

Ten Years Gone: Leveraging Second Chance Act 2.0 to Improve Outcomes

Jay Whetzel

Aaron F. McGrath, Jr.

*Probation and Pretrial Services Office
Administrative Office of the U.S. Courts*

THE SECOND CHANCE ACT was comprehensive bipartisan legislation enacted on April 9, 2008. The stated objectives of the Act were to reduce recidivism, to rebuild ties between offenders and their families, to support evidence-based practices, to protect the public, and to assist offenders in establishing a self-sustaining life.¹ The primary focus of the SCA was to provide funds and guidance to assist state, local, and tribal authorities in improving reentry and protecting the community. Included in the legislation, however, was an important expansion of the contracting authority of the Director of the Administrative Office of the U.S. Courts (AO) under 18 U.S.C. 3672. Prior to the expansion, the only services for which the federal probation and pretrial services system could contract were substance abuse and mental health treatment. The new authority allowed them to

Contract with any appropriate public or private agency to monitor and provide services to any offender in the community, including treatment, equipment, emergency housing, corrective and preventative guidance and training, and other rehabilitative services.²

The challenge this presented, however, was that the sheer breadth of the new authority raised questions about what would be the

constraints or limits on the services and goods that U.S. Probation and Pretrial Services might seek. To help establish some general parameters, the Probation and Pretrial Services Office (PPSO) of the AO, at the direction of the Judicial Conference's Committee on Criminal Law, called for the creation of a working group of probation officers to draft guidance before the authority was re-delegated to the courts. While this was underway, additional legislation was enacted. The Judicial Amendments and Technical Assistance Act (JATAA), enacted in October 2008, impacted federal probation and pretrial services in two ways. First, to help address defendants' risks of nonappearance and danger, JATAA expanded the services available to pretrial defendants by modifying the AO Director's authority under 18 U.S.C. 3154. Second, while SCA had enabled probation to contract for services, it had not allowed for the direct purchase of goods and services.³ Collectively, SCA and JATAA significantly increased the courts' ability to provide interventions to all those under federal supervision.

The Re-Entry and Transitional Services Working Group was established by the Director of the AO and first met in November 2008. The Working Group drafted policy guidance that was ultimately endorsed by the Committee on Criminal Law in June 2009. The policy established three guiding principles for SCA: (1) all expenditures must be a necessary

expense, (2) accountability must be maintained, and (3) funded interventions must be evidence-based. To qualify as a "necessary expense," an intervention could not supplant free services, not be perceived as bestowing a benefit upon the defendant or offender, and must be narrowly tailored to meet the purposes set forth in the statute. The call for "accountability" simply required that probation and pretrial services abide by any and all internal control and contracting provisions established by the AO. Last, funded interventions had to be evidence-based and minimize the risks posed by pretrial defendants and offenders reentering the community.⁴

The SCA policy identified two categories of service: Emergency services and transitional services. Emergency services are those that meet the pressing immediate needs of individuals being supervised, ensure the fair administration of justice by meeting basic humanitarian needs of those under the courts' authority, and address needs that *may* decrease recidivism. These services may include, but are not limited to, transportation, health care, housing, food, hygiene, clothing, and utilities. Transitional services, however, mitigate a broad spectrum of longer-term needs and deficits that increase the likelihood of recidivism, other than substance abuse dependency and mental health treatment.⁵ Additionally,

⁴ *Guide to Judiciary Policy*, Vol. 8, Part L, Chapter 2 section 210.40.

⁵ See below. Authority to contract for substance abuse treatment and mental health treatment had been delegated to the courts decades earlier.

¹ *Guide to Judiciary Policy* Vol. 8, part L, Chapter 2, Section 210.

² 18 U.S.C. 3672.

³ *Guide to Judiciary Policy* Vol 8, Part L, Chapter 2 section 210.10.

transitional services may require significant intervention and expense, and the justification of the expense is derived specifically from the nexus between need and likelihood of re-offending. Finally, authorization of fee-based services depends upon the defendant/offender's lack of resources and the officer's inability to secure free resources in the community. Transitional services may include, but are not limited to, housing, vocational counseling/services, cognitive behavioral treatment, transportation, mentoring, and job training.⁶ The two categories of services are distinguishable by identifying those which require immediate action and those which require a more systematic, better-informed approach to reduce recidivism.

Once the SCA guidance was developed and approved, the Director of the AO delegated the expanded contracting authority to the chief judge of each district, who in turn delegated the authority to the chief U.S. probation officer and, in districts with separate probation and pretrial services offices,

the chief pretrial services officer.⁷ The SCA working group had also worked with the AO's Procurement Management Division in developing a Statement of Work (SOW) to be used in contracting for services. This SOW was then provided to the courts, consistent with the accountability principle mentioned above. Additionally, the judiciary allocated \$30 million to be used over three years to jump-start the SCA initiative. PPSO staff provided several national trainings to explain the new authority and to assist courts in taking advantage of its provisions.

Implementation

To jump-start the use of the expanded authority, the Judicial Conference allocated funds to the courts, which were distributed proportionally based upon the number of defendants and persons under supervision. The intention was to provide \$6 million to the courts in the first fiscal year (fiscal year 2010), and \$12 million during both fiscal years 2011 and 2012.

