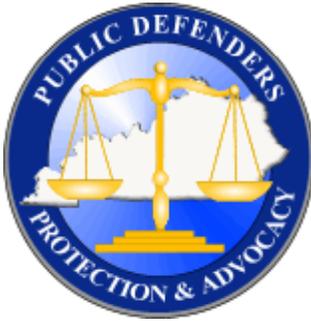


SFY 2014 EVALUATION REPORT

KENTUCKY DEPARTMENT OF PUBLIC ADVOCACY
**ALTERNATIVE SENTENCING
WORKER PROGRAM**

MAY 2016



COMMONWEALTH OF KENTUCKY

DEPARTMENT OF PUBLIC ADVOCACY

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May 2, 2016

John Tilley
Secretary, Kentucky Justice & Public Safety Cabinet
Office of the Secretary
125 Holmes Street
Frankfort, KY 40601-2108

Dear Secretary Tilley,

This independent Report documents the effects of the Department of Public Advocacy's Alternative Sentencing Worker Program (ASW Program). The Report summarizes Findings from the evaluation of the program regarding clients served during state Fiscal Year 2014. For the clients offered services in FY 2014, follow-up data collection from clients and official state data sources was conducted to examine program effects 12 months after the courts had accepted alternative sentencing plans.

The Report found program gains for the criminal justice system and in particular for the Justice and Public Safety Cabinet in two important ways: 1) 324 clients received badly needed services, thus providing a more humanitarian service than merely incarcerating them; and 2) Substantial returns on program investment were realized by greatly reducing incarceration costs for the year following court acceptance of the alternative sentencing plans.

The ASW Program is a strategic way the policy of 2011's HB 463, designed to reduce incarceration costs safely, is being realized. The ASW Program has worked to maximize the use of community-based services in lieu of incarceration. The reduced incarceration goals envisioned by HB 463 have been affected by very minimal growth of community-based services to provide alternatives to incarceration. The ASW Program has struggled with that problem, but has also found ways to navigate clients into these services to place our part achieving in the state's goals.

This evaluation was done by the University of Kentucky Center on Drug and Alcohol Research using data collected by our ASW Program staff and administrators. All analyses and conclusions represent the independent views of the evaluator.

Although DPA represents but a small part of the Cabinet's budget, the ASW Program has demonstrated an important role in not only meeting a mandate to provide quality legal representation to our clients suffering from substance abuse or a mental illness, but also to help meet key Cabinet goals regarding safely reducing the cost of incarceration.

Should you have any questions about this program or this Report, please feel free to contact me.

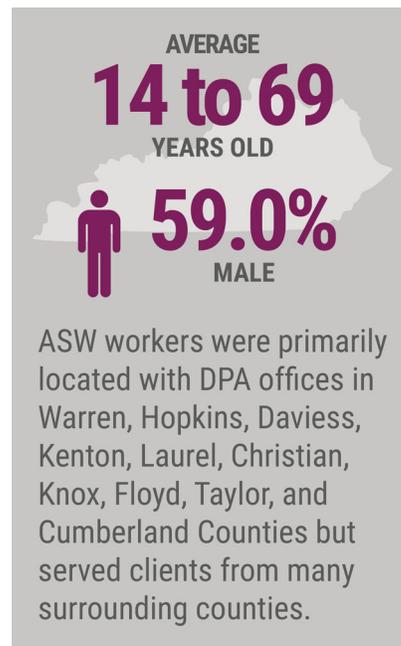
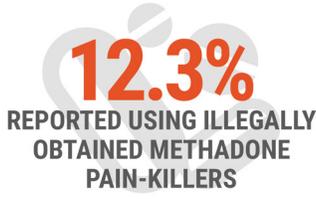
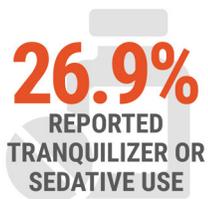
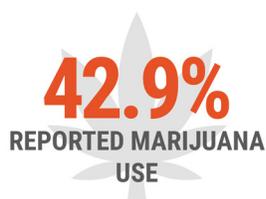
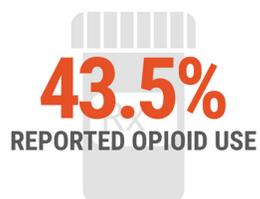
Sincerely,

Edward C. Monahan
Public Advocate



Executive Summary

In SFY 2014, The Department of Public Advocacy Alternative Sentencing Worker (ASW) Program served 324 clients charged with felonies and misdemeanors in eight districts in the state.



- » **79%** had been unemployed at the time of their arrest on current charges.
- » **18.5%** reported having had brain injury.
- » Almost half (**46.9%**) had been diagnosed at some time with a Depression Disorder.
- » **39.5%** had been diagnosed with an Anxiety Disorder.
- » **23.5%** had been diagnosed with Bipolar Disorder.
- » The clients had a lifetime average of **8.4** previous incarceration episodes.
- » **86.1%** of the clients were referred to substance abuse treatment.
- » **32.4%** were referred for mental health treatment.

Clients only ended up serving 1,595 days incarcerated out of the 11,292 days they would have served in the 12 months of the project follow-up – **a reduction of over 85%.**

85%
REDUCTION IN DAYS INCARCERATED

\$5.66
RETURN ON INVESTMENT

For every dollar spent on the ASW Program, there was a **\$5.66 return on investment** from incarceration costs that were avoided due to interventions.

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Kentucky Department of Public
 Advocacy
 Alternative Sentencing Worker
 Program

SFY 2014 Evaluation Report
 May 2016

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Introduction

The Kentucky Department of Public Advocacy continues to provide a wide range of defense services for individuals in the Kentucky Criminal Justice System. Beginning with a small grant project, the DPA has placed continuing emphasis on the importance of a version of holistic defense that brings a multidisciplinary team into the defense idea with the task of providing alternatives to traditional incarceration sentences. In Kentucky, the passage of legislation designed to reduce excessive incarceration dovetails with defense interests in preserving individuals' liberty wherever possible. The singular value of the Alternative Sentencing Worker Program is that it achieves client buy-in to engage in rehabilitation, treatment, and other services in lieu of incarceration. The engagement with these services also aims at longer term reduction of problems such as substance abuse that often lead to arrest.

The Context of the Alternative Sentencing Worker Program

Alternative Sentencing was developed in the context of rising rates of incarceration and increased use of plea bargaining in the criminal justice system. "Plea bargaining is a defining, if not the defining, feature of the federal criminal justice system" (Brown and Bunnell, 2006:1063) and it has likewise become a defining characteristic of the state systems as well. Among the concerns with plea bargaining is the degree to which the process is top-down with prosecutors using potentially long sentences to leverage rapid case clearing. Pretrial detention can have a strong effect on defendant decision to accept pleas – even those that might be overly strict. Defendants who are taken into custody are more likely to accept a plea and thus are less likely to have their charges dropped even though at trial they might have been found not guilty (Kellough and Wortley, 2002).

