

Evidence-Based Judicial Interim Release Practices for the Alberta Community Corrections and Release Programs Branch

*A discussion paper examining bail supervision models and
resource pressures*

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Key Terms and Abbreviations

CCRP: Community Corrections and Release Programs Branch.

Crown: For the purposes of this project, the Crown is a reference to the Crown Prosecution; lawyers hired by JSG to represent the government in penal court matters.

JOIN: Justice Online Information Network. Electronic database used the Crown Prosecutors of the Justice Division of Justice and Solicitor General.

ORCA: Offender Records and Correctional Administration. Electronic database used the Correctional Services Division of Justice and Solicitor General.

Pretrial Service Agency: In the USA, an organization that supervises clients on bail.

Probation Officer: In Alberta, the CRRP employee responsible for supervising bail clients.

JSG: Alberta Ministry of Justice and Solicitor General.

Justice of the Peace (JP): Judicial officer of the provincial court that attends to minor and/or administrative matters such as bail hearings, traffic tickets, marriage licenses, by-law offences, etc.

Recognizance Order: Court order issued to a person released on bail to attend a future court date and abide by the conditions contained on it.

Warrant: In the context of judicial interim release, a court order issued to authorize the police to arrest and detain a person reported by their probation officer to be in breach of their recognizance.

Executive Summary

The Alberta Community Corrections and Release Programs Branch (CCRP) is responsible for supervising accused persons in the community on judicial interim release, also known as bail, or pretrial release. Bail supervision caseloads in the province are increasing and CCRP must examine how resources are being expended on bail clients, while at the same time, continue efforts to further evidence-based practices within the branch. By addressing the main research question below, CCRP is seeking to generate information for discussion that can be used as foundational knowledge to help inform future policy direction.

Based on the research in this project, what areas of policy could be changed to improve supervision practices and favourably impact the use of CCRP resources by bail clients?

These questions were addressed through the development of the following deliverables:

- 1) Recommendations for discussion on what is considered general best practices for supervision models and their key features, based on a literature review.
- 2) Creation of jurisdictional profiles to illustrate the different bail supervision programs operating in Canada.
- 3) Recommendations for discussion on how to address resource pressures. These recommendations were based on an analysis of interviews with probation officers employed by CCRP to identify what aspects of supervising bail clients are consuming resources, with probation officer time used as a proxy measure to estimate the financial cost to CCRP.
- 4) Identification of common characteristics of twelve intensive cases from around the province to identify characteristics contributing to disproportionate resource utilization.

Methods

The project was conducted in four parts:

- 1) **Literature Review:** Reviewed publications from peer reviewed journals, not-for-profit organizations, and governments to compile research on bail supervision resource use, and the evidence for bail supervision practices.
- 2) **Cross-Jurisdictional Scan:** Conducted through interviews with bail supervision providers in other Canadian jurisdictions, internal CCRP documents, and publically available information.
- 3) **Interviews with Probation Officers:** Conducted through telephone conversations with CCRP employees from around the province to determine how supervising bail clients consumes CCRP's resources, using probation officer workload as a proxy measure for resource consumption.

- 4) **Comparative Case Study:** Analyzed twelve bail files from around the province, identified by Probation Officers as their most resource intensive clients, to identify common themes and patterns.

Final Recommendations for Discussion

By synthesizing the conclusions and recommendations from the deliverables, this project puts forth the following recommendations for discussion to answer the research question: “Based on the research in this project, what areas of policy could be changed to improve supervision practices and favourably impact the use of CCRP resources by bail clients?” The report does not advocate implementing these recommendations, but rather using them as a guideline to inform future research and policy discussion:

- 1) *Design and implement a validated risk assessment tool, to be used to determine a client’s risk prior to their first appearance in court.*
- 2) *Establish a collaborative agreement with Crown Counsel to ensure the bail risk assessment report is presented prior to a release decision and implementing conditions.*
- 3) *Implement risk-based and needs-based reporting schedules into CCRP policy, based on results of validated risk assessment tool.*
- 4) *Create formal collaborative agreements with the other bail process stakeholders, particularly courthouse administration and provincial correctional centres to streamline information sharing.*
- 5) *Implement a court date notification program that includes mail-outs and telephone contact at least four days before the scheduled appearance.*
- 6) *Implement a comprehensive bail supervision research and evaluation strategy.*
- 7) *Seek further information on the practices in other Canadian jurisdictions:*
 - a. *Obtain a copy of the Bail Verification and Supervision Program Standards and Procedures Manual, Ministry performance standards, and copies of sample contract agreements with non-profit bail supervision organizations from the Ontario Ministry of Attorney General Agency Relations Branch.*
 - b. *Inquire how Saskatchewan develops their Bail Verification Reports, about the efficiency and effectiveness of their provincial electronic monitoring program, and follow up with the University of Saskatchewan Centre for Forensic Behavioural Science and Justice Studies when their research on judicial interim release is available for dissemination.*
 - c. *Inquire about the cost implications of using para-professional staff to supervise bail in BC, as well as the efficacy and efficiency of provincial electronic monitoring program.*

- 8) *Review CCRP Policy 6.01.01 Standard 3(d), to evaluate the best way to determine file closure to streamline workflow.*
- 9) *Consult the current bail supervision best practice standards to inform future policy direction:*
 - a. *“Pretrial Services Program Implementation: A starter kit”, published by the Pretrial Justice Institute (2010).*
 - b. *“Measuring what matters: Outcome and performance measures for the pretrial services field”, published by The National Institute of Corrections Pretrial Executives Network (2011).*

For Further Discussion: Next Steps

Outside of internal discussion among the Executive Directors, Assistant Deputy Minister, and the Deputy Minister of Justice and Solicitor General/Assistant Attorney General, a wider discussion must follow. This paper puts forth, for discussion, two possible ways to create a body that could align the goals and activities of the bail process stakeholders. Ideally, elected political leadership would compel the stakeholders under the umbrella of Alberta Justice and Solicitor General and the police in the province to participate in a bail oversight board, with the hope that the independent judiciary would collaborate to help administer the overall bail system. In the absence of direct leadership from elected officials, Alberta Justice and Solicitor General could assume leadership of such a body by creating an inter-departmental bail committee, with the hope that the police agencies and the independent judiciary would voluntarily collaborate.

Intensive Cases

Several patterns emerged from the analysis of the case files identified as the most resource intensive by Probation Officers around the province. These patterns were used to create the following definition:

Bail Files exhibiting 5 or more of the following characteristics are defined as “Intensive Cases”:

1. The client is bound by a minimum of five distinct conditions on one or more concurrent recognizance orders, EXCLUDING the standard conditions of ‘Keep the Peace and Be of Good Behaviour’; ‘Attend Court as Directed’; and ‘Report for Supervision as *Directed by your Probation Officer*’.
2. The client is arrested twice or more during the bail supervision period.
3. The Client exhibits two or more of the following Unstable Life Circumstances:
 - a. 2 or more residency changes (three addresses).
 - b. Addiction (suspected or diagnosed).
 - c. No fixed address/ Homeless.

- d. Involvement of social service agencies (Child and Family Services, Treatment and/or Counselling Services, AISH, etc.).
 - e. Mental Health Issues (suspected or diagnosed).
 - f. Insufficient income (Unemployed, sporadic/unreliable employment, no one supporting them financially).
 - g. Domestic violence charges and/or domestic violence victim.
4. Previous Criminal Record.
 5. Police Interest/ High Profile/ Media Attention.
 6. Client has one of the following conditions that requires an exemption:
 - a. Residency.
 - b. Curfew.
 - c. Not to leave the Province of Alberta.
 7. Client has a condition that they must attend treatment and/or counselling.
 8. Weekly reporting schedule.

1. Introduction

Judicial interim release, also known as bail, or pre-trial release, is a large, complex component of the criminal justice system, requiring many different actors and agencies to administer it. When a person is arrested for allegedly committing a crime, they are subject to a bail hearing where they may be released back into the community pending their next court date (Criminal Code, 1985, s.515). Depending on the circumstances of the alleged offence, this person may have to report to a supervisor until their court appearance. In Alberta, this supervision function of the bail system is done by probation officers employed in the Community Corrections and Release Programs Branch (CCRP) within the Correctional Services Division of the Ministry of Justice and Solicitor General.

There has been a 110% increase in number of people being supervised by CCRP's probation officers in the past seven years, with over 2300 files currently open in the province (Alberta Justice & Solicitor General, n.d.). Bail clients currently make up 25% of all supervision files in the province, accounting for the equivalent of 40 FTE probation officer positions (Alberta Justice & Solicitor General, 2014). This resource pressure has spurred the need to examine how bail supervision is using CCRP's resources, specifically the time spent by probation officers supervising bail clients. Employee salary and benefits account for 95% of the annual budget (Alberta Justice and Solicitor General, 2014), and probation officer work-time allocation acts as a proxy measure for how much bail supervision is costing the branch.

Additionally, the Correctional Services Division of Alberta Justice and Solicitor General has adopted the Risk-Needs Responsivity (RNR) approach to correctional administration in relation to sentenced offenders, which is supported by the latest criminological research. In short, RNR is the philosophy that the most effective ways to rehabilitate offenders are targeted interventions aimed at the person's unique risk factors (Andrews & Bonta, 2010). The programs based on RNR for sentenced offenders and the current bail supervision program are competing priorities for Probation Officer resources. If the trend of increasing number of bail files continues, then more time and money will be spent supervising bail clients, who are legally presumed innocent until proven guilty, at the expense of programming for sentenced offenders.

Further, CCRP not only faces the resource pressure CCRP; the institution of judicial interim release has come under scrutiny over the past few years by governments, academics, and non-governmental organizations in Canada and internationally, raising issues around the morality, legality, risk, and the cost of the bail system (John Howard Society of Ontario, 2013; Canadian Civil Liberties Association, 2014; Myers, 2009; Ontario Ministry of Attorney General, 2014; Tokar, 2009; Schnacke, 2014; Pretrial Justice

Institute, 2014). These issues with the overall bail system have come under more intense scrutiny due to recent events in Alberta receiving extensive media attention and public discussion, both provincially and federally (Alberta Justice Solicitor General, 2015b; 2015c; Open Parliament, 2015).

CCRP is continually striving to deliver evidence based services, and the pressures facing the branch have spurred interest in generating more information on their role as supervisors within the overall bail system. This project was undertaken to generate evidence about how CCRP is expending their probation officer resources to supervise bail clients, as well as how aligned current CCRP policy is with the evidence on bail supervision; foundational information that is intended to be used to inform future policy improvement projects.

2. Background

Judicial Interim Release in Canada

Judicial interim release, outlined in Section 515 in the Criminal Code of Canada (1985), is the arrangement where a person arrested by the police and accused of a crime (herein referred to as the accused) is released into the community pending their court appearance. The provisions of Section 515 of the Criminal Code (1985) interact with Section 11(d) and 11(e) of the Canadian Charter of Rights and Freedoms (1982), which stipulates that all Canadians in criminal proceedings and penal matters have the right:

- To be presumed innocent until proven guilty according to law in a fair and public hearing by an independent and impartial tribunal;
- Not to be denied reasonable bail without just cause.

These conditions in the Charter are interpreted as the “presumption of release”, where it is the expectation that the accused will be granted bail and released to await their court appearance in the community (Myers, 2009). However, section 515 (10) of the Criminal Code (1985) specifies bail can be denied and the accused remanded in custody to:

- Ensure appearance in court (Primary grounds).
- Ensure the safety of the public (Secondary grounds).
- Maintain confidence in the administration of justice (Tertiary grounds).

In many cases, the accused is determined by the court to pose a risk based on the above mentioned grounds, but the specifics of the case are not strong enough to override the ‘presumption of release’. In

these cases, the court can impose conditions on the accused to help ensure their appearance in court and protect public safety through entering into a recognizance¹ (Criminal Code, 1985, sec. 515). Although the Criminal Code is federal legislation, the administration of the Criminal Code, and therefore the supervision of the accused to ensure their compliance with the recognizance, falls under the jurisdiction of the province (Constitution Act, 1867, sec. 92).

Judicial Interim Release in Alberta

In Alberta, accused persons are supervised by probation officers in the community under the direction of CCRP (Corrections Act, 2000, sec.4). CCRP is but one stakeholder in a network that must coordinate to administer the overall bail system in the province, illustrated in Figure 1 on the next page. Administration of the bail process requires collaboration among these different agencies whose activities are intertwined, yet often have no accountability to the other actors in the process. CCRPs activities, and by extension its resource allocation and expenditures, are often impacted by the actions of the other organizations involved in administering bail. In particular, the Judges and Justices of the Peace (JPs) that oversee bail hearings have a large impact on the supervision activities of CCRP because they determine the supervision conditions for the accused.

¹ A recognizance is the court order that legally compels the accused to attend court and abide by the conditions contained on it.

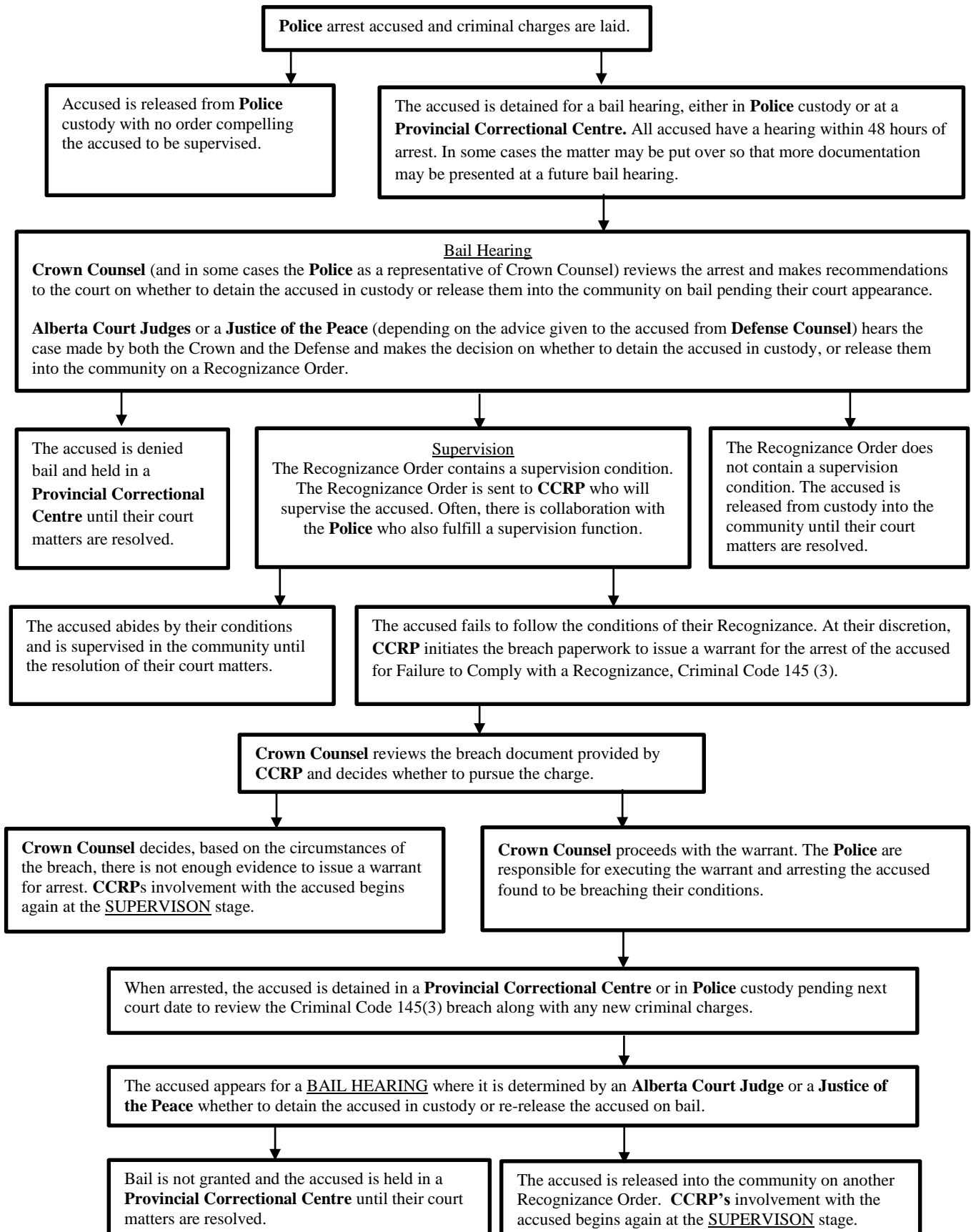


Figure 1: Summary of the bail process in Alberta, highlighting the interactions between the stakeholders.

