everett & Wojtkiewicz, 2002). Additionally, such variables have been shown to interact with one another and with legally relevant factors (Doerner & Demuth, 2010). It is unknown how these factors affect supervised release sentences for child pornography offenders.

A study of this type has multiple implications. If courts deviate from the lifetime supervised release sentence recommended by the guidelines, courts may create sentencing disparities generating doubts about fairness and uniformity of sentences. Second, this study adds to the extant sentencing literature by examining supervised release sentences. The lack of attention to this outcome is a surprising omission in federal sentencing research. Accordingly, this research is presented as an exploratory and preliminary examination of the subject matter. Third, given the relative newness of federal child pornography adjudications, the extant sentencing literature is lacking in studies examining outcomes of child pornography offenders. Accordingly, this research provides preliminary insight into sentencing outcomes, particularly supervised release outcomes for this category of offenders. Finally, Congress has set a punitive course for child pornography offenders both statutorily with the supervised release range, and more importantly with policy directives in the guidelines for lifetime supervised release. This research should be a resource to inform Congress of which legal and extralegal factors affect whether lifetime supervised release is imposed for child pornography offenders.

In the sections that follow, I discuss the current sentencing structure of the federal courts including the specialized sentencing structure for child pornography offenses and judicial dissonance in sentencing child pornography offenders. I also review a theoretical explanation for sentencing disparities and provide a brief review of the empirical literature assessing extralegal factors that influence sentencing outcomes.

Sentencing Structure of the Federal Courts

The Sentencing Reform Act of 1984 (SRA)

Prior to 1984, federal judges possessed unfettered sentencing discretion as long as they imposed sentences within the statute. The problem with indeterminate sentences was that defendants with similar criminal backgrounds often received different sentences. As a means of limiting disparities in sentencing, Congress passed the SRA, which established a statutory framework for federal sentences (Kimball, 2011; USSC Federal Sentencing Guidelines Manual, 2012). Specifically, the SRA established the USSC to create, develop, and monitor guidelines. Judges had to use the guidelines to calculate the mandatory guideline range, which was developed on the seriousness of the offense, the particular crime, and the defendant's criminal history (Kimball, 2011). Although the guidelines were mandatory, a judge could depart from the guidelines if and only if a particular case presented atypical features. The guidelines were intended to base judicial sentencing entirely on legally relevant factors such as the seriousness of the offense and prior criminal history.

United States v. Booker (2005)

After twenty years in effect, the constitutionality of the federal sentencing guidelines was successfully challenged in 2005 with the landmark *United States v. Booker* case. The Supreme Court held that the federal guidelines violated a defendant's Sixth Amendment right to a jury trial if the trial judge imposed an enhanced sentence beyond what is authorized by a jury verdict (USSC Federal Sentencing Guidelines Manual, 2012). The Supreme Court excised the mandatory nature of the guidelines, rendering them advisory. The Supreme Court reasoned that an advisory guideline system, while lacking the mandatory features that Congress enacted, retains other features that help to further congressional objectives including promoting certainty and fairness in sentencing, avoiding unwarranted sentencing disparities, and maintaining flexibility to permit individualized sentences when warranted (USSC Federal Sentencing Guidelines Manual, 2012). Excising the mandatory nature of the sentencing guidelines restored discretion to federal judges.

Currently, the sentencing guidelines function with judicial discretion in a stepwise manner for individual sentences (Hamilton, 2011). First, the sentencing court must calculate the guideline sentencing range. Second, the court determines if any departures are applicable. A departure is an adjustment from the final sentencing guideline range calculated by examining departure policy statements in the guidelines (USSC Federal Sentencing Guidelines Manual, 2012). Next, in determining a final sentence, the court reviews certain statutory sentencing factors that Congress established as general tenets for the reasonableness of an individual sentence (Rigsby, 2010). These factors found in 18 U.S.C 3553(a) include the nature of the offense, individual defendant characteristics (e.g., age, education, vocational skills, mental/emotional condition, physical condition, family ties and responsibilities, and community ties), deterrence, public safety, the advisory guideline range, and avoiding disparities between like offenders. The court must consider all the factors in 18 U.S.C. 3553(a), including whether a variance, a sentence outside the advisory guidelines, is warranted.

The Booker *Decision and the Imposition of Supervised Release*

Not only do the federal sentencing guidelines provide direction for judges in determining the sentence of imprisonment, the guidelines

[7] See 18 U.S.C 3583(e)(3) authorizing the incarceration of a defendant that violates the terms of supervised release.

[8] Supervision includes at least twice-monthly meetings with the probation officer either in the home, probation office, or community. The offender must also adhere to the standard conditions of supervised release (e.g., committing no new crimes) as well as special sex offender conditions including but not limited to polygraph testing, sex offender treatment, sex offender registry, no contact with children under the age of 18, restricted use of a computer/Internet, and search.

provide guidance (though minimally) for determining the sentence of supervised release. Although the issue at hand in the *Booker* decision was the sentence of imprisonment, and although the Supreme Court was silent specifically on the sentence of supervised release, the rendering of the guidelines as advisory in effect rendered the section of the guidelines (see Chapter 5, Part D in USSC Sentencing Guidelines Manual, 2012) that addresses the imposition of supervised release advisory as well.[9]

Sentencing Structure for Child Pornography Offenses

In the past 15 years, federal child pornography statutes have expanded and the statutory minimum and maximum allowable sentences of imprisonment and supervised release terms have escalated (Hamilton, 2011).[10] In justifying their punitive legislation, Congress has said that intrastate distribution, receipt, and possession of child pornography fuel the interstate market and are harmful to the children depicted and society as a whole (Krohel, 2011). As a means of deterring offenders, eliminating the market, and ending the continual abuse of children, Congress has said harsh punishment for all child pornography offenders is warranted (Hamilton, 2011).

Some researchers argue that the increasing punitive stance by Congress toward child pornography offenders is the result of moral panic and a political culture of fear of the sexual exploitation of children (Spearlt, 2011). Others argue that the impetus behind Congress's punitive stance is an underlying presumption that anyone involved in child pornography is really an undetected child molester (Hamilton, 2011). An exploratory psychological study on child pornography offenders by Bourke and Hernandez (2009) bolstered this presumption. They found that what judges knew at the time of sentencing about the offender's documented criminal sexual history (as found in the presentence report) vastly differed from their self-report criminal sexual history disclosed at the end of treatment.[11] While the study had many limitations including generalizability, it armed Congress and those who agree with empirical evidence to justify punitive child pornography statutes and guidelines.

Sentencing discretion that judges once had in child pornography sentencing before the *Booker* decision was limited by the passing of the Protect Act of 2003, which reiterated Congress's commitment to protect children and strictly punish those who commit child pornography offenses (Kimball, 2011; Krohel, 2011).[12] The main justification for the act was the perception that child pornography sentences were too lenient because of the disproportionately high incidence of downward departures (Rigsby, 2010; Kimball, 2011). The act amended the then-mandatory guidelines to reduce the incidence of departures and increase the offense level in child pornography cases. The act also amended the then-mandatory guidelines to prohibit judges from considering family ties and responsibilities, and ties to the community in cases involving a minor victim. Most important, the act lengthened the supervised release term for child pornography offenders from a maximum of five years to a minimum of five years to life. Congress justified the enhanced supervised release term with deterrence and rehabilitation arguments:

> [18 U.S.C. 3583(k)] responds to the long-standing concerns of federal judges and prosecutors regarding the inadequacy of the existing supervision periods for sex offenders, particularly for the perpetrators of child sexual abuse crimes, whose criminal conduct may reflect deep-seated aberrant sexual disorders that are not likely to disappear within a few years of release from prison. The current length of the authorized supervision periods is not consistent with the need presented by many of these offenders for long-term—and in some cases, life-long—monitoring and oversight (Shockley, 2010, p. 356).

Before the Protect Act of 2003, some judges disregarded congressional amendments and granted downward departures for child pornography offenses (Kimball, 2011). Following the Protect Act of 2003, non-guideline sentences for child pornography offenses decreased (Krohel, 2011). However, the *Booker* decision empowered judges to exercise their discretion and the number of non-guidelines sentences increased again (Kimball, 2011). Legal researchers refer to this inconsistency of sentences as judicial dissonance on the issue of child pornography.

Judicial Dissonance on Child Pornography

Through reviews of thousands of individual sentencing decisions and appellate decisions, legal researchers have concluded that some judges disagree with Congressional mandates and/or guidelines and use their discretion to impose non-guidelines sentences.[13] On the other side are judges who either agree with Congress or abide by statute and guideline policies and impose within guideline sentences. Legal researchers offer three possible explanations for why judges are imposing non-guidelines sentences. First, some judges view the current sentencing structure for child pornography offenses, particularly possession of child pornography, as too severe. The guidelines as they currently stand call for enhanced penalties if a computer/Internet was used and if images involved children under the age of twelve.[14] Some judges find the enhanced penalties, such as the use of the Internet, an inherent factor in the crime that unfairly increases the guidelines and use their discretion to circumvent what they believe to be harsh sentences (Rigsby, 2010).

A second explanation put forth is that some judges view child pornography as a victimless crime and/or view child pornography offenders as harmless (Hamilton, 2011). In her review of judicial justifications of non-guidelines sentences, Hamilton (2011) highlighted one judge's view: "From my experience, most of these men have no prior criminal history. They usually have healthy family lives

[9] The author contacted the USSC on January 13, 2014 to clarify the *Booker* decision on the imposition of supervised release. Statements in this section reflect the USSC's view of the *Booker* decision on supervised release sentences.

[10] Production of Child Pornography carries a mandatory minimum of 15 years and a maximum of 30 years. Distribution and receipt offenses carry a mandatory minimum of 5 years and a maximum of 20 years. Possession offenses have no mandatory minimum and the maximum is 10 years.

[11] At the time of sentencing, 74 percent of the offenders had no prior documented contact offense. By the end of treatment, 85 percent admitted they had at least one hands-on offense.

[12] The Protect Act of 2003 enacted on April 30, 2003 is a law with the stated intent of preventing abuse. "PROTECT" stands for "Prosecutorial Remedies and Other Tools to End the Exploitation of Children Today." The Protect Act strengthened law enforcement's ability to prevent, investigate, prosecute, and punish violent crimes committed against children. One of the main provisions of the Act is increased penalties for sex offenses against children, including life imprisonment for repeat offenders (Kimball, 2011).

[13] It appears the difference in opinion relates to how to treat/sentence offenders convicted of possession of child pornography as opposed to more serious offenses like production of child pornography.

[14] According to the 2010 USSC Sourcebook, enhancements such as the use of computer/Internet and possession of images of children under twelve are factors present in over 90 percent of cases.

and productive careers." (p. 562). Similarly, U.S. District Judge Robin J. Cauthron during her 2009 testimony to the USSC to reduce the severity of child pornography guidelines said, "It is too often the case that a defendant appears to be a social misfit looking at dirty pictures in the privacy of his own home without any prospect of touching or otherwise acting out to any person" (Cardona, 2009).

A third explanation is that child pornography offenders represent a different demographic than judges are used to encountering. Indeed, trends in federal data have distinguished child pornography offenders from the overall average defendants involved in federal prosecutions. Child pornography offenders, who account for 2.3 percent of federal prosecutions, are described as 99.3 percent male, 88.7 percent white, 35.1 percent have completed some college, 17.5 percent are college graduates and 27.2 percent are age 50 and older (USSC Sourcebook, 2010).[15] Kimball (2011) argues that judges are using these characteristics in addition to family ties and employment to justify non-guideline sentences. Krohel's (2011) review of sentencing decisions of child pornography offenders highlighted one such case example. In *United States v. Grossman* (2008), the offender pled guilty to Possession of Child Pornography. The guideline sentencing range was 135 to 168 months and a supervised release range of five years to life. The judge imposed a non-guideline sentence of 60 months imprisonment and 10 years supervised release. In justifying the sentence, the judge noted he was "troubled" by the discovery that the thirty-five-year-old married father was facing more than 10 years in prison for a single count of Possession of Child Pornography. In justifying the sentence, the judge also highlighted that the offender was educated.

Notwithstanding the above, other judges in the federal judiciary concur with Congress's position that all child pornography offenses, including possession offenses, are serious and warrant serious punishment. Like Congress, some judicial officers believe child pornography offenses fuel the interstate market and increase the demand and encourage the production of more children being sexually abused. Judges who take this position do not find the guidelines excessive and expectedly comply with the guidelines ranges, including the policy statement to impose lifetime supervised release.[16]

In sum, opposing judicial perspectives on the issue of child pornography coupled with Post-*Booker* awarded discretion suggest the possibility of sentencing disparities. Rigsby (2010) likened child pornography sentences to the equivalent of a lightning strike in which congressionally mandated severe sentences like lifetime supervised release strike some offenders and miss others.

Sentencing Disparities: A Theoretical Explanation

Studies modeling the relationship between extralegal factors and sentencing outcomes frequently use the focal concerns perspective to explain why unwarranted sentencing disparities exist (Wolfe, Pyrooz, & Spohn, 2010; Steffensmeier et al., 1998). The focal concerns perspective of case processing and court actors' decisions provides a framework for understanding why extralegal factors such as race, gender, and age might continue to influence sentencing decisions despite the implementation of a formal guideline system (Steffensmeier et al., 1998; Ulmer, 1997; Spohn & Holleran, 2000). The underlying premise of this perspective is that one's position in the social structure has implications for treatment in the justice system. According to this framework, judges make situational imputations about the offender's character and expected future behavior and assess these characteristics based on three main considerations: blameworthiness, protection of the community, and practical constraints and consequences (Steffensmeier, 1980; Steffensmeier et al., 1998).

Blameworthiness centers on issues of culpability and just deserts (Steffensmeier et al., 1998). Judges' views of blameworthiness are influenced by offense severity, offender biographical factors such as criminal history, and the offender's role in the offense, such as being a leader or organizer (Steffensmeier et al., 1998). For example, offenders with longer criminal histories generally receive more severe punishments, because such histories suggest greater culpability (Wooldredge, 2010).

