

Considerations for Supervision of Persons Charged with or Convicted of Sex Offenses During the COVID-19 Pandemic

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SUPERVISING PERSONS CHARGED with or convicted of a sex offense (sex offenders) has long challenged pretrial services and probation officers. The secretive nature of sexual offending behavior requires oversight of multiple areas of an individual's lifestyle, behaviors, sexual deviance, social networks, and mental state. Prior to the COVID-19 pandemic, officers supervised sex offenders from a risk-based, multifaceted, offense-centered approach relying on intensive in-person direct contact, collateral contact follow-up, treatment consultation, and regular polygraph testing and follow-up. In some areas of the country, due to variations in virulence and differential responses by federal courts, COVID-19 immediately disrupted officers' established practices. The possibility of in-person interactions ended abruptly in certain areas of the country, and restrictions on sex offenders having computers or other "smart" devices limited officers' ability to "go virtual." This article explains the special considerations, adjustments, and effects on both officers and sex offenders during the COVID-19 pandemic and considers whether there are possible lessons to be learned from

the interruption of traditional practices. It remains an empirical question whether the adjustments to sex offender supervision during COVID-19 impacted community safety and success on supervision.

Sex Offense-Specific Supervision Pre-COVID-19

The supervision of sex offenders requires ongoing collaboration and communication with a myriad of supervision partners coupled with an ongoing assessment of risks they may pose to the community. Effective supervision of sex offenders demands the thoughtful integration of several strategies: ensuring a thorough investigation, facilitating reentry effectively (no small feat for people who often have limited remaining support systems when they release from incarceration), providing appropriate levels of supervision, referring to appropriate types of treatment, and verifying sex offender registration. Effective supervision also requires ongoing collaboration among those responsible for carrying it out.¹ The

¹ The Comprehensive Approach to Sex Offender Management, Center for Sex Offender Management,

supervision of sex offenders is more demanding and intensive than the supervision of most other defendants and persons under supervision. Sex offenders may pose distinct and inherent risks to the public due to the harm they cause to other people if they recidivate.

Although the public tends to view all sex offenders as high risk, the level of risk sex offenders pose is one of the important ways in which sex offenders differ from one another. Some have a high likelihood of general and sexual recidivism, while others are at relatively low risk to recidivate, generally or sexually. Persons convicted of possession of child sexual abuse materials with no other criminal history are generally at a lower risk to recidivate than those who are convicted of sexual abuse (hands-on offense). Those who have been previously convicted of a sex offense and are convicted of failure to comply with the sex offender registry laws are more likely to recidivate (nonsexual violence and sexual re-offense) than other persons convicted

of sexual offenses.² Research indicates that increasing public safety by reducing the risk of recidivism is more likely to be successful when the intensity of correctional interventions matches the person under supervision's risk level, also known as the risk principle.³ Research further indicates that ignoring the risk principle leads to a significant increase in recidivism for both low- and high-risk sexual offenders.⁴ The risk factors this population presents often necessitate such enhanced and non-traditional supervision strategies to ensure community protection as:

- Enhanced fieldwork—including unscheduled home inspections and employment and community contacts—conducted during both traditional and non-traditional hours;
- Regular staffing with the treatment providers, including vendors who provide specialized services to pretrial defendants and polygraph examiners;
- Establishment of a network of collateral contacts (such as family members, state probation/parole officers, and local law enforcement) who are contacted routinely during supervision;
- Use of sex offense-specific treatment and physiological tools⁵;
- Monitoring of the sex offender's employment;
- Location monitoring;
- Routine computer monitoring and computer searches;
- Home, vehicle, and person searches;
- Community observation; and
- Use of a chaperone program⁶ or court-

appointed third-party custodian.

Sex Offense-Specific Supervision Considerations During COVID-19

Beginning in March 2020, COVID-19 disrupted the traditional methods used by officers supervising sex offenders. Officers' ability to conduct home contacts and community contacts was placed on a temporary hold, and in-person sex offender treatment was disrupted in certain areas of the country. As a result, the Probation and Pretrial Services Office (PPSO) at the Administrative Office of the United States Courts (AOUSC) proactively held five nationwide virtual discussions with officers around the country to collaboratively develop alternative practices in maintaining oversight and risk-based supervision of this population. Recognizing the difficulties and stress officers may be experiencing regarding the effective supervision of this population, during the pandemic the AOUSC provided them with a platform to share their experiences and connect with others dealing with similar issues. In August and September 2020, the AOUSC held another six virtual discussions with officers and management to collaborate on success and challenges using alternative practices.

