EVIDENCE-BASED PRACTICES

Reducing Recidivism to Increase Public Safety: A Cooperative Effort by Courts and Probation

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I. The Problem

California is the only state that has no sustained state funding of probation services. The lack of consistent state resources has caused the gradual decline of probation funding over the last 15 years. This is so notwithstanding the fact that 82% of all felony defendants initially are granted probation. Nationally, approximately 33% of probationers fail to successfully complete probation; California's rate is 10% higher than the national average. The fiscal effect of probation failure is significant. Adult probation services average $1,250/year/person; state prison costs $49,000/year/person.

California courts commit approximately 52,000 persons to prison each year. 40% of these commitments, 20,000 people, are committed because of probation violations. It is estimated that between the costs of prison incarceration and parole, the state spends $1 billion a year on people who fail probation. 70% of the people on parole commit a new crime within three years of release.

II. The Challenge

The challenge is to effectively manage probation resources so that the people who need assistance the most get the support and services they need. Even if we succeed in helping only those persons on the cusp of failure -- the "low hanging fruit" -- the savings can be substantial. Reduction in recidivism complements public safety. The goal of evidence-based probation supervision is not merely to control the risk of re-offense, but to reduce the risk of recidivism by facilitating pro-social changes in probationer attitudes and behaviors. The goal is successful risk reduction, not merely effective apprehension upon probation failure.

III. Purposes of Sentencing

There are a number of legitimate purposes of sentencing. It is left to the good judgment of the trial judge to weigh and balance these purposes when imposing a sentence on a particular defendant. There are three major purposes of sentencing:

A. *Accountability ("just deserts")*: every crime calls for a just, proportionate sentence that accounts for the seriousness of the crime, the extent of the defendant's involvement, and

the defendant's criminal history. It is punishment. This aspect of sentencing primarily looks to the past, things that have already happened; things that cannot be changed; things that are "static." The length of the sentence is not viewed in terms of reducing recidivism. As will be seen below, except to the extent a person is incapacitated, a longer sentence generally does not reduce recidivism.

B. *Public Safety*: a variety of strategies are used to protect the public from future harm. Unlike accountability, public safety is based on what will happen in the future; we look forward to "dynamic" factors, things that change and can be changed. The ultimate goal is to reduce the risk of re-offending. There are four principle approaches:

1. Rehabilitation: Changing the defendant's attitudes and behaviors from anti-social to pro-social by the use of accountability and treatment.

2. Specific deterrence: The particular punishment and treatment convinces the defendant that the price of crime is not worth the risk of the consequences.

3. Incapacitation/control: Custody will take the person away from society for an appropriate period of time, and reinforces accountability. Control of the defendant through such things as drug testing, electronic monitoring, and reporting to the probation officer, will stabilize and monitor the defendant's behavior.

4. General deterrence: The punishment imposed on a particular defendant will demonstrate to the community how society will respond to this kind of behavior; it is "the message."

C. *Restitution/Restoration*: Recovery of loss to the victim and the eventual restoration of the community also are important goals of the criminal sentence.

The principles of Evidence-Based Practice (EBP), at least given the current reality of sentencing in California, have little value for the person being sent to prison. These concepts, however, hold a direct relationship to the person the court decides to place on probation. Once the decision is made to keep the defendant in the community, it should be everyone's goal to help the defendant succeed on probation. Accordingly, while all purposes of sentencing are important and will have varying weight in any given sentence, EBP will play the biggest role in rehabilitation, specific deterrence, and in incapacitation/control.

EBP is only an added tool, and is not designed to replace other legitimate factors considered by the court at sentencing. Effective use of EBP, however, will allow the probation department to rationally allocate limited resources to where they will be most effective. Full implementation of EBP will increase public safety by reducing recidivism.

EBP is not about telling judges how to sentence cases. It is not designed to relieve judges of using their independent judgment in reaching a particular sentence.

IV. The Legislative Response

In 2009 the Legislature enacted four important pieces of legislation in direct support of the use of EBP in the trial courts.

A. The 2009-2010 budget act appropriated $45 million from the Federal Edward Byrne Memorial Justice Assistance Grant program over a 3-year period to be given to all 58 counties to support evidence-based programs. This fund was considered "seed money" to enhance probation services in each county.