During the period for this study, the pretrial release rate was 68% (Administrative Office of the Court, as reported in DPA's Annual Report, 2014). Thus, a high number of individuals remain in custody and vulnerable to the conditions surrounding plea bargaining. More generally, legal characteristics such as a history of repeated offenses, increase the likelihood of accepting a plea although such a history might narrow plea outcomes. An estimated 90% - 95% of all federal cases, and likely more state cases are resolved through plea bargaining (Devers, 2011).

Devers (2011) reviews literature suggesting great need for reforming how plea bargaining is carried out in the United States. Greater participation of judges and defense counsel early in the process might result in greater balance of power among the key players in plea bargaining (Bibas, 2004). In addition, a focus on certain nonviolent crimes might be a wise area for more productive use of plea bargaining. One likely target for a relaxing of plea bargaining positions is in the area of substance abuse-related crimes. It is in this context that the Alternative Sentencing Worker Program assumes an important role. The goal of the Alternative Sentencing Worker Program is to maximize clients' liberty interest while at the same time attaining client engagement in constructive use of probation or diversion sentences in lieu of incarceration. This project offers a different way to defend clients while at the same time joining with state government objectives in reducing unnecessary incarceration.

The Alternative Sentencing Worker Program

What the Workers Do

For several decades court systems have made use of community alternatives to incarceration for drug offenders. The prevailing models of court-mandated treatment make use of the heavy hand of the law to direct individuals into treatment. One common vehicle for using alternatives to incarceration has been through Drug Courts, which, while being voluntary in the sense of individuals agreeing to participate, still carry a quality of mandates that originate with court action. While these forms of treatment have shown effectiveness, they have traditionally been under the purview of prosecution and have been used with an interest in maintaining control over offender behavior (Farabee & Leukefeld, 2001).

By contrast, the process by which Alternative Sentencing Workers develop alternative sentencing plans is different. It originates with defense initiatives. And, as part of the defense, clients play an active role in determining their degree of interest in seeking help through community services. Thus, the alternative sentencing plans include thinking of community-based services as part of the client's defense—but in a unique way. Defense teams are typically tasked with advocating on behalf of clients' liberty interests. What is different about this approach is that it takes a longer view of client liberty interests. That is, the attorney wants to work to help keep clients from incarceration, but also to be less likely to be re-arrested or fall back into state custody. The solution involves alternative sentencing plans built around careful assessment of needs for rehabilitating the individuals who are facing incarceration.

The fact that these alternative sentencing plans are developed as part of defense rather than being just a response to prosecution ideas means that client participation is typically much more robust. Instead of simply being directed to a program, the client and Alternative Sentencing Worker first work out what the person needs, then locate a program, then present a plan to the court.

After plans are accepted by the courts, Alternative Sentencing Workers assist in getting clients into the proposed programs. In addition, ASW Program staff complete follow-ups on clients 12 months after the court acceptance of the plan to see how they are doing.

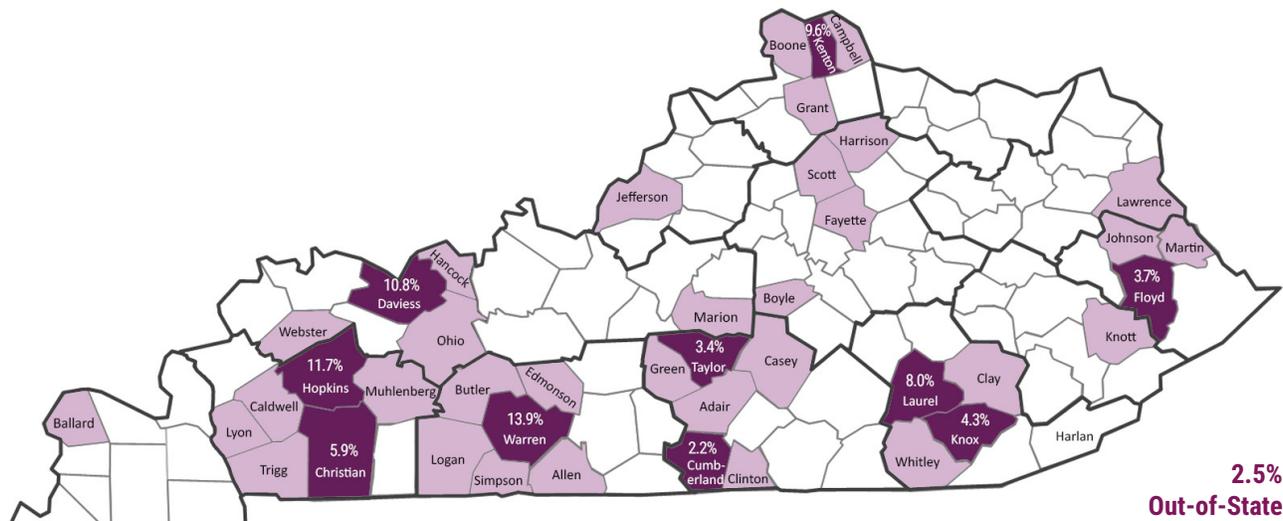
Alternative Sentencing Workers also spend time with community programs developing closer working relationships and referral procedures to enhance cooperation among service providers and the court system.

Districts with DPA ASW Program Staff in SFY 2104

There were eight DPA field offices with Alternative Sentencing Workers assigned to the defense teams during SFY 2014. Those field offices were Owensboro, London, Prestonsburg, Covington, Madisonville, Columbia, Hopkinsville, and Bowling Green. The cost of the ASW Program in SFY 2014 was \$551,265, including all salaries (\$311,603), fringe benefits (\$167,758), and overhead costs (\$71,904). This program represents but 1.2% of the SFY 2014 DPA budget of \$44,992,300.

As shown in Figure 1, in SFY 2014, the eight Alternative Sentencing Workers served 324 clients who lived in 34 counties and three neighboring states at the time of their arrests. The county with the highest percentage of client residents was Warren County with 13.9% of all ASW clients in SFY 2014. Hopkins, Daviess and Kenton were close behind. Just over one-fourth (26.5%) of the ASW clients were from other counties and 8 were from out-of-state.

FIGURE 1. COUNTY OF CLIENT RESIDENCE AT TIME OF ARREST (N=324)



The Specific Functions of the Worker

All cases for the DPA ASWs are referred by the client’s defense attorney. Essentially, the attorney believes that the client is in need of a rehabilitation or social service and needs a specialist to work up a plan for those services. ASW Program staff do not provide clinical services – a function left to the many organizations to which they refer clients. However, the ASWs assess service needs in order to make appropriate referrals to treatment and rehabilitation providers. ASW clients need to complete service needs assessments and service plans for presentation to the court by the DPA attorney. In these cases, the ASW interviews clients, assesses needs based on social history data collection, and, when indicated, consults with community providers to assess suitability for referral. At the time of initial interviews, 76.9% of the clients were incarcerated and 1.9% were on home incarceration. All others were released on a variety of conditions - some on their own recognizance and others on financial bail.

