

State of the System: Federal Probation and Pretrial Services

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PROBATION AND PRETRIAL services officers operate at the direction of the appointing court, and practices vary from district to district based on geography, applicable case law, defendant population, and court culture. However, consistency and collaboration are fostered by the policies endorsed by the Criminal Law Committee and approved by the Judicial Conference, the professional standards established by chief probation and pretrial services officers,¹ and centralized support from the Administrative Office of the U.S. Courts (AO) and the Federal Judicial Center (FJC). While practices and workload can vary significantly across districts, this article highlights key metrics that offer a picture of the state of the system.

The work of the system can be categorized into four discrete functions: (1) assisting the court with pretrial release decisions, (2) supervising defendants released to the community pending trial or sentencing, (3) assisting the court with imposition of sentence, and (4) supervising persons in the community on probation, supervised release, and other types of post-conviction supervision. This article will focus on the risk profile of defendants and offenders, key outcome measures such

as rearrest rates and pretrial services release rates, types of offenses on which persons are charged and convicted in federal court, the system's staffing strength, and the education and experience profile of its officers. Trends for years 2011 to 2014 are highlighted.

Pretrial Services Risk Assessment and Release

Pretrial services officers prepare reports for courts to use in making release or detention decisions for defendants. The reports also provide courts with information useful for establishing appropriate conditions of release. In FY 2010, the AO completed development of actuarial risk assessment instruments for its pretrial and post-conviction populations. The Pretrial Risk Assessment (PTRA) informs pretrial services officers about defendants' actuarial risk of re-offending or failing to appear for court appearances if released on bond pending the adjudication of federal charges. Pretrial services officers use the PTRA to help determine whether to recommend release or detention for defendants. Actuarially, defendants with a PTRA score of 1 have a failure rate of 3 percent during the pretrial period, while PTRA scores of 5 have a failure rate of 35 percent. Coupled with officers' professional judgment, the PTRA provides officers with statistically valid and unbiased information to help the officer make a sounder recommendation to the court.

The number of cases opened at the pretrial stage, excluding pretrial diversion cases, fell from 107,307 in 2013 to 97,685 in 2014, a decrease of 9 percent. This decrease was system-wide. In 2014, 79 districts reported a decrease in pretrial services cases activated from the previous year. Although the decrease was system-wide, one district accounted for nearly 11 percent (1,043 cases) of the overall decrease in cases activated.

Table 1 shows the number of cases released to pretrial services supervision based on their PTRA risk level. As expected, defendants with lower risk scores are released at a higher rate than defendants with higher risk scores. A little more than 80 percent of the cases classified in PTRA risk categories 1-3 were released to pretrial services supervision in 2014, up from 77 percent the previous year. Although the risk level is a leading factor, the type of offense a defendant is charged with is another factor that may be associated with whether defendants are released pending disposition of their cases. For example, defendants charged with firearms or violent offenses are less likely to be released during the pretrial stage than defendants charged with public order or property offenses.

Although the overall number of pretrial services cases opened has decreased in recent years, the seriousness of the criminal histories has remained relatively stable. As Table 2 shows, nearly 38 percent of the cases opened in 2014 involved defendants who had prior

¹ The Charter for Excellence, which sets out the goals, values, and professional standards of the system, was adopted by chief probation and pretrial services officers at the 2002 National Chiefs Conference sponsored by the Federal Judicial Center.

TABLE 1.
Pretrial Release Rates by PTRA Score

PTRA Score	2011		2012		2013		2014	
	Freq.	Pct.	Freq.	Pct.	Freq.	Pct.	Freq.	Pct.
Category 1	5,221	19.6	7,542	30.4	7,990	32.4	7,435	32.9
Category 2	4,050	15.2	5,785	23.4	6,168	25.0	5,896	26.1
Category 3	3,213	12.1	4,554	18.4	4,917	19.9	4,800	21.3
Category 4	1,430	5.4	1,888	7.6	2,098	8.5	2,057	9.1
Category 5	349	1.3	481	1.9	464	1.9	462	2.0
Not Assessed	12,378	46.5	4,521	18.3	3,052	12.4	1,929	8.5
Total	26,641	100.0	24,771	100.0	24,689	100.0	22,579	100.0

Source: DSS Standard Report 1248, Tab (2)

felony convictions and 45 percent had prior misdemeanor convictions. Of those with felony convictions, more than 25 percent were drug-related convictions and more than 17 percent involved violence. Immigration, drugs, and property offenses continue to be the main offenses for which defendants are charged.