B. The 2009-2010 budget made $9.5 million available to six courts to fund parolee reentry programs. The program is operational in Alameda, San Francisco, Los Angeles, Santa Clara, San Joaquin, and San Diego Counties. Parolees with a history of substance abuse or mental illness who violate a condition of parole may be referred by a parole officer to a reentry court. If accepted into the program, the parolee comes under the exclusive supervision of the court. The success of the program will be determined by comparing the revocation and re-offense rates between program and non-program parolees.

C. The California Risk Assessment Pilot Project (Cal RAPP) is a joint program with the AOC and the Chief Probation Officers of California (CPOC) to track recidivism rates in up to six counties over a 3-year period. It is funded by the National Institute of Corrections and the State Justice Institute. The project will focus on 18-25 year olds, and the use of risk needs assessment tools in the reduction of recidivism. Currently Napa, San Francisco, Santa Cruz and Yolo Counties are involved in the project.

D. The California Community Corrections Performance Incentives Act of 2009 (SB 678)(Penal Code, §§ 1228-1233.8) was enacted specifically to support more successful probation supervision through the use of evidence-based practices. SB 678 establishes a system of performance-based funding for county probation departments to implement and maintain EBP in adult felony probation supervision. The use of EBP has been demonstrated to reduce recidivism; the reduced recidivism will result in savings to the state general fund expenditure for prison and parole supervision services. The Legislation allows these savings to be shared with the counties in proportion to their success in reducing probation failures. SB 678 has several key components:

1. At the end of every calendar year, beginning in December 2010, there will be a determination of the statewide and county-specific probation failure rates for that year. These failure rates will be compared to a baseline failure rate that was established using data from 2006, 2007, and 2008. To the extent that counties reduce their probation failure rates below their baseline rate, county probation departments will receive either 40 or 45 percent of the marginal cost to the state of incarceration and parole supervision (approximately $29,000 annually) for every probationer who is successfully supervised on probation and was not revoked to state prison. Because the average length of stay for individuals going to prison is 20 months, the counties will receive payment over two years for each successful probationer, with

payments in the second year prorated to account for only eight months of general fund savings. SB 678 will sunset January 1, 2015, unless reauthorized by the Legislature.

2. The goals of SB 678 are specified in the statute (Penal Code, § 1229):

- Enhance public safety through the management and reduction of offender risk while under felony probation supervision and upon reentry from jail into the community;
- Provide a range of probation supervision tools, sanctions, and services applied to felony probationers based on a risk and needs assessment for the purpose of reducing criminal conduct and promoting behavioral change that results in reducing recidivism and promoting the successful reintegration of offenders into the community;
- Maximizing offender restitution, reconciliation, and restorative services to victims of crime;
- Holding offenders accountable for their criminal behaviors and for successful compliance with applicable court orders and conditions of supervision;
- Improving public safety outcomes for persons placed on probation for a felony offense, as measured by their successful completion of probation and the commensurate reduction in the rate of felony probationers sent to prison as a result of a probation revocation or conviction of a new crime.

3. The funding that comes from the state under this program is to be used for programs and services based on EBP principles. (Penal Code, § 1230(b)(3).)

4. The Judicial Council is to consider any changes to the Rules of Court or other court policies that will facilitate the implementation of EBP in the courts. (SB 678, Sec 3.)

5. The legislation directs the counties to create a "Community Corrections Partnership," chaired by the chief probation officer in each county to oversee the implementation of EBP in the county. (Penal Code, § 1230(b).)

6. The 2011-2012 budget proposed by the Governor includes $88 million of 2010 SB 678 state savings for distribution to those counties that lowered their probation failure rates in aid of implementation of EBP.

V. The Role of the Courts

Most of the legislation relating to EBP is focused on the probation departments. The manner in which the court sentences a particular defendant, however, can have a direct relationship to a probation department's ability to implement EBP and achieve the benefits of SB 678. The courts have been asked by the Legislature to participate in this reasoned, methodical attempt to apply validated principles of case management to better protect the public through a reduction in recidivism, and assist in the savings of the substantial costs of state prison incarceration.

This is an emerging concept in California. The science, however, is not new. It has been widely acknowledged across the country as an effective approach to the reduction of recidivism. While probation departments have been utilizing some of the EBP concepts for some years, they have not implemented them to the extent envisioned by SB 678. The level of achievement in rolling out EBP in each county varies widely. It is expected that full implementation may be a 5 - 10 year process.

