

COURT-INVOLVED SUPERVISED RELEASE:

A Call to Action

BY RICHARD M. BERMAN



This article contends, respectfully, that *all* federal district and magistrate judges should help ensure that criminal defendants reenter the community safely and successfully following incarceration. Judges are well-suited to achieve this objective. “Interaction with the judge . . . is a crucial ingredient [of supervised release] . . . and of special importance to the individual under supervision.”¹ “[E]ncouragement from the judge has been identified as a powerful motivational tool.”²

Experience and analysis suggest that involvement of the judge in supervision is almost certain to bring about more successful reentry, i.e., fewer rearrests and returns to prison, greater employment, social stability, and a higher number of successful terminations of supervision.³ This can be achieved at little or no additional expense by relying upon existing structures and resources.

Our chambers staff of the U.S. District Court for the Southern District of New York undertook to study the effectiveness of court-involved supervised release, collecting data concerning 152 supervisees in our criminal docket (Study Population), all of whom were sentenced by this court and had at least one supervised release hearing between January 1, 2016 and December 31, 2020.⁴ Court-involved supervised release is provided to *all* of our supervisees.

Supervised release was introduced with the Sentencing Reform Act of 1984 to replace parole and to facilitate community reentry. “The fundamental purpose of supervised release is to ease the defendant’s transition into the community after the service of ►

a long prison term for a particularly serious offense, or to provide rehabilitation to a defendant who has spent a fairly short period in prison but still needs supervision and training programs after release.”⁵

So far, supervised release has not lived up to its best purpose. Some judges do not engage with supervisees unless and until there is a new arrest or some other violation of supervision. The result is often a resentencing and additional incarceration. Supervised release is an integral part of nearly every criminal case; in our view it is as significant as pleas, sentences, and trials. It is “a significant feature of the federal justice system that impacts nearly every criminal defendant. . . .”⁶ But “[j]udges typically have no role in the broad array of activities that . . . transition the offender back to his status as a member of the community.”⁷ Without doubt, judges can help resolve one of the most vexing problems of federal criminal law by bringing to bear their authority and their diverse backgrounds and experience.⁸

While we include in this article several “comparisons” of our Study Population with other studies — including studies undertaken by the Administrative Office of the U.S. Courts (AO), the U.S. Sentencing Commission, and the Department of Justice Bureau of Justice Statistics (BJS) — we readily acknowledge that such comparisons are at best imprecise. It is difficult to compare outcomes because adequate (and comparable) data and statistics are not always collected and/or analyzed, and, most important, because studies vary widely in methodology, size, and eligibility.

GETTING STARTED

Court-involved supervision entails *proactively* convening a series of indi-

So far, supervised release has not lived up to its best purpose. Some judges do not engage with supervisees unless and until there is a new arrest or some other violation of supervision. The result is often a resentencing and additional incarceration.

vidual public hearings and conferences presided over by the judge. Hearings begin soon after commencement of supervision, i.e., ideally no more than 30 days from the start of supervision.⁹ Our supervised release hearings rely upon already-in-place and talented professionals, structures, and resources, particularly those of the United States Probation Office. Probation is “an integral part of the judiciary; everything that probation does it does as an arm of the judiciary.”¹⁰ The persons directly involved in supervised release hearings are the judge, the supervisee, the probation officer, defense counsel, the assistant United States attorney, and the therapists and drug counselors. Each hearing takes an average of 30 to 60 minutes.

At the first hearing, the judge describes the purpose of court-involved supervision. He or she inquires about the supervisee, including whether the supervisee has a place to live; whether he understands the goals and the mandatory, standard, and special conditions of supervision; whether the supervisee has employment or employment prospects; whether he has been enrolled in mental health and drug counseling; and whether he has begun to make short- or long-term plans.

The judge emphasizes that supervised release is intended to assist the supervisee in reentry. It is not intended to be (additional) punishment. The judge may point out that the court has the authority to shorten the term of supervised release if things go well. Before adjourning each hearing, the judge schedules the next session with the expectation that the supervisee will take action (e.g., begin mental health and/or drug counseling) before the next hearing. This process encourages the entire team to move quickly.¹¹ To illustrate, at one initial hearing the judge stated as follows:

Court: This is our first supervised release hearing. . . . Just so you know what to expect, supervised release is intended to be a period of time and a program and process. . . . [The goal is to] be of help to persons who have been incarcerated . . . [to] help you adjust if need be. . . . [Our purpose is also to provide] any services that we as the court and the probation department . . . can provide.

Subsequent Hearings. The scope and frequency of hearings is up to the judge — and to the supervisee. The objective is to engage with the supervisee and make clear that the common goal is safe and successful reentry. At each hearing, the court will most often consider, among other things, employment and job training; questions pertaining to drug and mental health services; and access to healthcare and housing. The supervisee is usually represented by the attorney who represented him or her at sentencing (most often a public defender or Criminal Justice Act counsel).¹² Written exhibits such as probation department action memos, applications, and corre-

spondence from counsel, are included in the hearing transcript.

Engaging with the Supervisee. The following supervised release colloquy is typical. The supervisee in this case was sentenced to 75 months of incarceration, followed by five years of supervised release, for racketeering and attempted assault. The special conditions of supervision included participation in a substance abuse program and weekly individual therapeutic counseling.

Court: We were last together at a hearing [in] August. . . . What's happened since then?

Probation Officer: [Supervisee] goes [several] times a week to ["co-occurring" substance abuse and mental health treatment] sessions. . . . He goes in [person] once a week to get tested and the other sessions may often be conducted through telehealth.

Court: What's your take on how things are going?

Supervisee: I just — you know, I went through a lot in the last couple of weeks. . . . [My father] went in for a screening and he — out of nowhere, he got cancer. . . . My counselor . . . had moved on, and I had such a good relationship with [the counselor]. I really didn't know how to deal with it, I'll be honest with you. . . . I [had] just started fresh with [my new counselor], and . . . I really didn't know [at first] how to talk to him.

Court: I don't think that is surprising. Has it improved?

Supervisee: Of course, a hundred percent. . . . I mean, he got me through it. . . . I kind of like was forced to open up . . . and he took it from there. . . .

Court: All right. . . . Let's keep on this path. . . . There is no doubt in my mind that you're committed and sincere and you're taking full advantage of these programs. So, that's all . . . anybody can ask. . . . I just hope that things continue to get better for you. . . . Work is good, it sounds like, right?

Supervisee: Well, right now . . . this is the busiest part of the year. . . . Other than that, I have two . . . children. I mean, the holidays are going to be busy for me anyway, plus everything that's going on with my family, so I'm mostly — I'm mostly busy. . . .

Court: I got it. And at home, [are things] OK?