⁷Memorandum from James C. Duff, Director of the AO, to all Chiefs, Judges, Chief Probation Officers, and Chief Pretrial Services Officers October 16, 2009.

⁶*Guide to Judiciary Policy*, Vol. 8, Part L, Chapter 2 section 230.

Eastern District of Missouri—Employment, Housing, and Transportation

The Eastern District of Missouri has invested resources in emergency and transitional services. Skill-training sessions have been held for Commercial Drivers Licenses (CDL), construction pre-apprenticeship, drywall installation, certified nursing assistances (CAN), auto mechanics, solar panel installation, and forklift certification. Graduates of the CDL driver training program are hired before completion of the training. CNA, construction, and auto mechanics have had similar job placement success. Professional certifications obtained through this training provide applicants with portable certifications and skills which make them more marketable for the positions. The funds can also be used to pay for boots, tools, or other employment needs. The district and success stories were highlighted in the front page of the New York Times Business Section in 2016. <https://www.nytimes.com/2016/06/26/business/in-search-of-the-felon-friendly-workplace.html>

These resources have also been very beneficial in addressing housing needs. Two Residential Reentry Center contracts were closed by the Bureau of Prisons in our district. In addition, the former governor cancelled housing resources for non-profit agencies, and the largest homeless shelter was also closed in the City of St. Louis. The district has partnered with landlords and non-profit agencies to increase availability of emergency and transitional housing. Emergency funds can also be used to avoid eviction if the person has the ability to maintain the payments in the future.

Transportation is a third area of focus for these resources. Bus passes are purchased to assist people under supervision until they receive their first paycheck. In rural areas, where public transportation is unavailable, it has been used to purchase fuel. When community resources are unavailable, we have used emergency funds to pay for delinquent utility bills to avoid disconnection of services. This is especially important during periods of extreme temperatures.

For more information, please contact Chief U.S. Probation Officer Scott Anders at Scott_Anders@moep.uscourts.gov.

There were implementation challenges from the outset. The potentially available funds during the first year, while seemingly a large infusion of resources, came out to less than \$40 per defendant and person under supervision. Additionally, courts were not required to use the funds for SCA interventions. In many cases, courts reallocated the funds to other spending areas. Other courts returned the funds to the AO unspent. Perhaps some courts found the spending guidance complex or were concerned that they could inadvertently create an audit finding in the future if they were to make a mistake. Others may have questioned the appropriateness of providing the new types of assistance authorized. Additionally, the AO determined that the new authority was part of a general delegation of authority, as opposed to a special delegation of authority such as treatment services. As such, court staff most familiar with procurement and spending rules of the general delegation were often unfamiliar with the reentry needs confronting those leaving prison and coming under the courts' supervision. Conversely, probation and pretrial services officers, who were familiar with those needs, were not knowledgeable about general delegation rules, nor typically certified at the appropriate contracting level.

At the end of the first fiscal year, courts had spent less than half of the initial \$6 million they had been allocated. Halfway through fiscal year 2010, spending still had not increased. During the same time frame, sequestration seriously impacted the judiciary. Funds intended to support SCA implementation had to be used to maintain basic court operations. Sequestration seriously impacted any further SCA expenditures, as courts had no incentive to redirect funds to support these programs.

Some time later, however, the Judiciary's Committee on the Budget directed that all SCA expenditures (referred to as BOC 2580 Offender and Defendant Support Services) be treated similarly to other law enforcement spending, meaning that any such spending for SCA interventions become historical, i.e., any funds spent during one fiscal year would be replaced the following fiscal year. Prior to this change, if courts had reallocated law enforcement or other funds into BOC 2580, they would have "zeroed out" their funding stream. Once SCA was designated as a historical funding stream, several districts began reallocating funds to support a variety of initiatives.

During the next few years, the AO worked to develop improved procurement

mechanisms that would be easier for probation and pretrial officers to manage. This took several years and required close coordination between the Office of General Counsel, the Procurement Management Division (PMD), and PPSO. There was also an effort to formalize the policy guidance into the *Guide to Judiciary Policy* and to develop a formal procurement manual to be hosted by PMD. During this same period, directives from the Internal Revenue Service required the AO to distinguish housing expenditures from all other SCA services. This led to the creation of BOC 2380, Emergency and Transitional Housing.

Several years of effort culminated in November 2017 when the Director of the AO re-delegated SCA as a specially delegated authority. The new authority brought with it some major improvements: (1) courts can use non-competitive purchase orders for services up to \$25,000, an increase from the previous limit of \$10,000; (2) courts can cross fiscal years with SCA agreements; (3) courts can establish blanket purchase agreements for SCA, which can last for up to five years; (4) courts can pay for some services as “commercial services,” which allows them to pay in advance; (5) court unit executives (that is, chief probation officers and chief pretrial services officers), have greater discretion in the length of time services could be provided, not to exceed 12 months; and (6) new project codes for Domestic Violence Intervention were introduced. Additionally, there were many smaller refinements, such as allowing for contingency management programs within the context of contracted CBT interventions, and authorizing group, as well as one-on-one, mentoring programs. These and other developments were introduced in a series of national trainings in March 2018.