Judges are being asked, consistent with all of the purposes of sentencing, to facilitate and complement what is being done by the probation department. At the very least, courts are being asked to do no harm.

VI. What is Evidence-Based Practice?

Evidence-based practices are "supervision policies, procedures, programs, and practices demonstrated by scientific research to reduce recidivism among individuals under probation, parole or post-release supervision." (P.C. § 1229(d).)

EBP comes from professional practice supported by the best research evidence from rigorous evaluation (i.e., use of control groups), replicated in multiple studies, and has been subjected to systematic review (meta-analysis). It reflects two decades of rigorous, legitimate scientific research.

VII. Principles of Evidence-Based Practice

The application of EBP primarily depends on the intersection of three variables:

- The risk principle -- who is to receive services through probation.
- The needs principle -- what are the factors that drive a particular defendant's criminal conduct.
- Treatment principle -- what does and does not work in achieving the goal of reducing recidivism.

VIII. The Risk Principle - who should receive services

The level of supervision or services should be matched to the risk level of the offender; i.e., higher risk offenders should receive more intensive levels of supervision, reporting requirements, and treatment services. Courts should avoid significant intervention with low risk offenders. Intensive intervention with low risk offenders is an inefficient use of probation resources and tends to actually increase recidivism rates among this group. Extremely high risk offenders tend not to be amenable to probation supervision. Effective supervision of extremely high risk offenders necessitates the use of the most intensive levels of supervision, reporting, surveillance, and behavioral controls.

"Risk" refers to the risk of re-offense, not the relative seriousness of either the crime committed or the potential re-offense. Murderers, for example, commit a serious crime, but tend to have a low risk of reoffending because of the situational nature of the crime. Drug offenders, on the other hand, commit a less serious crime, but often have a high risk of re-offense. "Low risk" does not mean "no risk." But there is a difference between "low risk" and "high risk" that justifies a different allocation of treatment resources.

IX. The Needs Principle -- what are the risk factors

"Risk factors" are offender characteristics that are associated with a higher likelihood of future criminality. There are two kinds of risk factors, both of which can predict the chance of future criminal conduct. There are "static" factors which are characteristics of an offender that are constant or historical and cannot be changed, factors such as: age, gender, number of prior arrests, prior convictions, age at first arrest, and alcohol/ substance abuse history. There are "dynamic" factors which can be changed, thus reducing the chance that an offender will commit another crime. The dynamic risk factors (called "criminogenic needs"), in the approximate order of importance, are:

- Anti-social attitudes
- Anti-social friends and peers
- Anti-social personality pattern
- Family and/or marital factors
- Substance abuse
- Education
- Employment
- Anti-social leisure activities

Risk of recidivism is dynamic; it changes over time, increasing and decreasing, in light of changing circumstances in the offender's life and the choices he or she makes. If the focus is on reducing recidivism, the focus of the case plan needs to be directed to the changeable characteristics of the defendant most likely to have success. The first four risk factors are substantially more important than the last four. Historically, however, courts have been more likely to address only the last four; EBP seeks to focus more attention on the first four, also addressing the last four as appropriate.

Critical to the successful implementation of EBP is the use of a third or fourth generation validated actuarial risk/needs assessment tool and professional judgment. Properly administered, validated and reliable actuarial tools are many times more accurate than reliance on professional judgment alone. Actuarial risk needs assessment information is intended to inform, not replace, professional judgment. Accurate identification of an offender's most important dynamic risk factors is critical to the development of an effective probation supervision plan for the offender.

Special conditions of probation ordered by the court set the legal framework (the terms and conditions) for the probationer's supervision, and should provide appropriate direction and authority to the supervising probation officer. Conditions of probation with respect to the defendant's level of supervision, treatment, monitoring, and control should ensure that the defendant's most critical dynamic risk factors will be addressed. Special conditions of probation should be directly related to the probationer's specific dynamic risk factors, or to other significant sentencing objectives. The imposition of unnecessary or counterproductive probation conditions distracts and impedes both the probation department and offender. Dynamic risk factors change; special probation conditions should provide maximum flexibility to the probation officer.

Judges should resist the tendency of some attorneys to negotiate the specific terms and conditions of probation. Courts frequently face statutory mandated conditions of probation, over which they have no control. But judges should not engage in the practice of agreeing to special conditions of probation that effect the management of the defendant's case without having the risk needs assessment information. To order unnecessary or inappropriate conditions of probation is to risk disrespect for the court's orders and the potential of increased risk of recidivism.