Supervisee: They're perfect. The kids are supersmart. [One] is on the dean's list. . . . And [the other] just started pre-K. . . . My fiancée is working from home. . . . It's all work-

Figure 1. Study Population Crimes of Conviction

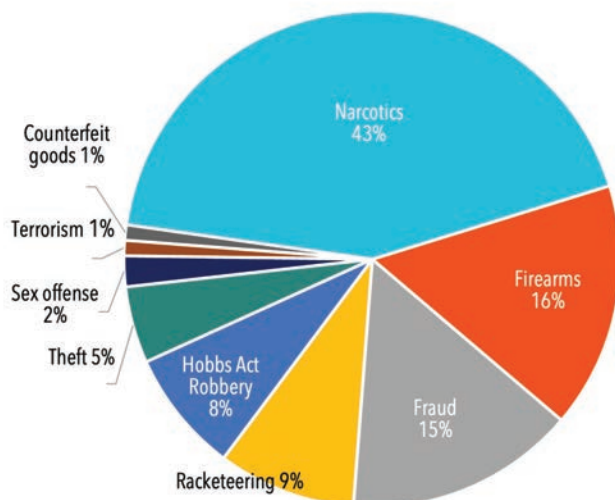
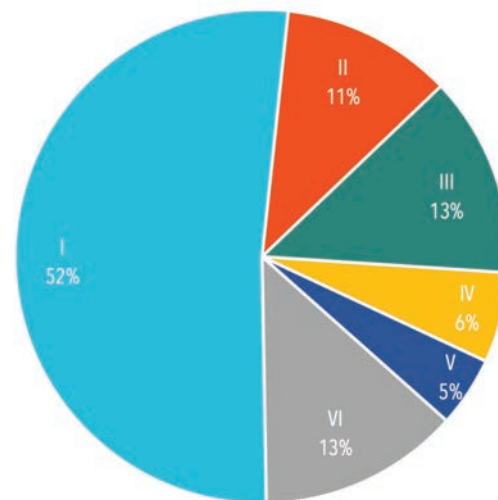


Figure 2. Study Population Criminal History Category



CHC I = Least serious/first-time offenders
CHC VI = Most serious/lengthiest sentences

ing out the right way. . . . Totally different relationship than before I got sentenced, right [Judge]? I was kind of nervous coming home and then running into you again. I didn't know. It was a totally different approach from you to me. . . . I was kind of scared because of how all the sentencing went, and now I understand about the drug treatment you put me in. And . . . it's kind of good that I didn't get — I didn't [just come home] and no treatment was done, and that would have been more of a problem. . . .

SOME STUDY POPULATION CHARACTERISTICS

Thirty-six percent of the Study Population were between the ages of 25 and 34 at the start of supervision. Thirty-five percent had no high school degree or equivalent. As shown below, slightly more than half had a criminal history category (CHC) of I. CHC I is considered the least serious category and includes first-time offenders; CHC VI is the most serious category and includes offenders with lengthy criminal records. And, almost half of the underlying convictions were for narcotics.

OUTCOMES AND BENEFITS

Our chambers tracked the outcomes of our court-involved supervision with the help of the AO, the Sentencing Commission, and the U.S. Probation Office. The following five findings resulted:

1. 86.7% Successful Completion Rate

We consider supervision successful if (i) the term of supervision expires in the normal course or (ii) supervision concludes “early” because the supervisee was compliant and achieved all the goals of supervised release. Of the supervisees in our Study Population,

Our revocation rate is low because we rarely cancel supervision. We have great faith in court involvement. It is our practice to rely upon court-involved supervised release whenever feasible.

86.7 percent were successful over an eight-year period.¹³ Specifically, 48.9 percent of the Study Population finished supervision in the normal course, and 37.8 percent finished supervision early.¹⁴ National data from the AO shows 65.4 percent of supervisees concluded supervision successfully, that is, 44.7 percent finished in the normal course, and 15.7 percent finished early.¹⁵

It is important to add that our “revocation” rate is low. Revocation of supervised release is defined as “the judicial act of canceling [the term of supervised release] in response to the offender violating the terms of supervision and imposing a term of incarceration.”¹⁶ Our revocation rate is low because we rarely cancel supervision. We have great faith in court involvement. It is our practice to rely upon court-involved supervised release whenever feasible.¹⁷

2. 78% Employment Rate

There is universal agreement that securing employment is beneficial to supervisees.¹⁸ “Stable employment confers adult status and supports the achievement of . . . prosocial goals. Economic hardship, on the other hand, is a well-documented source of strain that can increase the likelihood of engaging in criminal behavior.”¹⁹

Our supervisees were for the most part eager to find employment. Employment is measured in accordance with the U.S. Bureau of Labor

Statistics, which defines employment as “any work at all for pay or profit . . . includ[ing] all part-time and temporary work, as well as regular full-time, year-round employment.”²⁰ At least 78 percent of our Study Population was employed.²¹

3. 82% Participate in Mental Health and Drug Treatment

The need for mental health therapy and/or drug counseling in supervision cannot be overstated. We rely upon and monitor closely “special conditions” requiring (weekly) mental health treatment and drug counseling administered by experienced professionals.

The American Psychological Association advises that 45 percent of inmates in the federal prison system report mental health concerns; substance abuse is often characterized as “rampant.”²² Because mental health and substance abuse issues persist beyond incarceration, these issues must actively be addressed in supervision.²³ One of the key objectives of court-involved supervision is to ensure that mental health therapy and drug counseling are provided *and are consistently attended by supervisees*. Probation staff of the Southern District of New York are resourceful in arranging for and monitoring these services.

Treatment providers actively participate in our supervised release hearings. Their insights and suggestions are invaluable. Most judgments of conviction (in our study) include therapeutic counseling and substance abuse treatment. Indeed, only six percent of cases involved no counseling or drug treatment.

In the following colloquy, the supervisee had been sentenced to 120 months of incarceration followed by five years of supervised release, for participating in a conspiracy distrib-

uting crack cocaine. He himself had a drug problem and the conditions of his supervised release included participation in a substance abuse program and weekly therapeutic counseling.

Counselor: You know, there [are] really no complaints....[Supervisee] hasn't given us any positive toxicology results.... He's actually shown quite a bit more improvement.... You know, he's always been someone that takes pride in his ability to keep himself busy.... He's been doing an incredible job of just being able to openly communicate with us... as well as keep himself very much on point.... He's coming in early for his appointments.... He's doing an incredible job.

Supervisee: It just clicked in my head... having to go back inside [prison].

Court: Do you find the counseling to be of help to you?

Supervisee: Yes, it help[s].... You know that being able to, you know, talk and [] I never really was talkative. It made me express myself more.... I was very quiet, so it helped me express myself and to see others' points of view.