Protection of the community typically focuses on the need to incapacitate the offender and deter future crime. This also includes assessments of the offender's future behavior such as dangerousness or recidivism (Steffensmeier & Demuth, 2001; Steffensmeier et al., 1998). For example, in describing evolving perceptions of minority crime, Mauer (1999) explains that it was not until the 1970s and early 1980s that the stereotype of the young black man evolved from petty theft to ominous predator. Such fear has resulted in minority offenders being stereotyped as more dangerous and criminally responsible (Welch, 2007). Previous research has linked the defendant's race/ethnicity to notions of dangerousness and recidivism (Albonetti, 1991; Steen, Engen, & Gainey, 2005). The threat that minorities are thought to pose has resulted in harsher sentencing outcomes (Welch, 2007).

Practical constraints and consequences relate to how sentencing decisions impact the functioning of the criminal justice system as well as the individual defendants and their families and communities. Organizational concerns include efficiency and maintaining positive working relationships among courtroom actors, as well as being sensitive to criminal justice resources (Steffensmeier et al., 1998). Practical consequences for the individual offender include concerns about the offender's ability to do time, health conditions, special needs, and disruption of family ties (Steffensmeier et al., 1998). For example, in the case study cited earlier (*U.S. v. Grossman*), the court highlighted its concern of disrupting Grossman's family ties with a sentence of more than 10 years imprisonment. The court considered Grossman's family ties in its decision to impose a non-guideline sentence.

Empirical Research on Extralegal Sentencing Factors

Empirical studies have demonstrated that although the most powerful predictors of federal sentencing outcomes are legally relevant factors, extralegal offender factors such as race, age, and gender also play a role (Albonetti, 1997; Everett & Wojtkiewicz, 2002; Mustard, 2001; Doerner & Demuth, 2010). The federal sentencing guidelines manual devotes an entire section (see Chapter 5, Section H) to a discussion of offender characteristics in which policy statements specific to sex, race, national origin, creed, religion, and socioeconomic status are clearly identified as irrelevant and prohibited from consideration. Additional characteristics, such as

[15] By comparison, drug offenders, who account for 28.9 percent of federal prosecutions, are described as 87.4 percent male, 26 percent white, 14.7 percent have completed some college, 2.8 percent are college graduates, and 7.4 percent are age 50 and older (USSC Sourcebook, 2010).

[16] See *U.S. v. Kenrick* (2008), *U.S. v. Daniels* (2008) and *U.S. v. Washington* (2007) providing examples of courts using the policy statement in the guidelines to justify lifetime supervised release for all child pornography offenses under 18 U.S.C 3583(k), including less serious offenses like possession of child pornography (Shockley, 2010).

age, education, vocational skills, mental and emotional conditions, physical condition, employment record, family and communities ties are identified "as not ordinarily relevant in determining if a departure is warranted" (see Chapter 5, Section H)[17]

Race Effects

Sentencing research is inundated with empirical inquiries on the effect of race on sentencing outcomes. Conclusions on this issue are mixed. Early studies find that race has little substantive effect on sentencing outcomes (Kleck, 1981; Kramer & Steffensmeier, 1993). More recent studies have concluded that blacks, Hispanics, and Native Americans receive harsher sentences than whites (Doerner & Demuth, 2010; Everett & Wojtkiewicz, 2002; Mustard, 2001). The disagreements in the literature are largely due to differences in methodological sophistication (Zatz, 2000). For example, in their review of past race and sentencing studies, Chiricos and Crawford (1995) found that early studies failed to differentiate between the decision to incarcerate (in/out) and sentence length decisions, inadvertently clouding the influence of race on sentencing.

Age Effects

Studies examining the impact of age on sentencing measure age in one of three ways: (1) a continuous variable; (2) two subgroups: "young offenders" and "old offenders"; or (3) multiple narrowly defined categories. Models that code age as a continuous variable assume a linear effect (Klein, Petersilia, & Turner, 1988; Myers & Talarico, 1987; Wolfe et al., 2010). Studies that analyze age into the two subgroups "young offender" and "old offender" do so because prior research has found that older offenders (age 50 and older) are sentenced more leniently than younger offenders (under age 50), and imprisoned older offenders receive shorter sentence lengths (Champion, 1987; Steffensmeier & Motivans, 2000). However, those studies that compartmentalized age into more narrowly defined categories found that a curvilinear relationship emerges, with those adults ages eighteen to twenty-one receiving more lenient sentences than adults ages twenty-one through twenty-nine but similar leniency to thirty to thirty-nine-year-olds (Steffensmeier, Kramer, & Ulmer, 1995). Steffensmeier et al. (1998) argue that models assuming a linear continuous age effect are inappropriate. Age influences sentence severity in a curvilinear fashion and is best depicted by an inverted U-shape, with offenders over 50 or under 21 receiving the least severe sentences (Steffensmeier et al., 1998).

Education Effects

While the guidelines cite the defendant's education as generally irrelevant in determining a sentence, some studies have nevertheless found that those offenders who are poorly educated are sanctioned more harshly (Clarke & Koch, 1976; Kruttschnitt, 1980/1981). Mustard (2001) found offenders who did not graduate from high school received longer sentences [having no high school diploma resulted in an additional 1.2 months]. Offenders with college degrees received shorter sentences than high school graduates. College graduates were more likely to receive downward departures, less likely to receive upward departures, and more frequently receive large downward departures.

Socioeconomic Effects

Few studies examine the impact of socioeconomic status on sentencing outcomes because there are few good indicators of economic status in the data (Zatz, 2000). This is true for USSC datasets. In one of the few studies that examined socioeconomic status, Mustard (2001) found that offenders with incomes less than $5,000 were sentenced most harshly. This group received sentences 6.2 months longer than offenders who had incomes between $25,000 and $35,000. Mustard also found that offenders with annual income of less than $25,000 were less likely to have their sentences reduced, and offenders with annual incomes of more than $35,000 were more likely to have their sentences reduced. Low-income offenders were also more likely to receive upward departures.

Interaction Effects

Research has shown that joint extralegal effects are often larger than individual main effects and they also show extralegal disparities that may not ordinarily emerge when examining only direct effects (Steffensmeier et al., 1998; Doerner & Demuth, 2010). For example, Steffensmeier et al. (1998) examined the main and interaction effects of race, gender, and age on sentencing outcomes in state courts in Pennsylvania. They found that young black males are sentenced more harshly than any other defendant group. Doerner and Demuth's (2010) analysis of interaction effects in federal courts found that race, gender, and age have a larger combined impact than the independent effects, such that young black and Hispanic males are disproportionately sentenced more harshly in federal court than any other group.

In summary, sentencing research conducted to date reveals that sentencing outcomes are influenced by extralegal factors and support the conclusion that legally irrelevant factors appear to be a source of unwarranted sentencing disparity. Omitted in the empirical literature is if and how extralegal factors also influence supervised release sentences. As noted earlier, the supervised release sentence for child pornography offenders is particularly significant because of the potential lifelong supervised release sentence.

Current Focus

The current study investigates the effects of legal factors (mode of disposition, criminal history, departures, sex offender enhancement, and sentence length) and extralegal factors (age, race, education, and financial status) on the imposition of lifetime supervised release for child pornography offenders.[18] This study extends previous federal sentencing research in three important ways. First, I examine the sentence of supervised release, which has not been examined in prior research. Second, I use post-*Booker* data, which provides a more discretionary sentencing context in which there is greater opportunity for extralegal factors to influence supervised release outcomes. Third, I focus on child pornography offenders, as little sentencing research is available specific to this population.

I hypothesize that extralegal factors will influence the imposition of a life term of supervised release for child pornography offenders. Specifically, I expect that nonwhites, younger individuals, those with less education and low socioeconomic status will have a higher probability of receiving lifetime supervised release than whites, older individuals, and those with more education and higher socioeconomic status. Moreover, as research has shown that extralegal variables interact with one another and with legally relevant factors (Doerner & Demuth, 2010), I hypothesize that age and education; age and financial status; and financial status and education may interact with and affect supervised release outcomes. For example, older age and higher

[17] This means that courts are not to consider these characteristics unless they are present to an unusual degree.

[18] Legal factors are factors in statutes and policy that are spelled out as to be taken into consideration in sentencing.

education may interact with and serve as a proxy for employability, responsibility, and reduced threat, while youthfulness and lower levels of education may interact with and serve as a proxy for higher risk. Likewise, older age and higher financial means may serve as a proxy for responsibility and reduced threat while youthfulness and less financial means may be perceived as higher risk. Finally, I reason that financial means and higher education may be perceived as low risk and limited financial resources and lower education may be perceived as high risk.

Methods

Data

Data collected by the USSC on offenders in federal criminal courts were used for this study. The strength of using federal sentencing data as opposed to sentencing data collected by state courts is that state courts operate under various different sentencing guidelines which make generalizability of the findings an issue. The federal system eliminates this issue with its national guidelines system.

The USSC dataset for individual offenders contains measures of (1) legal or court-related case processing information (e.g., criminal history variables, departures/variances, guideline enhancements/reductions); (2) extralegal characteristics (e.g., gender, race, educational level, age); and (3) case and sentence outcomes. The focus of this study is narrowed to 1,770 males convicted of and sentenced for child pornography offenses under the SRA between October 1, 2009, and September 30, 2010.[19] The dataset for the 2010 fiscal year was purposefully selected as this was the first year the USSC began isolating child pornography offenses from obscenity and prostitution offenses. This practice was instituted due to increasing research interest in child pornography offenses. Prior to 2010, child pornography offenses were lumped together with all other sex offenses.

Measures

Dependent Variable

Supervised Release. As the present study is focused on who is receiving the most severe supervised release term (life), this variable was dichotomized so that a value of 0 indicates no imposition of lifetime supervised release and a value of 1 indicates the imposition of lifetime supervised release. The life term was selected over length of supervised release because of the severity of the sentence as well as the implication of life imprisonment if revoked.

Independent Variables

The independent variables used in the analysis are legal variables and extralegal variables that are related to sentencing outcomes (Albonetti, 1997; Mustard, 2001; Spohn, 2006).

Legal Measures

Plea. Plea bargaining is a common practice in the federal criminal justice system. Approximately 97 percent of convictions in federal courts (FY 2010) were the result of plea bargaining (USSC Sourcebook, 2010). Research has found that plea bargaining can reduce sentence severity (Kautt, 2002). Plea bargaining was included as an independent variable to determine if similar dynamics existed for supervised release outcomes. This variable was dichotomized so that a value of 1 represents that the defendant pled guilty either through a guilty plea or nolo contendere.[20] A value of 0 indicates that the defendant had a trial (bench or jury).

Departure. Courts can sentence an individual within the specified guideline range or impose an upward departure/variance or a downward departure/variance.[21] Departure is measured with three dummy variables (e.g., within-guideline sentence, upward departure/variance, and downward departure/variance), with within-guideline sentence as the reference category. As a downward departure/variance is a sentence lower than the guideline range, a downward departure/variance is expected to decrease the probability of the imposition of lifetime supervised release. An upward departure/variance is a sentence greater than the guideline range, so it is expected to increase the probability an offender receives lifetime supervised release.

Criminal History. This variable indicates whether the defendant has any criminal history, including behavior that is not eligible for the application of criminal history points (e.g., arrests). The USSC codes this variable as 0 if the offender has no criminal history and 1 if the offender has criminal history. The presence of criminal history is expected to increase the probability of an imposition of lifetime supervised release.[22]

Sex Offender Enhancement. This variable indicates whether an enhancement of Repeat and Dangerous Sex Offender (see Chapter Four - Section 4B1.5 of the 2012 U.S. Sentencing Guidelines Manual) was applied at sentencing. This enhancement is applied if the court finds that the offender committed the current federal offense after sustaining at least one sex offense conviction. This variable is coded as 0 if the enhancement was not applied and 1 if applied. This variable, which defines a pattern of sex related offending, is expected to increase the probability of an imposition of lifetime supervised release.

Sentence Length. The dataset provides no means of disaggregating the various charges of child pornography (e.g., Production, Receipt, Distribution, Transportation, and Possession) that could influence whether lifetime

[19] Originally the dataset included 1,886 offenders sentenced for child pornography offenses; however, those cases in which a term of supervised release was either not imposed or was below the statutory minimum of five years (out of range for the data) were excluded from the sample, resulting in 1,854 cases. In addition, due to the small number of women sentenced for child pornography offenses (14 cases), these cases were also excluded from the sample. The dataset did contain some missing data on some of the independent variables (sentence length, criminal history, sex offender enhancement, race, education, and fine). Listwise deletion was used to remove cases with missing data from the sample, leaving a total of 1,770 cases for analysis. Chi-square analysis was conducted to compare missing cases and cases included in the sample. The results revealed no significant difference between deleted cases and those included in the sample.

[20] Nolo contendere is a plea in which the defendant neither admits nor disputes a charge, serving as an alternative to a pleading of guilty or not guilty.

[21] An upward or downward departure is a sentence that is greater or less than the advisory guideline range based upon the application of departure policy statements in the guidelines. An upward or downward variance refers to a sentence above or below the advisory guideline range based upon the court's weighing of one or more sentencing factors of 18 U.S.C 3553(a).

[22] The dataset also provides an additional indicator of criminal history with a variable labeled criminal history points. This continuous variable is the subtotal of criminal history points assigned to an offender based on the contributions of one, two, or three point offenses. Points are awarded for convictions only and apply to convictions obtained within ten or fifteen years of the commission of the federal offense. Some studies use this indicator of criminal history, but the problem with this measure is that an offender with an outdated criminal history, no matter how severe the history, would not receive any points. My indicator reflects a more accurate depiction of an offender's criminal history because it includes all arrests, countable convictions, as well as convictions that otherwise would not receive any criminal history points due to the age of the conviction. Analyses conducted using the alternate criminal history measure (criminal history points) revealed no changes to the final results.

supervised release is imposed.[23] Therefore, I used sentence length as a rough proxy for offense seriousness. Sentence length is a continuous variable measured in months of imprisonment. Due to the highly positive skewed nature of this variable (skewness=12.9, kurtosis=267.25), I used the natural log of sentence length. Longer sentences of imprisonment would appear indicative of greater offense seriousness, and therefore are expected to increase the probability of an imposition of lifetime supervised release.

