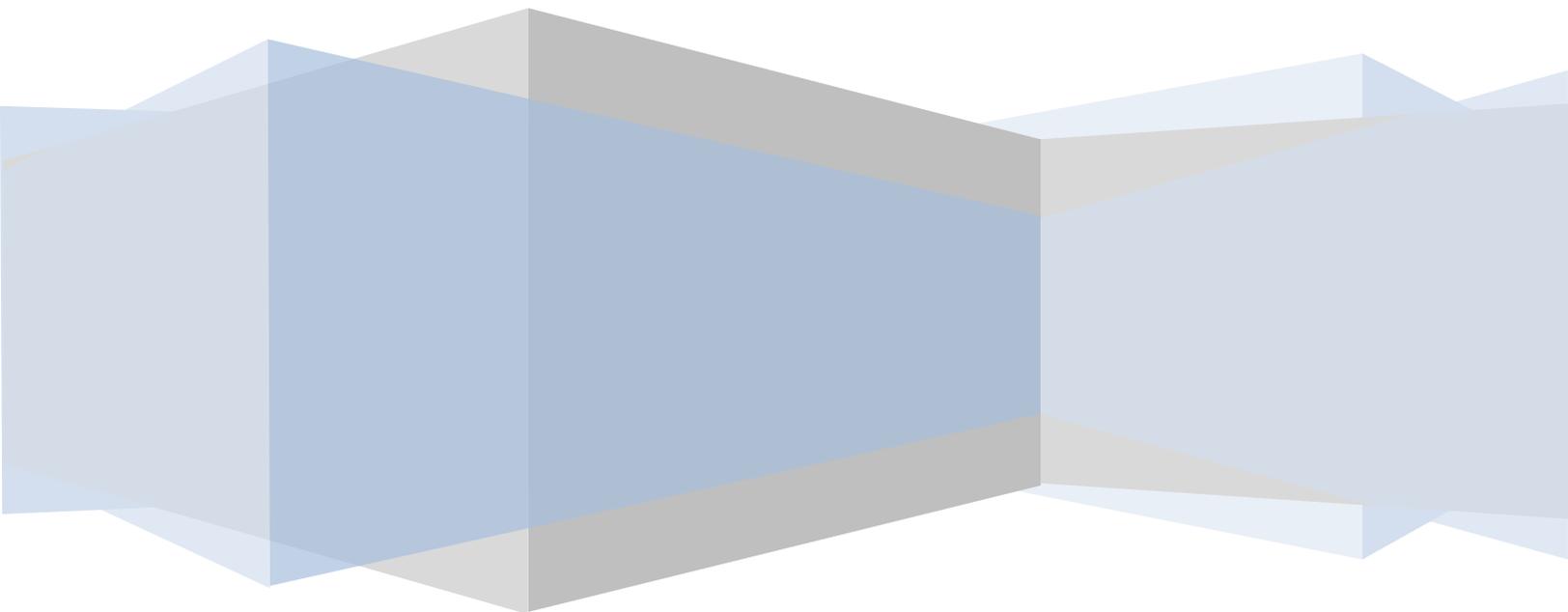




## **Probation- Past, Present, and Future**

**Joe Winkler, Assistant Secretary of Community Corrections  
Florida Department of Corrections**



What would John Augustus think about modern-day Probation? Would he be impressed with current supervision strategies? Where would he think Probation is heading in the future?

John Augustus, a Boston shoemaker, is often credited with being the "Father of Probation" and is recognized as the first true probation officer (Dressler 1970).

Augustus began an 18-year career as a volunteer probation officer, providing supervision and guidance for offenders until they were subsequently sentenced by the court. His belief was the object of the law is to reform criminals and prevent crime. He felt punishment was not the answer (Dressler 1970). Most offenders helped by Augustus were alcohol abusers or minor offenders who were unable to pay their fines (Taxman 2012). Augustus assisted the offenders in finding gainful employment then reported their progress when he was brought before the court during sentencing (Allen 2015).



**John Augustus**  
*"Father of Probation"*

Augustus was credited with creating three fundamental concepts of probation: the investigation process, supervision, and guidance (intake). Augustus, who kept detailed notes on his activities, was also the first to apply the term "probation" to his method of treating offenders (Moreland 1941).