PCRA 2.0 and SCA

While SCA policy guidance and procurement processes were evolving, so was the federal probation and pretrial systems’ use of actuarial risk tools. In post-conviction supervision, fiscal year 2017 marked the roll-out of the Post-Conviction Risk Assessment 2.0 (PCRA 2.0). Most noteworthy was PCRA 2.0’s inclusion of a violence trailer, which provides officers with both the probability of a given person under supervision’s general re-offending and the probability of that person’s *violent* re-offending. PCRA 2.0 attaches a violence risk category with a range of 1-3 to the original PCRA categories that aim to assess

risk of general recidivism (low, low/moderate, moderate, and high). The originally identified responsivity factors remained.

When one considers the criminogenic needs (domains) and responsivity factors that PCRA 2.0 includes, they very closely parallel the interventions available under SCA. SCA has responses for three of the four dynamic risk factors, as well as options for six of thirteen responsivity factors. For SCA-supported interventions to be evidence-based, officers may use the PCRA output as a foundation for considering whether SCA funds may enhance supervision in line with the principles of risk, need, and responsivity.⁸ The risk principle guides officers to devote more time and resources to those at higher risk to reoffend,⁹ and decisions to use SCA funding should likewise be guided by this approach.

Higher risk persons present with more criminogenic needs (or dynamic risk factors) identified by the PCRA. By targeting these as areas for monitoring and change, officers are most likely to impact the person’s risk of reoffending.¹⁰ However, for SCA interventions to be successful, officers must seek to identify the specific drivers of the presenting risk factors and to implement reasonable interventions tailored to the specific risks of the individual being supervised.¹¹ In doing so, officers may recognize that the drivers of the risk factors may be interrelated. For example, if a person presents with an education/employment risk factor, the driver of that risk factor may be that the person has never valued the importance of working and earning a stable wage from a legitimate place of employment. This type of antisocial thinking may or may not be identified by the PCRA (that is, cognitions may not present as the top risk factor), but even if not present, the officer can understand how to spur change in the education/employment domain. Rather than sending the person immediately to vocational training, targeting the person’s antisocial thoughts about work (cognitions) may be best not only to help the person change but also to protect the public. Therefore, in considering the

domains and creative interventions that SCA makes possible, officers should rely on their in-depth knowledge of the person’s history and circumstances to understand what drives risk factors in that person’s life. To help make those connections, below we consider three of the four risk domains and six of the responsivity factors in conjunction with corresponding SCA interventions.

Criminogenic Needs

Cognitions

The cognitions domain, as identified by the PCRA, is present among 37 percent of those under post-conviction supervision and is considered the most influential dynamic risk factor. Antisocial or procriminal attitudes are not easy to change. However, research suggests that if officers target change in this area, they are more likely to help the person under supervision change his or her behavior and reduce recidivism.¹² To do so, officers can seek to build a positive and professional rapport and use empathy and a wide range of interpersonal skills, such as those outlined in the Core Correctional Practices or Staff Training Aimed at Reducing Rearrest (STARR). Even in high-risk cases where officers spend most of their time and effort targeting thinking and behavioral change, SCA funds may represent an opportunity to bolster such efforts to address criminal thinking through use of available CBT programming. Other potentially effective interventions aimed at addressing cognitions such as mentoring are addressed in the section regarding the social networks domain.

The goal of CBT (Project Code 3122) is to change the way offenders think, and hence change the way they behave. More specifically, CBT restructures an offender/defendant’s thought patterns while simultaneously teaching prosocial skills. This type of intervention is effective in addressing criminogenic needs such as antisocial values and low self-control. The district may specify which manualized CBT curriculum is implemented. Programs such as Moral Reconnection Therapy (MRT), Thinking for a Change, and journaling programs have, when implemented effectively, shown measurable effects on the reduction of risk of recidivism.¹³

⁸ Bonta, James, and D.A. Andrews, *The Psychology of Criminal Conduct*, 2017. pp. 175-184.

⁹ See *Guide*, Volume 8, Part L, Chapter 2, section 230.20 (g).

¹⁰ Bonta, James, and D.A. Andrews, *The Psychology of Criminal Conduct*, 2017. p. 180.

¹¹ Alexander, Melissa, et. al. “Driving Evidence-Based Supervision to the Next Level: Utilizing PCRA, Drivers, and Effective Supervision Techniques,” *Federal Probation*, Volume 78:3. December 2014.

¹² Bonta, James, and D.A. Andrews, *The Psychology of Criminal Conduct*, p. 130.

¹³ SCA Procurement Manual, Section 4.11, page 56.

District of New Jersey—U.S. Pretrial Services

According to the federal *Guide to Judiciary Policy*, Pretrial Services is the front door to the federal criminal justice system and has the unique opportunity to lay the foundation for each defendant's success, not only during the period of pretrial supervision, but beyond. The notion that reentry starts at arrest is not a new one. In their 2011 article "Preentry: The Key to Long Term Criminal Justice Success?" (*Federal Probation*, vol. 75, no. 2) Lowenkamp and Cadigan asked whether the front end (what happens pretrial) has long-term positive impact. The evidence is mounting that it does! Research as well as federal statute, policies, and procedures support this concept, which is consistent with the presumption of innocence.

It is in this vein that Pretrial Services in the District of New Jersey looks to the Second Chance Act funding to support our practices. Greater numbers of higher risk cases are being released and the need to mitigate those risks is more critical than ever before. Following the risk principle, pretrial services looks to incorporate Second Chance Act funding into our office's initiatives to provide services that not only minimize risk but improve a defendant's chances of success upon release. "Preentry," or the concept that reentry begins at arrest, means identifying the risks and needs of defendants in order to provide services that help transform lives into productive ones.