Extralegal Measures

Age. This variable is defined as the age of the defendant at the time of sentencing. Consistent with research that delineates age into the two subgroups of "young offenders" and "old offenders" (Steffensmeier & Motivans, 2000), as well as the fact that the average age of my sample is 42.26, I coded defendant age as a dichotomous variable, where 0 represents offenders ages 19-49 and 1 represents offenders ages 50 and over. I did not code age as a continuous variable because preliminary modeling showed that the effect of age was not linear. I also conducted a preliminary analysis of the age variable using a three-category measure (19-21; 22-49; and 50 and over) as suggested by Steffensmeier et al. (1998). There was no significant difference in the likelihood of lifetime supervised release between those ages 19 to 21 and 22 to 49, which suggests that my two-category measure of age is appropriate. Based on research that finds older offenders are sentenced more leniently, I expect offenders age 50 and over will have a lesser probability of being sentenced to a life term of supervised release.

Race. This variable indicates the defendant's self-reported race to the probation officer at the time the presentence report was prepared. Due to the sample being mostly white (88.6 percent), this variable was dichotomized such that a value of 1 represents whites and a 0 value represents nonwhites. The nonwhite category includes defendants identified as black (3.2 percent), Hispanic (6.4 percent), and other (1.8 percent). Based on prior research that finds nonwhites punished more harshly, I expect nonwhites will have a greater probability of being sentenced to a life term of supervised release than whites.

Education. This variable indicates the highest level of education completed by the defendant. Education is measured with four dummy variables (e.g., less than high school, high school graduate, some college, and college graduate), with less than high school as the reference category. I chose to maintain the refined disaggregation of the variable rather than use a dichotomous measure (e.g., less than high school=0, high school and above=1) to see if different levels of education influenced the imposition of lifetime supervised release. Mustard (2001) measured education with four dummy variables and found differences in sentence length based on levels of education. Accordingly, I expect offenders with lower levels of education will have a greater probability of being sentenced to a life term of supervised release than their counterparts.

Fine. A variable representing socioeconomic status such as income is not available in the current dataset. The best proxy is the imposition of a fine at sentencing. The court imposes a fine on all offenders they determine are able to pay this penalty. An offender's ability to pay a fine is based upon the offender's net worth and net monthly cash flow documented in the presentence report. This variable was dichotomized so that a value of 1 represented that a fine was imposed and a 0 value indicated that a fine was not imposed. I expect offenders that did not incur a fine, which represents a rough proxy for lower socioeconomic status, will have a greater probability of being sentenced to a life term of supervised release.

Analytic Technique

To test the effects of legal and extralegal factors on supervised release outcomes of child pornography cases, the first step is to regress lifetime supervision (1=yes, 0=no) on the legally relevant variables (plea, departure, criminal history, sex offender enhancement, and sentence length). Logistic regression is used because the dependent variable is dichotomous. Next, extralegal variables (race, age, education, and fine) are added to the model to see if they explain lifetime supervision above and beyond the effect of the legally relevant variables. Finally, a series of two-way interaction terms (age and education; age and fine; and fine and education) are added to the model to assess if there are interaction effects. The conditional effects of race are not considered due to the small percentage of nonwhites in the sample.

Findings

Table 1 displays descriptive statistics for all cases and for the data partitioned by offenders sentenced to lifetime supervised release and no lifetime supervised release. Bivariate analyses (Chi-Square Test for Independence and Independent Samples t-test) are also displayed. Full sample descriptive statistics reveal an overwhelming majority pled guilty (95.5 percent), a little more than half received a downward departure/variance (55.5 percent), more than half of the offenders had a criminal history (62.4 percent) and the average sentence of imprisonment was 120.4 months. The finding that more than half the total sample received a downward departure/variance appears consistent with researchers' argument of dissonance in child pornography sentencing. One of the explanations put forth by legal researchers for non-guideline sentences is the different demographic characteristics of child pornography offenders compared to the overall average offender involved in federal prosecutions. Indeed, the sample consists of mostly white offenders (88.7 percent), with 29.7 percent of the sample age 50 and older, a little more than half (52.4 percent) had some college or were college graduates, and only about 10 percent of the sample had less than a high school education. Although not shown in Table 1, the offenders ranged from 19 to 82 years of age with an average age of 42.26 years.

Disaggregating the sample into those who received a life term (38.3 percent) compared to those who did not get life (61.7 percent) also revealed interesting dynamics. Not surprising, there were stark and significant differences between the groups for departure, criminal history, sex offender enhancement, and sentence length. Compared to those who received lifetime supervised release, a higher percentage of those not sentenced to lifetime supervised release received downward departures/variances, while a lower percentage had criminal history, received the sex offender enhancement, and were sentenced within or above the guideline range (upward departure/variance). With regard to sentence length, those who received lifetime supervised release had an average imprisonment sentence almost twice that of those who did not get life.

Percentages for all of the extralegal variables appeared relatively similar between the groups. Compared to those who received lifetime supervised release, a lower percentage of those not sentenced to lifetime supervised release were age 50 and older and had less

[23] All charges of child pornography are lumped together as "Child Pornography." Regardless of the charge, all child pornography offenses carry the same statutory supervised range of five years to life.

than a high school education. Only age differed significantly between the groups.

Logistic Regression Models

Logistic regression was used to assess the impact of legal and extralegal factors on the likelihood of an imposition of lifetime supervised release. First, legal factors were included in the model. The results of the logistic regression are presented in Table 2 (Model 1). The full model containing all of the predictors was statistically significant, $x^2(6,N=1,770) = 205.348$, $p<.001$, indicating that the model was able to distinguish between child pornography offenders who received an imposition of lifetime supervised release and those child pornography offenders who did not. The model as a whole explained 14.9 percent (Nagelkerke R squared) of the variance in imposition of lifetime supervised release, and correctly classified 68.9 percent of cases. Several of the legal factors made a statistically significant contribution to the model. The strongest predictor of an imposition of lifetime supervised was sentence length (natural log). A 10 percent increase in sentence length increases the odds of being sentenced to lifetime supervised release by a factor of 1.08, controlling for other factors

TABLE 1.
Descriptive Statistics and Chi-Square for Independence / Independent Samples T-Test

Measure	Full Sample N=1,770	Life Supervised Release n=678	No Life Supervised Release n=1,092	Chi-Square / T-Test (Phi/Cramer's V)/ Eta Squared)
Legal Variables		38.3%	61.7%	
Plea				0.073 (0.009)
Pled Guilty/nolo contendere	95.5%	95.7%	95.4%	
Trial	4.5%	4.3%	4.6%	
Departure				50.812*** (0.169)
Within guideline range sentence	42.1%	51.5%	36.1%	
Upward depart/variance	2.4%	3.5%	1.6%	
Downward depart/variance	55.5%	45.0%	62.3%	
Criminal History				27.135*** (0.125)
Yes	62.4%	70.1%	57.3%	
No	37.6%	29.9%	42.7%	
Sex Offender Enhancement				35.020*** (0.144)
Yes	3.1%	6.2%	1.1%	
No	96.9%	93.8%	98.9%	
Sentence Length (months)				8.585*** (0.040)
Mean Sentence Length (Months)	120.40	173.14	87.65	
Standard Deviation	172.39	252.01	77.31	
Sentence Length (log)				12.175*** (0.077)
Mean Sentence Length (Months)	4.30	4.75	4.11	
Standard Deviation	1.16	1.01	1.17	
Extralegal Variables				
Age				4.139* (0.050)
Age (19-49)	70.3%	67.4%	72.1%	
Age (50 and over)	29.7%	32.6%	27.9%	
Race				0.891 (0.024)
White	88.7%	89.7%	88.0%	
Nonwhite	11.3%	10.3%	12.0%	
Education				3.215 (0.043)
Less than HS	10.3%	11.7%	9.5%	
High School	37.3%	38.0%	36.8%	
Some College	34.7%	33.8%	35.4%	
College Grad	17.7%	16.5%	18.3%	
Fine				0.002 (-0.003)
Not imposed	86.2%	86.3%	86.1%	
Imposed	13.8%	13.7%	13.9%	

* $p < 0.05$; *** $p < 0.001$

in the model.[24] Surprisingly, for offenders who pled guilty, the odds of receiving lifetime supervised release increase by a factor of 1.7 compared to those offenders who had a trial. As anticipated, receiving a downward departure/variance decreased the odds of receiving lifetime supervised release by a factor of .78. Upward departure/variance (which is expected to increase punishment) was not statistically significant.

Next, extralegal variables were added to the model to see if they explain lifetime supervision above and beyond the effect of the legally relevant variables. The results of the logistic regression are presented in Table 2 (Model 2). The model as a whole explained 15.5 percent (Nagelkerke R squared) of the variance of the imposition of lifetime supervised release, and correctly classified 68.6 percent of cases. Of the extralegal factors added to the model, only age is significant. For offenders age 50 and older, the odds of receiving lifetime supervised release increased by a factor of 1.3 compared to offenders younger than age 50, controlling for all other factors.

The third step of the modeling strategy involves testing for the possibility of two-way interaction effects between age and education, age and fine, and fine and education. These interaction terms were added one at a time into the model containing legal and extralegal variables. The results of the models containing these interaction terms are presented in Table 3. For all models, legal variables including plea, downward departure, and sentence length (log) continued to be significant. None of the interaction terms were statistically significant.

Discussion

This study builds on research that examines unwarranted disparity in sentencing by looking at the effects of legal and extralegal factors on a sentencing outcome that has not been studied: lifetime supervised release. Legal factors including downward departure/variance and sentence length exerted significant effects in their expected direction across all models. These findings are not surprising considering these factors align with the focal concerns notion of blameworthiness. Judges' views of blameworthiness are influenced by offense severity and offender biographical factors such as criminal history (Steffensmeier et al., 1998). Sentence length, which is a rough proxy for offense seriousness, is indicative of offenders being more culpable, while a downward departure/variance is indicative of offenders being less culpable.

While research typically finds that pleading guilty results in more lenient sentences, for child pornography offenders pleading guilty resulted in a higher probability of receiving lifetime supervised release. While this result is counterintuitive, it is possible this finding may also be explained by the focal concerns notion of blameworthiness. At the federal level, when the court accepts a guilty plea of a child pornography offense, the assistant U.S. attorney describes the evidence that would have been presented if the case had proceeded to trial. The evidence includes graphic descriptions of the child pornographic images and/or videos. In addition, the defendant also has to advise the judge in his or her own words what he or she did and describe the images he or she possessed, distributed, received, or produced. It is plausible that the graphic and

[24] To calculate the unit increase in Y for a 10 percent change in X, I divided .775 (logged coefficient) by 10, then computed the exponent of that number to get the effect of a 10 percent change in X on the odds of Y.

TABLE 2.
Logistic Regression of Lifetime Supervised Release on Legal and Extralegal Variables

	Model 1			Model 2		
	B	**SE**	**Exp(B)**	**B**	**SE**	**Exp(B)**
Intercept	-4.469	0.511***		-4.582	0.559***	
Plea	0.558	0.256*	1.746	0.551	0.259*	1.734
Upward Departure	-0.003	0.334	0.997	-0.002	0.336	0.998
Downward Departure	-0.248	0.111*	0.780	-0.233	0.111*	0.792
Criminal History	0.159	0.112	1.173	0.169	0.115	1.185
Sex Offender Enhancement	0.614	0.356	1.848	0.614	0.358	1.848
Sentence Length (log)	0.775	0.085***	2.170	0.790	0.086***	2.203
White				0.128	0.169	1.136
High School Graduate				-0.186	0.180	0.830
Some College				-0.231	0.183	0.794
College Graduate				-0.101	0.207	0.904
Fine				0.039	0.155	1.040
Sex Offender Age ≥ 50 (SOA≥50)				0.284	0.116**	1.329
	Model x^2 = 205.348***			Model x^2 = 214.788***		
	R^2 = 0.149			R^2 = 0.155		
N = 1,770	* p≤0.05; ** p≤0.01; ***p≤0.001			Abbreviations: SE = standard error		

TABLE 3.
*Interaction Models (Age*Education; Age*Fine; Fine*Education)*

		B	SE	Exp(B)
Model 1 (Age*Education)	Constant	-4.523	0.566***	0.111
	Plea	0.545	0.259**	1.724
	Upward Departure	0.011	0.337	1.011
	Downward Departure	-0.239	0.112**	0.788
	Criminal History	0.170	0.115	1.185
	Sentence Length (log)	0.789	0.086***	2.201
	Sex Offender Enhancement	0.620	0.358	1.859
	White	0.136	0.170	1.146
	High School Graduate	-0.272	0.204	0.762
	Some College	-0.316	0.209	0.729
	College Graduate	-0.036	0.248	0.965
	Fine	0.046	0.155	1.047
	Sex Offender Age ≥ 50 (SOA≥50)	0.029	0.389	1.029
	SOA≥50 *HS Graduate	0.377	0.435	1.458
	SOA≥50 *Some College	0.353	0.433	1.424
	SOA≥50 *College	-0.066	0.462	0.994
Model 2 (Age*Fine)	Constant	-4.579	0.559***	0.010
	Plea	0.553	0.259**	1.739
	Upward Departure	-0.013	0.337	0.987
	Downward Departure	-0.235	0.111**	0.791
	Criminal History	0.165	0.115	1.180
	Sentence Length (log)	0.792	0.086***	2.208
	Sex Offender Enhancement	0.601	0.358	1.824
	White	0.127	0.169	1.135
	High School Graduate	-0.181	0.180	0.834
	Some College	-0.229	0.183	0.795
	College Graduate	-0.102	0.207	0.903
	Fine	-0.076	0.200	0.927
	SOA≥50	0.240	0.125	1.271
	SOA≥50 *Fine	0.289	0.314	1.336
Model 3 (Fine *Education)	Constant	-4.630	0.562***	0.010
	Plea	0.547	0.259**	1.729
	Upward Departure	-0.004	0.337	0.996
	Downward Departure	-0.236	0.112**	0.790
	Criminal History	0.169	0.115	1.184
	Sentence Length (log)	0.792	0.086***	2.208
	Sex Offender Enhancement	0.628	0.358	1.873
	White	0.123	0.170	1.131
	High School Graduate	-0.125	0.191	0.888
	Some College	-0.180	0.194	0.835
	College Graduate	-0.057	0.224	0.945
	Fine	0.495	0.514	1.640
	SOA≥50	0.282	0.116**	1.326
	Fine * High School	-0.579	0.586	0.561
	Fine*Some College	-0.481	0.577	0.618
	Fine*College	-0.431	0.594	0.650

n = 1,770; Abbreviations: SE=standard error; * p≤0.05; ** p≤0.01; ***p≤0.001

heinous nature of the evidence coupled with the defendant admitting guilt and describing his or her offense conduct may magnify the defendant's culpability in the eyes of the court. In contrast, in a trial, a defendant is not likely to admit guilt nor take the stand, resulting in the possibility of de-magnification of culpability. Irrespective of the possible explanations put forth for this significant finding, as there is no significance found at the bivariate level, it is possible that this finding is just noise due to the small number of cases that had trials.