Assessing Risk During COVID-19

To effectively supervise sex offenders, officers were faced with the challenge of assessing and addressing the acute and stable dynamic risk factors associated with sexual recidivism, using nontraditional means. Officers were tasked with not only assessing and addressing those risks that may lead to sexual recidivism, failure to appear for court, and potential for self-harm, but also determining the appropriate level of supervision based on the virtual supervision means available. Approximately 57 percent of persons under post-conviction supervision for a sexual offense committed their offense using a computer or the internet.⁷ A significant number of these individuals did not have access to a "smart" phone or computer due to restrictive supervision conditions, thus limiting an officer's ability to conduct virtual

face-to-face contact. Due to these restrictions, officers were left trying to develop enhanced forms of communication to manage the sex offenders under their supervision. The limited resources available to officers to visually connect with their sex offenders often left officers in a state of heightened anxiety due to their decreased face-to-face contact and presence in the sex offender's home.

Personal Contacts

During COVID-19, districts were operating at varying degrees of quarantine across the country, and officers had to use all available means to maintain a risk-based supervision strategy for sex offenders. Most jurisdictions, at some point in time, were faced with the inability to freely meet with sex offenders within their homes. In districts where fieldwork was restricted, officers used virtual face-to-face contacts or telephone contacts. The use of virtual contacts and telephone contacts were implemented.

Officers quickly identified those sex offenders with no access to a "smart" device or the internet and held discussions with PPSO regarding alternatives. The question posed was, "What should we do if the person under supervision does not have video conferencing capability?" Officers were challenged to investigate other options. Did the person live with someone who has a smart device or computer that the person under supervision could use for this specific purpose? If yes, the officer could arrange a virtual visit with that individual and establish them as a collateral contact, if they were not already. If the person under supervision had a condition restricting their access to the internet or certain devices, the officer might need to consider asking the court to re-evaluate that condition via modification of conditions during the time of the pandemic. This dilemma left officers struggling with the decision between allowing a sex offender access to a smart device and the internet, versus being unable to have some level of a visual assessment of the individual and their environment. If the individual was allowed to access the internet for the purpose of supervision, officers mitigated the potential risk with additional conditions limiting the person's access, as well as monitoring the person's internet use. If not, using telephone and socially distanced contact appeared to be the option relied upon. If telephone contact was the only means of access, the officer should consider if the person under supervision was connecting to a mobile device. In the case

² Cohen, T. and Spidell, M. (2016). *How Dangerous Are They? An Analysis of Sex Offenders Under Federal Post-Conviction Supervision*, Federal Probation 80, No. 2: 21-32.

³ Andrews, D.A., and Bonta, J. (2003). *The Psychology of Criminal Conduct*, 4th edition, Anderson Publishing, Cincinnati, OH.

⁴ Lovins, B., Lowenkamp, C., and Latessa, E., *Applying the Risk Principle to Sex Offenders*, The Prison Journal, Vol. 89, No. 3, September 2009.

⁵ Visual reaction time (VRT) is a computer program used to assess both normal and deviant sexual attraction by measuring visual reaction time and penile plethysmography (PPG) or phallometry is measurement of blood flow to the penis, typically used as a proxy for measurement of sexual arousal.

⁶ Another way to enhance effective community supervision of persons charged with or convicted of sex offenses is through chaperone training (adapted from Center for Sex Offender Management, 2012). These trainings are designed for laypersons, as well as semi-professional and professional staff who are interested in learning effective methods to safely

supervise, support, and manage the risk that persons charged with or convicted of sex offenses pose in community settings.

⁷ Probation and Pretrial Services Automated Case Tracking System (PACTS), the case management system used by federal probation and pretrial officers.

of mobile devices, officers had to address whether or not the device had a camera and texting capability. In this instance, officers were encouraged to leverage mobile technology to maintain virtual contact with sex offenders to the greatest degree possible.

The use of video conferencing applications (such as FaceTime) versus traditional phone calls had distinct advantages over still photos. Video calls potentially provide more information about the demeanor, mental state, and overall engagement of the individual in the supervision process. Surroundings and background of the individual's location can also be noted, as well as any third parties in the home or with the person under supervision. Furthermore, the officer's act of engaging in a video call with an individual may heighten the awareness of the person under supervision—and of collateral sources that may be present—of the supervision process. Of course, if video conferencing or the use of a mobile application to contact the person under supervision was not possible, a traditional telephone contact was the officer's only option.