Community supervision in Alberta is organized into five regional districts headed by a regional director, who reports to the Executive Director of Community Corrections, and oversees forty-three offices in thirty-six communities (Alberta Justice & Solicitor General, 2015a). The branch also operates two Attendance Centres that are separate from the regional districts, although only the Edmonton Centre supervises bail clients.

Accused persons released on a recognizance with a supervision condition are required to attend their assigned probation office and report to a probation officer.

CCRP policy requires that unless directed otherwise on the recognizance order, all bail clients are automatically assigned ‘minimum classification’, meaning they must attend the office to report once every two months. If the probation officer feels that the minimum reporting schedule is not sufficient to ensure the accused’s compliance with their conditions or to protect the safety of the public, they can make a case to their supervisor and manager to have their client report more frequently.

If the client violates the conditions of the recognizance order, the probation officer initiates the breach process. The specific activities involved in the breach process differ across the province, but common to all processes is advising Crown Counsel of the breach, who reviews the circumstances, and if justified, issues a warrant. When the warrant is issued, CCRP’s involvement with the accused is terminated and it is the responsibility of the police to arrest the accused on the warrant. However, the police may contact the probation officer for information to help them apprehend the accused.

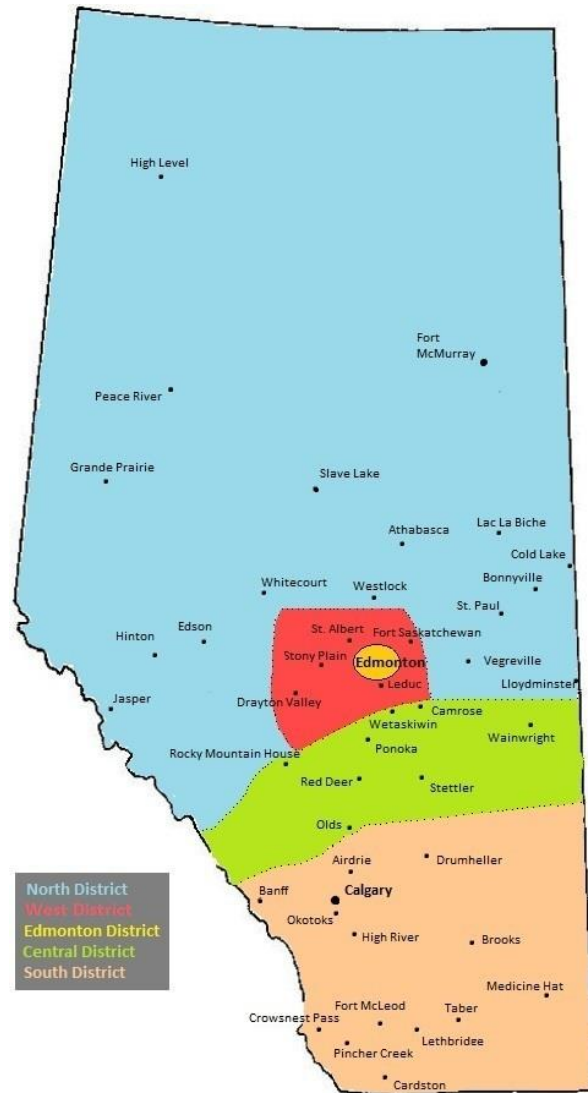


Figure 2: Alberta Community Corrections and Release Programs Branch Regional District Boundaries.

3. Project Objective

This project is a knowledge generation exercise and is the first of its kind to be undertaken in Alberta. The findings of this study will be used to create a foundation of evidence on CCRP's bail supervision program that can be used to inform discussion on further research and policy development.

Research Question

Based on the research in this project, what areas of policy could be changed to improve supervision practices and favourably impact the use of CCRP resources by bail clients?

The objective of this project is to produce a discussion paper through primary and secondary research to facilitate informed dialogue when considering policy direction for judicial interim release supervision. CCRP is interested in identifying evidence based best practices² for supervising bail clients, and want to generate information on what aspects of bail supervision are consuming CCRP's human resources for future evidence-informed decision making. The main research question will be answered through five sub-questions.

What are evidence-based bail supervision practices that CCRP could be using?

CCRP is continually striving to provide evidence based services and is interested in comparing branch policy with what the research shows is currently best practice. The literature review identified what the research indicates is the best way to organize a supervision program as well as what specific supervision practices are shown to have a positive effect on the outcomes of bail clients.

What is an 'intensive case'? What are the common characteristics of these cases?

Occasionally probation officers encounter a file that consumes an inordinate amount of their time; however, there has never been any investigation into whether there are any particular variables that make them resource intensive. This project analyzed twelve files from across the province identified by probation officers, senior probation officers, and probation office managers as being the most resource intensive cases with which they have worked. This analysis was used to create a definition of 'intensive case', identifying variables that could indicate to CCRP that a file could potentially consume an inordinate amount of resources.

² The term 'best practice' has been deliberately selected for the purposes of this report to describe the aspects of pretrial supervision supported by research evidence. Please refer to Section 5, Literature Review for further discussion.

What practices by other actors in the overall bail system in Alberta are contributing to CCRP resource use?

Administering the overall bail system requires collaboration between many stakeholders, and as a result the actions and activities of the individual agencies have consequences for the actors across the entire system. By interviewing two probation officers from each regional district³, the author generated information about what specific activities within the overall bail process are having an effect on the amount of resources required for CCRP to supervise bail clients.

Are there ways of addressing the policy and resource issues related to intensive cases and collaboration with other bail stakeholders?

Through the analysis of the primary and secondary data sources, this project puts forth recommendations to address the issues discovered through the research.

Deliverables

In response to these research questions, this report puts forth several recommendations intended to: a) Bring CCRP policy into alignment with best practice as identified in the research evidence, and; b) Potentially address the issue of resource consumption. These recommendations were distilled through the creation of four deliverables:

- 1) Literature review containing general recommendations for supervision programs based on:
 - a. Evidence-based and/or best practices of supervision models and their key features.
 - b. Specific supervision practices/activities shown to be effective.
 - c. Critical analysis of current CCRP supervision model with research evidence.
- 2) Analysis of a cross-jurisdictional scan illustrating the different bail supervision programs operating in Canada for comparative purposes.
- 3) Recommendations from probation officers employed by CCRP on how to address resource pressures, based on an analysis of interviews identifying what aspects of supervising bail clients consumes their time.
- 4) Identification of common characteristics of twelve intensive cases from around the province to identify common characteristics contributing to disproportionate resource consumption, cumulating in the development of a definition of ‘Intensive Case’.

³ For the purposes of this project, the City of Calgary was considered a regional district because it is a major urban centre. Technically, the Calgary area is administered by the South District.

4. Methodology and Methods

This project uses qualitative methods to analyze documents and interviews. The methods include a literature review of pretrial supervision publications, twelve loosely structured interviews with front-line CCRP staff, two telephone interviews with Community Corrections staff in other jurisdictions, and a comparative case study of twelve resource-intensive bail files.

Methodology

This project is a non-experimental design based in Grounded Theory (Patton, 2002). The purpose of this project at a methodological level is to generate theory, not to test existing theory. The research is intended to generate theory about bail supervision practices through seeking patterns, coding these patterns, and theorizing to “generate explanatory propositions that correspond to real world phenomena” (Patton, 2002, p. 489).

Methods- Primary Data Collection

Interviews:

Telephone interviews were conducted with two CCRP staff from each supervision region⁴, for a total of twelve interviews. The interviews consisted of open ended questions, found in Appendix 1, which allowed the participant to articulate what they see as the major factors contributing to their bail client workload, as well as suggestions for how policy and/or practice could be addressed to impact these areas.

The interview guide was developed in consultation with the client and the input of front-line probation officers. The interview guide was intended to break down the overall bail process into stages and identify what about the process, and the people involved at each stage, contributes to probation officer workload at the supervision stage. During the interview the researcher typed notes to record what the interviewee said. This summary was then provided to the participant, who then had the opportunity to add any comments to the notes (additions, clarifications, corrections, etc.), which then became part of the dataset.

Purposeful sampling was used to select the participants who are intimately familiar with the bail process and/or with job descriptions requiring familiarity with current operational policy. The respondents were chosen from different offices in the region to control for variation in practice across the province. The potential respondents were identified by the regional directors, in consultation with their office managers, in addition to “snowball sampling” (Patton, 2002, p.243), where the participants identified peers with whom it would be valuable to speak. The sampling from this exercise is intended to generate detailed

⁴ For the purposes of this project, the City of Calgary was considered a regional district because it is a major urban centre. Technically, the Calgary area is administered by the South District.

information from subject matter experts and thus is focused more on ‘depth’ versus ‘breadth’. These identified probation officers formed six regional pools from which the researcher selected two respondents to interview.

Methods- Secondary Data Collection

Literature review:

The literature review was intended to do two things: 1) Establish foundational knowledge about the resource requirements of bail supervision, and 2) Articulate what is considered evidence-based practice when supervising bail clients. The literature scan was conducted by searching for combinations of the key words ‘bail’, ‘judicial interim release’, ‘pretrial’, ‘supervision’, ‘diversion’, ‘resources’, and ‘workload’ using the Government of Alberta library electronic resources and databases, University of Victoria library catalogue and databases, Google search engine, and the reference lists of potentially relevant articles. The intent of this search was to identify what research has been done in Canada, in comparable Commonwealth nations (UK, Australia, and New Zealand), and in the United States and uncovered general findings that can be applied to fit Alberta’s distinctive context.

Comparative Case Study:

The researcher analyzed two bail files from each regional district⁵ that were identified by front-line probation officers, supervisors and managers, as consuming a disproportionate amount of their work time; files that herein will be referred to as ‘intensive cases’. The criteria used to select these files, found in Appendix 2, were informed by “critical case sampling” (Patton, 2002, p. 243). Particularly problematic files were selected with the presumption that a logical generalization can be applied to other supervision files where the accused is not considered to be an intensive case.

Each file is contained electronically on two separate databases; the Offender Records and Correctional Administration database (ORCA), which is used by Alberta Corrections and contains a record of the accused’s interaction with the Correctional Services Division and all of its branches, and the Justice Online Information Network (JOIN), which is used by the Crown Prosecutors in Alberta and contains the legal documentation generated by the courts. Between ORCA and JOIN, the researcher was able to reference the subjects’ interaction with Alberta Corrections, the subjects’ criminal record (including all charges and convictions), past and present court orders, and documentation created in the supervision of the subject in the community and/or in provincial custodial institutions, such as documentation from programs they have attended.

⁵ For the purposes of this project, the City of Calgary was considered a regional district because it is a major urban centre. Technically, the Calgary area is administered by the South District.

Methods- Mixed Primary and Secondary Data Collection

Cross Jurisdictional Scan:

Using publically available information to identify the appropriate contact person, interview requests were sent to British Columbia, Saskatchewan, Manitoba, Ontario, and the Yukon Territory, identified by a literature review as the jurisdictions that offer comprehensive bail supervision programs in Canada. Telephone interviews consisting of loosely structured open-ended questions, found in Appendix 3, were conducted with the consenting participants, the John Howard Society of Ottawa and the Yukon Territorial Government.

The governments of British Columbia, Saskatchewan, Manitoba, and Ontario did not participate, and instead, a review of the publically available literature and internal CCRP research was conducted to create these jurisdictions' profiles.

Data Analysis

Literature Review

The literature was compiled and critically analyzed for themes as well as potential limitations to the applicability of the conclusions. This analysis was then summarized into general recommendations suggesting practice and/or policies a bail supervision program should adhere to in order to be in alignment with best practice.

Cross-Jurisdictional Scan

Analysis was conducted on the information gathered on the other jurisdictions that operate a bail supervision program. The purpose of the jurisdictional scan was to provide context for Alberta's current bail supervision framework when searching for best practices. The results of the interviews and literature review were summarized to create a profile of their program, with a focus on:

- The basic features of their bail supervision model.
- If they had any policy directing supervision level for the accused.
- Whether there was any internal research into resource use.
- Any projects/programs implemented or being considered to address resource issues.

CCRP Employee Interview

The CCRP Employee interview responses were thematically analyzed using a coding system to identify themes and patterns in the responses, as well as any response that appeared novel or unique. The interview was developed to separate the supervision process into stages and how resources were consumed as the client moved through the supervision process.

Comparative Case Study

Twelve bail files identified as intensive cases were selected from a sample of files on bail for a period of twelve months or longer starting when ORCA went live in February 2013. In these files, the accused would have been on judicial interim release for a period of twelve or more months in order to allow enough time to establish a pattern of resource consumption and account for short term variations in supervision practice; for example, if a client does seasonal work, the effect of employment on bail resources may not be accurately captured in a short time period.

The researcher read through all the notes on ORCA and JOIN on each selected client during the bail supervision period and identified aspects of these twelve cases that were common among the files, also noting those individual cases where a client had unique features that were not common among the files, but were none the less resource intensive. The patterns and themes were compared to the probation officer interviews as a line of evidence to corroborate the responses.

Through the analysis of the files, the researcher has created an objective definition of ‘intensive case’. This project analyzed the files that the probation officers subjectively identified as intensive to ascertain themes and patterns used to create a definition that can act as a foundation for further, more objective research into the topic.

It is acknowledged that there is a methodological problem with the selection of these ‘intensive cases’. There is no steadfast way to identify these files in order to compare them to “normal” bail files because there is currently no system or tool in place in CCRP where probation officers can log their time. As a result, it is not possible to determine what was a baseline ‘normal’ bail file in order to develop criteria to select ‘intensive cases’. For this project, the researcher had to rely on the subjective experiences of the probation officers managing the file. Appendix 3 outlines the criteria the researcher used to solicit intensive cases, although it is acknowledged that there is significant room for interpretation. However, it is possible that the findings of this report could be used to assist in the development of a time-logging tool by identifying what supervision aspects need to be considered.