When it comes to Second Chance Act assistance for pretrial defendants, many think "why bother? They're likely going to prison anyway!" Employers don't want to invest, defendants aren't motivated to strive, attorneys don't recognize the benefits. But as incentives become more common, this will change.

For example, New Jersey Pretrial Services has the support of its federal public defender to send presumed innocent defendants to "Thinking for Change," because it helps decrease antisocial thinking, increase prosocial behavior, and thus decrease risk. Additional contracted services via Second Chance Act funding include counseling, life skills training, and daily intensive employment groups. (Project codes for the employment side of services encompass code 3011, which includes testing and work skills evaluation and reports; code 3010, which includes vocational, occupational, and career planning and assessment; and code 3020, for job readiness training. On the cognitive behavioral therapy (CBT) end, project code 3122 is used for cognitive behavioral treatment, along with code 3202, should a transportation barrier be identified with the defendant's ability to attend treatment sessions.)

In addition to the CBT and intensive employment groups, we have a focus on early intervention with defendants released within their first 30 days in the community. With the creation of a workforce development unit, which includes a network of community resource programs for employment, education, and vocational training, New Jersey has been able to identify the needs of the client population and match them with an equal response that addresses risk factors related to both nonappearance and danger to the community. Referrals are made by the primary case officer, who identifies a lack of employment history, issues with job retention, and/or personal motivation by the defendant to obtain new skills and engage in vocational training or complete a GED. Once a referral has been made to our specialty unit, the case is assigned to an officer from the unit for a one-on-one case staffing with the defendant. The goal of the early intervention is to link the defendant with community resources that foster not only a job but a career, not only continuing with education but possibly obtaining a degree, and not only receiving a certificate but developing lifelong skills to serve them in the future.

Finally, while Pretrial Services' use of Second Chance Act funding is focused on risk reduction, it also has the potential to impact outcomes at sentencing. In many cases, judges recognizing positive pretrial adjustment have granted significant downward variances. Thus, defendants who seize the opportunity can make that positive impact, not only during pretrial, but beyond.

For more information, please contact Chief U.S. Pretrial Services Officer Chris Dozier at Chris_Dozier@njpt.uscourts.gov.

Social Networks

The social networks domain, as identified by the PCRA, is the most prevalent domain, and present among 80 percent of those under post-conviction supervision. It is considered the second most influential dynamic risk factor. Officers seek to encourage persons under supervision to avoid negative peers and to seek out more positive influences. To that end, they should monitor associations¹⁴ and try to gain insight into how the person under supervision spends leisure time. Officers can seek court approval for restrictions such as curfews and location monitoring, or geographical restrictions if the case warrants. They also seek to intervene by having meaningful discussions about why change in this area is so important and engaging the person under supervision's thoughts on how they may do so. Depending upon the availability of community resources, SCA again may represent an opportunity as a "force multiplier" to support the officer's effort to create change in the area of the person's life by providing a connection to a mentor who can work more extensively with the person. Further, because antisocial thinking patterns are linked to a person's decisions to associate with or avoid others, CBT programming also is appropriate in many cases where this risk factor presents.

Mentoring (Project Code 3017) refers to a developmental relationship in which a more experienced person helps a less experienced person develop an enhanced sense of self-worth and specific knowledge and skills to increase the chance of successful reentry. Mentoring is a process for the informal transmission of knowledge, social capital, and the psychosocial support perceived by the recipient as relevant to work, career, or professional and personal development; its primary goal is preparing an offender for reentry and supporting him or her during the reentry process to enhance success. Mentoring involves communication and consists primarily of one-on-one relationships, although team and group approaches may also be helpful. Mentors should be carefully selected, keeping the success of the person being supervised in mind. Those with criminal history are not precluded from being mentors, as those directly impacted by former criminal justice involvement may be particularly effective. The recency of a prior conviction should be a factor to consider when choosing mentors. Mentors may not currently be under any form

¹⁴Post-Conviction Procedures Manual 3.60.60.10(b).

of community supervision, and mentoring may not exceed one year.¹⁵

Alcohol/Drugs

Alcohol/Drugs is present as a risk factor among 29 percent of persons under federal post-conviction supervision. However, the standard array of treatment interventions are not delivered through the SCA but rather through the Treatment Services Special delegation and the Treatment Services Procedures. Possible drivers of this factor are antisocial attitudes, poor coping skills, social networks, mental health, and physical addiction (Alexander et al., 2014). Given that the two contracting mechanisms are part of distinct special delegations—although established in the same statutory authority, 18 U.S.C. 3672—when dealing with any presenting substance abuse or mental health issues in those they supervise, officers need to turn to substance abuse and mental health treatment.

Employment/Education

The employment/education domain, as

¹⁵SCA Procurement Manual, Section 4.9, page 48.

identified by the PCRA, is present as a risk factor among 64 percent of those under post-conviction supervision. It is considered the third most influential dynamic risk factor. Possible drivers of this factor are lack of education, vocational skill deficits, interpersonal skills deficits, distorted/antisocial attitudes toward employment, substance abuse, medical/mental health issues, and logistical barriers such as childcare and transportation barriers (Alexander et al., 2014). Based on the officer's knowledge of the person under supervision's history, officers may implement one of the interventions discussed below in an attempt to target the risk factor in a way that is likely to bring about meaningful change for the person being supervised.