Of all the extralegal factors considered in this study, age exerted a significant effect in predicting those child pornography offenders sentenced to a life term of supervised release. This result is contradictory to findings in the most recent extant sentencing literature on the effects of age and sentencing, which finds that younger offenders are more likely than older ones to be punished more harshly. One might suggest that the effect of age may be influenced by the criminal history of the older offender being greater than that of a younger offender (the older offender having had more time to offend than a younger offender). While this seems plausible, I suspect that criminal history has little to no bearing on the effect of age.[25] Instead, I surmise that it is based on the focal concerns notion of protection of the community. Protection of the community draws on attributions similar to blameworthiness but is distinct in that it focuses on the need to incapacitate or control the offender or to deter would-be offenders (Steffensmeier et al., 1998). This also includes assessments about dangerousness or recidivism. Predictions about dangerousness and risk of recidivism are based on attributions predicated on the nature of the offense, case information, criminal history, and demographic characteristics of the offender such as employment, education, age, or family history (Steffensmeier et al., 1998). For example, Kimball (2011) reviewed a sentencing opinion where the judge cited the defendant's youthful age and immaturity as reason for a downward variance (see *U.S. v. Polito*). This justification for a downward variance based on youthfulness suggests that younger offenders may be perceived as "getting caught up" in child pornography based on their immaturity or that their entanglement may have more innocent

[25] The effect of age remained significant using the alternate measure of criminal history (criminal history points) provided in the dataset.

origins.[26] The flip side may be the perception that older and mature offenders "know better." That is, someone age 60 may be less likely to be perceived as accidentally "getting caught up" and their entanglement in child pornography may have less innocent origins.

The notion that older age may be viewed as a greater threat may also be due to the age discrepancy between older offenders and the depicted minors. According to the USSC Sourcebook 2010, virtually all child pornography offenders (96.3 percent) possessed images of minors who were prepubescent or under the age of twelve. The idea of an offender over age 50 receiving sexual gratification from images depicting the sexual assault of children under the age of twelve, including infants and toddlers, may be unsettling for judges. Another possible rationale for this finding is that the average age of child pornography offenders sentenced in fiscal year 2010 was age 42.26. If judges on average are seeing this age offender in the courtroom, then it may play in their focal concerns that older child pornography offenders may be at most risk to re-offend.

Contrary to my hypothesis, extralegal predictors including race, education, and imposition of a fine exerted no significant effect. These factors have been shown to influence sentencing decisions for the overall average offender in federal court, yet we know from the literature and the data presented in this study that child pornography offenders are not the overall average federal offender, at least not in terms of demographic characteristics. With this in mind, it may be possible that race, education, and socioeconomic status do not come into play in sentencing decisions of child pornography offenders as they do with the overall average offender involved in federal prosecutions. Instead, it may be possible that other extralegal statuses such as family ties and employment inform the sentencing decisions of child pornography offenders more so than race, education, and socioeconomic status.

Under the previous mandatory federal guidelines, family support and employment history were generally irrelevant in determining departures from the guidelines. In fact, one of the main provisions of the Protect Act of 2003 was to amend the then-mandatory guidelines to prohibit judges from considering family and community ties in cases involving a minor victim (Krohel, 2011). Now that the guidelines are advisory in nature, these statuses have become relevant for some judges (Hamilton, 2011; Krohel, 2011). Hamilton (2011) and Krohel's (2011) reviews of sentencing decisions found that in cases where defendants received sentencing reductions, it was common for judges to express that they were impressed by the defendant's family support and/or career. One judge was quoted as saying "aside from the offense, the defendant has led a law abiding life, and with his wife, who has stood by his side throughout, he has raised a good family and been a mainstay in his community." (Hamilton, 2011, p. 562). Other judges give weight to the defendant's career as a reason for non-guideline sentences. Examples of careers receiving non-guideline sentences include military personnel, physicians, and teachers (Hamilton, 2011). At this time, it is not possible to empirically test the influence of these statuses on lifetime supervised release decisions, because the USSC does not collect data on these variables.

Another extralegal status that may influence sentencing decisions is mental health. Research has shown that mental health conditions like schizophrenia have been linked to stereotypes of dangerousness (Markowitz, 2011). Through the presentence report, the sentencing court is made aware of any mental health and/or emotional conditions the offender may suffer as well as any medications prescribed. Accordingly, a judge may consider the mental health status of the offender as a focal concern in determining which individuals require enhanced supervision in order to protect the public. In other words, it seems plausible that an offender with a severe mental illness may be perceived as dangerous and thus more likely to receive lifetime supervised release than an offender with no mental health condition. As with family ties and employment, it is not possible to empirically test the influence of mental health on supervised release outcomes, because the USSC does not collect data on this variable.

Contrary to my hypothesis, no interaction effects were found in this study. Perhaps this finding, like overall findings, suggests a different dynamic occurs with child pornography sentencing. That is, legal and extralegal factors may not influence sentencing decisions for child pornography offenders the way the extant literature finds for the overall average offender involved in federal prosecutions. Although this issue was not my primary focus, my findings compared to the extant literature suggest that extralegal effects on sentencing outcomes for child pornography offenders may be different than for other categories of offenders. For clarity, a direct comparison between child pornography offenders and average federal offenders (e.g., drug offenders) cannot be made because previous sentencing studies examine a different outcome variable (e.g., sentence length and/or the decision to incarcerate). Deeper examination of this issue could be the subject of future research.

One of the major limitations of this research was being unable to disaggregate the various charges of child pornography. We know from the literature review that offense seriousness is a significant factor for some judges in sentencing child pornography offenders within or outside of the guidelines range. In this study, using sentence length as a rough proxy for offense seriousness has provided some evidence, although crudely, that offense seriousness is a major factor driving judicial decisions to impose lifetime supervised release as it should. Analytic models run with all legally relevant variables except sentence length (log) account for 7.6 percent of the variance in lifetime supervised release. When sentence length (log) is included, the models account for 14.9 percent of the variance in lifetime supervised release and 15.5 percent when extralegal variables are added.

The legal literature suggests that judges may be more likely to use their discretion and impose non-guideline sentences (e.g., downward departure/variance) for offenses they believe to be less serious (e.g., possession of child pornography versus production of child pornography). Based on this, some judges might be more likely to consider extralegal factors as a basis for a downward departure/variance. The case study cited earlier (*U.S. v Grossman*) is one such example. In that case, the sentencing court was troubled by the amount of prison time Grossman was facing for a single count of Possession of Child Pornography and imposed downward variance based on Grossman's age, education, and family ties.

The notion of offense seriousness guiding judicial discretion may also be explained by the focal concerns notion of practical constraints and consequences. I can only speculate that judges may be constrained or liberated by the seriousness of the offense in

[26] A news article highlighted 19-year-old Neil Geckle who was charged with child pornography offenses after he downloaded photos of high school girls he "friended" from Facebook then took pictures of his penis next to the photos. He then uploaded the defiled photos to the victims' Facebook pages. When confronted with the charges, the 19-year-old pleaded ignorance, telling police he "didn't think it was a big deal" (Moraff, 2012).

considering practical and social costs of lifetime supervised release. For example, judges may think about financial costs to the government in supervising an offender for life, especially if the judge does not believe the seriousness of the offense warrants life supervision. The current dataset does not allow for examination of this issue, but future studies using a mixed methodology approach could interview federal judges to see if offense seriousness constrains or liberates consideration of extralegal factors as well as practical and social costs of lifetime supervision.

There are additional limitations that should be considered. As previously discussed, extralegal predictors including race, education, and imposition of a fine exerted no significant effect. With regard to race, perhaps there were not enough non-whites in my sample to locate a statistically significant relationship. Although education was significant in some studies (Mustard, 2001), it was not significant in this study. Almost 90 percent of the sample had at least a high school education. If the sample of cases in the less-than-high-school category were larger, there might have been a significant effect. Future research may benefit from merging multi-year data to boost cases to better disaggregate the effects of race and education. With regard to the fine variable, it may be possible that there was no effect because this variable is not a true indicator of socioeconomic status. In other words, the fine variable was unable to exert any predictive power because it is not a direct measure of socioeconomic status.

Another limitation of this study is that I only examined the most severe term of supervised release—life. Future research should also look at supervised release as a continuous variable; however, researchers will have to determine how to quantify the life term. An additional avenue of future research is to examine the impact of sex crime scandals that recently occurred (e.g., Jacee Dugard case, etc.) on supervised release outcomes. A potential research strategy would be to conduct a time series analysis of the probability of child pornography offenders sentenced to lifetime supervised release before and after the scandals received intense public scrutiny. In this sense, it would be interesting to see how these cause célèbre cases influence lifetime supervised release imposed by the court. In other words, do judges respond to moral panics or their perceptions of the public's concern? Another avenue would be to examine inter-district variation and how this would operate in terms of child pornography cases. Kautt (2002) found that inter-district variation influences sentencing decisions in federal courts.

Conclusion

Prior empirical federal sentencing studies have repeatedly found that in addition to legally relevant factors, extralegal factors influence federal sentencing outcomes. The purpose of this study is to examine whether similar dynamics exist for lifetime supervised release sentences of child pornography offenders. What makes this sentencing study particularly interesting is the political context of child pornography sentencing in that Congress has explicitly advised federal judges that all child pornography offenders should be punished harshly, specifically with the recommendation for lifetime supervised release.

The results of this study support legal research that finds a disconnect between congressional will and the will of the sentencing court. In this study, only 38.3 percent of child pornography offenders received lifetime supervised release. Legal researchers have suggested that the differences in sentences among child pornography offenders stems from judicial dissonance on this issue. A few reasons were suggested for the dissonance, including extralegal demographic characteristics. My results showed that only age had an effect above and beyond the effects of legally relevant variables. But the variance explained by the models is so low that it suggests the unpredictability of sentences mentioned by Rigsby (2010). The discussion section keyed in on other possibilities driving judicial decisions, including family ties, employment records, and mental health.

To this end, it is not clear what is truly driving supervised release sentences of child pornography offenders. It could be a combination of legal and extralegal factors and a simple policy disagreement with Congress. If Congress truly wants lifetime supervised release sentences for all child pornography offenders, they may legislate an amendment to 18 U.S.C. 3588(k) eliminating the statutory range of five years to life to include life as the mandatory supervised release sentence. This in effect could eliminate judicial discretion in supervised release sentences as well as eliminate unwarranted sentencing disparities.

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Trends in the Criminality and Victimization of the Elderly

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THOSE DEVOTED TO THE study of crime and criminal behavior have learned through their research that several variables are fairly reliable in predicting the amount of crime and types of crimes that will be committed by specific categories of offenders. These variables are age, gender, and socio-economic status. The large proportion of violent crimes will be committed by younger (18-45) age males in the lower socio-economic categories. The proportion of violent crimes will decline as the ages of the criminal offenders increase. As the ages of the offenders approach what is referred to as elderly, the proportion of violent crimes committed by those in this category constitutes a very small part of the entire violent crime total. This finding holds true regardless of the gender and socio-economic characteristics of the elderly offenders. However, when the analysis focuses on the victims of crime, the elderly who are victimized are over-represented in several types of criminal victimizations. These include theft, financial fraud, and physical abuse.

The Elderly

The concept of "age" is generally understood and can be easily measured. It is a continuous variable, but in order to develop a better understanding of how age is related to one's development, emotions, and behavior during different periods of life, age has been conceptualized to include different categories such as infant, young child, adolescence, middle age, and old age or elderly. These categories are often arbitrarily defined, and there is no agreement on the specific age that separates one category from another. Age is a continuous variable having a definite starting and ending time period, while the categorizations of age are discrete variables. The development of age categories is heavily influenced by the specific socio-economic characteristics of a society during a specific time period. For example, a young person ten or twelve years old may be expected to take on the role of an adult in some societies and work 10 hours or more each day in a factory. In other societies, a person age 15 or 16 may still be considered a child and prohibited by law from engaging in certain types of work. In regard to the elderly, innovations in health care, diet, communications, and types of work performed have resulted in a longer life span and generally a more active lifestyle. While the behavior of persons in specific age groups may differ from that of other age groups, the behavior of those in the same age group may also differ during different periods of time or stages in the economic development of a society.

Methodology

This paper focuses on changes in the amount and types of crime committed by the elderly and the various methods used to victimize the elderly. The criminal activity and the victimization of the elderly were analyzed by use of statistics and reports from sources in the United States and Europe and comparisons with prior research.