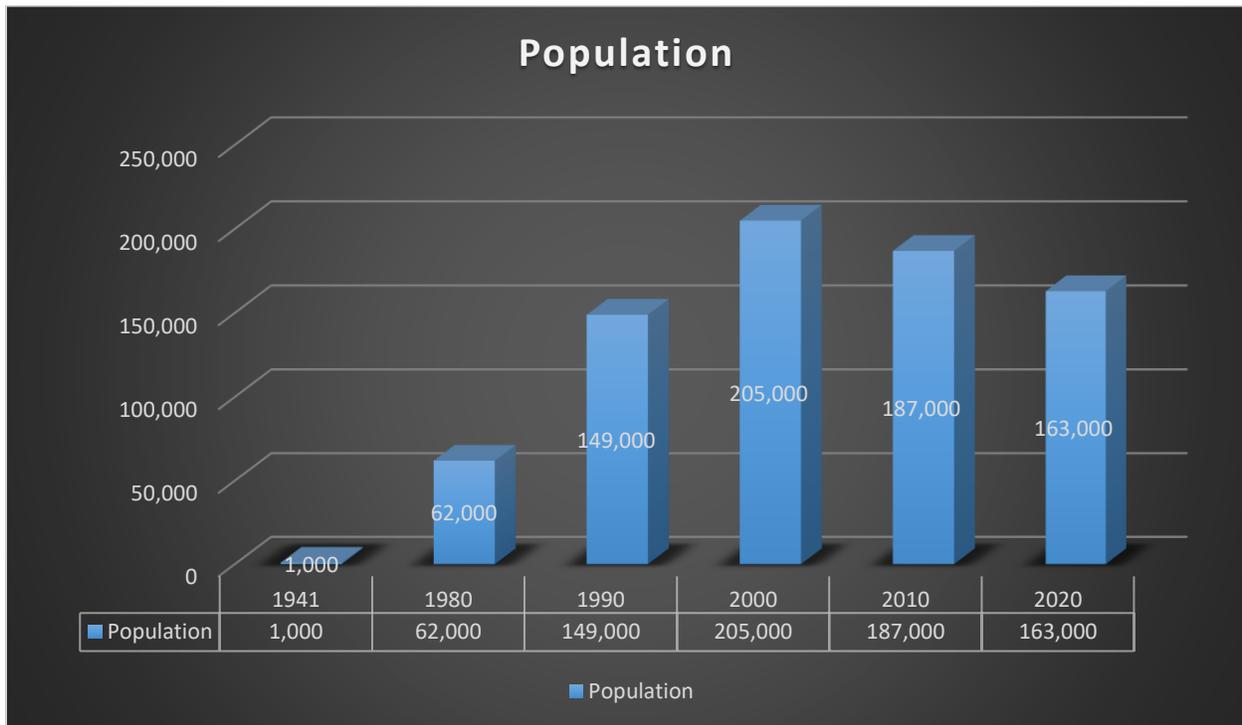
It is no surprise that Augustus's home state of Massachusetts was the first to pass a probation statute in 1878. By 1956, all 50 states and the federal government adopted juvenile and adult probation laws (Petersilia 1997).

As probation continues to be the best return on investment when dealing with individuals who commit a crime, Augustus would probably be very impressed with the evolution of probation and where it is heading in the future. Probation officers throughout the country monitor individuals under supervision to ensure they are complying with their conditions of supervision. Florida is no exception. In January 2020, Florida's offender population surpassed 163,000 adult, felony offenders supervised in the community. Past practices have been successful, but Florida is working to evolve and improve supervision techniques by using new and existing technology. To better understand the evolution let's look at Probation- the Past, Present, and Future.

### **Past**

In 1941, an amendment to the Florida Constitution created the Florida Parole and Probation Commission. The Commission was given the responsibility of granting parole, supervising probationers and parolees, as well as providing investigative services to the Courts. The Commission paroled 625 individuals from the state prison system during the first full year of operation. During the same period, the courts placed 335 individuals on probation. By 1980,

Florida was supervising approximately 62,000 offenders and in 2000 reached an all-time high of 205,000 offenders.



FDC Bureau of Research and Data, 2020

Just as the numbers have changed, the general philosophy has changed from correcting behavior to zero tolerance to providing resources to help offenders become more productive citizens. No matter the philosophy, probation officers continually rise to the challenge. In the early years of probation in Florida, emphasis was placed on correcting offender behavior and creating programs for inmates being released from prison. Non-discretionary programs were designed to provide a seamless re-entry back into the community for releasing inmates.

However, in 2004, the pendulum swung the other way as a series of events changed Florida's philosophy on supervising offenders and reporting non-compliance.

On February 1, 2004, probationer Joseph Smith, abducted 11-year-old Carlie Brucia from a car wash near her home in Sarasota, Florida. The kidnapping case became famous after a surveillance video showing Brucia surfaced. The video, taken from a security camera located behind a car wash, showed Brucia being confronted by a man, later identified as Smith, who then grabbed her arm and led her away toward a car. The video was shown nationwide and spurred a massive manhunt for the abductor (Young 2020). Smith was later arrested, convicted of 1<sup>st</sup> Degree Murder, Kidnapping, and Capital Sexual Battery and sentenced to death.