5. Literature Review

This literature review sets out to do two things: 1) Compile and analyze research on bail supervision resource consumption, and 2) Identify evidence based ‘best practice’ for bail supervision. This literature review is organized as follows:

- Summary of research on bail supervision resource consumption.
- Identification of best practices.
- Discussion of evidence based practices for bail supervision.
- Findings on the efficacy of specific supervision practices and interventions.

Previous Research on Bail Resource Consumption

Using the above search methods, the researcher found no literature that focused on the resource implications of bail supervision practices. Any mention of the resource impact of bail supervision was done in the context of comparing the monetary cost of releasing the accused on bail versus detaining the accused in custody (Canadian Civil Liberties Association and Education Trust, 2014a, 2014b; Department of Justice Canada, 2006; Schnacke, 2014). These articles varied in their estimates of the cost of supervising bail clients, did neither explicitly articulate which bail supervision model was being used, nor how the cost of releasing on bail was calculated. It appears this project is the first to identify why bail supervision creates a resource strain on the agency providing it.

Identifying Best Practices

A review of the literature confirmed that there have been no studies conducted in Canada, the UK, New Zealand, or Australia related to supervision practices. The publications from Canada and these Commonwealth nations gleaned on supervision, focusing instead on the legality and morality of denying bail, setting appropriate bail conditions, and the policy issues surrounding prison overcrowding and/or costs (Myers, 2009; Tokar, 2009; Sprott & Myers, 2011; John Howard Society of Ontario, 2013; Myers, 2013; Canadian Civil Liberties Association, 2014a; Ontario Ministry of Attorney General, 2014; Maxwell, Morris, & Anderson, 1999; Booth, & Townsley, 2009). An

It is acknowledged that the term ‘best practice’ is controversial. The literature on best practice contends that the use of the term ‘smart practice’ is more appropriate, since ‘best practices’ may not be the best in every context (Vesely, 2011). ‘Evidence based practice’ may be preferred for this same reason. However, the upcoming section “Shortcoming of Evidence Based Practice” on page 22 explains why it is premature to identify anything as a ‘smart’ or ‘evidence based’ practice when discussing bail supervision.

evaluation of the Saskatchewan Bail Verification and Supervision Program conducted by Justice Saskatchewan was the only publication that appeared to be relevant, but upon analysis it was found to be extremely dated to the point that the findings were no longer applicable, and the evaluation focused on the process of the program, not the efficacy of the specific supervision practices (Nasim, 1984).

Confirming this dearth of knowledge, bail supervision literature from the United States explicitly states that there is a large knowledge gap in the field and advocates for further research that builds upon their findings (Goldkamp & White, 2006, VanNostrand, 2007; National Association of Pretrial Services Agencies, 2006; VanNostrand, Rose, Weibrecht, 2011a, 2011b). American research is far from conclusive on what constitutes effective supervision; this literature review finds the evidence to be sparse, contradictory, and limited in its generalizability. Goldkamp and White (2006) articulate their frustration with the existing field of bail supervision research in the introduction of their study:

Overall, empirical studies did not address the question of whether supervision reduced unfavorable conduct among defendants compared to what would have resulted if no supervision had been applied. Nor did studies examine the extent to which particular elements of a supervision approach proved more or less effective in dealing with specific categories of defendants. Perhaps even more frustrating in the search for ‘best practices’ from the professional and empirical literature was the failure to deal with a definition of supervision explicitly. What supervision was appeared to be self-evident to the authors in those studies. In short, supervision mainly was what it was assumed to be, but those assumptions were seldom made explicit. Yet, whatever ‘it’ was, supervision was generally portrayed as somehow beneficial, even in studies failing to show supervision impact (p.147-148).

Furthermore, there is a potential issue with the generalizability of the conclusions from the American literature to Alberta’s context. Firstly, institutional structures differ between Canada and the USA, impacting justice administration. There are significant variations between the Canadian provinces and the American states in regards to the powers and jurisdiction articulated in each country’s respective Constitution. Most importantly, in the USA, state governments have the power to make criminal law and delegate the administration of criminal law to counties, whereas in Canada, the federal government has exclusive jurisdiction over the legislation of criminal law, and it falls to the provinces to administer it (Reynolds, 2001; Constitution Act, 1867, sec. 92). This results in much variation between Canada and the USA, between the states within the USA, and often between counties in the same American state. Additionally, in the USA, the judiciary and the prosecution are elected, as opposed to Canada, where they are appointed. This means that in the USA, there can be different patterns in the application of justice

depending on the political sensibilities of the electoral region, both across jurisdictions and even within the same jurisdiction across time (National Association for State Courts, 2015). The existence of different bail systems severely limits the ability to make standardized comparison between systems for the purposes of the project.

The differences in specific legislation across the different provinces and states, coupled with the unique social problems faced by specific geographic areas, interact to produce different practices across the entire justice system, not just the bail system. Further to this point, the USA has a for-profit bail bond industry, which is illegal in Canada. Bail bonding creates a situation where it is possible for private citizens to fulfill a supervision role in the bail process. Simply put, bondsmen will pay the accused's bail for a fee. Since the bondsman has money tied up in the successful completion of the bail period, the bondsman ensures the accused attends court or abides by any conditions (Bail Bond Information Centre, 2015). Because bail bondsmen are not considered part of the State, their practices are not subjected to the same legal restraints that apply to public sector entities such as the police. This entity becomes part of the bail system and as such, becomes another stakeholder in the process.

Shortcomings of Evidence Based Practices

Despite the desire for pretrial programs to engage in evidence based practice, the lack of literature in the field poses a problem. Essentially, there is not a large enough body of evidence to consider any type of pretrial activity to be "evidence based". VanNostrand, Rose & Weibrecht's publication, "The State of the Science of Pretrial Release Recommendations and Supervision" (2011a) posits the definition "Legal and Evidence Based Practice", referring to practices that adhere to the local legislation and the evidence from the research. In this publication it is acknowledged that "Legal and Evidence Based Practice (LEBP) is a relatively new and emerging field and admittedly lacks the research that identifies the practices and interventions that meet the criteria of LEBP" (VanNostrand, Rose, Weibrecht, 2011a, p.15). Due to the lack of research hindering the use of 'evidence-based practice', this project avoids the use of the term, favoring instead 'best practices', which encompasses both practices supported by research and practices that have been widely implemented despite lack of evidence. With this in mind, all the findings and recommendations should be considered 'best practice at this time'. The lack of research on pretrial practices underscores the necessity of ensuring that a program has rigorous data collection and analysis to contribute to the evolving definition of what is considered evidence-based.

'Best practice at this time' is most thoroughly illustrated by the advocacy of the pretrial service frameworks in the literature and the promotion of risk assessment. There has been no evaluation on these frameworks supporting that they result in better pretrial outcomes. The need for evaluation was

recognized by the National Symposium on Pretrial Justice (Pretrial Justice Institute, 2014) who recommended the need to establish a comprehensive research strategy to coordinate the need to generate more comprehensive pretrial data (p.7).

The Search for Best Practice

CCRP is not alone in their search for best practices for the bail system. The need for guidelines was acknowledged by both the American Bar Association (ABA, 2007), and the National Association of Pretrial Services Agencies (NAPSA, 2004), who both published documents outlining best practice and professional standards when dealing with accused persons on bail in the USA. These documents are not legally binding, but are intended to “provide direction, guidance, and inspiration to pretrial practitioners in their daily work of providing pretrial services in criminal cases...[and] serve as a catalyst for change when criminal justice policymakers ask ‘How do we fashion a criminal justice system that is just, fair, and sound?’” (National Association of Pretrial Services Agencies, 2004, p. viii). These documents assisted with the development of specific programs in the United States (Pierce-Danford & Guevara, 2013; Clark, 2008; Clark, Levin, Murray, & Henry, 2007; Pretrial Services Institute, 2010; Jones, 2013).

The National Association of Pretrial Services Agencies (2006) also released a follow-up document to their 2004 publication highlighting specific best practice with supervision implications:

- Formalized cooperative agreements between the pretrial diversion program and key stakeholders to assure program continuity and consistency.
- Uniform and validated risk and needs assessment to determine the most appropriate and least restrictive levels of supervision and the types of services needed.
- Intervention plans tailored to an individual participant’s risks and needs and developed with the participant’s input.
- Graduated sanctions short of termination as a response to participant behavior.
- Independent program evaluations.

The National Association of Pretrial Services Agencies (2006) also put forth three “‘emerging practices’... practices that appear to help pretrial diversion programs meet goals and objectives, but lack the empirical foundation needed to be termed ‘promising’” (p.30):

- Written policies and procedures backed by a formal mission statement.
- An automated management information system that supports internal performance measurement and independent evaluation.

- Auditing of external service providers; ensuring that program delivery that is not delivered by the program is evaluated on its efficacy.

These documents released by the ABA and the NAPSA have served as the basis for pretrial service programs in the United States. The Pretrial Justice Institute, based in Maryland, is a not-for-profit organization that advocates for the “advancement of safe, fair, and effective pretrial practices” (2015, para. 1). One of the core values of the Pretrial Justice Institute is the support for “data-driven, evidence-informed policies and practices across the juvenile and adult pretrial justice continuum” (2015, para. 2), and the website includes several publications on the development of evidence based practices in the bail system. The Pretrial Justice Institute published the “Pretrial Services Program Implementation: A starter kit” (2010), a comprehensive guide for how to organize an agency that supervises bail clients, outlining what the Pretrial Justice Institute considers to be best practice. The “Starter Kit” operationalizes the specific standards found in the documents published by the National Association of Pretrial Services Agencies (2004) and American Bar Association (2007), and has created recommendations for six “core practices”:

1. Impartial universal screening of all defendants, regardless of charge;
2. Verification of interview information and criminal history checks;
3. Assessment of risk of pretrial misconduct through objective means and presentation of recommendations to the court based upon the risk level;
4. Follow-up reviews of defendants unable to meet the conditions of release;
5. Accountable and appropriate supervision of those released to include proactive court date reminders; and
6. Reporting on process and outcome measures to stakeholders (Pretrial Justice Institute, 2010, p.5).

In addition to these “Core Practices”, the Pretrial Justice Institute (2010) advocates for legislating the existence of a pretrial services agency and their responsibilities, using the Illinois Pretrial Services Act as an illustrative example (p.4). Furthermore, the “Starter Kit” emphasized the importance of administration. An entire section of the document prescribes how a program should be planned and implemented, with a focus on having clear values, missions, and performance targets, in line with NAPSA’s ‘emerging standards’ (National Association of Pretrial Service Agencies, 2006). In addition to the Pretrial Justice Institute’s initiatives to operationalize best practice, the National Institute of Corrections Pretrial Executive Network released “*Measuring what Matters: Outcome and performance measures for the pretrial services field*” (2011), a document prescribing how to gauge the performance of bail supervision programs and integrate the performance measures with organizational goals.

However, as earlier discussed in the preceding section “Shortcomings of Evidence-Based Practice’, any sort of evaluation of these frameworks was noticeably absent in the literature. There has been research into how to evaluate a pretrial services program (National Institute of Corrections Pretrial Executive Network, 2011), but there is no publically available study that has done so. Yet, with jurisdictions beginning to implement programs and legislation in line with what is advocated by the Pretrial Services Institute’s (2010) “Starter Kit” and the National Institute of Corrections Pretrial Executive Network’s (2011) “Measuring What Matters”, it is possible that the pool of evidence will begin to expand. Colorado legislated standardized pretrial data reporting and operationalized “Measuring what Matters”, suggesting that an evaluation of the state’s pretrial supervision framework will be conducted in the future (Jones, 2013).

There was no clear evidence on who should be responsible for supervising bail clients. In the USA as of the 2009 Survey of Pretrial Services Programs, probation offices administered 38% of the pretrial service programs, 22% were administered by the courts, 14% by independent pretrial service agencies, and 7% administered by private non-profit organizations, with the remaining administered by Sheriffs/jails or “Other” service providers. (Pretrial Justice Institute, 2009). Although there is no advocacy for which administrative body is considered best practice, the Pretrial Justice Institute released a collaborative document with the American Probation and Parole Association prescribing how to integrate pretrial services with existing probation infrastructure, providing the impression that probation service providers are best equipped to supervise bail (Pretrial Justice Institute, 2011). Again, this conclusion is speculative, and there is no evidence or evaluation for one service provider over another.

Risk Assessment

The cornerstone of ‘evidence-based practice’ in pretrial supervision literature is the use of a risk assessment tool to determine release eligibility and reporting intensity (Levin, 2007; VanNostrand, Rose, & Weibrecht, 2011a, 2011b; Lowenkamp & VanNostrand, 2013; Murray & Trexler, 2012; Pretrial Justice Institute, 2010, National Association of Pretrial Services Agencies, 2006). The numerous articles that advocate for pretrial risk assessment, along with the recommendations of the National Symposium of Pretrial Justice (Pretrial Justice Institute, 2014), unanimously agree that conducting an interview with the accused and identifying their risk factors should be one of the first activities done by a pretrial services agency. This is to ensure the judge at the first bail hearing is fully informed when making a release decision, and then to assist the supervision agency to determine the appropriate supervision case plan. A sample interview and an example of a validated risk assessment tool can be found in Appendix 4 and 5, respectively.

Developing the initial interview and facilitating the logistics of the interviews can be done in several different ways, and it is recommended that jurisdictions looking to implement this practice apply what makes sense for their environment. (Pretrial Justice Institute, 2010). The “Starter Kit” (Pretrial Justice Institute 2010) suggests the employee responsible for supervision conduct the interview as soon as possible after the accused is arrested. Depending on how the jurisdiction has arranged their operations, the interview is conducted at the police station, courthouse, or the detention centre either by an on-site pretrial services employee or an employee that visits the location to conduct the interview (Pretrial Justice Institute, 2009).

The interview is the central component of the risk assessment instrument. The responses from the interview are used to score the accused, which creates a rating that indicates their level of risk. According to the literature, the standard interview questions will generate a risk level based on the following factors (Pretrial Justice Institute 2010; Clark et al, 2007, Mecklenburg County Pretrial Services, 2010; Coopriider, 2009; Summers & Willis, 2010)

- Current criminal charge
- Pending charges currently before the courts
- Criminal history
- Failure to appear in court in the past
- Violent offences
- Length of time in their residence
- Employment status
- Drug/substance abuse

Ideally, the jurisdiction will develop its own tool using local data in order to capture the unique risk factors of that area. However, creating a new tool can be an expensive exercise and many jurisdictions have implemented an existing validated risk assessment tool and adjusted it to fit their jurisdictions unique circumstances (Pretrial Justice Institute, 2011). The “Starter Kit” warns that the mistake many jurisdictions make is implementing an existing tool and never evaluating it to see if it is a valid indicator of risk for their jurisdiction.

Continual evaluation and validation is also considered a best practice in the literature, as is organizational alignment through the use of mission and value statements to guide both operations and the continual evaluation and validation. The National Symposium on Pretrial Justice (Pretrial Justices Institute, 2014) produced two recommendations that illustrate the importance of increased research attention to the subject of pretrial release:

- Collect a comprehensive set of pretrial data needed to support analysis, research, and reform.
- Embark upon a comprehensive research strategy that identifies evidence-based pretrial justice practices (p.20).