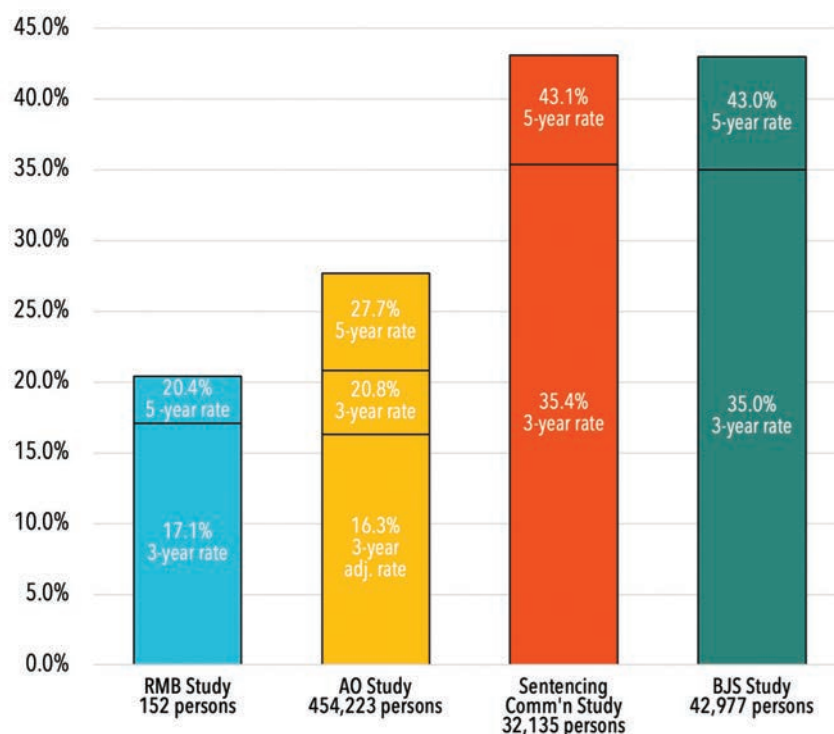
4. 37.8% Early Termination Rate

Early termination of supervision is authorized by statute (18 U.S.C. § 3583(e)). It is “often underutilized [for the] lack [of] time or guidance to identify suitable cases.”²⁴ The late Honorable Jack B. Weinstein observed:

“I, like other trial judges, have in many cases imposed longer periods of supervised release than needed, and I, like other trial judges, have failed to terminate supervised release early in many cases.”²⁵

Early termination is a strong incentive to succeed in reentry and thereby exit the criminal justice system. Under 18 U.S.C. § 3583(e)(1), the court may “terminate a term of supervised release and discharge the defendant released at any time after the expiration of one year of supervision... if satisfied that such action is warranted by the conduct of an offender and is in the interest of justice.”²⁶ The court reviews early termination applications and considers, among other things, the safety of the community and whether the conditions of supervised release have been satisfied. “A court’s ability to terminate ►

Figure 3. Rearrest Rates



supervision early, or modify conditions, provides an option to reevaluate the efficacy of a supervised release term throughout its duration.”²⁷

Thus, the court has discretion to reduce the term of supervised release.²⁸ In our practice, early termination is granted when the stakeholders — i.e., the supervisee, the probation officer, defense counsel, service providers, often the government, and the court — conclude that early termination is merited. In fact, it is nearly always obvious when a supervisee is succeeding and merits early termination.

Early termination also saves taxpayer money and enables the probation department to redirect resources to other supervisees.²⁹ It serves as “a measure to contain costs in the judiciary without compromising the mission of public safety.”³⁰ A 2024 AO study “found that early terminations have been increasing, with about 1 out of 4 successful closures over the last 10 years occurring through early termination.”³¹

5. 17.1% Rearrest Rate After Three Years; 20.4% After Five Years

According to the Bureau of Justice Statistics, “[r]earrest is the broadest measure of recidivism.”³² It is “an important measure of the volume of people returning to courts . . . as well as one of the most comprehensive indicators available of a person’s interaction with the criminal justice system.”³³ Rearrest is “the most valid measure of frequency of offending that can be gained from official data sources.”³⁴

Figure 3 below sets forth rearrest results from our Study Population (“RMB Study”) and also includes rearrest results from the AO, the Sentencing Commission, and the BJS.³⁵

Judicial involvement can significantly help bring about safe and successful community reentry. It’s that simple.

DIFFERENT METHODOLOGIES

The felony rearrest rates from our Study Population during the period 2016 to 2024 was 17.1 percent after three years of supervision and 20.4 percent after five years of supervision. Our Study Population data includes arrests for federal and state felonies.³⁶

The AO felony rearrest rates during the period 2004 to 2014 were 20.8 percent after three years of supervision and 27.7 percent after five years of supervision.³⁷ The AO includes arrests for federal and state felonies.³⁸ While the AO studied 454,223 supervisees, its felony rearrest rates derive from 67 percent of those supervisees (i.e., as of December 1, 2014) and appear to exclude any rearrests that may have occurred among the remaining 33 percent.³⁹ The AO rearrest results also reflect “adjustments” to the three-year rearrest rate.⁴⁰ A downward adjustment is based upon an AO finding that persons who entered into federal supervision each year (after 2014) were “increased risk[s] to recidivate.”⁴¹

The Sentencing Commission rearrest rates during the period 2010 to 2018 were 35.4 percent after three years of supervision and 43.1 percent after five years of supervision for a population of 32,135 supervisees.⁴² The Sentencing Commission also included misdemeanors and supervised release violations in addition to federal and state felony arrests.⁴³ It also derived an eight-year rearrest rate of 49.3 percent.⁴⁴

The Bureau of Justice Statistics study of 42,977 supervisees during the period

2005 to 2010 found that 35 percent of supervisees were rearrested after three years of supervision and 43 percent were rearrested after five years of supervision.⁴⁵ As did the Sentencing Commission, BJS rates reflected misdemeanors and violations in addition to federal and state felony arrests.

Rearrests alone do not tell the whole story. For one thing, “violations of release conditions [] are not [always] new crimes, like missing appointments or testing positive for drugs.”⁴⁶ For another, rearrest rates also include supervisees who may have been arrested “but never convicted of a crime.”⁴⁷ By focusing only on rearrests, there is “the risk of counting events in which a crime did not occur or that did not result in a conviction.”⁴⁸

To round out the picture, we also make mention of “dismissals” and “returns to prison,” as follows:

Charges Were Often Dismissed

Rearrests alone “can overstate recidivism.”⁴⁹ “[O]f those persons arrested, a smaller percentage are charged, and an even smaller percentage are imprisoned.”⁵⁰ Within our Study Population, 45.3 percent of rearrests resulted in charges being dismissed. For the 41.5 percent for whom rearrests resulted in guilty pleas, 11.3 percent were not incarcerated; 17.0 percent received a sentence of less than nine months of incarceration; and 13.2 percent received a sentence in excess of nine months of incarceration.

Return to Prison

Return to prison is said by some authorities to be one of the “most important” and most reliable measures of recidivism.⁵¹ “Return to prison” is defined as “an arrest [state or federal] within five years of being released from a federal prison that resulted in

a return to prison.”⁵² “[R]eturning to prison represents arguably the worst and most costly outcome for a released offender.”⁵³

Of our Study Population, 13.8 percent returned to prison within five years of the start of supervision.⁵⁴ The BJS return to prison rate was 31.6 percent.⁵⁵

BJS observed that return to prison “is an important indicator of recidivism to track because it generates a significant financial burden for local jurisdictions, which often are responsible for incarcerating people who have been revoked from community supervision.”⁵⁶ Return to prison “also represents a significant burden to the individual who is reincarcerated, as time in a correctional facility disrupts

engagement with treatment, employment, family, and more.”⁵⁷

We did not find any return to prison rates developed by the AO or the Sentencing Commission.