SCA Employment/Education interventions available include: Job Training; Subsidized on the Job Training; Employee Tools, Equipment and Licensure; Vocational Assessment and Report; Testing and Work Skills Evaluation; Job Readiness Training; Individual Career Counseling; Job Placement and Retention; Employment Retention Group; and general Education. Below are detailed descriptions of four of the programs:

Southern District of Ohio—Mentoring

Antisocial networks is the most prevalent criminogenic need in the population under federal supervision. The use of mentors to provide prosocial engagement is a promising strategy that few districts have pursued. Research shows that participation in prosocial activities is a significant piece of the recidivism reduction puzzle, as is the probation officer's praise of the client's involvement in prosocial behavior. In the Southern District of Ohio, our mentoring services and client participation have evolved over the last few years. We reallocate resources to fund initiatives by accessing the current Second Chance Act funds. The project code that we use to provide mentoring services is 3071 Volunteer Coordination—Mentoring.

There are a few implementation challenges when it comes to providing mentoring services. Though there are mentoring programs established in both the juvenile criminal justice and substance abuse arena, there is lack of established mentoring programs focusing on the adult criminal justice population. Due to the lack of specific research and available programming, referrals from probation officers are limited. Though it is diminishing, there is a stigma associated with peer mentoring and recruiting mentors who have a criminal record. At least one study that showed has regular visitation from community members had a positive correlation on reduced recidivism. At this time, current measurable outcomes have been limited to accounting for the number of participants. With that being said, our plans going forward include evaluating our current mentoring programs and establishing measurable outcomes, such as surveys, questionnaires, and feedback from the offenders. Mentors will have defined and clear roles and responsibilities, with specific targets in mind. There are general areas that all mentors should be trained in, including trauma, collateral consequences, behavioral health issues, etc. After the mentoring model is established, a district-wide mentoring training program will be established.

For more information, please contact Vanessa Fletcher at Vanessa_Fletcher@ohsp.uscourts.gov.

District of Oregon—Vocational Training

The U.S. Probation Office in the District of Oregon developed a program to assist people under supervision with the training needed to obtain a Commercial Driver's License (CDL). The CDL Program assists persons under supervision in preparing to operate a commercial vehicle through training at a school licensed under the Oregon Higher Education Coordinating Commission. Western Pacific Truck School of Oregon (WPTS) was selected as the contracting agency to provide the required education and training for offenders to obtain their CDL. WPTS offers a 4-week training program with field and classroom time totaling over 160 hours. To date, 15 people under supervision in the District of Oregon have entered the CDL Program and 80 percent have graduated from WPTS. Within two weeks of graduation, 91 percent of the offenders found employment in the truck driving industry. Within six months of graduation, participants' average hourly wage had climbed from \$10.88 before they took the class to \$19.57.

For more information, please contact Chief John Bodden at John_Bodden@orp.uscourts.gov.

Job Readiness (Project Code 2020) is training that prepares defendants and persons under supervision for employment. Training may include resume preparation, interview techniques, appropriate dress, problem solving, effective communication, assertiveness training, plans to address barriers, workplace literacy and on the job conduct. It may also include a manualized cognitive-behavioral treatment component.¹⁶

Job Training (Project Code 3040) provides instruction in a classroom or worksite setting designed for specific occupations to help the participant gain the technical skills and/or information required to successfully perform a specific job or group of jobs. The job training program may qualify as a commercial service (i.e., programs available to the general public). Defendants and offenders should be screened carefully. Consider prerequisites such as the

¹⁶SCA Procurement Manual, Section 4.3, page 22.

completion of a cognitive behavioral treatment program. Programs should be considered that make defendants/offenders employable in their respective communities. Participants should be in compliance with conditions of supervision at the time of referral.¹⁷

Subsidized On-the-job Training (Project Code 3030) is training by an employer that is intended to result in permanent employment by providing knowledge or skills essential to the full and adequate performance of the job. If the job is in a field that requires a special certification such as plumbing, the employer should have appropriate licenses and certifications so that staff qualifications may apply. This service is intended to help “open the door” for a defendant or offender who might otherwise not receive consideration by an employer. Defendants and offenders should be screened carefully and be appropriate for this service (for example, a medium-to-high-risk defendant or offender who has demonstrated a commitment to successful reentry, or a defendant or offender who has completed a cognitive behavioral program or job readiness curriculum). Defendants or offenders should be in compliance with conditions of supervision at the time of referral. Employers should be screened carefully to ensure success with this service so that it is not abused (by, for example, the employer retaining the person only during the period of time when the employer receives a subsidy for employing the person).¹⁸

Employee Tools Equipment and Licensure (Project Code 3601) involves the acquisition of required tools, equipment, or vocational licenses that the defendant or offender cannot afford. These items are actual cost items. This includes goods (e.g., work boots, hammer, tool belt) and services such as work permits, bonding, certifications, or liability insurance. The officer should ensure that services cannot be provided by any other community resource. Consider this type of assistance when the absence of the item is a direct obstacle to employability. Officers should also screen defendants and offenders carefully for progress, and consider adding prerequisites such as CBT, vocational training certification while in BOP custody, or other programming to encourage success.¹⁹

¹⁷ SCA Procurement Manual, Section 4.6, page 39.