Alternative Sentencing Worker Approaches

Evidence-based practices (EBPs) for substance use disorders (SUDs) are now required in most substance abuse treatment settings such as outpatient, intensive outpatient, short and long-term residential, inpatient, and corrections-based approaches (Torrey, Lynde, & Gorman, 2005; Riekman, Kovas, Cassidy, & McCarty, 2011). However, government programs have an increasing interest in the use of EBPs in all phases of intervention with substance abusers. The Alternative Sentencing Worker Program has incorporated evidence-based practices. All of the DPA ASW have been trained in the most relevant evidence-based practice for this kind of service – Motivational Interviewing (Carroll et al., 2006; Miller & Rollnick, 1991; 2002; Vader, Walters, Prabhu, Houck, & Field, 2010). The association of Motivational Interviewing with change-talk and open-endedness has been well established and it is an approach best conceived as a communication style, not a specific treatment protocol or fixed set of topics (Miller & Rollnick, 2009; Morgenstern, et al., 2012). This approach allows for a gentle eliciting of client desire for services and change rather than direct confrontation. It is very consistent in style with the entire philosophy of defense work as it hinges directly on client commitment to change processes and a willingness to participate in services. The technique facilitates rather than directs change processes. All eight of DPA ASWs in SFY 2014 held master’s degrees in social work.

Cost for the Alternative Sentencing Worker Program

The Kentucky Department of Public Advocacy's annual budget made up but 3.29% of the total criminal justice system expenditures in SFY 2014. The Alternative Sentencing Worker Program represented 1.2% of the overall DPA budget for SFY 2014. The cost of the staff and operating expenses for the 8 ASW Program staff for SFY 2014 was \$551,265. During the same fiscal year, there were 324 ASW cases, for an average per-case cost of \$1,701 independent of attorney costs. The average per client legal defense cost for new trial cases in SFY 2014 was \$245, however this cost would be present with each ASW case irrespective of the ASW services.

The ASW Program staff ended up allocating time to community outreach, mitigation efforts, alternative planning for involuntary hospitalization cases, and consultation with their attorneys on client needs and approaches. All of these functions had the result of lowering caseload expectations to only a little over 50% of expected cases served for the year. One region in particular was absorbed by duties regarding involuntary hospitalization (over 880 cases referred for that alone). Overall, a total of 2,254 cases were presented to the ASW Program staff for some level of assistance with either mitigation, consultation, or hospitalization review. Of these, 1,374 were various cases in district or circuit court other than involuntary hospitalization cases. From the pool of referred cases, 324 become active ASW cases with plans accepted by the courts.

Method

This evaluation study uses data collected by the Kentucky Department of Public Advocacy and is a secondary data analysis study.

Materials - Data Sources for This Report

The Department of Public Advocacy has developed a case management data system called JustWare that manages all data related to DPA cases, including the ASW activities. ASW Program staff members collect data from clients during their interviews and then enter the data into JustWare. All the client-level data presented in this evaluation are derived from completed records that were entered into JustWare by the ASWs between 1 July 2013 and 30 June 2014. The data are principally client self-reports except the data on their charges, and actual sentences, which are from attorney/ASW data entries in JustWare.

The data on time spent in jails and prisons items are taken from court records and other data available to the DPA attorneys and DPA administrative staff. The DPA Supervisor for the ASW Program checked all incarceration data for each of the sampled clients for the 12 month period following alternative sentencing plan acceptance by the courts. The follow-up data on nights spent in jail were taken from independent data sources, including the Kentucky court's informational system, ("CourtNet"), the Kentucky Offender Management System (KOMS), and local jail data.

Human Subjects Protections

All data for this report that were collected by DPA were transmitted to the University of Kentucky in de-identified form. Thus, this secondary data analysis evaluation study received approval from the University of Kentucky Medical Institutional Review Board.

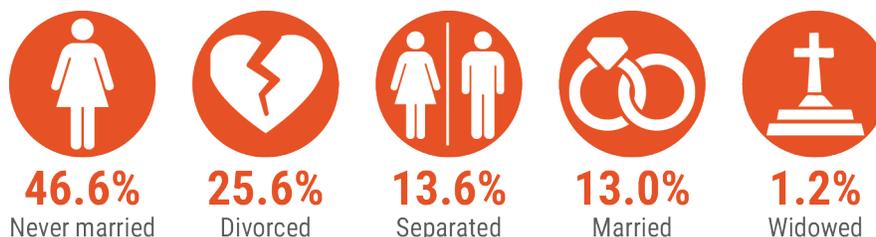
Findings

ASW Client Characteristics During Assessment of Needs by ASW Program Staff

MARITAL STATUS

The average age of ASW clients in SFY 2014 was 33.6 years with a range of age 14 to age 69 and 59% (n=191) were male. As shown in Figure 2, very few of the clients were married (13%), almost half (46.6%) have never been married, while 25.6% were divorced and 13.6% were separated.

FIGURE 2. MARITAL STATUS (N=324)



RACE/ETHNICITY

Table 1 below shows that the overwhelming number (n=287, or 88.6%) of ASW clients reported their race/ethnicity as white or Caucasian. A little over ten percent (n=33) reported being Black or African-America and the remaining four clients were Asian (n=1), Hispanic (n=1), or multi-racial (n=2).

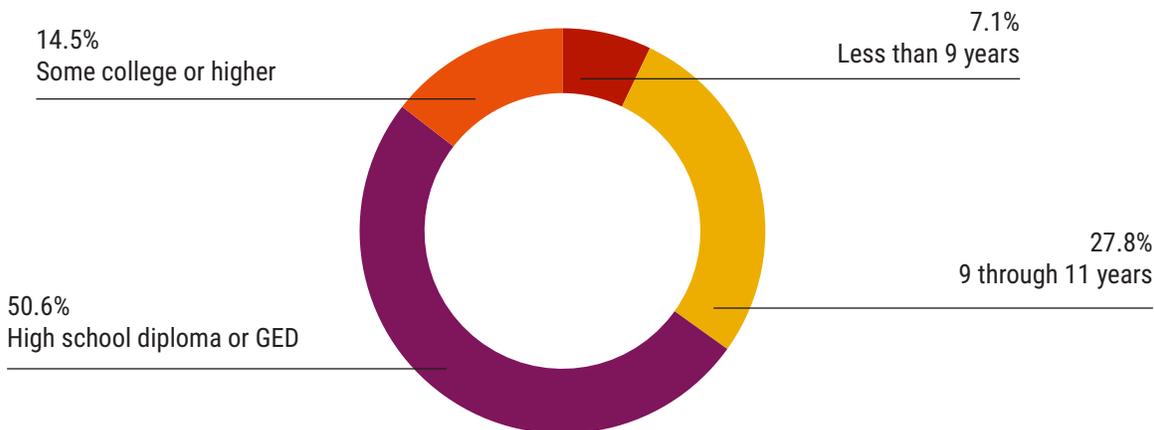
TABLE 1. SELF-REPORTED RACE/ETHNICITY (N=324)

Race or ethnicity	Number
White/Caucasian	287
Black/African American	33
Multiracial	2
Hispanic	1
Asian/Pacific Islander	1

EDUCATION

Figure 3 shows the distribution of educational attainment as measured by number of years of schooling completed. Just over half (50.6%) had a high school diploma and almost 15 % had some college education. Importantly, almost 35% had less than a high school diploma or a GED and 7.1% had even less than 9 years education, thus suggesting limited employment potential.