One of the goals of pretrial services is to provide information to the judge that will allow for the release of defendants who pose a low risk to reoffend and whose risks can be addressed through proper community supervision by the officer. In order to track this objective, the AO regularly calculates the system's release and detention rates. To provide additional context, the AO calculates the system's release and detention rates in two ways: both including and excluding undocumented aliens. A defendant's illegal immigration status can hinder the pretrial services officer's ability to find less costly, non-custodial options that will allow for the defendant's pretrial release. This year's detention rate is 73.1 percent when illegal alien cases are included in the calculation, compared to 47.9 percent when alien cases are excluded (see Table 3). Even when

you exclude illegal aliens, the detention rate is still increasing, albeit very slightly.

Pretrial Services Supervision Outcomes

The desired outcome in all pretrial services cases is the successful completion of the term of supervision during which the defendant commits no new crimes, appears in court for all scheduled hearings, and complies with all conditions of release. Of the 51,064 pretrial services cases supervised during the 12 months ending December 31, 2014, only 2.5 percent had violations for new crime (see Table 4). In comparison, 12 percent of pretrial services cases with violations were technical violations, such as positive drug tests, failure to attend treatment, and failure to comply with location monitoring conditions. Defendants are also attending court hearings as scheduled. In each of the past three years, only one percent of defendants failed to appear in court as scheduled.

Post-Conviction Risk Assessment

The PCRA is the post-conviction risk assessment instrument, developed in 2010 to predict

rearrest and revocation for post-conviction offenders under supervision. At times, the PCRA may classify an offender's risk at a level that differs, based on the professional judgment, from what the supervision officer deems appropriate. In those instances, based on the offender's needs and perceived risk, the officer may increase or decrease the supervision intensity of the offender, thus changing the supervision level. (Policy guidance calls for this change in supervision level when the officer feels the person's background is not adequately addressed through the PCRA, for example when an offender scores low based on minimal criminal history, but the criminal history is violent or includes a sex offense.) Table 5 shows the distribution by risk level and supervision level for cases under supervision in calendar year 2014.

Consistent with the risk principle of effective supervision, many districts have coped with funding shortfalls and reduced staffing by increasing the number and size of "low-risk supervision caseloads," in which offenders are minimally supervised, while more intense supervision and treatment resources are

TABLE 2.
Prior Criminal Record for Pretrial Services Cases Activated

Prior Record	2010	2011	2012	2013	2014
Cases Activated	111,806	111,978	107,960	107,307	97,685
Felony Arrests	51.7%	51.6%	52.1%	51.2%	49.8%
Convictions	39.9%	39.5%	39.9%	39.2%	37.9%
Violence	18.0%	18.1%	17.8%	18.0%	17.5%
Drug-Related	27.1%	26.7%	26.6%	26.0%	25.2%
Misdemeanor Arrests	59.6%	60.0%	60.1%	59.7%	58.9%
Convictions	46.0%	46.3%	45.8%	46.0%	45.0%
Violence	18.2%	17.7%	17.4%	17.4%	16.8%
Drug-Related	19.6%	20.3%	20.1%	20.1%	19.5%

Source: Table H-1; PSA Statistical Profile

TABLE 3.
Pretrial Services Detention Cases

Year	Detained		Exclude Immigration		Exclude Illegal Alien	
	Freq.	Pct.	Freq.	Pct.	Freq.	Pct.
2010	73,683	65.3	38,657	52.8	-	-
2011	73,026	70.7	38,185	55.9	-	-
2012	71,214	71.9	36,050	56.5	24,537	47.5
2013	71,266	72.1	35,253	56.2	24,391	47.6
2014	65,916	73.1	31,594	56.7	21,651	47.9

Source: Table H-14 (12-Month Period Ending December 31)

TABLE 4.
Pretrial Services Supervision Cases with Violations

Year	Violations					
	Failure To Appear		Re-arrest		Technical	
	Freq.	Pct.	Freq.	Pct.	Freq.	Pct.
2010	418	0.7	1,782	3.0	10,526	12.3
2011	509	0.9	1,630	2.7	10,036	12.3
2012	580	1.0	1,581	2.6	9,323	11.8
2013	573	1.0	1,577	2.7	9,299	12.2
2014	530	1.0	1,388	2.5	8,801	12.0