The criminal behavior of those in the age category referred to as the elderly has changed in terms of the proportion of the total amount of crime and specific types of crime. This was demonstrated through a longitudinal analysis of crime statistics. The changes in the victimization of the elderly were also analyzed, using the same methodology. Since statistics on the crimes or victimization of the elderly were not available for all European countries, an exhaustive comparable analysis between the United States and European countries could not be completed. The proportion of the population in the older age groups is increasing in most of the countries throughout the world, particularly in the economically developed countries, but there is no agreement among researchers on the specific age that should be used to categorize the "elderly." Fattah and Sacco (1989) note that some of the research on older offenders and victims of crime categorizes the older person as age 50 and above; other researchers use 60 years and above as the cut-off point, and still other researchers have used 65 and above as the age to define the elderly. In some of the research, the older criminal offender and older victim are categorized as early old age at 64 to 74, advanced old age as 75 and older, and old-old age as 85 and above. The FBI (Crime in the United States, 2014), in recording arrests made in the United States during a given year, provides a breakdown of arrests by age, but does not use labels to categorize the age groups. The FBI report does not refer to young age, middle age, or elderly. The ages of the arrests made during a given year are categorized into five-year groups, such as 50-54, 55-60, 61-64, 65-70, and 71 and above. In the research presented in this paper, the elderly are defined as being 65 years of age or older. However, the ages 60 and above are used in portions of the analysis.

Theoretical Perspective

As a result of improvements in healthcare, communications, and education, changes in lifestyles, including the types of employment, and changes in social relationships, the life span for the populations of most countries of the world has increased. People are living longer, working longer, and in general have more formal and informal contact with many people outside their primary social relationships. These changes result in more opportunity for members of the older population to commit crimes, and a higher probability that the older population will be victimized. For example, in the past, a large proportion of the criminal victimization of the elderly was by family members, relatives, and close acquaintances. While this may still be the case, the proportion is not as large as in the past, because the amount of non-primary-group contacts by the elderly has increased through communications, the Internet, and other factors. In terms of criminal activity, these same changes are affording the elderly more opportunities to commit certain types of crime than in the past, including fraud, theft, tax evasion, and even violent crimes.

In regard to victimization, the lives of a larger proportion of the elderly are now under the direction or care of some person or agency other than members of their family or relatives. The elderly who voluntarily or by circumstances remain in their homes may not have the interaction with or emotional support of close family members. For those physically or mentally disabled, the need to rely on "outsiders" is more apparent. When family members are involved in eldercare, these relatives may abuse or steal from the elderly.

Trends in Size of the Older Population (U.S.A. and Europe)

The older population of the United States (defined as 65 years of age or older) numbered 39.6 million in 2009. This represented 12.9 percent of the entire population. Aging Statistics (*Administration on Aging, Administration for Community Living: 1*) estimate that in 2030 there will be 72.1 million older persons in the U.S., about 19 percent of the population. The same source reports that, since 2000, the proportion of the U.S. population that is defined as older has grown at a faster pace than other age groups in the U.S., and this drastic increase in the older population is expected to continue to the year 2030 and perhaps longer.

In Austria (CIA World Factbook and Statistik Austria, 2015: 1), the estimated percent of the total population 65 years and older for the year 2014 was 19.2 percent, with the female elderly population exceeding the male elderly population by 15 percent. In a report on the aging of Europe (Carone & Costello, 2006), the increase in the proportion of the population of the European nations that is older is attributed to a decrease in fertility, a decrease in the mortality rate, and a higher life expectancy. In a report by the Economic Policy Committee and the European Commission, it was predicted that the total population of the European Union will decrease by 16 percent between 2010 and 2050, while the elderly population will increase by 77 percent (Eurostat: 2012).

Crimes Committed by the Elderly

Several researchers have used the statistics from the FBI's Uniform Crime Report to determine the number and types of offenses committed by the elderly in the United States (Moberg, 1953; Keller & Vedder, 1968; Schichor, 1984; Wilbanks, 1984). There were some differences in the findings of the researchers in regard to the amount of crime committed by the elderly as well as the predominate types of crime committed by the elderly. These differences can partially be attributed to the fact that different age brackets were used to identify the elderly. Such offenses as drunkenness, larceny-theft, fraud, disorderly conduct, gambling, disturbing the peace, and some types of sexual offenses were prevalent for the older offenders in the majority of the studies. The amount of violent crime, including murder, was higher than expected for the older offenders. In the United States, the researchers projected that the actual number of crimes committed by the elderly (65 and older) and the proportion of the total amount of crime committed by the elderly will continue to increase during the first part of the 21st Century. This does not necessarily mean that there will be an evenly distributed increase in crimes committed by the elderly. Some types of crime will show a decrease in the proportion of the total committed by the elderly, even though the proportion of the total population that is older will increase. This can be explained by the fact that for some crimes the elderly do not have the motivation, opportunity, or ability to commit the act.

Comparison of Crimes Committed by the Elderly in the U.S.A. (2000-2013)

Based on FBI statistics (Crime in the United States, 2000: Table 38:226-227) for the most serious crimes in 2000, the proportion of arrests for Serious Crimes (Index Crimes) for those in the age category of 65 and older was less than 1 percent. For the violent crimes in the Crime Index (murder, non-negligent manslaughter, rape, robbery, aggravated assault) for the category age 65 and over, the proportion of arrests was also less than 1 percent of the total number of arrests made for violent crimes in 2000. The percent of arrests for Index property crimes (arson, larceny-theft) for the 65 and over age category was 5 percent.

Conclusions based on the number of arrests made for various crimes can be erroneous, since a large proportion of reported crimes are never solved, and it is difficult to determine the characteristics of the persons who committed these crimes. In addition, victims of crime often do not report their victimization for a variety of reasons, including the fact that the offender is a relative, fear of retaliation, or belief that reporting will not stop the victimization.

One might ask what factors can explain why the arrests for all types of crimes were very small for those persons age 65 and above. Several factors must be considered in analyzing crime, including motivation, opportunity, and the ability to complete the act. For those in the elderly age group, the motivation to commit a crime may be there, but the opportunity is not available or the person may not have the ability to complete the act. For example, an elderly person may think twice about trying to commit a crime such as robbery, when there is a good chance that their own personal safety may be threatened. A person might have a desire to commit fraud, embezzlement, or forgery, but for a retired person not actively involved in a company or organization the opportunity does not exist. The proportion of arrests of the elderly for some property crimes such as shoplifting or minor theft, although 5 percent of the total, is somewhat larger than the proportion for other crimes, and this can be explained by the elderly having the opportunity and ability to complete the act. Strain theory, as it is applied to older persons on fixed lower incomes who are faced with constantly rising cost of living expenses, can provide an explanation for some forms of crimes committed by the elderly, such as theft, larceny, shoplifting, and fraud. Salzmann (1963, p. 54)

suggests that the high incidence of sex crimes among older men may be explained by the needs of some older men to compensate for feelings of being unattractive, rejection, and impotence. In a study of homicides among the elderly (Kratcoski & Walker, 1988, pp. 74-75), it was found that the "routine activities" theory provides a framework for understanding elderly homicides. The research revealed that the majority of the homicides committed by elderly persons occurred in the home and involved family relationships, with the spouses of the offenders most often being the victims, and with the incident leading up to the act being an argument over a family-related matter, such as money, drinking, or the quality of the meals served.

Analysis of Trends in Elderly Crime

When the 2013 FBI arrest statistics are compared with the 2000 arrest statistics, with age being the variable used in the comparisons (Crime in the United States, 2013: Table 38:46), we find that the proportion of all Index Crimes arrests for the 60-64 age category and the 65 and over age category increased from less than 1 percent to 2.2 percent. While the percentage of arrests for Index Crimes for the elderly is still small, it is important to note that the proportion increased significantly over the more than 10 years between the two time periods. Arrests for specific violent crimes (murder and non-negligent manslaughter) for those in the age category of 65 and older were significantly higher in 2013, as were arrests for property crimes such as larceny-theft, compared with the arrests for these crimes in 2000. When a comparison of property crime arrests for the two time periods (2000-2013) was made, the same trend of an increase in arrests for those in the older age categories was manifested. The proportion of the total arrests for fraud, forgery/counterfeiting, embezzlement, receiving stolen property, and commercial vice, and arrests for family-related offenses was not significantly different when the 65 and older age groups were compared for 2000 and 2013. For the 60 and above offenders, there was a slight increase in the proportion of arrests made in 2013 for driving under the influence, liquor law violations, and vagrancy, compared to 2000.

Crimes by the Elderly in Europe

It is difficult to obtain reliable statistical data on elderly offenders in Europe for several reasons. As in the United States, the clearance rates for such crimes as theft and burglary may be less than 10 percent. Thus, the characteristics of the offenders for the unsolved crimes are not known. Other crimes such as robbery and murder have a much higher clearance rate (60-80 percent), but the specific age of the persons arrested is not reported. For example, a police statistical report for the Federal Republic of Germany (Bundeskriminalamt, Police Statistics 2014, Federal Republic of Germany) categorizes suspects by age as children (less than 14), juveniles (14-18), young adults (18-21) and adults (22-and older). The report indicates that almost 28 percent of the suspects for 2014 were in the adult category, a 3.2 percent increase over 2013. However, the report does not reveal what proportion of these adult suspects were in the "elderly" age category. Several of the crimes that showed significant increases in 2014, such as fraudulent obtaining of services (15 percent increase), fraud using unlawfully obtained credit cards (10.2 percent increase), shoplifting (2.6 percent), account opening and transfer fraud (33.9 percent), and drug offenses (9.2 percent), are all crimes that the elderly might be motivated to commit or would likely have the opportunity to commit.

Many of the countries of Europe have experienced increases in street crimes such as robbery and gang fighting, in which some of the participants are "elderly." Some of the violence may be the result of fights between elderly couples and friends originating from arguments over small matters that become physical and others may be the result of clashes between ethnic and racial groups. These violent encounters, often between the native population and a recent immigrant group, will generally include participants from several age groups, the young as well as the old. The increase in the life span and the accompanying physical and mental disabilities many elderly persons experience have resulted in some acts of violence between intimates such as mercy killing and homicide-suicide pacts.

The number of cases of robbery, burglary, and fraud (Edelbacher, 2015: Personal Observations) has increased as a result of older persons losing their employment, losing their homes, being neglected by their families, and not having any secure source of income. For example, Edelbacher recalls:

> A group of elderly men who had engaged in burglary when they were young decided to start the "Gang of the Elderly" and resume the type of criminal activities they had engaged in when they were young because they had no other way to improve their living conditions.

Edelbacher observed that those who have had a life-long criminal career will generally change their mode of operations and the kind of criminal offenses they engage in once they become older. For example, the elderly will not engage in robbery and burglary, but will still be involved in drug trafficking and all types of fraud, including financial and credit-card fraud, cybercrime, and identity theft (Edelbacher, 2015 Personal Observation).

Elderly Victims of Crime (United States)

In the National Elder Abuse Incident Study—1996, completed by the United States Administration on Aging, the federal agency responsible for policy matter in elder abuse, it was concluded that, "The types of elder abuse from the most common to the least common were neglect, emotional/psychological abuse, financial/material exploitation, and physical abuse" (Fryling, 2009: 84). In addition, it was concluded that probably only 20 percent of the actual number of elder abuse cases are reported and substantiated.

Mason and Morgan (Crimes Against the Elderly, 2003-2013) developed estimates of the property crime and nonfatal violent crime victimization of the elderly (age 65 and older) for the years 2003 to 2013. In their report, it was found that:

- Elderly homicides rates declined 44 percent, from 3.7 homicides per 100,000 persons in 1993 to 2.1 per 100,000 in 2011;
- More than half (56 percent) of the elderly violent crime victims reported the victimization to the police, compared to more than 1/3 (38 percent) for persons age 12 to 24; and
- Among the elderly violent crime victims, about 59 percent reported being victimized at or near their home.

The matter of elder abuse is becoming more important as people are now living longer and thus the elderly make up a larger percentage of the entire population of most nations. It is predicted (National Institute of Justice, Elder Abuse, 2015: 1) that by 2025 more than 62 million Americans will be 65 years old or older and 7.4 million will be 85 years old or older. The expected 62 million elderly (65 and older) in 2025 will be a 78 percent increase over the number of elderly in the U.S. in 2001. In a study of the extent of elder abuse victimization (National Institute of Justice, Extent of Elder Abuse Victimization, 2015: 1), it was

found that 11 percent of the elderly reported at least one form of maltreatment—emotional, physical, sexual, or potential neglect—during the past year. Financial exploitation by a family member in the past year was reported by 5.2 percent of the elderly. The risk for elderly maltreatment is higher for:

- Individuals living in low income households;
- Individuals who are unemployed or retired;
- Individuals who report being in poor health;
- Individuals who had experienced prior traumatic experiences; and
- Individuals who have low levels of social support.

Case Study: Serial Murder in a Hospital

During the years 1988 and 1989, in a hospital in Vienna, four nurses killed more than thirty elderly patients who were very ill and weak, rather than providing these patients with the support and treatment they needed. When investigating these murders, the Major Crime Bureau in Vienna investigated 385 reports of suspicious death cases. After the news media revealed the circumstances of the murders, a general fear of being mistreated in the hospitals arose among the public and the public felt that there probably were many more cases of maltreatment of the elderly that were never detected. During a two-year investigation period, the Vienna Faculty of Medicine, the Department of Forensics, and the Prosecutor's Service collected all of the relevant literature and evidence about killing of the elderly in which the modi operandi that characterized killings by the nurses were used, and in the trial twenty cases of murder by the nurses were substantiated. By receiving worldwide media coverage, this case created an awareness of the vulnerability of the elderly and a call for the passage of laws to protect the elderly, not only in Austria, but for other countries. It became very clear that, as the populations of the nations in most of the developed countries of the world are becoming older, providing humane medical treatment, economic care, and protection for the elderly will become an increasingly difficult challenge (Edelbacher, 2015).

Victimization of the Elderly by Fraud and Scams

The National Council on Aging (2015: 1-3) has compiled a list of the top 10 scams targeting the elderly. These include:

- Health Care/Medicare/Health Insurance Fraud;
- Counterfeiting Prescription Drugs;
- Funeral and Cemetery Scams;
- Fraudulent Anti-Aging Products;
- Telemarketing Scams such as the "The Pigeon Drop," "The Fake Accident Play," and "Charity Scams";
- Internet Fraud and Email Phishing Scams;
- Investment Schemes;
- Homeowner/Reverse Mortgage Scams; Sweepstakes and Lottery Scams; and The Grandparent Scam.