FIGURE 3. EDUCATIONAL ATTAINMENT (N=324)



EMPLOYMENT

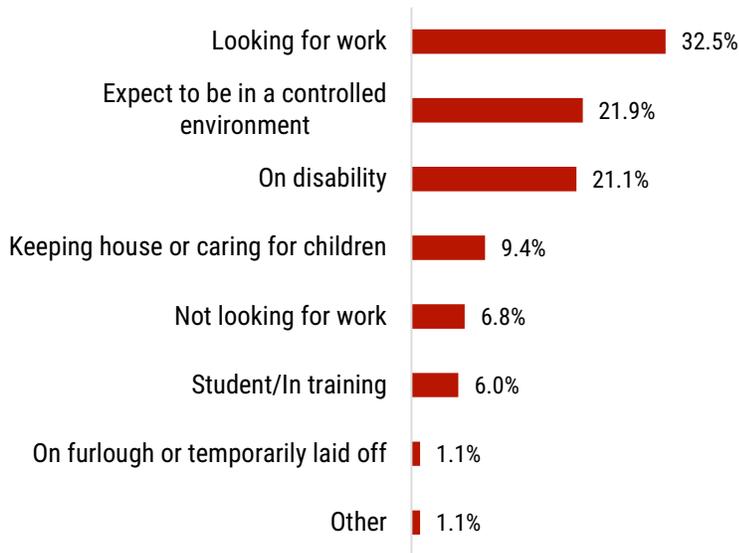
Table 2 shows the ASW clients’ employment status at the time of assessment of social service needs. Almost 80% were unemployed at the time of assessment but only 30.9% had been generally unemployed in the 12 months before assessment. During the 12 months before ASW assessment, 30.9% reported having been unemployed and 16% had been on disability. Interestingly, only 2.2% report having been in a controlled environment (residential facility, jail, prison, hospital) for most of the past 12 months and thus, being unable to work. Among the 42.2% who had some form of employment during the 12 months before the ASW assessment, almost half (19.4%) had held full time jobs.

TABLE 2. CURRENT EMPLOYMENT AND EMPLOYMENT IN THE PAST 12 MONTHS BEFORE ASSESSMENT (N=324)

Current employment	
Unemployed	79.0%
Full-Time	8.0%
Part-Time	7.7%
Irregular, seasonal	5.2%
Usual employment in past 12 months	
Unemployed	30.9%
Full-Time	19.4%
Part-Time	15.1%
Irregular, seasonal	7.7%
Homemaker or caregiver	4.9%
Student	3.7%
On Disability	16.0%
In a controlled environment	2.2%

Figure 4 shows that among the ASW clients who were unemployed for most of the past 12 months, 32.5% are currently seeking employment and only 6.8% are in situations where they are available to work and yet are not seeking employment. Also among those not in a position to seek employment were the 21.1% who were on disability and the 21.9% of clients who were in some form of controlled environment.

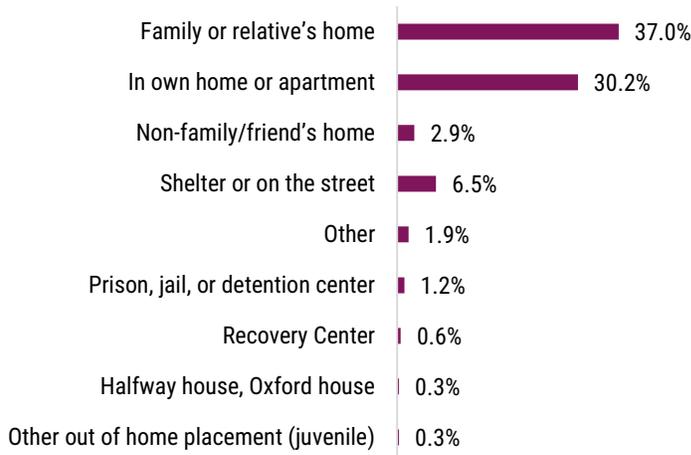
FIGURE 4. CURRENT EMPLOYMENT EXPECTATIONS AMONG THOSE WHO WERE NOT EMPLOYED AT THE TIME OF THE ASW ASSESSMENT (N=265)



LIVING ARRANGEMENTS

Figure 5 below shows that in the 12 months before their latest incarceration 37% of ASW clients lived in family or relatives’ homes while 30.2% lived in their own homes or apartments. Looking forward, 34.9% of clients also reported that they would likely be homeless once released from jail unless they had an alternative sentencing plan in place.

FIGURE 5. LIVING SITUATION IN THE 12 MONTHS PRIOR TO THIS INCARCERATION (N = 324)



34.9%
At risk for being homeless
if no ASW plan in place

HEALTH AND BEHAVIORAL HEALTH

Figure 6 shows the self-reported physical health problems of ASW clients at the time of assessment of service needs. The high percent of clients reporting a history of head injury is noteworthy as a possible contributing factor to employment problems and other behaviors that can affect criminal involvement. Over one-third (36.7%) also reported some chronic health problem and 21% reported having chronic non-malignant pain.

FIGURE 6. SELF-REPORTED PHYSICAL HEALTH PROBLEMS AT ASSESSMENT (N=324)

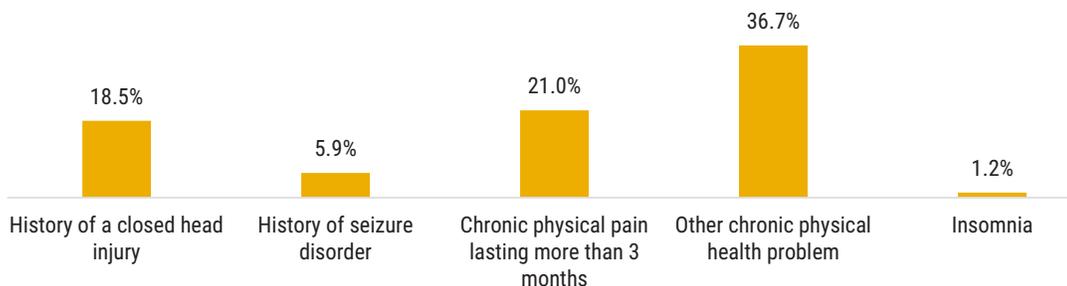
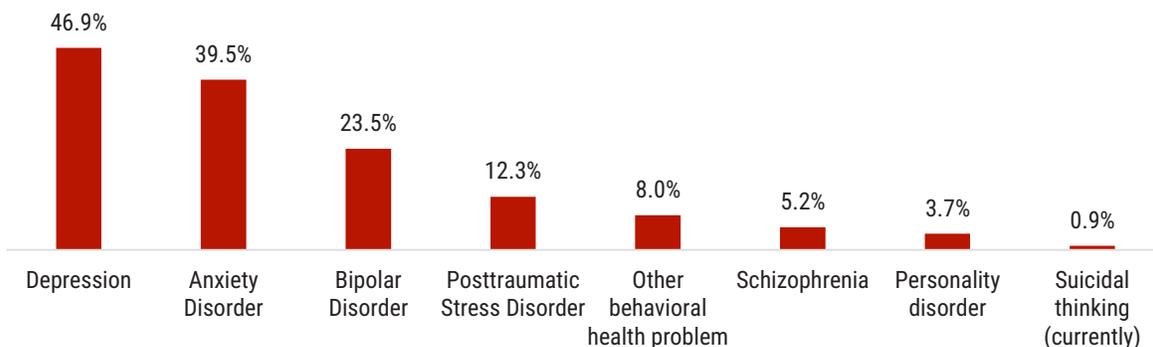