These recommendations are aligned with the advice from the National Association of Pretrial Services Agencies Pretrial Standards, Standard 3.7 (2004, p.71), expressing the need to have a clear governance structure, clearly defined policies and procedures, implementation of a comprehensive information management system, and established procedures for routinely measuring the performance of the program. “Measuring What Matters” (National Institute for Corrections Pretrial Executive Network, 2011) provides the framework for what a pretrial program should be measuring, summarized in Table 1. The “Starter Kit” (Pretrial Justice Institute, 2010) uses the District of Columbia performance measurement framework as an example. Furthermore, the “Starter Kit” also provides examples of how to organize the governance structure of a pretrial program and provides the mission statements from pretrial programs in the District of Columbia, Pennsylvania, Colorado, and Kentucky (Pretrial Justice Institute, 2010). To assist in ensuring rigorous data collection, some jurisdictions have legislated how to operate pretrial programs. The Illinois Pretrial Services Act outlines what a pretrial services program must offer in the state in effort to ensure adherence to best practice and to assist in the standardization of service delivery in the state (Pretrial Services Agency, 2010). In Colorado, the state legislature passed the omnibus criminal justice bill, House Bill 12-1310 in 2012, which mandated aspects of “Measuring What Matters” for the state’s pretrial services agencies (Jones, 2013). This legislation standardized data collection

DATA MEASURES	DATA DESCRIPTIONS
OUTCOME MEASURES – INDICATORS OF EFFECTIVENESS IN ACHIEVING A STATED MISSION OR INTENDED PURPOSE	
Appearance Rate	The percentage of supervised defendants who make all scheduled court appearances
Safety Rate	The percentage of supervised defendants who are not charged with a new offense during the pretrial stage
Concurrence Rate	The ratio of defendants whose supervision level or detention status corresponds with their assessed risk of pretrial misconduct
Success Rate	The percentage of released defendants who (1) are not revoked for technical violations of the conditions of their release, (2) appear for all scheduled court appearances, and (3) are not charged with a new offense during pretrial supervision
Pretrial Detainee Length of Stay	The average length of stay in jail for pretrial detainees who are not statutorily ineligible for pretrial release
PERFORMANCE MEASURES – QUANTITATIVE OR QUALITATIVE CHARACTERIZATIONS OF PERFORMANCE	
Universal Screening	The percentage of defendants eligible for release by statute or local court rule that the program assesses for release eligibility
Recommendation Rate	The percentage of time the program follows its risk-assessment criteria when recommending release or detention
Response to Defendant Conduct	The frequency of policy-approved responses to compliance and non-compliance with court-ordered release conditions
Pretrial Intervention Rate	The pretrial agency’s effectiveness at resolving outstanding bench warrants, arrest warrants, and capias
MISSION-CRITICAL DATA – STRATEGICALLY LINKED TO OUTCOMES AND PERFORMANCE; TRACKS PROGRESS IN AREAS AND ON ISSUES THAT SUPPLEMENT SPECIFIC MEASURES	
Defendants Released by Release Type and Condition	The number of release types ordered during a specified time frame
Caseload Ratio	The number of supervised defendants divided by the number of pretrial officers/case managers
Time From Non-financial Release Order to Start of Pretrial Supervision	Time between a court’s order of release and the pretrial agency’s assumption of supervision
Time on Pretrial Supervision	Time between the pretrial agency’s assumption of supervision and the end of program supervision
Pretrial Detention Rate	Proportion of pretrial defendants who are detained throughout pretrial case processing

Table 1. Pretrial Program Performance Measures. From Pierce-Danford & Guevara (2013), citing the National Institute of Corrections and the Pretrial Executive Network (2011).

enabling more effective analysis of pretrial data to assist in ongoing program evaluation and development.

What works?

Although ‘best practices’ in terms of supervision program frameworks have not been evaluated, there have been studies conducted on specific actions and interventions taken by pretrial service agencies that examine the accused’s outcomes. The next section of the literature review focuses on the efficacy of specific practices in reducing instances of Failure to Appear (FTA) in Court and being re-arrested while on supervision by breaching their bail conditions or committing new criminal offences, organized as follows: The act of supervision; frequency and type of supervision; notification programs; additional social programming; targeted enforcement; and a multisite analysis of several different practices conducted by the Pretrial Justice Institute. Discouraging for the purposes of CCRP, much of the research was shown to be contradictory, with many studies coming to different conclusions about the efficacy of the same activity. Additionally, all findings must be assessed with the knowledge that the research is often specific to a particular program in a particular location, and it is unlikely the same results would be replicated in a different environment.

Impact of Supervision

The research suggests that the act of supervision in and of itself decreases the frequency of FTAs and re-arrests, found by comparing accused persons with reporting conditions to accused persons without reporting conditions. Clarke, Freeman, & Koch (1976) provided the first preliminary evidence for the idea that supervision lowered the risk of FTA and re-arrest when compared to defendants who were not supervised. Goldkamp & White (2006) tested ten hypotheses through four experiments in Philadelphia to try to isolate what factors of bail supervision reduced FTA and re-arrests, and the only activity show to have a positive effect was supervision in and of itself. Lowenkamp and VanNostrand (2013) looked specifically at the effect of supervision on both FTA and re-arrest for new criminal activity while controlling for race, gender, geographic location (State), and risk level (as determined by an empirical risk assessment tool), and came to the same conclusion.

The presence of a supervision condition is shown to have a beneficial effect, however, as mentioned earlier in the ‘Search for Best Practices’ section, there is no standard definition for what ‘supervision’ entails in practice. Which begs the question, what types of supervision activities are more effective than others?

Frequency and Type of Contact

The literature indicates that that the frequency of contact has little, if any, effect on FTA and re-arrest outcomes. The type of contact (in person reporting, telephone reporting, attending the accused’s

residence) was not isolated in any of the studies. However, two studies suggested that the type of contact may influence outcomes for specific client populations, but the studies were not applicable to Alberta's context and provided insufficient evidence that they are effective.

The District of Columbia Bail Agency (1978) conducted a review of their bail files and found that increasing the frequency of supervision decreased the rate of their clients accruing new criminal charges, but did not result in any change in FTA rates. Toborg et al. (1984) and Goldkamp & White (2006) also concluded that supervision frequency had no effect on FTA rates. Yet, Goldkamp & White (2006) found that supervision intensity had no effect on the rate of new criminal charges, contradicting the findings of the District of Columbia Bail Agency (1978).

Although not directly generalizable to purposes of CCRP, there were two publications with conclusions worth mentioning about supervising clients with substance abuse issues and checking compliance with conditions. The first article, authored by The National Judicial College (2012), advocates for using less intensive supervision when working with drug-dependent clients as a 'best practice'. The reasoning behind the principle of less intervention is rooted in the research that substance abuse and addiction is a mental health issue. The National Judicial College (2012) stated that the pretrial process is not compatible with medical evidence based practice, and this may be negatively contributing to outcomes. However, the article does not cite any research to back the claim that brief interventions at the bail stage have better justice related outcomes, but does identify a collaboration gap in the USA between healthcare and justice, who often serve the same population.

In the second article worth mentioning, Lasley (2003) found that the ability of bail bond agents to randomly and unexpectedly make contact with the accused persons charged with domestic violence offences resulted in a reduction in domestic violence re-offences in California. The constant threat of arrest due to the erratic, unpredictable frequency of contact was a more effective deterrent than actually being arrested (Lasley, 2003). However, this study has limited applicability in Canada because there is no bail bond industry. Lasley (2003) highlights that bail bond agents, being private citizens, have far fewer legal restrictions on their ability to supervise clients than state actors like the police, who have to adhere to legislation limiting state power. Additionally, the research done by Lasley (2003) focused specifically on domestic violence defendants, and there is no further research on the effectiveness of random bail supervision on accused persons with other charges. Although the generalizability is limited based on this one study, further research into random, unpredictable supervision practices would be worthwhile, especially research focused on supervisions agencies administered by the government.

Court Date Notification

One of the areas of bail supervision that has received substantive focus is the effectiveness of programs that remind the accused of their upcoming court dates in an effort to reduce FTA. The majority of the studies provided evidence that court date notification programs were effective, with only two dissenting publications.

Mailing postcards to the accused prior to their court appearance was found to lower the rate of FTA in two studies. Eckert & Rouse (1991; Rouse & Eckert, 1992) evaluated the reminder program in New York City, where clients with misdemeanor or lesser charges were mailed instructions to call a bail supervisor to be reminded of their upcoming court date. If the accused did not call in, phone contact was attempted to remind the defendant. This group was compared to a control group that did not receive mail-out instructions. The experiment was conducted twice, and both times the notification group had a statistically significant lower FTA rate than the control group.

In Nebraska, Bornstein et al. (2013) divided bail defendants into four mail-out groups: a control group that did not receive the postcard; a postcard that simply reminded the defendant of the court date; a postcard that reminded the defendant of the court date as well as a reminder of the sanctions that would occur if they failed to appear, and; a postcard that reminded the defendant of the court date as well as a reminder of the sanctions that would occur if they failed to appear, but also highlighted positive consequences, in the form of the procedural justice elements of voice, neutrality, respect, and public interest (p.74). Overall, all three categories had better appearance rates than the control group, with the reminders plus sanctions only group having the best appearance rate with a 4.3% improvement over the control group. Additionally, Bornstein et al. (2013) found that attitudes towards the justice system had a significant impact on FTA rates. The study found that higher levels of trust and confidence in the justice system were correlated with lower rates of FTA. The mail out experiment highlighted that defendants ranking low in trust and confidence in the justice system attained the greatest benefit from receiving a reminder:

The relationship between trust in the courts and (non)appearance disappeared when defendants received a reminder. Thus, reminders have the potential to equalize appearance rates for defendants who vary in their attitudes toward the criminal justice system (Bornstein et al, 2013, p.85).

Several studies examined the effect of phone call notification on FTA rates. Crozier (2000) studied King County in Washington where volunteers were enlisted to contact accused persons via telephone to remind them of their court dates. It was found that the telephone contact reduced FTA by 1.4% overall. However,

this study was not methodologically rigorous. Nice (2006) conducted a more scientific evaluation in Multnomah County, Oregon and found that making automated phone call reminders to the Accused three days before their court reduced the overall FTA rate, replicating the trend established by Crozier (2000).

Schnacke, Jones, & Wilderman (2012) in Colorado found that using a live caller reduced FTA rates in Jefferson County. 2,100 randomly selected defendants with misdemeanor or traffic offences were contacted in two phases. The first phase, the 'call ahead' phase, had the caller attempt to contact the defendant up to 3 times in the seven days leading up to the court date. Phase 2, the 'call after' phase, occurred if the defendant had missed their court date. In Phase 2, the non-compliant defendants were split into a control group and a call-out group. In the call-out group, the caller would notify the defendant that they had missed their court date and had 5 days to report to the court or a warrant will be issued for their arrest. Phase 1 resulted in an increase in appear rate from 79% to 88%; a 43% reduction in FTA. Phase two found that compliance rose from the call-out group was 50% compared to 10% from the control group.

Although there is a significant amount of research supporting the efficacy of notification programs, there are two publications that did not show a notification benefit. Gewirtz & Schiff (1988) found different results in their 1985-86 evaluation of the New York City mail-out notification program than did Eckert & Rouse in 1991 and 1992 (1991; Rouse & Eckert, 1992). Gewirtz & Schiff (1988) found that the mail-outs did not reduce FTA, but did find the mail-outs interrupted and increasing trend in FTAs that had been occurring in the months leading up to the program's implementation. The differences between Gewirtz & Schiff (1988) and Eckert & Rouse (1991; Rouse & Eckert, 1992) can be speculated, but it is likely due to the differences in methodology, length of the study (21 months in Gewirtz & Schiff vs. 2 months in Eckert & Rouse), and the five year difference between the two evaluations.

Goldkamp & White (2006) also conducted a notification experiment analyzing FTA rates and enrollment rates for pretrial services, and was the only study that had results indicating that court date reminder programs had no effect on FTA rates. The experiment had a contact person meet with the defendant after their first court appearance to explain the process, inform them of their next appointment and give them a number to call to enroll in pretrial services (analogous to the services proved by CCRP's probation officers). It was found that there was no difference in enrollment rates or FTA rates between the group that spoke with the court worker and the control group that did not. Secondly, Goldkamp & White (2006) called defendants in the community to remind them to report to pretrial services, and found there was no difference in enrollment rates between the control group and the group that was contacted by an automated phone system. Furthermore, defendants who were called the night before their court date to

remind them of their appearance did not have a statistically different FTA rate than the control group that was not contacted. The difference in Goldkamp & White's (2006) results, compared to other notification studies, may be explained through the use of an automated system less effective than a live person, and because the calls were placed 24 hours before the court date instead of a few days, which would have better allowed defendants to plan for their appearance. Goldkamp and White (2006) also mentioned the contempt for the justice system in Philadelphia at the time of their study, citing that there were literally no beds for bail non-compliers in local jails, rendering judges unable to enforce conditions with incarceration, which could explain why the rates between groups were not different.

Additional Services

Austin, Krisberg, & Litsky (1985) evaluated the effectiveness of combining program participation with bail supervision in order to lower FTA rates and rates of re-arrest for new criminal charges. The researchers looked at data for persons from Dade County, Florida, Milwaukee County, Wisconsin, and Multnomah County, Oregon, and placed them into two groups. The 'Supervision Only' group was to receive one phone contact plus two face-to-face contacts per week during the first 30 days of release, and then one phone contact per week after the initial 30-day period. The "Supervision Plus Services" group had a minimum of one phone contact and one face-to-face contact per week during the first 30 days, and then appropriate participation in a designated service. It was shown that the provision of social services had no impact on FTA or pretrial crime rates, as there were no statistically significant differences between clients who attended programming in conjunction with their conditions and the group that was assigned conditions only. Although it did not significantly affect their conclusions, the authors offer a caveat, indicating the three sites could not be standardized for comparison and there was variation in the types and quality of service provision.

The findings of Goldkamp & White (2006) about court notification are also applicable in this section, since the program was focused at people who were in need of additional services, identified as "unintentional non-compliers... a hapless individual who was generally disorganized and dysfunctional in life" (p.145). The group that received these additional support services immediately after the first court appearance, as well as several days later, did not demonstrate a statistically significant difference in FTA than the control group who did not receive the additional support services.

Targeted Enforcement

Two studies studied targeted enforcement of conditions and both came to different conclusions.

Goldkamp & White (2006) conducted an experiment where the Warrant Unit would target a defendant who failed to report to pretrial services. The Warrant Unit would telephone and/or visit the defendant's

residence to inform that they had failed to appear and a warrant for arrest will be issued if they do not report in 48 hours. This group of targeted defendants were compared against a control group that simply had a warrant issued. The research found that none of the defendants from either group reported within 48 hours, with 9% of the Warrant Unit group eventually reporting and 4% of the control group eventually reporting. The authors concluded, due to the failure of the defendant to report on time, these differences between the groups could not be attributed to the Warrant Unit enforcement strategy.