CONCLUSION

Federal district and magistrate judges can play a significant role in reducing crime by becoming more actively involved in supervision.⁵⁸ “While the efforts of all members of the [supervised release] team are vital to program success, . . . the judge’s role is especially vital.”⁵⁹ There is no doubt that “judges . . . have a significant opportunity to positively affect the lives of formerly incarcerated people who would have been previously abandoned to the



RICHARD M. BERMAN has been a district judge (Southern District of New York) since November 1998 and senior judge since

September 2011. He holds a BS degree from Cornell University, a JD degree from N.Y.U. School of Law, and an MSW degree from Fordham University’s Graduate School of Social Service.

criminal justice system with significant personal, community, and taxpayer cost.”⁶⁰

Judicial involvement can significantly help bring about safe and successful community reentry. It’s that simple.⁶¹

¹ Nora V. Demleitner, *How to Change the Philosophy and Practice of Probation and Supervised Release: Data Analytics, Cost Control. Focus on Reentry, and a Clear Mission*, 28 FED. SENT’G REP. 231, 233 (2016).

² Daniel M. Fetsco, *Reentry Courts: An Emerging Use of Judicial Resources in the Struggle to Reduce Recidivism of Released Offenders*, 13 WYO. L. REV. 591, 603–04 (2013) (“While there are several members who comprise a reentry court team, the judge is the unquestioned leader and is viewed as an authoritative figure that can ‘get things done.’”). Researchers at the Center for Court Innovation have found that supervisees who “personalized the experience of appearing before and speaking to the judge” had “a powerful effect.” See Amanda B. Cissner & Donald J. Farole, *SEEING EYE TO EYE? PARTICIPANT AND STAFF PERSPECTIVES ON DRUG TREATMENT COURTS II–III* (2005), https://www.innovatingjustice.org/sites/default/files/eye_to_eye.pdf [<http://tinyurl.com/48d3vcc8>]. Supervisees had a “sense of satisfaction when they received positive feedback from the judge.” *Id.* at 8. Simply being afforded an opportunity to appear before a judge and be heard “enhanced participants’ perceptions of procedural justice.” *Id.* at 11.

³ Only eight supervisees remain in the project’s Study Population.

⁴ Most statisticians agree that 100 is the minimum sample size. See Mumtaz Ali Memon, *Sample Size for Survey Research: Review and Recommendations*, 4 JOURNAL OF APPLIED STRUCTURAL EQUATION MODELING 1, ii (2020) (“Previous literature has provided recommendations for the minimum sample size required to perform certain analyses,” including “generally 100 samples for most research situations.”).

⁵ *United States v. Bethea*, No. 05–CR–1234 DC, 2015 WL 13776431, at *1 (S.D.N.Y. Dec. 7, 2015) (quoting *United States v. Aldeen*, 792 F.3d 247, 252 (2d Cir. 2015)).

⁶ Jacob Schuman, *Supervised Release is Not Parole*,

53 LOY. L.A. L. REV. 587, 643 (2020).

⁷ See OFF. OF JUST. PROGRAMS, REENTRY COURTS: MANAGING THE TRANSITION FROM PRISON TO COMMUNITY 5 (Sept. 1999), <https://www.ojp.gov/sites/g/files/xyck-uh241/files/archives/ncjrs/sl000389.pdf> [<http://tinyurl.com/bp7dytab>].

⁸ See Tom McParland, *U.S. Judges Urge Colleagues to Take More Active Role in Supervised Release*, N.Y.L.J. (Oct. 15, 2021), <https://www.law.com/newyorklawjournal/2021/10/15/us-judges-urge-colleagues-to-take-more-active-role-in-supervised-release/?slreturn=20241129172956> [<http://tinyurl.com/3w6st5ph>]. See also U.S. SENT’G COMM’N, Proposed Amendments to the Sentencing Guidelines (Preliminary) 3 (Jan. 2025), https://www.ussc.gov/sites/default/files/pdf/amendment-process/reader-friendly-amendments/20250124_prelim_rf.pdf (“[P]rovid[ing] courts greater discretion to impose a term of supervised release in the manner [the court] determines is most appropriate. . . .”).

⁹ The Sentencing Commission has also proposed for comment an amendment that “would encourage a court, as soon as practicable after a defendant’s release from imprisonment, to conduct an individualized assessment to determine whether it is warranted to modify, reduce, or enlarge the conditions of supervised release.” *Id.*

¹⁰ *Kirchgessner v. Wilentz*, 884 F. Supp. 901, 907 (D.N.J. 1995).

¹¹ See RICHARD M. BERMAN, COURT INVOLVED SUPERVISED RELEASE UPDATE 6–8 (Sept. 2, 2021).

¹² The Criminal Justice Act (CJA) requires that legal representation be provided to financially eligible persons for proceedings and matters covered by the CJA. See 18 U.S.C. § 3006A(a)(1).

¹³ Eleven supervisees included in the normal course category received additional terms of supervised release (over and above their original terms). Five supervisees included in the early termination category received additional terms of supervised release (over and above their original terms).

¹⁴ In addition to the 86.7 percent, 7 percent of the Study Population remain under supervision; 6 percent were transferred to another jurisdiction; 3 percent were deported or deceased; and 2 percent received a sentence of incarceration with no additional term of supervised release (two received time served and one received 18 months).