¹⁸ SCA Procurement Manual, Section 4.5, page 34.

¹⁹ SCA Procurement Manual, Section 4.17, page 65.

District of South Dakota—Domestic Violence Intervention

In the District of South Dakota, the number one re-offense classification is “violence,” and the number one violent offense category is “domestic violence.” In 2017, a district judge in the Southern Division established a collaboration with a magistrate judge, the U.S. attorney, the federal public defender, and the Probation Office to address this concern. The collaboration agreed to:

- Apply the Ontario Domestic Assault Risk Assessment (ODARA) in the presentence phase when there is a criminal history of domestic violence;
- Add a special condition of cognitive-behavioral domestic violence training, based on the defendant’s history and the score on the ODARA;
- Apply a “Behavioral Agreement for Relations with Intimate Partner,” where the convicted person agrees not to engage in behaviors that are physically, sexually, or psychologically abusive and/or controlling.

The recent expansion of the use of Second Chance Act funds for domestic violence interventions has allowed the district to purchase cognitive-behavioral training (CBT) for perpetrators of domestic violence. Using “local needs” language in its solicitation for CBT for domestic violence, the district has established contracts for vendors to provide either Moral Reconciliation Therapy for Domestic Violence (MRT/DV) or Achieving Change Through Values-based Behavior (ACTV). Currently, the district has five separate contracts to serve the four divisions within the district. All four vendors (one vendor has two contracts) have chosen the MRT/DV curriculum.

For more information, please contact Chief U.S. Probation Officer John Bentley at John_Bentley@sdp.uscourts.gov.

Violence

The addition of the violence assessment with PCRA 2.0 assists officers in determining the appropriate level of supervision and how to allocate resources. While domestic violence is not a dynamic risk factor per se, officers may learn through the assessment phase that person has engaged in domestic violence in the past. The Domestic Violence intervention (Project Code 3710) goals include stopping the violence and preventing the reoccurrence of future violence, while ensuring victim safety; identifying abusive behavior; teaching alternatives to violence; exploring the impact of violent and abusive behavior on intimate partners, children, and others; and assisting individuals in examining beliefs they hold about violence.²⁰

Responsivity Factors

SCA services include an array of interventions to address many of the presenting responsivity factors that officers identify when conducting the PCRA. Responsivity factors are individual characteristics or circumstances that may serve as obstacles to the person’s progress or affect his or her ability to comply with the demands of supervision. Some factors may be eliminated (such as homelessness or lack of transportation), and some factors may not

(such as a permanent medical condition). When possible, officers work to address emergency circumstances and eliminate barriers to provide the person under supervision with the best chances of success. If a responsivity factor cannot be mitigated, the responsivity principle indicates that officers should tailor supervision to the person under supervision’s characteristics and learning style.²¹ Below are a few examples of how SCA can provide opportunities to overcome responsivity factors.

Homelessness

Emergency and/or Transitional Housing (Project Code 3101) is for defendants and offenders who require housing to assist in their reentry. Housing should not exceed 90 days, unless an extension is determined appropriate and approved by the chief. On-site inspections should be conducted to ensure that the environment is conducive to the defendant or offender’s rehabilitation without conferring luxuries or privileges. There is no separate provision for the payment of utilities, food allowances, etc., unless these services are included in the rent. The search for permanent residential options should continue during this transitional period. Officers must reevaluate the need for this service at least

²⁰ SCA Procurement Manual Section 4.22, page 70.

²¹ Bonta, James, and D.A. Andrews, *The Psychology of Criminal Conduct*, p. 192.

every 30 days. Officers should consider a community service condition and/or adding job readiness, vocational training, and other suitable programming to compel defendants and offenders to work actively toward obtaining employment to help achieve self-sufficiency.²²

Transportation

Transportation can be the first hurdle for defendants and persons under supervision to access employment and education opportunities, various treatment interventions, and other prosocial activities. It can be particularly challenging in rural environments, which often lack public transportation systems. Transportation Project Code 3202 can be provided to those under supervision that the probation or pretrial services officer determines are unemployed or unable to

pay for transportation. Funding for client transportation under this code should not exceed 90 days, unless an extension is deemed appropriate by the unit executive. Services may not exceed one year. This service is for transportation to and from reentry services or to facilitate new employment opportunities. To assist populations in rural areas, a vendor could provide group transportation for multiple defendants or offenders to and from evidence-based interventions, excluding mental health and substance abuse.²³ While bus passes are quite popular, some courts are establishing Uber accounts for a host of situations when public systems are not sufficient. Some rural districts have purchased bicycles for persons to use in order to get to work.

²²SCA Procurement Manual Section 4.10, page 54.

²³SCA Procurement Manual, Section 4.12, page 63.

The District of Puerto Rico—Transitional Housing

The District of Puerto Rico was an early adopter since the inception of the Second Chance. Our level of engagement in the delivery of these services has placed us among the top three districts nationwide in SCA expenditures. We have framed our focus and delivery of services within the Risk-Needs-Responsivity (R-N-R) model, especially regarding Transitional Housing Services. We have proposed that addressing housing barriers not only impacts the “forgotten R” of responsivity, but also serves as strategic treatment dosage to help address criminogenic needs such as social networks and employment. For example, a person who is surrounded by negative peers and family members but otherwise desires change may benefit from the complete change of scenery that transitional housing provides. By selecting this intervention, we may increase the effectiveness and availability of interventions to target dynamic risk factors that would otherwise have been difficult to pursue while the person remained in the negative environment. Such efforts to assist persons under supervision also tap into the key ingredient of the officer-client relationship: motivation to change (a responsivity element that correlates to success in supervision).