Source: DSS Standard Report 1244

TABLE 5.
PCRA and Supervision Level for Supervision Cases Received in 2014

Risk Level	PCRA Risk Level		Supervision Level	
	Freq.	Pct.	Freq.	Pct.
Low	19,117	35.7	16,179	30.3
Low/Moderate	21,048	39.3	20,391	38.1
Moderate	10,192	19.0	10,331	19.3
High	3,182	5.9	6,567	12.3
Total	53,539	100.0	53,468	100.0

Source: DSS Standard Report 1009

TABLE 6.
Conviction Offense Category by Year for the Time Period Ending December 31

Offense Category	2012		2013		2014	
	Freq	Pct	Freq	Pct	Freq	Pct
Drugs	63,263	47.7	62,778	47.5	63,356	47.6
Escape/ Obstruction	1,804	1.4	1,846	1.4	1,805	1.4
Firearms	16,129	12.2	16,322	12.4	16,554	12.4
Immigration	5,371	4.0	4,905	3.7	4,473	3.4
Other	309	0.2	143	0.1	103	0.1
Property	28,793	21.7	28,527	21.6	28,547	21.4
Public Order	3,788	2.9	3,445	2.6	3,089	2.3
Sex Offenses	5,237	3.9	6,195	4.7	7,325	5.5
Violence	8,020	6.0	7,941	6.0	7,970	6.0
Total	132,714	100.0	132,102	100.0	133,222	100.0

Source: Table E-3 (as of December 31)

focused on higher-risk offenders. The instrument is useful in identifying cases appropriate for low-risk supervision caseloads.

Drugs, property, and weapons offenses are the leading categories of instant offenses, and have remained so consistently over the past three years. More than 65 percent of persons under post-conviction supervision in 2014 were convicted of drug (47.6 percent), property (21.4 percent), and firearms (12.4 percent) offenses (see Table 6).

Early Termination

The use of early termination is consistent with the risk principle of evidence-based practices. The risk principle suggests that offenders be supervised at levels commensurate with their overall risk levels. Therefore, when an offender is statutorily eligible *and* meets Judicial Conference-approved eligibility criteria, early termination is consistent with the risk principle. This frees up resources to more effectively supervise higher-risk offenders. Not only is early termination an effective practice, it also provides a significant cost-savings to the probation and pretrial services system. In 2014, the probation and pretrial services system early terminated 7,673 offenders, (see Table 7), which yielded a savings of nearly \$32.5 million or \$4,363 per offender (see Table 8).

The desired outcome for post-conviction cases is the successful completion of the term of supervision during which the offender commits no new crimes and complies with all conditions of supervision. The majority of post-conviction supervision cases are closed successfully. In most instances, the offender's term expires; in some instances, the offender is released from supervision by the court before the expiration of his term. Revocations make up less than a third of post-conviction case closings. When cases are closed due to a revocation for reasons other than for a conviction for a new crime, the basis for doing so is frequently a technical violation. Last year, more than 17 percent of the revocations were for technical violations.

Rearrests and Revocations

Protecting the public is a part of the primary mission of the federal supervision system. In order to do so, officers utilize supervision practices that minimize offenders' involvement in criminal activity during and after supervision. An objective way to measure the effectiveness of such practices is to examine recidivism rates. Rearrest and revocation are the most commonly used measures of recidivism in the federal supervision system. According to the three-year rates for cases

received during the years 2005 to 2009, both measures have remained relatively stable over the years. Rearrest rates have steadily declined since 2007, while revocations, with the exception of 2009, remained unchanged or declined each year since 2005. Since 2007, the three-year rearrest rate has decreased from 21.4 percent to 20.3 percent, while the revocation rate has decreased from 22 percent to 21.6 percent (see Figure 1).

The AO tracks rearrests for offenders for three years beyond their completed terms of supervision. For offenders who began supervision between fiscal years 2005 and 2009, the three-year post-supervision rearrest rate for major offenses was 15.1 percent, less than 1 percentage point lower than the three-year rate for the previous year. The types of offenses committed post-supervision are highly similar to those committed during supervision. Of those rearrested within three years after completing a term of supervision, 33.2 percent had a drug-related arrest, 26.8 percent were rearrested for a violent offense, and 24.2 percent were rearrested for a property offense (see Figure 2).