Figure 1 shows, nationally, the effect of the COVID-19 pandemic on office, home, community, and telephone contacts. From October 2018 to February 2020 the percentage of office contacts (13-15 percent), home contacts (42-44 percent), community contacts (8-9 percent) and telephone contacts (18-20 percent) was consistent. In March 2020 home contacts dropped to 29 percent and continued to decline in April, hitting a low of 23.4 percent. The home contacts started a slow increase in May 2021 (27.6 percent) and continued to increase over the next few months, with September 2020 rising to 36.4

percent despite the ongoing pandemic. With the decrease in home and office contacts, the need to maintain supervision over sex offenders turned to virtual techniques and the use of telephone contacts. Telephone contacts rose sharply in March 2020 to 41.4 percent and continued to increase in April to almost 60 percent of all contacts. Telephone contacts decreased slightly over the summer to 37 percent in September 2020, presumably as in-person contacts started to resume.

Neighborhood Inspection and Community Observation

The potential for decreased home contacts and assessments emphasizes the importance of both neighborhood inspection and community observation. Due to school cancellations, virtual schooling, work from home environments and a lack of available community activities, neighbors of persons under supervision and the sex offenders themselves were home more during COVID-19. This created opportunities for risk that may not have previously been present. As a result, neighborhood inspections proved helpful when assessing risks in the neighborhood due to the possibility of the sex offender remaining at or near the residence for long periods of time. Increased community observation determined potential changes in patterns and/or visitors to and from the person's residence.

Family Members, Significant Others, and Friends

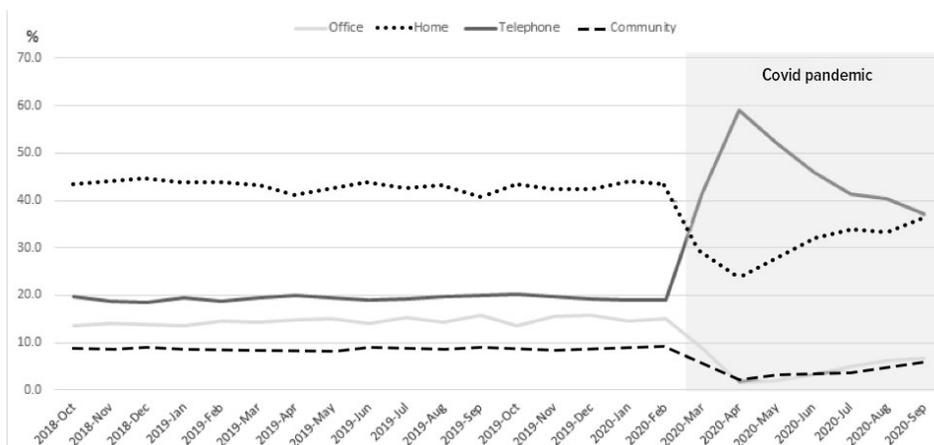
It is important to ensure that family members understand the conditions of the person's release and of the charges, even more so in the COVID-19 environment where supervision is disrupted. Family members and significant

others may be able to verify the sex offender's information and provide additional information about the person under supervision. Contact with collateral sources may offer great insight, asking specific questions about how the person is doing during the pandemic and whether any areas of concern are present. During the virtual training sessions at the onset of COVID-19, PPSO emphasized the need to increase collateral contacts to assess the need for intervention, if necessary, due to the possibility of a decrease of in-person face-to-face contacts with officers. The collateral contacts could serve as a conduit for the officer to understand what has been occurring in a sex offender's life more clearly. Trusted collateral contacts may have maintained close contact with the person under supervision and may have a different point of view to discuss with the officer.