Figure 7 shows that nearly half (46.9%) of the clients reported having been told by a professional that they have depression and nearly the same percent reported having an Anxiety Disorder (39.5%). Surprisingly, almost one-fourth (23.5%) also reported having Bipolar Disorder - a diagnosis that is over-applied in many clinical settings. Only 5.2% reported having Schizophrenia and even fewer had been told they have a Personality Disorder (3.7%). Over ten percent (12.3%) reported having been told they had Posttraumatic Stress Disorder (PTSD) and 8.0% reported having some other behavioral health problem. Less than one percent reported currently having suicidal thoughts.

FIGURE 7. SELF-REPORTS OF DIAGNOSED BEHAVIORAL HEALTH DISORDERS (N=324)



Individuals are screened for self-reported disabilities and Figure 8 below shows that only 2.5% of the SFY 2014 clients reported having physical disabilities, although 22% reported various types of learning disabilities. Almost 8% reported having intellectual disabilities.

FIGURE 8. TYPES OF DISABILITIES (N=324)



VICTIMIZATION EXPERIENCES

Figure 9 below shows the percent of clients reporting some form of victimization. A surprisingly high percent (39.6%) reported having been the victim of physical violence in the past and 29.6% reported having been subjected to sexual violence and 41.1% reported having been psychologically abused.

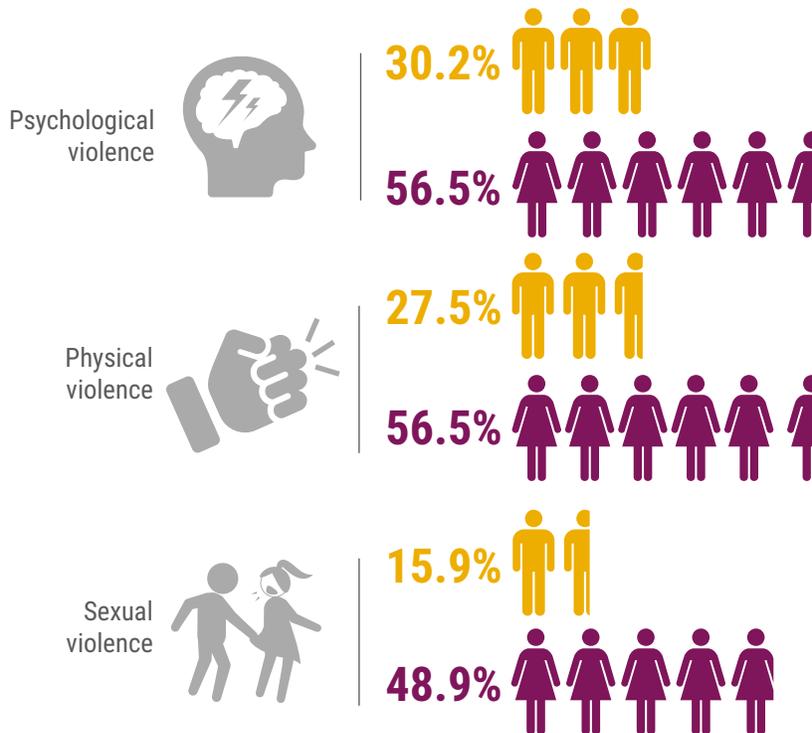
FIGURE 9. PERCENT OF CLIENTS WITH SELF-REPORTED VICTIMIZATION EXPERIENCES (N=321)¹



¹Three clients had missing data for these variables

When victimization experiences are examined by gender, important differences emerge. Figure 10 shows the difference is most evident with sexual violence victimization where 48.9% of women but only 15.9% of men reported having been victims of sexual violence. However, consistent with other research findings, women clients report more victimization experiences across all types.

FIGURE 10. SELF-REPORTED VICTIMIZATION BY GENDER (N=321)¹



¹Three clients had missing data for these variables

SUBSTANCE USE

One of the key target programs for the Alternative Sentencing Worker Program is substance use. Table 3 shows that among the clients, heavy reports of substance use were the norm. Clients were interviewed about their use of substances during the 30 days prior to their last incarceration. Almost half reported using alcohol in that 30-day period and 31.5% used alcohol to intoxication. Consistent with other substance abuse research in Kentucky, almost the same percent of clients (43.5%) reported using opioid in the same 30-day period – even greater than the 42.9% percent who reported marijuana use. While heroin use has been reported as increasing in certain areas of the state, in SFY 2014, the percent of clients reporting heroin use was comparatively low at 13.9%. Also, consistent with other research on drug use in Kentucky, very few

clients reported using hallucinogens (2.8%), inhalants (1.9%), barbiturates (3.1%), and designer drugs (such as bath salts) (3.7%).

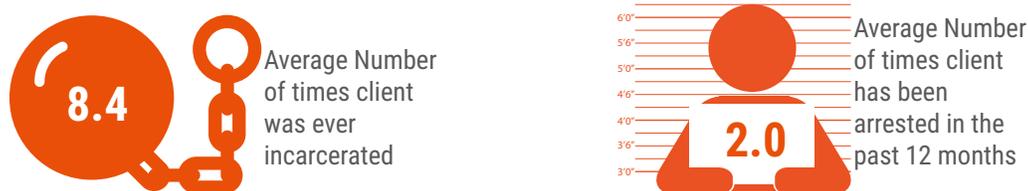
TABLE 3. SELF-REPORTED SUBSTANCE USE IN THE LAST 30 DAYS ON THE STREET (N=324)

Type of substance use	Percent
Alcohol	46.0%
Alcohol to Intoxication	31.5%
Opioids (prescription analgesics)	43.5%
Marijuana	42.9%
Stimulants (including methamphetamine and amphetamine)	35.2%
Sedatives, Hypnotics, Tranquilizers	26.9%
Cocaine/crack	15.4%
Heroin	13.9%
Methadone	12.3%
Designer Drugs (bath salts)	3.7%
Barbiturates	3.1%
Hallucinogens/Psychedelics	2.8%
Inhalants	1.9%

INVOLVEMENT WITH THE CRIMINAL JUSTICE SYSTEM

One of the other target problems of the Alternative Sentencing Worker Program is chronicity of involvement in the criminal justice system. Figure 6 shows that clients self-reported an average of 8.4 lifetime incarcerations, thus suggesting a very high rate of recidivism risk. In addition, they reported an average of two incarceration episodes in the past 12 months. Not shown in Figure 11 is the additional finding that only 4.3% had any history of sex offenses and none were deemed violent offenders.