Maximizing Community Restoration

By using data from the Civil Criminal Accounting Module (CCAM), the AO can

TABLE 7.
Post-Conviction Supervision Cases Closed With and Without Revocation

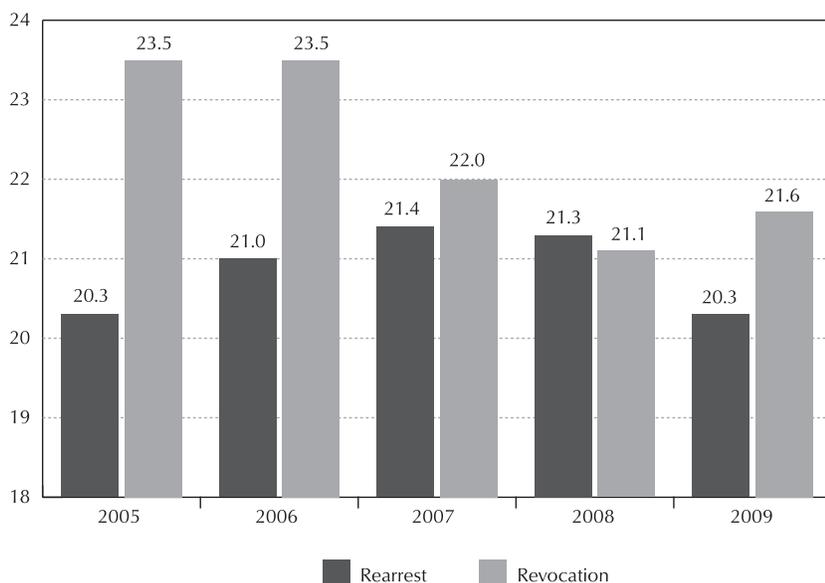
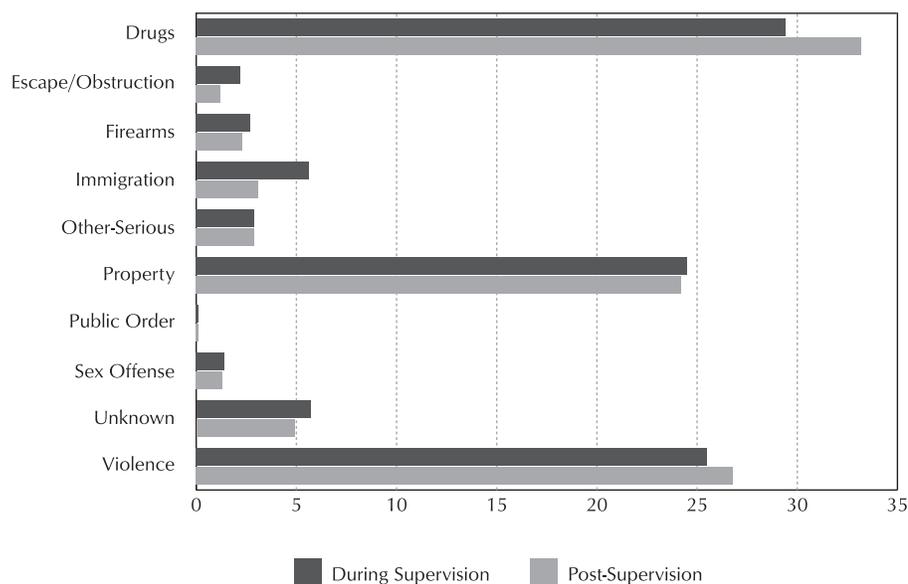
Type of Case Closing	2012		2013		2014	
	Freq	Pct	Freq	Pct	Freq	Pct
Without Revocations	38,713	70.7	40,159	72.5	39,369	72.7
Early Term	7,239	13.2	7,460	13.5	7,673	14.2
Term Expired	28,105	51.3	29,543	53.4	28,618	52.9
Other	3,369	6.2	3,156	5.7	3,078	5.7
With Revocations	16,048	29.3	15,198	27.5	14,768	27.3
Technical	9,350	17.1	9,616	17.4	9,344	17.3
Minor	1,009	1.8	1,013	1.8	1,407	2.6
Major	5,689	10.4	4,569	8.3	3,951	7.3
Total Closed	132,714	100.0	55,357	100.0	54,137	100.0

Source: Table E-7A (12-Month Period Ending December 31)