¹⁵ See, e.g., Table E-7A. *Federal Probation System – Post-Conviction Supervision Cases Closed With and Without Revocation, by Type* (Sept. 30, 2015 to Sept. 30, 2016), <https://www.uscourts.gov/data-news/data-tables/2016/09/30/judicial-business/e-7a> (last visited Feb. 20, 2025); Table E-7A. *Federal Probation System – Post-Conviction Supervision Cases Closed With and Without Revocation, by Type* (Sept. 30, 2016 to Sept. 30, 2017), <https://www.uscourts.gov/data-news/data-tables/2017/09/30/judicial-business/e-7a> (last visited Feb. 20, 2025); Table E-7A. *Federal Probation System – Post-Conviction Supervision Cases Closed With and Without Revocation, by Type* (Sept. 30, 2017 to Sept. 30, 2018), <https://www.uscourts.gov/data-news/data-tables/2018/09/30/judicial-business/e-7a> (last visited Feb. 20, 2025); Table E-7A. *Federal Probation System – Post-Conviction Supervision Cases Closed With and Without Revocation, by Type* (Sept. 30, 2018 to Sept. 30, 2019), <https://www.uscourts.gov/data-news/data-tables/2019/09/30/judicial-business/e-7a> (last visited Feb. 20, 2025); Table E-7A. *Federal Probation System – Post-Conviction Supervision Cases Closed With and Without Revocation, by Type* (Sept. 30, 2019 to Sept. 30, 2020), <https://www.uscourts.gov/data-news/data-tables/2020/09/30/judicial-business/e-7a> (last visited Feb. 20, 2025); Table E-7A. *Federal Probation System – Post-Conviction Supervision Cases Closed With and Without Revocation, by Type* (Sept. 30, 2020 to Sept. 30, 2021), <https://www.uscourts.gov/data-news/data-tables/2021/09/30/judicial-business/e-7a> (last visited Feb. 20, 2025); Table E-7A. *Federal Probation System – Post-Conviction Supervision Cases Closed With and Without Revocation, by Type* (Sept. 30, 2021 to Sept. 30, 2022), <https://www.uscourts.gov/data-news/data-tables/2022/09/30/judicial-business/e-7a> (last visited Feb. 20, 2025); Table E-7A. *Federal Probation System – Post-Conviction Supervision Cases Closed With and Without Revocation, by Type* (Sept. 30, 2022 to Sept. 30, 2023), <https://www.uscourts.gov/data-news/data-tables/2023/09/30/judicial-business/e-7a> (last visited Feb. 20, 2025); Table E-7A. *Federal Probation System – Post-Conviction Supervision Cases Closed With and Without Revocation, by Type* (Sept. 30, 2023 to Sept. 30, 2024), <https://www.uscourts.gov/data-news/data-tables/2024/09/30/judicial-business/e-7a> (last visited Feb. 20, 2025); Table E-7A. *Federal Probation System – Post-Conviction Supervision Cases Closed With and Without Revocation, by Type* (Sept. 30, 2024 to Sept. 30, 2025), <https://www.uscourts.gov/data-news/data-tables/2025/09/30/judicial-business/e-7a> (last visited Feb. 20, 2025); Table E-7A. *Federal Probation System – Post-Conviction Supervision Cases Closed With and Without Revocation, by Type* (Sept. 30, 2025 to Sept. 30, 2026), <https://www.uscourts.gov/data-news/data-tables/2026/09/30/judicial-business/e-7a> (last visited Feb. 20, 2025); Table E-7A. *Federal Probation System – Post-Conviction Supervision Cases Closed With and Without Revocation, by Type* (Sept. 30, 2026 to Sept. 30, 2027), <https://www.uscourts.gov/data-news/data-tables/2027/09/30/judicial-business/e-7a> (last visited Feb. 20, 2025); Table E-7A. *Federal Probation System – Post-Conviction Supervision Cases Closed With and Without Revocation, by Type* (Sept. 30, 2027 to Sept. 30, 2028), <https://www.uscourts.gov/data-news/data-tables/2028/09/30/judicial-business/e-7a> (last visited Feb. 20, 2025); Table E-7A. *Federal Probation System – Post-Conviction Supervision Cases Closed With and Without Revocation, by Type* (Sept. 30, 2028 to Sept. 30, 2029), <https://www.uscourts.gov/data-news/data-tables/2029/09/30/judicial-business/e-7a> (last visited Feb. 20, 2025); Table E-7A. *Federal Probation System – Post-Conviction Supervision Cases Closed With and Without Revocation, by Type* (Sept. 30, 2029 to Sept. 30, 2030), <https://www.uscourts.gov/data-news/data-tables/2030/09/30/judicial-business/e-7a> (last visited Feb. 20, 2025); Table E-7A. *Federal Probation System – Post-Conviction Supervision Cases Closed With and Without Revocation, by Type* (Sept. 30, 2030 to Sept. 30, 2031), <https://www.uscourts.gov/data-news/data-tables/2031/09/30/judicial-business/e-7a> (last visited Feb. 20, 2025); Table E-7A. *Federal Probation System – Post-Conviction Supervision Cases Closed With and Without Revocation, by Type* (Sept. 30, 2031 to Sept. 30, 2032), <https://www.uscourts.gov/data-news/data-tables/2032/09/30/judicial-business/e-7a> (last visited Feb. 20, 2025); Table E-7A. *Federal Probation System – Post-Conviction Supervision Cases Closed With and Without Revocation, by Type* (Sept. 30, 2032 to Sept. 30, 2033), <https://www.uscourts.gov/data-news/data-tables/2033/09/30/judicial-business/e-7a> (last visited Feb. 20, 2025); Table E-7A. *Federal Probation System – Post-Conviction Supervision Cases Closed With and Without Revocation, by Type* (Sept. 30, 2033 to Sept. 30, 2034), <https://www.uscourts.gov/data-news/data-tables/2034/09/30/judicial-business/e-7a> (last visited Feb. 20, 2025); Table E-7A. *Federal Probation System – Post-Conviction Supervision Cases Closed With and Without Revocation, by Type* (Sept. 30, 2034 to Sept. 30, 2035), <https://www.uscourts.gov/data-news/data-tables/2035/09/30/judicial-business/e-7a> (last visited Feb. 20, 2025); Table E-7A. *Federal Probation System – Post-Conviction Supervision Cases Closed With and Without Revocation, by Type* (Sept. 30, 2035 to Sept. 30, 2036), <https://www.uscourts.gov/data-news/data-tables/2036/09/30/judicial-business/e-7a> (last visited Feb. 20, 2025); Table E-7A. *Federal Probation System – Post-Conviction Supervision Cases Closed With and Without Revocation, by Type* (Sept. 30, 