X. The Treatment Principle -- what works

The most effective interventions in reducing recidivism among higher risk offenders are cognitive behavioral interventions based on social learning principles. People learn over time though a process of social consequences, both positive and negative: carrots and sticks, rewards and punishments.

Social learning principles prescribe that over time offenders will tend to behave in ways that result in the most rewards and the fewest sanctions. Among higher risk offenders rewards (positive reinforcement) and the promise of rewards (incentives) are more effective than sanctions (negative consequences) and the threat of sanctions. Ideally rewards should be used in a ratio of four rewards for every sanction. Swift and certain sanctions are very effective in shaping offender behavior and reducing recidivism. The severity of the sanction should be proportionate to the severity of the violation. The severity of the sanction is unlikely to influence its deterrent effect; overly severe sanctions have a counterproductive effect on the behaviors of higher risk offenders.

Every violation deserves a response; not to respond is to condone inappropriate behavior. But the response must be appropriate to the nature and level of the violation. The courts and probation must have a graduated scale of responses to violations. Some sanctions may be purely administrative; some may involve the court and the potential of short, swift periods of custody; some may necessitate revocation of probation and state prison.

Social learning involves not only the shaping of offender behavior through proper use of rewards and sanctions, but also the teaching of new behaviors and skills through use of

behavioral techniques such as role modeling, demonstration of new behavior/skills, role playing by the instructor and trainee, giving constructive positive and negative feedback, skill practice by the offender in both therapeutic and natural settings, and motivational interviewing. Cognitive behavioral interventions are effective in reducing recidivism by changing the anti-social thinking, attitudes, values, and beliefs that underlie and drive anti-social behaviors among high risk offenders.

Non-behavioral interventions (those that do not focus on shaping and teaching pro-social behaviors and skills) tend to be ineffective in reducing recidivism among higher risk offenders. Examples of programs that do not work are shaming programs, drug education programs with only an awareness component, prevention classes based on fear or emotion, non-action oriented group counseling, bibliotherapy, Freudian approaches, vaguely structured rehabilitation programs, self esteem programs, non-skill based programs, Scared Straight, physical challenge and boot camp programs, and intensive supervision without treatment. These programs may have momentary benefit, but lack the ability to instill long term change in behavior.

Although coercion (extrinsic motivation) is often effective in getting an offender into treatment or compliance, or keeping an offender in treatment or compliance, intrinsic motivation ultimately is a critical precondition for sustained offender behavioral change. The judge can be positive agent of change by encouraging the offender's engagement in the change process. Procedural fairness also promotes law-abiding behaviors. Reflective listening, developing discrepancy, use of open-ended questions, promoting self-efficacy, and deflecting resistance are effective in promoting intrinsic motivation. Threatening, lecturing, shaming, arguing, or sympathizing with the offender are counterproductive in promoting intrinsic motivation.

XI. Probation Violations

The probationer's successful compliance with all conditions of probation should be the shared goal of everyone in the criminal justice system, including the court, the probation officer, the offender, and counsel. Incentives and rewards (e.g., positive acknowledgement, presentation of small tangible items, reduced levels of supervision, monitoring, control or testing, early termination) should be used to promote compliance and avoid violations. All violations, however, should be responded to promptly, fairly, and with certainty, and with use of a graduated continuum of sanctions, services, and behavioral controls.

To determine the most appropriate response to a particular violation of probation, the probation officer should conduct a re-assessment (formal or in-formal) of the risk the probationer presents to the community. The probation officer should consider the probationer's current dynamic risk factors and the nature of the underlying and prior offenses, the nature and purpose of the condition violated, the nature and severity of the violation, and the extent of prior compliance.

To promote offender compliance and accountability, and ensure that probation can respond appropriately to violations of probation not constituting commission of a new criminal offense, with the consent of the probationer, probation officers should have and regularly exercise authority from the court to impose appropriate sanctions up to and including short periods of incarceration without returning the probationer to court for a hearing. (See Penal Code, § 1203.2(d).) To avoid unnecessary court appearances, and maintain a climate of trust and cooperation between the court and probation, there must be a clear understanding regarding the appropriate level of administrative sanction for any given violation.