TABLE 8.
Post-Conviction Early Termination Cost Savings

Fiscal Year	Total Cases	Avg. Days Supervised	Avg. Days Saved	Avg. Saved per Client	Total Savings
2010	6,626	825	467	\$4,042.96	\$25,337,212
2011	6,848	839	476	\$4,121.44	\$26,224,706
2012	7,239	864	479	\$4,151.14	\$28,169,629
2013	7,460	840	483	\$4,180.52	\$29,547,911
2014	7,673	862	504	\$4,362.88	\$32,459,810

Source: DSS Standard Report 1245

FIGURE 1.*Three-Year Rearrest and Revocation Rates, 2005–2009***FIGURE 2.***Percent of Rearrests during Supervision and Post-Supervision by Offense*

identify the amount of fines, restitution, and special assessments imposed. The Offender Payment Enhanced Report Access (OPERA) system allows officers to confirm fine and restitution payments made by supervisees (see Table 9). In addition to paying fines and restitution, offenders performed a total of 577,041 community service hours, or 70 percent of the total hours imposed by the courts.

Officer Staffing and Workload

To meet the challenges of an increasingly risky caseload, the system has more than 7,700 staff (up from more than 7,600 in 2013)—67 percent of whom are officers. Figure 3 displays the composition of staff by position. Officers are particularly well qualified. A little more than half hold masters or doctoral degrees. On average, officers worked more than seven years in a local community corrections system, social service agency, or police department

before joining the federal probation and pretrial services system. Their average tenure with the federal judiciary is slightly more than 12 years (see Figure 3).

Historically, resources for the probation and pretrial services system have kept pace with the increased volume of cases. Though total staffing² increased by 1.4 percent from last year (from 7,649 to 7,754), there was a 0.6 percent decrease in officers (from 4,311 to 4,338).³ The system has had a record number of officer hirings in 2015, but due to mandatory retirements, there has been no net increase in officers. As a result of the resourcing and workload situation, officers are being assigned a larger number of post-conviction cases.

It appears that officers' caseload sizes are beginning to taper off after a steady climb over the past several years (see Figure 4). When looking at officer caseloads, it is important to take into account activities officers perform in addition to supervising cases, such as writing presentence investigation reports and conducting pretrial services investigations. Although the average caseload volume for staff⁴ in 2015 was 51.4, nearly as much of that volume comprised conducting pretrial services investigation reports and writing presentence investigation reports as it did supervising post-conviction cases (see Table 10). Caseload size may also be influenced by geographical factors that affect population density. Districts located in densely populated metropolitan areas tend to have higher crime rates and thus larger caseloads than districts in less populated rural areas.

Substance Abuse Treatment

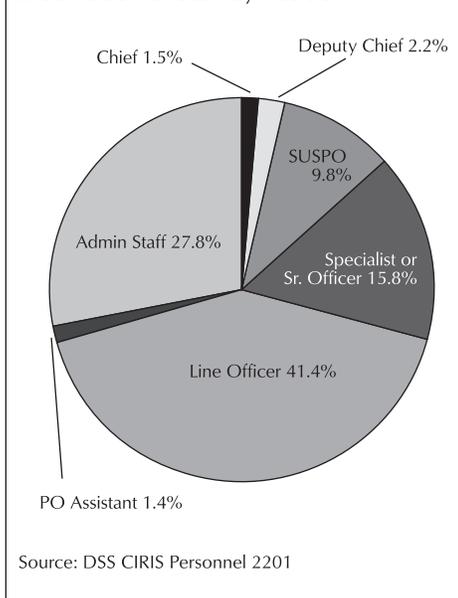
Federal offenders receive substance abuse treatment from a variety of sources: private insurance, state and local programs, self-help groups, the Department of Veterans Affairs, and judiciary-funded substance abuse treatment services. The cost of treatment services in an individual case depends on the type of treatment and duration of services needed to address the severity of the problem identified.

² Includes total number of FTE employees, year to date, as of last pay period in first quarter of the fiscal year.

³ This represents total number of FTE employees with job classifications of line officer and specialist officer, year to date, as of last pay period in first quarter of the fiscal year.

⁴ Represents full-time equivalent employees with the job classification of line officer or specialist officer and excludes supervisors, deputies, and chiefs with managerial responsibilities.