2036 to Sept. 30, 2037), <https://www.uscourts.gov/data-news/data-tables/2037/09/30/judicial-business/e-7a> (last visited Feb. 20, 2025); Table E-7A. *Federal Probation System – Post-Conviction Supervision Cases Closed With and Without Revocation, by Type* (Sept. 30, 2037 to Sept. 30, 2038), <https://www.uscourts.gov/data-news/data-tables/2038/09/30/judicial-business/e-7a> (last visited Feb. 20, 2025); Table E-7A. *Federal Probation System – Post-Conviction Supervision Cases Closed With and Without Revocation, by Type* (Sept. 30, 2038 to Sept. 30, 2039), <https://www.uscourts.gov/data-news/data-tables/2039/09/30/judicial-business/e-7a> (last visited Feb. 20, 2025); Table E-7A. *Federal Probation System – Post-Conviction Supervision Cases Closed With and Without Revocation, by Type* (Sept. 30, 2039 to Sept. 30, 2040), <https://www.uscourts.gov/data-news/data-tables/2040/09/30/judicial-business/e-7a> (last visited Feb. 20, 2025); Table E-7A. *Federal Probation System – Post-Conviction Supervision Cases Closed With and Without Revocation, by Type* (Sept. 30, 2040 to Sept. 30, 2041), <https://www.uscourts.gov/data-news/data-tables/2041/09/30/judicial-business/e-7a> (last visited Feb. 20, 2025); Table E-7A. *Federal Probation System – Post-Conviction Supervision Cases Closed With and Without Revocation, by Type* (Sept. 30, 2041 to Sept. 30, 2042), <https://www.uscourts.gov/data-news/data-tables/2042/09/30/judicial-business/e-7a> (last visited Feb. 20, 2025); Table E-7A. *Federal Probation System – Post-Conviction Supervision Cases Closed With and Without Revocation, by Type* (Sept. 30, 2042 to Sept. 30, 2043), <https://www.uscourts.gov/data-news/data-tables/2043/09/30/judicial-business/e-7a> (last visited Feb. 20, 2025); Table E-7A. *Federal Probation System – Post-Conviction Supervision Cases Closed With and Without Revocation, by Type* (Sept. 30, 2043 to Sept. 30, 2044), <https://www.uscourts.gov/data-news/data-tables/2044/09/30/judicial-business/e-7a> (last visited Feb. 20, 2025); Table E-7A. *Federal Probation System – Post-Conviction Supervision Cases Closed With and Without Revocation, by Type* (Sept. 30, 2044 to Sept. 30, 2045), <https://www.uscourts.gov/data-news/data-tables/2045/09/30/judicial-business/e-7a> (last visited Feb. 20, 2025); Table E-7A. *Federal Probation System – Post-Conviction Supervision Cases Closed With and Without Revocation, by Type* (Sept. 30, 2045 to Sept. 30, 2046), <https://www.uscourts.gov/data-news/data-tables/2046/09/30/judicial-business/e-7a> (last visited Feb. 20, 2025); Table E-7A. *Federal Probation System – Post-Conviction Supervision Cases Closed With and Without Revocation, by Type* (Sept. 30, 2046 to Sept. 30, 2047), <https://www.uscourts.gov/data-news/data-tables/2047/09/30/judicial-business/e-7a> (last visited Feb. 20, 2025); Table E-7A. *Federal Probation System – Post-Conviction Supervision Cases Closed With and Without Revocation, by Type* (Sept. 30, 2047 to Sept. 30, 2048), <https://www.uscourts.gov/data-news/data-tables/2048/09/30/judicial-business/e-7a> (last visited Feb. 20, 2025); Table E-7A. *Federal Probation System – Post-Conviction Supervision Cases Closed With and Without Revocation, by Type* (Sept. 30, 2048 to Sept. 30, 2049), <https://www.uscourts.gov/data-news/data-tables/2049/09/30/judicial-business/e-7a> (last visited Feb. 20, 2025); Table E-7A. *Federal Probation System – Post-Conviction Supervision Cases Closed With and Without Revocation, by Type* (Sept. 30, 2049 to Sept. 30, 2050), <https://www.uscourts.gov/data-news/data-tables/2050/09/30/judicial-business/e-7a> (last visited Feb. 20, 2025); Table E-7A. *Federal Probation System – Post-Conviction Supervision Cases Closed With and Without Revocation, by Type* (Sept. 30, 2050 to Sept. 30, 2051), <https://www.uscourts.gov/data-news/data-tables/2051/09/30/judicial-business/e-7a> (last visited Feb. 20, 2025); Table E-7A. *Federal Probation System – Post-Conviction Supervision Cases Closed With and Without Revocation, by Type* (Sept. 30, 2051 to Sept. 30, 2052), <https://www.uscourts.gov/data-news/data-tables/2052/09/30/judicial-business/e-7a> (last visited Feb. 20, 2025); Table E-7A. *Federal Probation System – Post-Conviction Supervision Cases Closed With and Without Revocation, by Type* (Sept. 30, 2052 to Sept. 30, 2053), <https://www.uscourts.gov/data-news/data-tables/2053/09/30/judicial-business/e-7a> (last visited Feb. 20, 2025); Table E-7A. *Federal Probation System – Post-Conviction Supervision Cases Closed With and Without Revocation, by Type* (Sept. 30, 2053 to Sept. 30, 2054), <https://www.uscourts.gov/data-news/data-tables/2054/09/30/judicial-business/e-7a> (last visited Feb. 20, 2025); Table E-7A. *Federal Probation System – Post-Conviction Supervision Cases Closed With and Without Revocation, by Type* (Sept. 30, 2054 to Sept. 30, 2055), <https://www.uscourts.gov/data-news/data-tables/2055/09/30/judicial-business/e-7a> (last visited Feb. 20, 2025); Table E-7A. *Federal Probation System – Post-Conviction Supervision Cases Closed With and Without Revocation, by Type* (Sept. 30, 2055 to Sept. 30, 2056), <https://www.uscourts.gov/data-news/data-tables/2056/09/30/judicial-business/e-7a> (last visited Feb. 20, 2025); Table E-7A. *Federal Probation System – Post-Conviction Supervision Cases Closed With and Without Revocation, by Type* (Sept. 30, 2056 to Sept. 30, 2057), <https://www.uscourts.gov/data-news/data-tables/2057/09/30/judicial-business/e-7a> (last visited Feb. 20, 2025); Table E-7A. *Federal Probation System – Post-Conviction Supervision Cases Closed With and Without Revocation, by Type* (Sept. 30, 2057 to Sept. 30, 2058), <https://www.uscourts.gov/data-news/data-tables/2058/09/30/judicial-business/e-7a> (last visited Feb. 20, 2025); Table