From 2015 to 2017, out of 37 clients who received contracted temporary shelter services, only 5 were revoked; and out of 42 receiving rent assistance (security deposit plus first three months rent), none had been revoked as of last year—a total of 79 clients within that time frame with only a 6.3 percent revocation. Transitional housing is usually complemented (if it is determined that this is needed) with basic-item services such as basic appliances and/or modest furniture, as needed. One of the major milestones of our Reentry Team has been being able to break the local housing authority’s automatic exclusion policy from subsidized housing applications of persons under supervision and/or with a criminal record. This effort required us to play our advocacy role in line with the book *Working with Involuntary Clients* by Chris Trotter, and as comprehensively described in the report *When Discretion Means Denial* by the Shriver National Center on Poverty Law. In line with this, we have also been proponents of within-district relocation facilitated not only with housing, but also with relocations or transfers of supervision to other districts within the RNR framework. If we look at the new post-conviction *Guide to Judiciary Policy* policy guidance for relocation or supervision transfer, it validates what has been our position for the past five years.

For more information, please contact Assistant Deputy Chief Humberto Marchand at Humberto_Marchand@prp.uscourts.gov.

Reading/Writing Limitations

General education (Project Code 3061) is for those being supervised whose educational deficits impede their successful reentry by impacting their employability or progress toward other objectives. This service provides basic education, instruction, course materials, and exams such as GED, literacy courses, and English as a Second Language (ESL).²⁴

Child Care

Child care (Project Code 3603) is for the care of eligible dependents of defendants and offenders who share a common household, when lack of child care poses a direct barrier to full-time employment and/or vocational training. Child care must be provided by a state-licensed facility/provider. The USPO/USPSO should evaluate the need for this service every 30 days. This service cannot exceed 90 days, unless an extension is authorized by the unit executive. Services may not exceed one year.²⁵

Physical handicap

Non-Emergency Medical (Project code 3604). This authorizes medical services for defendants and offenders whose physical issues impede their successful reentry by impacting employability or other responsivity issues. Some examples of this service are pre-employment physicals, prescription eye-wear and exam when vision poses a direct barrier to full-time employment, and tattoo removal when tattoos are clearly visible on the face, neck, and/or hands. This service excludes cosmetic services, including cosmetic dentistry, hair cut/styling, etc.²⁶

Other

Identification (Project Code 3606). This facilitates the purchase of federal/state-issued documents, such as birth certificates, state identification cards, or driver’s licenses, to help a defendant or offender reintegrate into the community and become employable.²⁷

Putting It All in Motion

Over ten years have passed since SCA expanded the courts’ authority to assist those under supervision. However, given the scale of the criminogenic needs and responsivity factors in that population, the limited, disparate

²⁴SCA Procurement Manual, Section 4.8, page 47.

²⁵SCA Procurement Manual, Section 4.18, page 66.

²⁶SCA Procurement Manual, Section 4.19, page 68.

²⁷SCA Procurement Manual, Section 4.20, page 69.

use of SCA to date is curious. According to the AO's Budget Division, during fiscal year 2018, the courts spent \$3.4 million in SCA.²⁸ Clearly there were implementation challenges early, and the loss of dedicated SCA funding during sequestration had a chilling effect on its use. Nevertheless, some courts chose to move aggressively to reallocate resources from other areas to fund SCA interventions. Those expenditures in turn become historical and build capacity for subsequent years.²⁹ The majority of courts, however, remain largely

²⁸ As noted earlier, U.S. Probation and Pretrial Services address the criminogenic need of substance abuse and the responsivity factor of mental health through a separate delegation of authority, not SCA. During fiscal year 2018, courts spent nearly \$60 million in substance abuse treatment alone.

²⁹ See DSS Report #1063 Second Chance Act Expenditures by District.

reactive in their spending and limit SCA use to addressing emergency situations. Below we present a few suggestions for courts, based upon respective staff roles, that can perhaps help them to better leverage SCA services to improve outcomes:

Officers

Officers possess thorough knowledge of the circumstances of those under their supervision. For post-conviction officers, the PCRA 2.0 output, including risk level, criminogenic needs and responsivity factors, provides the foundation for case planning.³⁰ Officers must also be knowledgeable of free community-based resources as well as what SCA services are offered in their district. They must also

³⁰ DSS data, which pull from ERS PCRA data, suggest that officers are not particularly thorough in identifying responsivity factors when completing the PCRA.

understand the underlying SCA principles that define a necessary expense and their role in documenting expenditures for accountability purposes. Most important, their level of knowledge of the RNR model is essential in guiding to select interventions that are evidence-based. Providing needed resources to those under supervision when no other means are available can be very helpful in building trust between the officer and the recipient. Perhaps most importantly, when officers are not sure if SCA may offer a solution, they must not be afraid to ask. Current SCA policy guidance, while thorough, does not cover all of the circumstances in which it might be applicable. The guidance is meant to be illustrative, but not exhaustive. New situations will continue to present themselves and SCA may offer appropriate solutions to address risk and responsivity factors. Last, officers should remember that while emergency services can be used to assist any risk level, greater investments through transitional services should be limited to those who are higher risk, consistent with the risk principle.³¹