However, Goldkamp & White's (2006) results may not be generalizable to other jurisdictions. As mentioned earlier, Philadelphia was facing a serious jail overcrowding issue and judges were forced to begin releasing higher risk defendants into the community on bail. This problem became common knowledge on the street and resulted in these higher risk defendants violating their conditions knowing there would be no repercussions. This "culture of no consequences" (p.146) compounded the issue of trying to balancing the need to deter non-compliance with the need to alleviate jail overcrowding. It is possible that the Warrant Unit intervention was unsuccessful as a result of this context.

Goldkamp & White's (2006) findings were contradicted by Schnacke, Jones, & Wilderman's (2012) follow-up experiment to their court notification trial discussed above in the "Court Date Notification" section. Schnacke et al. (2012) placed targeted phone calls to people whom FTA, notifying them of their missed court date and informing them to report within 5 days to avoid a FTA charge. Earlier data indicated 10% of these initial non-compliers would eventually show up to court within five days without any intervention, and after the targeted call out program, the compliance rate increase to 50% (Schnacke et al, 2012).

Multi-Site Analysis of Supervision Practices and Interventions

Levin (2007) conducted an analysis of the outcomes of pretrial programs in 28 counties in the USA between 2000-2002, encompassing over 1500 defendants, to identify what practices seemed to have an effect on FTA and re-arrest rates across the country. Levin posited eleven hypotheses and undertook a logistic regression analysis on the data to test the significance of several interventions, summarized in Table 2. Levin (2007) reported the following findings (p.1):

- 1) A pretrial program's use of quantitative or mixed quantitative-qualitative risk assessments lowers a defendant's likelihood of pretrial misconduct;
- 2) A pretrial program's ability to impose sanctions and report to courts is associated with less pretrial misconduct;
- 3) The more ways a pretrial program has to follow-up on a failure to appear, the lower the likelihood of a defendant's pretrial misconduct;

- 4) A pretrial program’s use of targeted mental health screening lowers a defendant’s likelihood of pretrial misconduct;
- 5) A pretrial program’s ability to supervise mentally ill defendants lowers the likelihood of a defendant’s re-arrest.

	Hypothesis	Supported by FTA rates	Supported by Re-arrest rates
1	Defendants in a county that utilizes quantitative risk assessments will be less likely to commit pretrial misconduct than defendants in counties with a qualitative risk assessment.	Yes	Yes
2	Defendants in a county which utilizes mixed quantitative-qualitative risk assessments will be less likely to commit pretrial misconduct than defendants in counties with a qualitative risk assessment.	Yes	Yes
3	The more monitoring conditions of release a county has to impose the more likely a defendant is to commit pretrial misconduct.	Yes	Yes
4	The more pretrial notification opportunities a pretrial program offers, the less likely a defendant is to fail to appear.	No	No
5	The more follow-up responses a county has to failure to appear the less likely a defendant is to fail to appear.	Yes	Yes
6	Defendants in a county which imposes administrative sanctions after a non-compliance with supervision conditions will be less likely to commit pretrial misconduct than defendants in counties which do not impose administrative sanctions after a failure to appear.	No	No
7	Defendants in a county which requests actions from the court after a non-compliance with supervision conditions will be less likely to commit pretrial misconduct than defendants in counties which do not request actions from a court after a failure to appear.	Yes	No
8	The more sanctions a county has for a non-compliance with supervision conditions the less likely a defendant is to commit pretrial misconduct.	Yes	Yes
9	Defendants in a county which screens all defendants for mental health issues will be less likely to commit pretrial misconduct than defendants in counties which do not screen defendants for mental health issues.	No	Yes
10	Defendants in a county which screens some defendants for mental health issues will be less likely to commit pretrial misconduct than defendants in counties which do not screen defendants for mental health issues.	Yes	Yes
11	Defendants in a county where the pretrial program runs a mental health supervision program will be less likely to commit pretrial misconduct than defendants in counties which do not run mental health supervision programs.	No	Yes

Table 2. Results of Levin’s (2007) regression analysis of pretrial supervision practices. Summarized by author. Note that relationship strength is not included in the summary.

Recommendations

With the aforementioned caveats in regards to generalizability of American research and the inability to accurately identify any practice as evidence-based due to sparse, contradictory research, the following

general recommendations for specific bail supervision agencies are presented along with a comparison of Alberta's current policy:

- 1) *Implement a risk assessment tool. The risk assessment tool should use an interview and a numerical scoring system. Ideally, a tool should be developed to take into account the unique circumstances of Alberta's bail population. If an existing tool is to be used, the tool should be reviewed for validity when enough data is collected.*
 - a. *A risk assessment should be conducted prior to the accused's first bail hearing so the Prosecution and the Judge have the information available to discuss whether to grant or deny bail. This risk assessment should be conducted at every subsequent arrest while on bail.*
 - b. *The risk assessment tool should be used to assist probation officers when making discretionary decisions about the client's reporting schedule.*
 - c. *The risk assessment should screen for mental health concerns.*

Alberta currently does not use a risk assessment tool. Policy dictates that all clients are assigned the minimum reporting schedule of once every two months. An increase in reporting is done at the discretion of the probation officer, their supervisor, and the manager. There are currently no guidelines on how probation officers are supposed to assign a reporting schedule.

Additionally, the Crown and the Judge/JP currently do not receive a report from Community Corrections about the accused's history while on supervision before the accused's bail hearing.

Levin (2007) found that the operating a mental health supervision program lowered her rate of FTA, but did not explicitly outline what a program looks like. Alberta currently supervises clients with mental health concerns and may qualify as a 'mental health supervision program'.

- 2) *Implement the practice of court date notification through both a mail-out program and an in-person telephone call at least four days prior to the court appearance.*

Alberta does not have an official notification program. Any type of notification that may occur would be only one by the volition of an individual probation officer as a service to the client.

- 3) *Provide probation officers with the power to administer intermediate sanctions to non-compliant bail clients.*

Alberta's probation officers have the power to increase reporting frequency as a sanction, provided it is supported by their supervisor and their manager.

- 4) *Implement a comprehensive research program and database to inform bail supervision policy and conduct regular evaluations.*

Alberta currently has the ability to conduct research into bail supervision practices. The electronic database Offender Records and Administration database (ORCA) is a tool that can collect pretrial data. The Ministry of Justice and Solicitor General operates a research program through the Strategic Services Branch.

- 5) *Formalize cooperative agreements between CCRP and the other key stakeholders in the bail process.*

There are some formalized relationships in the province for specific programs, such as the Priority Prolific Offender Program, that align stakeholder goals. However, Alberta has no formalized agreements focusing specifically on bail clients. There are some informal relationships between stakeholders in some areas of the province.

- 6) *Consult "Measuring What Matters" (National Institute of Corrections Pretrial Executive Network, 2011) and the "Pretrial Program Starter Kit" (Pretrial Justice Institute, 2010) to inform practices in Alberta.*

When considering policy options, refer to these documents for the best practice standards used in the USA.

6. Cross-Jurisdictional Scan

To place Alberta's bail supervision framework in context, a cross-jurisdictional scan was conducted. The purpose of the scan was to create a profile of each Canadian jurisdiction that offers a comprehensive adult bail supervision program to generate discussion for future policy talks. An interview request was sent to British Columbia, Saskatchewan, Manitoba, and Ontario along with an interview guide with the questions CCRP was hoping to have answered, found in Appendix 3.

Interviews were conducted with the Yukon Territory Department of Justice and the John Howard Society of Ottawa, who delivers front-line supervision services under contract with the Ontario Ministry of

Attorney General. The remaining profiles were created using publicly available literature and an internal jurisdictional scan conducted by Alberta Justice & Solicitor General in 2012.

Yukon Territory

The Yukon Department of Justice operates a bail supervision program in Whitehorse as well as some of the smaller communities dispersed in the Territory that are responsible for supervising people released on bail. Due to the remoteness of many of these communities, Yukon Community Corrections makes extensive use of telephone reporting, as well as collaboration with the RCMP to monitor compliance.

The probation officers in the Yukon conduct a pretrial risk assessment using the Yukon Offender Services Inventory (YOSI), a validated risk assessment tool also used for sentenced offenders to create a bail supervision report that is submitted to the court before the judge will make a release decision. The bail supervision report is also used to inform the probation officer's 'structured professional judgment' when determining a client's reporting schedule.

Yukon Community Corrections also uses the Justice Wellness Centre in Whitehorse to assist in their supervision. The Wellness Centre is a 'one stop shop', offering wrap-around justice services that low-risk bail clients can access, such as treatment, counselling, recreation, and employment skills development. Part of this strategy was informed by research the Department of Justice conducted with Dr. Jim Bonta that concluded that clients with different levels of risk should not interact.

There has not been specific research into bail client resource use in the jurisdiction. Bail clients account for 53% of the supervision files, but it is unknown how much work these files create. Anecdotally, the respondent indicated that bail clients do create work for their probation officers as a result of victim notification legislation in the territory and policies mandating collaboration with the RCMP.

British Columbia

The following profile was created through secondary sources.

Probation officers and para-professional staff called Probation Officer 14s, supervise bail clients out of the provinces community corrections offices (Alberta Justice & Solicitor General, 2012). In general, bail hearings are conducted by Crown Counsel in front of a Provincial Court Judges, although the Burnaby Justice Centre uses police officers as representatives of the Crown in weekend and after-hours hearings, much like Alberta (Canadian Civil Liberties Association and Education Trust, 2014). Bail clients typically are assigned a weekly reporting schedule, which is reviewed as a pattern of compliance is established (Alberta Justice & Solicitor General, 2012). There is no literature on resource use, but as of

2012/13 bail accounted for 34% of BC's community supervision caseload (Canadian Civil Liberties Association and Education Trust, 2014). BC began an electronic monitoring pilot program in 2012 using kiosks where the client checks in, instead of to a probation officer (Alberta Justice & Solicitor General, 2012); inferably, a strategy to decrease the amount of work-hours probation officers must spend supervising bail clients.

Saskatchewan

The following profile was created through secondary sources.

Bail clients are supervised by provincially employed probation officers. In addition to community supervision, Saskatchewan's probation officers prepare bail verification reports for the courts to assist in judicial decision making (Saskatchewan Ministry of Justice, 2015; Alberta Justice & Solicitor General, 2012). Saskatchewan also offers an Intensive Bail Program in Saskatoon for clients lacking community supports (Alberta Justice & Solicitor General, 2012). Saskatchewan also offers an electronic monitoring program, which is reported to have resulted in electronic monitoring becoming a common condition ordered by the courts (Alberta Justice & Solicitor General, 2012).

The Ministry of Justice often collaborates with the University of Saskatchewan Centre for Forensic Behavioural Science and Justice Studies (CFBSJS). Although no publically accessible documentation was found, CFBSJS is currently conducting research on judicial interim release that may have supervision implications, particularly in the area of pretrial risk assessment.

Manitoba

The following profile was created through secondary sources.

Manitoba Justice operates a limited bail supervision program in the province's urban centres; there is no program for rural communities (Alberta Justice and Solicitor General, 2012). According to the Alberta Justice and Solicitor General jurisdictional scan (2012), clients attend the program weekly unless otherwise ordered by the recognizance order or at the probation officer determines less frequent reporting is appropriate. Probation officers in Manitoba only enforce the reporting condition of the recognizance and do not attempt to verify compliance with other orders.

Winnipeg has two bail verification and supervision programs operating in the city, the John Howard Society for men and Elizabeth Fry society for women, funded by various agencies, including Justice Manitoba (John Howard Society of Manitoba, 2015; Elizabeth Fry Society of Manitoba, 2015). These organizations take on low risk clients that are eligible for release, but may not meet some of the

requirements, such as a surety, stable housing or employment (John Howard Society of Manitoba, 2015; Canadian Civil Liberties Association and Education Trust, 2014).

It was reported that there is zero tolerance for violation in the province, and being late for an appointment is grounds for a breach (Canadian Civil Liberties Association and Education Trust, 2014).

Ontario

The Ontario Ministry of Attorney General contracts bail supervision to the John Howard Society, the Salvation Army, and the Elizabeth Fry Society through a transfer payment agreement in thirteen communities in the province (Canadian Civil Liberties and Education Trust, 2014). The Coordinator of the John Howard Society Ottawa bail supervision program provided the following information for the project. The non-profit groups are expected to adhere to Ministry performance standards and the Bail Verification and Supervision Program Standards and Procedures Manual. Unfortunately, because the Ministry of Attorney General did not participate, these documents were not available.

The John Howard Society of Ontario conducted a pilot site report in which the Ottawa chapter participated. The internal report produced these best practice recommendations for Ontario non-profit bail supervision programs.

- Dedicated courthouse worker (not a rotating position) with permanent office space that is available to interview clients as they arrive from the police station/detention centre.
- Development of strong working relationships with courthouse staff (i.e. Duty Counsel, Defense Counsel, Crown Attorneys, court clerks, Ottawa Police Special Constables).
- Implementation of an electronic database to review current and closed files to determine suitability for re-release on the program.
- Use of a standardized risk assessment tool.
- Supervision meetings are designed as more than a sign-in. The development and implementation of a case plan is part of every case.
- Depending on the level of risk and stability/follow-through with the case plan the reporting schedule could be changed to bi-weekly.

The interview conducted with the Coordinator of the John Howard Society Ottawa provided the following information on operationalizing best practices:

- A program employee is stationed at the courthouse. This employee receives the bail files from duty counsel, crown counsel, and the court and interviews the accused persons to determine eligibility for the program.
- If the accused is eligible, program staff conducts a risk assessment using a program called Caseworks, developed by Orbis Partners. The risk assessment is used to develop the accused's pretrial case plan.
- All clients report weekly at a minimum. Breaches are processed if there has been two consecutive missed appointments or a breach of residency. Other infractions that are reported to program staff are forwarded to the police.

At this time, the John Howard Society has not done any research into bail supervision resource consumption. The respondent indicated that nearly all the clients have weekly reporting schedules and conferencing with community partners takes up a significant amount of the bail supervisor's time.

The Rest of the Country

Quebec: An online search for bail supervision practices in Quebec only uncovered one English report, which indicated that Quebec offered a bail supervision program (Statistics Canada, 2011). The report stated there was a program, but contained no information on Quebec, citing lack of data (Statistics Canada, 2011, p. 12). The researcher followed up on this claim with an online search for bail supervision practices in Quebec project using the 'Google Translate' tool to read webpages written in French. This search of online literature, particularly the Government of Quebec webpages, uncovered no indication that a bail supervision program is offered in the province.

Nova Scotia: Only offers Youth bail supervision and is outside the scope of the project (Alberta Justice Solicitor General, 2012).

Newfoundland and Labrador: Only offers bail as part of a family violence program, and subsequently is not considered comprehensive enough for the purposes of this project. (Alberta Justice Solicitor General, 2012).

Prince Edward Island: No bail supervision program offered.

New Brunswick: No bail supervision program offered.

Northwest Territories: No bail supervision program offered.

Nunavut: No bail supervision program offered.

Conclusions

The limited information gathered was used to create the following recommendations for discussion.