A study by the Princess Clark-Wendel Companies (Financial Fraud: The Top 4 Scams Against the Elderly, 2015: 1) lists the top four scams against the elderly as:

- The Home Repair Scam;
- The Magazine Subscription Swindle;
- The Uncollected Derby Winnings Scam; and
- The Phony Bank Inspector Scam.

Crimes Against the Elderly in Europe

The crime rates in many countries of Europe increased dramatically after the break-up of the Soviet Union. With the uniting of East Germany and West Germany and the opening of the borders of Western Europe with Eastern European countries, there was an influx of immigrants from many of the Eastern countries. Most of these immigrants were law abiding and were motivated by employment and opportunities to improve their living conditions. However, conflicts with the native population were inevitable, since the new groups generally had a different culture and adhered to a set of traditional values and legal standards.

As the gap between the rich and poor increased during the latter part of the 20th century and the early part of the 21st century, some groups, particularly the very young and the elderly, became more vulnerable. The elderly in particular became the targets for all types of crime, including robbery, theft, burglaries, and fraud. As many of the elderly are physically handicapped and not able to defend themselves if attacked, gangs of youngsters and single offenders seek out elderly persons to rob, steal from them, or to burglarize their homes. Elderly persons who are coming from a financial institution or grocery store are often selected as victims. Reflecting on experiences with his mother, Edelbacher recalls,

> I remember very well as a son and police officer the talks with my mother about her safety. She was living alone, having been a widow for many years. At the beginning of each month, she would go out with her dog, her shopping bags, and the keys to her flat in one hand through an alleyway that went directly to the bank to cash her pension check. Although I explained to her several times that she was an easy target for robbers, she did not want to change her pattern of behavior" (Edelbacher-Personal Observations).

This example illustrates why the elderly are vulnerable to crime. They are trusting, set in their behavior patterns, and often not aware of the changes that have occurred in their communities that might make them more vulnerable to becoming victimized. There is also speculation that the amount of violence and neglect of the elderly who are housed in hospitals and nursing homes or under the care of their children has increased. These crimes are often not reported, since the elderly victims are afraid of accusing their children, relatives, or other persons caring to them. Even in cases in which the elderly are the victims of various types of fraud and scams, the elderly do not report the victimization for various reasons, including admitting to others that they were tricked.

Response to Elderly Crime by Criminal Justice Agencies

With the exception of children and juveniles, the criminal codes do not make allowance for decreasing culpability for crimes committed based on age. An elderly person who is physically and mentally handicapped is still subject to the same punishment as any other person who is found guilty of a comparable crime. For example, there are a number of cases of "elderly" persons being given long-term prison sentences for mercy killings. In a study of elderly homicide victims (Kratcoski & Walker: 1988), homicide-suicide pacts between elderly couples were made when one or both of the elderly partners suffered from terminal illness or was in extreme pain. In regard to financial scams and frauds, the criminal offenders are often older persons who have been swindling and scamming people most of their adult lives and thus, when finally brought to justice, should not be given any special consideration, regardless of their older age. In another study of older inmates (Kratcoski, 1992) it was found that several categories of male offenders, such as pedophiles, had been sexually molesting children, including their own children and grandchildren,

most of their adult lives. Other cases of older offenders arrested for such offenses as public intoxication, disturbing the peace, and theft have probably been in and out of the courts and jails most of their adult lives.

The courts and law enforcement officials recognize that the crimes of many elderly, such as shoplifting of food, receiving unqualified services, and even violent acts against another person, are the result of recent circumstances, and these persons are more in need of assistance than punishment. The diversion of older offenders from the criminal justice system is becoming an accepted norm. Police transport offenders suspected of being mentally ill to a mental health center rather than to jail. The older offender who is a substance abuser is eligible for "drug court" processing rather than the normal court processing, and the older financial crime offender is often allowed to make restitution rather than being given a criminal sanction.

Crime Prevention Strategies for the Elderly

The methods being employed to prevent the victimization of the elderly and to assist those who have been victimized consist of both information giving and operational programming. In the United States, the National Crime Prevention Council (2015:1) states that the key components of a viable crime prevention plan for the elderly should include:

- A communications network to keep the elderly alert to potential crime;
- Information and training on how to report crime;
- Services to support elderly victims in dealing with the physical, emotional and financial impacts of crime; and
- Access to products, training, and other services to help prevent victimization.

It is recommended that the information provided on the victimization of the elderly be factual and truthful. It is important to avoid creating such a fear of crime that the elderly are afraid to leave their homes to shop, go to church, or engage in social activities. It was suggested that the elderly engage in social interaction with family, friends, and others in the community to the extent possible.

Strategies Involving Action Programs

The action strategies for preventing victimization of the elderly consist of legislation, providing services, and law enforcement programs.

The major legislation pertaining to victims of crime that was passed by the federal government and the state legislations did not pertain specifically to elder victims of crime, but took in all victims of crime. The Victims of Crime Act was passed by the U.S. Congress in 1984. This Act established the Crime Victim Fund. The funds are used to support victim assistance and compensation programs throughout the country. All victims, regardless of their age, can apply for assistance and compensation if having received physical or material harm from a criminal act. The Office of Victims of Crime was established in 1988. This federal agency provides grants to victim assistance programs and training for service providers. Other legislation, such as the Violence Against Women Act (1994), does not specifically pertain to older women, but older women who qualify are eligible for the mandatory restitution required by the Act.

The United Nations has begun to recognize the extent of criminal victimization throughout the world and the need to support victims of war and crimes committed by corrupt leaders of nations. In 1985, The United Nations adopted the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (Wilson, 2009: ix-xii).

Crime Victim Assistance Agencies

Victim Service Programs were established throughout the United States during the 1980s. Most of the agencies providing these programs were initially funded by grants from the Office of Victims of Crime. These agencies are either independently administered or are attached to a government agency, most often the state or county prosecutor's office. Victim assistance agencies provide a variety of services to those victims of crime who ask for assistance. These services include assisting the victim through the court system, providing assistance in crisis intervention situations, assisting the victim with the completion of the forms for requests for compensation, assistance with the completion of impact statements, engaging in crime prevention programs, providing training in personal safety, visiting victims at their homes, making referrals of victims to counseling agencies, and even locating housing and funds for victims who need to satisfy immediate needs relating to food and shelter. (Tontodonato & Kratcoski, 1995:16)

The findings of the research on crime victims' utilization of services completed by Tontodonato and Kratcoski (1995: iii) revealed that crime victims typically obtained support from both public and private sources. The majority of the victims (the respondents were predominately younger women) tended to rely on their family and friends for the emotional support needed in dealing with the trauma that is often experienced when one is victimized, particularly in those cases when the action involves violence, loss of life of a family member, or bodily harm. They suggested that the victim service agency can be an important intermediary between the victim and the criminal justice system by providing a communication link to the system and by educating the victim on how the system operates and what to expect from the system at various stages of the process. (Tontodonato & Kratcoski, 1995:35.)

In many police jurisdictions, the security needs of the elderly have been recognized, resulting in the development of programs to assure the safety of older citizens. These programs include the assignment of police officers to housing complexes for older residents, providing crime prevention education for the elderly, and establishing community policing programs in neighborhoods where the large majority of the residents are senior citizens.

Conclusion

The proportion of the population that is considered elderly has increased rather significantly in most of the countries of the world during recent years. This increase in the elderly population is expected to continue well into the 21st century. This change in the elderly portion of the population has led to increases in the amount of crime committed by the elderly, as well as increases in the number of elderly persons who have become victims of crime.

The amount and types of crimes committed by older offenders is related to several factors, including the older offenders' motivation, opportunities, and ability to commit the crimes. The majority of property crimes committed by the elderly may be motivated by a desire to fulfill their basic needs, such as food and shelter. The mental state of the older offender may explain the causes of sex-related crimes, violent crimes, public order crimes, and crimes relating to drug and alcohol abuse.

In regard to providing assistance to elderly victims of crime, although crime victim assistance programs have been in operation for several decades, the elderly victims of crime have not received special attention until

recently. It is now recognized that some older victims have needs for assistance that are quite different from the needs of younger victims. These include assistance with transportation, special housing, financial security, personal physical care, and psychological counseling. Having a sense of security and being able to live without fear for one's personal safety are also major concerns.

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JUVENILE FOCUS

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Graduation Rates

The nation's high school graduation rate has ticked up slightly to 82 percent, a new high, according to the U.S. Education Department. The rate for the 2012-2013 was the highest since a new, uniform measure was adopted in 2010. Blacks and Hispanics made progress in closing the achievement gap with whites. About 72 percent of black students and 76 percent of Hispanics earned diplomas. For white students, the rate was 87 percent.

Defending Childhood

The National Institute of Justice (NIJ) has released "An Outcome Evaluation of the Defending Childhood Demonstration Program." This report highlights process evaluation findings from six of the eight sites participating in the Defending Childhood Demonstration Program, a national initiative of the Department of Justice and OJJDP to address children's exposure to violence. The report presents findings from surveys and data that researchers collected regarding the impact of training and community awareness campaigns on children's exposure to violence within each site.

Tribal Access Program

The Department of Justice announced the first 10 tribes to participate in an initial User Feedback Phase of the Tribal Access Program (TAP) for National Crime Information, a program to provide federally recognized tribes the ability to access and exchange data with national crime information databases for both civil and criminal purposes.

The User Feedback Phase will grant access to national crime information databases and technical support to the following tribes: the Cherokee Nation of Oklahoma, the Eastern Band of Cherokee Indians of North Carolina, the Keweenaw Bay Indian Community of Michigan, the Oneida Indian Nation of New York, the Pascua Yaqui Tribe of Arizona, the Suquamish Indian Tribe of the Port Madison Reservation of Washington, the Shoshone-Bannock Tribes of the Fort Hall Reservation of Idaho, the Tulalip Tribes of Washington, the Confederated Tribes of the Umatilla of Oregon and the White Mountain Apache Tribe of the Fort Apache Reservation of Arizona.

Transparency Implementation Plan

The Office of the Director of National Intelligence (ODNI) recently published the implementation plan for the *Principles of Intelligence Transparency for the Intelligence Community.* The principles are intended to facilitate intelligence community (IC) decisions on making information publicly available while continuing to protect information when disclosure would harm national security. The implementation plan sets IC priorities for transparency, translating the principles into concrete, measurable initiatives.

Adult Offenders in the Community

This study presents data on adult offenders under community supervision while on probation or parole in 2014. The report presents trends over time for the overall community supervision population and describes changes in the probation and parole populations. It provides statistics on the number of offenders entering and exiting probation and parole and the mean time served as well as national-level data on the distribution of offenders on probation or parole by sex, race, or Hispanic origin, most serious offense type, and status of supervision. It also presents outcomes of supervision, including the rate at which offenders completed their term of supervision or were returned to incarceration. Appendix tables include jurisdiction-level information on the population counts and number of entries and exits for probation and parole; jurisdiction-level information on the types of entries and exits for parole.

Highlights:

- At year end 2014, an estimated 4,708,100 adults were under community supervision down by about 45,300 offenders from year end 2013.
- Approximately 1 in 52 adults in the United States was under community supervision at year end 2014.

Probation findings:

- Between year end 2013 and 2014, the adult probation population declined by about 46,500 offenders (down 1.2 percent), falling to an estimated 3,864,100 offenders at year end 2014.
- Entries onto probation decreased about 1.3 percent during 2014, and exits declined about 1.0 percent to an estimated 2,130,700.

Parole findings:

- The adult parole population increased by about 1,600 offenders (up 0.2 percent) between year end 2013 and 2014, to an estimated 856,900 offenders at year end 2014.
- Both entries to and exits from parole decreased about 1.5 percent in 2014.
- The re-incarceration rate among parolees at risk of violating their conditions of supervision remained stable at about 9 percent in 2013 and 2014.

Serious Juvenile Offenders

Several interventions aim to reduce recidivism by promoting prosocial attitudes and behaviors among violent and chronic juvenile offenders. CrimeSolutions.gov looked at those targeting violent and chronic juvenile offenders sentenced to serve time in secure corrections. The goal of this practice is to decrease recidivism rates among serious juvenile offenders. This practice has been rated "Effective" for reducing general recidivism and serious recidivism of violent

and chronic juvenile offenders. Learn more about this program and the evaluations on CrimeSolutions.gov.

Cross-Age Peer Mentor Program

The Cross–Age Peer Mentor Program pairs high school student mentors with elementary and middle school students for mentoring sessions at the younger students' school. Depending on the distance between the schools, the program follows one of two models, with students either meeting twice a week after school or once a month on weekends. Both models include quarterly Saturday family activities and optional two–week summer program. The program aims to increase connectedness to school and community for both mentors and mentees. Evaluations showed better results in spelling achievement and connectedness to parents and school compared to a control group. Learn more about this program and the evaluations on CrimeSolutions.gov. This program was reviewed in partnership with the Office of Juvenile Justice and Delinquency Prevention's Model Programs Guide.

Youth Justice Diversion Programs

Global Youth Justice champions volunteer-driven strategies and low-cost innovations which alleviate some of the world's more pressing and costly societal problems. Global Youth Justice strives to improve the quality of life for humans through reducing high juvenile crime rates and historic-high incarceration rates of adults locally and globally. Global Youth Justice achieves this through favorable outcomes that result from advancing the global expansion of quality volunteer-driven youth justice and juvenile justice voluntary diversion programs often called youth court, teen court, peer court, student court, peer jury and youth peer panel. Record numbers of volunteer youth (including former juvenile offenders) now serve as jurors, defenders, prosecutors, judges and clerk/bailiffs in local juvenile justice systems on real juvenile crimes, offenses, and violations involving their peers. A record 1,600-plus communities around the globe now operate one of these cost-effective programs to reduce the incidence and prevent the escalation of juvenile crime and incarceration rates, thereby reducing adult crime and incarceration rates.