FIGURE 11. NUMBER OF TIMES CLIENTS HAVE BEEN INCARCERATED (N=324)



To assess, in detail, the charges at the time of assessment and at the one-year follow-up on what happened following a court acceptance of an alternative sentencing plan, we examined a random sample of 50 clients. For the follow-up sample of 50 individuals, we found that they were before the court on a total of 140 charges. Figure 12 shows that the individuals were charged with 66 felony offenses (of which 42 were Class D felony charges), 48 misdemeanors, 7 violations (to determine if fine should be imposed), and 19 revocation (to determine if suspended time should be imposed) charges.

FIGURE 12. SUMMARY OF CHARGE BEFORE THE COURT AT THE TIME OF ASSESSMENT (N=50)



Addendum B should be consulted to examine the complete list of charges for the 50 clients in the SFY 2014 follow-up sample.

Service Recommendations to the Courts

SERVICE NEEDS RECOMMENDED TO THE COURT

Table 4 shows the distribution of the most pressing service needs for the 324 ASW clients at the time of plan submission to the courts. To arrive at an estimate of client needs for services to include in the recommendations to the court, the needs assessment process identified a primary target for most immediate attention and then secondary targets for further attention once the problems in the primary area have been addressed. A primary program target is one recommended to the court as a pressing need that would be the focus of the first array of services for clients following court approval of alternative sentencing plans. The secondary suggestions were ones that would follow after the first service needs had been addressed. Consistent with the problems that were self-reported by the clients, substance abuse treatment was the overwhelmingly most identified primary service need with 86.1% of cases getting this recommendation. In addition, substance abuse treatment was also identified as a secondary service need for another 5.6% of clients. The second most cited primary service need was mental health care with 32.4% of clients needing that service as a primary concern given the likelihood of co-occurring mental health and substance use disorders.

TABLE 4. PRIMARY AND SECONDARY SERVICE NEEDS (N=324)

Target needs	Primary	Secondary
Education	1.5%	19.1%
Employment assistance (vocational rehab)	2.8%	41.7%
Housing assistance	8.6%	26.9%
Mental health treatment	32.4%	28.4%
Substance abuse treatment	86.1%	5.6%
SNAP (food stamps)	0.7%	8.0%
Getting social services or disability	0.9%	2.2%
Sex offender treatment	1.9%	0.3%
Intellectual disabilities and developmental disabilities services	0.9%	0.6%
Disability	1.2%	4.9%
Social services (nutritionist)	0.0%	0.6%
Social services (community agencies)	2.5%	18.8%
VA hospital	0.3%	0.9%
Committed to Cabinet - Permanency and protection (guardianship)	0.9%	0.3%
Other	5.6%	6.2%

Program Costs and Cost Offsets

Return on Investment Method

The evaluation of cost/benefit remains central to the overall evaluation of the effects of public policies. Central to the ASW Program's success is its return to the public in the form of cost savings. At least since 2011, Kentucky policy makers have been examining ways to reduce the costs of unessential incarceration of individuals whose crimes were mostly a result of substance abuse or mental illness. A variety of steps have been taken to lower the number of persons in state and local facilities and the ASW Program plays a role in achieving this state objective. The ASW Program arose during the policy debates around incarceration costs and it responds to the perceived need for diverting individuals into community services rather than merely warehousing them in correctional facilities – particularly when their primary problems are substance abuse and mental illness. Thus, while the ASW Program gets people to the services they need, it also results in reducing incarceration costs.

The method used for estimating the cost savings evaluated the effects of the ASW Program on incarceration time for the individuals who were clients in the ASW Program. The target for the ASW was two-fold: (1) to reduce the cost of unessential incarceration (i.e., not incarcerating nonviolent offenders with drug or related charges); and (2) to engage individuals in community-based services that might reduce their likelihood for future incarceration.

The basic method for this evaluation of return on investment was to examine the likely incarceration costs of sentences in the absence of the ASW Program and then to examine the actual days the ASW clients were incarcerated during the program year.

Sentencing and Incarceration in the 12 Months Following Alternative Sentencing Plan Acceptance

For examining charges and incarceration, a random sample of 50 clients (15.4%) was taken from the 324 ASW clients from SFY 2014. Of the 50 clients, 28 were sentenced to prison terms, 21 faced jail terms, and one client was a 14-year old minor who was referred back to the Court Designated Worker by the court with no time sentenced. Another client's case was dismissed, thus 48 of the 50 faced likely incarceration time for much if not all of the 12 months post adjudication.

Table 11 shows the actual sentences handed down by the courts for the ASW clients during SFY 2014. These sentences reflect the likely time ASW clients would serve in jail or prison in the absence of an alternative sentencing plan.

The sentences included prison terms either expressed in years or months or jail terms but, for analysis, all sentences were converted to incarceration days. Combined, sentencing for the random sample of 50 ASW clients added up to a total of 44,400 days in jail or prison for a per client average of 888 days or 2.4 years.

To estimate the cost of incarceration, a conservative per diem amount was used based on a recommendation by the Governor's Office of the State Budget Director. Since most individuals sentenced to prison for low-level felonies serve their time in local jails (See 501 KAR 2:040, 501 KAR 2:060, and KRS 532.100), the standard jail per diem rates were used instead of the state institution rate. An average jail per diem rate of \$37.42 was developed from the average of two county jail CTI per diem rates (\$32.92 for jails without a Substance Abuse Program (SAP) and \$41.92 for jails with a SAP) for SFY 2014 (Department of Corrections, Cost to Incarcerate – FY14). This lower-end rate was considerably less than the average state institution rate of over \$60.

Figure 13 reflects the likely cost of incarceration for full terms (an average of 2.4 years) had the clients not been granted alternative sentencing plans. Thus, if the 50 clients in this follow-up sample had served the terms for which they were sentenced, the total cost over time would be \$1,661,448 or an average of \$33,229 for each client.

FIGURE 13. SENTENCING AMOUNTS AND COST OF INCARCERATION BY TYPE OF INCARCERATION (N=50)



Since this project examines ASW clients for a one-year follow-up period to estimate the near-term savings reductions for the state and county governments, all costs were adjusted to the 12-month period following plan acceptance by the courts. Thus, the examination of incarceration costs must be focused on the amount of time that could be served during the 12 months from the date of the alternative sentencing plan being accepted by the courts.