In most instances, technical violations and the commission of new misdemeanor or low-level felony offenses should not warrant termination of probation and removal from the community. In considering revocation, what is required is a thoughtful re-assessment of the likelihood of success in continuing to manage the probationer within the community without incurring further felonious behavior. Revocation is an appropriate response when a re-assessment of the offender's dynamic risk factors in light of the offender's overall criminal history, record of compliance, and the current offense, concludes that the offender can no longer be safely and effectively supervised in the community.

XII. The Proper Use of EBP at Sentencing

The primary use of risk/needs assessment information at sentencing is to set appropriate conditions of probation for those offenders whom the court decides to place on probation. A trial judge's knowledge of EBP, and the availability of risk/needs assessment information at sentencing is not of great assistance where the offender clearly is going to be sent to prison.

The only currently published appellate opinion on the use of EBP at sentencing comes from the Indiana Supreme Court in *Malenchik v. State* (2010) 928 N.E.2d 564. *Malenchik* discusses the proper use of assessment scores and other information obtained from the use of assessment tools: "It is clear that [the risk/needs assessment instruments are not intended] nor recommended to substitute for the judicial function of determining the length of sentence appropriate for each offender. But such evidence-based assessment instruments can be significant sources of valuable information for judicial consideration in deciding whether to suspend all or part of a sentence, how to design a probation program for the offender, whether to assign an offender to alternative treatment facilities or programs, and other such corollary sentencing matters. The scores do not in themselves constitute an aggravating or mitigating circumstance because neither the data selection and evaluations upon which a probation officer or other administrator's assessment is made nor the resulting scores are necessarily congruent with a sentencing judge's findings and conclusion regarding relevant sentencing factors. Having been determined to be statistically valid, reliable, and effective in forecasting recidivism, the assessment tool scores may, and probably should, be considered to supplement and enhance a judge's evaluation, weighing, and application of the other sentencing evidence in the formulation of an individualized sentencing program appropriate for each defendant." (*Id*. at p. 573.)

Consistent with *Malenchik* and the policy approved by a National Working Group convened by the National Center for State Courts, it is recommended that courts use the information obtained from risk/needs assessments in the following manner. It is important to note the distinction between the **risk scores** and the underlying **dynamic risk factors**.

A. With regard to probation-eligible felony offenders, risk/needs assessment **scores** can be used in certain ways in deciding whether probation should be granted.

1. It is proper to use a low risk score as one of the factors in determining not to send a defendant to prison. In a close case the fact that the defendant is low risk is a rational basis on which not to imprison based on the principles of EBP and because the offender presents a low risk to the community.
2. It is improper to use a high risk score as a factor in determining whether to send an offender to state prison. Such a restriction is based on the following reasons:
    - Risk/needs assessment tools were never intended to be used for these purposes.
    - Using the high risk score in this manner is tantamount to imprisoning the defendant not because of the offense committed or the defendant's prior criminal history, but because of the risk that the offender might commit a future offense. Absent specific statutory authorization and due process procedures, it is against our jurisprudence for judges to imprison offenders solely because of what they might do in the future.
    - Risk is dynamic. To assume that a defendant who scores high risk today will continue to be high risk tomorrow and not be amenable to a risk reduction program is contrary to the research. Some high risk offenders recidivate; some do not. Generally speaking, many high risk offenders are good candidates for recidivism reduction programs in the community.
    - The reasoning of *Malenchik* supports this view. If it is improper to use high scores alone to aggravate a sentence, it should be improper to use the scores to imprison in the first instance. The penal impact on the defendant of the decision to send to prison is certainly as great, if not greater, than the decision regarding the length of the prison term.
    - To avoid potential misuse of risk/needs assessment scores, some jurisdictions do not provide them to the court, only the dynamic risk factors.

B. Although it is improper to imprison solely on the basis of a high **risk score**, it is proper to consider the defendant's **dynamic risk factors** in deciding whether the defendant is a good candidate for (is amenable/suitable for) probation. In considering the defendant's dynamic risk factors, the court is making a qualitative assessment whether given those factors, and the supervision, treatment, and intermediate sanctions available in the community, the defendant can be safely and effectively supervised in the community. Such is a rational basis for either granting or not granting probation in a close case.