FIGURE 3.
Distribution of Staff by Position



Of the 77,243 offenders in 2014 with substance abuse treatment conditions, 19,846 received judiciary-funded treatment services. Others received free community services or services paid for by private sources. The federal judiciary spent an average of \$975 on each of those offenders for that year, for a total of \$19,352,723. The total amount spent was nearly 45 percent less than the judiciary spent in 2010. Since 2010, the number of offenders with substance abuse conditions has increased 3.9 percent while those receiving court-funded treatment decreased by 38.6 percent. During that same time period, the percentage of offenders receiving judiciary-funded treatment decreased to 25.7 percent from 43.5 percent (see Table 11). The decrease in court-funded treatment is due to a variety of factors, including the availability of private insurance and reductions in treatment referrals to contract treatment providers necessitated by steep sequestration budget reductions.

Safety and Firearms

The AO and the district courts have made significant investments in safety and firearms training for officers to help ensure their safety in the community.⁵ Last year, 400 safety-related incidents involving officers were reported. None resulted in death or serious bodily injury, which may be attributed to the quality of training provided. One of the more risk-laden responsibilities of officers, and the subject of a recently developed training program delivered by the AO, is conducting searches and seizures pursuant to special conditions of supervision. In the past year, the number of searches reported to the AO increased from 909 to 1,566⁶ (see Figure 5 for breakdown on items seized).

⁵ 18 U.S.C. §§ 3154(13), 3603(9), authorize officers—if approved by their district court—to possess firearms under rules and regulations of the Director of the AO. Roughly 66 percent of officers have been trained and approved to carry firearms; three districts have not approved their officers to possess firearms.

⁶ Officers entered 909 reports into the Post-Search, Exigent, and Consent Report modules and reported 355 plain-view seizures. Officers used the new Computer Search Report module, which was released on August 24, 2014, to report an additional 302 computer search reports. However, those reports are not included in the data detailed in this report. This report focuses on preapproved (599), exigent (244), and consent (66) searches.

TABLE 9.
Fines, Restitution, and Special Assessments Owed and Collected

	Total Owed	Total Collected	Collected
Fines	\$168,668,512	\$90,215,948	53.5%
Restitution	\$6,865,359,569	\$380,904,253	5.5%
Special Assessments	\$6,673,016	\$5,504,292	82.5%
Total	\$7,040,701,097	\$476,624,493	6.8%

Source: OPERA. Data represent the 12-month period ending March 31, 2015. Includes a one-time collection of a \$20 million fine from a corporation, which substantially increased the amount collected.

TABLE 10.
Staff and Officer Caseload Volume

Caseload Activity	2014			2015		
	Total	Staff Caseload	Officer Caseload	Total	Staff Caseload	Officer Caseload
PTS Investigation	103,777	13.6	24.1	94,532	12.2	21.8
PTS Cases Supervised	52,706	6.9	12.2	49,176	6.3	11.3
Presentence Investigation Rpts	73,231	9.6	17.0	69,119	8.9	15.9
Post-conviction Cases	186,367	24.4	43.2	186,002	24.0	42.9
Total Caseload Volume	416,081	54.4	96.5	398,829	51.4	91.9

Source: Statistical Table H-2; National PACTS Reporting Database, Workload Report; Statistical Table E-10.

TABLE 11.
Offenders Receiving Judiciary-Funded Substance Abuse Treatment

Fiscal Year	Offenders with SA Conditions	Received SA Treatment	SA Treatment Expenditures	Avg. per Offender
2010	74,367	32,318	\$35,050,313	\$1,085
2011	76,556	30,439	\$32,119,339	\$1,055
2012	78,785	28,375	\$28,337,666	\$999
2013	77,737	23,792	\$21,264,932	\$894
2014	77,243	19,846	\$19,352,723	\$975

Source: Table S-13 (12-Month Period Ending September 30)