Months later, probationer Troy Victorino along with three other men broke into a home in Deltona, Florida then bludgeoned six victims to death in the bloodiest mass murder in Volusia

County history (Balona 2008). The four attackers tortured and killed four men, two women, and a dog inside the home during the Deltona Massacre (commonly referred to as the "Xbox Murders").

Victorino, the ringleader of the attack, was on probation when the murder took place. At the time, state law allowed, but did not require, probation officers to arrest offenders like Victorino for violation of probation as he was arrested days earlier on a separate assault charge. When Victorino reported to the probation office, the probation officer decided to let Victorino leave without arresting him for a violation of probation and would seek a warrant the following day. This allowed Victorino to remain free in the community and the opportunity to commit the killings (Caldwell 2004).

In response to the Deltona Massacre, the Florida legislature proposed a bill that would add additional "risk-to-public" hearings for probation violators with violent histories. Senate Bill 146 was passed on February 23, 2007, requiring the Florida Department of Corrections to develop a system for identifying offenders who meet the new designation, "violent felony offenders of special concern." Offenders who meet the criteria cannot be released from jail until a Judge determines and makes a written finding as to whether the offender is a danger to the community (Dockery 2007). If determined to be a danger to the community, the violator may have his/her probation revoked and be sentenced up to the statutory maximum or longer, as permitted by law.

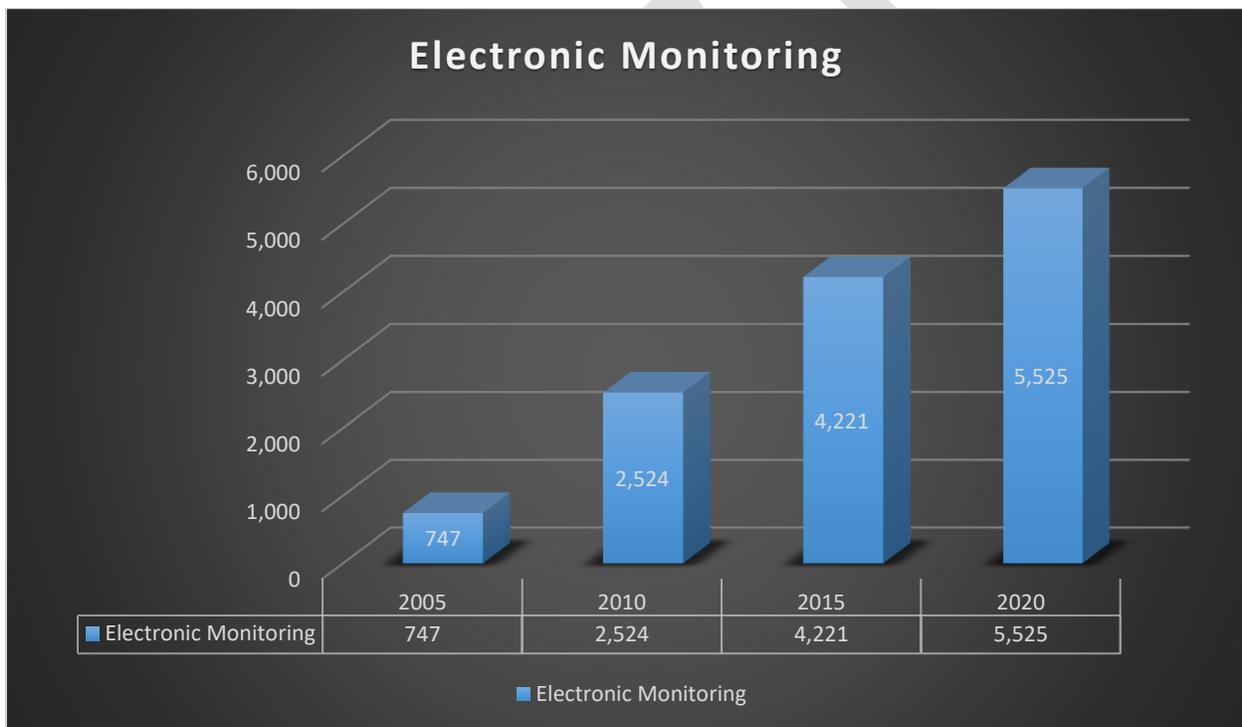
Additionally, the Department implemented a zero-tolerance policy requiring stricter reporting of non-compliance for technical violations. The Department became more aggressive in conducting warrantless arrests on offenders who were a threat to the community or who have a history of violence. The number of warrantless arrests quickly increased as offenders were being arrested for minor technical violations thus clogging the court system and slowly eroding the Department's reputation.