E-7A. *Federal Probation System – Post-Conviction Supervision Cases Closed With and Without Revocation, by Type* (Sept. 30, 2058 to Sept. 30, 2059), <https://www.uscourts.gov/data-news/data-tables/2059/09/30/judicial-business/e-7a> (last visited Feb. 20, 2025); Table E-7A. *Federal Probation System – Post-Conviction Supervision Cases Closed With and Without Revocation, by Type* (Sept. 30, 2059 to Sept. 30, 2060), <https://www.uscourts.gov/data-news/data-tables/2060/09/30/judicial-business/e-7a> (last visited Feb. 20, 2025); Table E-7A. *Federal Probation System – Post-Conviction Supervision Cases Closed With and Without Revocation, by Type* (Sept. 30, 2060 to Sept. 30, 2061), <https://www.uscourts.gov/data-news/data-tables/2061/09/30/judicial-business/e-7a> (last visited Feb. 20, 2025); Table E-7A. *Federal Probation System – Post-Conviction Supervision Cases Closed With and Without Revocation, by Type* (Sept. 30, 2061 to Sept. 30, 2062), <https://www.uscourts.gov/data-news/data-tables/2062/09/30/judicial-business/e-7a> (last visited Feb. 20, 2025); Table E-7A. *Federal Probation System – Post-Conviction Supervision Cases Closed With and Without Revocation, by Type* (Sept. 30, 2062 to Sept. 30, 2063), <https://www.uscourts.gov/data-news/data-tables/2063/09/30/judicial-business/e-7a> (last visited Feb. 20, 2025); Table E-7A. *Federal Probation System – Post-Conviction Supervision Cases Closed With and Without Revocation, by Type* (Sept. 30, 2063 to Sept. 30, 2064), <https://www.uscourts.gov/data-news/data-tables/2064/09/30/judicial-business/e-7a> (last visited Feb. 20, 2025); Table E-7A. *Federal Probation System – Post-Conviction Supervision Cases Closed With and Without Revocation, by Type* (Sept. 30, 2064 to Sept. 30, 2065), <https://www.uscourts.gov/data-news/data-tables/2065/09/30/judicial-business/e-7a> (last visited Feb. 20, 2025); Table E-7A. *Federal Probation System – Post-Conviction Supervision Cases Closed With and Without Revocation, by Type* (Sept. 30, 2065 to Sept. 30, 2066), <https://www.uscourts.gov/data-news/data-tables/2066/09/30/judicial-business/e-7a> (last visited Feb. 20, 2025); Table E-7A. *Federal Probation System – Post-Conviction Supervision Cases Closed With and Without Revocation, by Type* (Sept. 30, 2066 to Sept. 30, 2067), <https://www.uscourts.gov/data-news/data-tables/2067/09/30/judicial-business/e-7a> (last visited Feb. 20, 2025); Table E-7A. *Federal Probation System – Post-Conviction Supervision Cases Closed With and Without Revocation, by Type* (Sept. 30, 2067 to Sept. 30, 2068), <https://www.uscourts.gov/data-news/data-tables/2068/09/30/judicial-business/e-7a> (last visited Feb. 20, 2025); Table E-7A. *Federal Probation System – Post-Conviction Supervision Cases Closed With and Without Revocation, by Type* (Sept. 30, 2068 to Sept. 30, 2069), <https://www.uscourts.gov/data-news/data-tables/2069/09/30/judicial-business/e-7a> (last visited Feb. 20, 2025); Table E-7A. *Federal Probation System – Post-Conviction Supervision Cases Closed With and Without Revocation, by Type* (Sept. 30, 2069 to Sept. 30, 2070), <https://www.uscourts.gov/data-news/data-tables/2070/09/30/judicial-business/e-7a> (last visited Feb. 20, 2025); Table E-7A. *Federal Probation System – Post-Conviction Supervision Cases Closed With and Without Revocation, by Type* (Sept. 30, 2070 to Sept. 30, 2071), <https://www.uscourts.gov/data-news/data-tables/2071/09/30/judicial-business/e-7a> (last visited Feb. 20, 2025); Table E-7A. *Federal Probation System – Post-Conviction Supervision Cases Closed With and Without Revocation, by Type* (Sept. 30, 2071 to Sept. 30, 2072), <https://www.uscourts.gov/data-news/data-tables/2072/09/30/judicial-business/e-7a> (last visited Feb. 20, 2025); Table E-7A. *Federal Probation System – Post-Conviction Supervision Cases Closed With and Without Revocation, by Type* (Sept. 30, 2072 to Sept. 30, 2073), <https://www.uscourts.gov/data-news/data-tables/2073/09/30/judicial-business/e-7a> (last visited Feb. 20, 2025); Table E-7A. *Federal Probation System – Post-Conviction Supervision Cases Closed With and Without Revocation, by Type* (Sept. 30, 2073 to Sept. 30, 2074), <https://www.uscourts.gov/data-news/data-tables/2074/09/30/judicial-business/e-7a> (last visited Feb. 20, 2025); Table E-7A. *Federal Probation System – Post-Conviction Supervision Cases Closed With and Without Revocation, by Type* (Sept. 30, 2074 to Sept. 30, 2075), <https://www.uscourts.gov/data-news/data-tables/2075/09/30/judicial-business/e-7a> (last visited Feb. 20, 2025); Table E-7A. *Federal Probation System – Post-Conviction Supervision Cases Closed With and Without Revocation, by Type* (Sept. 30, 2075 to Sept. 30, 2076), <https://www.uscourts.gov/data-news/data-tables/2076/09/30/judicial-business/e-7a> (last visited Feb. 20, 2025); Table E-7A. *Federal Probation System – Post-Conviction Supervision Cases Closed With and Without Revocation, by Type* (Sept. 30, 2076 to Sept. 30, 2077), <https://www.uscourts.gov/data-news/data-tables/2077/09/30/judicial-business/e-7a> (last visited Feb. 20, 2025); Table E-7A. *Federal Probation System – Post-Conviction Supervision Cases Closed With and Without Revocation, by Type* (Sept. 30, 2077 to Sept. 30, 2078), <https://www.uscourts.gov/data-news/data-tables/2078/09/30/judicial-business/e-7a> (last visited Feb. 20, 2025); Table E-7A. *Federal Probation System – Post-Conviction Supervision Cases Closed With and Without Revocation, by Type* (Sept. 30, 2078 to Sept. 30, 2079), <https://www.uscourts.gov/data-news/data-tables/2079/09/30/judicial-business/e-7a> (last visited Feb. 20, 2025); Table E-7A. *Federal Probation System – Post-Conviction Supervision Cases Closed With and Without Revocation, by Type* (Sept. 30, 2079 to Sept. 30, 20