Youth Outcomes in State Juvenile Justice Systems

Recently, the Council of State Governments (CSG) Justice Center hosted "Improving Outcomes for Youth in the Juvenile Justice System: A 50-State Forum" in Austin, TX. Fifty state teams composed of lawmakers, juvenile justice officials, and judicial leaders convened for this 2-day forum to discuss juvenile justice reforms, lowering rearrest rates, and improving youth outcomes. The CSG Justice Center, in collaboration with OJJDP, produced several products and tools to help states develop and implement system-wide plans to improve outcomes for youth. CSG released the following products during the forum:

- Recidivism Reduction Checklists to guide state and local officials on whether policy, practice, and resource allocation decisions are aligned with the research on "what works."
- Juvenile Justice Agency Leaders and Managers Checklist
- Policymaker Checklist
- Judges Checklist
- Locked Out: Improving Educational and Vocational Outcomes for Incarcerated Youth provides findings from a survey of juvenile correctional agencies in all 50 states on the extent to which they provide incarcerated youth access to educational and vocational services.
- Improving Outcomes for Youth is an infographics series that details three critical challenges that states face in improving outcomes for youth.
- Reducing Recidivism and Improving Other Outcomes for Young Adults in the Juvenile and Adult Criminal Justice Systems is designed to help state and local officials better support young adults in the justice system

Juvenile Justice Legislation

The National Conference of State Legislatures has released *Trends in Juvenile Justice State Legislation 2011-2015,* which examines state legislative activity from 2011 to 2015 on a number of juvenile justice issues. The report describes the increasing momentum of state juvenile justice policy development in the past 5 years and catalogs the volume and variety of juvenile justice legislation enacted in the states. According to the report, significant trends have emerged to restore jurisdiction to the juvenile court, divert youth from the system, shift resources from incarceration to community-based alternatives, provide strong public defense for youth, and respond more effectively to the mental health needs of young offenders. The report builds on *Trends in Juvenile Justice State Legislation: 2001–2011.*

Smart on Juvenile Justice Initiative

Recently, OJJDP announced the Office has awarded $2.2 million to expand its Smart on Juvenile Justice initiative to South Dakota and West Virginia. This initiative supports grant programs that promote juvenile justice system reforms, provide training and technical assistance to prosecutors, address systemic racial and ethnic disparities, and improve the quality of indigent defense. The new funding will also provide ongoing support for Georgia, Hawaii, and Kentucky, all of which received funding in 2014. Smart on Juvenile Justice aligns with the Justice Department's Smart on Crime initiative, a comprehensive review of the criminal justice system to identify and implement reforms to ensure federal laws are enforced fairly and efficiently. Learn more about OJJDP's Smart on Juvenile Justice initiative

BIDs

With the implementation of Business Improvement Districts (BIDs), U.S. cities are experiencing less crime and notable economic benefits. A 2010 analysis in *Injury Prevention* of 30 BIDs in Los Angeles, Calif., found a 12 percent decline in robberies and an 8 percent decline in violent crime, as well as substantial economic development. The savings attributed to the decline in robberies alone offset implementation costs of these districts, making BIDs a sustainable prevention strategy. BIDs are public–private partnerships created by neighborhood property owners and merchants to invest in local services, activities, and improvements, with the goal of enhancing a city's appeal, use, and safety. In Los Angeles, the BID provided security officers and public ambassadors and helped beautify certain areas. Local BIDs can invest in various strategies, such as street cleaning, security, community events, and green spaces.

Juvenile Justice System Failures

Girls are becoming increasingly more involved in the juvenile justice system at all stages of the process. Over the past two decades, researchers found arrests among girls have increased by 45 percent, despite overall declining juvenile arrest rates. Court caseloads for girls have increased 40 percent, as has the number of girls in detention.

Youth Violence

Homicide is the fourth leading cause of death among youths 10 to 29, with an estimated 200,000 cases reported each year. For each young person killed, many more sustain serious injuries. Countless others develop mental health issues and engage in risky behaviors, like smoking and drinking, as a result. The World Health Organization (WHO) has published a new manual, *Preventing Youth Violence: An Overview of the Evidence,* which details effective practices and interventions for areas where resources are limited. The manual presents an evidence-based framework that explains why some young people are more likely to become involved in violence and why youth violence is more concentrated in particular communities and populations. It addresses how youth violence is influenced by personal traits, family and peer relationships, and the community. Twenty-one youth violence prevention strategies address early childhood development, academic growth, social skills, parenting, substance use, problem-oriented policing, and urban upgrading. There are risk and protective factors for youth violence, a review of evidence on what works in violence prevention, and steps policy makers can take to scale up antiviolence efforts.

Children of Arrested Parents

Parental arrest can have long-lasting traumatic effects on a child. Shock, confusion, and fear are just a few emotions that arise when a child's parent is taken into custody. A new video developed by the International Association of Chiefs of Police and the Bureau of Justice Assistance trains law enforcement agencies on safeguarding children of arrested parents. The video outlines strategies to help police implement a trauma-informed approach for protecting children before, during, and after a parent's arrest.

Juvenile Justice State Profiles

The Juvenile Justice Geography, Policy, Practice & Statistics (JJGPS), developed and maintained by the NCJFCJ's research division, the National Center for Juvenile Justice (NCJJ), has launched new state profiles that summarize important findings across six topic areas. This new generation of state profiles are the most comprehensive ever released by the NCJJ. The profiles also highlight policy, practice, and statistics across the six topic areas, including jurisdictional boundaries, juvenile defense, racial and ethnic fairness, juvenile justice services, status offenses, and systems integration.

Sexual Assaults

The National Institute of Justice (NIJ) has formed the NIJ–FBI Sexual Assault Kit Partnership with the Federal Bureau of Investigation (FBI) Laboratory in Quantico, VA, to help address one of the most difficult and complex issues facing our nation's criminal justice system: sexual assault kits that have gone unsubmitted to forensic laboratories. Through the Partnership, the FBI Laboratory tests kits from law enforcement agencies and crime laboratories across the country to reduce the number of untested kits in the U.S. In a brand-new video, we discuss how the NIJ–FBI Sexual Assault Kit Partnership plans to shed light on the complexities of sexual assault evidence processing and develop best practices that can improve the quality and speed of sexual assault kit testing.

Domestic Violence Courts

Domestic violence (DV) courts are specialized, problem-solving courts that specifically handle domestic violence cases. New York State has two types of DV courts:

- Criminal courts, which tend to be more common across the United States and only take domestic violence cases.
- Integrated courts, which place criminal, family, and matrimonial cases relating to the same family before one judge.

Learn more about this program and the evaluations on CrimeSolutions.gov. Sign up to receive emails from CrimeSolutions.gov about all newly rated programs and practices.

Veterans in Prison and Jail

A Bureau of Justice Statistics study presents counts and rates of veterans in state and federal prison and local jail in 2011 and 2012. This report describes incarcerated veterans by demographic characteristics, military characteristics, and disability and mental health status. It describes current offense, sentencing, and criminal history characteristics by veteran status. It also examines combat experience associated with lifetime mental health disorders among incarcerated veterans. Findings are based on data from the National Inmate Survey, conducted between February 2011 and May 2012. Data from previous BJS surveys of inmates in prison and jail are used to establish historical trends regarding incarcerated veterans.

Highlights:

- The number of veterans incarcerated in state and federal prison and local jail decreased from 203,000 in 2004 to 181,500 in 2011–12.
- The total incarceration rate in 2011–12 for veterans (855 per 100,000 veterans in the United States) was lower than the rate for nonveterans (968 per 100,000 U.S. residents).
- Non-Hispanic black and Hispanic inmates made up a significantly smaller proportion of incarcerated veterans (38 percent in prison and 44 percent in jail), compared to incarcerated non-Hispanic black and Hispanic nonveterans (63 percent in prison and 59 percent in jail).
- A greater percentage of veterans (64 percent) than nonveterans (48 percent) were sentenced for violent offenses.
- An estimated 43 percent of veterans and 55 percent of nonveterans in prison had four or more prior arrests.

Child Welfare

The National Council on Crime and Delinquency (NCCD) released a new report today describing efforts made with the Los Angeles County Department of Children and Family Services (DCFS) to prevent youth in the child welfare system from becoming involved in the juvenile justice system. NCCD and DCFS partnered to develop an actuarial screening assessment, which Los Angeles County workers used to classify youth by their likelihood of subsequent juvenile justice involvement. Assessment results enabled the county to focus prevention service programming on youth at highest risk of dual-system involvement.

Juvenile Justice Geography

The National Center for Juvenile Justice (NCJJ) has added state juvenile justice profiles to its Juvenile Justice Geography, Policy, Practice, & Statistics (JJGPS) website. JJGPS is an online resource featuring national and state statistics on state laws and juvenile justice practices to help policymakers and stakeholders chart juvenile justice system change. The new profiles explore juvenile justice systems in each state across six topic areas. The profiles also contain state trend data on arrests and custody issues with comparisons to national data. NJJ is the research division of the National Council of Juvenile and Family Court Judges. The JJGPS is one of several

strategies in support of juvenile justice reform through the Models for Change initiative

Census of Jails

The Bureau of Justice Statistics presents state-level estimates of the number of inmates confined in local jails at year end 2013, by sex, race, and Hispanic origin. This report provides information on changes in the incarceration rate, average daily population, admissions, expected length of stay, rated capacity, percent of capacity occupied, and inmate-to-correctional officer ratios. It also includes statistics, by jurisdiction size, on the number of inmates confined to jail and persons admitted to jail during 2013. It features a special section on the 12 facilities that functioned as jails for the Federal Bureau of Prisons.

Highlights:

- From 1999 to 2013, the number of inmates in local jails increased by 21 percent, from 605,943 to 731,570. During this period, the growth in the jail population was not steady, as the jail confined population peaked in 2008 at 785,533 then declined to its 2013 level.
- The adult jail incarceration rates changed slightly between midyear 1999 (304) and year end 2013 (310).
- Nearly half (46 percent) of all local jail inmates were confined in jurisdictions holding 1,000 or more inmates in 2013, down slightly from 50 percent in 2006.
- Between 1999 and year end 2013, the female inmate population increased by 48 percent, from approximately 68,100 to 100,940. The male inmate population increased by 17 percent, from approximately 537,800 to 630,620.
- The juvenile population (persons age 17 or younger) held in adult jail facilities in 2013 (4,420) decreased by more than half from its peak in 1999 (9,458).

Inmate Disabilities

An estimated 32 percent of state and federal prisoners and 40 percent of local jail inmates reported having at least one disability in the 2011–12 National Inmate Survey administered by BJS. Estimates of disabilities include six specific classifications: hearing, vision, cognitive, ambulatory, self-care, and independent living. A cognitive disability—defined as serious difficulty concentrating, remembering, or making decisions—was the most common disability reported by prison and jail inmates. An estimated 19 percent of prisoners and 31 percent of jail inmates reported having a cognitive disability. An ambulatory disability was the second most common reported disability, with 10 percent of each population reporting difficulty walking or climbing stairs.

Juvenile Justice Publication

Ashley Nellis, a Senior Research Analyst at the Sentencing Project, has just published a book, *A Return to Justice: Rethinking Our Approach to Juveniles in the System*. The book examines how the original aim of the juvenile justice system—to consider children's unique status and amenability for reform—has eroded, with increasing reliance on court systems that do not take into account their young age. Ashley describes how the stated intent of the juvenile justice system has fluctuated since its inception, with attention to the critical role that race has played in creating—or failing to create—a juvenile justice system that is suitable for children. But she also notes the growing appreciation of the role of adolescent development, crippling racial and ethnic inequalities, and the profound impact of school discipline policies in criminalizing youth behavior that have created a hopeful moment for the original vision of juvenile justice to emerge again.

Youth Commitments

A new policy brief written by Joshua Rovner at the Sentencing Project, *Declines in Youth Commitments and Facilities in the 21st Century*, finds major reductions both in the number of youth committed to residential facilities and in the number of facilities this century. While the number of youth behind bars has fallen by half since 2000, racial disparities in youth commitment remain large and prevalent: African American youth are 4.3 times as likely as white youth to be committed to a secure facility, and Native youth are 3.7 times as likely.

Well-Being of Vulnerable Youth

The Youth Transition Funders Group has released Investing to Improve the Well-Being of Vulnerable Youth and Young Adults: Recommendations for Policy and Practice. This publication provides a framework for understanding the well-being of vulnerable youth and highlights the roles families, communities, and public systems can take to promote young people's well-being. It offers recommendations for youth system leaders, policymakers, and stakeholders to improve policy and practice to support a successful transition to adulthood for vulnerable youth. Learn more about:

- The Attorney General's Defending Childhood initiative.
- The National Forum on Youth Violence Prevention.
- The Community-based Violence Prevention program.

Traffic-Related Deaths

In 2013, one-third of all traffic-related deaths were people killed in an alcohol-impaired driving crash. Just like driving after drinking alcohol, the use of illegal drugs or misuse of prescription drugs can make operating a motor vehicle unsafe. Even small amounts of some drugs can have a measurable effect. According to the 2013 National Survey on Drug Use and Health, undertaken by the Substance Abuse and Mental Health Services Administration (SAMHSA), an estimated 9.9 million people aged 12 or older reported driving under the influence of illicit drugs during the year prior to being surveyed. The effects of impaired driving crashes can devastate survivors and their families for years or a lifetime.

Racial Disparity in Post-*Booker* Sentencing

While overall federal sentence lengths have decreased since *United States v. Booker*, blacks and Hispanics are sentenced more harshly than whites, according to Jeffrey S. Nowacki's recent analysis in *Crime & Delinquency.* In the 2005 *Booker* decision, the United States Supreme Court enhanced judicial discretion in sentencing determinations by making the federal sentencing guidelines advisory, rather than mandatory (with a modest impact). The study examines federal sentencing data between 2002 and 2008, controlling for factors such as offense severity and criminal history, and finds that greater judicial discretion increased racial disparity in post-*Booker* sentencing. He also shows that the effect of race and ethnicity varies across the distribution of sentence lengths: "Black offenders were sentenced for longer periods of time at all stages except the 10th and 25th percentiles, and Hispanics sentenced after Booker were only sentenced longer in the 10th and 25th percentiles." A recent working paper prepared by Abt Associates for the Bureau of Justice Statistics also notes that "blacks have not benefited as much from the increased leniency afforded to whites," and finds no racial disparity in women's sentences.