Then in 2005, another event occurred that once again garnered national media attention when a nine-year-old named Jessica Lunsford was abducted from her home in Homosassa, Florida. Immediately after Jessica was determined missing, authorities including probation officers started searching for her. Within days, sexual offender John Couey was discovered in Georgia and confessed to abducting, raping, and burying Jessica alive. Couey, a long-time resident of Homosassa, was a convicted child sex offender with an extensive criminal record, including dozens of arrests for burglary. Due to the laws at the time, Couey received only short sentences and was not monitored after release, despite his record of being a prolific trespasser and his repeated sexual offenses against children (Bell 2007).

Following her death, Jessica's father, Mark Lunsford, pursued new legislation to provide more stringent tracking of released sex offenders (Rumenap 2021). The Florida Legislature responded to this crime by enhancing penalties for sexual crimes against children through the Jessica Lunsford Act (JLA), which took effect September 1, 2005. The JLA modified practices by requiring:

- the sentencing authority to order mandatory electronic monitoring for certain sex offenders;
- the development of a graduated risk assessment system to monitor sex offenders placed on supervision;
- information to be provided on the Florida Department of Law Enforcement’s Criminal Justice Intranet, and;
- the Florida Department of Corrections to have fingerprint reading equipment in each probation office.

The impact has been significant as the number of offenders who are statutorily required to be placed on electronic monitoring have increased from 747 in 2005 to 5,525 in 2020.



FDC Bureau of Research and Data, 2020

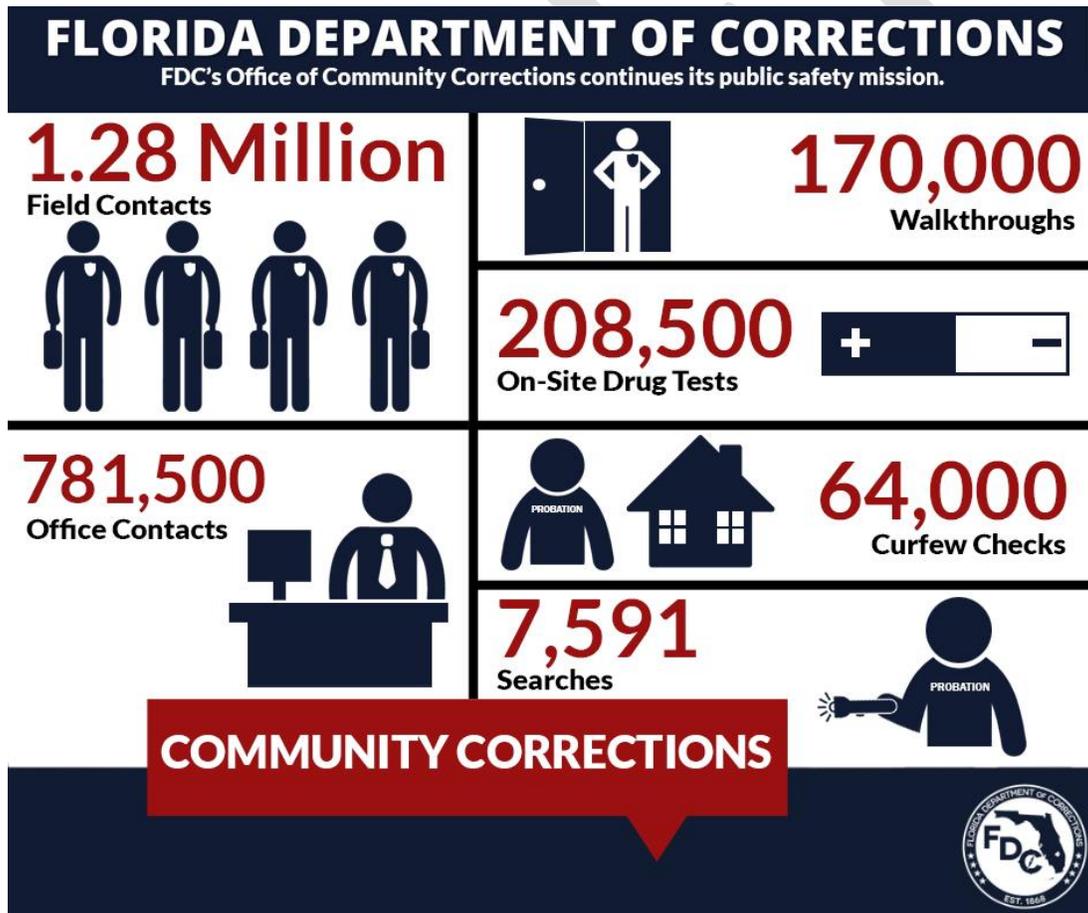
Additionally, "Jessica's Law" refers to similar reform acts initiated by other states designed to protect potential victims and reduce a sexual offender's ability to re-offend. A version of Jessica’s Law was introduced at the federal level in 2005; however, it was not enacted into law by Congress. Currently, forty-six states have introduced such legislation since Florida's law was passed (Rumenap 2021).