- Obtain a copy of the Bail Verification and Supervision Program Standards and Procedures Manual and any other Ministry performance standards issued by the Ontario Ministry of Attorney General Agency Relations Branch, which outlines how the non-profit organizations in Ontario are held accountable to the government for their supervision activities.
- Obtain copies of sample contract agreements from the Ontario Ministry of Attorney General for the non-profit organizations supervising bail.
- Inquire how Saskatchewan develops their Bail Verification Reports.
- Inquire about the efficacy and efficiency of electronic monitoring programs in BC and Saskatchewan.
- Inquire about the cost implications of using para-professional staff to supervise bail, as is done in BC.
- Follow-up with the University of Saskatchewan Centre for Forensic Behavioural Science and Justice Studies when their research in judicial interim release is available for dissemination.

7. Probation Officer Interviews

Two probation officers were interviewed from each regional district in Alberta⁶, for a total of twelve respondents. The interview questions were created with the intention of isolating the different stages of the bail process, and the impact the stakeholders at each stage had on CCRP activities that resulted in resource utilization, using probation officer workload as a proxy measure. The interview guide, found in Appendix 1, asked the probation officers to identify how conditions implemented by the courts, the Crown, Judges/JPs, Court Administration, CCRP, Police, and Provincial Correctional Centers, as well as characteristics of the clients themselves, were contributing to their workload.

Front End: Clients, Courts, Conditions

The results generated from the questions that focused on the clients, Crown Counsel, the Judges/JPs, and the court-ordered conditions found that the factors contributing to resource use involving these entities are not mutually exclusive. The interaction between the actors at the front end of the bail supervision process impact how much time CCRP's probation officers spend supervising bail. The responses to the interview indicate that the majority of the resource pressure faced by CCRP is primarily a consequence of the

⁶ For the purposes of this project, the City of Calgary was considered a regional district because it is a major urban centre. Technically, the Calgary area is administered by the South District.

activities in the courthouse, cumulating in the recognizance order that the probation officer is bound to enforce.

Client

The respondents provided several indicators that a client may be resource intensive, but no clear profile of a ‘typical’ resource intensive client emerged. The most common characteristics that emerged were a history of criminal offending and a history of failing to comply (FTC) with a recognizance. Some of the explanations that were provided independently by more than one probation officer in different supervision regions to explain this finding were:

- Clients with a history of criminal behaviour and FTC often are assigned a greater number of conditions, as well as more relatively stringent conditions when released on bail.
- Often these repeat offenders are experienced criminals who are motivated to game the system, actively trying to manipulate and/or deceive criminal justice system workers, and are adept at doing so.
- Chronic offenders are often of interest to the police, resulting in more contact and communication across agencies.
- A history of criminal behaviour and FTC are grounds for probation officers to use their discretionary power to increase the frequency of clients reporting.

Half of the respondents indicated that high profile clients created more work for the same reasons as clients with a history of criminal behaviour and FTC. ‘High profile’ is used to refer to clients whose charges attracted media attention; if the client is involved in gang activity and/or organized crime; if the offences include drug trafficking and firearms charges; and/or charges are violent such as murder, domestic violence, and aggravated assault.

It was also nearly unanimous across respondents that supervising clients with unstable lifestyles required more supervision time. Clients with unstable lifestyles typically have onerous, resource intensive conditions being imposed on their release, coupled with a lack of ability to lead a stable life independently. This group of characteristics includes:

- Clients with addictions issues.
 - These clients often had onerous conditions imposed by the courts because their addictions contribute to a pattern of anti-social behaviour, resulting in the courts viewing them at a higher risk to breach their conditions. Addiction issues are often concurrent with mental health problems.

- Clients with mental health issues.
 - These clients are generally low income and have few social supports. Additionally, these clients most must often rely on publicly provided defense counsel. As a result of the high caseloads and resource pressures faced by Legal Aid, clients may receive less than optimal advocacy at the bail hearing related to their unique circumstances, often resulting in the imposition of inappropriate, hence resource intensive, conditions. Inappropriate conditions are discussed in depth later in this section.
 - These clients lead unstable lives and often the probation officer is the only pro-social constant in the client's life.
 - Clients with mental health issues require lots of support, which means the probation officer is often assisting in submitting referrals to and communicating with social service agencies to help the client complete their bail supervision period successfully.
- Homeless and transient clients.
 - Homeless clients, defined as living on the streets, are difficult to supervise because they do not have an address or a telephone for the probation officer to contact them. These clients often suffer from mental health and addictions problems and their dangerous living situations make them more likely to be the perpetrator or a victim of crime.
 - Transient clients have much the same issues as homeless clients, but are not living on the street. These clients 'couch surf' or stay with various friends, relatives, or residential facilities for short periods of time.

Three of the interviewees mentioned that part of the probation officer job involves a quasi-social worker role, which contributes to the amount of resources they invest into a bail file. This role involves seeking out programs for their clients, submitting referrals, and communicating and collaborating with social service agencies to help the client comply with their conditions. One respondent quoted the Ministry Mission "to work in partnership with Albertans to promote safe, secure communities through effective law enforcement, correctional and victim services and ensure integrity and accountability" (Alberta Justice Solicitor General, 2015d). This respondent explained that ensuring these high-needs clients have proper social supports is essential for them to complete their bail supervision and fulfill the ministry mission, because the client's pattern of anti-social and/or non-compliant behaviour is often directly correlated with their unstable lifestyle.

Courts

It stands to reason that the characteristics of the accused person will have an effect on the conditions imposed on them by the courts. Recognizance orders are a result of collaboration between Defense

Counsel (as the voice for the accused), Crown Counsel, and the Judge or JP. Setting conditions is a dynamic, collaborative process among the three stakeholders with no set formula, with the presiding Judge or JP making the final release determination.

Processing breaches and attending court was identified in the interviews as the activities required by probation officers to do their job that most significantly affected their work-time allocation when dealing with the courts. The amount of work to process a breach varies across the province, but all probation officers must collaborate with the Crown to inform them of the breach and provide evidence that the client had failed to comply with their recognizance. It was reported that attending court was a resource intensive activity, requiring at least half of a probation officer's work day, plus additional expenses such as reimbursing the probation officer for transportation. It was also identified in the interviews that this part of the probation officer's job was using resources unnecessarily as a result of poor collaboration with Crown Counsel and the Judges/JPs.

It was identified in the interviews that probation officers were expending resources by conducting work for the Crown that was ultimately not used, with several of the respondents indicating that often CCRP time is allocated to processing a breach only to have the charge withdrawn in court. Withdrawing breaches is expensive for CCRP, particularly when the probation officer is required to attend court. The respondents did not know why the breaches were withdrawn, but they report hearing that judges are apprehensive to proceed with a criminal charge for what are considered 'minor' breaches, and that the Crown will offer to drop the breach charges as a 'bargaining chip' during plea negotiations. Additionally, one respondent stated that withdrawing breaches against 'criminally experienced' clients is creating more work for probation officers. They reported that some of the 'criminally experienced' clients have adopted the attitude that "breaches don't matter" because they are routinely dropped. These clients with an interest in "gaming the system" become increasingly non-compliant in reporting, in turn increasing the amount of time required to supervise them.

In some regions, insufficient collaboration with the Crown has resource consequences as a result of office practices. One respondent stated that their office practice defines the maximum number of cases they can supervise. The respondent explained that sometimes a client's court matters are brought forward before the initial scheduled date and the probation officer is not notified, meaning the probation officer is not aware that the matters were resolved on an earlier date. The case file then remains unnecessarily open, occupying a spot that could be held by an active supervision and causing the probation officer to spend time on supervision related work activities that were not required.

Judicial Release Decisions and Conditions

It is the probation officer's job to supervise court ordered conditions, so this section focused on what specific decisions made by the Judge/JP resulted in more or less work. Obviously, assigning a reporting condition resulted in CCRP resource consumption. In addition to reporting, the respondents identified several conditions that required significant time investment:

- Daily, weekly, or bi-weekly reporting directed on the Recognizance Order (Court ordered instead of CCRP policy).
- Curfews, particularly 24 hour curfews (house arrest). Temporary exemptions for any reason require written consent from the probation officer, who must inform the police of the exemption. Curfew was tied for the most common condition mentioned by the probation officers, coming up in eight interviews, but any condition requiring exemptions was reported as being a significant drain on resources.
- Counselling and/or treatment was tied with curfew as the most referenced condition consuming resources. Referral to programs is a time consuming activity for probation officers. Additionally, many programs do not accept bail clients because the client must admit they have a problem before they can be counselled, conflicting with the accused's presumption of innocence. Often the clients are hesitant to participate for fear that anything they disclose during the pretrial period will be used against them in court. This forces probation officers to spend time trying to find ways to satisfy the condition. Program attendance must also be confirmed by the probation officer, which requires significant time communicating with the treatment and counselling agencies.
- Attending school, day program, or employment. This condition requires extensive follow-up and collateral contact to confirm that the client is employed or enrolled, as well as the client's attendance.
- In certain rural settings where there may be only one or two probation officers, one respondent indicated non-contact orders (with others on supervision) were time consuming because they required coordination on the part of the probation officer to ensure the co-accused clients were not in the building together.

In addition to identifying what conditions generate workload, the respondents again identified a gap in collaboration that resulted in what they considered to be unnecessary workload. The most common response implying unnecessary workload was the perception that the Crown and/or Judge/JP do not take into account the client's individual circumstances, and impose what the respondents indicated were inappropriate conditions.

Some examples of inappropriate conditions provided by the respondents were residency conditions imposed on people with insecure housing, abstention conditions for people with addictions, curfews, and cellphone bans that interfere with employment, or mandating employment for people suffering from a mental illness that precludes them from working.

Inappropriate conditions create work in a number of ways. Probation officers are forced to ‘get creative’ to find ways to enable the client to comply with the conditions. Clients with conditions that impact their day-to-day living must attend court to get the conditions amended, which results in a new order sent to the probation officer to update the client’s file. This requires notifying the collaborating agencies of the change to conditions, creating additional work for the probation officer. Inappropriate conditions are also likely to be breached, further consuming probation officer resources.

Some conditions were inappropriate to the level that they are essentially unenforceable, which the respondents report as a disconnect between what the courts think CCRP is doing and what they are actually doing. For instance, curfews cannot be enforced unless the supervisor knows where the client is supposed to be. If a client has no condition requiring them to be at a specific residence, non-compliance with a curfew condition would be detected only if the police were familiar with the accused and their conditions, and happened to come across the accused on the streets. Some of the inappropriate, unenforceable conditions were also the result of regional context. Many of the rural areas indicated the treatment and counselling conditions were not enforceable. Smaller communities do not offer appropriate programs and the client would have to travel to an urban center to meet the requirement.

Abstention conditions were a consistent recurring unenforceable condition. It was reported in the interviews that sometimes bail clients have conditions that they must submit fluid samples to the bail supervisor to verify substance use, yet fluid testing facilities are not available to CCRP.

Clients with mental health issues are sometimes court ordered to take their medication, but there is no realistic way of verifying compliance. One respondent relayed an experience where they attempted to include the client’s physician in the supervision process but faced barriers related to information sharing and cooperation with the doctor.

Restrictions on where the client is allowed to be are also reported as unenforceable. These conditions are sometimes general, such as not to be within 100 feet of a residence, and sometimes are very specific, such as to not have any contact with a specific person or to not to be in the driver’s seat of a vehicle. In the cases where the client is caught violating these conditions, the interviewees reported that the court views these violations as minor breaches and they are routinely withdrawn.

Administration

Courthouse administration was reported as not factoring into how probation officers allocate their time, except for when there was an issue in communication between the probation offices and the courthouse. Eleven of the twelve interviews reported issues that resulted in having to take time away from their workday, specifically citing lag in the updating of databases and not having orders sent to the probation office. All but one respondent indicated that recognizance orders were not sent to the office on a frequent enough basis and so tracking down the orders was a regular activity diverting their time from other supervision responsibilities. Many reported that it was a relatively frequent occurrence that a client would report to the office and the probation officer had no record of the client being on supervision.

Supervision

Probation officers were asked if CCRP mandated any supervision practices contributing to their workload, or, if the lack of clear policy around bail supervision contributed to their workload. Overall, no clear pattern emerged, but some participants provided in-depth responses. For the most part, it appears the application of policy differs around the province, resulting in regional variations in resource consumption as opposed to a provincial trend.

The following section is divided into two sub-sections: Identification of the areas of policy that result in workload increases and areas of policy that could be improve time allocation.

Workload creating policies:

- CCRP Policy 5.06.08: Community supervision of gang-affiliated offenders. When supervising bail clients, this policy compels the probation officer to:
 - Work cooperatively with law enforcement, Correctional Centre Security Intelligence. Officers and the local Crown Prosecutor's office to establish information sharing practices focusing on gang-affiliated offenders.
 - Keep the manager/supervisor well informed of a gang-affiliated offender's progress in meeting case management plan objectives and of any new developments related to the supervision of the case.
 - Establish and maintain ongoing contact with identified police personnel and Crown Prosecutors/Special Prosecutors assigned to manage gang related matters.
 - Enter applicable data regarding gang affiliation on ORCA (police sourced data in accordance with local practice).

- When applicable, maintain regular contact with attendance centre managers/supervisors responsible for surveillance units regarding curfew monitoring of gang-affiliated offenders.
- Ensure that any home visits conducted in relation to the supervision of gang-affiliated offenders are conducted in accordance with Branch home visit policy, with probation officer/staff safety being the primary consideration.
- CCRP Policy 6.01.01b (General Process, 1(c)). The probation officer shall: Obtain one reliable collateral source.
- CCRP Policy 6.01.01b, Standard 3: The probation officer shall advise local law enforcement when an accused person has been placed on judicial interim release with a reporting condition, according to local practice. The local law enforcement agency shall also be advised of the additional release conditions.
- CCRP Policy 5.01.11b, Guidelines, Case Review Dates.
 - Case reviews must be conducted at six month intervals.
- South District policies: Probation officers must prepare a full breach package to present to the court, which is very labour intensive. Other parts of the province just submit a letter to the Crown requesting action to be taken.

These policies result in practices that the respondents indicated were necessary to properly conduct their duties. The most resource intensive activity, and reportedly the most important, is collaboration with the police, mandated by CCRP Policy 6.01.01b, Standard 3. It was not surprising to find that this activity consumes a large amount of probation officer time. Supervising bail clients that are of police interest generates workload for probation officers because of continual communication between the two agencies to share information about compliance and non-compliance, especially in high profile cases. Additionally, CCRP Policy 6.01.01b, Standard 3 requires that probation officers must notify the police of any change in the bail case plan. Every condition requiring an exemption resulted in increased workload as the probation officer notified the relevant police agencies. One of the respondents reported that the existence of more than one police agency in their district (a municipal agency and the RCMP for the surrounding area) meant twice the collaboration because their client was travelling between and committing crimes between police jurisdictions.

However, the respondents also specified areas of policy that resulted in practices that consumed their time in a less than optimal way.