Supervisors

Supervisors of caseload-carrying officers should be SCA experts. First, they play important roles as development coaches for officers at all levels of experience. Examples of good uses of SCA interventions should be shared both within the supervisor's unit as well as with other units to educate officers about what SCA makes possible. While an officer is addressing the needs of his or her caseload, the supervisor must be attentive to the needs of multiple caseloads. Supervisors are in a unique position to see in-depth patterns of need across caseloads. They can also ensure that all officers are made aware of identified community resources and district SCA programming options. As experts, supervisors can work with officers to establish priorities, focus on those who are higher risk, and help broker needed interventions during case staffing. Checking on service delivery in subsequent case reviews is also essential. Supervisors should also make sure that senior managers are kept informed of trends in needs and newly discovered resources, and, as they evaluate situations, recommend whether or not SCA interventions are warranted. Supervisors are essential to assessing office and district-level SCA needs and communicating those assessments to

Middle District of Florida—An Officer's Perspective on Reentry

Community supervision has moved well beyond knocking on doors, collecting a urine specimen, and just "checking in." If we are truly committed to helping persons under supervision become successful, law-abiding citizens, we must be aware of their risk factors and the barriers confronting them. When officers think proactively, they can greatly reduce the anxiety of those we supervise as they prepare to reenter the community, allowing them to make informed decisions as they try to put their best foot forward.

Before the onset of supervision, officers should be equipped with information about a case through collateral resources, including Bureau of Prisons (BOP) records, Residential Reentry Center (RRC) records, Presentence Reports (PSR), criminal history, etc. BOP staff have daily contact with inmates and have a great grasp of the inmates' attitude, behavior, and readiness for reentry. Supervising officers should access disciplinary reports, mental health records, education records, substance abuse records, and other pertinent information about the inmate through the Offender Release Report or through SENTRY. Some probation offices also send needs and vocational interest questionnaires to inmates months before they even arrive at the RRCs. The more officers know about those coming under their supervision, the sooner they can identify needed resources.

Building good relationships with RRC staff is paramount. They can provide critical insight regarding how the inmate is behaving, their attitude and adjustment, and any specific challenges or emergency needs upon release. Officers should attend three-way staffing with the RRC case managers and the inmate whenever possible. That is a great opportunity to encourage the inmate to take advantage of whatever programming or community-based resources the RRC makes available. Officers may also learn about any disciplinary issues, the inmate's motivations to find employment, treatment and housing needs, and whether the inmate appears to have prosocial family relationships.

Making use of all collateral resources, combined with administering the PCRA to determine risks, needs, and responsivity, can help to tailor individualized supervision plans. The proactive approach at the onset of supervision guides our decision on how to best use Second Chance Act interventions and resources. Officers should be effective stewards of the judiciary's resources and leverage free community-based resources whenever possible. If Second Chance Act funds are used proactively, with the RNR model as a guide, there is potential to reduce violations and start the process to help persons under supervision to develop prosocial habits on supervision and beyond.

For more information, contact Latoya Myles at LaToya_Myles@flmp.uscourts.gov.

³¹ Guide to Judiciary Policies, Volume 8, Part I, Chapter 2, Section 230.20 (g).

senior management.³² Supervisors can also help educate judicial officers and other stakeholders on how SCA can be used to assist the population under supervision.

Procurement Staff

Policy guidance requires that courts adhere to all contracting and finance requirements, but SCA policy guidance is now quite comprehensive. The AO's Procurement Management Division (PMD) is the authority on contracting mechanisms and can provide guidance on procurement questions, including its on-line inquiry process. A court's procurement staff should be expert in the contracting methods described in the SCA procurement manual. They should also take the lead in conducting market research.³³ However, very often questions are policy-focused and essentially judgment calls as to whether a purchase

or service is allowable. The AO's Probation and Pretrial Services Office (PPSO) can staff unique situations with courts and provide recommendations regarding suitability.

Chiefs and other Senior Managers

Leadership within U.S. Probation and Pretrial Services offices create the vision and mission for their office. In support of that mission, and depending upon available resources, the chief should be fully informed by district data when identifying areas where SCA interventions are warranted. Without deliberate, focused effort, courts often restrict SCA interventions to responding reactively to emergency services and do not leverage transitional services in a way that improves outcomes. If leadership identifies areas where SCA programming is needed, priorities will need to be established, and funds will have to

be re-allocated from other resources if SCA had previously only been used on a limited basis. While the U.S. probation and pretrial services system has made great strides in adopting the RNR model, very often the accompanying principles of fidelity and measurement are neglected. Chiefs and other senior managers should ensure that interventions are delivered as designed and that results are measured. The use of the court's resources requires that we assess if programs are having a demonstrable beneficial impact. If not, programming should be adjusted before further resources are expended. Last, chiefs should ensure that their staff are fully educated on SCA's potential to improve community safety and to make a difference in the lives of those whom they supervise.

³² SCA Procurement Manual, Section 2.1 page 4.

³³ SCA procurement Manual, Section 2,2, page 5.