**Present**

While the role of a probation officer may have changed through the years the overall mission remains the same, ensure safety to the public. Current practices require probation officers to wear many hats. The ability of the officer to change hats can be vital to an offender’s success. If

probation officers in Florida were asked to spend five minutes writing down the role of a probation officer, the majority would agree to protect the public is at the top of the list. The answer is easy and is consistent with the Community Corrections Mission Statement and consistent with mission statements of other probation agencies throughout the country. The answer gets complicated when you ask probation officers how they protect the public. In Florida, probation officers protect the public using four techniques: monitoring and enforcing conditions of supervision; providing tools and resources to offenders to help them not only successfully complete supervision, but to become more productive citizens; using incentive programs when appropriate; and using discretion when reporting minor technical violations.

The first role in protecting the public is by monitoring and enforcing those conditions of supervision then reporting on willful non-compliance in a manner determined most appropriate by the probation officer and supervisor. Florida probation officers do just that, each year they conduct numerous contacts with offenders. Every contact is important and is one more opportunity in ensuring the offender is complying with their terms of supervision.



FDC Bureau of Research and Data, 2020

Almost every week an example of protecting the public is presented from the field. Recent examples should make every probation officer in the country proud.

### **Condition Compliance**

In March 2019, probation officers from the Inverness Probation Office conducted a warrantless planned search at an offender's residence. During the search, probation officers located a small amount of marijuana in the residence. Feeling something wasn't right, the officers contacted the Citrus County Sheriff's Department for assistance with the search. A search warrant was signed, and the search resumed. Officers then located multiple firearms, over one pound of methamphetamine, three grams of heroin, one milliliter of fentanyl, twelve grams of cocaine, and four grams of marijuana. The offender was subsequently arrested on multiple charges including violation of probation. In a press release, Citrus County Sheriff Mike Prendergast stated there was enough fentanyl found to kill over a thousand people. Additionally, he stated it was the biggest methamphetamine bust in Citrus County history and if it were not for probation officers it may have never happened (Prendergast 2019).

Three months later, the same office was at it again. During the search, probation officers located a small quantity of narcotics in the residence. Feeling something wasn't right again, the officers contacted the Citrus County Sheriff's Department for assistance with the search. A search warrant was signed, and the search resumed. Officers then located 167 grams of methamphetamine, 100 grams of cocaine, 1,000 prescription narcotic pills, 60 ecstasy pills, and 34 pounds of marijuana. Once again, the offender was subsequently arrested on multiple charges including violation of probation. In a press release, Citrus County Sheriff Mike Prendergast stated it was the biggest drug bust in Citrus County history seizing illegal drugs with a street value of over \$970,000 (Prendergast 2019).

Another recent example of Florida probation officers protecting the public occurred in July 2020 when officers from the Titusville Office became suspicious of the actions of an offender during a warrantless planned search. The offender was initially observed sitting on the couch eating a hamburger meal out of a take-out restaurant box. The probation officers began their search, each taking a different area of the home. During the search, a probation officer located a half-eaten hamburger laying on the offender's bed in the same type of take out box the offender was eating out of while sitting on the couch. The probation officer then heard a noise coming from the closet in the room she was searching and found an underage child hiding in the closet. The offender, a sexual predator was then arrested for violation of conditional release.

Protecting the public also includes protecting the offenders under supervision. Recently, a Florida probation officer conducted a home visit on an offender to ensure they were complying with their supervision and as a result, the probation officer performed actions that potentially saved the offender's life. In April 2020, a probation officer from the Ft. Myers Probation Office went to the home of an offender on supervision. As she arrived the offender's mother informed the probation officer the offender had become unresponsive in a locked bathroom. The probation officer made entry into the bathroom, then found the offender unresponsive on the

floor. She also observed a syringe, a pill, and a spoon. The probation officer told the offender's mother to call 911 while she performed cardiopulmonary resuscitation (CPR) on the offender. By the time Emergency Medical Services responded the probation officer had revived the offender.