- CCRP Policy 6.01.01 Standard 3(d): The file may be closed when: a violation for failure to report has been reported to the Crown; or where it is local practice for such charges to be laid by the probation officer, a warrant has been issued for a failure to report; or a warrant has been issued for a failure to attend court on the charge(s) listed on the release document.
 - This respondent indicated that closing the file (also called closing the Booking ID) is not always the most appropriate action for all clients in these situations. The respondent indicated that closing a file is labour intensive, as is creating a new Booking Number if the client resumes supervision at a later date. This results in the probation officer having to refer to two files (Booking IDs) when supervising more than one order. According to the respondent, the probation officer should be able to re-open the old supervision file instead of having to create a new one.
 - The respondent indicted this policy was resource intensive when the file was closed by a warrant issued by the judge for a failure to attend court. The respondent indicated that if the client is not wilfully non-compliant, they genuinely just forgot about court, they will likely be released on supervision. The respondent indicated that sometimes these ‘forgetful’ clients will attend their next scheduled office visit, unaware there is a warrant for their arrest.
- CCRP policy 6.01.01(b), Guideline 5: The file may be closed when the Crown has been notified of a failure to report charge under section 145 (3), *Criminal Code of Canada*. (Authors note: Guideline to CCRP Policy 6.01.01, Standard 3(d)).
 - This respondent indicated that the workload resulting from this policy was the result of a communication gap. For example, the file is closed by CCRP after a breach as per policy. The client is arrested on the warrant and re-released on bail on a new recognizance order that does not have a reporting condition. The first order that the client was breached on is still in effect, but the probation officer is not notified. The probation officer must follow their closed files regularly to be sure the client is not in the community on a supervision order. This need for review is extra, often unnecessary, work for the probation officer.

Detention

The interview results indicate that the provincial correctional centres have a minimal effect on the work-time allocation of probation officers. A third of the interviews indicated that the correctional centres did not factor into their work process and felt that the question may not be relevant. The respondents that did indicate that the correctional centres have an effect on their workload reported speaking with their clients’ institutional caseworkers was part of their work-time allocation, especially in cases where the client

required significant supports. Areas that the probation officers that indicated collaboration with correctional centres created workload identified as potential issues were: 1) the probation office was not receiving the recognizance order from either the correctional centre or the courthouse when a client was released 2) the probation officer has to review the institutional case notes and follow-up with the client and correctional centre staff to find out if anything happened during the period of incarceration that would affect the community case plan.

Recommendations from the Front Line

The researcher asked all of the respondents if they had any suggestions for how to address resource use at each stage of the bail process.

Communicating with Crown Counsel and the Judiciary

There was unanimous agreement among the respondents that a formalized communication relationship with the stakeholders at the courts would reduce unnecessary work-time allocation. Conveying information about the client prior to determining release and setting release conditions is currently not occurring and improved communication will assist in tailoring the supervision plan to the client's individual needs and risk factors. Several of the respondents indicated that education seminars with the Crown and the Judges/JPs to explain how supervision plays out in reality would help reduce inappropriate and unenforceable conditions. One respondent suggested that an in-house probation officer at the courthouse could be used to help communicate information to the courts.

Liaising with Court Administration

All respondents indicated that this was an issue that lies outside the jurisdiction of CCRP policy. The respondents indicated that a relationship was needed to ensure they receive the orders sent to the office, but three of the respondents stated this is an ongoing issue that has been addressed before, resulting in no improvement. Interestingly, the one respondent that indicated they have no issues with the court administrators in their community stated there was a good relationship between CCRP and the courthouse and any policy changes are discussed together to ensure efficient workflow.

One respondent mentioned that the legal database JOIN, “the holder of our most valuable goods”, is very outdated. The respondent indicated that updating the software would potentially streamline workflow. Other respondents mentioned the lag between court appearances and JOIN being updated, and depending on the system the recognizances may be able to be entered quicker on a new database.

Collaborating with Police

All respondents indicated that collaboration with the police is an important part of bail supervision and did not offer any novel suggestions. They all indicated that they should maintain the current working relationships they have or implement relationships if there is not already one for supervising high risk clients. One process suggestion was to adjust ORCA functionality to streamline communication with the police. Under the old supervision database (ACOM), the probation officer was able to isolate conditions, such as curfews, and print a report of every client in their area on that condition that could be forwarded to the police. Currently, the probation officer must manually mine ORCA to search for each individual client's conditions.

Streamlining Information Sharing with Correctional Centres

Suggestions to reduce workload when dealing with the remand centres to streamline information sharing included:

- More institutional casework on ORCA by correctional officers/case workers that can be accessed by probation officers.
- More summaries of institutional behaviour on ORCA so the probation officer does not have to mine ORCA for information.
- When the client is released with bail conditions, correctional staff arranges to have the bail order sent to the probation officer.
- Clear policy on what the case worker's role is in the institution and the community.

CCRP Policy

Three respondents provided suggestions to reduce workload in regards to closing a bail file for a violation, impacting CCRP Policy 6.01.01 Standard 3(d).

- The file should not necessarily be closed when an FTR warrant is issued, or there should be the ability to reopen the file. This allows for better follow-up in subsequent supervisions and facilitate better workload tracking.
- Issuing a summons instead of a warrant for FTR would create more work for the probation officer in the short term, but result in a net reduction in work in the long term. Issuing a summons could potentially prevent additional recognizances being issued when the client appears in court, depending on the client's circumstances. Issuing a summons would also allow for the file to remain open.

8. Comparative Case Study

The comparative case study was conducted for two purposes. First, the case study is a line of evidence to help corroborate the responses of the probation officer interviews. Secondly, the analysis of common themes and patterns in the sample of case files was used to create a working definition of ‘intensive case’. This research project took these files subjectively identified as ‘intensive’ and created an objective definition that can be used as a foundation for further research and evidence-informed policy making.

The comparative case study looked at twelve bail files identified by probation officers as being the most intensive supervision cases they had worked on since February 2013. Two files from each regional district⁷ were selected to attempt to control for regional variations and identify characteristics in the files that were consistent across the province. Each region provided the researcher with at least three files that they identified as their most resource intensive. This was done to attempt to control for subjectivity. There may be subjective disagreement among probation officers about what makes a file ‘resource intensive’. Having each Regional District identify at a minimum their top three resource intensive cases is intended to minimize this disagreement. The research was able to create a pool of potential files that most probation officers would subjectively agree are resource intensive. From the pool created from each division, two files were selected at random to control for bias, avoid the potential for ‘cherry-picking’ particular files, and inferably generate more generalizable results.

Findings

Number of Conditions

Several patterns emerged when the files were analyzed. Firstly, all the cases were bound by numerous conditions. Excluding the three standard conditions of ‘Report to a Probation Officer’, ‘Attend Court as Directed’, and to ‘Keep the Peace and Be of Good Behaviour’, each client was bound by five to ten distinct conditions. In some cases, the client was initially released with few conditions, but subsequent criminal activity and failing to comply with these original conditions resulted in additional, more stringent recognizance orders. This supported the responses from the probation officer interviews that stated numerous conditions and numerous concurrent recognizant orders were contributing factors to their bail workload.

⁷ For the purposes of this project, the City of Calgary was considered a regional district because it is a major urban centre. Technically, the Calgary area is administered by the South District.

Curfew

There were also several specific conditions that recurred among the files. All but two of the clients had a curfew condition, and one of these two clients was chronically homeless. Files that had a curfew condition continually created additional workload. The most common workload pressure was verifying the curfew. Verifying curfew required follow-up with the police who attended the clients' residences and staff who worked at residential facilities to verify compliance or non-compliance.

In order for a client to be exempt from a curfew, the probation officer must draft a letter excusing the curfew temporarily. In one case, the probation officer had to send a curfew exemption every week to the police to notify them of the accused's movement, as stipulated in the recognizance order. Curfew exemptions were found to increase probation officer workload both by analysis of the client files as well as by the probation officer interviews. Exemptions are particularly resource intensive for clients who were employed or seeking employment outside of their allotted curfew. For example, one client had a twenty-four hour curfew (house arrest) as well as a condition to seek and maintain employment or attend school. As a result, every time the client needed to leave the house to meet a potential employer, attend an interview or training, or prepare for work outside of the home required an exemption from the probation officer. Additionally, clients employed in mobile jobs required numerous exemptions from their curfew, residency and jurisdictional requirements due to the nature of their employment.

Residency

All of the files contained some sort of residency condition; they were either directed by the court to live at a specific address, to live where approved by the probation officer, or to inform the Police of any change of address. This condition created a lot of work due to the amount of collateral contact required to verify the client's compliance. For example, one client was required to report any change in residence to the police was one of their clients that were continually out of town for employment. As a result, the probation officer was in constant communication with the police, and subsequently expending work hours updating the accused's ORCA file reflecting where he was currently staying, and that he was in compliance with his condition of informing the police. This continual verification was also common with clients who suffered from unstable housing. Of the twelve files, eight of the clients had indicators that they had an unstable living situation, and four of the clients had extremely unstable living situations. In these four cases, the probation officer was continually updating the 'approved residency' and contacting collaterals that could confirm that the client was indeed living there. These collaterals were often not reliable, forcing the probation officer to spend time determining their credibility.

Treatment and/or Counselling

Although the treatment and/or counselling condition was not prevalent in the entire sample of files, the subset of files that had indications of mental health issues or substance abuse all contained this condition. In four files, the mental health and addictions problems of the client appeared to be a leading contributor to their high risk, unstable lifestyle. These clients had chaotic lives, which were reflected in their inability to adequately attend their treatment and/or counselling sessions. This failure to attend treatment resulted in significant communication with the treatment/counselling provider confirming attendance and then follow-up with the client and their collaterals when they were absent.

The failure to attend treatment was a common infraction for this subset, yet breaches were never laid unless there was a continual pattern of non-compliance. Additionally, these ‘unstable’ clients were incredibly difficult to place in treatment due to their previous non-compliance and the severity of their illness. The frequency and content of the case notes written by the probation officer indicated that trying to place these clients is a very time consuming exercise.

Counselling/treatment conditions figured very prominently in the records of the office visits. Whether the client would be accepted to treatment, how well the program was going for the client, the client’s attendance, and troubleshooting any issues figured prominently in the case note entries. The amount of documentation collected from office visits with these clients indicated that this condition consumes a significant amount of a probation officer’s workday.

Compliance

Only one of the twelve files did not contain a breach. All of the other clients were incarcerated for either breaches or new charges for a period of time during their bail supervision, with eight clients having two or more incarcerations. Of the four files that only had one incarceration, two were never released again on bail. All 12 clients had a previous criminal record. This finding corroborates the responses from the probation officer interviews that ‘criminally experienced’ clients tend to consume more of their resources. These findings illustrate that an intensive case is the result of a pattern of noncompliant, anti-social, and/or criminal behaviours. The one client that did not breach seems to refute this generalization, but it should be noted that this client was of police interest due to his involvement as a member of an organized crime group suspected of several high profile crimes in the community. Due to the level of police interest, the probation officer had regular contact with the RCMP and instituted a weekly reporting schedule for the client.

This non-compliance of the sample was reflected in the numerous breaches in each case. Aside from the official ‘Failure to Comply with a Recognizance’ charge that all but one of the files accrued, ten files had instances of breaches when the probation officer exercised their discretion and did not charge the client with a ‘Failure to Comply with a Recognizance’. Exercising discretion appears to be a time consuming exercise, since any time there was a failure to report, the probation officer attempted to contact the accused and the collaterals. Four of the files had more than five instances of ‘Failure to Report’ that did not result in a breach.

All but one client had an abstention condition, yet none of the clients were breached on it, even in instances when the client admitted to substance use. Additionally, three of the cases had instances of missed curfew in which the breach was not laid until a pattern of non-compliance was established. Each of these breaches required follow-up and significant resource consumption, despite never resulting in a charge. In conclusion, non-compliant clients create work for probation officers not only by requiring them to lay breach charges and possibly attend court, but also through the constant follow-up to discover why the conditions are not being met and contact with collaterals to determine if pursuing the breach is necessary. This mirrors the responses from the interviews where probation officers indicated that they often did not lay a breach because it would not be held up in court. However, the analysis of these files indicates that when faced with an intensive case, using discretion and ensuring due diligence is also time consuming.

Concurrent Orders

Supervising concurrent orders was a theme from the interviews and was corroborated by the case study; ten of twelve files having had at least two or more recognizance orders under concurrent supervision. Seven of the clients were subject to a Probation Order or a Peace Bond when released on bail. One probation officer indicated that bail supervision did not take up a significant amount of time because almost all of their bail clients were serving more onerous probation orders at the same time

No Pattern Related to Criminal Charges

One characteristic that was thought to produce a pattern was the type of criminal offence, the reasoning being that certain alleged crimes would have corresponding bail conditions attached. The case study analyzed the initial charges against the accused to see if there was a particular pattern of criminal behaviours that would indicate inordinate resource consumption on bail, but uncovered no pattern across the twelve files. Additionally, there was no clear pattern in the new charges incurred while on bail, aside from the breach charge of ‘Failure to Comply with a Recognizance’. The criminal charges faced by the

sample varied from relatively minor crime violating curfew on a probation order to more serious crimes such as aggravated assault with a weapon and firearms offences.

Intensive Case Definition

As articulated in the discussion of the comparative case study in Section 4, Methodology and Methods, the only way to truly gauge whether a file is taking up an inordinate amount of resources is by tracking the amount of resources a probation officer is expending on each file. However, such a tool is not at the disposal of CCRP, and thus defining ‘intensive case’ to create the comparative case study sample required probation officers to identify files that they subjectively felt were an inordinate amount of work. With that caveat in mind, the analysis of the files considered the most resource intensive from every region of the province was used to create the following definition of ‘Intensive Case’, for CCRP’s future use when discussing provincial resource pressures.

Bail Files exhibiting five or more of the following characteristics are defined as “Intensive Cases”:

1. The client is bound by a minimum of five distinct conditions on one or more concurrent recognizance orders, EXCLUDING the standard conditions of ‘Keep the Peace and Be of Good Behaviour’; ‘Attend Court as Directed’; and ‘Report for Supervision *as Directed by your Probation Officer*’.
2. The client is arrested twice or more during the bail supervision period.
3. The Client exhibits two or more of the following Unstable Life Circumstances:
 - a. 2 or more residency changes (three addresses).
 - b. Addiction (suspected or diagnosed).
 - c. No fixed address/ Homeless.
 - d. Involvement with social service agencies (Child and Family Services, Treatment and/or Counselling Services, AISH, etc.).
 - e. Mental Health Issues (suspected or diagnosed).
 - f. Insufficient income (Unemployed, sporadic/unreliable employment, no one supporting them financially).
 - g. Domestic violence charges and/or domestic violence victim.
4. Previous Criminal Record.
5. Police Interest/ High Profile/ Media Attention.
6. Client has one of the following conditions that requires an exemption:
 - a. Residency.
 - b. Curfew.
 - c. Not to leave the Province of Alberta.
7. Client has a condition that they must attend treatment and/or counselling.
8. Weekly reporting schedule.

9. Conclusions and Recommendations for Discussion

Presented for discussion in this report is a cross-jurisdictional scan and literature review to elucidate what is considered ‘best practice’ in bail supervision, along with front-line interviews with probation officers and a comparative case study to generate evidence on how human resources are expended in the branch.

The literature highlighted that research evidence for bail supervision practices is scarce to non-existent. The contradictions within and the lack of generalizability of the existing research made it difficult to identify any evidence based best practices. However, the literature review did provide some recommendations for specific supervision practices, as well as overarching recommendations for adjusting the current supervision framework that are presented for discussion.

Participation in the cross-jurisdictional scan was low, with only the Yukon Territory and John Howard Society of Ottawa completing an interview. Profiles for discussion were created for the rest of the provinces using the available literature, but these profiles are likely of limited use due to the lack of information available. Recommendations for targeted inquiries were provided for discussion.