FIGURE 4.
Caseload Volume FY 2010–2015

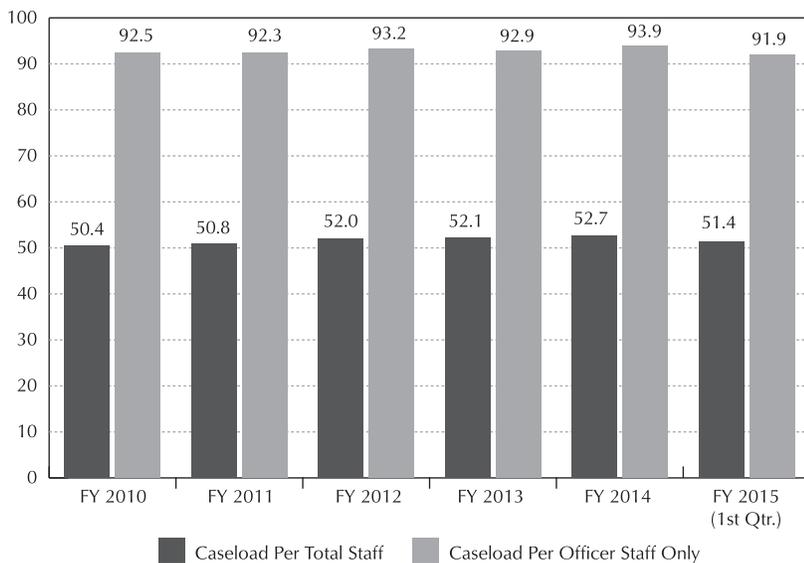
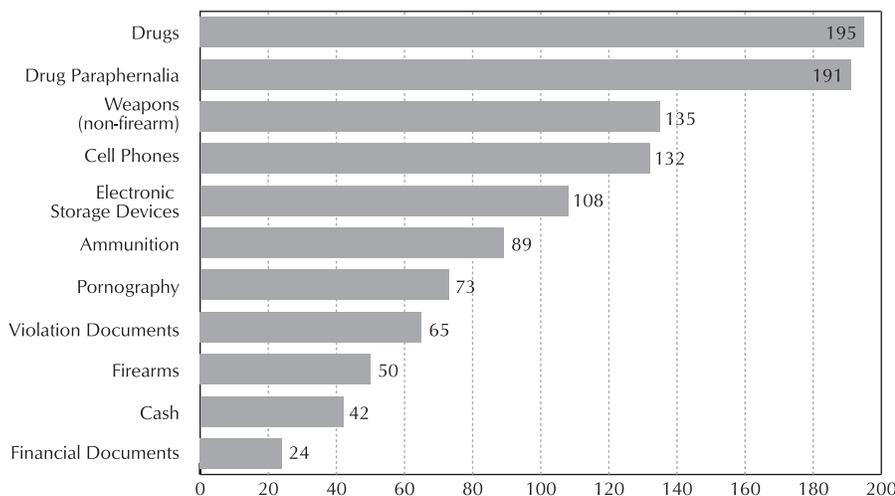


FIGURE 5.
Items Seized During Preapproved, Exigent, or Consent Searches



Source: SIRS, Search and Seizure Data Report

Presentence Investigation Reports

In addition to their supervision duties, probation officers conduct presentence investigations. In 2014, the number of presentence reports prepared by probation officers decreased 5.6 percent to 69,119. Of this total, 95 percent were presentence guideline reports, which are comprehensive investigative reports prepared in felony or Class A misdemeanor cases for which the U.S. Sentencing Commission has promulgated guidelines. Modified presentence reports, which are less comprehensive, represented 3.7 percent of total presentence investigative reports. Non-guideline reports, which involve offenses for which the Sentencing Commission has not promulgated guidelines, increased from 113 to 142. Including non-guideline reports, reports involving petty offenses, reports for treaty transfer cases, and supplemental reports to the Bureau of Prisons constituted the remaining 1.3 percent (see Table 12).

Conclusion

Overall, the state of the federal probation and pretrial services system is good. The system has well-qualified personnel who receive relevant training, risk assessment tools, and technology resources. The federal system’s recidivism rate has been half that of many states. The three-year felony rearrest rate for persons under federal supervision has been consistently measured at between 20 and 21 percent. The percent of federal cases closed by revocation annually is less than 30 percent.⁷ We see clear evidence, however, of increasing caseloads, and there are significant challenges ahead. The federal deficit and likely funding shortfalls, coupled with rising defendant and offender risk levels and proposed criminal justice reforms that may greatly increase demands, can quickly jeopardize the strength of the system.

⁷ Judicial Business of the U.S. Courts, Table E-7A.

TABLE 12.
Presentence Investigations

Year	Presentence Investigations				Total
	Guideline	Non-guideline	Modified	Other	
2010	74,541	168	1,829	1,798	78,336
2011	77,209	280	1,692	1,398	80,579
2012	73,203	154	1,815	1,117	76,289
2013	70,592	113	1,627	899	73,231
2014	65,675	142	2,531	771	69,119

Source: Table E-10. Other includes reports for treaty transfers, supplemental reports to BOP, and reports involving petty offenses.