### **Providing Resources**

Florida probation officers protect the public by providing resources to offenders to help them not only successfully complete supervision, but to become more productive citizens. Many offenders under supervision have been released from prison or jail and need assistance with employment or educational/vocational referrals, housing, transportation, identification or driver license, health services, food, clothing, or counseling. Even though funding is a challenge with providing resources, Florida probation officers use resource fairs as an option to assist offenders. Since gainful employment is a key factor in an offender's success in integrating back into society, resource fairs represent a valuable job search alternative. By having employers gathered in one place, job seekers can quickly learn about companies and openings in a variety of industries, and employers can make face-to-face contact with potential employees. Resource fairs are especially valuable to offenders, giving them an opportunity to meet with employers face-to-face and avoid being screened out by potentially negative information on an application. It also gives offenders a better sense of the kinds of jobs available and the skills required to get them.

Each Judicial Circuit in Florida routinely hosts resource fairs to assist those on supervision, with the help of the Employment Specialists, whose primary role is to assist offenders in finding gainful employment and from partnerships with local stakeholders in each county. Providing this resource is very beneficial to public safety as evidence-based research suggests certain factors contribute to an offender's success; one of these key factors being employment. Obtaining and maintaining employment is an important tool in an offender's toolbox that leads to their success. Routinely, leadership reviews cases that have terminated supervision in Florida. The results are impressive, as many offenders are employed at the time of termination.

### **Incentives for Offenders**

As required by section 20.315, Florida Statutes, Community Corrections is charged with providing "... appropriate supervision for offenders released on community supervision based on public safety risks and offender needs, and, in conjunction with the judiciary, public safety agencies, and local communities, develop safe, community-based alternatives..." During the past decade, empirical evidence related to successful offender supervision strategies has shown the application of Evidence-Based Practices (EBP) has resulted in reduced recidivism, successful completion of community supervision, fewer prison commitments, and most importantly, reduced victimization. This emerging evidence, coupled with budget demands requiring operations be streamlined for efficiency, has provided an impetus for a vision toward strengthening supervision strategies that focus on the utilization of technology and implementation of programs and processes that have been proven to produce desired outcomes. Evidence-Based Practices indicates it is counterproductive to "over supervise" low-risk offenders; resulting in a greater number of violations of supervision.

As a result, Community Corrections has developed incentive programs for certain offenders. The Interactive Offender Tracking System (IOTS) is a reduced level of reporting for certain low risk/needs offenders on probation and pre-trial supervision which holds the offender accountable for compliance with supervision conditions with minimal oversight. The IOTS program has been an available supervision option since June 2019. The program is comprised of a telephone reporting system that utilizes voice biometrics to identify the offender and consists of a web-based management system that assists officers with caseload management. The essence of the IOTS program is to help offenders succeed and remove as many barriers to success as possible, all while allowing officers to spend more time and resources on higher risk offenders. The IOTS program provides a positive impact on both the offenders and officers and establishes a strong foundation for creating safer communities.

Another successful incentive program targets offenders sentenced to community control. Community control is a form of intensive, supervised custody in the community, including surveillance on weekends and holidays. It is an individualized program where the freedom of an offender is restricted within the community, home, or non-institutional residential placement, and specific sanctions are imposed and enforced. Offenders on community control are required to submit a weekly accounting of their activities. The offenders can only leave their residence for employment, treatment, self-improvement classes, public service work, religious expression, or personal needs. The success rate for community control supervision is about 28%, far below the statewide average of 60% for all supervision types.

To follow EBP, the Merit-Based Activity (MBA) Program was developed for offenders on community control. The incentive program allows offenders who have successfully completed a rehabilitation program to attend pre-approved activities at the discretion of the supervising officer. It encourages and motivates the offender to comply with his/her orders of supervision and accept responsibility for change.

Over 1,163 offenders have participated in the program that started in 2017 with a success rate over 75%.

### **Reduction of Revocations and Admissions for Technical Violations**

Like other states, Florida has experienced a long period of increased costs to their criminal justice system, primarily due to enhanced penalties and sentencing practices which have resulted in increased prison populations. Probation violators contribute to this increase.

For the past few years, extensive research has been devoted to this nationwide dilemma to determine how to end this revolving door and how to get the best results by reducing recidivism and changing offender behavior.

Community Corrections in Florida is incorporating EBP into supervision strategies to enhance services and produce positive outcomes. The first step was to give officers discretion when reporting willful non-compliance of technical violations to the sentencing or releasing authority.

The creation of the Alternative Sanctions Program (ASP) has proven to be very beneficial when reporting minor technical violations.

The ASP developed by Community Corrections was codified in statute in 2018. It provides the court with an administrative way of handling specified technical violations on certain non-violent offenders without the formal violation hearing process. Since its inception, over 5,700 offenders have participated in the program thus diverting these offenders from the normal court process and reducing the number of offenders revoked for a technical violation by over 2,000 a year.