Figure 14 summarizes the costs of incarceration within the 12 months of follow-up from the date of alternative sentencing plan acceptance. Under this analysis, the 50 clients would have cost the state or county governments \$561,450 for the year, or \$11,229 per person, had an alternative sentencing plan not been approved. *These are costs over the 12-month period that the state and local governments would have incurred in the absence of the Alternative Sentencing Worker Program.*

FIGURE 14. SENTENCING AMOUNTS AND COST OF LIKELY INCARCERATION BY TYPE OF INCARCERATION ADJUSTED TO THE 12 MONTHS POST ALTERNATIVE SENTENCING PLAN ACCEPTANCE BY THE COURTS (N=50)



Figure 15 shows the number of days actually incarcerated by the follow-up random sample. The total cost of incarceration 12 months after the alternative sentencing plan acceptance was \$79,742. Of the 2,131 incarceration days, 137 were due to clients having to wait in jail for a bed in a community residential facility. The average per-client cost of actual incarceration for the 50 randomly selected clients for the 12 months following plan acceptance by the courts was \$1,595.

FIGURE 15. NUMBER OF DAYS ACTUALLY INCARCERATED IN THE 12 MONTHS SINCE PLAN ACCEPTANCE BY THE COURTS (N=50)



Return on Investment

The public policy driving the development of the Alternative Sentencing Worker Program is embedded in the spirit of 2011's HB 463 and its call for reduced incarceration costs. This project accepted that call and incorporated it into public defender actions on behalf of individuals charged with crimes that can be best addressed by community services instead of incarceration. This report examines all the costs of the program in relation to the likely costs to state and local governments in the absence of the program.

Figure 16 shows the average costs per client for what the 12 months' worth of incarceration sentenced time would have cost the state and local governments (\$11,229) in the absence of an alternative sentencing plan. Next, the table shows the average per client cost of actual time served (\$1,595). This means that the courts' approval of the alternative sentencing plans resulted in an average savings of \$9,634 per client in the ASW Program for SFY 2014. When the program cost is shown in relation to the cost savings from reduced incarceration time, the result can be expressed as a 1 to 5.66 ratio. In other words, there is a return on investment of \$5.66 for each \$1.00 spent on the ASW Program.

FIGURE 16. INCARCERATION COSTS AS AVERAGES PER CLIENT (N=50)



Other Costs

The ASW Program is grounded in 2011's HB 463 which set forth a mandate to reduce the costs of incarceration. The entire mission of the ASW Program is, therefore, aimed at using community-based services in lieu of correctional facilities. This evaluation clearly shows that the program does in fact greatly reduce incarceration costs. Some may be concerned that the program involves other costs due to the use of those community-based services. The kinds of costs for community-based services are typically supported by the state's Substance Abuse Prevention and Treatment (SAPT) Block Grant from the Federal Substance Abuse and Mental Health Services Administration (SAMHSA). In addition, under the Affordable Care Act and companion changes in Federal Medicaid Guidelines, many of the community treatment services are now covered by Medicaid at a 90% Federal cost-share basis. Thus, to the extent that some costs are shifted from incarceration to community services, the burden for those costs shifts mostly from state to federal sources. The burden on Kentucky taxpayers is greatly reduced.

Conclusion

Overall Effectiveness

While this evaluation has highlighted the cost incentives for continuation or even expansion of the ASW Program, there are other reasons for supporting the program. First, it has long been known that incarceration does nothing to change people's substance use disorders. Substance use disorders are acquired diseases like Type 2 Diabetes and there is nothing about incarceration that addresses the fundamental features of addiction. Thus, the use of community-based services is far more likely to result in changes in the management of addictive disorders than will jail or prison time. Second, it is a more humanitarian way of dealing with a complex social-psychological-economic problem. Third, it adds a useful component to what is now the predominant approach to clearing cases – the use of plea deals. The ASW adds more value to the plea process for clients and the state.

Thus the ASW Program results in significant cost-savings for the state and better outcomes for persons arrested on drug related charges or charges arising due to mental health problems. The program in SFY 2014 returned \$5.66 in savings for every \$1.00 in program cost. Thus, viewed as a return on investment, the program has achieved one of the major aims of the Justice and Public Safety Cabinet.

Limitations

This report on the outcomes of the Alternative Sentencing Worker Program was developed from data collected by the Kentucky Department of Advocacy staff using interview data from clients and data from the Kentucky Department of Corrections and the Kentucky Administrative Office of the Courts. Client self-reports may be biased, although previous research suggests bias is least evident when information is revealed in confidential relationships. In addition, this report is dependent on the accuracy of the official incarceration data from the Kentucky Department of Corrections, Kentucky Administrative Office of the Courts, and data from local jails. However, both client self-reports and official incarceration data have been widely used to analyze criminal justice policy outcomes.

Recommendations

The return on investment that is suggested by this study supports the idea of continued expansion of the Alternative Sentencing Worker Program into all districts in the state. In SFY 2016, several new positions were funded, bringing the number of ASW positions to 45, thus greatly expanding availability of these services to many more judicial districts. Policy makers should examine ways to foster greater development of community-based services that can be used as alternatives to incarceration. The seventeen Recovery Kentucky Centers certainly represent an important step in the right direction, but more services are needed. The successful reduction of persons serving time in jails and prisons will require some further investment in community services.

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Addendum A

Client Vignettes

“WILLIAM”

William is a 25 year old, separated male. The DPA ASW interviewed William in the county jail. He was charged with Trafficking in Controlled Substance and Trafficking in Marijuana. He was not from the local area and had no support. He was homeless and had been kicked out of the local shelter for substance use. During the interview William expressed how much he had hoped to return to his home town, which was very far away. He had only limited opportunities there but he thought familiarity with the area would help him get on the right path. He was very forthcoming about his addiction, and expressed much gratitude having the opportunity to have his story heard. William had hopes of getting the much needed help that he had never been offered. He had very specific goals for himself, all of which he felt were attainable if given the opportunities. He asked for long-term treatment so he could be well prepared upon leaving the facility. The Judge agreed to the alternative sentencing plan and Roger entered a short-term treatment facility first. He completed this program successfully and then went directly into long-term treatment. He remains in long-term treatment where he holds a job, is furthering his education, and has independent housing. He hopes to continue being successful upon leaving the long-term facility as he has been given the skills and resources to do so.

“DARIN”

Darin is a 25-year-old male who was incarcerated at the Adair Regional Jail for charges of Burglary 2nd Degree and Persistent Felony Offender. He was likely facing 8 years prison time (although he could have received a 20 year sentence). Darin had lived in his home county all of his life. He was raised by both of his parents and they were still married. He reported trauma that he had experienced through car wrecks. The highest grade that Darin reported to have completed was the 8th grade. He was married and had 2 daughters (age 2 & 7). Darin was a hard worker and when not incarcerated he always had a job. He did not report having any medical or mental health issues. But Darin was addicted to methamphetamine and it had taken control of his life. He smoked 1 gram of methamphetamine daily. He would also abused opioids and marijuana on a regular basis. Darin accepted a plea to serve 180 days and then complete a long term recovery program. On March 2, 2015 Darin went to The Healing Place in Campbellsville, Kentucky and completed the program.