Treatment Needs and Polygraph Testing

Treatment and polygraph testing brought on a whole new set of challenges for supervision. Before COVID-19, telemedicine was used on a limited basis. The pandemic forced districts to reconsider this approach. Staff from PPSO worked with probation and pretrial services offices from around the country to develop language allowing telemedicine given local COVID-19 conditions. The goal was to minimize the exposure of those under supervision to the virus and to assist in reducing its spread. The use of telemedicine was authorized for the duration of the pandemic to provide health care delivery, diagnosis, consultation, and treatment and the transfer of medical data through interactive audio, video, or electronic/data communications.⁸ The approach toward supervision pre-COVID-19 had generally been in-person group treatment. Districts had to work to communicate the needs of the sex offenders under supervision and determine the capability of the treatment agencies to work from a virtual platform while maintaining confidentiality and privacy. Many districts accomplished this through amending contract treatment from group to individual, which could occur remotely, either by telephone call or video conferencing technologies. As treatment agencies adapted and solidified their remote practices, group treatment was able to resume via video conferencing. As depicted in Figure 2 from February-April 2020, there

FIGURE 1
Percentage of personal contacts for post-conviction sex offense supervisees



⁸ Mangione, C. (2021). The impact of Covid-19 on treatment and testing, *Federal Probation* 85(1) (this issue).

was a 70 percent decrease in group specialized treatment units, and a 30 percent increase in individual specialized treatment for persons under pretrial supervision. Persons under post-conviction supervision saw similar adjustments. Figure 3 shows that from February-April 2020, there was a 54 percent decrease in post-conviction sex offender treatment group units and a 54 percent increase in individual sex offender treatment units.

Polygraph testing, because it requires close contact and proximity and also because of the equipment required, could not be conducted virtually or remotely. Providers needed to arrange a safe environment for both the polygrapher and the sex offender. As a result, there was a significant decrease (78 percent) in the number of polygraph tests being administered at the beginning of the pandemic (see Figure 4, next page). However, this frequency gradually increased as providers adjusted practices over the next several months, and it fully rebounded by August of 2020.

Location Monitoring

Location Monitoring (LM) plays an integral role in supervision of sex offenders at the pretrial stage, as many are statutorily required to be on location monitoring.⁹ The use of location monitoring during the pandemic increased as judges became aware of the potential health risks to those placed in custody. Officers supervising individuals with LM conditions found themselves in circumstances where close personal contact and in-home contact were unavoidable at times. Officers were forced to use technology, when available, to virtually problem solve with sex offenders who were experiencing equipment issues and used creative and inventive methods to maintain social distancing when completing hook-ups using small tents or curtains. All alternative methods of location monitoring were explored and used in varying degrees by districts. One such technology, Voice Recognition, which is part of the judiciary’s national contract, relies on automated calls from a host computer to a home telephone landline at a participant’s residence, using voice biometrics, to verify a respondent’s identity and presence in the approved residence. PPSO also authorized the use of virtual monitoring supervision, another monitoring alternative that, while not part of the national location monitoring contract, involves the

use of a smartphone application to monitor defendants and persons under supervision with a location monitoring condition. Many districts procured the current vendor’s virtual monitoring supervision product, SmartLINK, for use during the pandemic.¹⁰

Internet and Computer Monitoring

According to John Shehan, Vice President of the Exploited Children Division at the National Center for Missing and Exploited Children:

¹⁰ Whetzel, J., Levinsohn, S., Cornish, T., & Cohen, T. (2021). *First Step Act, COVID-19, and the future of location monitoring*, Federal Probation, 85(1), this issue.

COVID-19 has presented challenges and opportunities in the fight against child sexual exploitation. In the first quarter of 2020, NCMEC became aware of predators openly discussing the pandemic as an opportunity to entice unsupervised children into producing sexually explicit material. At the same time, we experienced an explosion in reporting to our Cyber Tipline from both the public and electronic service providers, all while transitioning to a telework environment. I couldn’t be more proud of the staff at NCMEC for demonstrating their ability to adapt and respond during this time while always maintaining their commitment to the children we serve. Our teams used the