FDC Bureau of Research and Data, 2020

### **Future**

Looking into the “Community Corrections Crystal Ball” there are many advancements that will continue to move our field forward. These advancements would probably even impress the great visionary John Augustus. As we turn the page to 2021, Florida is focusing on three primary areas: technology; enhancing communication with the offender population; and reducing the office footprint.

### **Technology**

Technology is inevitable in our everyday lives. Technology allows probation officers to be more efficient and focus more time on higher risk offenders. Community Corrections recently started a pilot that allows officers to scan an offender’s electronic monitoring equipment through an app on their cell phone. When the equipment is scanned, officers have options to select a type of offender contact. The officer has the capability of entering case notes through the app. In the future, Community Corrections hopes to expand this technology to all offenders, not just

offenders on electronic monitoring. Florida is currently working on an initiative that will allow probation officers to scan a driver license/identification card when contact is made with an offender. In turn, the contact type, location, and time will be sent to the Department's database, which will eliminate the need for probation officers to enter case notes manually.

### **Enhancing Communication with Offenders**

One of the questions asked by new recruits is how they will know what strategy is most effective when supervising the diverse offender population. Florida, like most states, uses a validated risk system tool. Offenders are monitored and supervised at a level commensurate with the danger or risk they pose to the community.

Most offenders under supervision can be broken down into three categories. The first category of offenders is a very small group. These offenders have been incarcerated or under supervision several times. They are reluctant to supervision or do not have confidence in the probation system. They do not have a will to succeed; therefore, their chances of succeeding are very low. On the other extreme, there are offenders who are on probation for the first time. They see probation as an opportunity to right a wrong. Their will to succeed is great; therefore, their chances of succeeding are very high. Both these groups are very small, which leaves a very big group in the middle. This group of offenders needs access to the tools and resources provided through supervision. The opportunities provided by their probation officers can greatly impact their chances of succeeding.

As Florida moves forward focusing resources on the middle group is very important. One approach will involve the use of video conferencing. By using video conferencing, probation officers can maintain more frequent communication with offenders.

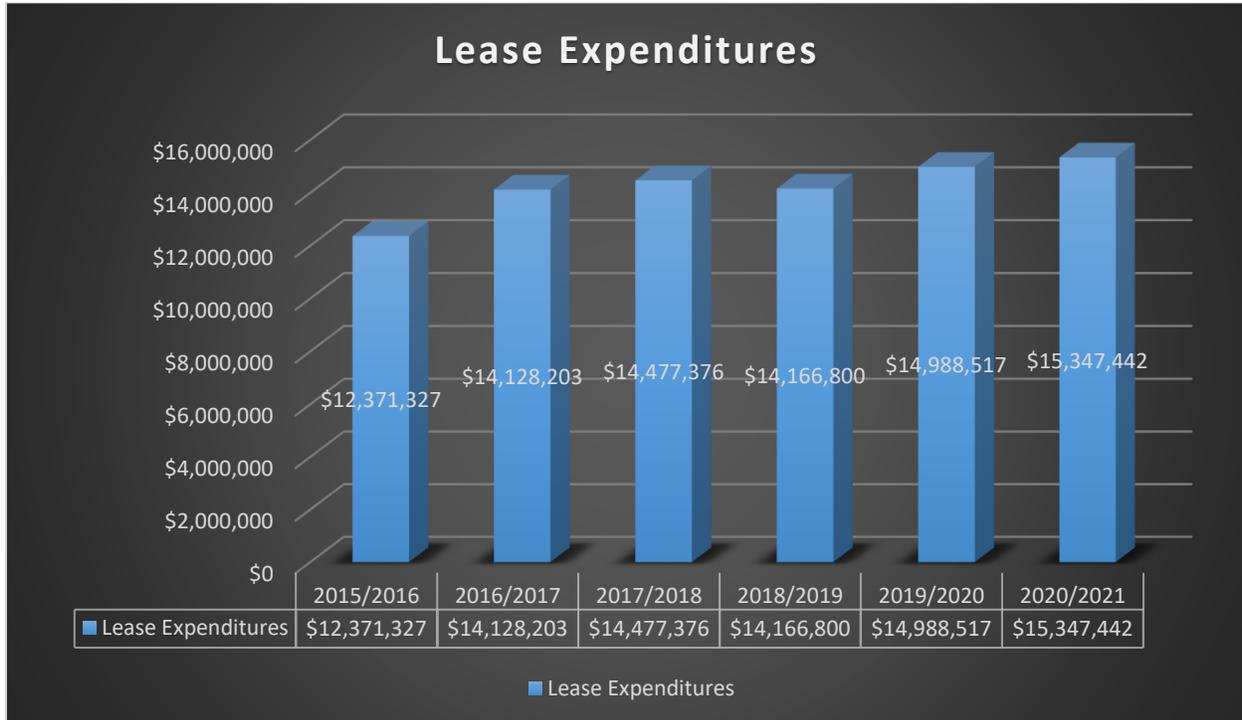
Additionally, Florida is attempting to reduce the overcrowding of jails by looking at ways to reduce non-compliance of technical violations and assist offenders with reporting to their probation officers. One initiative includes purchasing a mobile bus that will target various community locations and allow offenders to report there as opposed to traveling to the probation offices. The bus will be outfitted with the necessary equipment to conduct mission-critical activities with offenders. Designated community reporting sites have been established near areas where there is a heavy offender population. All designated sites are county-owned properties with public facilities, ample parking, centrally located, and provide for officer safety. A lobby staging area will be arranged for screening purposes prior to entry on the bus.