XIII. Conclusion

It may be some time before probation services are adequately funded in California. At the very least, however, the courts should support the efforts of the probation departments to institute EBP because there are a number of current, tangible benefits from SB 678:

- The use of risk/needs assessments will provide judges reliable and relevant information for sentencing
- $45 million was initially granted over three years; the Governor is currently providing $88 million for probation services in one year
- Minimal change can have significant results
- Implementation of EBP allows leveraging of SB 678 funds
- It provides a principled way of making management decisions – data to back up decisions
- It builds a data base of needs
- It may identify programs and strategies that don't work
- It allows the shifting of services to people most in need
- It is the right thing to do

EBP SELF-ASSESSMENT

True or False?

1. The seriousness of the committing offense is more important than the offender's personal characteristics in predicting the likelihood of further crimes.

2. Jails and prisons are effective in changing offender behavior if the conditions are severe enough that offenders don't want to return.

3. The manner in which court proceedings are conducted is not a significant factor affecting offender recidivism.

4. Probation officers will be more effective if they have lower caseloads.

5. Programs like "Scared Straight" and boot camps are particularly effective for youthful offenders.

6. An offender doesn't need to be "motivated" for treatment to be successful.

7. The most cost effective strategy is to deliver treatment to the extremely high risk offender.

8. It is better to invest in treatment of low risk offenders than high risk offenders because their criminal tendencies are less hardened.

9. Most offenders don't handle stress well, so anxiety and stress reduction programs like yoga and meditation are helpful in reducing recidivism.

10. Intensive probation supervision tends to reduce recidivism better than regular probation supervision.

THE CASE OF TONY JONES

Sentencing Scenario No. 1

The defendant, Tony Jones, entered Quality Clothing and attempted to leave the store with a $1,500 leather coat concealed under a large parka he was wearing. When the store security guard attempted to stop him, the defendant punched the guard in the chest and threatened to "kick his ass" if the guard tried to stop him. The security guard eventually was able to restrain the defendant until the police arrived. He was charged with robbery (P.C. § 211).

The defendant has been in actual custody for 90 days. He pleads to charges of grand theft (P.C. § 487, felony) and misdemeanor battery (P.C. § 242), in exchange for a promise of no initial commitment to state prison and dismissal of the robbery charge.

During a pre-trial conference with the attorneys, you learn the defendant is now 28 years old. According to the DA's file, the defendant's first offense occurred when he was 13 years old, when he was adjudicated for battery (P.C. § 242). While on juvenile probation he was adjudicated for a trespassing (P.C. § 602(l)) and drunk in public (P.C. § 647(f)). Eventually the defendant successfully completed juvenile probation. As an adult, he has been convicted of commercial burglary (P.C. § 459-2°, felony) and misdemeanor auto theft (C.V.C. § 10851). He successfully completed probation for these offenses three years ago.

The preparation of a probation report has been waived and the defendant is before you for sentencing. The DA is asking for a year in the county jail, electronic monitoring, substance abuse counseling and intensive probation supervision. Defense counsel agrees to intensive supervision, but objects to EMP and substance abuse counseling; he wants simply credit for time served.

Sentencing Scenario No. 2

Instead of sentencing the defendant, you determine that you want a full report by the probation officer. You release the defendant on his own recognizance and set the matter for sentencing. The probation report develops the following additional information.

The defendant reports that he first used marijuana and alcohol at the age of 13 in an attempt to "fit in with the other kids." He states that he has not used marijuana in several years, but does drink alcohol regularly, getting drunk only on weekends. There is no recent history of substance abuse. The defendant reports having two separate groups of friends, one of which never gets into trouble, while the other has been actively involved in the criminal justice system. During his probation interview, he reported that he believes shoplifting "is a minor crime," that the store is big and has insurance, and that the fight was really the fault of the security guard because he used excessive force in trying to stop the defendant.

The defendant reports having a positive relationship with both of his parents. None of his immediate family members have a criminal history. He is a high school graduate with a history of behavior problems throughout high school that includes disruptive classroom behavior and numerous physical altercations with other students. He reports no mental health issues. He does not have a stable housing pattern, moving back and forth between the homes of his friends and his parents. He is currently unemployed and has no means of support except what his parents give him and doing piecework landscaping labor.

The defendant is not currently involved in any structured activities. He reports that most of his free time is spent "hanging out" with his friends and going to bars. He also spends time at a friend's apartment playing video games and listening to music. He indicated he could make better use of his time and expressed an interest in going to college. He also would like to have his own landscaping business.