The interviews with CCRP probation officers uncovered several aspects of the overall bail system that were contributing to the consumption of CCRP’s resources. The need for formal collaborative relationships across the entire bail system was the largest conclusion to be drawn from the interviews, underscored by examples of how this lack of collaboration manifested in probation officer workload across all stages of the supervision process. Additionally, the interviews identified CCRP policy that resulted in an increased workload and provided front-line recommendations. It is important to note that these findings only reflect where CCRP resources are being allocated, and do not make any determination regarding the relevance or the efficiency of the resource use. Any suggestions posited are for illustrative purposes to stimulate discussion, and have not been rigorously explored in this project.

The comparative case study corroborated much of the information gathered from the interviews. Additionally, several patterns emerged from the analysis of these resource intensive-files and a definition of ‘intensive case’ was developed for CCRP to use for future planning.

Each section was analyzed individually in the body of the report. The conclusions and recommendation of each of these sections was synthesized to produce material to spur dialogue about judicial interim release supervision, cumulating in the set of recommendations for discussion that address the project’s main research question:

“Based on the research in this project, what areas of policy could be changed to improve supervision practices and favourably impact the use of CCRP resources by bail clients”?

Recommendations for Discussion

- 1) *Implement a validated risk assessment tool to be used to create a risk assessment report prior to the client’s first appearance in court.*

This was identified as best practice in the literature review.

- 2) *Establish a collaborative agreement with Crown Counsel to ensure the bail risk assessment report is presented prior to a release decision and conditions are made.*

This was identified as best practice in the literature review. Additionally, lack of communication and information about the client prior to the bail hearing was resulting in CCRP resource consumption.

- 3) *Implement risk-based and needs-based reporting schedules into CCRP policy, based on results of applying a validated risk assessment tool.*

This was identified as best practice in the literature review. Additionally, the lack of clear guidelines for directing how probation officers may use discretion was found to contribute to the consumption of CCRP resources.

- 4) *Implement a court date notification program that includes mail-outs and telephone contact at least four days before the scheduled appearance.*

This was identified as best practice in the literature review. Additionally, FTA warrants issued by the courts result in consumption of CCRP resources.

- 5) *Implement a comprehensive bail supervision research and evaluation strategy.*

This was identified as a best practice in the literature review.

- 6) *Review CCRP Policy 6.01.01 Standard 5(d), to determine the best way to determine file closure to streamline workflow.*

The current implementation of this policy was identified as adding to the workload of CCRP’s probation officers by closing and re-opening files unnecessarily.

- 7) *Seek further information on the practices in other Canadian jurisdictions:*

- a. *Obtain a copy of the Bail Verification and Supervision Program Standards and Procedures Manual, Ministry performance standards, and copies of sample contract agreements with non-profit bail supervision organizations from the Ontario Ministry of Attorney General Agency Relations Branch.*

- b. *Inquire how Saskatchewan develops their Bail Verification Reports, about the efficiency and effectiveness of provincial electronic monitoring program, and follow up with the University of Saskatchewan Centre for Forensic Behavioural Science and Justice Studies when their research in judicial interim release is available for dissemination.*
 - c. *Inquire about the cost implications of using para-professional staff to supervise bail in BC as well as the efficacy and efficiency of provincial electronic monitoring program.*
- 8) *Consult the current bail supervision best practice standards developed in the United States to inform future policy decisions:*
- a. *Measuring what matters: Outcome and performance measures for the pretrial services field, published by The National Institute of Corrections Pretrial Executives Network (2011).*
 - b. *Pretrial Services Program Implementation: A starter kit. Retrieved published by the Pretrial Justice Institute (2010).*

These documents are the most recent publications prescribing how to operationalize best practice standards identified by the American Bar Association and National Association of Pretrial Service Agencies.

- 9) *Create formal collaborative agreements with the other bail process stakeholders.*

This was identified as best practice in the literature review. Additionally, the lack of collaborative agreements in the province with courthouse administration and the custodial institutions are resulting in the consumption of CCRP resources.

For Further Discussion: Next Steps

Having identified recommendations for discussion, the next logical question is: who should be involved in such discussions? Outside of internal discussions among the Executive Directors, Assistant Deputy Minister, and the Deputy Minister of Justice and Solicitor General/Assistant Attorney General, a wider dialogue is implied by the recommendations. The central theme that emerged from this project is that in order to have a conversation about CCRP's use of resources, there needs to be better communication and collaboration with the other bail system stakeholders. This section puts forth, for discussion, what the next steps should be.

The bail system in Alberta can be characterized as a wheel with many spokes, but no hub. The bail system as a whole is the wheel, and the wheel is provided with general direction by the *Criminal Code* (1985) and the *Charter* (1982). The spokes of this wheel are the stakeholders of the process, providing

shape and structure. Yet there is no unifying body, no hub, which aligns the spokes that enable the wheel to move effectively. Remediating this problem requires top-down oversight by a body that provides the leadership necessary to align the goals and activities of the various actors, as well as the power to compel the different stakeholders to adhere to these common goals. This body would ideally be a committee consisting of a representative from the police (most logically from the Alberta Association of Chiefs of Police), a member of the independent judiciary, and executive members from the CCRP, Adult Operations Branches (provincial correctional centres), and the Alberta Crown Prosecution Service.

From the author's perspective, the committee would ideally be created through political leadership by enacting provincial legislation, the reason being that the Minister of Justice and Solicitor General would have the most power to implement policy direction and provide oversight to almost all of the stakeholders in the bail process. Having powers of administration of justice under section 92 of the Constitution Act (1867), the provincial legislature could compel collaboration of the stakeholders that fall within government ministries, as well as the police forces within the province. Although the legislature is unable to compel the independent judicial branch of government to participate in the collaborative process, having all the other stakeholders organized would better allow the rest of the system to collectively respond to the decisions of the judiciary.

Given the current political context, it is the opinion of the author that leadership from within the Ministry of Justice and Solicitor General would likely be the most effective since the Crown Prosecution, CCRP, and the Adult Centre Operations (provincial correctional centres) fall within the Ministry's purview and ultimately answer to the Deputy Minister of Justice and Solicitor General/Assistant Attorney General, the top administrative official that answers to the minister. From the direction of the Deputy Minister of Justice and Solicitor General/Assistant Attorney General, an interdepartmental committee can be created streamline the bail system functions that fall within the scope of the ministry.

It is acknowledged that under this approach there is neither obligation for the police, nor the judiciary, to participate in such a committee. However, using the same reasoning above, this inter-departmental committee, although not ideal, would help facilitate communication within Alberta Justice and Solicitor General, as well as with police agencies and the judiciary, who would only have to liaise with one body instead of three. This is especially true if there is no participation by a collective police representative, such as the Alberta Association of Chiefs of Police. Individual police services would only have to communicate with the committee instead of all the actors separately.

This report has highlighted the need for further research in the field of judicial interim release supervision. The evidence generated in this report regarding bail supervision resource consumption has

partially filled a void, but as the findings of this report suggest there is a need for rigorous research and evaluation programs focusing on bail supervision that commission research on the findings of previous conclusions, not singular studies done at random intervals. This project is the first step for CCRP to meet this need, and using the enclosed findings enables the branch to engage in meaningful dialogue about judicial interim release reform while furthering their mission of championing evidence based practice and fiscally responsible administration.

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11. Appendices

APPENDIX 1: Probation Officer Interview Guide.

- 1) What characteristics, traits, and/or circumstances of your actual bail clients make them resource intensive to supervise? Do you have suggestions on how to address these issues from an administrative or policy perspective?
- 2) What Crown practices, if any, make supervising your bail clients resource intensive? Do you have suggestions on how to address these issues from an administrative or policy perspective?
- 3) What about collaborating with the clerk/court administrators, if anything, make supervising your bail clients resource intensive? Do you have suggestions on how to address these issues from an administrative or policy perspective?
- 4) What specific types of bail order conditions do you find make supervising your clients resource intensive? How does this difficulty manifest? What types of court ordered conditions are not practically enforceable? What about other judicial decisions/actions, if anything, make supervising your bail clients resource intensive? Do you have suggestions on how to address these issues from an administrative or policy perspective?
- 5) What about collaborating with policing agencies, if anything, make supervising your bail clients resource intensive? Do you have suggestions on how to address these issues from an administrative or policy perspective?
- 6) What about collaborating with custodial institutions (remand centres), if anything, make supervising your bail clients resource intensive? Do you have suggestions on how to address these issues from an administrative or policy perspective?
- 7) In your opinion, what mandated supervision practices contribute to increasing the amount of resources to needed to supervise bail clients? Please refer to the specific Act, policy, directive, etc. Do you have suggestions on how to address these issues from an administrative or policy perspective?
- 8) What other issues with bail supervision do you feel impact resource consumption or suggestions for improvement that you have not already discussed?
- 9) Are you aware of any colleagues who I should contact who could provide information additional to what you have provided during this interview?

Demographic Information:

- a) What supervision region do you work in?
- b) Which office do you work in (optional).
- c) Number of years employed as a probation officer.
- d) Current position and time employed in that position.

APPENDIX 2: Script to regional directors to identify sample of potential Probation Officer Interview participants and the Comparative Case Study.

The purpose of this study is to try to identify what about supervising bail clients is consuming CCRP resources. The study will consist of two parts:

- 1) Interviews with CCRP staff to collect their experiences supervising bail clients
- 2) A review of ‘intensive cases’; bail clients that consume an inordinate amount of Probation Officer time and resources. For the purpose of this study please:

Identify at a minimum of 3 people per regional district and three from Calgary who have a thorough understanding of bail supervision and the resource pressures these clients create. These people can be Probation Officers, Senior Probation Officers, and/or Probation Office Managers. These identified employees will form a pool from which 12 will be selected to be interviewed. Please forward the names, emails, and telephone numbers to the researcher.

Speak with the staff in your district to identify what you consider your most resource intensive bail clients; clients whose supervision takes significantly more of your time than the rest of your caseload. These files must be clients whose bail supervision commenced after ORCA launch in **February 2013** and were supervised on bail for **12 or more months**. The focus of the analysis is workload and these files do not necessarily have to be habitual, non-compliant, or high-risk clients, but please include these files if they are your most resource intensive cases. These will form a pool from which 12 files will be selected. Please forward the ORCA ID’s if these clients.

APPENDIX 3: Cross Jurisdictional Scan Interview Guide.

- 1) Can you provide an overview of how your bail supervision program is organized?
- 2) Has your department conducted any research or review into evidence based supervision practices? What were your findings? Have you implemented any of these practices, and how?
- 3) How do you determine reporting level/intensity within your department (frequency of intervention/interaction, types of intervention/interaction)? Do you have articulated policy and/or an assessment process? Would be you able to share your policies with Alberta CCRP for comparison?
- 4) How much workload does supervising bail clients account for in your province?
- 5) Alberta has found that there are a few supervision clients that take up an inordinate amount of supervision resources, labelled ‘intensive cases’. What factors impact the amount of resources required to supervise your bail clients?
- 6) Have you developed any strategies to try and reduce the amount of resources consumed by your ‘intensive cases’? Have you developed any strategies to try and reduce the amount of resources supervising bail clients consumes in general?

APPENDIX 4: Example of a pre-trial interview (Pretrial Justice Institute, 2010).

**“GENERIC” COUNTY PRETRIAL SERVICES INTERVIEW FORM
 ADVISEMENT PRIOR TO INTERVIEW**

My name is _____ and I am from the “Generic” County Pretrial Services Agency. I am here to ask you for information that will be used by the court to determine your pretrial release status. I will not ask you anything about your charge. Please do not tell me anything about your charge; if you do it can be used against you in court. The information that you give me will be verified. Please understand that any false information that you give can delay final decisions about your release status. Do you wish to proceed with this interview?

DEFENDANT INFORMATION			
Name:		Date of Birth: / /	
Aliases:		SS #: - -	
Sex: Male Female	Race: White Black Hispanic Asian Other _____		Height: Weight: Passport: Yes No
Marital Status: Single Married Separated Divorced Widowed			
Children: Yes No	If Yes, Number:	Live With Children Yes No	
Ages of Children _____		Primary Caregiver of Children: Yes No	
Verified by: _____		Unverified	
Comments:			
RESIDENCE INFORMATION			
Length of residence in the state: ____ years ____ months ____ days Not State Resident			
Present Address: (Street)			Apt. #
(City)		(State)	(Zip)
Who do you live with:		Relationship: Spouse Children Parent(s) Other Family Non-Family Live Alone	
Telephone:	Can return? Yes No	Own Rent	
How long at this address: ____ years ____ months ____ days			
Get mail at this address: Yes No		When last at this address:	
Stay at any other address: Yes No			

Any Other Present Addresses: (Street)		Apt. #	
(City)	(State)	(Zip)	
Who live with?		Relationship: Spouse Children Parent(s) Other Family Non-Family Live Alone	
Telephone:		Can return? Yes No	Own Rent
How long at this address: ___ years ___ months ___ days			
Get mail at this address: Yes No		When last at this address:	
Verified by: _____		Unverified	
Comments:			
EMPLOYMENT/SCHOOL STATUS/MILITARY HISTORY			
Unemployed? Yes No		If yes, how long?	
How supported:			
Current Employment: Full time Part time			
Where employed:		Occupation:	
How long? ___ years ___ months ___ days		Date last worked:	
Work address: (Street)		Room #	
(City)	(State)	(Zip)	
Supervisor's name:		Phone:	
School Status: Last year of school completed:		Currently in school: Yes No	
If in school, name:		Type:	
Military Status: Currently in military: Yes No		If yes, unit:	
Ever in military: Yes No		Branch:	Discharge Type:
HEALTH INFORMATION			
Current problem with: Alcohol Drugs Mental Illness			
Currently in treatment for: Alcoholism Drug Abuse Mental Illness			
Name of treatment program: _____			

Ever in treatment for: Alcoholism Drug Abuse Mental Illness			
Name of treatment program: _____			
Verified by: _____		Unverified	
Comments:			
SELF-REPORTED CRIMINAL HISTORY			
Number of prior arrests:		Number of prior convictions:	
Are you currently on: pretrial release probation parole			
Name, phone number and location of supervising officers:			
REFERENCES			
Name	Address	Telephone	Relationship

APPENDIX 5: Sample risk assessment.

Virginia Pretrial Risk Assessment Tool
 (Pretrial Justice Institute, 2010)

Risk Factor	Criteria	Assigned Points
Charge Type	If most serious charge for the current offense is a felony	1
Pending Charge(s)	If the defendant has one or more charges pending in court at the time of the arrest	1
Criminal History	If the defendant has one or more misdemeanor or felony convictions	1
Failure to Appear	If the defendant has two or more failure to appear convictions	2
Violent Convictions	If the defendant has two or more violent convictions	1
Current Residence	If the defendant has lived at the current residence for less than one year prior to the arrest	1
Employed/Child Caregiver	If the defendant has not been employed continuously for the previous two years and was not the primary caregiver for a child at the time of arrest	1
History of Drug Abuse	If the defendant has a history of drug abuse	1

Risk Level	Risk Score
Low	0,1 points
Below Average	2 points
Average	3 points
Above Average	4 points
High	5 – 9 points