- tion System – Post-Conviction Supervision Cases Closed With and Without Revocation, by Type (Sept. 30, 2021 to Sept. 30, 2022), <https://www.uscourts.gov/data-news/data-tables/2022/09/30/judicial-business/e-7a> (last visited Feb. 20, 2025); Table E-7A. Federal Probation System – Post-Conviction Supervision Cases Closed With and Without Revocation, by Type (Sept. 30, 2022 to Sept. 30, 2023), <https://www.uscourts.gov/data-news/data-tables/2023/09/30/judicial-business/e-7a> (last visited Feb. 20, 2025); Table E-7A. Federal Probation System – Post-Conviction Supervision Cases Closed With and Without Revocation, by Type (Sept. 30, 2023 to Sept. 30, 2024), <https://www.uscourts.gov/data-news/data-tables/2024/09/30/judicial-business/e-7a> (last visited Feb. 20, 2025).
- ¹⁶ Glossary of Federal Sentencing – Related Terms, U.S. SENT’G COMM’N (last visited Feb. 13, 2023), <https://www.ussc.gov/education/glossary> [<http://tinyurl.com/7sm56unx>]; see also *Esteras v. United States*, No. 23-7483 (U.S. Feb. 25, 2025) (where arguments were heard about whether a district court may rely on the Section 3553(a) (2)(A) factors when considering revocation of supervised release).
- ¹⁷ In January 2025, the Sentencing Commission sought comments on a proposed policy change regarding revocations. The change entails “encourag[ing] courts — where possible — to consider a wide array of options to respond to non-compliant behavior and violations of the conditions of supervised release.” U.S. SENT’G COMM’N, *Notice and Request for Public Comment and Hearing*, 90 Fed. Reg. 8968, 8982 (Feb. 4, 2025).
- ¹⁸ See Nathan W. Link et al., *Consequences of Mental and Physical Health for Reentry and Recidivism: Toward a Health-Based Model of Desistance*, 57 CRIMINOLOGY 544, 545 (2019).
- ¹⁹ *Id.* at 548.
- ²⁰ U.S. BUREAU OF LAB. STATS., *HOW THE GOVERNMENT MEASURES UNEMPLOYMENT* 4 (Oct. 2015). “If a supervisee was employed at the outset of a calendar year or obtained employment during a calendar year, the supervisee was considered ‘employed.’” See SUPERVISED RELEASE REPORT at 37 (April 2021) (on file with author).
- ²¹ Our educated guess is that approximately 10 percent of supervisees are unable to secure work and approximately 15 percent seem to shy away from work for various reasons.
- ²² Lorna Collier, *Incarceration Nation*, 45 AM. PSYCHOLOGICAL ASS’N 56 (Oct. 2014), <https://www.apa.org/monitor/2014/10/incarceration> [<http://tinyurl.com/2ypdxvsl>].
- ²³ NAT’L CTR. FOR ST. CTS., *LEADING CHANGE: IMPROVING THE COURT AND COMMUNITY’S RESPONSE TO MENTAL HEALTH AND CO-OCCURRING DISORDERS* 4 (Feb. 2021), https://www.ncsc.org/_data/assets/pdf_file/0015/14523/leading-change-guide.pdf [<http://tinyurl.com/2zf9ar62>].
- ²⁴ PEW CHARITABLE TRS., *POLICY REFORMS CAN STRENGTHEN COMMUNITY SUPERVISION* 30 (Apr. 2020), https://www.pewtrusts.org/-/media/assets/2020/04/policyreform_communitysupervision_report_final.pdf [<http://tinyurl.com/mr2xjpn8>].
- ²⁵ *United States v. Trotter*, 321 F. Supp. 3d 337, 339 (E.D.N.Y. 2018).
- ²⁶ 18 U.S.C. § 3583(e)(1). The court must also “consider[] the factors set forth in section 3553,” including “the nature and circumstances of the offense and the history and characteristics of the defendant” and “the need for the sentence imposed . . . to protect the public from further crimes of the defendant.” 18 U.S.C. § 3553(a).
- ²⁷ *Id.* at 364.
- ²⁸ 18 U.S.C. § 3583(e)(1).
- ²⁹ See *Incarceration Costs Significantly More than Supervision*, U.S. CTS. (Aug. 17, 2017), <https://www.uscourts.gov/news/2017/08/17/incarceration-costs-significantly-more-supervision> [<http://tinyurl.com/532svvdj>] (noting a nearly nine-fold increase in the average annual cost of detention as compared to supervision in the community for federal prisoners).
- ³⁰ See Laura Baber & James Johnson, *Early Termination of Supervision: No Compromise to Community Safety*, 7 FED. PROB. 17, 17 (Sept. 2013).
- ³¹ Thomas H. Cohen, *Early Termination: Shortening Federal Supervision Terms Without Endangering Public Safety*, ADMIN. OFF. OF THE U.S. CTS. at 21 (Jan. 15, 2025), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=5098803. In January 2025, the Sentencing Commission sought comments on a proposal that “encourage[s] [] court[s] to terminate the remaining term of supervision . . . if the court determines . . . that termination is warranted by the conduct of the [supervisee] and the interest of justice.” U.S. SENT’G COMM’N, *Proposed Amendments to the Sentencing Guidelines (Preliminary)* at 4 (Jan. 2025), https://www.ussc.gov/sites/default/files/pdf/amendment-process/reader-friendly-amendments/20250124_prelim_rf.pdf.
- ³² U.S. DEP’T OF JUST. BUREAU OF JUST. STATS., *Building Second Chances: Tools for Local Reentry Coalitions*, at 14 (Apr. 1, 2022).
- ³³ *Id.*
- ³⁴ DAVID WEISBURD & CHESTER BRITT, *STATISTICS IN CRIMINAL JUSTICE* 24 (3d ed. 2007); see also U.S. SENT’G COMM’N, *RECIDIVISM OF FEDERAL OFFENDERS RELEASED IN 2010* 3, 21 (Sept. 30, 2021); Laura M. Baber, *Inroads to Reducing Federal Recidivism*, 79 FED. PROB. 3, 5 (Dec. 2015); U.S. DEP’T OF JUST. BUREAU OF JUST. STATS., *Recidivism of Offenders Placed on Federal Community Supervision in 2005: Patterns from 2005 to 2010*, at 1 (June 2016).
- ³⁵ It should be noted that the four agencies are dissimilar in several respects, as follows: (i) the RMB Study is far and away the smallest; (ii) the AO Study adjusts downward its 3-year arrest rate; and (iii) the Sentencing Commission and the BJS include misdemeanors and “violations” of supervised release in their data.
- ³⁶ We do not include misdemeanors or violations of supervision principally because: (i) “states vary in their practices regarding the extent to which misdemeanor and petty offenses are reported”; and (ii) “[a]rrests for technical violations are not indicative of new criminal behavior, but rather reflect an offender’s failure to comply with certain conditions of his or her supervision, such as testing positive for illegal drugs, failing to complete substance abuse treatment, or traveling outside of the area without prior permission.” James L. Johnson, *Comparison of Recidivism Studies*, AOUSC, USSC, and BJS, 81 FED. PROB. 52, 53 (June 2017) (emphasis original).
- ³⁷ The AO includes felony offenses but not “minor offenses,” such as “public peace, invasion of privacy and prostitution, obstruction of justice, liquor law violations, and traffic offenses.” Baber, *supra* note 34, at 5. The AO study “commenced between October 1, 2004, and September 30, 2014.” *Id.* at 3, 4.
- ³⁸ *Id.*
- ³⁹ *Id.*
- ⁴⁰ The AO appears to adjust downward its three-year rates only. *Id.* at 4–5.
- ⁴¹ *Id.* at 5, 7.
- ⁴² See U.S. SENT’G COMM’N, *supra* note 34, at 3, 21. The Sentencing Commission studied federal offenders released from incarceration in 2010 and analyzed rearrest data from 2010 to 2018. *Id.* at 8.
- ⁴³ *Id.* at 53, n.20.
- ⁴⁴ *Id.* at 20.
- ⁴⁵ See U.S. DEP’T OF JUST. BUREAU OF JUST. STATS., *supra* note 34, at 2, 3. The BJS analyzed supervisees “placed on federal community supervision during fiscal year 2005 (October 1, 2004, to September 30, 2005)” and “employed a 5-year follow-up period.” *Id.* at 9.
- ⁴⁶ Sarah Staudt, *The Myth of the “Revolving Door”: Challenging Misconceptions About Recidivism*, PRISON POLICY INITIATIVE (Feb. 5, 2025), <https://www.prisonpolicy.org/trainings/recidivism.html>.
- ⁴⁷ *Id.*
- ⁴⁸ RICHARD ROSENFELD & AMANDA GRIGG, NATIONAL ACADEMIES OF SCIENCES, ENGINEERING, AND MEDICINE, *THE LIMITS OF RECIDIVISM: MEASURING SUCCESS AFTER PRISON* 45 (2022).
- ⁴⁹ U.S. SENT’G COMM’N, *supra* note 34, at 6.
- ⁵⁰ U.S. DEP’T OF JUST. BUREAU OF JUST. STATS., *supra* note 34, at 22.
- ⁵¹ Gerald J. Stahler et al., *Predicting Recidivism for Release State Prison Offenders: Examining the Influence of Individual and Neighborhood Characteristics and Spatial Contagion on the Likelihood of Reincarceration*, 40 CRIM. JUST. BEHAV. 690, 706 (Feb. 2013).
- ⁵² See U.S. DEP’T OF JUST. BUREAU OF JUST. STATS., *supra* note 34, at 22.
- ⁵³ *Id.*
- ⁵⁴ In calculating the Study Population return to prison rate, we used the same definition used by the BJS, namely, “an arrest for a new crime or a technical violation of a condition of release.” See U.S. DEP’T OF JUST. BUREAU OF JUST. STATS., *supra* note 34, at 11.
- ⁵⁵ See U.S. DEP’T OF JUST. BUREAU OF JUST. STATS., *supra* note 34, at 6.
- ⁵⁶ U.S. DEP’T OF JUST. BUREAU OF JUST. STATS., *supra* note 32, at 14.
- ⁵⁷ *Id.*
- ⁵⁸ Becoming more actively involved will likely include some training. See SUPERVISED RELEASE REPORTS, dated Apr. 2021, Sept. 2021, Apr. 2022, Oct. 2022, and June 2024 (on file with author). See also April 5, 2023 presentation titled “4 Steps to Successful Supervised Release” (on file with author).
- ⁵⁹ Christopher Salvatore et al., *Reentry Court Judges: The Key to the Court*, 59 J. OFFENDER REHAB. 198, 214 (2022).
- ⁶⁰ *Id.* at 215.
- ⁶¹ Our Study Population outcomes demonstrate that “[i]nteraction with the judge . . . is a crucial ingredient . . . and of special importance to the individual under supervision.” Demleitner, *supra* note 1, at 233.