FIGURE 2
Pretrial specialized services counseling

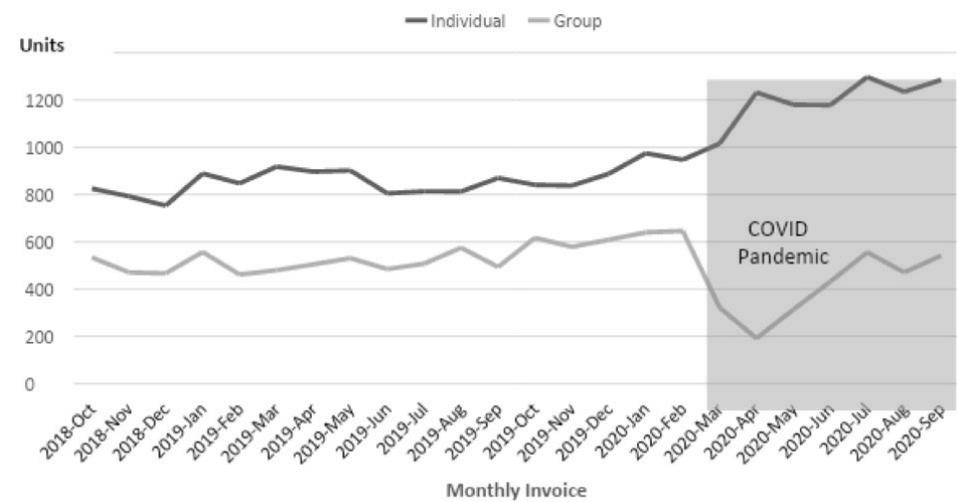
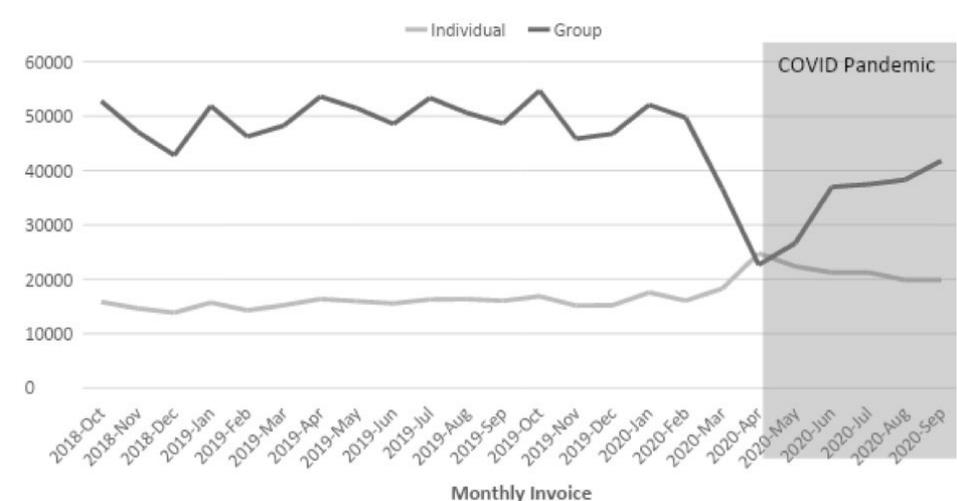


FIGURE 3
Post-conviction sex offender counseling



⁹ The Adam Walsh Act, Codified at 18 U.S.C. § 3142.

unique challenge that COVID-19 presented and focused on the opportunity to creatively improve workflows, both operational and technical, identify new methods to assist in removing online child sexual abuse material and support the rescue of children from sexually abusive situations.¹¹

Internet and computer monitoring play a crucial role in the comprehensive approach

¹¹ Shehan, John, "Exploited Children," National Center for Missing and Exploited Children, October 20, 2020 <https://www.missingkids.org/blog/2020/covid-19-and-missing-and-exploited-children>.

to supervising sex offenders in the federal system. Cohen and Spidell (2016) found in the years 2007-2013 that individuals convicted of possession, receipt, distribution, or production of online child sexual exploitation material accounted for the largest numbers of sex offenders under post-conviction supervision. Three-fifths (60 percent) of the 7,416 (sample) federal sex offenders had an instant offense conviction for online child exploitation material offenses.¹² Consistently, over the

¹² Cohen, T., & Spidell, M. (2016). How dangerous are they? An analysis of sex offenders under federal post-conviction supervision. *Federal Probation*, 80(2), 21-32.

last three years, 70-80 percent of sex offenders on pretrial and post-conviction supervision have an internet and computer monitoring condition.¹³

Officers' responsibility to monitor the internet and computer use of sex offenders under supervision became heightened during COVID-19. As more time was spent quarantined, the use of the internet became more and more crucial to everyday life, communication, news, and shopping and supervision activities were conducted using computers and the internet. Due to sex offenders' increased internet and computer use, officers' review of monitoring data increased as well. An opinion survey (Figure 5) of supervision officers showed that 84 percent of officers believe that their sex offenders under supervision increased their internet and computer use, 82 percent of officers increased their monitoring efforts, and 60 percent of officers who responded believe their sex offenders under supervision increased their risk-related activity on the internet or their computers.