### **Reducing the Office Footprint**

Florida has over 140 probation offices statewide. The functions of these offices create some unique challenges in locating suitable and affordable buildings to lease. Local zoning laws or landlords' unwillingness to lease to the Department because of the population it serves, limits potential leasing opportunities, thus creating less competition to aid in lowering lease costs. Building owners often charge a higher rental rate to offset any potential vacancies caused by our

tenancy. Additionally, many leases contain rental rate escalations to cover increases the Lessor may incur in maintaining a full-service agreement.

As leases approach expiration, the Department solicits bids in a competitive solicitation process; however, the cost of doing business continues to go up. Lease expenditures have increased by over 20% in the last six years.



*FDC Budget Office, 2020*

To combat the rising lease costs, the Department has implemented different strategies to reduce expenditures. In markets where multiple locations are present, offices have been consolidated. The adoption of field office workstations and telework programs have enabled the Department to reduce the office footprint. However, these practices have not been enough to prevent the lease cost deficit caused by the significant increase in the rental rates.

As a result, the Department created a workgroup that has prepared a consistent probation office “footprint” that is more affordable to landlords while also providing a good working environment for probation officers. The “footprint” includes having drug testing rooms located near front entry areas, having interview rooms to conduct office contacts with offenders, reducing the square footage of offices to 60 square feet, and having ratio sizes for conference rooms, lobbies, restrooms, etc.

A statewide Telework Procedure was created to greatly expand the number of employees permitted to participate in the Telework Program. We also learned the importance of using alternate schedules and how they can directly assist in reducing the footprint of staff at an office.

As we move forward, Florida will use the “footprint” when procuring lease space. A paradigm shift will need to take place for staff to get away from the feeling they need an actual office to be anchored to the workplace. Traditional 100-120 square foot offices often have wasted space and lend to having additional square footage that collects dust and clutter. Therefore, the use of smaller shared workspaces with docking stations for staff and for certified staff to use shared interview rooms for those mission-critical visits with offenders will be beneficial. Making these changes will reduce lease costs, promote teleworking, increase officer presence in the community, and allow for more offenders to participate in programs that do not require monthly reporting to the probation office.

### **Conclusion**

In 1841, John Augustus decided he was going to be a pioneer and not follow the marked path. He created his own path, and for almost 200 years’ probation officers, offenders, and members of the community have benefited.

The evolution of probation in Florida has seen the offender population increase, as the general philosophy has turned towards providing offenders with the appropriate resources to successfully complete supervision and become more productive citizens.

The “Father of Probation” would probably be very impressed with modern-day probation as the role of today’s probation officers has become multi-faceted. Their primary role is to ensure public safety. This is accomplished by monitoring an offender’s conditions of supervision, by providing tools and resources to help assist the offender not only successfully complete their terms of supervision, but to become more productive citizens, by using incentive programs when appropriate, and reporting minor technical violations using alternate methods.

Modern-day probation supervision strategies have been successful, as Community Corrections has proven to be a viable alternative to incarceration. With a cost of just over \$6.00 per day, compared to the average cost per day of about \$66.00 to house an inmate in a state facility, it is also more cost effective to supervise an individual in the community. Approximately 60% of offenders successfully complete supervision and of those who are successful on supervision, approximately 90% will not return to the Department’s custody in prison or supervision within three years.

As we move into the future, Community Corrections will continue to use creative techniques to propel our field forward that would even impress the “Father of Probation.” Those techniques will center around using technology, enhancing incentive programs for offenders, and expanding the role of the probation officer that will include a stronger presence in the community. The continued shift towards enhanced supervision in the community may not only change our role, it may also change our title. After all, we may be called probation officers, but the reality is, we are Community Corrections Professionals.

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