“ANDREW”

Andrew is a 24-year-old male who was incarcerated in a county detention center. He had violated his probation from a circuit court in a nearby county. Andrew grew up living with his mother, but he had no relationship with his father. The highest grade he had completed was the 8th grade. He was attending GED classes at the time of the ASW assessment. Andrew had previously been diagnosed with Attention Deficit Hyperactivity Disorder as a child. He did not report any other mental health problems. His only medical issues were pain from a series of accidents. Andrew had a history of intravenous drug use and he was addicted to OxyContin, Suboxone, methamphetamine, and marijuana. He was only 15 years old when he first took a Suboxone. Andrew said, “I have been battling the needle for 7 years”. He had not been to any type of substance abuse treatment before. He had dreams of getting clean, getting out of his home town, and hopefully joining the U.S. Marines. On December 23, 2014 Andrew entered treatment at Addiction Recovery Care.

Addendum B

All Charges for the Follow-up Sample (n=50)

Charge	Misdemeanor	Felony	Violation	Revocation
1110 – Disregarding a stop sign			1 (2.0%)	
1080 – Failure to or improper signal			1 (2.0%)	
3800 – No operators/moped license	1 (2.0%)			
4030 – Operating on suspended/revoked license	2 (4.0%)			
4350 – License to be in possession	1 (2.0%)			
4810 – Failure of owner to maintain required insurance (second offence)	1 (2.0%)			
5060 – Failure to use child restraint device in vehicle			2 (4.0%)	
5190 – Failure to produce insurance card			1 (2.0%)	
7950 – Assault 4th degree (no visible injury)	1 (2.0%)			
7960 – Assault 4th degree (minor injury)	3 (6.0%)			
8030 – Menacing	1 (2.0%)			
8200 – Terroristic threatening, 1st degree		3 (6.0%)		
8220 – Terroristic threatening 3rd degree	1 (2.0%)			
14010 – Criminal mischief 1st degree		6 (12.0%)		
14130 – Violating graves		1 (2.0%)		
16050 – Loitering for prostitution purposes (second offence)	1 (2.0%)			
16060 – Loitering for prostitution purposes (first offence)			1 (2.0%)	
17090 – Sexual abuse, 3rd degree	2 (4.0%)			
17540 – Indecent exposure 2nd degree	1 (2.0%)			
21110 – Operate motor vehicle under influence of alcohol/drugs, .08, aggravator, second offence	1 (2.0%)			
21120 – Operate motor vehicle under influence of alcohol/drugs, .08, third offence	1 (2.0%)			
21130 – Operate motor vehicle under influence of alcohol/drugs, .08, aggravator, 3rd	1 (2.0%)			
23010 – Alcohol intoxication in public place, third offence or within 12 months	1 (2.0%)			
23030 – Public intoxication in public place, third offence or within 12 months	2 (4.0%)			
23040 – Alcohol intoxication in a public place, 1st and 2nd offence			1 (2.0%)	
23710 – Disorderly conduct, 2nd degree	1 (2.0%)			
26280 – Driving on DUI suspended license, first offence	2 (4.0%)			
26680 – Probation violation (for felony offence)				6 (12.0%)
26800 – Probation violation (for misdemeanor offense)				3 (6.0%)
26910 – Probation violate (for technical violation)				10 (20.0%)
27630 – Violation of KY EPO/DVO	1 (2.0%)			

112210 – Sexual abuse, 1st degree, victim under 12 years of age		2 (4.0%)		
131200 – Assault, 3rd degree (EMS, fire, rescue squad)		1 (2.0%)		
214410 – False statement, misrepresentation to receive benefits > \$100		1 (2.0%)		
220610 – Burglary, 2nd degree		2 (4.0%)		
220620 – Burglary, 3rd degree		1 (2.0%)		
230390 – Theft by unlawful taking, shoplifting	2 (4.0%)			
232900 – Theft by unlawful taking		2 (4.0%)		
232990 – Theft by unlawful taking, all others	1 (2.0%)			
233010 – Theft by deception, incl. cold checks under \$10,000		1 (2.0%)		
233100 – Theft of identity of another without consent		1 (2.0%)		
250190 – Forgery, 2nd degree		7 (14.0%)		
250620 – Criminal possession of a forged instrument, 2nd degree		1 (2.0%)		
280310 – Receiving stolen property under \$500	1 (2.0%)			
280320 – Receiving stolen property under \$10,000		3 (6.0%)		
381130 – Unlawful transaction with minor, 1st degree, illegal controlled substance, under 16		1 (2.0%)		
418200 – Unlawful possession of meth precursor, 1st offence		4 (8.0%)		
420090 – Illegal possession of legend drug	3 (6.0%)			
420550 – Controlled substance prescription not in original container, 1st	2 (4.0%)			
420810 – Drug paraphernalia	7 (14.0%)			
422010 – Possession of a controlled substance, 1st degree, first offence (drug unspecified)		2 (4.0%)		
422030 – Possession of a controlled substance, 1st degree, first offence, cocaine		1 (2.0%)		
422050 – Possession of a controlled substance, 1st degree, first offence, heroin		2 (4.0%)		
422090 – Possession of a controlled substance, 1st degree, first offence, opiates		1 (2.0%)		
422150 – Possession of a controlled substance, 1st degree, first offence, methamphetamine		2 (4.0%)		
422450 – Possession of a controlled substance, 2nd degree, drug unspecified	3 (6.0%)			
422630 – Possession of a controlled substance, 3rd degree, drug unspecified	3 (6.0%)			
422990 – Manufacturing methamphetamine, 1st offence		1 (2.0%)		
422995 – Comp manufacturing methamphetamine, 1st offence		1 (2.0%)		
423300 – Possession of marijuana	3 (6.0%)			
423650 – Trafficking in illicit substances, 1st degree, first offence (>= 2 gms methamphetamine)		1 (2.0%)		

423660 – Trafficking in illicit substances, 1st degree, 1st offence (< 2 gms methamphetamine)		3 (6.0%)		
423700 – Trafficking in illicit substances, 1st degree, 1st offence (<4 gms cocaine)		4 (8.0%)		
423720 – Trafficking in illicit substances, 1st degree, 1st offence (>= 10 du opiates)		1 (2.0%)		
490100 – Driving motor vehicle while license suspended for DUI, 3rd or greater offense		1 (2.0%)		
702400 – Engaging in organized crime – criminal syndicate		3 (6.0%)		
731010 – Persistent felony offender, 1st degree		4 (8.0%)		
731020 – Persistent felony offender, 2nd degree		2 (4.0%)		
Total	48	66	7	19

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