Pretrial Detention

Writing in the *Huffingon Post*, Professor Cynthia Jones and Nancy Gist of the Pretrial Racial Justice Initiative call attention to the country's dysfunctional bail process and how it produces racial disparities throughout the justice system and fuels mass incarceration. Most pretrial defendants are in jail simply because they cannot afford to pay the money bond imposed by the court—not because they are a public safety or flight risk, explain Jones and Gist. Because poor people in the United States are more likely to be people of color, black and Latino defendants are more likely to experience pretrial detention. Pretrial detention can result in job or housing loss and other dire collateral consequences. "This reality creates a strong incentive for pretrial detainees to plead guilty—regardless of their guilt or innocence—which starts a cycle of imprisonment that is a major driver of mass incarceration." People in pretrial detention are three times more likely to be sentenced to prison and receive longer prison sentences than people on pretrial release. According to the authors, creating a bail system that is based on risk and not resources, as in Kentucky or the District of Columbia, will spare tens of thousands of people from pretrial detention and disrupt the cycle of mass incarceration.

Youth Mortality

While previous studies have demonstrated that justice-involved youth have increased risks of early death, a report in the *American Journal of Preventative Medicine* finds that these risks increase with deeper involvement in the justice system. In "Mortality of Youth Offenders Along a Continuum of Justice System Involvement," Matthew C. Aalsma and colleagues review mortality for nearly 50,000 Indianapolis-area youth over a 13-year period, 62 percent of whom had been arrested. In examining the 500 deaths among this group, the researchers find that deeper justice system involvement—arrest, detention, commitment, and transfer to adult court—was associated with a greater risk of death. The most common causes of death were homicide (48 percent), overdose (15 percent), other accidents (14 percent), suicide (12 percent), and natural causes (12 percent). The likelihood of death for system-involved youth was higher for African Americans than for whites.

Juvenile Court Outcomes

Michael Leiber, Jennifer Peck, and Nancy Rodriquez's article in *Crime and Delinquency* examines the relationship between the "racial/ethnic threat thesis" and youth court outcomes for black and Latino children. The racial/ethnic threat thesis predicts that various forms of social control will expand as the economic status and political power of people of color increases in relation to whites. Building upon previous criminal justice research, the researchers hypothesized that communities with a large minority population and greater economic equality pose a greater threat to whites, and thus would have more severe youth court outcomes for children of color. Their analysis of youth court proceedings involving 37 counties in three states did not indicate that minority presence and economic status were related to increased youth punishment.

Victimization Survey

Developmental estimates of subnational crime rates based on the National Crime Victimization Survey presents rates of violent and property crime victimization for the 50 states and select metropolitan statistical areas, generated using small-area estimation (SAE) methods. The report describes the statistical modeling approach used to produce state-level estimates from the National Crime Victimization Survey data and auxiliary data sources. It compares SAE victimization rates for the 50 states from 1999 to 2013 to FBI crime rates from the Uniform Crime Reporting (UCR) Program. It shows trends in criminal victimization rates for each state from 1999 to 2013. State-level estimates of intimate partner violence are also presented. Excel files provide three-year rolling average rates of violent and property crime, stranger violence, and intimate partner violence, as well as relative mean square errors for the 50 states, select large counties, and select large Core Based Statistical Areas, from 1999 to 2013. Victimization counts are also provided for the states for three-year rolling periods from 2005 to 2013.

Statistics Papers

BJS has established a Research and Development (R&D) Papers series, which details statistical methods that will be applied to analyzing and reporting official findings from BJS's data collection programs. The papers—

- Examine the effectiveness of survey methods currently used by BJS program.
- Investigate alternative methods to determine their appropriateness and application.
- Recommend approaches for improving the efficiency and quality of the data collections.
- Present findings.

Access the BJS Research and Development Papers series page and read the first paper, *Developmental Estimates of Subnational Crime Rates Based on the National Crime Victimization Survey.*

Residential Placements

A development in criminal justice in recent years is the dramatic decrease of the number of young people involved in the juvenile justice system. The number of adolescents in residential placements in the juvenile justice system declined by 50 percent from 1999 to 2013, from a peak of 107,493 to 54,148 in 2013. Regrettably, black and Latino youths remain significantly overrepresented in residential placement, comprising 68 percent of the total committed or detained youths in 2013. Committed youths outnumber those in detention by 2:1 and are under supervision for longer periods. It is estimated that as many as 600,000 youths cycle through juvenile detention annually.

The reduction in residential placements coincides with efforts to address trauma among youths who come in contact with the juvenile justice system. Studies estimate that three young persons out of four in the juvenile justice system have experienced some form of traumatic victimization, and estimates for the incidence of posttraumatic stress disorder range from 11 percent to 50 percent. Encounters with the child welfare and juvenile justice systems often exacerbate stress levels, adding additional layers of trauma. A Government Accountability Office report (GAO–03–865T) found that significant numbers of parents were placing their children into the child welfare or juvenile justice systems as a last resort for getting mental health services for their offspring.

Binge Drinking

Research shows that persons of college age partake in *binge drinking*—defined as consuming five or more drinks on a single occasion for men and four or more for women—more frequently than any other age group. Notably, full-time college students drink more than persons the same age who are not attending college. The college environment—and particularly living on campus in coeducational residence halls—contributes to excess drinking.

The reasons for this are complex and varied. But researchers have documented that many young adults about to enter college expect alcohol to be more freely available on college campuses than it was to them when they lived at home with parents or guardians (this generally proves true) and associate binge drinking with college life. These assumptions often preordain a lifestyle that includes binge drinking. Once in college, many students consider college life as separate from the real world—a time when they are on their own but not yet burdened by the responsibilities of finding and maintaining gainful employment.

Forensic Science

Deputy Attorney General Sally Quillian Yates announced that the Justice Department will, within the next five years, require department-run forensic labs to obtain and maintain accreditation and require all department prosecutors to use accredited labs to process forensic evidence when practicable. Additionally, the department has decided to use its grant funding mechanisms to encourage other labs around the country to pursue accreditation. The new policies arose out of recommendations made by the National Commission of Forensic Science (NCFS), which was established to advance the field of forensic science and make suggestions to the Attorney General on how to ensure that reliable and scientifically valid evidence is used when solving crimes.

FBI Records and eFOIA

The FBI recently began open beta testing of eFOIA, a system that puts Freedom of Information Act (FOIA) requests into a medium more familiar to an ever-increasing segment of the population. This new system allows the public to make online FOIA requests for FBI records and receive the results from a website where they have immediate access to view and download the released.

Solitary Confinement

In the United States, there are between 80,000 and 100,000 people confined to prison cells the size of parking spots and exposed to extreme conditions of social isolation, sensory deprivation, and idleness for days, months, years, and even decades at a time—a tally that does not include thousands of others living in similar conditions in jails, juvenile facilities, and immigration detention centers. This is a human rights crisis and it is not making our communities safer. Fortunately, momentum is mounting to end this psychologically traumatizing and costly practice. Civil rights litigation, federal congressional hearings, prisoner-led hunger strikes, increased media coverage, criticism from international human rights groups, growing financial pressures, and leadership from some progressive criminal justice leaders are some of the factors prompting correctional systems to reduce their use of solitary confinement. Vera is partnering with government leaders in Nebraska, Oregon, North Carolina, New York City, and New Jersey to identify and implement safe and humane alternatives to administrative and punitive segregation.

Jail Population

While big-city jails get most of the attention, lockups in small and medium-sized counties have actually driven the overall explosion in the U.S. inmate population, according to a new analysis of 45 years of jail statistics. U.S. jails now hold nearly 700,000 inmates on any given day, up from 157,000 in 1970, and the Vera Institute of Justice found that smaller counties now hold 44 percent of the overall total, up from just 28 percent in 1978. Jail populations in mid-sized counties with populations of 250,000 to 1 million residents grew by four times and small-sized counties with 250,000 residents or less grew by nearly seven times, Vera's analysis shows. In that time large county jail populations grew by only about three times.

Prisoner Employment Partnership

A new partnership among New York State, 40 private investors, and a nonprofit called the Center for Employment Opportunities seeks to apply thinking to an area of policy that has been particularly resistant to interventions: lowering the recidivism rate in an era of growing prison populations. The investors, including private philanthropists and former Treasury Secretary Larry Summers, have put up a total of $13.5 million to fund an expansion of the work that an organization called the Center for Employment Opportunities (CEO) already does with people coming out of prison. CEO's model is simple: It prepares people who have criminal records for the workplace, gives them up to 75 days of temporary employment, and then helps them find jobs of their own. With the $13.5 million, CEO will work with an additional 2,000 clients, targeting the highest-risk people.

Correctional Populations in the United States, 2014

This BJS publication presents statistics on persons supervised by adult correctional systems in the United States at year end 2014, including offenders supervised in the community on probation or parole and those incarcerated in state or federal prison or local jail. The report describes the size and change in the total correctional population during 2014. It details the downward trend in the correctional population and correctional supervision rate since 2007. It also examines the impact of changes in the community supervision and incarcerated populations on the total correctional population in recent years. Findings cover the variation in the size and composition of the total correctional population by jurisdiction at year end 2014. Appendix tables provide statistics on other correctional populations and jurisdiction-level estimates of the total correctional population by correctional status and sex for select years.

Highlights:

- Adult correctional systems supervised an estimated 6,851,000 persons at year end 2014, about 52,200 fewer offenders than at year end 2013.
- About 1 in 36 adults (or 2.8 percent of adults in the United States) was under some form of correctional supervision at year end 2014, the lowest rate since 1996.
- The correctional population has declined by an annual average of 1.0 percent since 2007.
- The community supervision population (down 1.0 percent) continued to decline during 2014, accounting for all of the decrease in the correctional population.
- The incarcerated population (up 1,900) slightly increased during 2014.

National Incident-Based Reporting System

The FBI released details on more than 5.4 million criminal offenses reported via the National Incident-Based Reporting System (NIBRS) in 2014. The Uniform Crime Reporting (UCR) Program's latest report, NIBRS 2014, provides a diverse range of information about victims, known offenders, and relationships for 23 offense categories composed of 49 offenses. It also presents arrest data for those offense categories, plus 11 more offenses for which only arrest data are collected.

Crime Stats Overblown

As year-end crime statistics come in, data from America's largest cities show crime overall was roughly the same in 2015 as in 2014, and in fact is projected to decline by 5.5 percent, according to an analysis of crime trends from the Brennan Center for Justice. The analysis is an update to a November preliminary study projecting 2015 crime data.

Using statistics through December 23, 2015, a team of economics and legal researchers released updated data providing near-final crime numbers for 2015 from the nation's 30 largest cities. "The average person in a large urban area is safer walking on the street today than he or she would have been at almost any time in the past 30 years," wrote Matthew Friedman, Nicole Fortier, and James Cullen in *Crime in 2015: A Preliminary Analysis*.

Among the updated findings:

- Crime overall in the 30 largest cities in 2015 remained roughly the same as in 2014. In fact, our projections show a decrease of 5.5 percent, meaning the crime rate will remain less than half of what it was in 1990.
- The 2015 murder rate is projected to be 14.6 percent higher than last year in the 30 largest cities, with 18 cities experiencing increases and 7 decreases. However, in absolute terms, murder rates are so low that a small numerical increase leads to a large percentage change. Even with the 2015 increase, murder rates are roughly the same as they were in 2012. Since murder rates vary widely from year to year, one year's increase is not evidence of a coming wave of violent crime.
- A handful of cities have seen sharp rises in murder rates. Just two cities, Baltimore and Washington, D.C., account for almost 50 percent of the national increase in murders. These serious increases seem to be localized, rather than part of a national pandemic, suggesting community conditions are a major factor. The preliminary report examined five cities with particularly high murder rates—Baltimore, Detroit, Milwaukee, New Orleans, and St. Louis—and found these cities also had significantly lower incomes, higher poverty rates, higher unemployment, and falling populations than the national average.

The preliminary report, released in November, examined month-to-month and year-to-year crime numbers using data from the Federal Bureau of Investigation and local police departments. The authors concluded that rhetoric around a "crime rise" should not stand in the way of federal, state, or local reforms to improve our justice system and reduce prison populations.

Girls in the Juvenile Justice System

In response to the growing number of girls who end up in the juvenile justice system, often following incidents of sexual abuse or exploitation, OJJDP released a policy guidance on girls and the juvenile justice system. The guidance presents eight focus areas where states, tribes, and communities can improve their responses to girls. It also outlines OJJDP's commitment to providing training and technical assistance, grants, research, and data collection support to enhance the juvenile justice field's ability to better understand and meet the needs of girls.

Juvenile Justice Reforms for Girls, a report released by the National Crittenton Foundation in partnership with the National Women's Law Center, presents research using OJJDP data which shows that, in the last two decades, girls' share of the juvenile justice population has increased at all stages of the system. Key findings from the report show that between 1992 and 2013:

- Despite overall declining juvenile arrest rates, girls' share of juvenile arrests increased by 45 percent.
- Girls' share of court caseloads increased 40 percent.
- Girls' share of the detention population increased 40 percent.
- Girls' share of the post-adjudication probation population increased 44 percent and post-adjudication placement population increased 42 percent.

Sexual Assault and Domestic Violence

Attorney General Loretta E. Lynch has announced new guidance to help law enforcement agencies identify and prevent gender bias in their response to sexual assault and domestic violence. The guidance offers eight principles for law enforcement to incorporate into policies and training to ensure that neither implicit nor explicit gender bias will undermine efforts to keep victims safe and hold assailants accountable. The principles include recognizing and addressing biases and stereotypes regarding victims, treating all victims with respect, and encouraging victims to participate in the investigation. View and download the Justice Department's policing guidance on identifying and preventing gender bias in response to sexual assault and domestic violence. Read the gender bias policing guidance fact sheet. Read OJJDP's policy guidance on Girls and the Juvenile Justice System.

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