FIGURE 4
Sex offender polygraph examinations

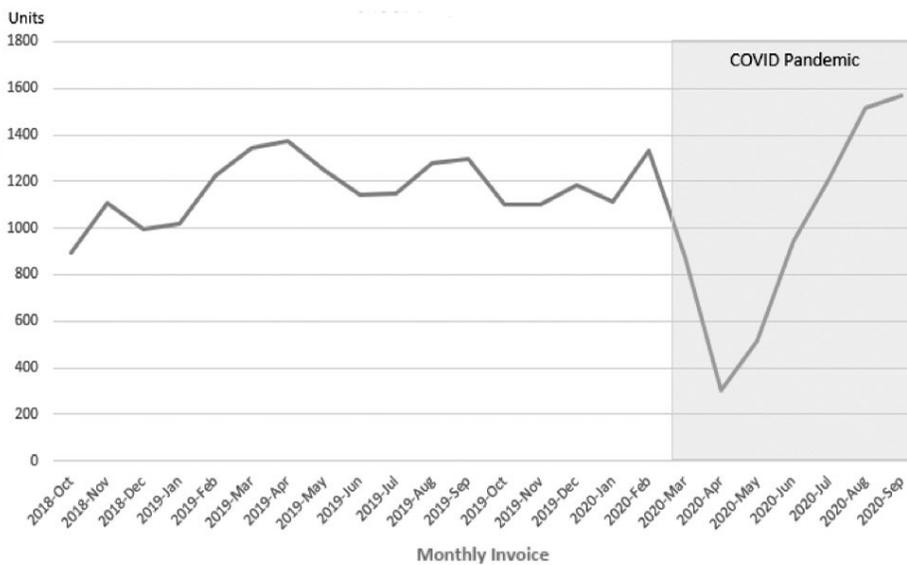
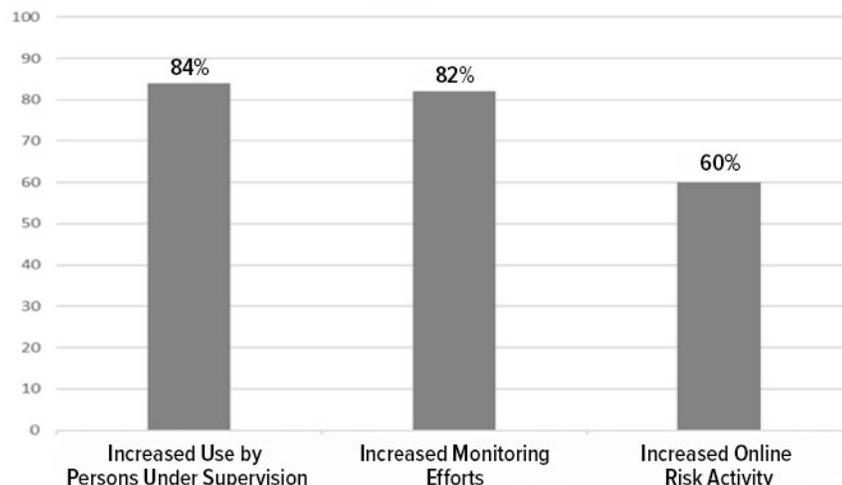


FIGURE 5
Survey of federal officers supervising sex offenders: Respondents' opinion on effect of pandemic on internet use and online risk activity, and whether they increased monitoring efforts



Officer Wellness During COVID-19

The job of a probation officer is incredibly stressful. Most officers consider high case-loads, excessive paperwork, and deadlines to be main contributors to their stress levels. Those officers supervising persons charged with or convicted of sex offenses know that this task requires intense and innovative methods enhancing typical supervision strategies and thus enhancing those stress levels. Supervising sex offenders has been shown to exact "an emotional and psychological cost" on the officer and other staff working directly or indirectly with this population.¹⁴

Secondary trauma has been described as a natural response that occurs because of experiencing the emotional impact of working with victims of trauma or traumatic experiences. It is usually cumulative; however, it has also been described as occurring in a more acute form, following a single particularly troubling case or work-related experience. Some research has suggested that the longer and more severe the exposure to trauma, the greater the likelihood

¹³ Probation and Pretrial Services Automated Case Tracking System (PACTS), the case management system used by federal probation and pretrial officers. (2018-2020).

¹⁴ Pullen & Pullen. (1996). Secondary trauma associated with managing sex offenders. *Managing Adult Sex Offenders: A Containment Approach*, p. 103.

of experiencing secondary trauma.¹⁵ In a 2011 study by Severson and Pettus-Davis, parole officers and supervisors reported having thoughts, attitudes, and behaviors consistent with the symptoms of secondary trauma. They described high levels of stress associated with their interactions with sex offenders and the ways in which this stress influenced their supervision approaches and personal lives. The officers also described the burden of feeling a societally imposed personal responsibility for preventing sex offenders from offending again. The officer accounts from the study indicate that the stress of supervising sex offenders is manifested in the officers' own physical and emotional reactions.¹⁶

Personal experiences and characteristics also may make one more vulnerable to this type of trauma. Those experiencing secondary trauma have reported mild to moderate physiological symptoms, difficulty sleeping, concentration problems, and increased substance use. However, secondary trauma has also been known to affect some persons' world views or cognitive schema, which include assumptions and beliefs a person makes about self, others, and the world. It also may affect a person's memory system. Some have reported experiencing anger, sadness, depression, anxiety, fear, mistrust of others, and other psychological indicators of secondary trauma.¹⁷ Officers and other staff may be exposed to secondary trauma in working closely with victims of sex crimes and examining evidence of such crimes during investigations. Officers and other staff may also be subject to the extraordinary pressures of trying to protect the community from new sex offenses.

The emergence of COVID-19 forced officers away from familiar and traditional

methods of supervision, leaving many to believe that they were not meeting that societally imposed responsibility for preventing sex offenders from offending again. The overwhelming sense of not having access to home visits and the lack of treatment and polygraph testing made officers feel less in control of portions of the sex offender's supervision in the community. This lack of access and control caused considerable added stress to an already stressful role.

The isolation and lack of in-person contact with peers also contributed to added stress on officers. Many officers rely on peer support for their personal wellness. Officers that supervise sex offenders sometimes find that peer professionals are their primary source of maintaining wellness, since their peers outside of the office cannot relate to the supervision of sex offenders, the work, or the material an officer is subjected to on a daily basis. Similar to how COVID-19 restricted in-person interactions between probation officers and sex offenders, officers were also restricted from access to peer support and community resources to promote officer wellness.

Again, officers found themselves using alternate means of communication to support their wellness. These took the form of virtual meetings and staffing about cases, and virtual coffee hours with staff to discuss how they were coping with the isolation. In short, districts and their staff adapted.

Conclusion

COVID-19 has affected people's lives in different ways, but all feel that normalcy and routine is altered. Officers supervising sex offenders were impacted in additional ways that were not predicted. As a result, adjustments were

made, ingenuity underscored the resilience of officers, alternative ways of assessment and communication were established, systematic adjustments to expand access to treatment were sought, and the ways that officers supported one another were highlighted.

The supervision of sex offenders presented unique challenges that brought about unique solutions. This population whose deviance thrives on physical and emotional isolation and secrecy found themselves thrust into a high-risk situation through no fault of their own. The Administrative Office provided support and guidance and districts made decisions about how to proceed moving forward with the balance of mitigating risk to the public and providing officers with the safest environment for effectuating their jobs and meeting our mission.

As we look to the future and begin reconstitution, we should take what we have learned over the last year and retain those practices that may enhance our supervision of sex offenders. For example, the use of virtual face-to-face contact may assist officers in their supervision of sex offenders by adding a layer of contact to their normal in-person meetings. The use of telemedicine may bring sex offense-specific treatment to areas where services are otherwise limited, such as remote areas or geographically challenged areas that may not have direct access to sex offense-specific treatment providers and may have relied on traditional mental health providers or no treatment for this population. Supervising sex offenders during a pandemic brought officers and management together to seek alternative supervision strategies and put us all in a situation where our collective ideas were greater than our individual practices.

¹⁵ U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Assistance. (2006). *Secondary Trauma and the Management of Sex Offenders in the Community*.

¹⁶ Severson, M., & Pettus-Davis, C. (2011). Parole officers' experiences of the symptoms of secondary trauma in the supervision of sex offenders. *International Journal of Offender Therapy and Comparative Criminology*, 57(1) 1-20.

¹⁷ Pullen & Pullen. (1996). Secondary trauma associated with managing sex offenders, *Managing Adult Sex Offenders: A Containment Approach*.